

## PROBLEMS AND JUDGEMENTS

**S. Andreichenko,**

Candidate of Law Sciences,  
Associate Professor at the Department of International Law  
and International Relations,  
National University "Odessa Law Academy"

### THE CONCEPT OF ABSOLUTE LIABILITY IN INTERNATIONAL LAW

The article is devoted to the study of the theory of absolute liability in international law. The author examines the legal nature, content, characteristics of absolute liability. The main differences between absolute liability and state responsibility for internationally wrongful acts are determined.

During examination of state responsibility for wrongful acts, the International Law Commission (ILC) came across the issue of responsibility for acts not prohibited by international law and decided to create a new topic apart from that of responsibility for wrongful acts. So the ILC started to consider "International Liability for the Injurious Consequences arising out of Acts Not Prohibited by International Law" in 1973 and completed its work in 2006.

Most of the countries of civil law tradition use the term "responsibility for risk" and "strict liability" or "absolute liability" in Anglo-American law. Liability for lawful acts is sometimes also called

"objective liability" because, if no obligation has been violated, the subjective element of culpa cannot possibly exist. However, the breach of many international obligations does not require culpa and the correspondent responsibility is also objective, so trying to distinguish liability from responsibility by its "objective" character may lead to ambiguity. The difference between "objective responsibility" and "liability" is that, in the former, culpa is irrelevant but there is fault in the sense of a breach of obligation, whereas, in the latter, there is no breach of obligation (and therefore also no culpa). One is *ex delicto* and the other *sine delicto*.

The general examination of "liability" shows the absence of fault and the presence of risk. This combination makes possible the balancing of the different interests, as there is nobody to blame for subsequent damage and risk is accepted from the beginning by all concerned – as long as potential victims are compensated.