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AMERICAN SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS

Human rights are the major objectives of international and regional legal regulation. The problem of protection of human rights has been widespread both at regional and at international level for many years. But in modern era of numerous threats to peace and security, of socio-economic crisis phenomena this issue is important as never before. It is necessary to make efficient and dependable systems of rights protection to provide their full realization. American system for the protection of human rights includes declarative as well as practical systems of rights protection.

The aim of our research is the analysis of modern international legal mechanism of human rights protection through realization of this system among American countries.

The basic task of this research is to capture theoretical knowledge about the component elements of the American mechanism of human rights protection, analysis and estimation of each constituent.

First of all, we need to find out what “systems of human rights protection” means and what is their value in providing of protection of our rights. As Serhiy Shylo has said system of human rights protection is “materially-legal principles and procedures that are used by government on request of representative for forced renewal of her/his breached (appealed) right” [1, p.271] in general mechanism of human rights protection can be characterized as totality of acts of law, state institutions which have common aim – to protect fundamental human rights from their limitation or breach on behalf of the state.

When it comes to American system of human rights protection, it is presented as a “system of laws and institutions for right protection under the control of organization of American States (OAS)” [2]. Nowadays this organization unites 34 states of southern and northern America. The program document of organization is Charter of OAS which proclaims that states-members must respect personal rights of human and principle of "universal moral".

“American declaration of the rights and duties of man” is another important document in this system. It can be considered as the first international document that contains the list of basic rights and freedoms of human. It was adopted even earlier than "General declaration of human rights". This declaration proclaims “The international protection of the rights of man should be the principal guide of an evolving American law” [3, p.1]. It declares basic political, economic, social and cultural rights. It is important to say that besides human rights the declaration proclaims main 10 duties of human. In my opinion, duties fixing is another great element in the system of human rights protection.

The next element of researched system is “American convention on human rights”, also known as the Pact of San Jose, an international human rights instrument. It mostly heads for protection of civil and political human rights. The convention consists of three parts: “State obligations and rights protected”, “General provisions” and “Means of protection”. It fixes a lot of significant legal principles that are important in dealing with problems of rights protection. For example, Article 25 proclaims a right of each human to be protected in the court: ”Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by

the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties” [4, p.11]. Application about violation of this convention can be handed in by injured party to Inter-American Commission on Human Rights.

Practice of Inter-American Commission on Human Rights is a kind of practical realization of American system of human rights protection. It is considered as an autonomous unit of the OAS, which duty is to provide a respect to human rights. The commission also has the function of preparing of reports, reviews and recommendations for governments in taking measures for rights protection on regional (domestic) level. The commission also can accept individual petitions, but there are some exceptions in relation to the rights that can be appealed in such petitions. Another aspect of commission practice is spreading and development of knowledge about human rights among American states and doing different researches, making presentations on this theme.

Inter-American Court on Human Rights along with Inter-American Commission on Human Rights present a control mechanism after fulfilling commitment of members of OAS. The court solves disputes that have passed analogical procedure in Inter-American Commission on Human Rights. Article 1 of Chapter 1 of The Statute of Inter-American Court proclaims that the main aim of this structure is “the application and interpretation of the American Convention on Human Rights” [5, p.1].

The court practice is based on American Convention on Human Rights and all decisions are made according to the principles of this document. The duties of Inter-American Court are described in Article 62 of convention and also it proclaims: “The jurisdiction of the Court shall comprise all cases concerning the interpretation and application of the provisions of this Convention that are submitted to it, provided that the States Parties to the case recognize or have recognized such jurisdiction, whether by special declaration pursuant to the preceding paragraphs, or by a special agreement” [4, p.25]. The court can solve disputes, pay damages and renew breached rights. The right to appellate to court has parties of dispute and the Commission.

Conclusion. To sum up, I want to say that the totality of all structural elements of American system of human rights protection including practice

of Inter-American Commission and Court, fixing of all rights in such documents as American Convention and American Declaration is really effective way of protection human rights from their breach.

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THE RIGHT TO RECOURSE AS THE RESULT OF A SOLIDARITY OBLIGATION ACCORDING TO THE CIVIL LEGISLATION OF UKRAINE

According to the article 509 of the Civil Code of Ukraine, obligation is a legal relations in which one party (debtor) is obliged to take a certain action (to pass a property, to do the work, to provide some services, to pay money etc.) in behalf of the second party (creditor) or to refrain from committing a certain action (negative obligation), and creditor has the right to demand committing debtor`s obligation.