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THE RIGHT TO A SAFE ENVIRONMENT FOR LIFE AND HEALTH IN CONTEMPORARY INTERNATIONAL LAW

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Kononenko V.P., Fokin Ya.F., Rezenkina N.O. the right to a safe environment for life and health in contemporary international law.

The article is devoted to the analysis of the realization of the right to a safe environment for life and health as a common interest of the international community and a universal obligation of States. It examines the evolution of international environmental law to the status of erga omnes norms, which apply to all States irrespective of specific treaties, with reference to key decisions of the International Court of Justice, in particular the Barcelona Traction case (1970) and the precedent-setting recognition in the ICJ Advisory Opinion of 23 July 2025 of the erga omnes character of obligations to protect the climate system from anthropogenic greenhouse gas emissions (the obligation to prevent significant transboundary harm under customary international law).Separate attention is given to the practice of the European Court of Human Rights in cases involving environmental and climate threats, viewed through the lens of Articles 2 and 8 of the European Convention on Human Rights (positive obligations of the State to protect life and private/family life from industrial pollution, noise, climate change, etc.). The article highlights the tension between national sovereignty and the principle of common but differentiated responsibilities, as well as the limitations of the ECtHR's jurisdiction (absence of a direct right to a clean environment, requirement to exhaust domestic remedies).The authors emphasize that effective protection of the right to a safe environment is impossible without international cooperation, as environmental threats are transboundary in nature, and the further development of the erga omnes concept and accountability mechanisms will strengthen guarantees of every individual's right to a clean and safe environment.

Key words: international environmental law, erga omnes obligations, climate change, right to a safe environment, European Court of Human Rights, International Court of Justice, positive obligations of the State, transboundary harm.

Кононенко В.П., Фокін Я.Ф., Резенкіна Н.О. Право на безпечне для життя і здоров'я довкілля в сучасному міжнародному праві.

Стаття присвячена аналізу реалізації права на безпечне для життя і здоров'я довкілля як спільного інтересу міжнародної спільноти та універсального зобов'язання держав. Досліджується еволюція міжнародного екологічного права до статусу норм erga omnes, що діють щодо всіх

держав незалежно від конкретних договорів, з посиланням на ключові рішення Міжнародного Суду ООН, зокрема справу Barcelona Traction (1970) та прецедентне визнання erga omnes характеру зобов'язань щодо захисту кліматичної системи від антропогенних викидів парникових газів у консультативному висновку МС ООН від 23 липня 2025 року (зобов'язання запобігати значній транскордонній шкоді за звичаєвим міжнародним правом). Окремо розглядається практика Європейського суду з прав людини у справах, пов'язаних з екологічними та кліматичними загрозами, через призму статей 2 та 8 Європейської конвенції з прав людини (позитивні обов'язки держави захищати життя та приватне/сімейне життя від промислового забруднення, шуму, зміни клімату тощо). Підкреслюється протиріччя між національним суверенітетом та принципом спільної, але диференційованої відповідальності, а також обмеження юрисдикції ЄСПЛ (відсутність прямого права на чисте довкілля, вимога вичерпання національних засобів захисту). Автор акцентує, що ефективний захист права на безпечне довкілля неможливий без міжнародної співпраці, оскільки екологічні загрози транскордонні, а подальший розвиток концепції erga omnes та механізмів відповідальності сприятиме посиленню гарантій права кожної людини на чисте та безпечне довкілля.

Ключові слова: міжнародне екологічне право, erga omnes зобов'язання, кліматичні зміни, право на безпечне довкілля, Європейський суд з прав людини, Міжнародний Суд ООН, позитивні обов'язки держави, транскордонна шкода.

Problem Statement. In the context of accelerating climate change, biodiversity loss, and large-scale environmental degradation, the protection of a safe environment for human life and health has become one of the central challenges of contemporary international law. Environmental harm increasingly transcends national borders, affects present and future generations, and threatens fundamental human rights, thereby calling into question the adequacy of traditional state-centred approaches to environmental regulation.

Although international environmental law has developed a wide range of treaty-based and customary norms, their effectiveness remains limited due to fragmented enforcement mechanisms, competing economic interests, and the absence of a universally recognized, justiciable right to a safe environment. At the same time, recent developments in the case law of the International Court of Justice and the European Court of Human Rights demonstrate a gradual shift toward recognizing environmental protection as a matter of common interest of the international community and as a source of erga omnes obligations.

This raises a number of unresolved legal questions, including the scope and legal nature of erga omnes obligations in environmental law, the extent of States' positive obligations to prevent environmental and climate-related harm, and the role of international judicial bodies in protecting environmental rights in the absence of an explicit right to a clean environment in key human rights instruments. The problem is further complicated by the tension between national sovereignty, economic development, and the collective responsibility of States to address global environmental threats.

Against this background, there is a need for a systematic analysis of the right to a safe environment for life and health as an emerging principle of contemporary international law, grounded in erga omnes obligations and reinforced through international adjudication and cooperation mechanisms.

The aim of the article is to determine the essence of international erga omnes obligations in the field of environmental law, with an emphasis on their universal nature as a form of shared responsibility of states before the international community for the prevention of environmental threats; to analyse the case law of the International Court of Justice and the European Court of Human Rights concerning the protection of environmental human rights, including the evolution of the erga omnes concept and the application of the European Convention on Human Rights to climate and environmental violations; and to characterise the mechanisms of international protection of the right to a safe environment, in particular through positive obligations of states, principles of shared responsibility, and judicial procedures.

The current state of research on the topic. Modern international legal scholarship increasingly addresses environmental protection as a key condition for safeguarding human life and health. Issues of international environmental security and legal responses to transboundary environmental threats have been examined by N. Agadzhanyan, I. Homlya, and V. Donchenko, who emphasise the importance of international cooperation. The legal foundations of sustainable development and its human rights dimension have been analysed by T. Tarakhonych and L. Tymchenko.

Sectoral aspects related to environmental safety have been explored in studies by L. Novikova and I. Kharchenko, who focused on the evolution of EU policies on energy security and their environmental implications, as well as in the dissertation research of S. Talibov on regional energy security in international law. An important contribution has also been made by A. Kipāne and A. Vilks, whose

work on the legal framework for environmental protection in the context of sustainable development highlights the growing recognition of the right to a safe environment as an integral element of the protection of human life and health in contemporary international law.

Presentation of the main material. The realization of the right to an environment safe for life and health constitutes a common interest of all states, each of which bears responsibility for preventing environmental threats that negatively affect the climate and human health. The mechanisms for ensuring this right include international environmental monitoring, access to environmental information, public participation in environmentally significant decision-making, judicial protection of rights through international and national courts, as well as procedures for responding to violations of environmental human rights. The international system forms a multi-level structure of interaction among norms, actors, and procedures to guarantee a safe environment.

Provisions on international environmental security belong to erga omnes norms – obligations that states owe to the entire international community, regardless of specific treaties. This is due to the universal nature of environmental security as a common good of humanity, upon which the existence and sustainable development of all states and peoples depend. Such obligations cannot be ignored or limited by agreements between individual actors, and their observance constitutes a legitimate interest of the whole international community. Violations entail international legal responsibility, and ensuring compliance is regarded as a priority of contemporary international law.

The case law of the International Court of Justice records an increasing number of environmental law cases, reflecting the growing attention of states to environmental protection at the international level. Modern international environmental law has evolved toward the status of erga omnes obligations – those that apply with respect to all states. The concept of erga omnes was first articulated by the International Court of Justice in its judgment in the "Barcelona Traction" case (1970) [1].

Only in 2019 did the International Court of Justice, for the first time, examine a case concerning the breach of erga omnes obligations in the context of environmental law – in the case The Gambia v. Myanmar, which concerned the genocide of the Rohingya people. Although the principal subject of the application was violations of the Convention on the Prevention and Punishment of the Crime of Genocide, the Court held that the obligations under this Convention are of an erga omnes partes character (owed to all parties to the treaty), and therefore that every State party has a legal interest in their observance regardless of whether it has been directly affected. This decision became an important precedent, as it emphasized the universal nature of such obligations and paved the way for extending the erga omnes concept to other areas of common interest, in particular environmental law, where the protection of the environment is increasingly recognized as a duty of all States and as a shared responsibility of the international community [2].

In its judgment of 23 July 2025, the International Court of Justice (ICJ) for the first time clearly recognized the erga omnes character of States' obligations to protect the climate system and to prevent significant environmental harm resulting from anthropogenic greenhouse gas emissions, including under customary international law (the obligation to prevent transboundary harm). This allows any State to invoke the breach of such obligations irrespective of direct injury and paves the way for the recognition of environmental (including climate-related) norms as protecting the interests of the international community as a whole, given the global nature of the harm.

The European Court of Human Rights (ECtHR) addresses environmental and climate issues through the prism of human rights protection, applying the dynamic "living instrument" doctrine to the 1950 European Convention on Human Rights. The Court takes into account the evolution of international standards, including the 2015 Paris Agreement, and in cases such as Verein KlimaSeniorinnen Schweiz v. Switzerland (2024) has found that insufficient State climate measures violate Article 8 of the Convention (the right to respect for private and family life), thereby ensuring protection against the serious adverse effects of climate change on life, health, and well-being.

However, recourse to the ECtHR remains challenging: the Convention does not enshrine an explicit right to a clean environment, requires the exhaustion of domestic remedies, and applicants often rely on the Paris Agreement to demonstrate the impact of climate policy on their rights. In cases where climate change affects several States, reference may be made to the principle of common but differentiated responsibilities; however, this sits uneasily with the ECtHR's traditional approach, which is oriented toward national sovereignty and territorial jurisdiction.

There is an inherent tension between the ECtHR system and the concept of distributed State responsibility for environmental harm, as the expansion of economic activity frequently conflicts with ecosystem preservation.

Consequently, effective protection of the right to a safe environment is impossible without international cooperation, as environmental threats do not respect national borders. The principle of

erga omnes plays a key role in the development of international environmental law by emphasizing the shared responsibility of all States for environmental security. Further development of international law, recognition of environmental obligations as erga omnes, and the strengthening of responsibility mechanisms will contribute to more effective protection of every person's right to a clean and safe environment [3].

The right to an environment safe for life and health is passive in nature: it presupposes an indefinite circle of obligated persons who must refrain from actions that violate this right. Therefore, the principal means of its protection for an individual remains a complaint (a claim, an application to public authorities).

Within the framework of the Council of Europe, any person under the jurisdiction of the States Parties to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, after exhausting domestic remedies, may apply to the European Court of Human Rights (ECtHR). Although the Convention does not expressly guarantee the right to environmental safety, the Court protects individuals' environmental interests through the application of other provisions of the Convention, in particular Article 2 (the right to life), in cases involving hazardous industrial activities, radiation exposure, or harmful industrial emissions.

An illustrative example is the case of Öneryıldız v. Turkey of 30 November 2004 (Grand Chamber), in which the Court found a violation of Article 2 of the Convention due to the inaction of the Turkish authorities, who failed to take measures to prevent a methane explosion at a landfill site that resulted in the death of the applicant's relatives and the destruction of his home. The Court emphasized the State's positive obligation to protect life from risks associated with dangerous activities [6].

The Rio Declaration on Environment and Development enshrined the human right to a healthy and productive life in harmony with nature. For this reason, issues of environmental security are increasingly being considered by courts as matters of human rights protection. In particular, in the cases of "Duarte Agostinho and Others v. Portugal" and "Verein KlimaSeniorinnen Schweiz and Others v. the States of the Council of Europe", the applicants accused states of violating human rights due to their failure to take action to combat climate change [3].

In the judgment of the European Court of Human Rights in the case of "Verein KlimaSeniorinnen Schweiz and Others v. Switzerland" of 9 April 2024, the complaint of the Swiss association "Verein KlimaSeniorinnen Schweiz" and four retired women was examined concerning the State's insufficient measures to combat climate change [4]. The applicants argued that global warming threatens their lives, health, and quality of life, and that the Swiss authorities are not taking sufficient measures to combat climate change. The European Court of Human Rights held that the 1950 European Convention guarantees the right to effective protection against serious adverse effects of climate change that affect life, health, well-being, and private and family life (Articles 8 and 34 of the Convention). The Court found that Switzerland had breached its positive obligations to protect human rights from climate-related threats, as well as the right of access to a court. At the same time, the complaints of the four individual applicants were declared inadmissible due to their lack of "victim" status under Article 34 of the Convention, whereas the KlimaSeniorinnen association was entitled to bring an application before the Court [5].

The European Court of Human Rights emphasized that its powers with regard to climate change issues are limited to ensuring that States comply with their obligations under the European Convention on Human Rights and its Protocols (Article 19 of the Convention). At the same time, the Court acknowledged that insufficient or ineffective State measures to combat climate change increase the risks of serious adverse consequences and create real threats to the enjoyment of human rights—threats that have already been officially recognized by the governments of many countries. In this context, the Court cannot disregard objective and current circumstances confirmed by contemporary scientific evidence, as it performs the function of a guardian of human rights [5, p. 20].

In assessing whether the State had exceeded the limits of its margin of appreciation, the European Court of Human Rights (the ECtHR) examined whether the authorities had taken into account the need for specific measures to combat climate change. The Court focused on the establishment of timeframes for achieving carbon neutrality, the overall volume of permissible emissions (including a carbon budget), interim targets, emission-reduction pathways, justification of how the targets would be achieved, the timely updating of policies on the basis of the best available scientific evidence, as well as the consistency and coherence of legislation and measures. A shortcoming in only one aspect does not necessarily amount to an excess of the margin of appreciation; however, the protection of rights requires a combination of mitigation and adaptation measures, taking into account the needs of vulnerable groups.

The Court paid particular attention to procedural safeguards: States are required to ensure public access to relevant information and mechanisms for taking public views into account in the formulation of climate policy.

In Verein KlimaSeniorinnen Schweiz and Others v. Switzerland (2024), the ECtHR found that Switzerland had critical gaps in its climate regulation: the absence of quantitative limits on greenhouse gas emissions (for example, a carbon budget), failure to meet previous targets, and the untimely, inconsistent, and insufficient nature of the measures adopted. The State had exceeded its margin of appreciation and failed to comply with its positive obligations under Article 8 of the European Convention on Human Rights (the right to respect for private and family life). In addition, Article 6 § 1 of the Convention was violated due to the inadequate consideration of the association's complaint by the national courts, including the lack of reasoning for the refusal, the absence of an analysis of scientific evidence on climate threats, and the failure to carry out a separate assessment of the association's legal standing.

The Court underscored the key role of national courts in ensuring access to justice in climate cases and emphasized that compliance with the Convention primarily rests with State authorities, including the judiciary.

In matters concerning environmental risks, industrial pollution, noise, urban development, waste, and similar issues, the Court has traditionally applied Article 8 of the Convention. For example, in Powell and Rayner v. the United Kingdom (1990) and Hatton v. the United Kingdom (2003), the ECtHR held that the operation of a major airport (Heathrow) was justified by the country's economic interests, even in the presence of a significant adverse impact on the environment and the health of residents, as the State enjoyed a wide margin of appreciation in balancing the competing interests [7].

In the case of Moreno Gómez v. Spain of 16 November 2004 (Judgment in the case of Moreno Gómez v. Spain [8]), the applicant complained about constant nighttime noise from nightclubs located near her home, which caused her chronic sleep disturbances. The European Court of Human Rights found that the authorities' failure to regulate nighttime noise had led to a serious violation of the applicant's right to respect for her home (Article 8 of the Convention). Given the significant exceedance of permissible nighttime noise levels and the duration of the problem (several years), the Court held that there had been a violation of Article 8.

In a similar case, Deés v. Hungary (judgment of 9 November 2010), the applicant complained of excessive noise, vibration, and pollution caused by the transformation of his street into a transit thoroughfare with intensive and unregulated traffic. The Court held that, despite certain measures taken by the authorities to limit and organize traffic, the applicant had for a prolonged period suffered significant inconvenience due to excessive noise, which substantially interfered with his right to respect for his home and private life (violation of Article 8 of the Convention) [10].

In the case of Dubetska and Others v. Ukraine (ECtHR judgment of 10 February 2011, application no. 30499/03), the applicants complained of a violation of Article 8 of the European Convention on Human Rights due to serious environmental pollution and damage to their homes caused by the operations of a state-owned coal mine and an enrichment plant. This pollution adversely affected the health of family members and significantly devalued their property.The Court found a violation of Article 8: although the State was aware of the harmful impact of these industrial facilities, it failed to take effective measures either to relocate the applicants or to substantially reduce the pollution to an acceptable level. The applicants were unable to relocate independently because the value of their real estate in the contaminated area had sharply declined.This case is a classic illustration of the State's positive obligation to protect the right to respect for private and family life from environmental threats originating from State-owned enterprises [9].

Conclusions. Cooperation between Ukraine and the European Union has become a key factor in the development of international relations and Ukraine's economic policy. The agreements signed, including the Association Agreement, have a significant impact on both the internal and external aspects of the state's activities. They open new opportunities for economic growth and integration into the global economy while imposing obligations on Ukraine in the fields of ecology, sustainable development, and social responsibility.

Ukraine faces a number of challenges, including the dominance of economic interests of developed countries and transnational corporations that contradict ecological standards and international initiatives. Although international organizations, such as the UN and the EU, promote the development of solutions to address the global ecological crisis, their measures often remain declarative as they do not always align with the interests of powerful economic players.

At the same time, the recognition of the importance of energy security and sustainable development at the EU level contributes to the transition to more environmentally friendly technologies and policies, which have a long-term positive impact on Ukraine. The shift to renewable energy sources and reduction of carbon emissions is an important step in strengthening energy independence and achieving ecological security.

Cooperation between Ukraine and the EU in the fields of economics, ecology, and energy security requires further reforms, implementation of innovative solutions, and expansion of legal mechanisms to ensure stable development and protection of the interests of all participants in international relations.

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