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Assessment of the effectiveness of international legal mechanisms for environmental protection: Environmental issues in the practice of international courts

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Abstract

This study aimed to examine international legal standards and the practices of international judicial bodies in the field of environmental protection. To achieve this aim, methods of structural, comparative-legal, and hermeneutic analysis were applied. It was established that the majority of international legal instruments, such as conventions and recommendations, rely on voluntary compliance, which significantly limits

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their practical effectiveness. Nation states retain the right to determine independently the means of fulfilling their international obligations, particularly in cases where such obligations may conflict with national sovereignty. However, international judicial institutions dealing with interstate disputes often demonstrate limited effectiveness in ensuring the protection of individual environmental rights, due to protracted proceedings and the limited impact of their decisions. It was noted that during wartime and in post-conflict recovery, financial and human resources are typically redirected towards rebuilding infrastructure and providing humanitarian assistance, which may reduce attention to the implementation of international environmental standards. Without adapting general norms to specific conditions, their implementation may prove ineffective or even counterproductive, thereby diminishing their practical utility in environmental protection. Emphasis was placed on the importance of establishing an environmental court in Ukraine as a means of strengthening environmental justice. The experience of the United States of America in environmental regulation has demonstrated the importance of establishing an effective hierarchical system of state bodies that ensures a balance between federal and local levels, alongside the introduction of mechanisms for public oversight. It has been established that drawing on international experience, integrating international standards, and implementing effective monitoring systems are critically important for enhancing environmental security and promoting sustainable development in Ukraine

Keywords: martial law; legal regulation; environmental rights; European Court of Human Rights; International Court of Justice

Introduction

The primary cause of the intensification of global environmental problems is the unsustainable use of natural resources (Tackling the global..., 2023). Countries with low levels of environmental security, which attempt to overcome economic difficulties through intensive exploitation of natural resources, exert a negative impact on the environment by depleting these resources (Rich countries use..., 2024). At the same time, the war in Ukraine, triggered by the Russian invasion, has had catastrophic consequences for the environment, including the destruction of infrastructure, pollution of air, soil, and water, as well as the spread of hazardous waste, thereby deepening the ecological crisis. The destruction of natural ecosystems and agricultural land during hostilities, together with large-scale fires and chemical contamination, poses threats to biodiversity and human livelihoods, which further underscores the urgency of environmental security for the international community (EcoZagroza, 2024).

International treaties on environmental protection serve as important legal mechanisms for addressing ecological challenges; however, even after the signing of such agreements, states and their entities often continue to cause damage to ecosystems. According to information provided by the State Environmental Commission of Ukraine, by January 2023, the environmental damage resulting from Russia's war against Ukraine had exceeded 688 billion hryvnias (Over the 11 months..., 2023). One of the main reasons for such violations is the absence of effective mechanisms for monitoring the fulfilment of international obligations.

The international system of environmental agreements is characterised by fragmentation, since most treaties address only specific aspects

of environmental protection or particular types of pollution. A significant number of such agreements lack effective enforcement mechanisms to ensure compliance. Nevertheless, there is a growing need for international judicial bodies to be involved in addressing environmental issues. The role of international courts is becoming increasingly important, as their activities focus on ensuring state compliance with environmental standards, which is crucial in combating violations of international environmental law.

An analysis of the effectiveness of international legal mechanisms in the field of environmental protection, particularly in the context of international judicial practice and law enforcement in the United States, highlights their limited and fragmented implementation, which requires further improvement. In the study by Yu. Pidhorodynska (2023), the legal status and functional capacities of bodies responsible for international monitoring of treaty compliance were examined. The legal status and procedures of 17 committees responsible for the implementation and oversight of major international environmental conventions were examined. Based on an analysis of the legal status, structure, and competences of these specialised bodies, recommendations were provided for their improvement, particularly with regard to measures in cases of non-compliance. These recommendations emphasise the importance of combining both facilitative and coercive approaches to the fulfilment of international environmental obligations.

In the study by R. Zhen *et al.* (2024), the need to strengthen oversight of international mechanisms of environmental responsibility and to improve national legal systems is underlined. It was established that such oversight contributes to the effective integration of international environmental law into national systems, thereby ensuring mutual benefits for environmental protection and state interests. Special attention is given to the importance of a cautious approach to criticism and changes in the sphere of soft law, with emphasis placed on preserving universal legal principles. The study by A. Levenets (2022) addresses environmental protection in the context of international judicial practice. A connection was identified between environmental protection and human rights, as the right to a clean and safe environment has been recognised internationally as inalienable. The necessity of including a distinct right to a clean and safe environment in the catalogue of convention rights is substantiated, which would strengthen the role of the ECtHR in international oversight of environmental protection and expand its influence on the environmental policies of member states.

The studies by P. Wesche (2021), A.C. Omaka (2022), and A. Corcaci (2023) focus on the national implementation of decisions by European and international judicial bodies in the context of environmental conflicts. These studies analyse the integration of judicial rulings with governance measures concerning compliance with, or breaches of, multilateral environmental agreements. In another study, J.M. Angstadt (2023) highlights the necessity of establishing specialised environmental courts to ensure the effective protection of the environment from harmful impacts. Discussions on the rapid and expanded establishment of such courts and tribunals raise important questions about their influence on international environmental law and global environmental governance.

The study by M. Hrushko (2023) concentrates on the current state of international legal regulation of environmental protection, with particular attention to liability for environmental damage caused during the conflict between Russia and Ukraine. The research of M.L. Banda (2020) demonstrates the distinctive features of litigation related to climate change in the United States of America. It was established that climate change has become the subject of numerous

political debates in the USA, where climate scepticism – casting doubt on scientific evidence – frequently emerges in public discourse. At the same time, the research of X. Shao (2021) focuses on counterclaims concerning environmental protection and human rights in investment arbitration. The findings show that the main obstacles to such claims stem from national legislation rather than international law, making them a potential alternative to national courts. This has implications for the jurisdiction and admissibility of counterclaims, as the complexities of domestic legislation affect arbitral proceedings.

This study aimed to assess the effectiveness of international legal mechanisms for environmental protection. To achieve this aim, the following tasks were defined: to review the main international legal standards in the field of environmental protection; to analyse the practice of international judicial institutions concerning environmental protection; to evaluate environmental regulation in the United States of America; and to identify possible ways of improving the system of environmental protection in Ukraine.

Materials and Methods

The research methodology was based on a combination of the conceptual framework of international environmental law and the theory of international relations. In this context, the legal theory of state responsibility under international law and the concept of sustainable development were applied. The analysis included an examination of legal acts, which enabled an assessment of the current state of environmental regulation and the identification of potential avenues for its improvement. Within this framework, provisions from several legal sources were considered, including the Law of Ukraine No. 3477-IV (2006), which sets out the basic principles of state policy in the environmental field, and the Constitution of Ukraine (1996), which enshrines the fundamental rights of citizens in the sphere of environmental protection. The study also made use of empirical data, including judgments of the European Court of Human Rights in Guerra and Others vs. Italy (1998), Hutton and others vs. the United Kingdom (2003), Hrymkovska vs. Ukraine (2011) and Dubetska and others vs. Ukraine (2011); the report of the State Environmental Inspectorate of Ukraine of 25 January 2023 (Over the 11 months…, 2023); and official data of the Armed Forces of Ukraine on environmental threats (EcoZagroza, 2024). In addition, decisions of United States courts were examined, notably United States v. Sioux Nation of Indians (1980), Friends of the Earth, Inc. v. Laidlaw environmental services (TOC), Inc. (1999), and Massachusetts v. Environmental Protection Agency (2006), as well as the judgment in Pulp mills on the river Uruguay (Argentina v. Uruguay) (2010).

Several methods of scientific inquiry were applied in the study. The system-structural method was used to assess the impact of judicial decisions on the development of international environmental law within the broader framework of international law. The functional method was applied to analyse the practical aspects of implementing international legal mechanisms of environmental protection and their role in ensuring compliance with environmental obligations. Particular attention was devoted to the activities of national authorities, international courts, and environmental institutions. The use of the hermeneutic method contributed to an understanding of the nature and significance of international legal norms in the field of environmental protection. This approach involves a detailed examination of key international agreements, including the Convention on the Protection of Human Rights and Fundamental Freedoms (1997), Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (2005), and the United Nations

Convention on the Law of the Sea (1999), together with their adaptation to national legal systems. The formal-legal method was applied to the study of legal norms, international agreements, conventions, and judicial decisions governing environmental matters. The use of this method enabled an in-depth analysis of international legal mechanisms for environmental protection, particularly in the context of international judicial practice and its influence on environmental law.

Results and Discussion

Environmental crisis and state interests in the 21st century. International environmental law is an important branch of public international law, encompassing legal norms and principles that regulate relations between states in the field of environmental protection. According to H. Arjjumend (2024), significant transformations took place in this area between the 1970s and the 2020s, directly linked to the development of regulations governing activities that may cause environmental risks. This is especially relevant in the context of global climate change, increasing environmental pollution, and the depletion of natural resources, which demand more active participation by states in international efforts to safeguard the environment.

An important achievement in this field has been the emergence of new legal norms that clearly set out the obligations of national legal entities with regard to environmental standards. A prominent example is the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (2005). This convention, officially known as the Aarhus Convention, is designed to guarantee three fundamental rights: the right of access to environmental information, the right to participate in decision-making processes that may affect the environment, and the right of access to justice in cases of violations of environmental rights. Under the provisions of the Aarhus Convention, participating states are required to ensure public access to environmental information, including data on the state of the environment, the consequences of activities that may cause harm, and measures taken to protect ecosystems. Furthermore, the Convention underscores the importance of involving citizens in decision-making on environmental issues, with the aim of ensuring transparency and accountability of public authorities. The provisions of the Aarhus Convention become binding on states once ratified and incorporated into national legislation, necessitating the adaptation of existing legal systems to the new standards of environmental transparency and public participation. This requires states to develop and implement domestic mechanisms to safeguard the rights enshrined in the Convention, including the establishment of appropriate bodies responsible for providing environmental information and mechanisms for public participation in decision-making processes.

Once ratified, international norms take effect as part of national legislation, regulating legal relations between actors in the context of environmental protection. This includes, in particular, conducting environmental impact assessments for infrastructure projects, monitoring industrial emissions, managing waste, and ensuring the protection of citizens' environmental rights. Ratification of international agreements substantially reshapes national legal systems by strengthening mechanisms of environmental protection. Research in the field of environmental law is continually evolving, which necessitates the regular updating of legal systems in this area. However, despite the broad scope of the existing framework, it cannot be said to fully resolve persistent problems, particularly those concerning effectiveness, regulation, and enforcement.

The effectiveness of international environmental law depends on states' compliance with

their obligations under international agreements. In this regard, the issue of enforcement mechanisms becomes crucial. A trend can be observed towards changing approaches within international law, signalling a departure from traditional methods of regulation. As A. Poorhashemi (2022) observes, in classical areas of international law, compliance with treaties is often associated with the concepts of breach and state responsibility, although in practice, such mechanisms are applied relatively rarely. In the context of international environmental law, these phenomena are even less common.

States rarely invoke mechanisms of state responsibility or traditional dispute resolution methods to ensure compliance with international environmental norms. This is largely because classical methods of resolving international disputes – typically bilateral and adversarial in nature – do not always adequately address the needs of environmental conflicts, which are often multilateral. Environmental disputes, such as water pollution, biodiversity loss, and climate change, generally affect the interests of multiple countries, complicating their resolution. In such cases, overlapping legal, economic, and social interests may arise, which do not always align. This creates a need for alternative dispute resolution methods that can better accommodate the multilateral nature of environmental challenges.

The conflict surrounding the Mekong River provides a vivid example of these difficulties (Mekong River…, 2021). The construction of dams along the river, which flows through Laos, Cambodia, Thailand, and Vietnam, has caused significant ecological and social problems. Each of these countries has its own interests and perspectives regarding the river's resources, making it difficult to reach a collective solution. As international courts have been unable to resolve the issue due to the absence of a unified regulatory approach and the divergent positions of the parties involved, the countries in the region have sought to address the conflict through negotiations within regional platforms. One such platform is the Mekong River Commission, established to coordinate the efforts of the countries along the river in matters of sustainable development and resource management. The Commission seeks to facilitate dialogue between states, reconciling their interests and developing joint solutions that meet environmental standards while addressing the needs of all participants. Consequently, contemporary environmental conflicts require new approaches to resolution that take into account the complex and multifaceted nature of environmental issues. Interaction between states through regional platforms can become an important tool in achieving effective and equitable outcomes in environmental protection.

Environmental protection through international agreements faces numerous challenges. The issues addressed by these agreements are often not perceived as urgent, making it difficult to persuade states to enter into agreements that may affect their economic interests or sovereign rights. This results in a cautious approach by states towards strict obligations that carry potential liability. For example, water disputes between Turkmenistan and Uzbekistan remain unresolved due to political and economic interests (Central Asia…, 2002).

Furthermore, at the global level, there is no single centralised body with mandatory jurisdiction to enforce decisions regarding international environmental agreements. Most international legal instruments, such as conventions and recommendations, rely on voluntary compliance. The absence of a specialised institutional body responsible for ensuring adherence to international environmental norms significantly reduces the likelihood of their effective implementation.

Based on the foregoing, studies by T. Etty *et al.* (2021) and E. Aqimuddin and A. Latipulhayat (2023) indicate the necessity of establishing a neutral and independent institution

to ensure equal compliance with international environmental standards by all countries. Such an organisation could employ educational initiatives, financial support, and sanctions as tools to encourage compliance with agreements, while also performing monitoring functions necessary to enforce obligations effectively.

However, it is important to recognise that creating such a neutral and independent body with enforcement powers may face significant resistance from sovereign states. The implementation of international sanctions or financial incentives as instruments of pressure could be perceived as a threat to sovereignty, potentially leading to additional political disputes and conflicts. For example, in 2010, the UN, the USA, and the EU imposed stringent sanctions on Iran due to its nuclear programme (Timeline of U.S… , 2024). These sanctions were perceived by Iran as an attempt at external interference in domestic affairs, resulting in increased anti-Western sentiment and the strengthening of nationalist ideas. Furthermore, a centralised organisation – even if independent – may become excessively bureaucratic, limiting its effectiveness, particularly in the context of multilateral international agreements where state interests often diverge and each country has its own vision of how to achieve environmental objectives. The lack of centralised organisation and ineffective mechanisms for enforcing environmental obligations has sparked interest in establishing a monitoring system to ensure compliance with international environmental agreements, potentially enhancing their effectiveness. This phenomenon can be explained by several factors. One of the most common arguments is that strengthening the impact of international environmental agreements on national economic interests has raised concerns among participating states about the risk of unfair economic practices by countries that fail to comply with these obligations (Bibia *et al.*, 2024).

One aspect of this issue is that increased demand for limited natural resources and competition for access to them heightens concerns regarding compliance with international environmental agreements (Bodansky, 2020). As competition for resources intensifies, states pay greater attention to the conditions of such agreements, recognising their importance in regulating resource use. A trend can be observed towards taking international environmental obligations more seriously. However, although states may appear more concerned with fulfilling international environmental agreements due to growing resource needs, in practice, these agreements often become secondary to other economic priorities. National governments frequently prioritise economic development and industrial growth, even at the expense of breaching environmental obligations. This is evident in cases where international agreements remain ineffective due to inadequate oversight or the absence of enforceable mechanisms. In 2010, the United Nations General Assembly adopted Resolution No. 64/292 (2010), recognising access to clean water and sanitation as a fundamental human right.

However, despite this resolution, many states – particularly in Africa and South Asia – continue to face challenges in ensuring access to clean water due to intensive exploitation of natural resources in pursuit of economic growth (Kwakwa, 2024). This example highlights how economic priorities can outweigh environmental obligations and how the absence of enforcement mechanisms can lead to the ineffectiveness of international agreements. Conclusions regarding the development of international environmental law in the twenty-first century point to a significant transformation of its norms, particularly in relation to activities that pose potential environmental risks. International agreements, such as the Aarhus Convention, influence the adaptation of national legislation to meet international

requirements; however, their effective implementation remains uncertain. The main challenges are the lack of centralised enforcement mechanisms and the precedence of economic development priorities over environmental interests. This underscores the need for independent institutions to monitor compliance with environmental obligations.

Environmental protection in the practice of international courts. International environmental law is a key component in shaping global jurisprudence, as it defines legal approaches to environmental protection through established norms and principles. The importance of interaction between judicial processes and international environmental law stems from the influence of emerging legal principles and norms within international law on the improvement of the legal framework for environmental protection. Judicial decisions, advisory opinions, and rulings of international courts, including the International Court of Justice, demonstrate a shift in the perception of state sovereignty, which was previously seen as an obstacle to global environmental governance. For example, in the case of Pulp Mills on the River Uruguay (Argentina v. Uruguay) (2010), the International Court of Justice examined the legality of applying environmental standards in the context of international river management. The Court concluded that states have obligations to comply with international environmental norms, even if this may limit their sovereignty.

The transition from the concept of absolute sovereignty to the management of natural resources based on principles of fairness and rationality opens new horizons for the development of legal frameworks for environmental protection. Analysis of the European Court of Human Rights (ECtHR) jurisprudence in cases concerning the protection of environmental rights shows that applicants often invoke Articles 2, 6, 8, 10, 13, 34, and 35 of the Convention on the Protection of Human Rights and Fundamental Freedoms (1997). For instance, in the Case of Guerra and Others v. Italy (1998), issues were considered relating to environmental threats and public health. In 1998, a company engaged in the production of mineral fertilisers and chemicals was classified as high-risk, highlighting the potential dangers of its activities for both the environment and the health of the population. Applicants highlighted large volumes of gas emissions that could trigger chemical reactions, explosions, and the release of toxic substances such as sulphur dioxide and nitrogen oxides. The government did not contest these circumstances. The applicants argued that these actions violated several articles of the Convention and sought just satisfaction. Another example of the protection of environmental human rights is the Case of Hutton and Others v. the United Kingdom (2003), which concerned noise pollution near London's Heathrow Airport. The case examined the adequacy of studies conducted by the authorities prior to the implementation of a noise quota system. The ECtHR concluded that Article 13 of the Convention on the Protection of Human Rights and Fundamental Freedoms (1997) had been violated. It was established that the right to access effective legal remedies under Article 13 had been breached, as the UK courts had failed to provide sufficient judicial protection.

In cases where environmental rights are insufficiently protected at the national level, Ukrainian citizens also have the right to apply to the ECtHR. This right is enshrined in Part 4 of Article 55 of the Constitution of Ukraine (1996), which allows individuals to submit complaints to international judicial bodies after exhausting all domestic legal remedies if they believe that their rights or freedoms have been violated. This right can only be exercised within international organisations of which Ukraine is a member, thereby confirming the ability of Ukrainian citizens to petition the ECtHR. The adoption of the Law of Ukraine No. 3477-IV (2006), which regulates the

implementation of European Court of Human Rights decisions, reflects the recognition of the Court's jurisprudence as a source of law within Ukraine. This legislative act facilitates the integration of European human rights standards into the Ukrainian legal system, establishing the binding nature of ECtHR rulings for Ukrainian courts in cases concerning Council of Europe member states. In this context, ECtHR decisions can serve as legal precedents.

As of 2024, the ECtHR has also considered several cases against Ukraine relating to environmental protection. Although the number of such rulings is limited, they carry significant weight, including Dubetska and Others v. Ukraine (2011) and Hrymkovska v. Ukraine (2011). In the case of Dubetska and Others v. Ukraine (2011), applicants from the village of Vilshyna (Lviv Region) repeatedly petitioned state authorities regarding harm to their health and homes caused by environmental pollution from the Chervonograd enrichment plant. Despite recognition of the plant's serious negative impact on the applicants' lives, the authorities failed to implement any decision to relocate them from the contaminated area. The Court considered that, while states enjoy a certain degree of discretion in fulfilling their environmental obligations, granting applicants a general right to free new housing at the state's expense would be excessive. Nevertheless, the applicants' complaints under Article 8 could have been addressed through appropriate remediation of the environmental issues. It was found that, during the period under review, both the mine and the plant operated in violation of national environmental legislation, and the government failed to facilitate the relocation of the applicants or implement policies that would have protected them from environmental risks associated with living near these facilities. This constitutes a breach of Article 8 of the Convention on the Protection of Human Rights and Fundamental Freedoms (1997).

In the case of Hrymkovska v. Ukraine (2011), the ECtHR emphasised that, prior to the construction of a highway, the authorities did not carry out the necessary assessments to evaluate compliance with environmental standards or to involve stakeholders in the process. Subsequently, the authorities failed to adequately address the issues arising from the highway's negative impact on the residents living along its route. The Court concluded that Ukraine did not meet the minimum guarantees required to ensure a fair balance between the applicant's interests and those of society. This highlights gaps in Ukrainian legislation regarding the protection of human rights to a safe environment. Accordingly, national courts must take ECtHR practice into account when addressing environmental human rights issues at the domestic level.

In this context, C. Heri (2022) and H. Keller and C. Heri (2022) rightly note that, under Article 8 of the Convention on the Protection of Human Rights and Fundamental Freedoms (1997), the Court can identify violations of citizens' rights in the sphere of environmental legal relations. The Court must assess whether the State was aware of the issue, whether there was any inaction, and whether significant harm was caused. Court practice demonstrates that the dynamic interpretation of the Convention allows the ECtHR to continually adapt approaches to the protection of environmental rights. The Court does not interfere with national policy but merely identifies specific violations; therefore, Ukraine should take ECtHR findings into account to develop mechanisms for ensuring, protecting, and restoring human rights in the context of environmental security. An analysis of the Court's decisions in cases involving multiple countries shows that, in all such instances, the ECtHR found violations of Article 8 of the Convention on the Protection of Human Rights and Fundamental Freedoms (1997), accepting applications due to potential infringements of

the right to respect for private and family life and home. The relatively small number of cases and judgments against Ukraine indicates that, at the national level, the State generally fulfils its responsibilities in protecting environmental rights. However, an analysis of the decisions highlights issues that can be divided into two categories: 1) inadequate protection of environmental rights at the pre-trial stage, manifested in the non-implementation of certain rulings – as in Dubetska and others v. Ukraine (2011) and Hrymkovska v. Ukraine (2011); 2) disregard for national court decisions by government authorities and abuse of power – as in Dzemiuk v. Ukraine (2014), where a court ruling declaring a local council decision unlawful was not enforced. Thus, the Court's decisions in cases against Ukraine establish precedents and highlight gaps in the protection of environmental rights, which the State should consider when developing and implementing national policy in this area.

Environmental issues, often linked to transboundary pollution and other ecological infringements, are primarily analysed within the context of international arbitration and judicial bodies. As E. Voeten (2020) notes, there is currently no single international mechanism for adjudicating environmental cases. Only isolated elements of such a system exist, such as the International Tribunal for the Law of the Sea. In cases unrelated to maritime law, environmental matters are addressed by general judicial and arbitration bodies, such as the International Court of Justice and the Permanent Court of Arbitration, in accordance with established procedures.

In the context of environmental disputes, the International Tribunal for the Law of the Sea has authority, under the United Nations Convention on the Law of the Sea (1999), to adjudicate issues of marine pollution. Pollution resulting from the discharge of hazardous substances into the sea adversely affects marine resources and can pose risks to human health. Under Article 287 of this Convention, dispute resolution mechanisms include the International Tribunal for the Law of the Sea, the International Court of Justice, arbitration bodies, and special arbitral tribunals.

On 16 March 2022, the International Court of Justice issued a ruling requiring the Russian Federation to cease its aggressive actions (Kuzmenko, 2024). This ruling was based on the severe consequences of military actions, which resulted in significant human casualties, the destruction of infrastructure, and environmental damage approaching a humanitarian catastrophe. However, the Russian Federation did not comply with this decision, and the absence of effective enforcement mechanisms complicated its implementation. Thus, although the International Court of Justice issued the ruling to protect environmental rights in Ukraine, its non-compliance highlighted the insufficiency of coercive mechanisms.

To enhance the effectiveness of judicial protection for environmental rights in Ukraine, the establishment of a specialised environmental court should be considered. Research by S. Zarei (2023) suggests that the concept of an international environmental tribunal addressing domestic issues is unlikely, as such institutions typically operate on an arbitration basis, with states as the principal participants. Therefore, it would be more appropriate to establish a national judicial body specialised in environmental matters.

Among European countries, Sweden and Austria demonstrate positive trends in environmental justice. Sweden became the first European state to introduce the Swedish Environmental Code (1999), which includes a system of first- and second-instance environmental courts, comprising five environmental courts functioning within civil districts and one environmental court attached to the appellate court. In Austria, environmental courts are organised on a specialised basis and include an Independent Environmental

Senate composed of ten judges, although its jurisdiction is limited to cases related to environmental impact assessments (Angstadt & Schink, 2023).

The practice of New Zealand's Environmental Court is also noteworthy: plaintiffs can bring various claims (Warnock, 2022), including requests for guidance on the allocation of powers between regional and territorial authorities, as well as for determining potential breaches of the state's obligations to prevent or mitigate environmental harm. At the same time, the absence of necessary environmental information from authorities does not provide grounds for approaching the Environmental Court.

In Australia, most cases relating to planning and environmental protection are resolved through agreement between the parties before hearings commence, reflecting a preference for encouraging alternative dispute resolution free of charge (Planning and Environment…, 2024). In this process, registrars act as mediators, helping to avoid court costs. Among the positive aspects of environmental rights protection is the success of the Land and Environment Court of New South Wales, the world's first environmental court, established in 1980. It maintains an electronic database on environmental offences, providing judges with access to analytics and statistics; implements a "Multi-Door Courthouse" system, offering plaintiffs a broad range of services to resolve disputes at different stages; and emphasises restorative justice, whereby victims and offenders collaborate to restore ecological balance.

It can therefore be concluded that international environmental law is a crucial instrument for addressing global ecological challenges, as it establishes legal frameworks for the protection of the environment at an international level. The practice of international courts, such as the International Court of Justice and the European Court of Human Rights, indicates a gradual shift in the approach to state sovereignty, with environmental standards increasingly taking precedence over traditional notions of sovereignty. Court decisions emphasise the importance of safeguarding the right to a clean and safe environment, as enshrined in international legal norms and judicial precedents.

The US experience for Ukraine. Unlike Ukraine, the United States has had sufficient time to address issues of state governance and to implement political decisions, particularly in the environmental sphere. Over several decades, the USA established a hierarchical structure of government agencies with clearly defined functions, allowing for the distribution of jurisdiction between state and federal levels, as well as the creation of institutions for public oversight. According to J.T. Mueller and S. Gasteyer (2021), this system enabled the USA to adapt to the dynamic development of social relations. Analysing the principles of federal governance and legal regulation in the USA regarding environmental protection is particularly valuable, as it can provide both theoretical and practical guidance for Ukrainian legislators in regulating ecological relations.

The executive branch of the United States of America in the field of environmental policy is centred on the Environmental Protection Agency (U.S. Environmental Protection Agency, 2025), which plays a key role in the implementation of administrative oversight and monitoring compliance with environmental legislation. Additionally, the Department of the Interior and the Department of Agriculture also carry out specific functions relating to environmental safety. The Environmental Protection Agency is responsible for developing and enforcing regulations connected to environmental protection. However, the presidential administration and other federal bodies can influence the formulation of environmental policy, for example, through the development of standards for alternative fuels (Alternative fuels, 2010).

Federal environmental regulation in the United States is based on a comprehensive

system of legal instruments that govern interactions among federal agencies, state governments, local authorities, and the public. This system operates according to the principle of checks and balances, established by the country's founders to prevent the concentration of power in any single branch. This principle ensures equilibrium between different branches of government, preventing the dominance of one over the others. However, as J. Castner (2020) and R.J. Lazarus (2023) note, it can also create conditions for mutual interference between branches, which at times complicates the legislative process for environmental laws.

The interaction between federal and state authorities in the United States of America leads to ongoing debates regarding the expansion and limitation of their powers in environmental regulation. Specifically, state authorities aim to maintain greater independence in environmental matters, whereas federal institutions seek to centralise regulation to ensure uniform environmental safety standards across the country. The long-standing environmental policy of the United States has established a robust legal framework for environmental protection, which has had a positive impact on the nation's ecological situation. The development and implementation of various environmental programmes, supported by sustained political and legislative initiatives, have facilitated a balance between ensuring a safe living environment and accommodating economic interests (Young *et al.*, 2022).

Despite the positive outcomes of implementing environmental programmes, a number of challenges remain, particularly concerning the compromise between environmental protection and economic development. One such challenge is the risk of weakening environmental standards in favour of economic considerations, which could adversely affect sustainable development. Furthermore, centralised regulation does not always account for the specific ecological conditions of individual regions, potentially reducing the effectiveness of environmental measures in different parts of the country. The experience of the US courts in addressing environmental issues encompasses a wide range of cases, reflecting the active role of the judicial system in safeguarding the environment. This process involves not only the application of legislation but also the development of case law, which plays a crucial role in regulating environmental relations. Judicial practice in the United States has had a significant impact on the evolution of environmental law. For example, the decision in Massachusetts v. Environmental Protection Agency (2006) established that the Environmental Protection Agency (EPA) is obliged to regulate greenhouse gas emissions under the Clean Air Act. This ruling highlighted the importance of considering environmental consequences in decisionmaking.

Another significant case is Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc. (1999), in which the U.S. Supreme Court determined that organisations may bring lawsuits for environmental violations even if they cannot demonstrate specific financial losses. This decision expanded the ability of environmental organisations to protect the environment. US judicial practice also includes cases in which Indigenous peoples use the courts to safeguard their rights to land and resources. In United States v. Sioux Nation of Indians (1980), the court affirmed the tribe's right to compensation for lost land due to government actions, recognising the environmental rights of Indigenous peoples. The issue of improving the international legal framework for environmental protection during armed conflicts in Ukraine is particularly important in light of the experience of the United States of America. In situations of armed conflict, such as the war in Ukraine, the environment often suffers significant damage, which can lead to long-term negative consequences for public health and ecosystems.

According to information provided by the State Ecological Inspection of Ukraine, as of April 2024, the total damage to the environment caused by Russian aggression amounts to nearly 2.5 trillion UAH: damage to Ukraine's atmosphere is estimated at 145 billion UAH, damage to the water sector at 84 billion UAH, and damage to the land fund at 17 billion UAH (Stephanyshyn, 2024).

The increasing environmental harm resulting from armed conflicts highlights the need to develop a specialised document containing rules of conduct for environmental protection during warfare. The content of such a convention could address several key issues, including: defining the scope of its provisions, specifically regarding the protection of the environment during armed conflict; safeguarding the environment in both international and non-international armed conflicts; identifying protected zones of significant ecological and cultural value; providing recommendations for states on adopting appropriate legislative and other measures to ensure corporate and commercial prudence in areas affected by conflict; prohibiting environmental harm as a form of reprisal; protecting the environment under conditions of occupation; and addressing the restoration and safeguarding of environmental resources damaged during conflict. Thus, there is an urgent need to establish relevant norms.

According to research by S.A. Hemmerling *et al.* (2022) and M. Kourouni (2024), the effective implementation of international norms and standards for environmental protection in conditions of armed conflict requires a comprehensive approach encompassing both legal and practical aspects. As noted by G.L. Kyriakopoulos (2021) and K.L. Law *et al.* (2020), the establishment and maintenance of mechanisms for monitoring and assessing the environmental consequences of conflicts are crucial, as they enable prompt responses to ecological threats and facilitate effective restoration. However, this conclusion should be considered with some caution, since during armed conflicts, national governments often face significant resource constraints and competing priorities that may take precedence over environmental protection.

In the context of war and post-conflict recovery, it is important to recognise that both financial and human resources may be directed towards urgent needs, such as infrastructure restoration and security provision. These circumstances can reduce the priority given to the implementation of international environmental standards. Moreover, even where international norms are integrated into national legislation, their enforcement may encounter substantial challenges, including insufficient infrastructure and a shortage of qualified specialists. Consequently, it is essential to adapt international standards to the socio-economic realities and ecological conditions of each context to ensure their effective implementation.

To enhance environmental security in Ukraine amid armed conflict, national legislation should be amended to align with international norms, particularly regarding liability for environmental damage during conflicts. The establishment of environmental monitoring systems, drawing inspiration from the experience of the United States of America, is also critical. Furthermore, the involvement of international partners in implementing programmes for the restoration of ecosystems damaged by conflicts will contribute to the long-term protection of the environment. Examining international experience can provide a foundation for establishing effective mechanisms for environmental protection during armed conflicts in Ukraine, which is critically important for sustainable development and the safety of the population.

The United States of America has extensive experience in public administration, particularly in environmental policy, which may serve as a valuable resource for Ukraine. Over decades, the USA has developed a hierarchical structure of

government agencies, enabling an efficient distribution of jurisdiction between federal and local levels, while also ensuring public participation in monitoring compliance with environmental regulations. This system adapts to societal changes, which is crucial for the effective regulation of environmental relations in Ukraine, especially under conditions of armed conflict. Proper integration of international norms and standards into national legislation can enhance environmental security in Ukraine. This includes establishing environmental monitoring systems, which could be informed by the successful US experience, as well as involving international partners in the restoration of ecosystems damaged by conflicts. Studying and adapting the US experience in environmental governance could form the basis for creating effective environmental protection mechanisms in Ukraine, which is vital for sustainable development and public safety amid contemporary challenges.

Conclusions

This article examines international legal standards and the practices of international judicial bodies in environmental protection, with particular attention to their role in safeguarding environmental rights. The study addressed several aspects, including the analysis of key international norms, enforcement mechanisms, and specific cases considered by international courts. It was found that international judicial bodies, such as the European Court of Human Rights and the International Court of Justice, play a crucial role in shaping legal standards and safeguarding environmental rights. The practice of these courts demonstrates a gradual shift in approaches to state sovereignty, whereby environmental standards increasingly take precedence over traditional principles of sovereignty. Court decisions underscore the importance of protecting the right to a clean and safe environment, as enshrined in international legal norms and precedents.

It was also established that national governments often decide independently whether to fulfil their international obligations, particularly when these obligations conflict with the country's sovereign interests. At the same time, the role of national systems in ensuring compliance with international obligations was emphasised, as the interaction between international judicial bodies and domestic legal frameworks can significantly influence the effectiveness of environmental rights implementation. The experience of the United States of America in environmental regulation highlights the importance of establishing an efficient hierarchical system of government agencies that balances federal and local authority, while also implementing mechanisms for public oversight. In particular, the activities of the Environmental Protection Agency highlight the role of specialised institutions in implementing environmental protection policies. The experience of the USA can serve as a valuable reference for Ukraine in the context of improving national legislation during armed conflict. Drawing on international experience, integrating global standards, and establishing effective monitoring systems are critically important for enhancing environmental security and promoting sustainable development in Ukraine.

The findings demonstrate the significance of effectively applying international standards to ensure environmental protection. They underscore the necessity of integrating international norms into national legal frameworks, which can improve compliance with environmental obligations and strengthen environmental protection at the global level. Accordingly, the study emphasises the importance of law enforcement and judicial practice in the context of environmental protection, as well as their interaction with national legal systems. Promising avenues for further research may include examining the role of non-governmental organisations in facilitating

the implementation of international environmental standards, as well as analysing the impact of emerging challenges, such as climate change, on the effectiveness of existing international legal mechanisms. Investigating these aspects will allow for a deeper understanding of the potential and limitations of the international legal system in the field of environmental protection.

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Conflict of Interest

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Оцінка ефективності міжнародно-правових механізмів захисту навколишнього середовища: питання охорони довкілля в практиці міжнародних судів

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Анотація

Метою проведеного дослідження було вивчення міжнародно-правових стандартів і практик міжнародних судових органів у сфері охорони навколишнього середовища. Для досягнення зазначеної мети застосовано методи структурного, порівняльно-правового та герменевтичного аналізу. Встановлено, що основна частина міжнародних правових інструментів, таких як конвенції та рекомендації, покладається на добровільне дотримання, що суттєво обмежує їх ефективність у практичному застосуванні. Національні держави володіють правом самостійного визначення способів виконання своїх міжнародних зобов'язань, особливо в ситуаціях, коли такі зобов'язання можуть конфліктувати з національним суверенітетом. Однак міжнародні судові інституції, які займаються міждержавними спорами, часто демонструють недостатню ефективність у забезпеченні захисту індивідуальних екологічних прав через затяжність процесу та низьку результативність своїх рішень. Зазначено, що в умовах війни та відновлення після конфліктів фінансові та людські ресурси, як правило, переорієнтовуються на відновлення інфраструктури і надання гуманітарної допомоги, що може призводити до зниження уваги до реалізації міжнародних екологічних стандартів. Без адаптації загальних норм до специфічних умов їх імплементація може бути неефективною або навіть контрпродуктивною, що знижує їхню практичну ефективність у сфері охорони навколишнього середовища. Акцентовано, що створення екологічного суду в Україні є важливим для покращення екологічного правосуддя. Досвід Сполучених Штатів Америки у сфері екологічного регулювання продемонстрував важливість побудови ефективної ієрархічної системи державних органів, яка забезпечує баланс між федеральним і місцевим рівнями, а також впровадження механізмів громадського контролю. Встановлено, що залучення міжнародного досвіду, інтеграція міжнародних стандартів та запровадження ефективних систем моніторингу є критично важливими для покращення екологічної безпеки та сталого розвитку в Україні

Ключові слова: воєнний стан; правове регулювання; екологічні права; Європейський суд з прав людини; Міжнародний суд ООН