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CONTEMPORARY ASPECTS OF INTERNATIONAL LAW

Abstract. The result of analysis of the international law with the study of consequences of the development of science and technology for man and the world is a high level of responsibility for the life of the planet. The Commission on International Law established by the United Nations has been working for several decades introducing many legal acts analyzed in this paper. Nowadays, there is talk about international economic law, international environmental law, and regulations in the field of intellectual property law are being analyzed and enriched. Not all of them are based on the norms of international law.
Key words: international law, institutions, codification.
JEL classification: K33, K39

Most considerations on contemporary aspects of international law come down to the search for solutions to one great codification of this law. Hence the analysis of the content of the existing sources of this law, the study of references or consequences of the development of science and technology for man and the world, arousing social anxiety in order to cause common human responsibility for the life of the planet. It should be emphasized that more or less in-depth analyzes and reflections concern both counteracting perceived threats and emerging opportunities. It points to the complicated nature of the relationship and the need to recognize their complementarity. We also live in times of revealed international conflicts and resulting wars with ever-increasing cruelty.

This selected catalog does not exhaust the issues of international law, however, it allows us to look at it in a different, horizontal way. This is also the purpose of this publication.

The Commission on International Law established by the United Nations has been working for several decades. To these works we owe the

Vienna Conventions on the Law of Treaties and on Consular Relations. Attention is drawn to the codification achievements of the Council of Europe with conventions on social protection (European Social Charter of 1999), extradition (European Convention of 13.12.1957 on extradition), cooperation in criminal matters (European Convention of 20.04.1959 on mutual assistance in criminal matters) combating corruption (criminal law convention of January 27, 1999 on corruption) preventing terrorism (European Convention of January 27, 1977 on Combating Terrorism), combating trafficking in human beings (Council of Europe Convention on Action against Trafficking in Human Beings of May 16. 2005). A special role, which is emphasized, is played by the European Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention was established on November 4, 1950, but its content was significantly enriched by Protocol No. 15 of June 24, 2013).

Finding such routes is not just a European issue.

Almost 30 years ago, Paul Kennedy (1994, p.153) in his book "At the Edge of the 21st Century (Fitting on the Future)" pointed out that: "There are also supranational regional organizations, established especially for commercial purposes. While it may be premature to predict the impending division of the developed world into three trading blocs and their satellites, the creation of something like the North American Free Trade Area (Mexico, Canada and the US) entails agreeing to reduce national economic integrity. Within such a zone, national differences begin to blur. This process is more advanced in the European Community, where national governments and parliaments have agreed to relinquish broad areas of traditional national sovereignty in order to achieve greater economic and political unity. And it is precisely because they have gone so far that a deep political controversy has emerged between those who favor integration and those who oppose the erosion of national powers."

The British researcher of international law, Joel P. Trachtman (2013), in the monograph "The Future of International Law", criticizes the developments taking place in specific branches of international law. He mainly focused on such areas as international human rights law, international environmental law, international investment law and others.

He also put forward the idea of solving the emerging imperfections by establishing a global government.

In the history of international law, after a period of agreements between rulers that differed little from civil law, the emergence of the seeds of structuring bilateral legal solutions, and the shaping of the foundations (with the general participation of the Red Cross) of humanitarian law, the last decades had a different character. The subjects of international law became states with more and more perfect constitutions, and the civilized development in a way forced to take up the issues of the sea, transport and trade. The world wars brought about new constructions in international law. The last period has revealed, more than before, different qualities in the understanding of international security, climate challenges, common concern for space, and the consequences of large migration movements affecting the needs of such human needs as work, education, health, culture and tourism. There is no doubt that modernity and the upcoming changes in people's lives force significant changes in the law. This is particularly relevant in relation to international law, which, apart from traditional inter-state regulations, has to find new regulation formulas in an ever-increasing scope; including those resulting from the relationship between man – nature and man – civilization. International law, more than other branches of law, "discovers" its new planes, which are humanity's response to the way of solving global problems, the consequences of the development of science and technology, finding a different regulation of citizens' claims, and also a different view of international conflicts than before. Hence, it is reasonable to look at the contemporary conditions of the creation of international law and to analyze selected problems of its future.

On the sources of international law and their nature

Norms of public international law are distinguished from other branches of law by the absence or a different nature of sanctions for their violation. The subjects of this right are states and international

organizations. Sanctions after World War II or after crimes in former Yugoslavia and Sierra Leone concerned individuals responsible for violating international law. The International Military Tribunal (the so-called Nuremberg Tribunal) was established as a result of the London Agreement in August 1945 of the United States. of the Soviet Union, Great Britain and France, tried war criminals for "offences not related to a particular geographical area, whether they be charged individually or as members of organizations and groups, or both." The Charter of the Court provided jurisdiction over defined crimes against peace, war crimes and crimes against humanity. A similar trial was held in Tokyo at the Tribunal established by decree of the Supreme Allied Commander in the Far East. The principles contained in the statutes of the Nuremberg and Tokyo Tribunals are confirmed by the resolution of the UN General Assembly of December 11, 1946. The UN General Assembly also adopted the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, stating that this crime is prosecuted regardless of whether it was committed during a collective conflict or in peacetime. The crime of genocide is treated as a special case of crimes against humanity or as a separate type of international crime. It is significant that despite the fact that the UN International Law Commission has been working on a code of crimes against the peace and security of the population since 1949, it has not completed its work. In this connection, it is worth recalling that the Charter of the International Military Tribunal defined crimes against peace, “namely; planning, preparing or waging a war of aggression or a war in violation of international treaties, agreements or promises, or complicity in a plan or conspiracy to carry out such acts" and crimes against humanity as "murder, extermination of people into slavery, deportation and other inhumane acts committed against the civilian population before or during a war, or persecution for political, racial or religious reasons in the commission of or in connection with any crime within the jurisdiction of the Court, whether or not such acts violated the domestic law of the State where they were committed.

The definition of war crimes later extended in the Geneva Conferences and the additional (to them) Protocols in the Charter was expressed as:

“violation of the laws and customs of war. Such violations shall include, but not be limited to, murder, maltreatment or deportation for forced labor or other purposes to the civilian population of the occupied area, murder or ill-treatment of prisoners of war or persons at sea, killing of hostages, plunder of public or private property to the wanton destruction of towns or villages, or to ravages not justified by the necessity of war.

The aforementioned Convention on the Prevention and Punishment of the Crime of Genocide defines it as "any act committed with the aim of destroying, in whole or in part, a national, ethnic, racial or religious group, in particular: murder of members of the group, causing serious bodily injury or disorder of mental health group members, deliberately creating conditions for group members calculated to cause their physical destruction in whole or in part, measures to prevent births within the group, and the forcible transfer of children of members of one group to another group.

Importantly, the UN General Assembly adopted in 1968 the Convention on the Non-Applicability of Statutes to War Crimes and Crimes Against Humanity.

While criminal liability applies to individuals, civil law liability for violation of international law applies to states or international organizations. In the doctrine and in the draft of the International Law Commission of 2001, it is assumed that the state is responsible for the conduct of its legislative, executive, judicial and other bodies, regardless of the position that a given body occupies in the hierarchy within the state, including self-government bodies (Łazowski, Sonczyk 2018).

Regulations of public international law are based primarily on the consensus of states as to the assessment of states, threats, and also as to the determination of a community of conduct for the future. It manifests itself in the formation of norms expressed in various sources of works.

Awareness of the above statements makes it necessary to find solutions as to the content and procedure of proceedings in a different way than in other branches of law.

Against armed conflicts and their consequences

Nowadays, due to ongoing armed conflicts (Ukraine, Armenia, Azerbaijan, Syria), there is an increasing interest in the law of war (law of armed conflicts). Due to the fact that the norms regarding the protection of people affected by armed conflict, constituting the most important part of the law of war, in the doctrine are called international humanitarian law (Jasudowicz 1999). In addition to restrictions on combat methods and types of weapons (e.g. and restrictions on the use of mines), a ban on attacking civilian objects and special zones was introduced. It is also not allowed, among others attack undefended cities, towns and sanitary zones as well as hospitals and medical units. Safe zones created to protect the wounded, the sick, children and the civilian population as a whole must not be attacked. The protection also covered historical buildings and places of religious worship, and, extremely important (and up-to-date), it was forbidden to attack buildings and devices containing dangerous forces (dams, dikes, nuclear power plants).

The literature indicates the scale of threats of cluster munitions to the civilian population. Unfired subprojectiles cause numerous fatalities and injuries after the end of hostilities. Cluster munitions, used over the last decades in many theaters of war, are weapons that by their very nature entail uncontrollable effects. Hence the 2008 Cluster Munitions Convention. However, it contains numerous loopholes and is overly vague. These factors have been used to delay the accession to the Convention by states that are active users of cluster munitions (including the US, Russia, Israel and China).

Humanity continues to suffer the consequences of mines used in conflicts. Wiesław Szot, in the context of the operation of the Ottawa Convention of December 3-4, 1997, states: “Almost 700 types of mines have been recognized in the world, including about 300 anti-personnel mines. Every month around 800 people around the world are killed by mine detonations and 1,200 are disabled. In Afghanistan alone, 3,262 people were injured between January 1991 and July 1992. It is estimated

that about 6 million mines were laid in the mountainous areas of the former Yugoslavia, and probably about 10 million in Afghanistan.

There are currently mines in 64 countries, the majority of which are developing countries. It is assumed that we are dealing with about 100 million uncleared mines. More than 400 million mines have been laid since the beginning of World War II, including 65 million after 1980. Finally, it is calculated that between 100 and 200 million mines are stored and waiting to be used (Szot et al. 2012).

In 2005, it was found that anti-personnel mines were massively used by the Russian army during the conflict in Chechnya.

In addition, the use of anti-personnel mines in many international and local armed conflicts has already been proven in previous years. The parties that used these means of struggle included: "in Burma, government forces and at least 10 splinter groups: in Sri Lanka, government forces and rebels; in Nepal – Maoist splinter groups: in Afghanistan – government and splinter forces, in Uganda – splinter forces; in Somalia – different factions of the conflict".

Anti-personnel mines are a source of inhuman suffering. Their victims are mainly inhabitants of those areas where they were set up by the parties of the fighting forces. Placed in various terrain conditions, often without plans or diagrams, they pose a threat to the local population for many years, and their liquidation is a complex and very dangerous process.

For these reasons, Protocol II to the 1980 Convention on Certain Conventional Weapons which may be considered to cause undue suffering or have uncontrollable effects (Convention on Certain Conventional Weapons – CCW) was amended.

Against the background of the law of war and armed conflicts, and especially humanitarian law, there are problems related to criminal and civil compensation proceedings. Felix Ermacora, a professor at the University of Vienna, from the category of genocide in the areas of the Republic of Poland that belonged to the German Reich before World War II, derives the right of citizens forced to leave these areas to compensation "The expulsion of Germans from Poland should be treated as an act of genocide. The Genocide Convention in Art. II letter c, an act that meets

the criteria of the crime of genocide is the destruction of the living conditions of members of an ethnic group, etc. (...) The international legal doctrine has so far concerned the issue of expropriation in the form of confiscation of only individual property or its part. The compatibility of expropriations with international law in connection with genocide has never been investigated (...) (36)... this type of confiscation – as part of genocide – is not subject to a statute of limitations carried out on the basis of legal norms contrary to international law and without compensation. It is contrary to Art. 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms" (Ermacora 1996).

More than 70 years have passed since the end of World War II. The current armed conflicts (in former Yugoslavia, in Africa, the last war in Ukraine) give rise to reflections on the consequences of violations of international law.

This year, 17 years after the adoption of the Resolution by the Sejm of the Republic of Poland, the Sejm renewed its call on the Government of the Republic of Poland to raise reparation claims against Germany (Muszyński 2022).

It was recognized that the earlier (August 23, 1953) waiver of these claims as a unilateral act of the state did not formally meet the requirements of international law. Among the violations, the failure to make this statement in a public manner is highlighted. The International Court of Justice (ICJ) judgment in the case of Burkina Faso v. Mali was cited, stating that press releases (and this is what happened) are not the venue for such cases.

In the circle of volatility of content shaping the source of international law

To begin, it is necessary to notice the evolutionary nature of discovering the needs of regulation and formulating new rules. This should be related both to the content of the new regulations, finding new formulas, shaping or evolving institutions as well as factors ensuring the

implementation of the adopted regulations, in particular in the field of judicature and arbitration.

Changing conditions and contexts affect the variability of the content of sources shaping the law. In addition to global conditions, revealed new needs and necessities affecting the finding of new regulations, the sources of international law are changing quantitatively and qualitatively.

First of all, the number of conventions adopted by an increasing number of countries is increasing. Their shaping begins with resolutions of international conferences, UN resolutions, and later adopts convention regulations, then amended and supplemented. At present, there are hundreds of conventions in various territorial scopes, the regulations of which shape the life of societies. Following the international conferences of international law that try to give a picture of this phenomenon, one can talk about fundamental new tendencies. First of all, this concerns the natural existence of the planet and man, especially those related to the climate and the problem of water scarcity.

The conventions associated with the increasingly integrated economic life in the world are characterized by high dynamics. issues of transport and tourism as well as regulations on the protection of intellectual property (especially in the context of the development of forms of its dissemination).

A separate problem is the dynamics of international spatial solutions; including maritime (Seabed Organization), airspace and space. A special reference in this regard are the issues of the security of the planet and humanity.

The necessary attention should be paid to the regulations of the European Union. The future of the Union's self-definition is currently being shaped, also in the context of federalist solutions. The French scholar Jacqueline Dutheil de la Rochère (2004) emphasizes that institutional law as well as the principles of the legal system of the European Union have evolved. The same applies to the formation of the political and legal identity of the Union. This also applies to the relationship between Community law and national law; invoking Community law before national courts, primacy of Community law.

Another type of entities shaping law in a normative manner in the international dimension are international organizations. Krzysztof Skubiszewski drew attention to this already in 1965: "*it is difficult to find a statute of an international organization that does not include an authorization allowing the organization to establish legal norms regulating, at least in one area, the behavior of bodies and persons employed by them*." (Skubiszewski 1965, p.26). The names of regulations and the mode of their adoption are diversified. Adam Łazowski from the University of Westminster and Barbara Sonczyk from the University of Bedfordshire present this in relation to the European Union and the European Atomic Energy Community, the Seabed Organization, the Organization for Economic Cooperation and Development, the World Health Organization, the World Meteorological Organization and the International Civil Aviation Organization.

Sometimes unilateral acts of states, such as the French declaration on the cessation of nuclear tests, are of a broader nature; cause references to the International Court of Justice. Thus, the ICJ stated in this case that "it is well recognized that declarations made by way of unilateral acts are intended to give rise to international obligations. (International Court of Justice 1994)."

The review itself, inherently selective, reveals new levels of regulation, the volatility of the relationship between international law and the law of individual states. It also reveals the volatility of entities creating the regulations of international public law and its references to private international law (e.g. health issues, protection of intellectual property).

Public and private international law

The dynamics of natural (climate), civilization and cultural changes, as well as the needs of health protection affect the changeability of law, including international law. The nature of these changes as well as in international humanitarian law influences changes between public international law and private international law. In the legal literature, it is noted that public international law is a legal system that creates rules and mechan-

isms for cooperation between states of international organizations and other recognized entities of this legal system. In turn, international private law regulates the indications of the legal system applicable to the assessment of a specific situation in the field of civil law, family law and labor law (Ильинская, Теймуров 2016).

Among the sources of law, ratified international agreements are always mentioned. The regulations of the convention apply only to countries that have signed (and only to this extent) and ratified it.

In the field of international public law, the establishment of the League of Nations after the end of World War I was of great importance, and after World War II the establishment and activity of the United Nations Organization with such well-known institutions as, among others, International Labor Organization (ILO), Food and Agriculture Organization (FAO), Health Organization (WHO), Educational, Scientific and Cultural Organization (UNESCO) and United Nations Children's Fund (UNICEF).

Until the creation of the European Union and other international regional organizations, the shape of international law was primarily influenced by bilateral and multilateral agreements, and then by conventions regulating matters whose subject matter far exceeded the borders of individual states.

The globalization of economic relations, climate change, epidemics, armed conflicts, a qualitatively different nature of participation in culture have affected not only the situation of states, but also the situation and rights of citizens. This results in dynamic changes in the relationship between public international law and the increasingly expanding international private law. If you are looking for the most significant changes in international law today, this is undoubtedly it.

In Europe, the establishment of the European Union with its constantly developing membership, the extension (in accordance with the basic EU acts) of the scope of the regulations in question and the role of EU judicial institutions determine another, contemporary aspect of international legal regulations.

Currently, apart from international organizations such as the EU, in order for public international law to exist in a specific state in the private sphere (natural and legal persons), it must be introduced to it. Hence, there are problems with diversified conflicts of norms (Фастович, Бакушина 2019).

The fact that EU regulations are directly applicable in all member states indicates a new, difficult but real direction in the development of international legal regulations.

New problems arise from the international nature of telecommunications. This applies to linking marketing resources to the retention of individual data. In this matter, solutions that are interesting in the context of personal data are of interest to the European Union.

The case of personal data protection was brought to the Court of Justice of the European Union by a Belgian court, which asked the CJEU questions for a preliminary ruling: whether the record of user preferences to be tracked for advertising purposes so that advertising companies know whether they can show a given person tailored advertisements and for which the guidelines are provided by IAB Europe, falls within the definition of personal data under the GDPR and should IAB Europe be considered a data controller and meet all the requirements of the GDPR? The Belgian Data Protection Authority previously issued a decision according to which IAB Europe must adapt its Transparency & & Consent Framework (TCF) system to the requirements of the GDPR. IAB Europe appealed against this decision to the court which decided on the question referred for a preliminary ruling.

Important in this context is the issue of data retention. The Court of Justice of the European Union found that the provisions ordering telecommunications operators both preventively and generally to retain data are contrary to European Union law as an interference with the right to privacy.

The judgments concerned France (Joined Cases C-339/20 and C-397/20) and Germany (Joined Cases C-793/19 and C-794/10) The Court considered that there was a need to set limits to the activities of services

and privacy standards. It is unacceptable to collect and store the data of all citizens without suspicion.

Protection of human rights in international law

Relatively consistent in the doctrine, the first generation human rights are distinguished, covering mainly political and civil rights, the second generation including social, economic and cultural rights, and the third generation with the right to peace, sustainable development and a safe natural environment. Among regulations of a universal nature, the adoption of the Universal Declaration of Human Rights by the UN in 1948 was of great importance. The International Covenant on Civil and Political Rights of December 19, 1966 and the International Covenant on Economic, Social and Cultural Rights of the same day are of the rank of sources of international law. The latter includes, among others, the right to work, the right to benefit from fair and favorable working conditions (including fair remuneration and safe working conditions), the right to join and form trade unions, the right to social security and the right to education.

The United Nations High Commissioner for Human Rights and the Human Rights Committee established to monitor the implementation of the obligations of states that have accepted the Covenant operate in the United Nations. Regardless, there are regional human rights systems:

• European Convention for the Protection of Human Rights and Fundamental Freedoms

• Charter of the Organization of American States and the American Declaration of the Rights and Duties of Citizens

• within the Organization of African Unity

• African Charter on Human and Peoples' Rights, 1981.

• within the League of Arab States Cairo Declaration of Human Rights in Islam (1990)

• Asiatic Human Peacock Charter 1998.

The Organization for Security and Co-operation in Europe is a special entity affecting the security of societies. In 2018, 56 states from Europe, Central Asia and North America were members of the OSCE. The legal nature of the OSCE is a matter of controversy. The OSCE does not have a legal basis in the form of a multilateral international agreement constituting its statute. Today, the OSCE is both a consultative forum and a decision-making body, including in matters of respect for human rights and support for democratic transformation.

It is impossible not to pay attention to the large and constantly growing number of various forms of regulations included in international, public and private law. This gives rise to reflections on the variable relationship between the regulations of individual countries and international regulations. The latter also force a different approach to the spheres protected by law - more general and more interdisciplinary.1 It can be said that these regulations are conducive to general human and social thinking and action. They also require horizontal goals to be treated differently.

International regulations, for various reasons, reveal differences directly and indirectly. These differences result from differences in space, means and interests. Against the background of civil law liability, e.g. regulating the transport of the same goods by sea, air, rail or road transport, there are problems with the application of appropriate regulations.

Nowadays, there is talk about international economic law, international environmental law, and regulations in the field of intellectual property law are being analyzed and enriched. Not all of them are based on the norms of international law. In the field of ecology, he refers to the U Thant report and the conferences in Rio de Janeiro and Cape Town. Increasingly strengthening social awareness is waiting for its legal regulations (Gilas 1998).

The conditions of these regulations change over time. They force a different look at international law and other branches of law, point to the need for regulations that are more common in their scope.

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