INTERNATIONAL MECHANISMS FOR ENSURING ENVIRONMENTAL SAFETY

Valerii Kononenko
(*v.kononenko@karazin.ua*)
Doctor of Law
(V.N. Karazin Kharkiv National University)

Ludmila Novikova
(*l.novikova@karazin.ua*)
Ph.D. in law, associate professor
(V. N. Karazin Kharkiv National University)

Leonid Tymchenko
(*ltymch@ukr.net*)
Doctor of Law, Professor
(University of the State Fiscal Service of Ukraine)

Abstract

The purpose of the article is to analyze the mechanisms of international environmental security. Scientific novelty of the work is due to the fact that the peculiarities of the International Court of Justice consideration of territorial disputes have not yet been the subject of dissertation or monographic study in domestic science, and the achievements of the Soviet and modern foreign authors in this field cannot meet the needs of the present day. There are still disputable problems of recognition of the decisions of the International Court of Justice as sources of law, there is a debate about the legal nature of the decisions of this court.

An understanding of the category of proof in the international judicial procedure as the activity of the parties to a dispute to establish the existence or absence of circumstances concerning their claims and defenses, and other circumstances relevant to the resolution of the dispute in accordance with the rules of international law, with the participation of an international judicial institution and under its control, has been developed. There are three main directions of international legal regulation in the field of environmental protection: 1) limitation of harmful anthropogenic impact on the environment; 2) ensuring sustainable development of mankind by establishing a rational regime of nature management; 3) international environmental cooperation.

The judicial form of limiting harmful anthropogenic impacts on the environment is ineffective. The UN Court is limited in its resolution of environmental problems by the limits of jurisdictional authority, excessive formalism, and indecision. In addition, its jurisprudence is plagued by errors related to the lack of scientific certainty of evidence and the failure to adequately evaluate and weigh complex scientific data. But since judicial practice develops in the course of consideration of specific cases, reference to international judicial instances is an important factor in its improvement.

The practical significance of the results is that the provisions and conclusions formulated in the work can be used by public authorities, which represent the interests of the state in international judicial bodies, primarily in the UN ICJ, as well as to determine the nature of international legal policy of the country in the protection of its environmental security; in law enforcement activities the findings of the article can be used to interpret the convention norms on environmental issues and practice.

Keywords: *International Court of Justice, United Nations, The Global Risks Report 2020, ecological safety, environment.*

At the end of 2019, UN Secretary General Antonio Guterres warned of the danger of climate change and the proximity of the «point of no return» [1]. In the annual report on the main risks the world may face in 2020, the The World Economic Forum in Davos identified five major threats: slowing economies and social tensions, climate change, declining species biodiversity, cybersecurity issues, and new health challenges. One of the most negative factors affecting climate change and the environment was identified as a failure to prevent serious human-caused damage and disasters, including environmental crimes that harm human life and health [2].

Global environmental problems are associated with climate change, loss of biodiversity, desertification and other negative processes for the environment, increasing environmental damage from natural disasters, anthropogenic impact on the environment and man-made disasters, nuclear weapons tests, pollution of atmospheric air, surface and groundwater, as well as the marine environment. Now it is possible to distinguish three basic directions of international legal regulation in this sphere of international relations: 1) limitation of harmful anthropogenic impact on the environment; 2) ensuring sustainable development of mankind by establishing a rational regime of nature management; 3) international environmental cooperation [3, p.472].

The purpose of the article is to analyze the mechanisms for ensuring international environmental security and the constitutional right to a safe environment for life and health. Why will the practice of the UN Court of Justice on the issues of technogenic impact on the environment be considered?

The authors plan to assess the effectiveness of solving the problems of technogenic impact on the environment in the UN Court, to form a definition of the concept of «proof in international judicial procedure».

The second half of the 20th - the beginning of the 21st centuries are marked by an ever-increasing volume of production and use of hydrocarbons, widespread use of atomic energy for military and peaceful purposes. A specific factor for nuclear technologies is the formation and accumulation of artificial radionuclides, which, under certain circumstances, can enter the environment. The main sources of radioactive contamination are: global fallout of radioactive substances from the atmosphere after nuclear weapons tests, releases of radionuclides due to the activities of nuclear power facilities, radiation accidents.

Among the urgent problems in the use of nuclear technologies are: analysis and prediction of the radioecological consequences of radiation accidents, management of contaminated areas, analysis of risks to humans and the environment in handling radioactive waste. The solution of these problems requires a systematic approach to the analysis of radiation ecological safety, which should comprehensively consider the sources of radioactive contamination of the environment, the migration of radionuclides in the biosphere, radiation doses to humans and biota, possible radiobiological consequences of exposure to ionizing radiation [4, p.3]. It is also extremely important to anticipate and prevent man-made accidents, counteract legal activities that either usually entail environmental pollution due to objective factors (nuclear weapons testing), or carry out gradual pollution due to technological activities, or contains a potential threat of a man-made disaster.

Some states tried to solve the problem of protecting the environment from radioactive contamination caused by nuclear weapons testing in the International Court of Justice, which on December 20, 1974 considered: «The Nuclear Tests Case (Australia v. France)» and the «Nuclear Tests Case (New Zealand v. France)». So, Australia, in its Application, requested the Court to adjudge and declare that further testing of nuclear weapons in the atmosphere in the South Pacific is incompatible with international law, and also to order that the French Republic not conduct any further such tests. New Zealand requested the Court to adjudge and declare that further atmospheric nuclear weapons testing in the South Pacific, leading to radioactive fallout, constitutes a violation of New Zealand's interests under international law, and that such will be

violated if any further similar tests. After the commencement of the consideration of this case by the UN Court and the issuance of an order on interim protection on June 22, 1972, in which the Court indicated that the French government should refrain from conducting nuclear weapons tests that cause radioactive fallout on the territory of Australia, New Zealand, Cook Islands, Niue, Tokelau. France announced its intention to end nuclear testing in the atmosphere of the region [3, p. 485-486], and therefore the cases were removed from consideration by the court, and decisions on the merits were not made.

However, the problem with nuclear weapons tests in this region was later continued in connection with the statement published in the media on June 13, 1995 about the decision of the President of the French Republic to conduct the final series of eight nuclear weapons tests in the South Pacific starting in September 1995. New Zealand filed an application for an examination of the situation on August 21, 1995 in accordance with the judgment of the Court of December 20, 1974 in the aforementioned nuclear weapons test case.

New Zealand stated that the rights to protect are covered by the requirements set out in its 1973 statement and that it is currently seeking recognition only for those rights that would be impaired by the release of radioactive material into the marine environment as a result of new tests to be held in the atolls of Mururoa or Fangatauf. New Zealand requested the Court to adjudge and declare: «i) that the proposed nuclear weapons tests would constitute a violation of the rights of New Zealand, as well as of other States; ii) that it is illegal for France to carry out such nuclear weapons tests before the environmental impact assessment is carried out according to recognized international standards. Unless in the course of such an assessment it is established that the tests will not lead, directly or indirectly, to radioactive contamination of the marine environment ...» [5] By the decision of September 22, 1995 the UN Court indicated that when analyzing its 1974 decision, it concluded that this decision concerned exclusively nuclear tests in the atmosphere; that, therefore, the Court is currently unable to take note of issues related to underground nuclear testing. Finally, the Court notes that its decision is without prejudice to the obligations of States to preserve and protect the natural environment, obligations to which both New Zealand and France have reaffirmed their adherence in the present case. Thus, the Court held that the basis of the 1974 preliminary judgment was not affected; that, therefore, New Zealand's petition does not fall within the scope of the provisions of that judgment; and that this petition should be rejected [5]. Judge Oda fully upheld the ruling rejecting New Zealand's motion. But he said that as a member of the Court, representing the only country that has experienced the destructive effects of nuclear weapons, he considers himself obliged to express on his own behalf the hope that in the future, under no circumstances will any further tests of any type of nuclear weapon be carried out [5].

In this case, the non-military activities of states related to the use of nuclear weapons were considered and, although it can be argued that a partial result took place, no decision as such was taken, which means that the legal position of the Court on the merits of the case has not been formulated. This circumstance diminishes in a great extent the significance of the above-mentioned proceedings, since no precedent has been set on the legality of testing nuclear weapons. In addition, the rule of subparagraph d) of paragraph 1 of Art. 38 of the Statute of the UN Court means that it has the legal ability to determine the existence of legal norms by identifying them, that is, to declare a norm that was previously absent in international law, in the formulation announced by the Court. Also, establishing the existence of a customary legal norm and formulating it, the UN Court gives it positive properties [6].

However, the UN Court is cautious about determining the existence of a customary rule: in its Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons of July 8, 1996, it refused to do so. In particular, the UN Court has held that neither customary nor conventional international law contains any comprehensive or universal prohibition of the threat or use of nuclear weapons as such. And given the current state of international law, as well as the factual

circumstances known to the Court, it cannot conclude whether the threat or use of nuclear weapons is legal or illegal in the extreme circumstances of self-defense, when it comes to the very survival of one or another state [7]. Judge V.S. Vereshchetin stated in his statement: «The Court clearly recognizes that the threat or use of nuclear weapons would be subject to the prohibitions and severe restrictions established by the Charter of the United Nations and a number of other multilateral treaties and specific provisions, as well as customary rules and principles of the law of armed conflict. Moreover, the Court has found that the threat or use of nuclear weapons would generally be contrary to international law applicable in times of armed conflict, and in particular to the principles and norms of humanitarian law. It is likely that, through an assumption, conclusion or analogy, the Court (and this is what some states in their written and oral reports called for it) could deduce from the above some general rule that completely prohibits the threat or use of nuclear weapons, leaving no room for any gap in the law, even if it is of an exceptional nature» [7].

But the very states that called on the Court to show courage and fulfill its historic mission, insisted that the Court remain within the framework of its judicial function and not act as a legislator, asked the Court to state the law as it is, and not it should be. Secondly, the Court could not fail to note the fact that in the past all existing prohibitions on the use of other types of weapons of mass destruction (biological, chemical), as well as special restrictions on nuclear weapons, were established by means of specific international treaties or separate treaty provisions, which undoubtedly points to the course of action chosen by the international community as the most suitable for resolving the issue of the complete prohibition of the use of weapons of mass destruction and their final elimination. And thirdly, the Court must take care of the credibility and effectiveness of the general rule drawn up concerning the issue on which the opinions of States diverge so significantly [7].

The authors fully agree with the position of the UN Court, although, of course, it would be very good to have one document - with the help of the advisory opinion of the UN Court, to get rid of nuclear weapons altogether. But this is the catch, which the Court noticed and pointed out that all the current prohibitions, in particular in relation to nuclear weapons, were established with the help of certain treaties, the coordination of the positions of states on which was always extremely difficult. Therefore, the Court really took care of the authority and effectiveness of its rule - it did not formulate a deliberately "dead" rule, which first of all supported its authority, since otherwise the countries possessing nuclear weapons would simply ignore its opinion [8, p. 104-105].

Further, on April 20, 2010, UN Court rendered judgment in the case concerning Pulp Mills on the Uruguay River (Argentina v. Uruguay). The dispute arose over the construction of pulp mills on the Uruguay River. The border between Argentina and Uruguay on the Uruguay River is defined by the bilateral treaty concluded for this purpose in Montevideo on April 7, 1961. Article 7 of this treaty provides for the establishment by the parties of a «regime for the use of the river», which covers various aspects, including the conservation of living resources and the prevention of water pollution in the river.

On 4 May 2006, Argentina filed an Application instituting proceedings against Uruguay concerning alleged breaches by Uruguay of obligations incumbent upon it under the Statute of the River Uruguay, a treaty signed by the two States on 26 February 1975 (hereinafter “the 1975 Statute”) for the purpose of establishing the joint machinery necessary for the optimum and rational utilization of that part of the river which constitutes their joint boundary. In its Application, Argentina charged Uruguay with having unilaterally authorized the construction of two pulp mills on the River Uruguay without complying with the obligatory prior notification and consultation procedures under the 1975 Statute. Argentina claimed that those mills posed a threat to the river and its environment and were likely to impair the quality of the river’s waters and to cause significant transboundary damage to Argentina. As basis for the Court’s jurisdiction, Ar-

gentina invoked the first paragraph of Article 60 of the 1975 Statute, which provides that any dispute concerning the interpretation or application of that Statute which cannot be settled by direct negotiations may be submitted by either party to the Court.

The first pulp mill, which gave rise to the dispute, was planned by Celulosas de M'Bopicua S.A. (hereinafter CMB), which was established by the Spanish company ENCE (Spanish abbreviation for «Empresa Nacional de Celulosas de España» was to be built on the left bank of the Uruguay River in the Uruguayan department of Rio Negro opposite the Argentine city of Gualeguaychu. The second industrial project, which served as the basis for the dispute, was carried out by Botnia S.A. and «Botnia Fray-Bentos S.A.» (hereinafter «Botnia»). This second pulp mill, called Orion (hereinafter Orion (Botnia)), was built on the left bank of the Uruguay River a few kilometers downstream of the site planned for the CMB mill (ENCE) and near the town of Fray Bentos. It was put into operation and has been in operation since November 9, 2007.

Although Argentina in claiming noise and «visible» pollution allegedly caused by the pulp mill, invokes the provision of Article 36 of the 1975 Statute the Court sees no basis for such claims. The clear language of Article 36, which provides that «the parties shall coordinate through the Commission the necessary measures to avoid any change in the ecological balance and to control noxious factors in the river and its dependent areas» leaves no doubt that the Article does not govern the alleged noise and visible pollution claimed by Argentina.

The Court acknowledges that in terms of the technologies employed, and judging from the documents submitted by the parties, particularly the December 2001 Integrated Pollution Prevention and Control Reference Document on Best Available Techniques in the Pulp and Paper Industry (hereinafter IPPC-BAT), there is no evidence to support Argentina's claim that the Orion (Botnia) mill is not in compliance with IPPC-BAT as regards emissions. This conclusion is supported by the fact that Argentina has not provided any clear evidence of Orion (Botnia)'s non-compliance with the requirements of the 1975 Statute.

The Court notes that the data collected after the plant's commissioning, which are contained in various reports, do not indicate that the Orion (Botnia) plant's emissions exceed the emission standards prescribed by the relevant Uruguayan regulations or in the original environmental permit issued by the MVOTMA (Ministerio de Vivienda y Ordenamiento Territorial), except in the few cases where concentrations exceeded the maximum allowable values.

The impact of the emissions on river water quality. Based on the evidence before it, the Court finds that the Orion (Botnia) plant has so far met the standard for total phosphorus in its emissions. The Court notes that the total amount of phosphorus in the river that can be attributed to the Orion (Botnia) plant is a small fraction compared to the total amount of phosphorus in the river from other sources. The Court therefore concludes that the mere fact that the concentration limits for total phosphorus in the river, which are set by the Uruguayan law with respect to water quality standards, were exceeded cannot be considered as a violation of the 1975 Statute. As the Court further notes, it has not been established to its satisfaction that the February 4, 2009, water bloom invoked by Argentina was caused by emissions of nutrients from the Orion (Botnia) plant. In addition, based on the record and the data presented by the parties, the Court concludes that there is insufficient evidence that the alleged increase in phenolic concentrations in the river was caused by the Orion (Botnia) plant.

On the issue of the effects on biodiversity, the Court is of the opinion that, as part of its obligation to preserve the aquatic environment, the parties are obliged to protect the fauna and flora of the river. However, the Court did not find sufficient evidence to conclude that Uruguay had violated its obligation to preserve the aquatic environment, including the protection of its fauna and flora.

With respect to air pollution, the Court is of the opinion that if the emissions from the factory pipes introduced substances having a harmful effect into the aquatic environment, then such indirect pollution of the river falls within the provisions of the 1975 Statute. But the Court

finds that there is no clear evidence in the record that substances having a harmful effect entered the aquatic environment of the river through the Orion (Botnia) plant's emissions into the atmosphere.

Judges Al-Khasawneh and Zimma, in criticizing the Court's decision, emphasize the extremely fact-rich nature of the case, which raises serious questions for them about the role scientific evidence can play in international judicial disputes. They believe that the Court itself is incapable of adequately evaluating and weighing such complex scientific evidence as was presented by the parties. They disagree with the Court's decision to adhere to its traditional rules on the burden of proof and to require Argentina to substantiate claims on issues that they believe the Court cannot fully understand without recourse to expert analysis.

Judge Cançado Trindade sets forth considerations relating to the collateral aspects of the present case which do not relate to inter-State relations and to which he attaches particular importance, namely: (a) the requirements for the protection of human health and the welfare of peoples; (b) the role of civil society in protecting the environment; (c) the objective nature of the obligation (to protect the environment) beyond reciprocity; and (d) the legal personality of the Administrative Commission on the River Uruguay (ACRU). Attention to the protection of human health and the well-being of peoples, as the judge recalls, has been a recurring theme at the recent United Nations world conferences.

Judge ad hoc Vinuesa notes that the lack of scientific certainty in the evidence is of particular concern. This uncertainty undermines the validity of the Court's conclusions. Judge Vinuesa expresses the view that the Court should have sought external expert opinion. On the basis of these conclusions, Judge ad hoc Vinuesa considers that, by failing to apply the precautionary principle, as required by the 1975 Statute and general international law, the Court incorrectly found a violation by Uruguay of its substantive obligations.

The case of Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia) is now pending before the UN Court. Nicaragua filed on November 26, 2013, the application to initiate proceedings against Colombia for «a dispute concerning violations of Nicaragua's sovereign rights and maritime zones announced in the Court's judgment of November 19, 2012 [in the case concerning the Territorial and Maritime Dispute (Nicaragua v. Colombia)] as well as the threatened use of force by Colombia to commit those violations». Colombia asserted four counterclaims. The first was based on an alleged breach of Nicaragua's due diligence duty to protect and preserve the marine environment in the southwestern Caribbean Sea; the second concerned an alleged breach of Nicaragua's due diligence duty to protect the San Andrés Archipelago residents' right to a healthy, benign and sustainable environment. In its order of November 15, 2017, the Court concluded that Columbia's first and second counterclaims were inadmissible as such [9].

As we can see, the UN Court is limited in resolving environmental problems because there are certain jurisdictional conditions that make it impossible to appeal to it in certain categories of cases [10, p.37], as well as excessive formalism and hesitation. In his practice, there are errors associated with the lack of scientific certainty of evidence, the inability to adequately evaluate and weigh complex scientific data. And the decisions themselves are dispositive, not always enforced, and do not guarantee the protection of the rights of the parties. Therefore, it is ineffective to apply to the UN Court for the resolution of environmental problems at the current level of jurisprudence. But since jurisprudence evolves in the course of specific cases, recourse to international judicial bodies is an important factor in its improvement. In addition, as could be seen, the very appeal to the Court may force some states to change their position on a disputed issue. In addition, the opportunity to speak to the world from the official tribune of the UN, which is the International Court of Justice in The Hague, about the real situation and the perpetrator can be beneficial.

In the practice of the UN Court we have considered only the judicial form of the first area of international legal regulation of environmental protection - limitation of harmful anthropogenic impact on the environment. To increase its effectiveness, we consider it necessary (1) to introduce into international treaties, related both directly and indirectly to environmental impact, appropriate provisions for the mandatory recognition of the jurisdiction of a court (UN Court, UN International Tribunal for the Law of the Sea, arbitration ad hoc or other); (2) to determine the issue of the potential environmental impact of a treaty to establish a mandatory examination by independent experts, given the increased risks associated with anthropogenic impact on the environment; 3) consider creating a special international Environmental Court of Arbitration with compulsory jurisdiction for UN member states. The latter is quite controversial, but necessary. Indeed, the International Court of Justice has been and remains the most authoritative and recognized judicial institution for the resolution of international disputes [11, p.12]. It has become an important tool for the resolution of international disputes, both by the Court as a whole and by the permanent chambers for environmental and maritime disputes, as well as by the Chambers ad hoc [12, p.44-46].

Nevertheless, the increase in the number of international judicial institutions indicates that international law is vividly responsive [13, p.7]. M. Koskenniemi and P. Leino say that in order to minimize the contradictions associated with the increasing number of judicial bodies, other international courts should be given the right to request advisory opinions of the International Court of Justice on questions of international law [14, p.554]. According to O. R. Duel, a hierarchical system of legal resolution bodies contributes to the development of a more orderly and coherent system of international law [15, p.23], since international judicial institutions are charged with the task of adapting existing international law to contemporary international life [16, p.72].

As A.S. Ispolinov writes, modern international courts not only apply and interpret the law, but also create new norms of law [17, p.79]. R.V. Alyamkin says that the decisions of the UN Court influence the formation of modern international law and ensuring the international legal order [18, p.83]. The decisions of the UN Court of Justice acquire a precedential character [19, p. 149], and international judicial procedure realizes the potential inherent in international law [20, p.472]. The difficulty of proving its position and the Court's ambiguous approach both to the process of proof and to the evidence itself do not diminish the importance of the judicial procedure itself. Evidence in this case is the activity of the parties to a dispute, with the participation of an international judicial institution and under its control, to establish the existence or absence of circumstances justifying their claims and defences and other circumstances relevant to the resolution of the dispute, in accordance with international law [21, p.177]. As a general rule, a judgment is valid only in respect of a particular case submitted to the court, and does not bind states that are not parties to the case. But the growth of the authority of international courts and, consequently, of their acts, as well as the tendency to recognize the precedential nature of their decisions is gradually changing the categorical nature of this rule [22, p.298].

C.Campbell-Mohn points out that national security depends on a steady supply of natural resources. As national security becomes an environmental issue it is already difficult to assess the likelihood of war over natural resources [23, p.117]. And so we have a vicious circle: economic and military activities lead to environmental degradation, and the reduction of natural resources in turn requires more and more intensive technological methods of extraction, which are mostly dangerous for the environment, or extensive approaches – covering new territories, displacing competitors [24, p.219]. In accordance with Art. 39 of the Constitution of the Republic of Azerbaijan, everyone has the right to live in a healthy environment. As you can see, the emphasis is shifting from a dignified and prosperous life to life in general (in a healthy environment). This applies not only to Azerbaijan, in its Constitution it only consolidated the general trend. This means that the settlement of interstate disputes by peaceful means through international courts is a guarantee of peace and international security [25, p.325-326].

One of the most negative factors affecting climate change and the environment is the failure to prevent serious anthropogenic interventions and disasters, including environmental crimes that harm human life and health. There are three main directions of international legal regulation in the field of environmental protection: 1) limitation of harmful anthropogenic impact on the environment; 2) ensuring sustainable development of mankind by establishing a rational regime of nature management; 3) international environmental cooperation.

The judicial form of limiting harmful anthropogenic impacts on the environment is ineffective. The UN Court is limited in its resolution of environmental problems by the limits of jurisdictional authority, excessive formalism and indecision. In addition, its jurisprudence is plagued by errors related to the lack of scientific certainty of evidence and the failure to adequately evaluate and weigh complex scientific data. But since judicial practice develops in the course of consideration of specific cases, reference to international judicial bodies is an important factor in its improvement. Also to increase the effectiveness of judicial enforcement of international environmental security and the constitutional right to a safe environment for life and health we consider necessary: 1) to introduce into international treaties, related both directly and indirectly to the impact on the environment, appropriate provisions on compulsory recognition of the jurisdiction of the court (UN Court, UN International Tribunal for the Law of the Sea, arbitration ad hoc, etc.); 2) to establish compulsory examination by independent experts to determine the issue of the potential environmental impact of the treaty, taking into account increased risks associated with anthropogenic impact on the environment; 3) to consider the creation of a special international arbitration with compulsory jurisdiction for UN member-states.

It should also be noted that there is no common position on the causes of global climate change: different opinions are expressed both about anthropogenic and natural impacts, as well as about their combination. And if you look at the problem of global warming from a fundamentally different side - economic and political, you can notice a certain connection between them, which closes in a new category that describes the actions of the most developed countries - political ecology.

These countries, taking advantage of the situation of the "global ecological crisis", exercise significant political and economic pressure on the producing and developing countries, which express their categorical "concern" about the state of the planet's environment, demanding the earliest possible replacement of hydrocarbon energy sources with alternative ones. It should be noted that the environmental safety of such sources also raises concerns that are ignored.

References:

1. Manzanaro, S.S. 2019. “COP25 in Madrid: UN Secretary-General Guterres Says Planet Is ‘Close to a Point of No Return.’” Euronews. 3 December 2019. https://www.euronews.com/2019/12/02/live-un-leaders-anddelegates-arrive-in-madrid-for-the-climatechange-summit

2. The Global Risks Report 2020 / Insight Report 15th Edition. In partnership with Marsh & McLennan and Zurich Insurance Group. 94 p. https://www.marsh.com/uk/insights/research/global-risks-report-2020.html

3. Kononenko V.P., Tymchenko L.D. International Law: Text Book. Kyiv: Znannia, 2012. 631 p. (in Ukrainian)

4. Kryshev A.I. Dynamic modeling of the transfer of radionuclides in hydrobiocenoses and assessment of the consequences of radioactive contamination for biota and humans: Referat of PhD thesis. Obninsk: 2008. 50 p. (in Russian)

5. Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court S Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) Case, I. C. J. Reports. 1995. P. 288.

6. Kononenko V.P. Settlement of territorial disputes by the International Court of Justice: Theory and practice. Kiev-Odessa: Feniks, 2017. 608 p. (in Russian)

7. Legality of the Use by a State of Nuclear Weapons in Armed Conflict, Advisory Opinion, I. C. J. Reports. 1996. P. 66.

8. Kononenko V.P. Settlement of territorial disputes by the International Court of Justice: Theory and practice. Kyiv-Odesa: Feniks, 2018. 438 p. (in Ukrainian)

9. Report of the International Court of Justice 1 August 2018–31 July 2019. United Nations. New York. 2019. P. 27/69.

10. Kononenko V.P., Tymchenko L.D. International legal protection of Ukraine's maritime spaces in the conditions of Russia's aggression against Ukraine. Pravo Ukrainy. 2020. N 12. P. 22-41 (in Ukrainian)

11. Guzey S.V. Development of International Law by the International Court of Justice of the United Nations: On the Example of Territorial Disputes: Referat of PhD thesis. Moscow: 2006. 27 p. (in Russian)

12. Kalshoven F. Essays on the development of the international legal order. In memory of Haro F. van Panhuys (ed. by F. Kalshoven, J.G. Lammers, P.J. Kuyper). Netherlands: Kluwer academic publishers, 1980. 237 p.

13. Charney J.I. Is International Law Threatened by Multiple Regimes. Leiden/Boston: Martinus Nijhoff Publishers, 1998. 382 p.

14. Koskenniemi M. Leino P. Fragmentation of International Law? Postmodern Anxieties. Leiden Journal of International Law. 2002. N 15. P.553–579.

15. Poyedinok O.R. Dimensions of fragmentation of international law: functional, regional, institutional aspects: Scientific report. Kyiv: T. Shevchenko Kyiv National University. 2013. 35 p. (in Ukrainian)

16. Oellers-Frahm K. Multiplication of International Courts and Tribunals and Conflicting Jurisdiction – Problems and Possible Solutions. Max Planck Yearbook of United Nations Law. 2001. Vol. 5. P.67–104.

17. Ispolinov A.S. Precedent in international law (on the example of the UN International Court of Justice, ECHR, WTO and the EAEU Court). Zakonodatelstvo. 2017. N 1. P. 78-87 (in Russian)

18. Alyamkin R.V. The role of the UN International Court of Justice in ensuring international law and order: the practice of settling international territorial disputes. Naukovi zapysky Institutu zakonodavstva Verhovnoy Rady Ukrainy. 2010. N 4. P. 83-87 (in Ukrainian)

19. Kononenko V., Tymchenko L. The legitimacy of acquisition of state territory. Juridical Tribune Journal. Vol. 10. N. 1. 2020. p. 149-161.

20. Kononenko V.P. Judicial precedent in international and national law: monograph. Odesa: Feniks. 2013. 512 p. (in Russian)

21. Kononenko V.P. Evidence in the International Court of Justice. Pravova derzhava. 2018. N 32. P. 176-182 (in Ukrainian)

22. Kononenko V.P., Tymchenko L.D. The growing role of international court decisions among sources of law. Mizhnarodnyi yuridychnyi visnyk: aktualni problemy suchasnosti (teoriya ta praktyka). Seriya: pravo. Vol. 3-4 (12-13). 2018. P. 293-298 (in Ukrainian)

23. Campbell-Mohn C., Breen B., Futrel J.W. Environmental Law. St. Paul, 1993. 994 p.

24. Kononenko V.P., Novikova L.V. The impact of regional armed conflicts on international environmental security. Almanah mezhdunarodnogo prava. 2020. N 24. P. 214-221 (in Ukrainian)

25. Rosca V. International case-law on the use of force or threat of it in Internationalt law. Revista Moldovenească de Drept Internațional și Relații Internaționale. 2016. Nr. 3 (Vol. 11). P. 325-339

Date of receipt of the article in the Editorial Office
(26.03.2020)