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TRANSNATIONAL CORPORATIONS: PROBLEMATIC ASPECTS OF INTERNATIONAL LEGAL REGULATION

Today we are living in a period of globalization and international cooperation in all spheres of public life, including international law. Hence, the impact of transnational corporations (TNC) on the world community cannot be over emphasized. Some modern transnational corporations are able to

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compete with the leading countries of the world by economic potential level. Andrianov V. D. notes that the scale of transnational corporations sales can be compared with GDP of individual countries. For example, in 1990 sales of the company «General Motors» was more than GDP of several industrialized countries such as Finland, Norway, Denmark, Saudi Arabia, Indonesia and Argentina [1]. According to the quarterly report of 2015 year, revenues of «Apple» corporation was amounted to \$234 billion, for comparison the projected revenues of the Russian Federal budget will amount to 194,7 billion US dollars (Federal Law of the Russian Federation «On the Federal budget for 2015 and on planning period 2016 and 2017»).

This examples confirm the Baydin's Y. V. conclusion, that today a group of transnational corporations and international financial organizations, which are the main subjects in foreign investment sphere, have formed a kind of superstructure. This group is controlling a significant part of the world's resources and is able to exercise the limitation of sovereign rights realisation of the states, covered by the concept of «economic sovereignty» of the state [2, c. 100].

In conditions, when some corporations are able to compete with the leading countries of the world, the issue of problematic aspects of international legal regulation of transnational corporations is actual and must be studied.

Despite the fact that the issue of transnational corporations devoted a lot of extensive research, among scientists still there is no unity in understanding this phenomenon. Some authors believe that transnational corporations is a collection of several independent enterprises united by one economic goal, located in different countries and managed from the main center [3]. Others think that such corporation is a single enterprise which has departments and representative offices in a foreign countries [4]. In our opinion, the best definition of transnational corporations was formulated in the draft United Nations Code of Conduct on Transnational Corporations, where is noted that TNC is an enterprise with departments in two or more countries, regardless of legal form and sphere of activity of their departments, functioning in accordance with a specific organisation system, that includes one or more main centers which have an impact on all departments of the company [5]. This definition includes a main features to define transnational corporations in the global community, not only in legal, but also in economic, political and other spheres of public life.

Additionally, the issue of the transnational corporation's attribution to subjects of international law are still in discussion. For example, Lysenko D. L.

thinks that TNC are not subjects of international law, because today there is no international legal norms that were provided by their rights and responsibilities, in legal meaning of these terms [6]. However, the position of this author reflects only on «one side of the coin» and means the position of the «de-jure». He thinks, that if the legal status of transnational corporations are not resolved in international legal acts, they are not subjects of international law. However, «de-facto» these corporations are playing an important role in the realities of the international community. The actual activities of transnational corporations makes significant influence on the international legal relations. This fact is confirmed by the attempts to regulate the activities of such corporations (for example the creation of the draft United Nations Code of Conduct on Transnational Corporations).

The main problematic aspect in the activities of transnational corporations is the question of their regulation by law of a certain country. We should agree with the opinion of Dmitriyeva G. K., which includes 3 levels of legal regulation: national legislation, bilateral and multilateral agreements [7].

National law usually extends its jurisdiction to the departments and representative offices of transnational corporations which located in their territories, and there are the same legal status of the national company and departments of transnational corporations. However, we cannot forget about the economic power and the experience of some transnational corporations. This system would effectively regulate national economic relations if there is advanced antitrust law, which will protect national corporations.

Also, there is a theory which extends to the national law of the state, in which is based on the control center of TNC, on departments in foreign countries. On our opinion, using this theory in practice will not lead to positive changes. National system, in which each subject conducts economic activity according to its own laws and has different legal status, will not be able to function effectively.

Second level of TNC regulation is the bilateral investment agreements that are concluded between the states, as Lokaychuk A. V. noted [8]. These treaties may be concluded between countries and between country and transnational corporation, which is typical for developing countries.

The third level of legal regulation includes multilateral international treaties. These agreements have a universal or regional character. The first type includes acts of the United Nations as example and the second – acts of the European Union. The presence of three levels of legal regulation of the transnational corporation's activities allows regulating it comprehensively. Na-

tional law cannot effectively regulate all the sphere of their activities, because of the special nature of this kind of corporations. That's why the international community must coordinate their legal actions in regulations of transnational corporation's activities.

The main center of making decision are moving from the national to the supranational level, notes Lyubchenko P. M. Additionally, the global economy is not controlled that much by the states and even international organizations, but by capital, which is the dominant economic force. Acting on the financial system of the state, transnational corporations undermine its economic basis. TNC sometimes cannot be controlled by the national governments because of its international natural. Their capital is able to significantly influence on the policies of states, directions of political and economic development and even the results of election campaigns. Restrain the negative effects of transnational corporations can only be executed by powerful state, independent of external political and economic forces which implement policies in accordance with the national interests [9, с. 8].

On our opinion, transnational corporations also play positive role in global society. In particular, they are the main actors of global trade, being the main investors in many projects, including sphere of investing developing countries. Transnational corporations create many jobs, bring billions of dollars to the budgets of many countries of the world. In corporations of this type were created a lot of important inventions of mankind in the last decade.

In conclusion, we must note that today transnational corporations are an important subject of international law. They have a number of specific features that distinguish them from others and that are why there is a need for detailed legal regulation of their activities. Regulation of such type should apply to all transnational corporations, not just on their separate departments in some countries, it is therefore necessary to talk about a comprehensive regulation of their activities, which can be implemented only by international legal regulation.

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ВПЛИВ МІЖНАРОДНИХ НЕУРЯДОВИХ ОРГАНІЗАЦІЙ НА СВІТОВУ ПРАВОТВОРЧІСТЬ

Сьогодні ми можемо спостерігати безліч глобальних проблем, такі як політичні, економічні, соціальні, з якими держави самостійно не в змозі справитись без широкої участі своїх народів. Проте усвідомлен-

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