



Research Article

THE ROLE OF “SOFT LAW” NORMS IN REGULATING CONTEMPORARY INTERNATIONAL RELATIONS

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ABSTRACT

This paper analyzes the legal nature and role of “soft law” norms, which are widely used in the regulation of international relations. The norms of “soft law” and “hard law” are compared, the place and role of these norms in the regulation of international relations are studied. The legal force and significance of international documents that are not international treaties in the Law "On International Treaties of the Republic of Uzbekistan" are disclosed.

KEYWORDS

“Soft law” and “hard law” concepts, international relations, international agreements, norms of international law, principles of international law, implementation.

INTRODUCTION

Increasingly, attempts are being made to regulate international relations with the help of non-legal norms in the legal sense of the regulation process. In international practice, such rules are called “soft law”. In foreign doctrines, the norms of international law are

divided into two categories: the norms of “soft law” and “hard law”.

Professor I.I. Lukashuk classifies “soft law” as follows: 1) a special type of norms of international law; 2) non-legal international norms (1). A special kind of norms of



international law refers to the “general” norms and principles used in international treaties.

We mean here general contractual obligations, the content of which is not a specific obligation. For example, the UN Framework Convention on Climate Change (1992) is, in fact, an agreement on the general principles of action by all signatory countries on climate change, with clear obligations of the parties contained in other agreements on climate change. So-called “soft” deals also play the role of contracts, which include words such as “parties contribute”, “parties provide assistance”, “parties encourage”.

So, we shall analyze the second type of “soft law” norms – non-legal international norms; today, “soft law” norms can be found in various international documents: in declarations adopted at international conferences; in the resolutions of the UN General Assembly, for example, with the resolution of the UN General Assembly no. 40/32 of November 29, 1985; in the recommendations of international organizations (the International Atomic Energy Agency, the International Maritime Organization, the Food and Agriculture Organization, the International Civil Aviation Organization and etc.). These examples confirm the widespread use of “soft law” norms in international relations.

There are different opinions about the legal force of such norms. However, most lawyers believe that the norms of “soft law” are derived from international legal ones.

THE MAIN FINDINGS AND RESULTS

Many lawyers, including the French scholar P.Weil, have a negative attitude towards the norms of “soft law”, because they believe that its development does not contribute to the strengthening of the

international legal system (2). It seems to us that it is difficult to agree with this opinion, since this practice is widespread in practice, there is no point in fighting it. In general, the rules of “soft law” are a necessary element of the system of international law and are used to solve problems that cannot be solved with the help of “hard law”.

In “soft law” it is often possible to find rules that serve to resolve disagreements between the parties.

The second type of “soft law” norms includes norms contained in non-international documents, decisions of international bodies and organizations, joint statements, and communiqués.

Today, the documents of the Organization for Security and Cooperation in Europe serve as an example of such norms, which have become the main instrument for restructuring the system of international relations in Europe. Norms of this type are not legal, but moral and political.

A specific type of this “soft law” are contracts that are expected to come into force. As you know, multilateral contracts often remain in this state for many years. Their rules are taken into account when interpreting the norms of international law, they influence the practice of states and even national legislation. The report of the Secretary-General of the International Labor Organization on the conventions of this organization notes that, although they have not been ratified, “they will be able to influence legislation and national practice” (3).

The norms of the second type of “soft law” interact with the norms of international law, which, for one reason or another, perform tasks that the norms of international law cannot solve. Often they provide for preliminary, pre-legal regulation, which gives way to

the law. The significance of such norms of "soft law" for the activities of international bodies and organizations is enormous, since with their help they largely regulate international relations and influence the development of international law.

Reflecting on the use of "soft law" norms in the practice of international law in Uzbekistan, we can see in the use of the term "international non-treaty international documents", which is relatively close to the term "soft law". Article no.51 of the law "On International Treaties of the Republic of Uzbekistan" states that "international documents of the Republic of Uzbekistan that are not international treaties do not contain provisions imposing a legal obligation and should not contradict international treaties, the Constitution and other legislative acts of the Republic of Uzbekistan. In this case in such international documents it is allowed to refer to the obligations arising from the International Treaties of the Republic of Uzbekistan".

International documents of the Republic of Uzbekistan, which are not international treaties, are accepted, as a rule, in the form of declarations, statements, communiqués, memorandums of understanding, statements on pacts, plans and programs of cooperation.

Part of the provisions of this law on the initiative to conclude international treaties and their signing also applies to international documents of the Republic of Uzbekistan that are not international treaties"(4).

In a review published by the contractual and legal department of the Ministry of Foreign Affairs of the Republic of Uzbekistan, the law "On International Treaties of the Republic of Uzbekistan" notes that "international documents that do not have an

international treaty should not contain provisions imposing a legal obligation" (5).

In terms of content, the two terms are also used in the same sense. That is, both gain importance without the imposition of legal obligations, meaning the implementation of recommendations and goals.

Thus, "soft law" is not an abnormal phenomenon, as most lawyers believe. This is a natural process that allows regulation in cases where it is impossible to use "strict law". This once again confirms that the means regulating international relations are diverse and are not limited only to law. How to ensure the use of this tool is an important question. In all cases, the law is not the best tool for solving problems. Often results can be achieved with less consumption of letter movement through other regulatory means.

CONCLUSION

According to A. Kauler, an international scholar with Russian background, on the implementation of international legal standards "it seems that the time has come to stop the discussion in our domestic legal science about the application or non-application of the principles and norms of international law in national law, while there is no direct indication in the constitutions of it is the states or in the decisions of the Supreme Courts of the states" (6). From this point of view, we can see that before the science of international law there are still disputes regarding the implementation of the norms and principles of international law.

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