

Fecha de presentación: septiembre, 2021, Fecha de Aceptación: octubre, 2021, Fecha de publicación: noviembre, 2021

20

ON THE LAWS REGULATING REAL ESTATE RELATIONS IN THE REPUBLIC OF AZERBAIJAN

SOBRE LAS LEYES QUE REGULAN LAS RELACIONES INMOBILIARIAS EN LA REPÚBLICA DE AZERBAIYÁN

Emin Dadashov¹

E-mail: emin.dadashov.00@mail.ru

ORCID: <https://orcid.org/0000-0002-1245-4726>

¹ Azerbaijan National Academy of Sciences. Azerbaijan.

Suggested citation (APA, 7th edition)

Dadashov, E. (2021). On the laws regulating real estate relations in the Republic of Azerbaijan. *Revista Conrado*, 17(83), 153-160.

ABSTRACT

Currently, almost all the legal systems of the contemporary world recognize the classification of property in movable and real estate, the latter being of great interest due to its value. The presence of a number of special legal norms dedicated to real estate, which plays an important role in the legislative acts of the Republic of Azerbaijan on property relations, makes it possible to differentiate the civil law regime of real estate from the legal regime of other objects of civil law relations. Thus, in the State Cadastre it is necessary to register the right to real estate and other rights related to real estate, including the restrictions of these rights, their emergence, transmission to others and cancellation. Given a certain dispersion in these laws, the objective of this work is to analyze to analyze key issues in the laws regulating real estate relations in the Republic of Azerbaijan. In the work, all the laws related to real estate transactions are identified, proposing in some cases modifications to better cover the particularities of contemporary times. Through an exhaustive analysis it was found that the principle of transparency of the state real estate registration is present in the legislation of the Republic of Azerbaijan, which complies with the international laws and treaties signed by the nation.

Keywords:

Constitution, real estate, law, land, inheritance.

RESUMEN

Actualmente, casi todos los sistemas jurídicos del mundo contemporáneo reconocen la clasificación de la propiedad en mobiliaria e inmobiliaria siendo la última de gran interés debido a su valor. La presencia de una serie de las normas jurídicas especiales dedicadas a la propiedad inmobiliaria, que juega un papel importante en las actas legislativas de la República de Azerbaiyán sobre relaciones de la propiedad, permite diferenciar el régimen de derecho civil de la propiedad inmobiliaria del régimen jurídico de otros objetos de las relaciones de derecho civil. Así, en el Catastro del Estado hay que registrar el derecho a la propiedad inmobiliaria y otros derechos relacionados con la propiedad inmobiliaria, incluso las restricciones de estos derechos, su surgimiento, transmisión a otros y cancelación. Dada cierta dispersión que hay en estas leyes el objetivo de este trabajo es analizar cuestiones clave en las leyes que regulan las relaciones inmobiliarias en la República de Azerbaiyán. En el trabajo se identifican todas las leyes relacionadas a las transacciones inmobiliarias proponiéndose en algunos casos modificaciones para abarcar de mejor forma las particularidades de los tiempos contemporáneos. Mediante un análisis exhaustivo se comprobó que el principio de transparencia del registro estatal de la propiedad inmobiliaria está presente en la legislación de la República de Azerbaiyán la que cumple con los tratados de leyes internacionales firmados por la nación.

Palabras clave:

Constitución, propiedad inmobiliaria, ley, terreno, herencia.

INTRODUCTION

Property law refers to principles, policies, and rules by which disputes over property are to be resolved and by which property transactions may be structured. What distinguishes property law from other kinds of law is that property law deals with the relationships between and among members of a society with respect to “things.” The things may be tangible, such as land or a factory or a diamond ring, or they may be intangible, such as stocks and bonds or a bank account. Property law, then, deals with the allocation, use, and transfer of wealth and the objects of wealth (Donahue & Alexander, 2018).

The law recognizes two classifications of property: real and personal. Real property relates to land and those things that are more or less permanently attached to the land, such as homes, office buildings, and trees while personal property is sometimes referred to as “chattels” or “goods” (Hinkel, 2008). Although personal property law is not less important real estate (RE) plays a critical role in the economies of nations. In 2015, the total value of all developed global RE, viz. offices, retail, hotels, industrial, residential, agricultural land and other commercial uses was estimated at US\$217 trillion, which represented a value of nearly three times the annual global income, 2.7 times the global gross domestic product (GDP) and 60% of all main global assets. Its immense contribution to the economic development of advanced countries is well-documented by economic historians like Goldsmith and Torstensson and in terms of the developing world, land, for instance, accounts for 50–75% of national wealth in many countries (Abdulai, et al., 2021).

When we look at the legal history of real estate in Azerbaijan, we see that in the years when Azerbaijan was part of the USSR, the term “real estate” was not used in the normative legal acts of Azerbaijan. However, at that time, the relations related to the house and apartment, which were considered the object of real estate, were reflected in the Civil Code of the Azerbaijan SSR of September 11th, 1964 and the Housing Code of the Azerbaijan SSR of July 8th. For example, Article 230 of the Civil Code of the Azerbaijan SSR stated that if at least one of the parties is a citizen, the contract of sale of a dwelling house must be notarized.

During the USSR, only a dwelling house, which was one of the objects of real estate, could be owned by citizens. On the eve of the collapse of the USSR, the term real estate was used for the first time in Articles 7 and 22 of the Constitutional Act “On State Independence of the Republic of Azerbaijan” (Azerbaijan. National Assembly, 1991) adopted on October 18th, 1991.

The following laws adopted after the gaining of independence of the Republic of Azerbaijan reflect the norms related to real estate:

1. The Constitution of the Republic of Azerbaijan dated November 12th, 1995 (Azerbaijan. National Assembly, 1995).
2. The Law of the Republic of Azerbaijan “On Land Reform” dated July 16th, 1996 (Azerbaijan. National Assembly, 1996).
3. The Law of the Republic of Azerbaijan “On State Land Cadastre, Land Monitoring and Land Management” dated December 22nd, 1998 (Azerbaijan. National Assembly, 1998).
4. The Land Code of the Republic of Azerbaijan dated June 25th, 1999 (Azerbaijan. National Assembly, 1999e).
5. The law of the Azerbaijan Republic “On the notaries” dated November 26th, 1999 (Azerbaijan. National Assembly, 1999c).
6. The Civil Code of the Republic of Azerbaijan dated December 28th, 1999.
7. The Family Code of the Republic of Azerbaijan dated December 28th, 1999 (Azerbaijan. National Assembly, 1999d).
8. The Criminal Code of the Republic of Azerbaijan dated December 30th, 1999 (Azerbaijan. National Assembly, 1999b).
9. The Law of the Republic of Azerbaijan “On State Duty” dated December 4th, 2001 (Azerbaijan. National Assembly, 2001).
10. The Law of the Republic of Azerbaijan “On the State Register of Real Estate” dated June 29th, 2004 (Azerbaijan. National Assembly, 2004).
11. The Housing Code of the Republic of Azerbaijan dated June 30th, 2009 (Azerbaijan. National Assembly, 2009).
12. The Law of the Republic of Azerbaijan dated April 20th, 2010 “On acquisition of lands for state needs” (Azerbaijan. National Assembly, 2010).
13. The Town Planning and Construction Code of the Republic of Azerbaijan dated June 29th, 2012 (Azerbaijan. National Assembly, 2012).
14. The Code of Administrative Offenses of the Republic of Azerbaijan dated December 29th, 2015 (Azerbaijan. National Assembly, 2015).

As can be seen, the 14 Laws of the Republic of Azerbaijan reflect the norms related to real estate. The Civil Code of the Republic of Azerbaijan has a special place among these laws. In 104 articles of the Civil Code, i.e. 37, 109, 135,

139, 139-1, 140, 141, 144, 144-1, 146, 147, 148, 149, 150, 153, 166, 169, 170, 171, 173, 178, 179, 180, 194, 203, 204, 207, 218, 225, 226, 228, 231, 232, 233, 234, 238, 240, 241, 243, 244, 246, 247, 250, 251, 252, 253, 255, 256, 258, 259, 260, 261, 262, 264, 265, 269, 309, 311, 313, 314, 316, 317, 318, 319, 321, 322, 323, 323-1, 373, 394, 426, 523, 646, 647, 648, 649, 650, 651, 668, 671, 688, 747-2, 770-1, 865, 866, 868, 869, 874, 992, 993, 996, 997, 1076-3, 1076-9, 1078-1, 1078-2, 1078-20, 1078-21, 1078-23, 1078-27, 1128, 1147, 1156 and 1276 the term real estate is used directly. In addition, although some other articles of the Civil Code do not use the term real estate, there are norms related to real estate (Azerbaijan. National Assembly, 1999).

The term real estate is also used in one article (Article 29) of the Constitution of the Republic of Azerbaijan (Azerbaijan. National Assembly, 1995), in three articles (Articles 10, 19 and 21) of the Law of the Republic of Azerbaijan “On Land Reform” (Azerbaijan. National Assembly, 1996), in two articles (Articles 5 and 9) of the Law of the Republic of Azerbaijan “On State Land Cadastre, Land Monitoring and Land Management” (Azerbaijan. National Assembly, 1998), in 7 articles (Articles 4, 40, 66, 67, 88, 89 and 93) of the Land Code of the Republic of Azerbaijan (Azerbaijan. National Assembly, 1999e).

), in 6 articles (Articles 19, 32, 36, 46, 61 and 74) of the Law of the Republic of Azerbaijan “On the notaries” (Azerbaijan. National Assembly, 1999c), in 2 articles (Article 32 and 33) of the Family Code of the Republic of Azerbaijan (Azerbaijan. National Assembly, 1999d), in the note part of Article 116 of the Criminal Code of the Republic of Azerbaijan (Azerbaijan. National Assembly, 1999b), in 6 articles (Articles 2, 10, 16, 17, 26 and 27) of the Law of the Republic of Azerbaijan “On State Duty” ((Azerbaijan. National Assembly, 2001), in 21 articles (Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22 and 23) of the Law of the Republic of Azerbaijan “On the State Register of Real Estate” (Azerbaijan. National Assembly, 2004), in 9 articles (Articles 4, 12, 21, 26, 59, 113, 119, 131 and 132) of the Housing Code of the Republic of Azerbaijan (Azerbaijan. National Assembly, 2009), in 4 articles (Articles 7, 22, 24 and 56) of the Law of the Republic of Azerbaijan “On acquisition of lands for state needs” (Azerbaijan. National Assembly, 2010), in 2 articles (Articles 36 and 81) of the Town Planning and Construction Code of the Republic of Azerbaijan (Azerbaijan. National Assembly, 2012) and in Article 558 of the Code of Administrative Offenses of the Republic of Azerbaijan (Azerbaijan. National Assembly, 2015).

Taking into account this dispersion in the laws, the objective of this article is to analyze key issues in the laws regulating real estate relations in the Republic of Azerbaijan since real estate professionals are unable to the guidance of a lawyer everytime.

DEVELOPMENT

Article 135.4 of the Civil Code of the Republic of Azerbaijan states: *“Things can be immovable and movable. Land plots, subsoil areas, separate water bodies, forests, perennial plantings, buildings, structures and other objects that are firmly attached to the land (inseparable from it), i.e. objects that cannot be moved without disproportionate damage to their purpose are immovable property. The land plot and the thing that is firmly connected with the land (inseparable from it) are a single real estate and are the object of a single property”* (Azerbaijan. National Assembly, 1999a). According to Article 135.5 of the Civil Code, all things that cannot be classified as immovable are considered movable. According to the legislation, property rights and other rights to real estate, the restriction, formation, transfer and termination of these rights must be registered with the state.

In accordance with Article 144.1 of the Civil Code (Azerbaijan. National Assembly, 1999a, agreements on the disposal of objects of the state register of real estate must be notarized. At the time of approval, the notary or other officials authorized to perform such notarial acts in cases provided by law must verify the disposal of the party disposing of the thing and the legality of the contract. They are responsible for the invalidity of the contract they ratify.

According to the civil legislation of the Republic of Azerbaijan, alienation of all types of real estate, regardless of whether the parties are individuals or legal entities (purchase, exchange, deed of gift, rent - Articles 144.1, 668.1.1 and 865.2 of the Civil Code) and mortgage agreements (Article 307.7 of the Civil Code) must be concluded in writing and notarized (Azerbaijan. National Assembly, 1999a).

According to Article 46 of the Law of the Republic of Azerbaijan “On the notaries”, a notarized consent of the other party is required for the conclusion of notarized and (or) registered transactions of one of the spouses to dispose of real estate (Azerbaijan. National Assembly, 1999c).

When approving deals on alienation or pledge of a house, apartment, garden, cottage, garage, land plot or other real estate, it is checked whether the alienation of property is prohibited or whether the property is seized.

For notarization of contracts on alienation of real estate, the following state fee is charged:

- If the real estate under the contract becomes the property of the husband (wife), children, parents, grandfather, grandmother, granddaughter, brother, sister - 23 Azerbaijani manats (this amount is about 13.5 US dollars);
- If the real estate is transferred to other persons under the contract - 287.5 Azerbaijani manats (approximately 169 US dollars).

Also, the issuance of a certificate of inheritance to real estate, both by law and by will, is notarized. The notary is guided by the acts included in the legislative system of the Republic of Azerbaijan - first of all, the Civil Code. Section 10 of the Civil Code of the Republic of Azerbaijan (Articles 1133-1325) is dedicated to the right of inheritance. According to Article 1133 of the same Code, entitled "Inheritance conception", "Property of the deceased (testator/testatrix) is devolved to other persons (heirs) according to law or testament or on both grounds".

Intestate succession (devolution of decedent's property to persons indicated in law) is effective in case of an intestacy or if testament is declared invalid entirely or partly.

According to Article 1134 of the Civil Code of the Republic of Azerbaijan, entitled "Heirs", "*Under intestate succession persons who were alive at the time of death of testator (testatrix) and also children of testator (testatrix) who were born after his (her) death can be heirs. Under testamentary succession persons who were alive by the time of death of testator (testatrix) and also persons who were conceived during the life of testator (testatrix) and born after his (her) death not depending on whether they are his (her) children or not and whether they are legal entities or not can be heirs*". (Azerbaijan. National Assembly, 1999a)

When issuing a certificate of the right to inherit according to the law, the notary shall follow the principle of order of succession between the heirs. In accordance with the requirements of Article 1159 of the Civil Code of the Republic of Azerbaijan, during intestate succession following persons are considered as equal heirs:

- First of all children of decedent, child born after testator (testatrix)'s decease, wife [husband], parents [adoptive parents].
- Adopted person and his (her) children are considered equal with children and grandchildren of adoptive person as his (her) heirs or relatives.
- In the second place - sisters and brothers of decedent. Children of testator (testatrix)'s brother or sister and their children are heirs at law if by the time of

inheritance commencement their parents who would be heirs. They inherit in equitable proportions share that would be due to their parents in case of intestate succession.

- In the third place - grandmother and grandfather on both mother's and father's sides, mother and father of grandmother, mother and father of grandfather. Grandmother's mother and father, grandfather's mother and father are considered heirs at law if grandmother and grandfather are deceased at the time of inheritance commencement.
- In the fourth place - aunts [mother's sisters and father's sisters] and uncles [mother's brothers and father's brothers].
- In the fifth place - cousins (aunts and uncles' children) on father's and mother's side then their children if they are deceased.

Before the notary issues a certificate of inheritance to real estate, in order to strictly comply with the requirements of the legislation, the notary obtains information on civil status acts, including information on the date of birth and last place of residence of the deceased, information on whether an inheritance case has been opened in the name of the deceased through the "Electronic Notary" Automated Information System of the Ministry of Justice of the Republic of Azerbaijan.

In order to ensure the satisfaction of the citizen, the notary also obtains a certificate from the state register on the description of real estate, state registered rights and their restrictions (encumbrances) by electronic means. According to Article 57 of the Law of the Republic of Azerbaijan "On the notaries", the notary of the place of opening of the inheritance must issue a certificate of inheritance to the heirs and the state to the inherited property within the period established by civil legislation. Article 1246 of the Civil Code of the Republic of Azerbaijan reflects the period of acceptance of the inheritance. Heir may accept the legacy within three months from the date of obtaining of knowledge or supposed obtaining of knowledge on legacy. The acceptance of legacy six months upon its availability is not allowed (Azerbaijan. National Assembly, 1999c).

According to Article 1247 of the Civil Code of the Republic of Azerbaijan, if right to accept inheritance arises as a result of other heirs (heiresses) succession relinquishment then inheritance should be accepted within the remaining part of the set time period and if this time is less than six weeks then it should be extended up to six weeks (Azerbaijan. National Assembly, 1999a).

Heir (heiress) is considered to accept inheritance upon handing in an application on his (her) acceptance of

inheritance to notarial office that is in charge of particular place where inheritance commencement took place, or upon his (her) practical commencement of owning and administration of property and thus demonstrated undoubtedly that he (she) accepted inheritance. When heir (heirress) begins to own practically a part of inheritance, it is considered that he (she) completely accepted inheritance irrespective of its nature and location (Paragraphs 2 and 3 of Article 1243 of the Civil Code).

The notary shall issue a certificate of the right to inherit immovable property to all heirs or to each of them separately, depending on their wishes, upon the written application of the heirs who inherited the inheritance. Heirs who have exceeded the period of acceptance of the inheritance may be included in the certificate of the right to inherit with the written consent of all other heirs who have accepted the inheritance. The consent must be submitted by a notary before the issuance of a certificate of inheritance of real estate. The notary shall notify the local executive authority at the place of residence of the heir in order to protect their property interests in the issuance of a certificate of inheritance to minor and incapacitated heirs. When the inherited real estate is transferred to the state, the notary shall issue a certificate on the right of inheritance to the Ministry of Economy of the Azerbaijan Republic.

When issuing a certificate of the right to inherit real estate by will, the notary shall check the range of persons who have the right to a compulsory share in the inheritance. According to Article 1193 of the Civil Code of the Republic of Azerbaijan Irrespective of testament's content testator (testatrix)'s children, parents and spouse have obligatory share of inheritance. According to the law this share makes up to the half of the share due to them (obligatory share) during intestate succession. The notary also issues a certificate of ownership of a share in the common property, including a share in real estate, acquired during the joint marriage, based on a joint written application of the spouses, guided by Article 61 of the Law of the Republic of Azerbaijan "On the notaries". The certificate can be issued to each of the spouses both during and after the marriage (Azerbaijan. National Assembly, 1999c).

In the event of the death of one of the spouses, the notary shall issue a certificate of ownership of the share in the common real estate of the spouse on the basis of the application of the surviving spouse and inform the heirs of the testator. When a notary draws up an inheritance certificate, the text of the certificate shall specify the total area of the real estate (residential and ancillary areas, number of living rooms), address, share of the common property, according to which title document belongs to the testator, as well as information about the certificate on whether the

property is encumbered (date, number, etc.), and relevant information on non-residential and land plots.

The inheritance certificate shall indicate the share to be inherited by each heir, and if there is a minor heir, his date of birth. The certificate of the right to inherit real estate shall be issued to the heirs after six months from the date of opening of the inheritance. If the notary has information that there are no other heirs besides the persons requesting the certificate, the certificate on the right of inheritance may be issued earlier than six months. Heirs who do not accept the inheritance within the period established by law may be registered in the inheritance certificate with the consent of all heirs who accepted the inheritance. The consent has to be in writing and notarized before the inheritance certificate is issued.

We would like to note that Article 5 of the Land Code of the Republic of Azerbaijan stipulates availability of state, municipal and private property on the land plot in the Republic of Azerbaijan, state protection of all types of property, subjects of property rights of citizens and legal entities of the Republic of Azerbaijan on privately owned land plots (Azerbaijan. National Assembly, 1999e).

According to the legislation, citizens and legal entities of the Republic of Azerbaijan may acquire land plots on the right of ownership, use and lease. Foreigners and stateless persons, foreign legal entities, international associations and organizations, as well as foreign states may acquire land in the Republic of Azerbaijan only on the basis of lease rights. The right of ownership of land plots to foreign legal entities and individuals as a result of inheritance, gift and mortgage deals shall be alienated for a period of one year in accordance with the legislation of the Azerbaijan Republic.

This author believes that in order to better protect the rights of foreign legal entities and individuals, to create conditions for them to alienate property rights on land acquired through inheritance, gift and mortgage deals on more favorable terms, it would be expedient to amend Article 49.4 of the Land Code and give the following wording: *"The right of ownership of land plots to foreign legal entities and individuals as a result of inheritance, gift and mortgage deals shall be alienated for a period of 5 (five) years in accordance with the legislation of the Azerbaijan Republic. If foreign legal entities and individuals do not alienate the ownership right to the land plot in accordance with the legislation, the relevant executive authority or municipality shall compulsorily purchase the land plot in accordance with the procedure provided for in the Land Code"*

Legal entities and individuals who are owners, users and lessees of land shall not harm the environment, the rights and interests of other persons while exercising their rights on the land plot. Also, landowners, users and tenants can insure their land against the effects of a natural disaster.

Articles 49.1, 49.2. and 49.3 of the Land Code stipulates: *“The right of private ownership of land by legal entities and individuals is the right to own, use and dispose of land in compliance with the restrictions and other conditions established by law and the contract. Private ownership of land by legal entities and individuals arises on the basis of privatization, purchase, inheritance, gift, exchange of state and municipal lands and other land-related transactions, as well as the transfer of legal entities to the charter (share) fund. Restitution of the rights of former landowners (their heirs) on land plots is not allowed”*. (Azerbaijan. National Assembly, 1999e)

Articles 246-249 of the Civil Code of the Republic of Azerbaijan define general provisions for the acquisition of real estate lands, including privately owned lands, for state needs. Special provisions on acquisition of land plots, as well as privately owned lands for state needs are regulated by the Law of the Azerbaijan Republic “On acquisition of lands for state needs” (Azerbaijan. National Assembly, 1999a). Acquisition of privately owned land means the purchase of that land (a certain part of it) from the owner by voluntary or compulsory compensation by terminating the right of ownership over the privately owned land (a certain part of it).

The state needs for the acquisition of land are:

- Construction and installation of roads of state importance and other communication lines (main oil and gas pipelines, sewerage, high voltage power lines, hydraulic structures).
- Ensuring reliable protection of the state border in the border strip.
- Construction of defense and security facilities.
- Construction of mining facilities of state importance.
- Increasing the area of the seaport.

Lands in private ownership required for state needs may be acquired on the basis of an agreement with the owner(s), and in the absence of such an agreement, on the basis of a court decision that has entered into force, with mandatory state compensation.

One of the biggest factors proving the provision of private property relations is provided for in Article 66.4 of the Law on Acquisition of Land for State Needs. Thus, in accordance with this article, in each case of acquisition of a

privately owned dwelling, additional compensation called “compensation for difficulties” in the percentage of the total amount of compensation shall be paid by the recipient to the persons affected by the acquisition and who provide a document confirming residence for at least five years as the main place of residence:

- For a period of 5 to 6 years - 5 percent.
- For the period from 6 to 7 years - 6 percent.
- For the period from 7 to 8 years - 7 percent.
- For the period from 8 to 9 years - 8 percent.
- For the period from 9 to 10 years - 9 percent.
- For more than 10 years - 10 percent.

The author believes that in order to more effectively protect the rights of people with private property, it would be expedient to increase the amount of compensation for difficulties threefold. For this it would be important to amend Article 66.4 of the Law “On Acquisition of Land for State Needs” and give it in the following wording:

“Compensation for difficulties paid to the person affected by the acquisition depending on the period of residence shall be determined in the amount of the following percentage of the total amount of compensation to be paid to the applicant in accordance with this chapter (Table 1):

Table 1. Rates of compensation for difficulties.

Articles of the law “On acquisition of lands for state needs”	Periods	Percents
66.4.1.	For a period of 5 to 6 years	15 percent
66.4.2.	For a period of 6 to 7 years	18 percent
66.4.3.	For a period of 7 to 8 years	21 percent
66.4.4.	For a period of 8 to 9 years	24 percent
66.4.5.	For a period of 9 to 10 years	27 percent
66.4.6.	For a period more than 10 years	30 percent

The author consider necessary to state that the relations related to the residential area, which is considered real estate, are regulated by the Housing Code of the Republic of Azerbaijan. According to Article 13 of the Housing Code, the living space includes: a house; part of a dwelling house; apartment; part of the apartment; room.

Hotels, hotel-type facilities and other construction facilities intended for temporary accommodation are considered means of accommodation.

According to the legislation, the main purpose of the living space is the living of people in that area. Individuals living legally in a residential area are allowed to use the living space for professional or sole proprietorship activities, provided that it does not violate the rights and legitimate interests of other persons, as well as the requirements for the living space. Therefore, it is not allowed to place industrial productions in residential areas. The use of living space must be carried out in compliance with the rights and legitimate interests of persons living in the area, neighbors, fire safety requirements, sanitary-hygienic, environmental requirements and other requirements of the legislation.

The author would like to note that the Republic of Azerbaijan also applies provisions of international law related to real estate. Because, according to Part 2 of Article 148 of the Constitution, international agreements to which the Republic of Azerbaijan is a party are an integral part of the legislative system of the Republic of Azerbaijan.

The Republic of Azerbaijan, as a full member of the world community, has accepted the supremacy of universal values and has chosen the path of development of a democratic, legal and secular state. International documents providing for the right of ownership and protection of real estate include the following.

- Universal Declaration of Human Rights of December 10th, 1948.
- Protocol No.1 of March 20th, 1952 to the European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4th, 1950.
- Convention relating to the Status of Refugees of 28th July 1951.
- Convention on the Elimination of All Forms of Racial Discrimination of 21st December 1965.
- Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters between the member states of the Commonwealth of Independent States of October 7th, 2002, etc.

The case law of the Republic of Azerbaijan also applies the precedents of the European Court of Human Rights. Because the Republic of Azerbaijan joined the Council of Europe on January 25th, 2001 and adopted the law on the ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols No. 1, 4, 6 and 7 on December 25th, 2001 and has recognized the binding jurisdiction of the European Court of Human Rights since 15th April 2002. Thus, the norms of the "European Convention for the Protection of Human Rights and Fundamental Freedoms" are not applied in

isolation from other norms of law, they are applied taking into account the relevant norms of international law.

CONCLUSIONS

Since it is almost impossible to have the consultation of a lawyer at all times, the study of the laws is essential for the proper performance of real estate professionals. This article has been able to verify that in the Republic of Azerbaijan, despite a certain dispersion of the laws, the aspects related to real estate transactions are well established by law. These also, as part of the various treaties signed by Azerbaijan are in line with international laws. However, the author presents certain proposals for the modification of articles in laws, in order to better cover the particularities of contemporary times.

REFERENCES

- Abdulai, R. T., Awuah, K. G. B., & Awuah, G. B. (2021). Sustainability in Real Estate: Context and Concepts. In, R. T. Abdulai & K. G. B. Awuah (Eds.), *Sustainable Real Estate in the Developing World*. (pp. 1–12). Emerald Publishing.
- Azerbaijan. National Assembly. (2004). Law of the Republic of Azerbaijan On the State Register of Real Estate. <http://www.e-qanun.az/framework/5456>
- Azerbaijan. National Assembly. (1998). Law of the Republic of Azerbaijan On State Land Cadastre, Land Monitoring and Land Management. <http://www.e-qanun.az/framework/5040>
- Azerbaijan. National Assembly. (2001). Law of the Republic of Azerbaijan On State Duty. <http://www.e-qanun.az/framework/2860>
- Azerbaijan. National Assembly. (1995). Constitution of the Republic of Azerbaijan. <http://e-qanun.az/framework/897>
- Azerbaijan. National Assembly. (1996). Law of the Republic of Azerbaijan On Land Reform. <http://www.e-qanun.az/framework/4207>
- Azerbaijan. National Assembly. (1991). Constitutional Act "On State Independence of the Republic of Azerbaijan". <http://www.e-qanun.az/framework/6693>
- Azerbaijan. National Assembly. (1999c). Law of the Azerbaijan Republic On the notaries. <http://www.e-qanun.az/framework/107>
- Azerbaijan. National Assembly. (1999d). The Family Code of the Republic of Azerbaijan. <http://e-qanun.az/framework/46946>

- Azerbaijan. National Assembly. (1999e). The Land Code of the Republic of Azerbaijan. <http://e-qanun.az/framework/46942>
- Azerbaijan. National Assembly. (2010). Law of the Republic of Azerbaijan On acquisition of lands for state needs. <http://www.e-qanun.az/framework/19613>
- Azerbaijan. National Assembly. (1999a). Civil Code of the Republic of Azerbaijan. <http://e-qanun.az/framework/46944>
- Azerbaijan. National Assembly. (1999b). Criminal Code of the Republic of Azerbaijan, <http://e-qanun.az/framework/46947>
- Azerbaijan. National Assembly. (2009). The Housing Code of the Republic of Azerbaijan <http://e-qanun.az/framework/46955>
- Azerbaijan. National Assembly. (2012). Town Planning and Construction Code of the Republic of Azerbaijan. <http://e-qanun.az/framework/46958>
- Azerbaijan. National Assembly. (2015). Code of Administrative Offenses of the Republic of Azerbaijan. <http://e-qanun.az/framework/46960>
- Donahue, C., & Alexander, G. (2018). Property law. In *Encyclopedia Britannica*. <https://www.britannica.com/topic/property-law>
- Hinkel, D. F. (2008). *Essentials of practical real estate law* (4th ed.). Thomson; Delmar Learning.