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Place and Role of Norms and Sources of International Law in the Legal System of the Russian Federation: The Doctrinal Exploration and the Legislative Development of the Constitutional Principle

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ABSTRACT

The article introduces one of the aspects of the national legislation and of the Russian doctrine concerning the entire problem—implementation of generally recognized principles and norms of international law (IL) and international treaties as an integral part of the legal system of Russia. It can be interesting for at least two reasons. First, the Constitution of the country establishes the direct application of international obligations in the domestic matters without their incorporation into the legislation. Not many countries go this way. Second, one can say about the whole theory consisting of a complex of aspects elaborated by the Russian doctrine of IL concerning of operation and realization of international norms. Some propositions and conclusions of this theory could be interesting and useful for colleagues in the countries where implementation of IL norms is also based on the principle of their direct application. In particular, the article examines the question of how the constitutional provision on the place and role of international obligations is being interpreted in the theory and developed in the legislation. The situation of the 90' s years of the past century and in the first decade of the current century is being compared. It is noted that the practice (especially judicial) moves forward leaving the legislation and legal theory behind in understanding of the constitutional principle' s content, what does not conduce to full and precise realization of one of the foundations of the constitutional system of the country.

KEYWORDS

Constitution; Constitutional Principle; Generally Recognized Principles and Norms of IL; International Treaties of Russia; Sources of Law; Legislation; Doctrine; Legal Theory; Research-and-Practice Commentaries

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