
**PROBLEMS OF PROVIDING AN AGREED ACTION AND
IMPLEMENTATION OF INTERNATIONAL AND RUSSIAN LAWS
(A REVIEW ON THE MONOGRAPH BY S.Y. MAROCHKIN
“ACTION AND IMPLEMENTATION OF INTERNATIONAL LAW
IN THE LEGAL SYSTEM OF THE RUSSIAN FEDERATION”)**

The monograph, submitted by Doctor in Law, professor, Honored Lawyer of the Russian Federation, S.Yu. Marochkin “Action and implementation of international law rules in the legal system of the Russian Federation”, is an integrated, system research of the theoretical, legal and organizational issues of international law rules operation and implementation in the Russian legal system. The topicality of the research is caused by the number of objective and subjective reasons. One of the dominating trends in the modern level of international cooperation and the international law, developed for it, as well as international legal systems, is the consolidation of international principles and norms in the sphere of domestic relations of practically every country. At the same time, the influence of the national law norms upon the character, content, essence, the direction of international legal norms and institutions is increasing, and this influence is often quite aggressive, which leads to the denial of international law specific character, its peculiarities as the legal system, regulating cooperation of sovereign states. That sort of approach will finally lead to the denial of the international law role, as an independent and valuable unit, helping states in the solution of global, regional and domestic problems, protection of national interests in the context of the worldwide tasks, on the legal and fair basis.

The attempts to substitute international law by the national one, even of the great powers, are not constructive. If international public law and domestic law are mixed to the extent, when it is impossible to distinguish them, it undermines the fundamentals of both international and national legal order.

Thus, the issue of diverse legal systems compatibility provision, formation of state legal technologies of international and domestic law interaction is of primary importance.

It should be noted that doctrinal works on the stated issue fall far behind from the practice needs. Reference to international law, according to S.Yu. Marochkin, is becoming popular, even fashionable, and sometimes is used as an argument a priori. Even if the principle of international law rules inclusion is provided by the Constitution of the Russian Federation, it will not solve the problem. The main task here is to create the necessary legal, organizational and even psychological conditions, so that the principle was practically implemented.

The author of the monograph concentrates his efforts on the tackling of this problem. The profoundness and complexity of the problem of constitutional principle of international law norms inclusiveness into the Russian legal system is often underestimated by lawyers, legislators and researchers. Considerable, sometimes

excessive attention is paid to the theoretical issues of international and Russian national law correlation, abstract matters of admissibility of international law norms implementation by the agencies of national jurisdiction. Academic constructions did not decrease the high level of the legal ambiguity in the matter concerning the way of international law application. Practice in this sphere of the state activity has considerably outpaced the theory. However, each subject, applying international legal rules, acts, so to say, at their own risk. The vital task is to create a clear and efficient algorithm of operations, which will give the opportunity to apply the rules of international law correctly and equally within the limits of the Russian Federation and to obtain the sought –for social effect.

The application of international law rules must not end in itself. Its purpose is to ensure that Russia will finally become a law-governed state, which uses a democratic potential of the international law, aiming at the development of the sovereignty of the people, increase of the economic strength, provision of welfare and prosperity of the Russian people, strengthening of the Russian Federation position as the great power and reliable partner. To reach the aim, a state policy concerning the international law as an independent and particular legal system must be formed, basing on the fundamentally new principles of organization, then the system of the national law.

In the concerned sphere of the state activity it is important to observe the principles of legal sufficiency and distinctness. Quite often a paradoxical situation emerges. The fact that the principles and rules of the international law are excessively mentioned in laws, regulatory enactments, judicial decisions, without the reference to the place of a specific international act, principle or rule in the Russian legal system, the mechanism of their implementation, discredits the international law in the whole, forming the opinion of it as an ideological, political stamp. Abundance of references to the international law, their excessiveness, use out of the context of state legal mechanism of legal rules implementation, makes the international law unfeasible.

The particular theoretic and methodological significance of the reviewed monograph lies in the fact, that it contains the distinct rules of the international law implementation, providing and supporting the proper level of legal distinctness as the fundamental principle of a law-governed state.

It should be mentioned that the proper application of the international law rules is the guarantee of the Russian Constitution actuality. References to the international law run through the whole text of the Fundamental Law. (preamble, articles 15, 17, 46, 62, 63, 69, 71, 72, 80, 86, 87, 106, 114, 125, etc.). Accordingly, implementation of the Constitutional rules and principles inevitably brings up to date the matters of respectful attitude towards the international law.

One of the central modern problems to be solved so that Russia has reached the ideal of the law-governed state, is the problem of the country's legal system quality. Dynamics and direction of the state legal formation confirm, that the legal system, being formed in our country, is a cumbersome one, with a great deal of the elements, not connected with each other, possessing diverse properties and characteristics, not hierarchically structured into the collaterally subordinated unity. The systems of that

kind, though being viable, do not solve the task of increasing the level of social processes administration, rational organization of the state power, progressive development of the society. The problem may be solved by changing the vector of the Russian legal area organization and forming the complex legal system. And in this respect, the establishment of a hierarchical subordination of the international legal norms and the norms of the national legislation acquires value and significance.

The aforesaid proves that the tasks, set and fulfilled by the author, are large-scale and significant. S.Yu. Marochkin's monograph gives the adequate answers to the modern questions, proving the author's expertise and the deep insight of the complex problem. The author consistently researches the mechanism of the international and national law interaction, monitors and summarizes the court practice materials, which helps him understand the intrinsic logic of the events development, distinguish between the regular and accidental, foresee the increasing proneness to conflict of international and national interaction, anticipate the events development and suggest logical, rational ways to solve the emerging problems.

The reviewed monograph is the sequel of the brilliant book by S.Yu. Marochkin*, in which the author made an attempt to form the methodology of the systemic application of the international law in the Russian legal system.

The theoretical constructions, set forth in the mentioned book, were proved by the dynamically developing legal practice. The past decade has proved professor Marochkin's academic insight.

The rule-making and law-enforcement practice has offered its own, often different from the doctrinal ones, interpretation of the roles of international rules in the legal system of the country. The unity of the Russian legal system requires a reasonable theoretical analysis, generalization of practice materials and creation of the recommendations of uniform decision of the questions, concerning legal systems compatibility, international and national legal norms collisions overcoming, interpretation of the regulatory essence of the constitutional principle regarding the international component of the country's legal system. Thus, the publication of S.Yu. Marochkin's monograph is timely as it meets the expectations of the practicing lawyers.

The methodology of the research of the international law action and implementation, offered by S.Yu. Marochkin makes it possible to obtain the objective scientific knowledge and comprehend the laws of the Russian legal system development, which undergoes the influence of the international law. S.Yu. Marochkin's particular merit is an unordinary statement of the problem. The author considers the action and implementation of the international law rules from the point of view of the general-theoretical problems of the legal system essence and structure definition, as the integrated universal academic category and objective certainty. The author pays attention to the necessity to differentiate such concepts as the international law system and international-legal system, law and legal system, domestic legislation and legal

* See: Art. 2,3,19 FL "On Committee of Enquiry of the Russian Federation" № 403 – FL 28 December 2010.

system of the country. If the above mentioned concepts are used as equivalent, the common picture of the legal reality is distorted. In the light of the aforesaid, the correct accentuation is highly significant: not only differentiation of legal categories is important, but also the common approach to the legal system in the law and international law theories. Only in that case, as S.Yu. Marochkin states, it will be possible to speak about mutual understanding, concerning legal systems interaction, international law rules in the legal system of the Russian Federation.

Estimating opinions and approaches to the concept and structure of the legal system from the point of view of common law theory, comparative jurisprudence, international law theory, the author overcomes the existing estrangement of international law theory from the theory of national law. This step, made by professor Marochkin, expands the horizons of research of the principal issue of the monograph, because the need for law theory reorientation, expansion of its object is evident. In this respect S.Yu. Marochkin's monograph contributes to considerable increase of the awareness not only in the sphere of international law, but also in the theory of law.

The major question, setting the vector to the author's further research, is the question regarding the nature of international law rules in the internal sphere. Estimating the place of international law rules in the legal system of Russia, the researcher considers it inadmissible to assimilate them to the national legal rules. The norms of the international law as the expression of conformed positions and will of the states, must be interpreted and executed by the states from the point of view of an object and aims of a treaty, aims and principles of the international law in the whole, and not the internal law. Accordingly, international law rules should not be treated as a component of the internal law. They do not change their nature, quality and, in this respect, they represent a 'foreign body' to the norms of the internal law. None of the internal acts, stipulating a state's fulfillment of its international commitments, is able to change the nature of the norms, their specific aims, content or form. It is not necessary, after all, as the author states, the state carries out and provides exactly the norms of the international law. This conclusion is a matter of principle.

The state carries out and provides international law rules implementation, autonomous and applied just as the norms of a different legal system.

The matter concerning the legal nature of international law norms in the internal sphere reflects a more common problem – the problem of correlation between international and national law. Having covered the basic provisions and contradictions of the theories of 'dualism' and 'monism', the author digresses from the traditional view to this issue. Professor's innovative approach is displayed in posing the problem.

As S.Yu. Marochkin mentions, the task is seen not only in concordance of the Russian law norms with the norms of international law, but in provision of international law functioning in the Russian legal system.

The author managed to go beyond the scope of the theoretical arguments between 'monists' and 'dualists', supporters of the 'transformation' and 'direct action' of the

international law, to research the problem and concentrate on the study of the legal, organizational and applied aspects of the international law rules realization in the legal system of the Russian Federation, taking into account the range of international and national law interaction as the system formations.

In the light of the aforesaid, the practical significance of the monograph can scarcely be overestimated. This is the work, which sets forth considered, scientifically justified methods to solve the problems that arise, to overcome the collisions between international and national law, gives the opportunity to apply the norms of the international law correctly and to reduce the existing in this sphere practice to a common denominator.

The approaches to the process of international law action and implementation in the Russian legal system, given in the monograph, open the prospects of the inevitable and necessary modernization of the state legal mechanism of international and national laws interaction. The lawmaking and law enforcement practice demonstrate aspiration for distinctness concerning the matter of more close connection between international and national law provision, establishment of the efficient order of norms, principles, international law ideology implementation in the Russian legal system. Having caught and reflected the requirements of the practice, S.Yu. Marochkin, in his fundamental work, systematized the accumulated experience in the sphere of the state activity, detected the most problem areas and suggested the unified, logically perfect concept of the implementation and functioning of the international law norms. The methodology of the problem research is superb. The author goes from theory to practice. But, bearing in mind that practice is the truth criterion, he studies interpretation of the role of international norms in the legal system of the country, their correlations with the legislation, demonstrated by rule-making and law-enforcement practice, uses it as the material for assessments and theoretical analysis, summarizes and formulates the practical recommendations. Academic disputes are important, but international law norms implementation can not wait until they expire.

The complexity of the tasks, solved by the author, is caused by the number of reasons.

First of all, attention should be paid to the fact, that the revolutionary per se changes of the role and significance of the international law as the special phenomenon of the Russian legal system have concurred with the large scale state and legal reform being held in Russia and with the change of the parameters of international legal order. The dynamically developing events often become of contradictory character. The author's research gives an opportunity to remove contradictions, systematize, sort out integration processes, to define the parameters of the proper action and implementation of international legal norms. One should mention a subjective moment, playing a definite role in the interpretation of this matter. The works by international law experts, constitutionalists, specialists in other legal branches, have considerable differences in the assessments of international and national law interaction processes. S.Yu. Marochkin suggests an integrative approach, neutralizing the existing differences, so it is the author's indisputable academic success.

The highly specialized appraisal of such broad problem has no prospects. S.Yu. Marochkin convincingly demonstrates, that only a broad approach, synthesizing the experience of international and national lawyers, will make it possible to formulate a viable theory.

The integrative concept runs through professor's fundamental work. The breadth and complexity of the problems, touched upon in the monograph, is impressive.

The points of the monograph, in which the author touches upon the matter of international and national law hierarchy are of great importance, since the proneness to conflict of international and national law interaction and the number of legal collisions is increasing. Having found the place of the international law norms and sources in the legal system of Russia, the author puts the question on the legal effect of the norms of international and national law. There is no unambiguous interpretation of this matter both in the doctrine and in practice.

S.Yu. Marochkin identifies specific guidelines for the problem solving. According to the author's position, implementation of the international law rules priority rule, contained in para 4, art. 15 RF Constitution, demands to define the exact framework of the priority, i.e. to answer the number of questions: what rules of the international law are meant, what treaties, what laws are subject to the priority, what rules of correlation of the legal force of the norms operate between the norms of treaties and laws? Unfortunately, these matters are discussed in the virtual absence of federal law of conflicts, which must be formed by the federal state bodies. Competent approach to conflicts resolving between the norms of international and national law is the strong point of the monograph.

Inherently, his work is a contribution not only to the development of international law, the theory of law, but also to the process of the federal law of conflicts formation. From the angle of the stated problem, the author's point that one should speak not on the priority of international treaty norms towards the law rules in general, but on the priority of application, is worth to be supported.

Treaties do not substitute or repeal laws, and in the event of a collision, they are applied in the concrete situation, relations and subjects. Moreover, in the Constitution and Federal legislation the term 'international treaty' is used as a generic term. And if all the international treaties of the Russian Federation are the part of the legal system of Russia, then, not all treaties possess the priority to laws.

The author differentiates the treaties with and without priority in detail, compares the legal effect of international treaties and domestic enactments and formulates the rules of legal effect correlation between Russian and international law.

It is also significant that the rules take into account the variety of the elements of international and national law as system unities. The author's conclusions remove the ambiguity of the content and different interpretations of P.4 Art. 15 of the R F Constitution in many respects. The Fundamental Law of Russia stipulates the generally acknowledged principles and norms of international law and international treaties of the Russian federation as the part of legal system of the country, that conforms to the principle of bona fide compliance with international duties and obligations. The

provision of Art. 15 concerning the priority of treaties rules over the laws, in the author's interpretation, entirely shared by us, remind us about the special nature of international treaties, which represent the source of the legal rules, operating in the country, but belong to a different legal system.

One should differentiate the law, created by the state and the law, applied by it and within its limits.

The latter is also represented by the rules of international law, which have a different legal logic in the sphere of their implementation. The sources of the international law in the legal system of Russia possess the role of the sources of a definite part of the legal norms, which operate in the country, but not the role of the domestic law sources. The author's undeniable merit consists in the fact, that the complex construction of treaties priority over the domestic acts is reduced by S. Yu. Marochkin to a simple scheme, which our legislators and lawyers must be aware of.

The author believes that to define the place and role of international law sources in the Russian legal system, their correlation with the norms and sources of the Russian law, creates only initial positions in the problem research.

S.Yu. Marochkin puts and answers the questions which attach special, practical meaning to his work. In particular, he establishes, who, in what way and on what grounds will provide the operation of the rules and sources of the international law, what engenders the opportunity and duty to apply the rules of international law and the moment when this duty arises. Virtually, the considerable part of the work offers the theory of law enforcement, supplements the brilliant theoretical section devoted to the research of legal and organizational foundations of performance and implementation of international law rules in the Russian legal system. S.Yu. Marochkin's suggestion to formalize the norms of the domestic law, defining the mechanism of international and national law interaction, the mechanism of their implementation and the opportunity to grow into an independent inter-branch institute – the institute of international obligations of a state organically enters the author's concept. This institute can and must be formed and developed nowadays, when the problem of international obligations fulfilling is becoming practical, when complying with the rules of international law must be obliged not only by the bodies of the state, but also by regional power, officials and when ordinary citizens, following the provisions of the Constitution, can broaden the range of his basic rights, appealing to the international treaties rules and asserting them in intergovernmental bodies.

The author defines and develops the legal grounds of the use and application of the international law rules in the legal system of the Russian Federation, characterizing them as the grounds of their performance lawfulness within the country. Among the common legal conditions of international law rules implementation and provision of their functioning, the author mentions the principle *pacta sunt servanda*, presuming the conditions, favoring implementation of the state's international obligations. The special mandatory conditions, i.e. common reference of the domestic law to the rules of international law; consideration of a treaty or a universally recognized principle (rule) of international law as mandatory; a treaty entry into force; publication of a

treaty are researched completely and thoroughly. Supplementary conditions have subsidizing meaning, they develop, concretize the mandatory conditions in the relevant situations and cases.

Among them S. Yu. Marochkin mentions the orders of ministries and departments; the necessity to indicate that the treaty is applicable to certain relations; the competence of the body; obligatoriness of a treaty for the other party. The whole complex of conditions demonstrates that the bodies of the national jurisdiction must be utterly accurate applying the international law rules. The special attention in the monograph is paid to the reference rules of the Russian law. These norms have the key meaning, to include the rules of a foreign or international legal system into the national field of law is impossible without them.

This section of the monograph fills in the gap, existing in the theory of law, which ignores the reference rules as the independent variety of the legal rules, possessing an important functional load. The theory of reference rules is closely related to practice, because it is the reference rules that have the direct connection with variants and models (schemes) of international law functioning in the Russian legal system.

The integrated, comprehensive and competent analysis of the reference rules enabled the author to come to some innovatory conclusions. In the light of the aforesaid problem of Law of Conflicts formation, one should pay attention to the absolute correctness of the role and significance of conflict rules estimation.

According to S. Yu. Marochkin, coordination in law does not necessarily mean consistency of rules Conflicts have always existed, even within the framework of one legal system. The task of coordination consists not only in remaking of the colliding rules, but also in the opportunity to overcome the conflicts with the help of special legal methods. hence is the regulatory role of the conflict rules.

The author gives solid argumentation, proving that international and domestic law conflicts is important and even necessary means to provide implementation of international law rules. In conditions of various legal regimes coexistence, created by series of bilateral treaties with different states, but on the same subject, the coordination can not be provided by a thorough renewal of norms or even fields.

It is impossible technically, can lead to excessive 'swelling' of legislation, and, finally it is just not needed. Rules of conflict in respect of treaties priority over the laws is the means of dynamic reaction to the changing conditions of a state international obligations. Two aims are reached with their help: legislation stability is preserved and international law rules implementation is provided. Thus, conflict rules appear to be the necessary means of a stable legal system in the whole.

The possibility of the real functioning of the international law rules directly depends on their organizational provision, which mechanism was reflected in the reviewed monograph in detail.

The author researches the organizational provision of functioning and implementation of the international law rules as the activity of the entire system of the bodies, various in competence, level and purpose, but, providing through their activity, the state obligation on realization of its international obligations and pacta

sant servanda principle. The system approach enabled the author to present this area of the bodies' activity as the domestic organizational mechanism of the international law rules implementation.

To provide the efficient work of the mechanism and the bodies' of the state power actions on the federal and regional levels were coordinated, its legal support is necessary.

In particular, S.Yu. Marochkin comes back to the idea, expressed by him in a number of his works, that it is necessary to pass an enactment on the order of international law rules implementation provision, developing the provisions of the Federal law "On international treaties of the Russian Federation". On the level of the subjects of the Russian Federation it would be reasonable to pass the laws on concluding, implementation and terminate one's own international agreements as well as on the participation in the fulfillment of international commitments of the Russian Federation. It is believed, that the implementation of these legislative novels, set forth by professor, would make possible not only to order the law enforcement practice, but to avoid misunderstandings, confirming that numerous state declarations in the sphere of international law are not sustained by practical activity of the state power bodies or officials, acting on behalf of the Russian Federation.

In the third, closing chapter of the monograph "The practical aspects of the functioning and implementation of international law rules in the Russian legal system", the theory of international law application is formulated.

The multiplicity of international law rules functioning in the national law system is covered in the monograph comprehensively.

The considerable functional load, conferred on the international law rules is considered in complex: the international law rules outline the legislative frameworks and the areas of its application, influence the definition of jurisdiction and applicable law, serve as means of legal argumentation, the criterion of laws interpretation, the direct reason and part of the disposition of a case.

All these affirm, that in the modern conditions the legal system of the state is reaching the quality of self-efficiency not by means of isolation from international law, but by the use of their correct application. State legal system develops completely and regulates social relations efficiently provided that international law rules carry out their functions, solve their tasks within the framework of the national jurisdiction.

International law is a complex legal system, influencing vigorously the Russian legal system. The level of proficiency and competence of a specialist in the legal sphere is to much extent defined by his correctness and skillfulness when applying the rules of international law.

The problem of highly qualified lawyers training is quite burning in this country. It is particularly difficult but important and practically significant to train the specialists, who would be aware of the international law rules and were able to use them skillfully. And the situation demands that the legal awareness in the international sphere must be acquired not only by lawyers, but also by officials of the state power and

administration and individuals working in various branches of production. The fact that the situation is critical is proved by Sberbank president's speech at Gaidar's forum. Having complained that any simple question concerning the norms and rules of the WTO can bring the authorities to a deadlock, G. Gref addressed the ministers, present at the meeting – D. Manturov (industry) and M. Abyzov (open government) – with the question how much they have spent on the study of the WTO rules. Trying to prevent the possible embarrassment, he reminded that the WTO rules contain 47 thousand pages, and the basic agreement – 600 pages. "I am not inclined to bring the ministers to deadlock, I know that they have not spent a single hour to study the rules and norms of the WTO", – stated Gref, having warned, that if any of the present ministers says the opposite, he will ask the question concerning what is regulated by the WTO rules.

What is significant is that both ministers listened to the warning and did not answer anything*.

One more example from a totally different sphere of public relations, where the problem of international law rules awareness is also burning can be convincing.

In particular, p. 2 in the Regulation on the order of conveying persons, being in public places in the condition of alcoholic, drug or any other intoxication and unable to move independently or find one's bearings on the ground to medical institutions (), directs, that the police officers, conveying the persons in the condition of alcoholic intoxication to medical institutions, must follow the RF Constitution, universally recognized principles and norms of the international law, RF international agreements and norms of the Russian legislation**. It is supposed that, making such demands towards their employees, the department must specify, what exact principles and rules of the international rules and international treaties they should stick to.

The international law and international relations awareness is specified as qualification requirements to the professional skills, necessary for federal state civil servants in a number of bodies of state power and administration***. However, there are a lot more departments, where the knowledge of the international law as the compulsory condition to hold a public office is not mentioned****.

Even more paradox situation exists in the sphere of estimating proficiency level among the employees of Committee of enquiry. Its legal basis of activity, according to the law, are the universally recognized principles and rules of international law and international treaties of the Russian Federation, moreover, it enjoys extensive rights in the sphere of intergovernmental cooperation within the limits of its authority. Furthermore, the RF Committee of enquiry employees, entering upon the office, take an oath, swearing solemnly to honor the Constitution of the Russian Federation, laws

* See: Art. 2,3,19 FL "On Committee of Enquiry of the Russian Federation" №403 – FL 28 December 2010.

** See: The Russian Newspaper (Rossiiskaya Gazeta). 2012. September, 17th.

*** See: The Russian Newspaper (Rossiiskaya Gazeta).2011. May, 25th.

**** See: The Russian Newspaper (Rossiiskaya Gazeta).2011. May, 25th.

and international obligations of this country, not allowing the slightest deviation*. At the same time, qualification requirements to the professional skills, necessary to perform the responsibilities on the offices of the federal state civil service in the RF Committee of enquiry, stipulated in the RF Committee of enquiry Order, dated July, 4th, 2012, № 39**, do not include international legal norms into the list of professional skills of Committee of enquiry employees.

In this respect, the provisions, contained in President's decree №657 dated May, 20th, 2011 "On the monitoring of law enforcement in the Russian Federation"****, obliging the federal bodies of the executive power in the RF subjects, to analyze, estimate and summarize the information for the provision of adoption, amendment or abolition of legislative or other rules and regulations of the Russian Federation aiming at ensuring the implementation of European Court of Human Rights judgments (pp.a. p.2) prove to be significant.

It is believed, that the monitoring tasks must be wider and to have execution of international agreements of Russia as its subject in the considered sphere.

Improvement of the legal education quality demands that the international legal bloc was enhanced and intensified. International law must hold the deserved place among the tasks, put and solved by the Russian state in the sphere of legal awareness development****.

In connection with the aforesaid one should mention, that S.Yu. Marochkin's fundamental research may serve as theoretical grounds when forming a consistent state policy in the sphere of law enforcement of international legal rules, state educational policy in the legal sphere and enhancement of legal awareness among the population. The practical implementation of the suggestions, set forth by the author, will make it possible to improve the legal system of Russia.

S.Yu. Marochkin pays attention to the necessity of the special approach to implementation of self-practicable and non-self-practicable rules of international law, to the complexity of universally recognized principles and international law rules application.

International recommendation acts, international model forms actively intrude into the law enforcement sphere of Russia. The author welcomes judicial practice, involving in its activity the huge 'layer' of the international recommendation rules as the considerable step in the development of practice of the constitutional principle concerning the international component of the Russian legal system.

The constitutional principle – international law, the part of the law of the country – is treated and used by the courts not only nominally. The courts developed its literal

* See: Art. 2,3,19 FL "On Committee of Enquiry of the Russian Federation" № 403 – FL 28 December 2010.

** See: The Russian Newspaper (Rossiiskaya Gazeta). 2012. September, 17th.

*** See: The Russian Newspaper (Rossiiskaya Gazeta).2011. May, 25th.

**** In "The foundations of the state policy of the Russian Federation in the sphere of legal competence and legal awareness development", sanctioned by RF President, 28th of April 2011, Order-1168, international law is not mentioned.

meaning in the activity of international rules application: they rely not only on the legal component (universally recognized principles, rules and international agreements), but practically, on all elements of international legal system – resolutions and recommendations of international organizations, international bodies' decisions, model acts, legal opinions and decisions of international judicial institutions.

The mentioned acts are used by the Russian courts for the legal argumentation, confirmation of their conclusions and assessments, framing legal opinions, substantiation and making of decisions, and international courts decisions with the obligatory jurisdiction concerning Russia – for reconsideration of the Russian courts decisions aiming at international obligations fulfillment.

The Russian courts have virtually made a breakthrough in respect of the European Court of Human Rights decisions perception, using them when treating specific concepts and situations, interpreting European Convention of Human Rights Protection, to consider the legal positions of ECHR and its precedent practice as the basis for judicial acts review.

Judicial practice in the field of ECHR decisions application has overcome the limits of the Federal law “On ratification of the Convention of Human Rights Protection and the Protocols to it”.

This proves the common trend, detected by S.Yu. Marochkin: in practice international law rules are applied and implemented more frequently and widely than it is provided in the Constitution.

We believe that it is a logical trend, reflecting the process of the open legal system formation, able to adapt to the external impacts, organize itself and promptly react to the international obligations of the Russian Federation. The Russian legal community must be ready for the implementation of international law rules. From this point of view, S.Yu. Marochkin's monograph is a priceless assistant for practicing lawyers. The theories and concepts, set forth in the monograph, are subject to the practical aims and tasks. The perfect logic of the research, consistent and thorough analysis of the stated range of problems, the wide base of sources, application to a considerable practice of international legal norms implementation by the bodies of the national jurisdiction, enabled the author to formulate the integral concept of improvement of regulatory legal foundations and mechanism of functioning and implementation of international law rules in the legal system of the Russian Federation.

The validity of the author's suggestions is evident, they are convincing and evoke a lot of trust. S.Yu. Marochkin's monograph is a fundamental theoretical and practical research, one of the most successful and highly skilled works on the matter of international law rules implementation by the Russian national jurisdiction bodies.

*T.M. Pryakhina,
Doctor of Law, professor of department
the state legal academic disciplines
of Moscow municipal pedagogical university
doktrina2005@yandex.ru*