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AN INTERDISCLINARY APPROACH TO THE CONCEPT OF "INTERNATIONAL STANDART" IN THE MODERN THEORY OF INTERNATIONAL LAW

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ABSTRACT: - The article analyzes the concept of an international standard, its content, application and legal force. The concept of international legal standards in the field of human rights has been studied in the theory and practice of international law enforcement. In comparative terms, the definitions given by foreign scientists to the concept of an international standard are analyzed. International documents address the issue of social responsibility. When studying the topic, the author also puts forward theoretical conclusions and practical proposals based on an interdisciplinary approach.

KEYWORDS: International standard, international legal standard, international human rights standards, principles, social responsibility, "principle-methods", "principle-standards", standardization, interdisciplinary approach.

INTRODUCTION

The concept of an "international standard" is used in various areas of economics, trade, finance, law, ecology and others. Works on standards have been studied in the literature and sources in various fields. However, in the legal sphere there are different areas of human rights and international public law: international economic law, international trade law, international labor law, international criminal law and other standards.

The concept of international legal standards in the field of human rights is not always defined in the same way in the theory and practice of international law enforcement. In some cases, various norms of international law in the field of human rights and freedoms are recognized

as international standards. These norms include international treaties, decisions of international organizations, rules of political agreements (The Final Act of the Conference on Security and Co-operation in Europe (1) of 1975), international customs. The Final Act of the Conference on Security and Co-operation in Europe is often called as the Helsinki Act.

A "European" interpretation of international legal standards in the field of human rights by Russian scientists S.A. Gorshkova. He believes that such standards "should recognize the legal norms and case law of conventions created on the basis of decisions of the European Court of Justice and the Human Rights Council" (2).

THE MAIN FINDINGS AND RESULTS

In general, the word "standard" is taken from the English standard – a sample, criterion, model, as a starting point for comparison with other similar objects. The interpretation of international legal standards in the field of human rights is more consistent with the correct interpretation as a normative minimum, because according to it, the necessary and sufficient level of regulation of the rights and freedoms of people and citizens by the state, as well as the exceeding of these rights and freedoms in this situation or determining the minimum level determines that it will be implemented with legally impermissible restrictions.

In other words, the standards are usually expressed in the form of conventions, declarations, recommendations, principles, rules, are minimum international legal norms, and their recipient is the whole world community or a group of member states of a particular international organization.

In addition, if the minimum of such norms, its content is carried out without any reason (intentionally), that is, outside of legal norms and instructions, the discrimination of these rights (the discrimination of the rights and freedoms of people and citizens provided for in the "norm") has certain international legal consequences, which is considered a violation of the international standard.

Thus, international standards of human rights and freedoms began to be understood as the minimum rights of certain categories of persons, for example, children, women, those detained in penal institutions, persons responsible for maintaining legality. These include the Universal Declaration of Human Rights adopted in 1948 and also two universally important documents of 1966 – the International Covenant (Pact) on Civil and Political Rights and the International Covenant (Pact) on Economic, Social and Cultural Rights.

International standards on human rights, as part of the general system of human rights protection, are distinguished by a number of features. One of them are their functions. The main functions of international human rights standards are:

firstly, establishing a list of basic and mandatory rights and freedoms for all countries that are parties to pacts and conventions;

secondly, formation of the main features of rights and freedoms that should be reflected in the Constitution and other regulatory legal documents at the national level (within the state);

thirdly, to determine the obligations of the states to recognize and ensure the declared rights and freedoms and to include the necessary guarantees that ensure their (rights and freedoms) reality at the international level;

fourthly, the formation of conditions for the use of rights and freedoms related to legal restrictions, including prohibitions.

The functions of international standards on human rights do not include establishing (determining) mechanisms for ensuring compliance by states with international standards on human rights.

Nevertheless, this is provided for in the concept of the state's international obligations, which means the adoption of legislative, administrative and judicial measures in accordance with the constitutional procedures of the state, with the aim of consolidating, securing and protecting rights and freedoms. In addition, this obligation is recorded at the international level (and of course in national legal documents) through ratification by competent (legislative) state authorities. Non-fulfilment of such an obligation by the state (as well as other international obligations accepted by the state itself) is the cause of responsibility under international law. In case of non-fulfilment of the state's international obligations in the field of ensuring and protecting human rights and freedoms, for example, it is possible to talk about using the capabilities of international judicial bodies specialized in human rights (the European Court of Human Rights, the International Criminal Court, The Hague Military Tribunal, etc.).

In connection with the distribution of universal and regional (European, Inter-American, African, Asian, Arab) systems for the protection of human rights in legal literature and human rights practice, the issue of the existence of two categories of human rights standards, that is, global and regional standards, is relevant. Without analyzing the characteristics of each of these systems and the relevant human rights standards, we consider the following.

European standards for the protection of human rights are recognized by the European Union and understood in its documents, including legal norms that understand all rights to human life, as well as the mechanisms of guaranteeing, protecting and implementing them.

Recognition and observance of human rights and their basic freedoms in accordance with European standards has become a criterion for determining the level of development of rule of law and democracy in some European countries. The content of European standards in the field of human rights and freedoms, which have the force of international ethics and international law, continues to expand and deepen.

It is clear that in this case we are not thinking about minimum regulatory requirements as in international standards. Nevertheless, international human rights standards do not differ from European norms in the field of human rights and freedoms, although in human rights theory there are sometimes attempts to distinguish between the two. There is no doubt that such specific differences exist in some cases. In particular, this is manifested in the features of the formation of human rights and freedoms, their guarantees and their implementation mechanisms. For example, in Article no. 4 of the Universal Declaration of Human Rights, the problem of slavery, slave trade and the prevention of slavery is very briefly stated (3). But in Article no. 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, this standard is revealed in sufficient detail in three parts of this article, including the definition of the term "forced

labor", which is not found in the Universal Declaration of Human Rights.

But global and regional, in particular, some European standards in the field of human rights were formed based on the ideas that were at the center of the formation and development of the natural-legal theory that appeared in antiquity. Although specific aspects of human rights have developed and expanded in connection with changes in the social life of states, the development of international cooperation, the idea itself – the naturalness and indivisibility of human rights – has remained unchanged.

S.A. Golubok, one of the Russian scholars, writing about the international standard, he notes that the term "standard" is used in several international legal documents in relation to the "unified minimum conditions required from the participating states (4)". As an example, he cites the rules "On the Prevention of Crime and Treatment of Offenders" adopted by the first UN Congress. At the same time, while accepting the concepts of "principles" and "standards", standards are valid as the minimum consensus allowed and emphasize that they are considered as a "sample for imitation".

It is impossible not to admit that this point of view is correct to a certain extent, in fact, the concepts of principle and standard are not identical terms, international law standards are based on the principles and norms of international law, for example, "minimum international standard" is mainly international human rights applied within the framework of the law and refers to the entire international legal norms related to the right to life, integrity, equality before the law and the court (including the right to a fair trial) and includes a number of rights in the economy and the environment and other areas.

Professor R. A. Mullerson's opinion reflects a more general approach, and according to him, international standards include all norms of international law related to individual rights and freedoms (5).

Professor A.S. Avtonomov refers to the principles of international law by the international standard. He defines the principles as "fundamental principles that arise (or must arise) from the expression, interpretation, and implementation of legal norms" (6). A scholar A.B. Stepin agrees with his opinion and supports that "the standards are based only on the principles of law" (7), as he writes. But relying on principles and calling them principles of international law are essentially different concepts. International standards, especially when it comes to the protection of human rights or the environment, are indeed based on the principles of international law, just like other rights, guidelines and recommendations. Therefore, it is appropriate to distinguish such concepts.

It should be said that the UN International Court of Justice has determined that "principles" and "norms" are essentially the same terms (8). Therefore, principles are norms of international law. It should be understood that the principles represent general, basic rules of international law. Norms of international law do not have such "fundamentalism".

At the moment, the concept of "standard" used in the regulation of international economic relations, including international trade law, is often used to interpret one or another principle and the essence of the established regime.

H. Shchepel, one of the American scholars, considers standardization to be an additional

function compared to traditional regulation, since non-enforceable obligations can be "assessed as a filling tool" for the gap in law, which is justified by the fact that "in today's frequently changing world, the traditional state needs to effectively regulate all areas. states that there is a lack of resources" (9).

This approach is especially noted in legal literature related to new concepts of international law sources. In particular, according to I.M. Lifshits, the regulation of modern trends in the financial sphere indicates the "transition" of the state to the "soft" norms of the international financial standards: "the cooperation of the state bodies of different countries of the world and the participants of the professional associations of the financial market within the framework of international institutions have drawn up recommendation documents is expressed in the control of development, acceptance and implementation" (10). Indeed, modern states "appear as consumers" in the fields of standardization, implementation of international standards and technical regulations. In addition, the author justly notes the attitude of international financial standards to "soft" law. In our view, such approval is fair to other international standards, including trade.

According to the views of a scholar L. I. Belyaeva, "international standards are rules developed on the basis of the conditions of international cooperation of scientists and practitioners, lawyers and pedagogues, doctors and psychologists" (11). As a result, based on the given definition, only rules should be understood under the concept of standards. A list of subjects involved in the creation of standards cannot have any significant content. Indeed, international standards are based on scientific data, but this is only one of the characteristics of such standards.

There are also views according to which the standard is a separate category that differs from norms and principles. It is impossible not to agree with this opinion. International standards are defined differently in the context of the WTO rules doctrine. For example, when V.M. Shumilov talks about the rules of the World Trade Organization, he recognizes principles-standards and principles-methods. Special "principle-methods", "principle-standards" are used as methods of ensuring the implementation of all principles. The principle of economic non-discrimination (or the principle of non-discrimination in trade), the principle of providing greater convenience (the principle of providing a more convenient regime), the principle of providing national treatment, the principle of giving preference. Without such principles, it would be impossible to organize international trade and establish a stable legal discipline" (12).

According to the German doctrine, the categories "standard" and "principle" are equated to each other within the international economy. Standards are defined as the principles that apply in the branches and sectors of international economic law, the essence of which is determined in individual cases based on specific norms (13).

International standards also apply in the field of investment. Their role is to ensure corporate social responsibility by foreign investors (also known as social responsibility investment standards) (14). An example of such an international standard is the Guide to Social Responsibility developed by the International Organization for Standardization – ISO 26000:2010 (15). According to the ISO

website, this document is only a guide and not a requirement.

In particular, social responsibility is understood as the responsibility to society and the environment to influence the organization's decision-making and activities. It promotes sustainable development through transparency and behavior that contributes to the health and well-being of society, takes into account the expected outcomes of stakeholders, is consistent with applicable law, and aligns the law with international standards of ethics. It applies to the activities of all organizations and applies to their mutual relations.

In addition to those above-mentioned, there are other documents that define international standards of liability. For example, among the documents, it is possible to highlight joint ventures with the participation of many countries, the manual of the Organization for Economic Cooperation and Development (OECD), the principles of the tripartite declaration on corporations and social policy with the participation of many countries, the International Labor Organization, the UN Global Compact, etc.

The Organization for Economic Cooperation and Development manual contains recommendations on corporate activities, labor relations, human rights, environmental protection and consumer interests (16). The tripartite declaration of the International Labor Organization "On Principles Relating to Multinational Corporations and Social Policy" covers such areas as employment, vocational training, working and living conditions, and labor relations (17). The UN Global Compact is based on 10 principles in the areas of human rights, labor standards, environment and anti-corruption (18). All named documents establish voluntary international standards.

CONCLUSION

Summarizing the afore-stated ideas, it can be concluded that the concept of "international standard" in the theory of international law is ambiguous. This term refers to both the general convention rules and the rules of etiquette enshrined in technical documents. A comparative analysis of different scientific approaches to the issues of standardization made it possible to determine the differential attitude of social relations to the definition of international standards in different areas. This factor forms a theoretical basis for the study of all the various manifestations of international standards in various fields of international law.

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