LAW MAKING BY INTERNATIONAL ORGANIZATIONS

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ABSTRACT

This article discusses the concept, forms and theories of lawmaking in international organizations, as well as the processes of lawmaking in international organizations.

Keywords: international organizations, law-making, national legal system, CIS, doctrine of international law, law-making process, types of law-making.

INTRODUCTION

Today, the role of international organizations is growing in complex and diverse international relations. In contemporary world, without international organizations we cannot imagine either international relations and international law. Because to solve vital global problems can be carried out only by organized team activities.

Objective basis of increasing international organizations role in international relations is economic factors and the process of internationalization continues to encompass other aspects of society.

This situation is creating number of problems which should be solved within the framework of international organizations and international conferences around the world. The activities of international organizations cover all areas of cooperation between its member states. At present, although the scope of areas regulated by international law between states is less, there are organizations or coordinating bodies that coordinate cooperation in existing areas.

Until recently, international organizations were seen more as the basis of diplomatic relations. However, the activities of international organizations are much broader than international diplomatic relations, and so far they have increasingly gone beyond the traditional system and the powers of coordination, and have acquired their own operational functions. The scale of international organizations is expanding to cover every area of human life. In terms of its mandate, international organizations also carry out law-making, law-making and protection functions, as well as investigation, arbitration, judiciary, oversight, international peace and security, and in some cases the maintenance and management of certain territories.

MATERIALS AND THEORIES

In the doctrine of international law, the creation of international law means the process by which states agree on the content of norms and their entry into force.

One of the most important features of international law-making is that each state has the right to recognize or not to recognize the agreed content of a norm as legally binding. International law-making process consists of collegial actions in the negotiation level and individual acts of member states which is relevant to admit norms [1].

In the legal literature, the legislative activity of international organizations is often referred to as a regulatory function. The regulatory function of international organizations is to establish norms and models of an ethical, political and legal nature designed to shape the behavior of the participants in international relations.

When it comes to law-making, international organizations need to take into account the particular features of their legal nature. The single position on the legal nature and legal personality of international organizations has developed slowly in accordance to international law. It should be noted that international law does not contain general norms which determine the legal nature and legal personality of international organizations.

We can see this from the example of the Commonwealth of Independent States, the organization as a independent subjects of international law, has its its peculiar property and the availability factor of the properties. CIS as a subjects of international law adj during the creation of norms known in the field of rights and other international organizations will also be able to conclude international agreements. The system of CIS has independent decision-making bodies [2].

Today about the law-making of international organizations can be drawn a number of general conclusions. In particular , it is not possible to set priorities and clear terms of reference for all international organizations to participate in the rule-making process ; the specific degree and forms of participation in such order shall be determined by the founding States in respect of a particular organization at the time of its establishment , depending on the functions it performs; it is possible to determine the powers granted to any international organization in the field of lawmaking through a thorough analysis of its founding act [3] .

Doctrine of international law recognized at the following provisions: States shall establish international organizations, grant them certain legal nature and legal capacity, and recognize their ability to exercise their rights and obligations and international organizations participate in the creation and application of international law and monitor the observance of international law by member states.

DISCUSSION

In accordance with the above recognition, states co-create a new subject of international law. At the same time, international organizations simultaneously perform the functions of lawmaking and law enforcement in the field of international cooperation. The fact that international organizations act independently and legally in international relations shows that they have a special legal will. In other cases, the actions of the members of the organization, relying on their personal will, do not allow for the formation of a merger process or solidarity. The agreed will of the international organization will be of an interstate nature.

Potential actions of international organizations based on the expression of their will, the assumption of rights and obligations under international law - the source of a relatively isolated will, its legal basis - is the founding act.

Today, the rules on the existence of two types of components of the legislative activity of international organizations are widely recognized: a) direct participation in the creation of norms of international law; b) participation in the legislative process of the state

However, these rules are not a single concept because other circumstances may reflect other aspects of these processes. The doctrine of international law forms various criteria for the correct assessment of the legislative activity of international organizations. In particular, the forms of participation of international organizations, methods, directions, types, aspects and etc.

The theory of international law includes treaties adopted within an international organization and treaties sponsored by an international organization in accordance with the method of development. In the first case, the establishment of existing rules of conduct is carried out entirely within an international organization; in the second, this is done in its organs and directly at a conference organized to address the issue [4]. Generally speaking, in fact, traditionally, the process of concluding agreements is mainly carried out at international conferences.

In modern international law, international organizations have effective mechanisms for the participation of states law-making activities. This is due, firstly, to the fact that due to the constant study of the positions of states in matters of its competence, the organization will have better information about the need to prepare a draft agreement. Second, the ongoing process of interaction and consultation of member states in the organization will help to form a legal motive and, in the future, to develop an initial draft of the convention. Third, an important task gives to the secretariats to study the problem, prepare and distribute the necessary documents, and in some cases prepare a draft agreement. Fourth, international organizations have the ability to attract highly qualified professionals on a permanent or temporary basis.

In the process of creating norms governing relations between states, an international organization may act in different roles according to the initial stages of the process of concluding an international treaty. The final stage of law-making, or the making of agreed norms binding on an interstate treaty, can only be the result of the specially expressed will of the States concerned.

In modern practice and the theory of international law, their participation in the codification of international law is recognized as an auxiliary function of international organizations in the process of creating norms.

The process of codification is the systematization and improvement of general norms of international law, which is carried out by defining and clearly defining the content of existing norms, revising outdated and developing new norms, taking into account the needs of international relations and combining these norms at the international level. The Convention is a legal act designed to regulate as fully as possible a certain area of international relations in the interests of peaceful relations and cooperation between states, regardless of differences in the social structure of states [5].

Historically, there have been two types of codification processes: codification, which takes place as a special process without the participation of an international or intergovernmental organization, and codification, which takes place within an international organization. The United Nations' initiatives to codify areas of international relations are an example of such processes. Modern codification processes are widely reflected not only in the activities of universal international organizations, but also in the activities of regional international organizations.

The legislative activity of international organizations also has to play an important role in the domestic legislative initiative of the member states. The participation of international organizations in the law-making of states covers a variety of powers and circumstances. Depending on the goals and objectives of the organization, this participation is defined in the constituent documents and other documents governing their activities.

Normative legal acts regulating the activities of regional international organizations do not always directly provide rules for the procedure for adopting international agreements. Examples of such organizations are the Commonwealth of Independent States. The normative documents regulating the activities of this organization contain only references to the procedure for adopting international agreements concluded within the CIS. Thus, in accordance with Rule 16 of the Regulations of the Council of Heads of State and the Council of Heads of Government, the conclusion and entry into force of agreements by the Council of Foreign Ministers and the CIS Economic Council is carried out in accordance with the 1969 Vienna

Convention on International Agreements. The agreements will be signed at the meetings of the Council of Heads of State, the Council of Heads of Government, as well as the CIS Council of Foreign Ministers and the Economic Council in accordance with the instructions of these bodies [6].

The specifics of the process of concluding treaties within international organizations do not change the legal nature of the treaty process as the coordination of the will of the states involved in the development of the treaty. Even in cases where the draft agreement has previously been developed by experts (for example, in the UN Commission on International Law, the ILO, the relevant bodies of UNESCO), it is submitted to the bodies of international organizations consisting of representations for consideration and discussion, not by authorized representatives of states. At the UN, these are the committees of the General Assembly.

In the process of such a discussion, there is a process of conciliation of the will of states on the content of an international treaty, that is, a process of conciliation between states as a way of creating international legal norms.

In carrying out an ancillary function in the legislative process of states, international organizations often act as a depository of international agreements concluded within the organization.

In addition to its ancillary function, international organizations also carry out direct law-making activities (sometimes referred to as actual rule-making). There are three main types of direct legislative activity: a) the conclusion of international agreements by international organizations (in the legal literature, this type is sometimes referred to as the external law of international organizations); b) making decisions which determine the principal matters of the organization or the conduct of the Member States in regard to external regulation; c) decision-making on internal organizational issues or the creation of internal law [7].

The legislative work of international organizations is not limited with this. The common efforts of states towards a common goal require the development of a strategy of actions that they must take in the future. As long as there is a need to define its legal norms in any field, the role of international organizations in these processes continue to grow. The emergence of new branches of international law in the future and the establishment of organizational and legal bases and norms of these branches are important trends that should be addressed by the legislative mechanisms of the bodies of international organizations and member states.

CONCLUSION

In conclusion, the law-making by international organizations is a process that can not only set standards for the international community, but also make significant

changes in the domestic legal system of states. With this in mind, the law-making of universal and other regional international organizations should have features that develop the national legal system of states, have a common character for all societies, and can solve social and other problems. To do this, it is necessary not to use the legislative activity of international organizations in the interests of one or two of its member states, and to direct the legislative activity of international organizations to the ability to meet the legal needs of all states. Indeed, in the future, the documents adopted by international organizations will become the main basis of universal legislation.

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