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ANOTHER ATTEMPT TO HEAL THE FRAZZLED WINGS OF SUSTAINABLE DEVELOPMENT – THE DISCARDED PRINCIPLE OF INTERNATIONAL LAW



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SUMMARY

This article examines the principle of sustainable development in international law and its potential recognition as a general principle of law. The aim of the work is to analyze the legal nature of sustainable development and assess its role in shaping the modern international legal order. The research addresses the objectives such as studying the historical, legal, and conceptual foundations of the principle, analyzing its enshrinement in international treaties and soft law acts, examining judicial practice and doctrinal approaches. Particular attention is paid to the criteria for recognizing general principles of international law and comparing them with the characteristics of sustainable development. Sustainable development is gradually acquiring the characteristics of an integrative principle of international law, capable of uniting environmental, economic, and social norms. Based on the analysis, recommendations are proposed for defining the principle of sustainable development in international treaties, integrating it into national legislation, strengthening the role of judicial practice, and developing a scientific and doctrinal framework.

Key-words: *sustainable development, international law, international legal order case law, environmental law, Sustainable Development Goals, legal principle, peremptory norms, international case law, legal doctrine, international economic law.*

Target setting

International legal mechanisms as well as international legal documents of today are not as effective as the classical international law system. Ongoing armed conflicts, unimplemented international law provisions, repeatedly violated peremptory norms put a huge shadow over the sustainability of international law. Contemporary international relations

O NOUĂ ÎNCERCARE DE A VINDECA ARIPILE FRÂNTE ALE DEZVOLTĂRII DURABILE – PRINCIPIUL ABANDONAT AL DREPTULUI INTERNAȚIONAL

SUMAR

Acest articol examinează principiul dezvoltării durabile în dreptul internațional și potențiala sa recunoaștere ca principiu general de drept. Scopul lucrării este de a analiza natura juridică a dezvoltării durabile și de a evalua rolul acesteia în conturarea ordinii juridice internaționale moderne. Cercetarea abordează obiective precum studierea fundamentelor istorice, juridice și conceptuale ale principiului, analiza consacării sale în tratatele internaționale și actele de drept non-obligatoriu, examinarea practicii judiciare și a abordărilor doctrinare. O atenție deosebită se acordă criteriilor de recunoaștere a principiilor generale ale dreptului internațional și compararea acestora cu caracteristicile dezvoltării durabile. Dezvoltarea durabilă dobândește treptat caracteristicile unui principiu integrator al dreptului internațional, capabil să unească normele de mediu, economice și sociale. Pe baza analizei, se propun recomandări pentru consacrarea principiului dezvoltării durabile în tratatele internaționale, integrarea acestuia în legislația națională, consolidarea rolului practicii judiciare și dezvoltarea unui cadru științific și doctrinar.

Cuvinte-cheie: *dezvoltare durabilă, drept internațional, jurisprudență a ordinii juridice internaționale, drept al mediului, Obiective de Dezvoltare Durabilă, principiu juridic, norme peremptorii, jurisprudență internațională, doctrină juridică, drept economic internațional.*

are characterized by growing attention to sustainable development issues, driven by the systemic nature of global crises affecting all spheres of human activity. Environmental disasters, climate change, uneven economic growth, deterioration of natural ecosystems, growing social instability, and migration flows create a complex set of interrelated threats that require the development of a balanced, long-term, and equitable mechanism for interaction between humans and nature. In this regard, the concept of sus-

tainable development as a fundamental principle of both public and private international law serves as a universal paradigm, uniting the goals of environmental protection, economic progress, human rights, rule of law, good governance and social justice. Nevertheless, the detailed legal regulation and enrichment of the normative basis of the sustainable development principle, as well as its application within the well-established international case law still represent a task for the global community.

Relevance of the research

The scientific novelty of this work lies in its attempt to systematize and critically examine the existing approaches to defining the status of sustainable development in international law, as well as to identify its potential as a general principle. The academic research proceeds from the assumption that sustainable development, initially a political and ideological slogan, is gradually evolving into a legal category with normative content and the characteristics of a legal principle. This allows sustainable development to be viewed not only as a goal of the international community but also as a source of legal obligations for states and international organizations. The academic and legal examination of the idea of sustainable development as a principle or a peremptory norm of international law remains significantly underdeveloped in legal doctrine. Authors and researchers from European and post-Soviet area still have not published a manual or a book dedicated to the international legal detailing of sustainable development. Therefore, the present work may play the role of an initiative for future, more systematic research in this field.

Conducted research level

The legal nature of the principle of sustainable development occupies a prominent position within contemporary legal scholarship. Over the past three decades, numerous international jurists, including Alan Boyle, Patricia Birnie, Philippe Sands, and Malcolm Fitzmaurice, have examined its evolution from a political doctrine to a norm of international law. Boyle characterizes sustainable development as a framework norm intended to reconcile the various branches of international regulation, whereas Fitzmaurice contests its binding nature, citing the absence of uniform content and clearly defined duty-bearers, while nevertheless recognizing its interpretative significance in international adjudication. Other authors, such as Daniel Bodansky and Markus Ziegler, conceptualize sustainable development primarily as a soft law norm exerting influence upon investment and trade regimes. In the post-Soviet context, Azerbaijani and Russian scholars – including R.F. Mammadov, A.I. Aliyev, and S. Bogolyubov – have approached sustainable development as an interdisciplinary legal category integra-

ting environmental, economic, and humanitarian dimensions. Collectively, these contributions attest to the acknowledged significance of the principle in international law, notwithstanding the continuing divergence of views concerning its normative status.

The objectives

The purpose of this academic work is to identify the legal nature of the principle of sustainable development in international law theory and practice as well as to determine the degree of its institutionalization as well as legal-normative recognition in international law. Based on the aforementioned theory and practice, that constitute the fundamental cornerstone, the current study pursues the following scientific objectives:

- To identify the legal and conceptual prerequisites for the formation of the idea of sustainable development in international law;
- To formulate a conclusion regarding the extent to which sustainable development can be considered as a general principle of international law.

The object of this study is the system of international legal relations aimed at ensuring sustainable development on a global scale. The subject of the article is the process of formation, doctrinal interpretation and legal nature of the principle of sustainable development within international law.

Methodology

The research methodology is based on general scientific and specific legal-scientific methods, including systemic analysis, formal-legal assessment, comparative legal research, historical-legal analysis, legal modeling and case law assessment. Furthermore, an interdisciplinary approach is applied, taking into account the economic and environmental aspects of sustainable development, allowing for a comprehensive examination of the phenomenon under international law study.

Main content

The concept of sustainable development occupies a central place in modern international law and is considered one of the key guidelines for international cooperation among states in the 21st century. Initially emerging as a political and programmatic concept, sustainable development has gradually transformed into a legal category capable of influencing the content of international obligations [1, pp. 67-72]. Its essence lies in the need to achieve a harmonious balance between economic growth, social justice and environmental protection – three interrelated dimensions without which it is impossible to ensure the long-term stability of the international community [16, pp. 198-200]. Moreover, we can also add here the fourth dimension – the informational-



digital stability too. The term „sustainable development“ became widely used after the publication of the report of the World Commission on Environment and Development, led by Gro Harlem Brundtland, „Our Common Future“ (1987) [7, p. 43]. This document defined sustainable development as „development that meets the needs of the present without compromising the ability of future generations to meet their own needs“ (on page 43). Since then, the concept has acquired universality and has become a central element of the global agenda in international law and policy. At the UN Conference in Rio de Janeiro (1992), the principle of sustainable development was first enshrined in the Declaration on Environment and Development [17, pr. 4], and subsequently reflected in the Johannesburg Declaration (2002), Agenda 21, the UN Framework Convention on Climate Change (1992), and the 2030 Agenda for Sustainable Development [15, paras. 9-12].

From a theoretical and legal point of view, sustainable development is a multi-layered and interdisciplinary category that combines elements of environmental, economic, social and humanitarian law [4, pp. 901-905]. In the international legal context, it performs an integrative function, linking various branches of international regulation and ensuring their coordinated application [3, pp. 155-160]. Therefore, sustainable development should not be considered as an isolated principle of environmental law, but as a general legal construct that ensures the unity and balance of international obligations of states. Sustainable development can thus be characterized as a “bridge” between different regimes of international law - environmental, economic, trade, human rights law, etc.

The concept of sustainable development has normative potential, which is gradually being realized in international practice [8, pp. 142-145]. Despite the declarative nature of the formulations, its content is specified through international agreements, decisions of courts and arbitral tribunals, as well as the activities of international organizations [14, paras. 13-16]. Thus, in the *Gabčíkovo-Nagymaros Project case* (1997), the International Court of Justice for the first time directly referred to the principle of sustainable development, emphasizing the need to find “a fair balance between economic development and environmental protection” [10, pp. 78-85]. This decision became the starting point for recognizing sustainable development not only as a political ideal, but also as a functional principle of international law, influencing the interpretation of treaty obligations.

The principle of sustainable development in modern international law is the result of a long evolution of legal and political-philosophical ideas, laid down in the mid-20th century with the founding of the United Nations as well as the UN Charter. It embodies a synthesis of the legal, economic, social, and environmental dimensions of the international order, aimed at ensuring a balance between the in-

terests of present and future generations. Although the term „sustainable development“ itself does not appear in the text of the 1945 UN Charter, its substantive essence and ideological foundation are deeply rooted in the provisions of this founding instrument, which is rightfully considered the fundamental document of the modern international legal order. The relationship between the principle of sustainable development and the UN Charter is complex - it manifests itself both in the content of the goals and principles proclaimed in the Charter and in the spirit, values, and philosophy of international cooperation that underpin all the activities of the Organization.

The adoption of the UN Charter marked the beginning of a new era in the history of international law, characterized by a transition from a system based primarily on the balance of power to one built on the principles of collective security, international cooperation, and respect for human dignity. In this sense, the UN Charter became not simply a legal document but also a manifesto of a new international ethic, in which the idea of solidarity among peoples occupies a central place. It was this idea of solidarity - in the legal expression of the principle of cooperation - that later became the foundation of the concept of sustainable development, which requires the coordinated action of states to achieve the common good. Already in the Preamble to the Charter, the peoples of the world declared their determination „to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small“, and to „promote social progress and better standards of life in larger freedom“. These formulations reflect a worldview close to the philosophy of sustainable development, where development is seen not as an end in itself, but as a means of achieving a fair and harmonious existence for humanity.

The UN Charter was initially built on the understanding that peace and international security cannot be achieved without addressing the structural causes of conflict, among which economic backwardness, social inequality, and disregard for human rights play a key role. In this sense, as early as 1945, the international community recognized the interdependence of peace, development, and human rights - a triad that subsequently formed the basis of the concept of sustainable development. According to Article 1 of the Charter, the purposes of the Organization are, first, to maintain international peace and security; second, to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples; and third, to achieve international cooperation in resolving international problems of an economic, social, cultural, and humanitarian nature. Each of these objectives is directly related to the content of sustainable development, insofar as peace ensures

stability for economic growth, cooperation creates the preconditions for the equitable distribution of wealth, and respect for human rights guarantees social stability and justice.

The legal nature of the UN Charter, which confers it a universal and imperative character, deserves special attention. According to Article 103 of the Charter, the obligations of states arising from it take precedence over obligations under any other international agreements. This means that the principles proclaimed in the Charter, including those of cooperation, equality, and respect for human rights, have supreme legal force in the international system. Consequently, any subsequent international norms and institutions, including the principle of sustainable development, should be seen as a concretization and development of these fundamental principles. From this perspective, sustainable development can be characterized as a derivative principle, deriving from the general goals and principles enshrined in the Charter, and therefore possessing high normative value.

In international law, the idea of sustainable development emerged as a response to the recognition of the limited nature of natural resources and the need for their rational use in the interests of present and future generations. The first systemic document to formulate this idea was the report of the World Commission on Environment and Development, „Our Common Future“ (1987), prepared under the leadership of G.H. Brundtland. It defined sustainable development as development that “meets the needs of the present without compromising the ability of future generations to meet their own needs”[9]. This formulation has achieved the status of a classic definition and served as the starting point for the formation of a new doctrine of international law focused on long-term sustainability and intergenerational justice. At the level of international organizations, the concept of sustainable development was enshrined in a number of key documents, most notably the Rio Declaration on Environment and Development (1992), in which principle 4 proclaims the need to integrate environmental and developmental requirements as integral components of sustainable development [11, p. 33]. Subsequently, documents such as Agenda 21, the Johannesburg Declaration on Sustainable Development (2002), Rio+20 „The Future We Want“ (2012), and the UN 2030 Agenda for Sustainable Development (2015), which includes 17 Sustainable Development Goals (SDGs), were adopted. These acts laid the foundation for the formation of a set of international obligations of states aimed at a balanced interaction of economic, social and environmental factors.

Despite the abundance of documents and political declarations, the legal nature of the principle of sustainable development remains uncertain. International law does not yet contain a universal treaty directly enshrining this principle as a binding norm.

Moreover, sustainable development is not mentioned in the list of sources of international law set out in Article 38(1) of the Statute of the International Court of Justice. This raises the question whether sustainable development represents a legal norm, a general principle, a conceptual goal, or it continues to exist as a category of „soft law“?

In this regard, the legal and conceptual connection between the UN Charter and sustainable development is particularly evident in Article 55 of the Charter, which states that the United Nations shall promote higher standards of living, full employment, and conditions of economic and social progress and development, as well as respect for and observance of human rights and fundamental freedoms. This article, when considered in the context of the subsequent evolution of international law, can be seen as a prototype of the modern principle of sustainable development. It clearly articulates the idea of the interdependence of economic growth, social justice, and human rights, which subsequently acquired an environmental dimension. Article 56 complements this logic by imposing on all Member States the obligation to act jointly and individually in cooperation with the Organization to achieve the goals set out in Article 55. Thus, the Charter already enshrines the mechanism of collective responsibility of states for creating conditions for the sustainable and equitable development of humankind.

Of particular importance for understanding this interconnectedness is Article 2 of the Charter, which establishes the principles of the sovereign equality of all Members of the Organization, the fulfillment in good faith of the obligations arising from the Charter, and refraining from the threat of force. These norms constitute the legal basis for the stability of international relations, without which the achievement of long-term development goals is impossible. The sovereign equality of states presupposes their equal right to participate in international economic exchange, to access technologies and resources, and to determine their own models of socioeconomic development. This principle underlies the modern understanding of justice in the context of sustainable development, expressed in the concept of „common but differentiated responsibilities“ of states.

Furthermore, the relationship between the principle of sustainable development and the UN Charter can also be considered from an institutional perspective. The very existence of the UN as a universal organization with comprehensive competence in peace, security, economic, and social development creates a legal and organizational platform for the implementation of sustainable development goals. The UN Economic and Social Council (ECOSOC) and specialized agencies such as UNDP, FAO, WHO, UNEP, and UNESCO carry out activities directly aimed at achieving a balance between economic growth, social justice, and environmental sustainability. Thus, the institutional structure esta-



blished by the Charter provides a mechanism for the practical implementation of the principle of sustainable development at the global level.

The development of the international legal order since the entry into force of the UN Charter convincingly demonstrates that the provisions of this document served as the starting point for the formation of a new type of international relations based on the interaction of law, politics, and morality. It was through the prism of the purposes and principles of the Charter that the global community came to understand that economic progress cannot be considered in isolation from social and environmental aspects, and that sustainable development requires the coordination of all spheres of public life - from international trade to the protection of human rights and the natural environment. In this sense, the UN Charter can be viewed as the ideological and legal foundation of the global concept of sustainable development, which subsequently received its normative codification in numerous resolutions, declarations, and international agreements adopted under the auspices of the Organization. It should be emphasized that even in the early years of the UN's existence, the issue of the relationship between economic development and international security acquired particular significance. Economic poverty, social marginalization, and inequality were viewed as breeding grounds for political instability and, consequently, as a threat to international peace. In this context, sustainable development can be seen as a practical means of realizing the Charter's primary goal - the maintenance of international peace and security. After all, peace cannot be lasting if a significant portion of humanity lacks access to basic resources, education, and healthcare. Thus, the UN Charter predetermined the interdependence of peace, human rights and development, which at the end of the 20th century was formalized in international law as the principle of sustainable development.

The legal continuity between the UN Charter and the principle of sustainable development is also evident in the evolution of international law. After World War II, the international community gradually shifted from a narrowly economic understanding of development to a comprehensive understanding of progress as a process that must be inclusive, equitable, and environmentally sound. As early as the 1960s, the UN focused on promoting the development of states in the „Global South,“ culminating in the creation of the UN Conference on Trade and Development (UNCTAD) and the UN Development Programme (UNDP). These institutions became instruments for implementing the goals set out in Articles 55 and 56 of the Charter, thereby serving as practical embodiments of the principle of sustainable development long before it was formally articulated in international documents. Legal doctrine views the UN Charter as a source of *jus cogens* norms - peremptory norms of international law from

which states cannot derogate. These norms include the prohibition of aggression, respect for human rights, cooperation between states, and the fulfillment of obligations in good faith. These norms, taken together, form the legal context in which the principle of sustainable development acquires its imperative character. Development that is contrary to peace, human rights, or the principles of justice cannot be considered sustainable, as it violates the fundamental goals of the Charter. Consequently, sustainable development is a logical consequence of the peremptory norms enshrined in the Charter, not an alternative to them.

Regional organizations also play an active role regarding the proper legal definition and regulation of the principle of sustainable development. Some regional organizations also grant the status of a statutory legal principle and recognized it as a cornerstone legal concept to the principle of sustainable development - *e.g.* the African Union, in its New Partnership for Africa's Development (NEPAD, 2001), recognizes sustainable development as a strategic goal for the continent [12, paras. 14-16]. ASEAN, in its Charter (2007), enshrined the commitment of member states to cooperate to achieve sustainable economic growth, social justice and environmental protection (Article 1 (9)) [5, Art. 1(9)]. These provisions indicate a globalization of the principle's legal recognition, extending it beyond the Eurocentric model.

Although the status of sustainable development as a norm of customary international law remains a subject to debate, trends in recent decades indicate its gradual consolidation. The criteria of custom-general practice and *opinio juris* are reflected in the widespread application of this principle by states and international institutions [3, pp. 155-160]. At the level of state practice, sustainable development is enshrined in many national constitutions and legislation, *e.g.* the Basic Law of Germany [1, Art. 20a] (“The state is responsible for protecting the natural foundations of life in the interests of future generations”), the Constitution of Brazil [6, Art. 225] etc. More than 70 states explicitly mention sustainable development in their policies or laws, demonstrating the widespread acceptance of the concept in legal discourse [16, pp. 231-233]. The element of *opinio juris* is confirmed by regular reference to the principle in diplomatic and multilateral acts, including in the outcome documents of UN summits and international agreements, where states express awareness of their legal obligation to act in accordance with sustainable development [13, paras. 6-9]. The combination of these factors allows us to speak about the formation of a “soft custom”, which, according to a number of researchers (Sands, Birnie, Bodansky), is in the process of consolidation and is capable of acquiring the status of a general norm of international law [2, pp. 137-142]. Thus, the process of legally enshrining the principle

of sustainable development demonstrates the transition from declaration to norm. Its multi-layered enshrinement in treaties, soft law, judicial practice, and the institutional policies of international organizations testifies to its emergence as a fundamental principle of the modern international legal order [8, pp. 150-152].

Conclusion and recommendations

This study can be viewed as a comprehensive analysis of the legal nature of sustainable development and its status as a legal principle of international law. The deep analysis of international documents, judicial practice, and doctrinal approaches demonstrates that sustainable development is gradually acquiring the characteristics of a general principle of international law, although its legal coherence remains fragmented and ambiguous. International courts, arbitral tribunals, and doctrine increasingly recognize the need to integrate the environmental, economic, and social aspects of development, confirming the relevance of the principle of sustainable development as a system-forming element of the modern international legal order. In this regard, one may identify key characteristics of sustainable development that allow it to be considered an emerging principle of international law. First, it has a universal focus and affects the interests of the entire international community, which meets the criteria of universality for general principles of law. Second, sustainable development integrates cross-sectoral norms, uniting international environmental, economic, and social law into a coherent whole. Third, the principle of sustainable development is reflected in the national legal systems of various states, contributing to the formation of their global legal practice. Finally, the jurisprudence of the International Court of Justice and other international bodies confirms the functional application of the principle of sustainable development in resolving disputes related to environmental safety, economic activity and social development.

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