

The role of selected international courts in environmental protection

This dissertation is, on the one hand, an attempt to answer the question of the role of the International Court of Justice, the International Tribunal for the Law of the Sea, the Court of Justice of the European Union, and the European Court of Human Rights in environmental protection and, on the other hand, an examination of the contemporary model of environmental protection through the case law of these courts. The four international courts protect the environment to a greater or lesser extent through their statements in the course of their proceedings. Since law is undoubtedly a key tool for the protection of our environment, by applying and interpreting treaties or directives, judges can extend their application and fill legal loopholes. An incomplete or ambiguous legal norm demands creativity from a judge in his or her decisions, and repeated confrontation with competing solutions and conflicting norms promotes the development and strengthening of international environmental law. The growing jurisprudence of all four courts reflects the growing relevance of environmental issues. This is happening against the backdrop of increasing environmental awareness of both decision-makers and societies. Perceivable climate change and related challenges will only make them more relevant. After all, a modern approach to environmental protection is based on the realization of the irreversibility of many processes resulting from human activity. The natural environment knows no boundaries, so it cannot be approached in a fragmentary way, only from a national or regional perspective. It therefore inevitably had to become an object of interest for the international judiciary, previously being within the exclusive sphere of the state empire. It would, however, be wrong to assume that the jurisprudence of each of the four courts has made an equal contribution to environmental protection. Each of them has its own specifics and different powers, so each addressed environmental issues in a different way, with different intensity and based on different views. Nevertheless, it should be emphasized that the functioning of the modern model of environmental protection is based on principles which have been confirmed, interpreted or developed by the international courts. Among them are: the principle of good faith in the exercise of sovereign rights, from which derive the prohibition against disturbing the ecological equilibrium when exploiting natural resources and the prohibition against states using their territories for activities violating other state's rights; the principle of sustainable development; the prevention of environmental

damage and the obligation to remedy it; the precautionary principle; the environmental impact assessment procedure; the “polluter pays” principle; the right to live in an adequate environment; the right to information and to access to justice in environmental matters. Regardless of the complexity of that issue, it can be stated that the diverse jurisprudence of the discussed international courts and the dialogue among them both influence the formation of norms pertaining to the natural environment, including customary ones, setting and improving existing standards of its quality, and finally promoting desired social behaviours.