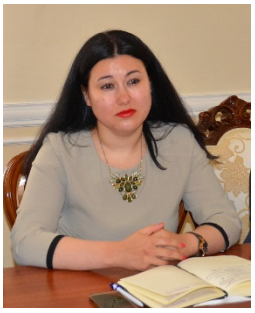
ՄԻՋԱԶԳԱՅԻՆ ԻՐԱՎՈՒՆՔ / INTERNATIONAL LAW / МЕЖДУНАРОДНОЕ ПРАВО



ԱԼԵՔՍԱՆԴՐԱ ՆԻԿԱ
Իրավագիտության մագիստրոս,
Մոլդովայի Հանրապետություն

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CASE LAW OF AMERICAN COURTS ON THE APPLICATION OF THE PRINCIPLE OF JURISDICTIONAL IMMUNITIES OF STATES IN CASES WITH REGARD TO THE MIDDLE EAST*

ПРЕЦЕДЕНТНАЯ ПРАКТИКА АМЕРИКАНСКИХ СУДОВ ПО ПРИМЕНЕНИЮ ПРИНЦИПА ЮРИСДИКЦИОННОГО ИММУНИТЕТА ГОСУДАРСТВ ПО ДЕЛАМ ОТНОСИТЕЛЬНО БЛИЖНЕВОСТОЧНОГО РЕГИОНА*

The principle of jurisdictional immunities of state that resides in the customary rule that an equal could not have power on the other equal (*par in parem non habeat imperium*) had developed culminating with its analysis and recognition by the International Court of Justice in the case *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)* in its judgement from 3 February 2012.

Even though it may seem surprising, this principle has been previously invoked, appreciated and evaluated by different national courts according to a number of cases that concerned events in multiple states of the Middle East region.

Thus, in the first case of this kind, ***Tel-Oren and others v. Libya and others (USA)***, the circumstances were the following: On March 11, 1978, thirteen armed members of the Palestine Liberation Organization (PLO) landed in Israel and captured various means of transport of civilians. Men, women and children were taken hostages. Over several hours, the PLO members drove fast on the highway, torturing passengers on the bus and shooting anyone who ever got in their way. When the Israeli police stopped the massacre, the number of deaths raised to 37 victims. In addition, 76 people were injured. This attack was considered, at that time to be "the worst terrorist attack in Israel's history", later called the "Coastal Road Massacre". Most of the victims were Israeli citizens and others were American and Dutch ones. The victims injured within the attack and the relatives of the deceased

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had taken actions in the United States against several non-governmental organizations and the Libyan state, which supported the Palestinian national movement and opposed the initiative of the Egyptian President Anwar Sadat to stabilize relations between the Arab world and Israel. Victims had considered those organizations and Libya to be responsible for the attack and they have based their action on the US law allowing foreigners to submit requests in court against a supposed violation of international humanitarian law or a treaty.

Two civil actions had been instituted against Libya, the Palestine Liberation Organization, the Palestinian Office of Information, the National Association of American Arabs and the North American Palestinian Congress. The actions were taken by the personal representatives of 29 people who died in attack or were injured during in order to obtain compensatory and punitive damages. In their letters of complaint, the applicants mentioned that the respondents were responsible for the violation of several international acts, law of nations, treaties to which the US is part, and the US criminal law, as well as common law[1]. The District Court rejected the action both because of the lack of jurisdiction and the fact that it was prohibited by the applicable limitation status. In this way, the US courts made an assessment of the claimants' findings related to the legal liability for multiple criminal acts. The court had focused on the judicial analysis, whose purpose assumes that the statements are true. The main legal question was whether the complainants pointed out enough facts to fulfil the jurisdictional elements of the applicability of the United States legislation. In accordance with these provisions, the district courts have the original jurisdiction of all civil actions resulting from the Constitution, including laws or treaties to which the United States is part and any civil action against a foreigner for a tort action committed to violate the law of nations or an international treaty.

The judges decided to reject the action. Their reasons were various and could be summarized as follows. First of all, Judge Edwards limited his analysis to accusations made against the Palestine Liberation Organization, considering the accusation brought against the Palestinian Office of Information and the National Association of American Arabs clearly unfounded. Regarding the jurisdiction over Libya, the magistrate concluded that it was forbidden by the Foreign Sovereign Immunities Act (FSIA). He did not agree with Judge Bork with the fact that the national framework requires to complainants to pretend a right to deplore in the court the actions committed under the law of nations. Accepting that the law of nations prohibits torture, Edwards rejected the fact that this right establishes the same responsibilities regarding the non-state actors, such as the Palestine Liberation Movement. Thus, Judge Bork denied the existence of the right to bring the matter in the court and declared that this right should not be inferred in the present case. He was guided by the separation of the state power principles, which requires caution to the courts in order to avoid possible interference in the sphere of political branches of foreign affairs. As follows, Judge Bob considered federal courts incompetent to take the position because of the political doctrine, reiterating that issues related to the international status of terrorist acts and sensitive issues of diplomacy were in the exclusive field of executive and legislative branches.

The complainants appealed the district court's decision, but the Court of Appeal maintained its position to reject of the action.

Another case against Libya, ***Smith and others v. Libya (USA)*** is known for the tragic circumstances that determined the death of passengers on a board of the transatlantic race as a consequence of the terrorist attack.

[1] Case Tel-Oren and others v. Libya and others (USA), judgement of US Columbia Court of Appeals from 3.02. 1984, available at http://www.asser.nl/upload/documents/DomCLIC/Docs/NLP/US/Tel-Oren_v_Ligyan Arab Re public_3_2_1984.pdf (Visited on 25.08.2018).

The complainant Bruce Smith, husband of the defunct, said that the flight race Pan Am 103 was destroyed. In fact, on December 31, 1988, the Pan Am flight 103 left the city of Frankfurt, Germany, to Detroit, USA, with stopovers in London and New York. At 7 PM, the plane 103 exploded over Lockerbie, Scotland, UK, and all 270 people from the board, including Smith and Hudson, died by a bomb. Smith declared that Libya's actions to encourage and support these private acts of terrorism have contributed to the conscious and intentional destruction of the airplane. Smith claimed compensation for the following: death, attack, emotional suffering, loss of consort and violation of public international law.

The complainant Paul Hudson, also considered that the supposed bomb was placed on the board the aircraft and was detonated by and to the indication of Libya[1]. Hudson requested recovery for intentional offenses of illegal death and bodily injury.

Initially, the complainants Smith and Hudson sued in order to obtain compensations for the damage caused by this terrorist act in the United Kingdom. In June 1993, Smith filed a lawsuit regarding the unjust depth against Libya within Scotland. Hudson joined the action against the Pan Am Company, where the jury noticed responsibility of the country for destroying the plane.

Within the District Court from New York, the complainants Bruce Smith and Paul Hudson, as personal representatives of the victims, who died in the Lockerbie tragedy, had requested the recovery of civil damages. Smith sued Libyan state, the Libyan Arab Airlines, the Libyan Foreign Security Organization, Abdel Basset Ali Al-Megrahi (International Flight Security Officer), and Lamen Khalifa Fhimah (Libyan Arab Airlines Station Manager) as agents of Libya. Hudson only sued the Libyan state. Taking into consideration the circumstances of the case, the complainants' claims had been connected. Libya submitted a request to disconnect the proceeding by invoking sovereign immunity under the Foreign Sovereign Immunities Act (FSIA).

The federal court concluded that even if the supposed participation of Libya in this scandalous and condemnable tragedy was true and human suffering was hopeless, then the court cannot properly obtain jurisdiction over Libya. The supposed terrorist acts of the Libyan state did not fall under the exceptions listed by the Foreign Sovereign Immunity Act and therefore Libya is going to benefit from the immunity. In fact, the court specified that the supposed breach of the social rules do not represent an implicit renouncement to the sovereign immunity guaranteed by the law. Also, the District Court did not consider that the case revealed an anti-terrorist exception to the immunity principle[2], because the direct involvement of the official Tripoli, in the air board attack, was not convincingly proven.

The Court of Appeal maintained the decision of the District Court, establishing that Libya, in the referred case, could not be subject to the jurisdiction of the US courts[3].

Another different case submitted for the resolution to the US federal Courts related to the Middle East events is ***Ali Saadallah Belhas and others v. Moshe Ya'alon (USA)***[4]. In April 1996, the Israeli Defense Forces (IDF) conducted a military operation called "The Grapes of Wrath", bombarding the villages of southern Lebanon for three weeks in order to exert pressure on the Lebanese government to disarm members of the organization recognized by many states of the world

[1] Case Smith and others v. Libya (USA), judgement of US District Court, New York, from 17.05.1995, available at http://uniset.ca/other/cs5/886FSupp306.html (Visited on 25.08.2018).

[2] Mckay L. A new take on antiterrorism' Smith v. Socialist People's Libyan Arab Jamahiriya. In: American University International Law Review, Vol. 13, no. 2, 1997, p. 450.

[3] Case Smith and others v. Libya (USA), judgement of US Court of Appeals, Second Circuit, from 26.11.1996, available at http://caselaw.findlaw.com/us-2nd-circuit/1379970.html (Visited on 25.08.2018).

[4] Case Ali Saadallah Belhas and others v. Moshe Ya'alon (USA), judgement of US Court of Appeals, District of Columbia, from 15.02.2008, http://www.asser.nl/upload/documents /DomCLIC/Docs/NLP /US/Belhas_Appeal_15-2-2008.pdf (Visited on 25.08.2018).

as a terrorist one, Hezbollah. Due to the bombing, about 400,000 people were forced to leave their homes. Many of them did not have the means for evacuation from the area and took refuge in places what they hoped to be safe. Lebanese civilians from the south took refuge in the UN offices, more than 800 civilians - mostly women, children and elder people - sought refuge in the UN complex in Qana. Israel's Defense Forces attacked the complex, and after the attack, more than 100 civilians died and a lot of people were injured[1].

The General Moshe Ya'alon was the head of Israeli Defence Forces on April 18, 1996, when they bombed the UN complex in Qana.

Several people who suffered from these military operations and also their relatives, namely: Saadallah Ali Belhas, whose wife and nine children were killed in the UN headquarters attack, Ali Mohammed Ismail, whose wife and three children were killed, Ibrahim Khalil Hammoud, Raiman Nasseeb, Hamidah Sharif Deeb, and Yassim Khalil Hall, who suffered serious injuries and lost their relatives as a result of the bombing, submitted complaints to the US Federal Court demanding compensations and compensatory remedies. They considered that General Ya'alon had participated in the decision to attack Qana headquarters and became in this way command responsible for the attack.

The District Court of Columbia rejected the complaint against General Ya'alon, arguing that any possible violations of international law committed by him occurred while he was acting in official capacity in the Israeli army. The alleged violations included war crimes, extrajudicial killings, crimes against humanity and acts of torture[2]. Taking as such the facts alleged in the application, the actions of General Ya'alon constitute of serious violations of the normative of *jus cogens*. Despite the severity of these violations, the federal court concluded that the position of the general in the Israeli army gave him immunity in light of the FSIA.

On February 15 2008, the District Court of Columbia maintained the decision of the first instance, considering that General Ya'alon acted in his official capacity during the mentioned period. In addition, the State of Israel has confirmed that Ya'alon's actions had been fulfilled in his official capacity. The Court of Appeals therefore declared that General Ya'alon benefits of immunity under the mentioned Act and dismissed the complainant argument that the general should not be protected because he acted in contradiction with the *jus cogens* norms of the international law, committing grave violations of the international humanitarian law and the rules and action principles of warfare. The main reason cited by the courts was that the USA Ast on sovereign immunity did not contain any exception to the rule of jurisdiction for violations of *jus cogens*.

If we move from the legal squares to those political ones of international relations, which at other times undoubtedly interfere, we can note the interesting fact that the figure of General Ya'alon was regarded as controversial by the public opinion. In Israel he became a national hero and embraced a successful career, more recently, during the 2013-2016 being also the Minister of Defense, and during Prime Minister Netanyahu's failure to perform his duties in 2013, he also fulfilled functions as the interim Prime Minister. On the other hand, the Arabic states continuously appreciate the person of General Moshe Ya'alon as an international criminal because of both his military career and related activities, and also, because of his very harsh position towards Palestine and Lebanon. The truth seems to mingle in between, but the practice of rejecting, by the American jurisdictions, the demands of

[1] Information about the case Ali Saadallah Belhas and others v. Moshe Ya'alon (USA), available at https://ccrjustice.org/home/what-we-do/our-cases/belhas-v-ya-alon (Visited on 25.08.2018).

[2] Ogilvy G. Belhas v. Ya'Alon: The Case for a Jus Cogens Exception to the Foreign Sovereign Immunities Act. In: Journal of International Business and Law, Vol. 8, Issue 1, 2009, p. 169.

Arab victims against Israel high-ranking dignitaries to compensate for damage that resulted from the bombing outside Israel's and Palestinian territorial boundaries, including on grounds of immunity from jurisdiction, cannot fail to put in plain view the positions of the Jewish Diaspora which is traditionally strong in America in all domains, including the legal one.

In the later case, ***Daliberti and others v. Iraq (USA)***, the complainant action is due to three separate but similar incidents in which the respondent-state would have arrested and detained the complainants, all of whom were United States citizens, who were on business at the time of events in Kuwait. The four male complainants claim damages for kidnapping, illegal imprisonment and torture. The wives of the four claimed damages for pain and suffering, as well as for the loss of consort.

In fact, the complainant, Chad Hall, was dealing with the removal of land mines within Kuwait's borders in October 1992, when he claimed to have been kidnapped under the threat of a gun and transported from Kuwait to Baghdad, Iraq. Hall was held prisoner by the Iraqi government and argued that Iraqi agents tortured him. Hall's claimed emerge from facts that took place both within the territorial jurisdiction of the respondent state (incarceration and torture) and outside its territorial jurisdiction (kidnapping in Kuwait). He filed an action regarding these same claims before the exception to the FSIA on terrorism sponsorship came into force and his application was initially rejected for the lack of jurisdiction.

The case of the second complainant, Kenneth Beaty, was a resonant one at the time of the events. He was traveling inside Kuwait in April 1993, when he approached a border crossing point between Kuwait and Iraq. Beaty requested a border guard from Iraq to direct him to a gas station on the Kuwaiti side of the border without entering Iraq. Beaty was arrested by Iraqi agents and transported to Baghdad, where he was allegedly held in inhuman conditions and subjected to torture. Beaty was tried by an Iraqi court on charges of "illegal entry" and espionage, and was not found guilty. He was told that he was free to leave Iraq, but before he actually left, he was informed that despite his acquittal, he was sentenced to eight years in prison. Beaty was detained for a period of 205 days, and his release was secured with the help of former Senator David Boren, who traveled to Iraq at the request of the President of the United States for the explicit purpose of negotiating the release of Beaty. In addition to the efforts of Senator Boren, Beaty's wife, Robin Beaty (also a complainant in the present action), organized the delivery of "several million US dollars" as a humanitarian aid to Iraq. Beaty's complains are regarding the actions committed both in Iraq (prison and torture), as well as in Kuwait or on the international land which does not belong to any state (the "arrest" committed at the border crossing point).

For their part, the complainant, David Daliberti and William Barloon were traveling within the Kuwait borders in March 1995, when they approached a border crossing point with Iraq. An agent of the respondent state examined the identity papers of the two complainant that identified them as American citizens. The agent lifted the barricade that blocked the path and allowed the complainant to enter the territory. After entering the territory of Iraq, Daliberti and Barlon decided that they have not reached the intended destination. They returned to the border crossing point and requested to be allowed to cross it back to Kuwait. They were arrested by Iraqi agents, threatened with a gun, and transported to prison, where they were allegedly tortured and detained in inhumane conditions. Daliberti and Baron were tried by an Iraqi court and found guilty of "illegal entry" without being allowed to defend themselves. They were detained for 126 days before their release was obtained through negotiations between the Iraqi government and MP (Member of Parliament) Bill Richardson who had been sent by President Clinton to secure their release. The complaints of Daliberti and Baron are based on acts that took place entirely within the borders of Iraq.

Complainant Kathy Daliberti, Robin Beaty, Elizabeth Hall and Linda Barloon claimed compensation for the intentional causing of emotional suffering and loss of consort as a result of acts committed against their husbands. None of the complainant were on the territory of Iraq at times relevant to this procedure. The complainant wives therefore claimed damages based on conduct committed only in Kuwait and Iraq but that affected them in the United States.

The applicants lodged their complaint in May 1996. As part of the jurisdictional assurance process under the Foreign Sovereign Immunities Act, they offered the respondent-state the possibility to combat these allegations in accordance with international arbitration rules (the request will be rejected if there is no arbitrage offer), and the amounts were communicated through the US Interest Section of the Embassy of Poland in Baghdad. On 25 October 1996, the applicants filed a request for an inadvertent examination against Iraq due to the absence of any response to what they alleged.

The exception regarding the states which are sponsoring terrorism was adopted by the Congress, as part of the 1996 Law on Terrorism and the Effective Death Penalty in order to establish the responsibility of those states for acts of terrorism committed against US citizens. It empowers anyone who claims to have suffered damage caused by an act of torture, extrajudicial kill, aircraft sabotage, hostage-taking or providing material support or resources for such an act to file an action against a foreign state.

The District federal court established that the male complainant had fulfilled their obligation to demonstrate that the actions they filed fall under the incidence of the exception of terrorism from foreign sovereign immunity. Therefore, the Court had jurisdiction over the subject matter of this process, rejecting the respondent state's objection to the jurisdiction of the forum. As for the complainant spouses claims[1], the Court dismissed their action, finding that there is lack of jurisdiction and is not causal link between the alleged unlawfulness and their exclusive effect on the complainant located on the US territory.

In order to conclude on the existence of jurisdiction over Iraq and the inapplicability of the principle of jurisdictional immunity, federal magistrates were given the opportunity to voice their opinion on the four objections raised by the respondent state's government regarding the separation of powers at federal level and the illegality of the qualification of the Congress of Iraq as a sponsor of terrorism; violation of the principle of equal protection of sovereign states by stigmatizing as a state sponsoring terrorist activity; lack of personal jurisdiction over the foreign state; as well as the fact that the activities complained of by the applicants are to enjoy immunity because they are part of the state doctrine and constitute an expression of the Iraqi official policy.

Analyzing the enunciated objections, federal magistrates have decided that at the time of the amendment of the FSIA by including the exception for terrorism sponsorship, Iraq was already on the convicted list of these states, a fact that was acknowledged by the US Congress in official documents. It was noted that those nations operating in a manner incompatible with international norms should not expect to be granted the privilege of immunity to the honor that is within the prerogatives of Congress to grant or withhold immunity. The distinction made by Congress among those states that have been designated as sponsors of terrorism and which have not been, are rationally related to its purpose of protecting US citizens by discouraging international terrorism and granting compensation to victims of terrorism.

It has also been weighted the fact that the Complainant' detention had an immediate effect in the United States and was consciously conceived by the respondent state to affect the policy of the US Government. Under these circumstances, Iraq can not claim to be surprised by the Court's decision

[1] Case Daliberti and others v. Iraq (USA), judgement of US District Court of Columbia from 23.03.2000, available at http://uniset.ca/other/cs5/97FSupp2d38.html (Visited on 25.08.2018).

on jurisdiction over requests submitted in response to its unlawful actions. It is therefore reasonable for Iraq to be held responsible in a US court for acts of terrorism against United States citizens committed in the Middle East.

Moreover, on the argument of the applicability of the state doctrine, the magistrates reiterated that while the act of the state doctrine seeks to prevent the courts from interfering in the external powers of the president and the Congress, it did not prohibit the Congress and the executive to use the threat of acting as a foreign policy tool. Also, the designation of Iraq as a terrorist state was made by the State Secretary on behalf of the executive power, subjected to the express authority by the Congress. Thus, the Court should recognize the lack of jurisdiction over Iraq on the ground that the acts committed are expressions of the Iraqi state power, those would be more of a legal interference in the announced foreign policy of the branches of US power.

In another case concerning events in the Middle East, ***Nikbin v. Iran and others (USA)***, the circumstances are summarized as follows. Ghollam Nikbin was born in Iran and after graduating from university in 1975, he came to the United States for studies. In the US he had converted to Mormonism and married a woman who was a member of the Mormon Church, afterwards divorcing. In 1991, Nikbin became a naturalized citizen of the United States.

Willing to be closer to his original family, Nikbin returned to Iran in 1993. Nikbin's complaint relates to acts that took place in Iran between 1994-1998. Shortly after returning to Iran, his family arranged a marriage for him with an Iranian woman. During the celebration of the wedding, according to Islamic rules, there were separate places for men and women. But at the end of the party, a violation of Iranian law apparently occurred when some boys started dancing with their mothers. Members of the Munkerat Society and Mafasad - Iranian government officials charged with fulfilling the Islamic law - noticed this event, broke the celebration and arrested 27 people, including Nikbin. Nikbin and the guests were taken to jail and held for a month. Finally, when Nikbin appeared before the judge, he was sentenced to forty whiplashes as a punishment for violating the canons of Islam.

On 28 May 1995 the complainant decided to leave Iran. Nikbin went to Tehran airport but was stopped at the departure area. An Iranian official asked for his passport and directed him to a room where the complainant waited an hour and a half until three or four Iranian officials arrived. They escorted him to a car, hit his head, forcing him to close his eyes, and brought to a place where he was thrown into a prison cell.

He was questioned about his religious practice and accused of converting to Mormonism, which the complainant denied. After being confronted with the baptismal certificate, Nikbin was subjected to ill-treatment and torture. Iranian officials continued to ask questions about its Mormon activities and other people suspected of converting to Mormonism. During interrogations, Nikbin suffered physical injuries, lost five teeth, and eventually had to do three operations due to the injuries he suffered.

After his release after three and a half years of detention, Nikbin made plans to leave Iran. When he went to the airport, however, the government officials detained him again and took him to an interrogation room where he was assaulted. Complainant was released and was boarded onto the plane. Upon his arrival in New York, he was immediately sent to the Bellevue Hospital. Nikbin was hospitalized for seven months for treatment, which included several operations to repair the injuries he suffered while in custody of Iran.

Nikbin filed a civil action against Iran, the Iranian Intelligence and Security Ministry, the Islamic Revolutionary Guards, two individuals, Ali Akbar Hashemi Rafsanjani and Ali Akbar Fallahian Khuzestani, and unidentified persons (mentioned under Doe 1-10). Complainant seeks compensation for the damage caused by torture committed against him while in custody of the Iranian Government.

The court found that there was no jurisdiction over Rafsanjani, Khuzestani and unidentified persons and dismissed the action against them[1]. According to US law, terrorism is an exception to the principle of sovereign immunity. This exception applies only if the foreign state has been designated as sponsor of terrorism at the time of the act or as a result of the act, the foreign State has been given a reasonable opportunity to arbitrate the application in accordance with the internationally accepted rules of arbitration and the complainant or the victim a former citizen of the United States when this act took place. In the Court's view, all three of these conditions had been fulfilled in the given case, so the Court had jurisdiction to hear the case (Iran had been qualified as a sponsor of terrorism since 1984)[2].

The court found that Nikbin was entitled to have judgment *in absentia* against Iran, the Iranian Intelligence and Security and Islamic Revolutionary Guard Ministry for assault, violence and the intentional provocation of emotional suffering worth US $ 2,600,000.

In order to make such a decision, it was noted that in the case of the establishment of moral responsibility, the complainant should demonstrate four elements: the existence of extreme or dangerous conduct, the intention to cause or the clear truth of severe emotional harm, the causal link between the conduct and the damage caused, the existence of serious emotional suffering, all of which were met in this case.

In conclusion, as we could see from the above-mentioned cases, the jurisdictional immunity principle is often applied by American courts, immunity being granted according to the FSIA, excepting cases that refers to states recognized as sponsors of the terrorism by the US Congress.

Ամփոփագիր՝ Հոդվածում վերլուծվել են ԱՄՆ ազգային դատարանների նախադեպային պրակտիկայում մերձավոր-արևելյան տարածաշրջանի վերաբերյալ գործերով պետությունների յուրիսդիկցիոն անձեռնմխելիության սկզբունքի կիրառման առանձնահատկությունները: Ամփոփելով հետազոտությունը՝ հեղինակը նշում է, որ ամերիկյան դատարաններն այս սկզբունքը բավականին հաճախ են կիրառում: Բացառություն են կազմում այն դեպքերը, որոնք վերաբերում են ԱՄՆ կոնգրեսի կողմից որպես ահաբեկչությանն աջակից ճանաչված պետություններին:

Аннотация: В статье проанализированы особенности принципа юрисдикционного иммунитета государств в прецедентной практике национальных судов США применительно к ближневосточному региону. В частности, обобщая исследование, автор отмечает, что американскими судами данный принцип применяется довольно часто. Исключения предоставления иммунитета составляют случаи, когда речь идет о государствах, признанных Конгрессом США пособниками терроризма.

Հիմնաբառեր՝ պետությունների յուրիսդիկցիոն իմունիտետ (անձեռնմխելիություն), Մերձավոր Արևելք, ամերիկյան դատարաններ, անմարդկային վերաբերմունք:

Key words: jurisdictional immunities of state, Middle East, American courts, ill-treatment.

Ключевые слова: юрисдикционный иммунитет государств, Ближний Восток, американские суды, бесчеловечное обращение.

[1] Case Nikbin v. Iran and others (USA), memorandum opinion of US District Court of Columbia from 10.01.2007, available at https://www.gpo.gov/fdsys/pkg/USCOURTS-dcd-1_04-cv-00008/pdf/USCOURTS-dcd-1_04-cv-00008-1.pdf (Visited on 25.08.2018).

[2] Case Nikbin v. Iran and others (USA), memorandum opinion of US District Court of Columbia from 28.09.2007, available at https://www.gpo.gov/fdsys/pkg/USCOURTS-dcd-1_04-cv-00008/pdf/USCOURTS-dcd-1_04-cv-00008-4.pdf (Visited on 25.08.2018).