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CIRCULAR LAW DOCTRINE

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ABSTRACT.

The article is devoted to the study of the sources of formation of the doctrine of international circular law. Circular law is defined as a set of legal norms that define and regulate social relations in the field of a circular economy. The authors insist that circular law as a branch of international public law is now only being formed. The research shows that circular law is influenced by many factors in the process of its formation. Among them, the authors singled out a close connection with the norms of international public law and its branch - international economic law. In particular, they noted that general multilateral treaties play a significant role in circular law. The study reveals a great influence of international universal organizations (UN) and regional organizations (EU) on the development and formation of circular law. A peculiar role in the development of circular law at the international level was played by international environmental conferences, at which declarations were adopted outlining special

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environmental principles. The authors pay attention to the concept of sustainable development and emphasize that the concept most accurately defines the essence of the circular economy. Such a clear definition has had the greatest impact on the formation of international and national circular law. Moreover, a number of national legal acts of Germany, Great Britain, Finland, Denmark, Scotland, Australia, China, Canada, the United States, Japan, and some others have also made a significant contribution to the process of formation of circular law. It is worth noting that the important basis of circular law lies in the provision of human rights. The authors propose such a definition of the doctrine of circular law as a legal theory, which is formed on the basis of the norms of national and international law, the law-making of international organizations and reflects the transition of mankind to a circular economic model.

Keywords: circular law, sustainable development, circular economy, circular law doctrine, ecology

JEL Classification: K19, K29, K32, K33

1. Introduction

The purpose of this study is the definition and content of the doctrine of circular law.

In the science of international law, a doctrine is a system of views and concepts about the essence and purpose of international law. In a narrow sense, the doctrine is the scientific works of international lawyers, which are recognized as an additional source of formation of a legally significant opinion.

Thus, by paragraph d of Part 1 of Art. 38 of the Statute of the International Court of Justice “the doctrines of the most qualified publicists of the various nations” are recognized “as an aid to the determination of legal norms” along with such sources of international law as international conventions, international custom, and general principles of law [1].

The research of legal scholars is aimed at interpreting the existing rules of law, as well as at developing the draft international treaties and resolutions of international organizations and their further improvement. At the same time, experts pay special attention to the decrease in

the influence that the doctrines have on the development of international law as a system of international legal norms, and to the preservation of such an influence on the formation of the international legal consciousness of a person as well as the international legal position of states. This role of the doctrine corresponds to its content as a system of views and concepts that signifies the essence and purpose of international law.

Circular law is a set of legal norms that define and regulate social relations in the field of circular economy. Circular law as a branch of international public law is now only being formed. We can view circular law as a full-fledged branch of international public law only after a complete transformation of the modern economic system into a circular economy has been made. International circular law will regulate the global circular economy, i.e.: the norms adopted at the international level which, in addition to traditional aspects of regulation, determine the procedure, terms, and peculiar features of production of goods and services, their utilization or application with the maximum effect possible, as well as waste management for recycling or bringing it up to the state of environmentally friendly substance [2].

2. Materials and Methods

The analysis is based on sources of international economics and law, and research by other scientists and practitioners in the field of international law, economics, and sustainable development. The article uses general scientific methods such as observation, analysis, synthesis, simulations, system-structural, formal-logical, and historical methods, etc. The information base of the study encompasses a number of acts of international organizations, acts of the EU and domestic acts of different countries, international normative legal acts, as well as an analysis of such scholarly databases as Google Scholar, Semantic Scholar, Web of Science, Scopus, E-library.

3. Results

Scientific studies of circular law as a new and most dynamically developing branch of law are of increasing interest to researchers from around the world. Such studies of circular law as a new and rapidly developing branch of law, including those that interpret the content of

circular rules, are of particular importance since they allow for determining its further development.

Several factors influence the content of the concept of circular law and its doctrinal definitions. Let us consider each of them separately.

First factor: The formation and development of international circular law was based on the established system of international public law and international environmental law. This fact had a positive effect on the formation of a circular law.

There is a different level of significance among the sources of international law in international public law according to the literature [3]. General multilateral treaties play a special role in circular law. Such treaties in the theory and practice of international law are considered as agreements that are devoted to an issue of interest to the international community of states as a whole; aimed at creating universally recognized norms of international law; intended for the participation of all states. Among them, the framework agreements stand out in particular, since they, as a rule, are of a global nature, fix obligations common to all participating states, but at the same time do not limit the contracting parties to listing prohibited actions. For example, the 2030 Agenda for Sustainable Development - Outcome Document of the United Nations Summit on the Post-2015 Development Agenda: «Transforming Our World» 2015.

In accordance with International Environmental Agreements Database Project (2002-2020) the Lists of international environmental treaties, conventions, and other agreements includes over 1300 multilaterals and 2200 bilaterals, also 250 “other” (includes environmental agreements between governments and international organizations or non-state actors) [4].

The second factor: It is obvious that international organizations take an active part in circular law. The main role in establishing norms of international law is played by the UN. Economic development and nature protection became the subject of one of the first UN resolutions: No. 1831 (XVII) of December 18, 1962 [5]. This document introduced the concept of the environment. At the international level, the concept of an organic combination of the interests of environmental protection and economic development has been established. Later in 1965, UNGA Resolution 2029 (XX) formed the United Nations Development Program (UNDP) [6]. Resolution No. 2398 (XXIII) “Problems of the Human Environment” of December 3, 1968, recognized the role of a favorable environment for the observance of fundamental human rights [7].

In 1972, the UN Stockholm Conference on the Human Environment was held. The Stockholm Declaration contained 26 principles, put the environment at the top of the list of international problems, and launched a dialogue between industrialized and developing countries on the relationship between economic growth, air, water and ocean pollution and the standard of living of people around the world. The Action Plan contained three categories: a) Global Environmental Assessment Program; b) nature protection activities; (c) Ways to support the assessment and management of natural resource use at the national and international levels. In addition, these categories were broken down into 109 recommendations. These categories were broken down into 109 recommendations [8]. The conference adopted the United Nations Environment Program (UNEP), which we may also treat as one of the foundations of circular law. The World Charter for Nature, approved by the UN General Assembly Resolution No. 37/7 of October 28, 1982, was an attempt to extend international environmental and circular norms to the internal law of states [9].

Among the universal international treaties of recent years, the following are worth noting: the 2030 Agenda for Sustainable Development, and the Paris Agreement on Climate Change 2015. Among the regional treaties are the European Strategy on Plastics 2018, European Green Deal 2019, and Circular Economy Action Plan 2020 [10].

At the regional level, in 2018 the European Strategy for Plastics was adopted, which restricts and prohibits the use of certain plastic products. According to this, such items as ear picks, plastic utensils, and plastic straws are prohibited, and the use of plastic bags, bottles, cigarettes, and hygiene products is limited. In 2019 The European Commission adopted the European Green Deal for the period up to 2050, which envisages European ecological neutrality and climate law, as well as standards for CO2 emissions, industrial strategy for the circular economy, proposals for waste disposal, and sustainable development in a circular economy, proposals for energy taxation, etc. [2].

Third factor. The circular law was formed on the basis and under the influence of the generally recognized principles of public international law. These principles are enshrined in the Declaration on the Principles of International Law and UN Charter.

Article 2 of the UN Charter defines the following main principles of cooperation between the UN member states: the principle of sovereign equality of all its participants; the principle of conscientious fulfillment of the obligations assumed; the principle of resolving international disputes by peaceful means in such a way as not to endanger international peace and security, justice; the principle of refraining from the threat or use of force in international relations; the

principle of providing all possible assistance; the principle of maintaining international peace and security; the principle of non-intervention in matters that are essentially within the internal competence of any state [11].

Fourth factor. A special role in the development of circular law at the international level was played by the international environmental conferences, at which the declarations were adopted, outlining special environmental principles (Stockholm, 1972, Rio de Janeiro, 1992, 2012 UN conferences, Johannesburg World Summit on Sustainable Development, 2002).

Principles of observance of the human right to a favorable environment; the sovereign right of states to use natural resources under their national jurisdiction or control; responsibility of states for environmental damage in other countries, as well as areas beyond their national jurisdiction; sustainable development and other special principles of international environmental law have strongly influenced the development of circular law.

Economic and social factors have the greatest influence on the formation of measures of environmental protection, which can be traced to the concept of sustainable development. Scientists note that the most important principle of international law, which had the greatest impact on the formation of international and national circular law, is the principle of sustainable development [12].

The Declaration of Rio de Janeiro reveals this principle in Articles 3-4, according to which the right to development must be respected in such a way as to adequately meet the needs of present and future generations in the areas of development and environmental protection. To achieve sustainable development, environmental protection must become a part of the development process [13].

An important role in the formation and definition of the concept of sustainable development was played by the World Summit on Sustainable Development. Principle 5 of the Declaration of the World Summit on Sustainable Development recognizes “a collective responsibility for strengthening the interconnected foundations of sustainable development — economic development, social development and environmental protection” [14], which are integral parts of the circular economy [2].

Thus, the Declaration determined the main tone for the development of scientific research in the field of environmental protection, economics, and social life.

Fifth factor. National legal acts of states had a significant impact on the formation of circular law. Germany, Great Britain, Finland, Italy, Denmark, Scotland and other European countries are actively modernizing their legislation to promote a circular economy.

Thus, in Germany in 2012 the Circular Economy Act was adopted to promote the circular economy and ensure environmentally friendly waste management to conserve natural resources and ensure environmentally compatible disposal of waste. The Act also entails basic obligations of circular economy (Section 7), requirements with regard to prohibitions, restrictions, and labeling (Section 24), obligations to accept returned goods and obligations to recover disposed waste (Section 25), obligations incumbent on holders and public authorities after acceptance of returned goods (Section 27, 45) [15].

A Roadmap to a Circular Economy 2016-2025 was released in 2016 in Finland to promote closed substance cycle waste management. In order to implement the Roadmap, the legislative environment should be amended in certain areas to ease the transition to a circular economy. For example, legislative developments in the sphere of transport and logistics will bring a benefit to companies that develop automated vehicles (i.e.: self-driving robot buses), as well as to cities' infrastructure, once autonomous small buses are made a part of Finnish service-based transport and logistics project [16].

The Concept of Circular Economy in Italy is present in the Ministry of economic development decree 11 June 2020 and not in a legal act of implementation of EU law. According to the Annex 2 of the decree "Circular Economy means an economic model in which the value of products, materials and resources is maintained for as long as possible, and the production of waste is reduced to a minimum". The concept is non-binding because it is not of a legislative level, but it helps to understand and confirm that the CE has a lot to do with waste and the need to manage it as a resource. According to the decree, industrial research and industrial development activities contribute to the introduction of innovative models aimed at the productive reconversion of economic activities within the CE relating to product and process innovations in terms of efficient use of resources and waste treatment and transformation, including the reuse of materials with a view to circular or "zero waste" economy and environmental compatibility [17].

In the Netherlands in 2017 the Government-wide Programme for a Circular Dutch Economy by 2050 was adopted. The same 2017, the United Kingdom launched A Business Standard for Circular Economy BS 8001 and etc. Also such countries as Australia, China, Canada, the

United States and Japan have also adopted relevant national circular laws within national legislative systems [2].

Sixth factor. An important basis of circular law is the provision of human rights. Principle 1 of the Stockholm Declaration states: “man has the fundamental right to freedom, equality and favorable conditions of life in an environment of a quality that permits a life of dignity and prosperity, and bears the primary responsibility for protecting and improving the environment for the benefit of the present and future generations” [18].

The most important coordinating role in establishing the basic rights of the individual in the field of environmental protection at the international level is given to the Aarhus Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters [19]. According to experts, the Aarhus Convention is a new type of agreement in the field of the environment, since its main subject is the relationship between the public and the state in the area of the state of the environment [20].

The Convention provides citizens with public environmental rights and imposes obligations on the signatory states to ensure them, thus stipulating the observance of human rights [21].

The UN General Assembly passed a resolution (A/76/L.75) on 28 July 2022 recognizing the right to a clean, healthy, and sustainable environment as a human right “related to other rights and existing international law,” and affirms that its promotion “requires the full implementation” of the multilateral environmental agreements “under the principles of international environmental law.” Describing the resolution as “a victory for people and planet,” UN Environment Programme Executive Director Inger Andersen said full implementation of the right will “empower action on the triple planetary crisis, provide a more predictable and consistent global regulatory environment for businesses, and protect those who defend nature.” As per Andersen, the resolution “was five decades in the making” from a “foothold” in the Stockholm Declaration, she said countries have integrated the right into constitutions, national laws, and regional agreements, and in 2021, the UN Human Rights Council elevated its status to that of “universal recognition” [22].

Thus, the doctrine of circular law is a legal theory that is formed on the basis of the norms of national and international law, and the law-making of international organizations and reflects the transition of mankind to a circular economic model (Figure 1).

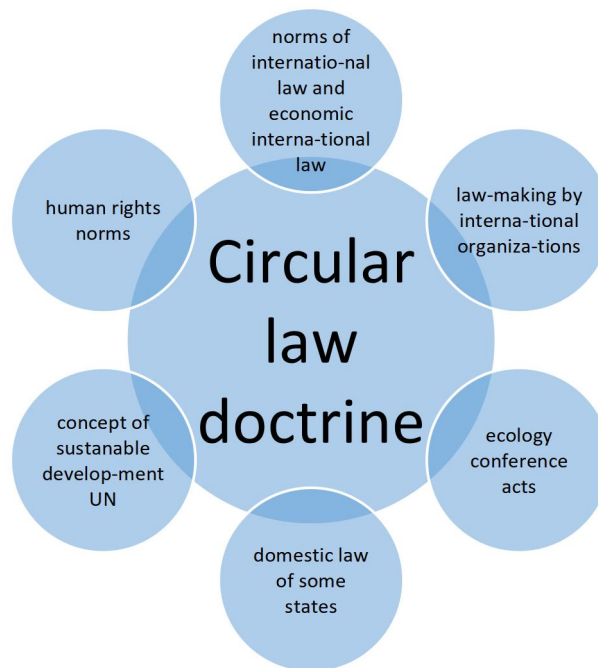


Figure 1. The components of circular law doctrine.

Conclusions

The norms of international public and international economic law, the law-making of international organizations, environmental conferences, and principles of environmental law, the concept of sustainable development of the UN, the domestic law of certain states, international norms in the field of human rights protection - these are the factors that influenced the formation of circular law to determine its doctrine.

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