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Role And Significance Of Interpretation Of Law In The Process Of Implementation Of International Law In National Legislation

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ABSTRACT

The article deals with the stages (processes) of implementation of international law, ways and forms of interpretation of law, types of interpretation of law and the significance of its application in national law (legislation).

KEYWORDS

Law, convention, implementation, international law, interpretation of law, ways and forms of interpretation of law, types of interpretation of law, etc.

INTRODUCTION

Any legal activity is fruitful and effective when it is carried out with a full understanding of the case. Law-making and law enforcement do not happen without understanding the content of legal requirements as well.

Without a comprehensive and deep understanding of the meaning of legal norms, it is impossible to regulate public life and strengthen the rule of law. Interpretation of normative acts is a necessary prerequisite for the correct implementation of legal norms.

The problem of interpretation is one of the traditional problems of legal science [9]. It has an independent meaning in the process of scientific or everyday knowledge of state and legal life. The need for a clear understanding of the content of existing norms arises already in the course of law-making work. It is impossible to issue a new act or systematize existing ones without knowing the true will of the legislator, understanding the purpose that he pursued when developing the legal act. The process of

interpretation is unavoidable when implementing legal norms by internal affairs bodies, courts, prosecutor's offices, and other state bodies, when concluding transactions and contracts by business entities, when performing civil legally significant actions, etc.

Interpretation of law is also of particular importance in the process of implementing international legal norms in national legislation.

Implementation means the practical implementation of obligations (international) in the domestic legislation of a state, which is carried out by transforming international legal norms into national laws and sub-legislative acts. In some states, ratified international treaties become a direct part of national legislation [3].

In the implementation mechanism, the interpretation of international law plays a law-oriented role. The implementation of international law into national law is carried out at two levels, through two channels: 1) law-making; 2) legal implementation and enforcement. The nature and features of the norms of international law (the presence of mandatory and dispositive norms, the specifics of recommendatory, customary norms, etc.) implies a variety of legal interpretation process in the course of implementation work.

It should be noted that each system of law has its own specifics, which cannot but be reflected in the peculiarities of interpretation. This specific feature has been encountered more and more often in recent years. Given the above circumstances, it is advisable to consider the interpretation of international law in more detail, taking into account the developments of the general theory of law.

First of all, interpretation must be carried out in accordance with the main purposes and

principles of international law embodied in the UN Charter. As for other principles and rules of interpretation, they are mostly codified by the Vienna convention on the law of treaties (articles 31 and 32) [5]. The Vienna convention places the principle of good faith first. Interpretation should be fair, i.e. honest, taking into account the interests of all interested parties and aimed at identifying the real content of the norm.

The principle of unity of interpretation requires that the norm be understood uniformly in all cases, in relation to all subjects.

The principle of effectiveness implies that the results of interpretation lead to the achievement of the goals of the norm, making it effective. According to the International court of justice, it is one of the main principles of interpretation «consistently followed by international justice» [6]. In the Vienna convention, this principle is expressed in the requirement that interpretation be carried out «in the light of the object and purpose of the Treaty» [7]. Long-standing axioms are relevant to the disclosure of the content of the principle under consideration: «right is dictated by reason»; «right does not require the useless»; «right does not require the impossibility»; «interpretation should make the agreement effective, not ineffective».

The result of interpretation cannot be a unilateral restriction of the rights of one of the subjects. Therefore, norms that negatively affect the rights of the subject are interpreted restrictively. Accordingly, the additional rights and powers of one of the subjects are interpreted in the same way (the power must be interpreted restrictively) [2].

Doubtful provisions of the norm are interpreted in favor of the encumbered entity. Unclear points are interpreted so as not to

increase the responsibilities of the party carrying them.

The rule of the special law requires that the interpretation should recognize the advantage of special rules over general ones, since they relate directly to the case, specify the general rule, and sometimes make an exception to it.

The terms contained in the rules should be understood in accordance with their usual meaning, taking into account the entire context. A special meaning can be given to the term only if it is established that this was the intention of the subjects.

The ways of interpretation during the implementation of international norms are also peculiar. Grammatical interpretation involves understanding the meaning of the norm by analyzing its text from the point of view of etymology, vocabulary, syntax, and even the style of the language of the original text (usually at least two languages, unless specifically stipulated in the contract itself).

Logical interpretation — analysis of the norm by using the laws and rules of logic. The subject of analysis is not words, but concepts denoted by words and their relationship. The laws of logic are used in any interpretation, but in this case they are brought to the fore.

Special legal interpretation is a clarification of the legal characteristics of an international legal norm. It is a question of whether a rule is in force, what is the range of subjects to which it applies, and so on. For international law, this method of interpretation is of particular importance due to the complexity of the formation of its rules, especially ordinary ones. Special legal interpretation also consists in the analysis of legal concepts, categories, and constructions based on special legal knowledge. This method is particularly important when it comes to states with

different legal systems. The meaning of even the same terms does not match in different countries.

Systematic interpretation — analysis of a norm as an element of the system of international law in its relationship with the goals and principles, as well as with other norms of national legal systems. This method is inherent in the law throughout its history. «Coordinating one law with another is the best way to interpret them»[4]. As the system of international law becomes more complex, this method becomes more important. A good result can be obtained by using the achievements of systems theory.

For the interpretation of a rule, it is essential to find out its place in the contract: in which section it is located, what issues the contract as a whole is intended to solve, and the corresponding section. In other words, the position of the norm in the system of this agreement, which is a single whole and internally agreed upon, is clarified.

The next stage is to find out the place of the treaty itself and the interpreted norm in a higher order system, which can be a system of bilateral, group, regional norms and, finally, general international law. Systematic interpretation involves revealing the meaning of a norm depending on the place it occupies in the relevant international legal system [8].

The importance of a systematic interpretation is obvious, especially in the context of the development of the systemic nature of international law as a whole. The disclosure of the structural relationships of norms makes it possible to more thoroughly understand its meaning and understand its impact on international relations. Systematic interpretation creates additional opportunities to eliminate discrepancies between different rules, as well as to fill in gaps in the law.

The interpretation of the norms of international law in the course of their implementation in the national legal system of a particular country should take into account the need for the state to fulfill its international obligations. Of course, its relationship to international law should also be taken into account [1].

The greatest difficulty lies in ensuring a certain uniformity of interpretation of international law in the practice of different countries. This task is specifically emphasized in the conventions, which are designed to apply their provisions by States. They should therefore refrain from unilateral interpretation based on both political and legal considerations.

Analysis of the peculiarities of interpretation of international law allows us to conclude that in the process of implementing international law into national legislation, it is important not only the legislative process, which is much written and discussed about, but law enforcement activities, in which interpretation plays an important role as well.

6. Ibidem. -P.201.
7. Ibidem. -P.203.
8. Ibidem. -P.208.
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