

5. Согласие андеррайтера на размещение ценных бумаг, условия такого размещения, а также его обязательства в отношении данных ценных бумаг (Certain Agreements of the Underwriters and their obligations).

6. Возмещение ущерба (Indemnification and Contribution). В данном блоке рассматриваются положения относительно ответственности сторон, ее размера, а также способы возмещения ущерба, понесенного стороной в случае нарушения условий андеррайтингового соглашения.

7. Заключительные положения. В них указываются условия вступления в силу соглашения и его прекращения.

Представляется, что с целью внедрения в правовую систему Республики Беларусь такой правовой конструкции, андеррайтинговое соглашение будет содействовать развитию практики первичного публичного размещения ценных бумаг белорусскими и иностранными субъектами компаниями на внутреннем рынке ценных бумаг. Причем, на наш взгляд, крайне положительным фактором выступит некоторое заимствование элементов соглашения из зарубежных правопорядков, например США.

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On the question of the legal nature of diplomatic protection

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The Permanent Court of International Justice has contributed to the formation of the institution of the protection of minority rights and the development of the principle of the protection of fundamental human rights. The above is evidenced by the 1924 judgment in the Mavrommatis Concessions in Palestine case (Greece

v. Great Britain). According to this decision, the damage suffered by the de facto Greek citizen was considered as damage to the state of nationality of the person [1].

Similarly, the International Court of Justice (hereinafter – the Court) has played an important role both in the development and in the international protection of human rights in general.

Despite the fact that the Court is not a human rights court in the modern sense of the word, several cases have raised important human rights issues on which the Court has delivered significant decisions.

In particular, in the case of Barcelona Traction company (Belgium v. Spain) in 1970 the Court concluded that when a question arises about actions that violate the company's rights, only the state in which it is registered (in this case, Canada) is entitled to exercise diplomatic protection but not the state of nationality of the shareholders of the company. Damage to the interests of Belgian citizens who own the company's shares did not become a sufficient basis for the Court's conclusion that Belgium had the right to exercise diplomatic protection in this case [2, p. 49, para. 93].

In 2004 the Court in its judgment in the case of Avena and Other Mexican Nationals (Mexico v. United States of America) established that violations of the rights of the individual may entail a violation of the rights of the sending State and that violations of the rights of the latter may entail violation of' the rights of the individual [3, p. 28, para 40].

Another important judgment of the Court was given in the Diallo case (Republic of Guinea v. Democratic Republic of the Congo) of 24.05.2007. The essence of this dispute lies in the fact that Mr. A. S. Diallo who is a citizen of the Republic of Guinea but who has lived in the territory of the Democratic Republic of the Congo for 32 years was arrested and detained by the authorities of the respondent state without trial or investigation, during the arrest, fundamental human rights were violated and his investments, property and business were illegally expropriated. It should be emphasized that in the course of the dispute the guilt of the respondent state was proved [4, p. 8, para. 1].

In accordance with the declaration of Judge K. Greenwood to one of the decisions in this case Guinea has brought this case in the exercise of its right of diplomatic protection but the case is in substance about the human rights of Mr. Diallo. The damages which the Court has ordered the Democratic Republic of the Congo to pay to Guinea are calculated by reference to the loss suffered by Mr. Diallo and are intended for his benefit not that of the State [5, p. 71, para. 1].

This judge has no doubts that the treatment of Mr. Diallo by the Democratic Republic of the Congo was a serious violation of his human rights, which caused him suffering, substantial moral damage, humiliation and loss of reputation [5, p. 75, para. 10].

Thus, in connection with all of the above, it can be concluded that the legal nature of diplomatic protection has undergone significant changes. At the beginning of the formation of the institution of diplomatic protection the latter was

understood as an international procedure through which the state of nationality of an individual called another state to responsibility, declaring its own requirements for damages. However, in our opinion, at the present stage of development of international law this type of protection should be considered as, first of all, protection of the violated rights of an individual. It should be said that, undoubtedly, the rights of citizens and the state of nationality of the latter are interrelated but the state is only a representative of the interests of a citizen in international judicial bodies.

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Психологические аспекты проведения выемки

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Значимую роль при расследовании преступлений играет такое следственное действие как выемка, целью которой является изъятие орудий преступлений, а также документов, предметов, имеющих значение для уголовного дела [1]. Исследователи рассматривают выемку вместе с другим следственным действием – обыском. На практике проведение данных следственных действий зачастую не достигает поставленных целей, причиной тому