

Aliksieiev Serhii,

Postgraduate, Institute of Legislation of
the Verkhovna Rada of Ukraine,
Kyiv, Ukraine

NORMS OF INTERNATIONAL LAW IN THE LEGAL SYSTEM OF UKRAINE: THEORETICAL APPROACHES

The article is devoted to the problem of the implementation of the norms of international law regulating various social relations arising in the process of fulfillment of the international legal obligations of the state in the domestic (national) law in various spheres of social and state life, including proceedings in economic courts, it is determined by the fact that it is a part of the general problem of implementation of international norms in Ukraine. There are investigated theoretical approaches to the definition of the legal status of the norms of international law in the legal system of Ukraine.

Considering the material stated in the article, the author comes to the following conclusions:

- Harmoniously harmonised legal regulations of both legal systems - International Law (IL) and Internal State Law (ISL) - are a pledge, an important condition and guarantee for States to comply in good faith with their international obligations undertaken by them in the framework of signed international treaties;

- IL would not be able to carry out its regulatory function without the existence of SIL norms, in fact, continue and implement its regulatory guidelines in the national legal space. The State creates (must create) the necessary legal conditions to ensure the implementation of international treaties;

- The interaction between IL and SIL standards covers important constitutional, legal, institutional, structural and normative-technological aspects of the existence of IL standards in the national legal system, namely: a) proclamation and legislative consolidation of the principle of unconditional compliance with international treaties;

b) legal support and enforcement of international treaties, including state sanctions for failure to comply with the treaties and failure to make changes and additions necessary to meet obligations under the treaties;

- In other words, in order for international public law to exist and perform its functions, SIL and its organizational and normative-technological mechanisms for the implementation of normative prescriptions are necessary; at the same time, SIL is necessary for IL, which establishes a normative basis for coordinated actions of various states in various fields, including for solving possible conflicts and contradictions between the legal systems of member states of the international community, as well as for the foreign policy activities of states.

Key words: implementation, international law, legal status, national legislation, legal system.

REFERENCES

1. *Butkevych V.H., Mytsyk V.V., Zadorozhnyi O.V.* (2002) Mizhnarodne pravo. Osnovy teorii: pidruch. "International law. Fundamentals of Theory: Textbook". /edited by V.H. Butkevych. K.: Lybid. P. 244–245. [in Ukrainian].
2. *Gegel H.F.* (1959) Filosofiya prava. "Philosophy of Law". M. 364p. [in Russian].
3. *Zorn A.* (1903) Grundzuege des Voelkerrechts. Leipzig: J.J.Weber. [in German].
4. *Blishchenko I.P.* (1960) Mezhdunarodnoye i vnutrigosudarstvennoye pravo. "International and domestic law". M.: Gosizdat. [in Russian].
5. *Kelsen H.* (1967) Pure Theory of Law. – Berkeley & Los Angeles: University of California. [in English].
6. *Levin D.B.* (1974) Aktualnie problemy teorii mezhdunarodnoho prava. "Actual problems of the theory of international law". M. P. 66–67. [in Russian].
7. *Baskin Yu.A., Krylov N.B., Lievin D.B. i dr.* (1989) Kurs mezhdunarodnogo prava: v 7 t. "The course of international law": in 7 vols. M.: Nauka. T. 1: Concept, subject and system of MP. P. 279–280. [in Russian].

8. *Brounli Yan.* (1977) *Mezhdunarodnoye pravo*. Kn. 1. "International law". Prince 1. / Ed. G.I. Tunkina. M.: Progress, 67p. [in Russian].
9. *Seidl-Hohenveldern I.* (1963) Transformation or Adoption of International Law into Municipal Law. *The International & Comparative Law Quarterly*, vol. 12, P. 88–124. [in English].
10. *Радойнов П.М.* (1971) Съгласуване на вътрешнодържавното и международното право. София: Наука и изкуство. 176 с. [in Bulgarian].
11. *Shearer I.A.* (1994) *Starke's International Law*. – 11th Edition. London. P. 66-67. [in English].
12. *Kyianytsia I.P.* (2004) Implementatsiia norm mizhnarodnoho prava v pravovii systemi FRN. "Implementation of international law in the legal system of Germany: abstract. diss. Ph. D. Institute of State and Law. V.M. Koretskyi NAS of Ukraine. K., 6 p. [in Ukrainian].
13. *Gavrilov V.V.* (2001) Teorii transformatsii i implementatsii norm mezhdunarodnogo prava v otechestvennoy pravovoy doktrine. "Theories of transformation and implementation of international law in domestic legal doctrine". Mosk. international journal. No. 2. P. 39–61. [in Russian].
14. *Usenko Ye.T.* (1995) Sootnosheniye i vzaimodeystviye mezhdunarodnogo i natsionalnogo prava i Rossiyskaya Konstitutsiya. "Correlation and interaction of international and national law and the Russian Constitution". Mosk. international journal. No. 2. P. 13–28. [in Russian].
15. *Chernichenko S.V.* (1999) Teoriya mezhdunarodnogo prava: v 2-kh t. "Theory of international law": in 2 vols. M.: NIMP. Vol. 1: Modern theoretical problems. P. 151, 155–158. [in Russian].
16. *Mironov N.V.* (1980) *Mezhdunarodnoye pravo: normy i ikh yuridicheskaya sila*. "International law: norms and their legal force". M.: Legal literature. P. 125–126. [in Russian].
17. Slovar mezhdunarodnogo prava. "Dictionary of international law". M.: Int. rel., 1982. 56 p. [in Russian].
18. *Gaverdovskii A.S.* (1980) Implementatsiia norm mezhdunarodnogo prava. K.; *Butkevich V.G.* (1981) Sootnosheniye vnutrigosudarstvennogo i

mezhdunarodnogo prava. K.; *Lukashuk I.I.* (1997) Normy mezhdunarodnogo prava v pravovoy sisteme Rossii. M.; *Abdulayev M.I.* (1993) Soglasovaniye vnutrigosudarstvennogo prava s mezhdunarodnym (teoreticheskiye aspekty). Pravovedeniye. Haverdovsky A.S. "Implementation of international law". K., 1980. 62p; Butkevich V.G. "Correlation of domestic and international law". K., 1981. 257p; Lukashuk I.I. "Norms of international law in the legal system of Russia". M., 1997. 12p; Abdulaiev M.I. "Alignment of domestic law with international law (theoretical aspects)". Jurisprudence. 1993. No. 2. 49p. [in Russian].

19. *Tiunov O.I.* (2005) Obshchepriznannyye printsipy i normy mezhdunarodnogo prava i pravovyye pozitsii Konstitutsionnogo Suda Rossiyskoy Federatsii. Pravovoie obespecheniye mezhgosudarstvennoy integratsii. "Generally recognized principles and norms of international law and legal positions of the Constitutional Court of the Russian Federation. Legal support of interstate integration": collection. Art. / ed. Yu.A. Tikhomirov, V.I. Lafite. M. 197 p. [in Russian].

20. *Gavrilov V.V.* (1995) Mezhdunarodnyy mekhanizm kontrolya za implementatsiei universalnykh aktov o pravakh cheloveka. "The international mechanism for monitoring the implementation of universal human rights instruments". Mosk. international journal. No.4. P. 27–34. [in Russian].

21. *Zimnenko B.L.* (2000) Mezhdunarodnoie pravo i rossiiskoie pravo: ikh sootnosheniye. "International law and Russian law: their relationship". Mosk. international journal. No. 3. P. 162–168. [in Russian].

22. Mezhdunarodnoie pravo: ucheb. "International law: textbook" / ed. Yu.M. Kolosov, V.I. Kuznetsov. M.: Intern. Relations, 1996. [in Russian].

23. *Baimuratov M.O.* (2015) Mizhnarodne publichne pravo: pidruchn. "Public international law": a textbook. Odessa: Phoenix. P. 14–28. [in Ukrainian].

24. Suverenitet Ukrainy i mizhnarodne pravo. "Sovereignty of Ukraine and international law" / V.N. Denisov [and others]; responsible editor V.I. Yevintov; National Academy of Sciences of Ukraine; V.M. Koretskyi Institute of State and Law. K.: Manuscript, 1995. P. 5–72. [in Ukrainian].

25. *Mitsyk V.V., Buromenskyi M.V., Butkevych O.V.* ta in. (2018) Mizhnarodne publichne pravo: pidruch.: u 2 t. "Public international law: ed.: In 2

volumes / ed. V.V. Mitsyk. Kh.: Pravo. Vol. 1: Foundations of Theory. P. 222–244. [in Ukrainian].

26. *Chubariev V.L.* (1997) Problema spivvidnoshennia mizhnarodnoho i natsionalnoho prava ta Konstytutsiia Ukrainy. “The problem of correlation between international and national law and the Constitution of Ukraine”. The Constitution of Ukraine is the basis for the further development of legislation: Coll. Sciences. Kyiv: Institution of Law of the Verkhovna Rada. Iss. 2 [in Ukrainian]. *Merezhko A.A., Nelip M.I.* (1998) Development of the Legal System of Ukraine in the Context of Contemporary International Law. Kyiv: Nauk. Dumka. [in English].

27. *Vasilenko V.A.* (1988) Osnovy teorii mezhdunarodnogo prava. “Fundamentals of International Law Theory”. K.: High School. P. 195–196. [in Russian].

28. *Lukashuk I.I.* (1995) Konstitutsiya Rossii i mezhdunarodnoye pravo. “The Constitution of Russia and international law”. Mosk. international journal. No.2. P. 29–41. [in Russian].

29. Videnska konventsiiia pro pravo mizhnarodnykh dohovoriv 1969 roku. “Vienna Convention on the Law of Treaties 1969”. K.: MFA, 1995. [in Ukrainian].