
THEORETICAL ASPECTS OF ACTIVITY INTERNATIONAL PARLIAMENTARY ORGANIZATIONS

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Annotation. The article deals with the legal status and activities of international parliamentary institutions, their legal corporate personhood. The role of these institutions in the system of international law is investigated. Identified features of the legal status of the organization. In the article, the author studies the role of parliamentary organizations as a subject of international law.

Keywords: international law, law of international parliamentary organizations, legal corporate personhood, legal capacity, international parliamentary organizations, Inter-Parliamentary Union, rights and obligations of an international parliamentary organization, legal subjects

Inter-parliamentary organizations as subjects of international law, appeared simultaneously in the European and American continents. The purpose of these organizations is to assist States in integrating into the global community. Today, the main form of inter-parliamentary relations is multilateral inter-parliamentary cooperation, which takes place within the framework of institutional entities.

At the beginning, international organizations did not have parliamentary institutions, being purely intergovernmental. They acted as bodies, without any

international parliamentary control. Nations and governments represented their states in them and representative parliamentary institutions acted only at the national level, with little or no influence on the decision-making process in international organizations. But with the expansion and development of the institution of parliamentary system, the role of parliaments in international relations became more and more significant, and they acquired broader powers.

Investigating the legal nature of such organizations should clarify what is meant by this in international law. Subjects of international law, as well as subjects of law in general, are characterized primarily by the presence of legal corporate personhood. Corporate personhood is a property of a person (in our case, a participant in international relations), in the presence of which it acquires the quality of a subject of international law.

In the theory of international law, legal corporate personhood is considered in two aspects: first, as an element of the system of international law, and, second, as a qualitative characteristic of the subject of international law. As an element of the system of international law, legal corporate personhood is a system-wide institution. International legal corporate personhood as a qualitative characteristic is expressed in the ability of a person to be a subject of international law, a carrier of international rights and obligations, a participant in international legal relations. The degree of participation of a subject in international legal relations is determined by the volume of rights and obligations granted to him by the norms of international law¹.

As it is noted in the literature, two independent features are characteristic of international legal corporate personhood: on the one hand, the ability to participate in

¹MamedovU.Yu. International legal personality: the main trends of development: Author's abstract. dis. ... Cand. legal sciences. - Kazan: Kazan State. Unt-t., 2001. - p. 6-7 ;.

the process of international lawmaking, and on the other, the ability to independently (individually or collectively) ensure compliance with the norms being created².

However, in our opinion, this first feature is not applicable to subjects of international law in all cases, and therefore cannot characterize international legal corporate personhood. In the doctrinal interpretation of the problems of legal corporate personhood, the range of subjects of international law often occurred only to those entities that are capable of creating norms of international law. In this sense, other participants in international legal relations were not recognized by legal entities³. According to T.N Neshataeva, "... the basis for determining the international legal corporate personhood was often laid by the adoption of - legal capacity, legal status. The competence to create the norms of international law is already a specific subjective right ..."⁴, "the exclusion from the number of subjects of those entities that do not have the normative competence is very artificial and conditional today, because it contradicts those provisions that consolidation in the global legal system"⁵.

In our opinion, international legal corporate personhood is a legal property acquired by international individuals by virtue of legal norms and is not only a legal, but also a sociopolitical property. The subjects of international law are political entities; their emergence and existence is conditioned both by social processes within individual countries and regions, although to a lesser extent also by global political processes. The basis of international legal corporate personhood is the free will of the social will of a political entity in the international arena.

²Malinin S. A. About the legal personality of international organizations // Bulletin of Leningrad State University. - Leningrad, 1965. No. 17; Maratadze L.N. To the question of the concept of international legal subjectivity // Bulletin of Moscow. un-that. Ser. Xii. Right. - Moscow, 1969. - № 1. - p. 71.

³Neshataeva T.N. International organizations and law. New trends in international legal regulation. - 2nd ed. - Moscow: Delo, 1999. - p. 69.

⁴See the p. 71.

⁵See the p.73.

The content of international legal corporate personhood consists in the legal ability of a participant in international communication to independent international action, expressed in the independent exercise of rights and duties, in participating in the creation of norms of international law in a broad sense, and in ensuring their implementation.

The question arises: do international parliamentary organizations have these signs? The legal corporate personhood of international parliamentary organizations has its own distinctive features. These features: a) the source (origin) of legal corporate personhood; b) the nature and content (volume) of legal corporate personhood; c) methods of termination of legal corporate personhood.

The international legal corporate personhood of international parliamentary organizations is derived, contractual and functional in nature, since:

first, an international parliamentary organization is created by the will of the founding states (European Parliament);

secondly, an international parliamentary organization carries out its activities and functions on the basis of the provisions of the constituent document (agreement, charter, charter, statute, etc.). An example is the Charter of the Inter-Parliamentary Union, on the basis of which the Inter-Parliamentary Union conducts its activities;

thirdly, the international parliamentary organization carries out its activities only in the area that is established by its constituent document and performs only those tasks and functions that are reflected in its constituent documents. For example, Article 1 of the IPU Charter states that the Inter-Parliamentary Union works in the name of peace and cooperation among nations, in the name of strengthening representative institutions.

The empowerment of an international parliamentary organization with rights and duties depends on its goals and its volume cannot exceed the functional needs of

the organization. Ability to commit international actions is limited to the specified framework and is fixed in the constituent act and documents supplementing it. The volume of this ability in various international organizations, including parliamentary, may be different.

International legal corporate personhood of international parliamentary organizations, as well as other subjects of international law, is characterized by organic unity and includes:

“International legal capacity - the ability to have rights and obligations;
international capacity - the ability to acquire rights by their actions and create legal obligations for themselves;
international tort - responsibility for offenses committed,
international bargaining - to be a party to international treaties and be liable for its contractual obligations.”⁶

However, we note that due to the derivative and functional nature of the legal corporate personhood of international parliamentary organizations, their transaction capacity may be limited or absent altogether, since The founding states, based on the goals and objectives of the organization, may not endow it with this ability, although this statement does not apply to the internal (private law) bargaining power of international parliamentary organizations that they will have in any case as legal entities.

It should be noted the functional objective character of the legal corporate personhood of an international parliamentary organization, which means that the legal corporate personhood of an international parliamentary organization is limited by goals and objectives, functions of the organization, enshrined in its constituent

⁶Ushakov N.A. International Law: Textbook. - M.: Yurist, 2003. - p. 151.

document with its complete autonomy and autonomy to carry out its own statutory functions, goals and objectives.

It should be noted that the scope of legal corporate personhood of international parliamentary organizations is targeted and functional. In order to carry out their functions, international parliamentary organizations are provided with the necessary legal means, which is specifically recorded in their constituent documents.

The legal corporate personhood of international parliamentary organizations is disclosed in the following aspects:

The first aspect. International parliamentary organizations have the right to conclude treaties and agreements within their competence. Contractual legal capacity is enshrined in the constituent acts of international parliamentary organizations in two main ways: either in general, the provision providing for the right to conclude any contracts that contribute to the tasks of this organization; or in a special provision defining the possibility of concluding certain agreements by the organization and with certain parties;

The second aspect. As subjects of international law, international parliamentary organizations are responsible for offenses and damage to their activities and can make claims of liability. International parliamentary organizations participate in the resolution of disputes arising from it with other subjects of international law (including with states) by means of such means that are commonly used in relations between subjects (negotiations, mediation and other services, international judicial procedure and d.)

Third aspect. International parliamentary organizations have the ability to participate in diplomatic relations. When they are accredited representations of states, they themselves have representations in states and exchange representatives between

themselves (the Vienna Convention on the Representation of States in their relations with international organizations of a universal nature in 1975);

Fourth aspect. International parliamentary organizations and their officials enjoy immunities and privileges (1946 Convention on the Privileges and Immunities of the United Nations, 1947 Convention on the Privileges and Immunities of the UN Specialized Agencies, Convention on the Legal Status, Privileges and Immunities of Interstate Organizations in certain areas of cooperation in 1980, agreements of international parliamentary organizations with those states where their central institutions are located, etc.);

Fifth aspect. International parliamentary organizations have the right to participate in the international lawmaking process. The types, direction and scope of the rule-making powers of any international parliamentary organization are recorded in its constituent act or in other documents supplementing it. The most typical forms of securing such powers are:

First, the direct mention of specific types and forms of rule-making activity in the constituent act;

Secondly, such a statement of the functions and powers of the organization, the interpretation of which allows us to speak with all certainty about the presence of the organization's rule-making competence;

Third, an indication of the types and forms of law-making in agreements concluded between member states, between member states and this international parliamentary organization, etc., which can be considered as an addition (concretization) of the constituent act;

Fourthly, a general statement in multilateral treaties of the universal type of one or another rule-making ability of certain categories of international organizations.

The sixth aspect. Each international parliamentary organization can participate only in such a form of lawmaking, which is permitted by its constituent act;

- international parliamentary organizations have the right to recruit staff on a contract basis (international officials subordinate exclusively to this international parliamentary organization and acting on its behalf and in its interests);

- Each international parliamentary organization has financial resources that consist of the contributions of member states and are spent in the general interests of the organization. Membership fees of Member States cannot be less than 0.001% of the total budget of the organization and exceed 25%;

- international parliamentary organizations act with all the rights of a legal entity under the national law of states¹. This means that all international parliamentary organizations are subjects of private law relations in full.

The foregoing testifies to the international parliamentary organization's own will, which is the basis of its legal corporate personhood. The momentum inherent in the organization, has specificity. If you define this specificity in general terms, then it can be expressed in the formula: the will of the organization is relatively independent.

The independence of the will is manifested in the fact that after an organization is created by states, it (the will) is already a new quality compared to the individual wills of the members of the organization.

The legal corporate personhood of international parliamentary organizations is always of contractual origin. Its source is constituent acts, i.e. international treaties concluded by states. Consequently, the legal corporate personhood of an international parliamentary organization is derived from the legal corporate personhood of the "primary" (sovereign) subjects. And in this sense, international parliamentary organizations are derivative subjects of international law.

Based on the foregoing, it should be concluded that the international legal corporate personhood of international parliamentary organizations is derived, contractual and functional in nature, since:

first, an international parliamentary organization is created by the will of the founding states;

secondly, the international parliamentary organization carries out its activities and functions on the basis of the provisions of the constituent document (agreement, charter, charter, statute, etc.);

thirdly, the international parliamentary organization carries out its activities only in the area that is established by its constituent document and performs only those tasks and functions that are reflected in its constituent documents. The empowerment of an international parliamentary organization with rights and duties depends on its goals and their volume cannot exceed the functional needs of the organization.

fourthly, the legal corporate personhood of international parliamentary organizations is revealed in the following aspects:

- international parliamentary organizations have the right to conclude treaties and agreements within their competence;
- as subjects of international law, international parliamentary organizations are responsible for offenses and damage to their activities and can make complaints;
- international parliamentary organizations have the ability to participate in diplomatic relations;
- international parliamentary organizations and their officials enjoy immunities and privileges;
- international parliamentary organizations have the right to participate in the international law-making process;

- international parliamentary organizations have their own staff, consisting of international officials;
- Each international parliamentary organization has financial resources that consist of the contributions of member states and are spent in the general interests of the organization;
- international parliamentary organizations act with all the rights of a legal entity under the national law of states.⁷

Thus, by the nature of the legal corporate personhood of international parliamentary organizations is of a functional nature, in contrast to states whose legal corporate personhood is universal. The empowerment of an international parliamentary organization with rights and duties depends on its goals and their volume cannot exceed the functional needs of the organization. Although the ability to commit international actions of these institutions is limited by this framework and is fixed in the constituent act and documents complementing it, international parliamentary organizations are a stable institution of multilateral international relations and have a great influence on the formation of world politics.

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