

CONSIDERATIONS REGARDING THE ROLE OF THE INTERNATIONAL INSTITUTIONS IN THE INTERNATIONAL ENVIRONMENTAL LAW PROTECTION

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Abstract

This paper tries to emphasize the importance of the international institutions in the international environmental law protection. In these conditions, we can discuss about an authentic transformation. This transformation takes place both in the case of the actors that intervene in the creation of the judicial norms, and in what regards the application of these norms. Up to present, the international environmental law was not codified, but out of the presented ones, we can state that it is an assembly of norms of international laws that regulates the way the human activities.

A decisive role in the emphasis of this new branch of the international law belongs to the inter-governmental organizations that develop an ample activity in the favour of a healthy environment at a global level.

Key words: international institutions, international environmental law, role of the international inter-governmental institutions

INTRODUCTION

The need, acknowledged along 50 years, to protect through international means the human rights and individual rights for a healthy environment, led on one hand, to the strengthening of the international co-operation among states, and on the other hand, to the assent of direct interventions in the international life. Thus, the international scene was highlighted through the role more and more important of the inter-governmental organizations, and their role in the protection of the international environmental law. In these conditions, we can discuss about an authentic transformation. This transformation takes place both in the case of the actors that intervene in the creation of the judicial norms, and in what regards the application of these norms. Therefore, in the present paper, we proposed an analysis of the role of the intergovernmental organizations in the protection of the new law branch, that: is the international environmental law (Duțu, 1998).

GENERAL ISSUES AND SPECIFIC DISCUSSIONS

The central problem that we want to present is the fact that environmental protection raises many problems, both from a notion nature and its size standpoint. The protection of environment is the fact that became an increased concern of the international inter-governmental organizations since 1960. On these grounds, the inter-governmental organizations have met together with the non-governmental actors (but we will not discuss about them here) within the Conference of United Nations regarding the environment in Stockholm in June 1972. Principle 25 of the Declaration adopted by this Conference was

assigned as it follows: “the states must watch as the international organizations to play a co-ordinated, efficient and dynamic role in the preservation and improvement of the environment”(Marinescu , 2003).

Why is this role important? The main reason could be, humanity is far away from knowing everything about the environment, its deterioration is predictable, as well as, the remedies that could be adopted. Starting with 1960, the notions of sea pollution importance, existence of atmospheric pollution on long-distance and their contribution to the “forest death,” depletion of ozone layer, the threat of global climate change have appeared (Lupan, 1993).

As a consequence, the studies that have in view the environment must be continuously updated, both internationally and in the field of scientists’ collaboration all over the world. In these conditions, the coordination of the activities is essential in numerous cases. In the same time, the permanent monitoring of the environment and collected data evaluation are also very important issues, both internationally and in the field of co-operation level. All these activities need a continuity and co-operation structures that can be provided only by permanent institutions.

The judicial role of the international institutions intervenes here as regards the environmental protection. The elaboration and compliance with the regulations are essential to prevent the environment deterioration, but they also agree to provide a certain control regarding the rule application. On the other hand, once the norms enter into force, we cannot estimate that they have solved the problems for good. We must take into account the continuous adaptation to the needs that appear on the way; of course, this thing cannot be accomplished without a continuous collaboration, or in other words, within an institution (Duțu, 1995).

We must also admit that an authentic solution for environmental issues resides in the management of the natural resources. To be efficient, this management must be often international, and of course, continuous. This is another reason that underlines the role of the international institutions in environmental protection, and of course the importance of the new branch of international environmental law.

The functions performed by the international inter-governmental institutions in the field of environment can be summarized as it follows:

- research function – that play a particular role in the activities of international organizations. We can state here that the compared research of the international law leads to the drafting of text project: recommendations, directives, laws that are submitted to the member states’ attention. As an example, we pinpoint upon the activities undertaken by FAO and OECD;
- information exchange function – it regards the national and international studies, and in some cases the results of the research are one of the most important aspects. We can state that all the international inter-governmental organizations that deal with the environmental issue are in the same time centralization and exchange of information locations. In some cases, the international organizations establish a synthesis made according to the reports received by the Member States. For instance, the reports of the Economic Commission for Europe within UNO.
- regulatory function – which often is performed by the international organisms. It consists in the elaboration of new rules proposed to the Member States. These rules can be recommendations or compulsory decisions, or treaty projects, or international regulations. These projects can follow the usual way of international codification conventions: that is to be submitted to a diplomatic conference which adopts it after the elaboration by a group of experts, then to be ratified by the signing states. For instance, Bern Convention on the 19th of September 1979 referring to the wild life and natural environment in Europe.

- control function of rule application – control that can be entrusted to the international organizations. Thus, we can give as example Canberra Convention on the 20th of May 1980 regarding the preservation of marine fauna and flora from Antarctic, which in article 25 foresees an international “observation and control” system. It is also established that states to provide this control, and then to address to the appointed international institutions with reports on putting into practice of the international rules (art. 26 from the Convention on the 5th of June 1992 regarding biological diversity).
- management of natural resources – by the international institutions is undoubtedly the most evolved form of international co-operation in the field of environmental protection. For instance, art. 5 align. 2 of the provisional Convention regarding the seals’ preservation in the North Pacific on the 9th of February 1957, that confers to a special commission the competence for recommending to the party states measures that regard the importance and composition (from sex and age point of view) of the seals’ contribution sampled from a group for commerce, each season. We can also mention the management system of mineral resources in the great marine stocks foreseen in Chapter XI from the Convention regarding the sea law, wherein the protection of the marine environment appears among the competences that must be provided by the institutions foreseen in the Convention.
- competence distribution function – it is obvious that the first criterion of distributing the competences is to take into account the normal competences of each international inter-governmental institution. Thus, the World Health Organization deals with aspects connected with human life, International Maritime Organizations deals with sea pollution, Organization for feeding and agriculture deals with the issues that regard soils, etc.. Other criterion of competence distribution is the problem referring to the environment that can be treated, either at a global level essentially by the institutions referring to United Nations, or within a regional context, or a sub-regional context that imply the participation of states. The last criterion raises the problem of coordinating the activities of different institutions.

UNIC was followed by the Programme of United Nations for Development (PUND) that opened its office in Romania in 1971. In its first years of activity, PUND offered technical assistance, organized training programmes abroad for the Romanian experts and acquired western equipment.

After the revolution in 1989, PUND could play a more dynamic role and became a real partner of Romanian government in its new development programmes. To face the transition challenges in 1991, a new agreement was signed between the Romanian government and PUND. Romania’s new priorities and action areas of PUND are reflected now in a new Country Programme (2005-2009) with a more careful tendency towards the social sector. PUND activities started to be implemented in co-operation with new partners from the Romanian society, including the local administration, private sector or non-governmental organizations.

Starting with 1997, PUND activity in Romania was based on the National Co-operation Programme developed through a dialogue among the Government, UNO agencies and foreign donors. The National Co-operation Programme covers period 2005-2009 and focuses on three programme areas:

- democratic governing and decentralized development;
- economic and social development;
- creation of a healthy environment to support the sustainable development.

The mission of the United Nation Programme for Environment is to encourage the partnership in the efforts of environmental protection through the inspiration, information and habilitation of nations and people for the improvement of life quality without to compromise the future generations.

UNEP is an advocate, educator, catalyser and facilitator, promoting the rational usage of the natural goods of the planet for sustainable development. UNEP works together with a multitude of partners: structures of the United Nations, international organizations, governments, non-governmental organizations, economic operators, industry, mass-media and civil society.

What UNEP does?

- global, regional and national evaluation of environmental conditions and trends;
- elaboration of international agreements and national environmental instruments
- strengthening institutions with the aim of rational usage of the environment
- integration of economic development with environmental protection
- facilitation of knowledge and technology transfer for sustainable development
- encouragement of creating new partnerships and mentalities within the civil society and private sector

CONCLUSIONS

Taking into account all these aspects, the role of PUND was defined as a catalyser that stimulates the action of other institutions. As a whole, the action areas of PUND can be defined as forming six groups that have a close relationship among themselves: human health, terrestrial ecosystem, oceans, environment and development, natural catastrophes.

Up to present, the international environmental law was not codified, but out of the presented ones, we can state that it is an assembly of norms of international laws that regulates the way the human activities that could have noxious effects upon the environment takes place, and the prohibition of the actions dangerous for environment. A decisive role in the emphasis of this new branch of the international law belongs to the inter-governmental organizations that develop an ample activity in the favour of a healthy environment at a global level.

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