гической эффективности (Environmental performance index, 2017) Украина потеряла 65 позиций, оказавшись на 109 месте среди 180 стран мира (в 2016 г. она занимала 44 место). Этот показатель отражает достижения стран в области управления природными ресурсами и их рационального использования. Так, Украина потеряла 49,9 пунктов по показателю изменения климата и энергетики, который демонстрирует значительное увеличение уровня интенсивности выбросов углерода на единицу ВВП. По показателю качества воздуха и уровня его загрязнения опасными веществами Украина потеряла 20 пунктов [2].

В связи с вышеизложенным необходимо отметить, что в правовом регулировании рассмотренных и других направлений экологической политики Украины отмечается тенденция к наращиванию законодательных основ их обеспечения и реализации взятых обязательств по их правовому регулированию, однако, как показывает практика, их эффективность будет зависеть от результата правоприменительной деятельности и достижения целей экологической политики.

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INTERNATIONAL LAW FOR THE PROTECTION OF THE ENVIRONMENT: THE SITUATION TODAY

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The evolution of international environmental law is a matter of exceptional interest and relevance both for the urgency of the ecological challenges, and – from a legal point of view – for the importance of some basic principles established in the sector, which have become fundamental principles of modern constitutional andpublic law.

Four phases can be distinguished. The first began with the adoption ofsome environmental treaties and continued to the end of the 1960s; the

secondstarted with the Stockholm Conference on the Human Environment (1972); the third with theRio de Janeiro Conference on Environmentand Development (UNCED, 1992); the fourth with the failure of the Johannesburg World Summit on Sustainable Development (WSSD, 2002). It must be noted that the third phase was characterized by the progressive assertion of the principle of sustainable development. While this principle definitely expresses a widely shared ethical – political – philosophical approach to issues related to pursuing an improved quality of life for mankind, its nature and legal value has given rise to increasing perplexity [1, pp. 48–52].

Ten years after the UNCED, the WSSD was held in a period of stasis and uncertainty in international relations, marked by oscillations in the evaluation of the problems, and by the risks of retrogression in international environmental law due to new tensions, and political – economic conflicts within the international community. In fact, in the very first decade of the 21st Century environmental law and politics entered into crisis. The acts adopted in the context of the UN in 2015 – in particular the Addis Ababa Action Agenda, the 2030 Agenda for Sustainable Development Goals and the Paris Agreement on Climate Change – did not leave to any substantial advance.

The Addis Ababa Action Agenda was adopted by the third UN Conference on Financing for Development (13–17 July 2015). On the crucial point of the Official Development Assistance – ODA, the providers of ODA confirmed the aim of reaching 0.7 % of ODA/GNI, or in aid destined for the least developed countries between 0.15 % and 0.20 % of the ODA (Chapter II, Action Areas C, p. 51). Theytherefore reiterated what they had already affirmed in the Monterrey Consensus (2002) and in the Doha Declaration (2008).

The 2030 Agenda for Sustainable Development (October 2015) establishes a global framework for the eradication of poverty and the attainment of sustainable development, on the basis of the Millennium Development Goals (2000). It defines a universal Action Programme, articulated in 17 SDGs – Sustainable Development Goals, and 169 associated goals. Improving the environmental rule of law, access to justice and environmental dispute resolution are essential for achieving the SDGs and, not by chance, Goal 16 (Promote just, peaceful and inclusive societies) is dedicated to building effective, accountable institutions at all levels.

The Agenda does not in itself however, constitute any advance in the move towards more efficacious law and policies for the protection of the environment, nor does it contain any indication on new instruments which would ensure the effectiveness of actions aimed at the achieving the goals listed [3, p. 1].

The Paris Agreementwas signed during the 21st annual session of the CoP – Conference of the Parties to the Climate Change Convention (29 November – 13 December 2015), with the wish to strengthen the global reaction

against the threat of climate change in the context of sustainable development (Article 2,1). The fundamental goals of the Agreement are: a) to keep the increase in average global temperature below 2 degrees centigrade, trying to limit this increase to no more than 1.5 degrees above pre-industrial levels; b) to increase the capacity to adapt to adverse impacts; c) to use financial flows coherent with a move towards low emissions of greenhouse gases and a development resistant to climate change.

The Agreement however, does not impose any real legal obligations on the Parties, and Article 2,2 establishes that it will be implemented according to equity and in such a way as to reflect the principle of common but differentiated responsibility and respective capacity, in the light of diverse national circumstances. This is an appeal to principles which, above all for the unusual appeal to equity in the norm that defines the general obligations of the Parties, leaves ample space to the discretion of the States in determining individual conduct relating to the commitments assumed.

The developed countries have also undertakento invest 100 billion dollars every year in favour of developing countries. Only the implementation process will show how far this sum – held by many to be insufficient – will be effectively mobilized, but precedents (e.g. ODA commitments) certainly don't invite optimism [4].

Regarding the monitoring and checking of the undertakings made, Article 15 institutes a mechanism for facilitating implementation and promoting conformity with the dispositions of the Agreements; in particular, a committee of experts which will pay «particular attention to the respective national capabilities and circumstances of Parties» and will present an annual report to the CoP.

The vagueness of these provisions justifies the criticism of some analysts, who affirmedthat the Paris Agreement created only the illusion of a model of governance of climate change [5].

In fact, in our opinion, the international law for the protection of the environment has remained substantially at a standstill, on the plane of principles and laws of a general nature, at the framework shaped in the last decade of the last century, that is at the '92 Rio Conference. Environmental issues – while the degree of knowledge and awareness of the problems has increased at all levels – are by no means among the priorities on the international agenda.

This situation is at the basis of the widespread conviction – at all levels – that current tendencies are unsustainable: mankind seems to be facing «a closing window of opportunity to effect meaningful change in Humanity's trajectory» [6]. In this regard, it is worth noting the adoption by Pope Francis of the Encyclical Letter Praise Be to You, O Lord – On Care for Our Common Home, and the fact that since 2009 the UN General Assembly has been

yearly adopting resolutions on: Harmony with Nature (the last one been Res. no. 72/223, 20 December 2017, in A/RES/72/223, 17 January 2018).These acts express the awareness of the fact that progress in scientific knowledge and the definition of a «philosophy» of sustainable development do not in themselves overcome the limits to effectiveness and efficacy of policies and international law in the field.

At this point, it is worth noting the IUCN World Declaration on the Environmental Rule of Law (Rio de Janeiro, 26–29 April 2016), which states, among the general and emerging substantive principles for promoting and achieving environmental justice, the right to environment: Each human, present and future, has the right to a safe, clean, healthy, and sustainable environment (Principle 3).

Modern constitutions recognize the human right to the environment among the fundamental rights. In international lawdebates are still being held on the status of such a right, but it is receiving growing recognition by various international and regional courts. Lastly, on 7 February 2018, the Inter-American Court of Human Rights issued an advisory opinion (A/O-23/17, 15 November 2017) concerning the obligations of States Parties to the American Convention on Human Rights [7].The Court affirmed the existence of an autonomous «right to live in a healthy environment» under the American Convention. According to the Court, this right has connections and implications for the rights to life, personal integrity, privacy, health, water, housing, cultural participation, property, the prohibition not to be forcibly displaced, etc.

In conclusion, the most recent international praxis showsthat there is a need for a deep reflection on fundamental ethic values [8] and the possible role of law in pursuing a newequilibrium between man and nature and affirming the human right to a healthy environment. The latter has also the potential, as demonstrated by the above-mentioned case examined by the Inter-American Court of Human Rights, to unlock real cross-border remedies for the victims of environmental degradation.

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О РАЗВИТИИ МЕЖДУНАРОДНОГО КЛИМАТИЧЕСКОГО ПРАВА В КОНТЕКСТЕ РАСШИРЕНИЯ МЕЖГОСУДАРСТВЕННЫХ ИНТЕГРАЦИОННЫХ ПРОЦЕССОВ

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Начало XXI в. ознаменовалось интенсивным развитием климатического права и его становлением как самостоятельной подотрасли экологического права. Важное значение в деле интенсификации данного процесса играют непрерывно протекающие на межгосударственном уровне интеграционные явления, стимулирующие качественное развитие и унификацию климатического правотворчества на уровне, как отдельных стран, так и целых регионов. Особое влияние процессов международной интеграции на сферу климатического права связано с уникальной природой климата как объекта правовой охраны и вытекающими из нее особенностями предмета климатического права.

Значимость предмета климатического права, включающего в себя собственно климатоохранительные правоотношения и правоотношения в области преодоления последствий изменения климата, сложно переоценить. Климатическая проблематика стала неотъемлемой частью повестки различных международных организаций и форумов, предметом международных соглашений. Международное сообщество посредством присоединения к Парижскому соглашению в рамках Рамочной Конвенции ООН об изменении климата от 12 декабря 2015 г. признало необходимость существенного сокращения выбросов парниковых газов в целях удержания роста глобальной средней температуры ниже 2°С, прилагая усилия по ограничению роста температуры до 1,5°С. При росте глобальной средней температуры выше указанной критической отметки последствия для жизни на Земле могут стать необратимыми.