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INTERNATIONAL LEGAL STANDARDS FOR IMPLEMENTING THE RIGHT TO PEACEFUL ASSEMBLY[1]

The article analyzes the right to peaceful assembly in the context of international standards. It defines the concepts of "standard" and "international standards". The article also examines the three-level structure of application of international legal standards formulated in the legal doctrine of Ukraine. Additionally, the article considers the criteria established by the United Nations that are necessary for the effective process of standardization in the field of human rights. The author characterizes the features and functions of international human rights norms.

Keywords: *standards, international standards, human rights, the right to peaceful assembly.*

The recognition of an individual's rights and freedoms as the highest social value necessitates the establishment of a comprehensive system of international human rights protection. This requires close cooperation between states and the development of joint approaches and principles for such protection.

The unification of legal systems across different states and international legal integration have been ideas dating back to the distant past. However, it is in the current stage of interstate relations that these processes are finding practical implementation. The complexity of functions performed by international law results in an increase in the number of international legal acts, which serve as sources of international law and contain generally recognized standards.

The term "standard" is commonly used and in everyday context means:

"1. An accepted type of product that meets certain requirements for its quality, chemical composition, physical properties, size, weight, etc. The only typical form of organization, conduct, implementation of something;

2. Something that lacks of individual characteristics, originality, or uniqueness and is instead a template or stencil." [1, p. 644].

The Law of Ukraine "On Standardization" dated 06.05.2014 No. 1315-VII defines a standard as a regulatory document based on consensus and adopted by a designated body at the national legislative level. Its purpose is to establish rules, guidelines, or characteristics for activities or their results, aimed at achieving optimal orderliness in a specific area [2].

In the Legal Encyclopedia, the term "standard" is interpreted as something that lacks individual characteristics, originality. In general, the word standard is a sample, benchmark, model, perceived as a starting position to which certain objects must correspond [3, p. 614-616].

[1] Початок. Закінчення у наступному номері.

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S.P. Moroz emphasizes the functional significance of standards, which are defined by clear parameters and limits. However, the nature of a standard is not always unambiguous due to the casual force that determines it. Standards are based on the internal logic of their content, which serves as a criterion for evaluating their own kind, as well as external factors that necessitate their creation. The strength of the standard lies both in the irrefutability of its content and in the external factors that support its existence. A legal standard, in the literal sense, can be interpreted as an unchanging social phenomenon without objections [4, p. 219-220].

In the study of the right to peaceful assembly in the context of international standards, it is important to define the term "international standards". According to the Legal Encyclopedia, this refers to international legal norms and principles that establish rules of behavior for subjects of international law in certain spheres of international-state cooperation. The standards set out the minimum requirements that must be observed by all states. International standards are contained in international treaties, other sources of international law and in international documents adopted by individual international organizations, which do not have binding legal force [3, p. 614-616].

In connection with the above, the three-level structure of application of international legal norms in national legislation formulated in the legal doctrine of Ukraine attracts attention.

To begin with, it is essential to establish international legal norms that are either binding or recommendatory. Next, these norms must be the subject of application in international courts of law. Finally, international scientific works should explain and acknowledge these norms [5, p. 257-265].

International legal standards are typically found in sources of international law. These sources have a dual meaning in international legal literature: material (related to international relations) and formal (external forms containing legal norms). The sources of international law include international treaties, both general and special international conventions, international legal customs, general principles of international law, judgments rendered by international judicial bodies, and legal doctrines [6, p. 264].

S.M. Liakhivnenko examines international legal standards from ontognosesological and functional perspectives. He argues that: a) they are understood first of all as unified principles and norms of behavior of subjects of law, which are fixed in the main sources of international law, both universal and regional legal acts; b) they are optimal legal requirements in relation to the legal systems of the member states of the international community; c) They represent the most significant legal accomplishments of international law and the collaboration among member countries of the international community and universal and regional intergovernmental organizations; d) these accomplishments are documented in the appropriate legal sources through principles and rules of law; e) they are objectified through the main sources of international law; f) they are mandatory requirements for states parties to international treaties containing such legal standards; h) they are the basis for harmonizing international and national law [7, p. 667].

M.H. Khaustova associates the intensification of the introduction and implementation of international and European legal norms in lawmaking, law implementation and law enforcement, especially in law enforcement, human rights and judicial activities with the processes of legal globalization. The role and importance of norms, principles and precedents

of international law, international treaties ratified by Ukraine is growing. The influence of international and European legal institutions on law enforcement practice is significantly increasing. The leading role in the transformation of law enforcement activity in the national legal system is played by the Council of Europe, Organization for Security and Co-operation in Europe, European Union, Parliamentary Assembly of the Council of Europe, the practice of the European Court of Human Rights, the activities of the Venice Commission, the General Directorate of Human Rights and the Rule of Law of the Council of Europe [8, p. 78].

At the end of the 20th century, the United Nations directed some efforts to establish criteria to guide the standard-setting process in the field of human rights. A significant step was the adoption of the UN General Assembly resolution "Establishment of International Human Rights Standards" No. 41/120 of December 4, 1986, which invites member states and UN bodies to take into account the following principles in the further development of human rights instruments: a) be consistent with the existing body of international human rights law; b) be fundamental and based on the inherent dignity and worth of the human person; c) be sufficiently clear or a source of rights and duties to be defined and implemented; d) provide, where appropriate, for a realistic and effective implementation mechanism, including reporting systems; e) enjoy broad international support [9].

However, none of the official international legal documents enshrining international human rights standards actually provides definitions of such standards. Let us turn to a thorough study by L.V. Uliashyna, in which she presents several views on the interpretation of the concept of international human rights standards. Professor L.V. Pavlova defines international human rights standards as a set of fundamental rights and freedoms enshrined in international legal documents, recognized by the international community as a whole, and mandatory for implementation in the legal system of each state. It further specifies that "international human rights law standards" are regulated in international legal instruments of different legal nature and legal force. <...> The link is not only a substantive analogy, but also the existence of guiding or binding provisions for States to comply with the standards or to ensure their observance through legislative implementation".

The definition proposed by a group of international experts representing world-renowned non-governmental organizations – International Council on Human Rights Policy, International Commission of Jurists, International Service for Human Rights within the framework of the joint project on the study of the formation and application of standards in the field of human rights "Standards in the area of human rights: experience teaches" (2006), reads as follows: "Standards are defined as internationally recognized documents (instruments), regardless of whether they are mandatory or advisory for states". The first codifies legal obligations, known as "hard" law, while the others provide recommendations for their implementation and policy, known as "soft" law.

It is quite possible to agree with Uliashina's conclusion regarding the difference in approaches to defining international human rights standards. While Pavlova defines standards as a set of rights enshrined in documents and regulated in international legal instruments, the other two definitions are based on norms or documents. The key words in the above definitions serve as a vivid illustration of the fact that legal science, including the science of human rights law, is in a state of search for the means by which it will be possible to best realize

the normative embodiment of the idea underlying human rights (recognition of rights and freedoms as inalienable and inherent from birth and not granted by states through the issuance of certain normative acts) and, at the same time, to ensure the condition of embodiment of the right in a norm that serves as a basis for the legal protection of human rights and freedoms, at the same time, to ensure the condition of the embodiment of the right in a norm that serves as a basis for the legal protection of human rights and freedoms.

According to L.V. Uliashyna, international human rights standards can be divided into two groups of features.

Firstly, the features constituting the concept of international human rights standards:

1) universality;
2) equal relevant to all countries and regions;
3) outside the hierarchy of national legal acts;
4) grounded in general democratic imperatives;
5) combine soft and hard laws;
6) based on the concept of natural law;
7) do not always fulfill normative requirements.

Secondly, the functions of international human rights standards:

1) normative:

serves as a normative minimum or an acceptable consensus for state regulation, contain recommendations for the formation of national practice, promote the implementation of international obligations, and set forth general democratic requirements for states;

2) control:

serves as a yardstick for measuring the implementation of international commitments, sets forth general democratic requirements for states, and serves as an acceptable consensus for state regulation;

3) informational:

serve as a means of exchanging information, making general democratic demands;

4) protective:

contribute to the implementation of international obligations, provide effective protection of public domain objects;

5) educational:

this section aims to promote ethical standards in relations between members of the international community, international institutions, and individuals. It also aims to increase international interest in human rights, provide recommendations for the development of national practices, facilitate the implementation of international obligations, and provide a list of generally accepted democratic requirements for states [10, p. 72].

P. Rabinovych and A. Venetska offer a broad interpretation of international human rights standards as principles and norms enshrined in international acts and documents, which are textually unified and functionally universal for certain international associations of states, defining the minimum necessary or desirable content and/or scope of human rights through abstract, mostly evaluative concepts, conditioned by the achieved level of social development and its dynamics, establishing the positive obligations of the states regarding their provision, protection and protection and foreseeing sanctions of a political, legal or political nature for their violation [11].

M.L. Sereda rightfully analyzes the definitions of international standards proposed by domestic scientists. She points out significant differences of opinion, ranging from understanding international standards as a benchmark or sample to narrowing the concept's content to the minimum limits with an emphasis on the criteria of subject prevalence (recognition as a standard of the norms accepted by all or a large part of the international community). Scientist suggest that limiting the understanding of international standards to only the minimum requirements that all states must comply with, both substantially and methodologically, is inappropriate [12, p. 80].

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МІЖНАРОДНО-ПРАВОВІ СТАНДАРТИ У СФЕРІ РЕАЛІЗАЦІЇ ПРАВА НА МИРНІ ЗІБРАННЯ

У межах статті досліджено права на мирні зібрання у контексті міжнародних стандартів. Розкрито поняття “стандарт”, доведено функціональне значення будь-якого стандарту.

Визначено зміст дефініції “міжнародні стандарти” як міжнародно-правові норми і принципи, що закріплюють правила поведінки суб’єктів міжнародного права в тих чи інших сферах міжнародно-державного співробітництва.

Проаналізовано сформульовану у правовій доктрині України трирівневу структуру застосування міжнародно-правових стандартів. Вказано, що, по-перше, той чи інший стандарт має бути зафіксований у нормах міжнародного права та, відповідно, мати обов’язковий чи рекомендаційний характер; по-друге, цей стандарт має бути застосовано в юрисдикційних органах, тобто в міжнародних судових інстанціях; по-третє, цей стандарт має бути пояснено й визнано в наукових працях міжнародного рівня.

Розглянуто міжнародні правові стандарти з онтогносеологічних та функціональних позицій.

Охарактеризовано встановлені ООН критерії, необхідні для ефективного процесу нормотворення стандартів у галузі прав людини.

Виокремлено основні ознаки та функції міжнародних стандартів з прав людини.

Констатовано зростання ролі і значення норм, принципів і прецедентів міжнародного права, міжнародних договорів, ратифікованих Україною, та активізація впровадження й реалізації міжнародних і європейських правових стандартів у правотворчу, правореалізаційну й правозастосовну, насамперед правоохоронну, правозахисну, судову діяльність, задля провадження ефективного та дієвого механізму захисту права на мирні зібрання.

Ключові слова: стандарти, міжнародні стандарти, права людини, право на мирні зібрання.

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