

## OATH IN INTERNATIONAL LAW STANDARDS

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### ABSTRACT

The approaches to the consolidation of oath provisions were revealed in the article, based on the analysis of international legal act texts. The characteristic of corresponding norms of universal and regional levels is given. The result of the study were the typical and original formulations of international legal acts proposed by the authors, including various aspects of oath, its addressees and other aspects of this institution.

**Keywords:** oath, solemn declaration, condition, judge, consul, assurance, testimony, convention, agreement, model law.

### INTRODUCTION

An oath as an intersectoral phenomenon is an object of scientific research in various fields of knowledge. Jurisprudence is not an exception here. So, an oath was considered as a general legal phenomenon in legal science; from the point of species diversity; in the aspect of genesis, etc.

Modern constitutional and legal regulation typically formalizes a text and an order of taking an oath when certain types of government positions are taken, as the condition for the implementation of established professions, special legal statuses, and so on [1,2,3].

It should be noted that the norms of international law did not appear to be an object of independent research in terms of their identification in oath unlike national ones. We believe that the results of such work will contribute both to a meaningful increment in the theory of the oath institution and to the replenishment of the species diversity concerning a claimed phenomenon.

### METHODOLOGY

The general scientific methods and methods of logical cognition are used in the work: systematic, analysis and synthesis, abstraction and formal-logical approach. The disclosure of the topic was facilitated by the use of comparative legal, linguistic-legal and formal-legal methods.

### DISCUSSION AND RESULTS

The results of the carried out analysis concerning international legal acts allowed to conclude that an oath was recorded in the specified documents of the universal and regional levels. As a rule, the semantic burden of the legal norms about oath is reduced to the fact that it acts as a specific condition to acquire a status, draw up some documents, etc. The disclosure of oath taking terms and its text in the text of an international act is rather an exception than a rule.

In the overwhelming majority of cases, in the documents of the declared variety, the taking of an oath is related with the assumption of an office by a judge.

For example, in accordance with the rule 2.1. of the Court of the Eurasian Economic Union organization and activities (hereinafter referred to as the Rules), a judge is considered to have taken office since the

oath of office was proclaimed at the plenary session of the Court [4]. In this case the text of the oath is written directly in the Rules.

Let's pay attention that the Rules list the conditions of taking office, including an oath.

In another document of regional format - in the Agreement on the Establishment of the Caribbean Court the Art. X with the title "Oath of office" determined that a judge of the Court does not take up his official duties until he accepts and signs an oath of office in accordance with the established procedure [5, pp. 225-246].

As we can see, the key named condition in the specified Agreement is an oath only. Its text is presented in Appendix 1 outside the text of the Act itself. The verbal expression of the oath is original in terms of conjugation with faith and is expressed in the formulation "... and God will help me in this".

This official oath is made and signed in the presence of the Heads of Governments of the Contracting Parties.

In international law, an oath is recommended to be recorded as the way to prevent the distribution of production information. Thus, Section II of the Recommendation No. 20 of the International Labor Organization "On the general principles of inspection systems organization to enforce the implementation of laws and rules relating to the protection of workers", provides that inspectors should be bound by oath or by any other manner consistent with the administrative practice or the customs of this country, preventing the disclosure of production secrets and production processes in general under the threat of punishment prescribed by law or appropriate disciplinary measures, which they can learn in the course of their duties fulfillment [6, pp. 87-94]. Let's note that this document has a considerable history (since 1923), which allows one to assert about the identical approaches in the semantic load of an oath now and almost a century ago.

A separate block should specify the oath rules, which are addressed to consular officials or the consulate employees. These norms are brief and they are related to the witness status of these individuals.

One part of international legal acts indicates that a consular official summoned as a witness can testify without taking an oath (Part 3, Article 12 of the Consular Agreement between the USSR and the Republic of Austria [7], Part 3, Article 12 of the Consular Convention between the USSR and the French Republic [8], etc.).

The second part of international law norms provided the possibility for the employees of consular offices invited as witnesses to give an assurance instead of an oath (part 4., article 17 of the Consular Convention between Russian Federation and the Republic of Kazakhstan [9], part 4, article 18 of the Consular Convention between the USSR and the United Kingdom of Great Britain and Northern Ireland [10], etc.).

At the level of international norms, an oath is also mentioned as the authority of certain structures. For example, Art. 11 "Rights of the Tribunal" of the International Military Tribunal Charter for the Far East, according to which the tribunal has the right to swear witnesses or demand an assurances or other promises from them to show truth, in accordance with the customs of a witness country [11, pp. 79-86].

The norm-power was also found in Part 3, Art. 15 of the European Convention on consular functions. It stipulates that if the legislation of a presented state requires a binding by oath or a solemn statement, a consular officer has the right to swear an oath or make a solemn declaration [12].

Special attention should be paid to the norms of international law containing a witness testimony requirement under oath for the subsequent formalization of various documents that reflect these witness data (requests, statements, written evidence, etc.).

Thus, paragraph "d" of Art. 54 of WIPO Rules and Regulations on Arbitration, Mediation and the Making of an Expert Opinion states that witness evidence may be presented in a written form, affidavits, or other documents at the request of a party or at a court order [13].

Paragraph 1, Art. 65 "Obtaining of evidence" from the Regulation No. 6/2002 of the European Union Council "On Industrial samples of the European Community" states: during any proceedings conducted at the Office, the means of evidence obtaining or extraction must include ... written statements or affidavits with its authenticity certification [14].

Let us clarify that oath standards are found in the local acts of international institutions. Here is an example from the Regulations (the Rules of Procedure) of the European Court of Human Rights. Rule No. 3 prescribes that prior to the assumption of office, each elected judge shall bring an oath or make a solemn declaration to the Court during the first plenary meeting of the Court at which the judge is present, or, if necessary, to the President of the Court [15].

The presented document contains the requirements of an organizational and temporary nature, and the circle of persons as the conditions of entry into office.

The peculiarity of bringing an oath in the indicated instance is that a solemn declaration is provided as an alternative to it. Therefore, the text is structured variably: "I swear" - or "I solemnly declare". In addition to the traditional duties the oath in question provides the keeping of all the meetings of judges in secret.

The act of taking an oath is recorded in a protocol.

The formulation in the Regulations of the Economic Court of the Commonwealth of Independent States is more concise. It does not provide the specific conditions for the appointment of a judge. P. 7 noted that every judge is obliged to take an oath of the following content and the text of the oath when taking an office at the session of the Economic Court [16].

Let us note that the model acts (of recommended, typical character, containing normative recommendations and the variants of possible legal solutions of certain issues in a certain sphere of social relations) also prevalent at a supranational level, have also the norms defining the order of taking an oath and not only for judges.

The Model law on the Status of an authorized person is indicative here. In the art. 9 "Bringing of an authorized person into office, his entering into office" of this law they established that an authorized person appointed to the post is sworn in an open session of the parliament by his chairman [17, p. 242-262].

An approximate text of an authorized person oath is not provided. However, the norm is recorded, according to which the order of taking an oath is established by law.

An authorized person is considered as taken office after the oath is taken.

Part 9, Art. 65 of the Model law on the Prosecutor's Office gave a laconic wording about an oath as a mandatory condition for the person appointed to the office of prosecutors for the first time. The text of the oath itself is missing, but it follows from the norms of the Model law that it is approved in accordance with the procedure adopted by state [18, pp. 317-362].

At the level of the Model Code on the judicial system and the status of judges for the CIS states, the key provisions on a judge oath are determined (Article 90) [19, pp. 269-348]. It determined traditionally that a judge has the right to perform justice only after taking an oath.

Specific terms for bringing a judge to an oath are specified - during one month from the date of the appointment to the post. It was also specified that the judge takes an oath once.

As compared with previously submitted oath texts, the Model law provides the most meaningfully developed text.

## CONCLUSIONS

In order to conclude this study let's note that the record of various aspects of oath in the norms of international law is a natural phenomenon, since the national and international legal systems exist in mutual relation and interdependence. We believe that the very fact of bringing an oath text in an international legal act identifies it with the rule of law and its inherent legal force. At the international legal level, as at the national one an oath serves as the condition for taking an office, the basis for the implementation of certain professional functions, procedural statuses, powers, as well as the certification of various data with their subsequent formalization in official documents.

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