

поскольку в случае их создания у Европейского суда нет контроля над ними. Сейчас вопрос о влиянии данного решения состоит в следующем: приведет ли оно к каким-либо серьезным изменениям в инвестиционном арбитражном разбирательстве и как эти изменения будут влиять на инвестиционную деятельность в целом?

Литература

1. Regulation № 1219/2012 of the European Parliament and of the Council of 12 December 2012 establishing transitional arrangements for bilateral investment agreements between Member States and third countries [Electronic resource]. – Mode of access: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R1219&from=EN>. – Date of access: 22.04.2020.

2. Slovak Republic v. Achmea (Case C-284/16), judgement of the court of March 6, 2018 // EUR-Lex [Electronic resource]. – Mode of access: <http://curia.europa.eu/juris/celex.jsf?celex=62016CJ0284&lang1=en&type=TEXT&ancre=>. – Date of access: 22.04.2020.

The formation of the right to a healthy environment in the context of Article 8 of the European Convention on Human Rights

*Приходько Е. А., студ. IV к. БГУ,
науч. рук. Зыбайло А. И., канд. юр. наук, доц.*

The European Court of Human Rights (hereinafter – the Court) carries out the interpretation of the provisions of the European Convention on Human Rights (hereinafter – the ECHR) based on the doctrine of an «evolutive interpretation». In the light of this doctrine, cases concerning the right to a healthy environment are mainly examined by the Court in the context of Article 8 of the ECHR.

The Court applied Article 8 in close connection with the right to a healthy environment in *Lopez Ostra vs. Spain* judgement. The applicant and her daughter experienced health problems due to «gas fumes, pestilential smells and contamination» from the tannery waste processing plant, which operated in the immediate vicinity of the applicant's place of residence [1; § 8].

The Court noted that «severe environmental pollution may affect individuals' well-being and prevent them from enjoying their homes in such a way as to affect their private and family life adversely, without, however, seriously endangering their health» [1; § 51].

Since the adoption of the Stockholm Declaration in 1972, environmental protection was seen as an essential tool in the effort to secure the effective

enjoyment of human right to health. This approach is clearly apparent in the Resolution 45/94 of the UN General Assembly and the International Covenant on Economic, Social and Cultural Rights (article 12). Moreover, Klaus Toepfer, Executive Director of the United Nations Environment Programme, adhere to the same approach in his statement to the 57th Session of the Commission on Human Rights [2].

However, following the conclusions and findings of the Court in the *Lopez Ostra vs. Spain* judgement, a violation of the right to a healthy environment can even occur regardless of the right to health, which demonstrates the recognition of the independent right to a healthy environment.

Worth mentioning that Article 8 was applied in various cases related to environmental problems that have a direct impact on the applicant's home, family or private life, such as *Guerra et al. vs. Italy*, *Taskin and Others vs. Turkey*, *Tătar vs. Romania*, *Dubetska and Others vs. Ukraine*, etc. In addition, the adverse environmental impact should reach a minimum level, the assessment of which is rather relative and depends on all the circumstances of the case. Such circumstances can include, for instance, the intensity and duration of the pollution, its material or mental harm [3; § 69].

Furthermore, in *Fadeyeva vs. Russia* the Court has noted that Russia had not fulfilled its positive obligations to assist the applicant and the people living next to her in finding any ways to eliminate the potential harm, and did not offer any solutions in order to resettle her from the danger zone. Moreover, despite the violation by the plant of the established environmental standards, Russia had showed negligence and failed to reduce industrial pollution to an acceptable level.

The director of the European Center for the Protection of Human Rights and one of the attorneys of Ms. Fadeeva, F. Lich, gave comments on the decision of the Court as follows: «This is certainly an important decision that proves that all the governments should effectively control and regulate the private sector in order to prevent environmental pollution» [4].

Thus, Article 8 of the ECHR can be applied in cases related to the environment if its pollution is directly carried out by a State, or if the responsibility of a State stems from the failure to properly control and regulate the activities of the private sector [5; § 76].

Taking into account the established practice of the Court, it pays close attention to the right to a healthy environment. However, its absence in the ECHR does not allow applicants to directly invoke a violation of the right to a healthy environment, thereby indicating its interconnection and dependence on the right to respect for private and family life.

Literature

1. Lopes Ostra vs. Spain: judgement of 9 December 1994 // European Court of Human Rights [Electronic resource]. – Mode of access: [https://hudoc.echr.coe.int/rus#{"itemid":\["001-57905"\]}](https://hudoc.echr.coe.int/rus#{). – Date of access: 17.04.2020.
2. Living in a pollution-free world is a basic human right, says top UN rights body // UN News [Electronic resource]. – Mode of access: <https://news.un.org/en/story/2001/04/2712-living-pollution-free-world-basic-human-right-says-top-un-rights-body>. – Date of access: 19.04.2020.
3. Fadeyeva vs. Russia: judgement of 9 June 2005 // European Court of Human Rights [Electronic resource]. – Mode of access: [https://hudoc.echr.coe.int/rus#{"itemid":\["001-69315"\]}](https://hudoc.echr.coe.int/rus#{). – Date of access: 18.04.2020.
4. Описание дела: Фадеева против России // Business and Human Rights Resource Centre [Электронный ресурс]. – Mode of access: <https://www.business-humanrights.org/ru/описание-дела-фадеева-против-россии>. – Date of access: 19.04.2020.
5. Giacomelly vs. Italy: judgement of 2 November 2006 // European Court of Human Rights [Electronic resource]. – Mode of access: [https://hudoc.echr.coe.int/fre-press#{"itemid":\["003-1827418-1917260"\]}](https://hudoc.echr.coe.int/fre-press#{). – Date of access: 18.04.2020.

The Cookie Law as legislation to protect personal data

*Рыбалка Д. С., студ. II к. БГУ,
науч. рук. Непомнящих И. А., ст. преп.*

Nowadays, everything is linked with confidentiality of information. Every year more and more information is stored on our devices. For comparison, some years ago there were only photos, messages and phone numbers, but now we have a lot more other personal information. Our devices know our state of health, obtained from fitness bracelets, almost all our passwords, they possess our electronic money and bank accounts data. It is more than ever. Therefore, of course, concerns about the safety of personal data are increasing. It is not a surprise that the Apple in their latest advertisement placed a special emphasis on data confidentiality, by this very fact distinguishing itself from others. All this shows the relevant and actual character of the problem under research.

The subject of our scientific work is cookies and the Cookie Law and the problem is the relation of cookies to private policy.

To start with, let us define the term Cookies. Cookies are pieces of data, normally stored in text files, that websites place on visitors' computers (or other devices) to store a range of information.