https://cejsr.academicjournal.io

The Role of the Principles of International Environmental Law In The Implementation of Environmental Impact Assessment

Akhmedova Shakhnoza Ozodjonovna
Senior Lecturer of Environmental Law Department
of Tashkent State University of Law
E-mail: sh.axmedova@tsul.uz

Annotation. *The article discusses the essence of the principles of international environmental law, their dependence on the ideology of society and the state. The most important principles of international environmental law are considered. The essence of some of them is revealed most fully in view of their special relevance. Conclusions are drawn how the observance of the principles of international environmental law can affect the improvement of the environmental situation in the country and the world.*

Keywords: *principles of international environmental law, ecology, branch principles of law, principles of law, law, principles.*

It is generally known that the direction of legal regulation is expressed with the help of the principles of law [1, p. 5]. Agree with Yu.Yu. Vetutnev that the most essential property of the principles of law is their ability to legally express the most significant and progressively accentuated values of public life. Behind each principle of law there is always something socially significant, useful, which has the attractive power of a guideline and ideal of social development in public life [2, p. 118].

Therefore, we will consider the principles of international environmental law in the implementation of environmental impact assessment, which consist of the fundamental principles of international law, including environmental law. The principles of environmental law are understood as the basic, fundamentally important provisions, ideas that underlie environmental law. The basic principles of international law are the fundamental international legal norms that are universal in nature and have the highest legal force. They are imperative in nature (jus cogens) and serve as criteria for the legitimacy of all other international norms. They permeate the entire international legal system; the remaining international legal norms, as well as the behavior of the subjects of international law, must comply with the provisions of the principles. They are a concentrated expression and generalization of generally recognized norms of behavior of subjects of international law. Actions and treaties that violate the provisions of the basic principles of international law are recognized as invalid, which entails international legal responsibility [3, p. 118].

The basic principles of international law are interconnected, and the violation of one of them is inevitably followed by non-observance of others. They are formed on the basis of custom and contract.

According to the general theory, the fundamental principles of international law and the sectoral principles of international environmental law governing EIA are considered. These include the following principles: the inadmissibility of causing transboundary damage; respect for environmental human rights; environmentally sound rational use of natural resources; inadmissibility of radioactive contamination of the environment; protection of the ecological systems of the World Ocean;

international legal responsibility of states for damage caused to the environment; precaution or precautionary approach, as well as the principles of non-discrimination, non-harm and sustainable development [4, p. 35].

The principle of the inadmissibility of causing transboundary harm has been widely recognized as a binding norm of international law. Its content is that states "are responsible for ensuring that activities within their jurisdiction or control do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction." It seems obvious that when assessing the impact on the environment, the principle of inadmissibility of causing transboundary damage should be taken into account and implemented as one of the priorities, since it is based on the interaction of several states, and its observance will help in a number of cases to prevent harm to neighboring states [5, p. 168].

The principle of ensuring the observance of environmental human rights is, of course, the most important, however, it cannot have direct effect, and we think only within the framework of a systemic relationship with the relevant domestic norms, since the constitutions of many states do not contain norms (or norms) establishing the very right to a favorable environment . Accordingly, the above-mentioned "environmental human rights" have to be derived from other constitutional norms. The ultimate goal of the efforts of the world community and each individual state is the protection of human rights to a favorable environment. In the light of this principle, attention is drawn to the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Matters Concerning the Environment (1998, Aarhus), not only listing the environmental human rights regarding which the world community has already reached a certain consensus (on a favorable environment, on access to environmental information, on public participation in decision-making on environmental issues, on access to justice on environmental issues), but also revealing, in relation to the region EEC their legal content. This principle of ensuring compliance with environmental human rights, as well as the Aarhus Convention as a whole, are of great importance for the development of the institution of environmental impact assessment [6, p. 54].

The principle of environmentally sound rational use of natural resources in its most general form is revealed in the norms of the "soft" MEP as follows: rational planning and management of renewable and non-renewable resources of the Earth in the interests of present and future generations; long-term planning of environmental activities with an environmental perspective; assessment of the possible consequences of the activities of states within their territory, zones of jurisdiction or control for environmental systems beyond these limits; maintaining the used natural resources at the optimally acceptable level, i.e. at a level at which maximum net productivity is possible and no downward trend can be observed; scientifically grounded management of living resources. The implementation of this principle in order to prevent a global environmental catastrophe can ensure a more careful attitude to natural resources in the implementation of large infrastructure projects and the conduct of EIA.

The principle of inadmissibility of radioactive contamination of the environment applies to both the peaceful and military areas of the use of radioactive substances (nuclear energy).

The legal content of this principle is revealed by four international conventions adopted over the past 20 years: the Convention on Assistance in the Case of a Nuclear Accident or Radiation Emergency of 1986, the Convention on Early Notification of a Nuclear Accident of 1986, the Convention on Nuclear Safety of 1994 and the Joint Convention on the Safety of Spent Nuclear Fuel Management and on the Safety of Radioactive Waste Management of 1997 The Nuclear Safety Convention defines the protection of the environment as one of its main objectives and focuses on measures to prevent its radioactive contamination. The document, in particular, provides that each contracting party "takes

appropriate measures to ensure that appropriate procedures are developed and implemented for assessing the likely impact of a proposed nuclear installation on the environment in terms of safety." The Joint Convention provides for an EIA provision for planned nuclear installations and a consultation procedure for interested states if one is to be located near the border of another state. It also provides for an environmental review prior to construction of a facility and requires that, during its lifetime, each contracting party take "measures to prevent unplanned and uncontrolled releases of radioactive materials into the environment" [7, p. 38].

The principle of protecting the ecological systems of the World Ocean is enshrined in the UN Convention on the Law of the Sea of 1982, which provides that international norms and standards for the prevention of pollution from ships on the high seas, including economic zones, are developed by the states themselves, and the provision of such norms and standards in the economic zone predominantly, and on the high seas - completely, belongs to the jurisdiction of the flag state [8, p. 160].

Of undoubted interest is the declaration "Our ocean - our future", adopted by the resolution of the UN General Assembly on July 6, 2017. In its paragraph 6, in particular, it is proclaimed that all sustainable development goals are comprehensive and indivisible and are interrelated and complementary, and it is extremely important to be guided by the provisions of the 2030 Agenda, including the principles confirmed in it. Paragraph 13 calls on all stakeholders to ensure the conservation and sustainable use of the oceans, seas and marine resources for sustainable development, and to this end take the necessary measures without delay, including through existing institutions and partnership mechanisms, including, but not limited to, stepping up action to prevent and substantially reduce any pollution of the marine environment, in particular from land-based activities, including marine debris pollution, and to address, as appropriate, other adverse human-related impacts on the ocean environment, and marine life such as marine animal collisions with ships, underwater noise and invasive alien species; promoting the prevention and minimization of waste generation, creating sustainable consumption and production patterns, ensuring the application of the principle of "reduce consumption, reuse and recycle", including by stimulating market mechanisms to reduce waste and reduce their generation, improving environmentally sound management mechanisms, waste disposal and recycling, as well as the development of alternative solutions, such as the creation of reusable or recyclable products or products that are biodegradable in natural conditions [9, p. 90].

The principle of international legal responsibility of states for damage caused to the environment. States ensure the fulfillment of their international obligations to protect the environment and prevent transboundary pollution by taking the most effective measures for this purpose (positive responsibility). For these purposes, first of all, there are documents of environmental legislation, which must comply with the international legal and unilateral obligations of a given state in the field of environmental protection. If we talk about the implementation of EIA when planning any economic activity, then, according to the applicant, this procedure includes the principle of positive responsibility to a greater extent, since it must take into account existing legal norms, the degree of danger of the impact of such activities on the environment and the population as well as the possibility of preventing negative consequences.

https://cejsr.academicjournal.io

Bibliographic list

1. Вопленко Н.Н., Рудковский В.А. Основные принципы права: понятие и классификация // Вестник ВолГУ. Серия 5: Юриспруденция. - 2013. - № 1. - С. 5-11.
2. Проблемы теории государства и права: учебник / С.Ф. Афанасьев, А.Ю. Барсуков, Е. В. Вавилин и др.; под ред. А.В. Малько. - М.: Юрлитинформ, 2012. - 592 с.
3. Environmental Impact Assessment. Course module. http://eia.unu.edu/course/.
4. Principles of Environmental Impact Assessment. Jon Nevill, May 2000. http://www.onlyoneplanet.com/eia_-principles.pdf.
5. Impact Assessment in cooperation with Institute of Environmental Assessment,UK.http://www.iaia.org/publicdocuments/specialpublications/Principles%20of%20IA_web.pdf.
6. Аблец В.В. Оценка воздействий на окружающую среду: определение рисков // Вісник Криворізького технічного університету, 2011. – Вип. 28. С. 52-57.
7. Вопленко Н.Н., Рудковский В.А. Понятие и классификация принципов права // Ленинградский юридический журнал. - 2014. - № 4 (38). - С. 35-48.
8. Истомина Ю. В. О некоторых принципах экологического права // Вестник ВГТУ. -2009. - № 8. - С. 160-162.
9. Богданова Э.Ю., Кольцов М.И., Потапов С.А. Принцип недискриминации и реализация процедуры оценки воздействия на окружающую среду в международном экологическом праве / Э.Ю. Богданова, М.И. Кольцов, С.А. Потапов // Правовая политика и правовая жизнь. - 2018. - № 3 (72). - С. 87-92. – (0,32 / 0,16 п.л.)
10. Богданова Э.Ю. Оценка воздействия на окружающую среду и принцип предосторожности: международно-правовые аспекты / Э.Ю. Богданова // Право и управление. XXI век. - 2016. - № 2. - С. 28-32. – (0,35 п.л);