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DIPLOMATIC LAW OF INTERNATIONAL ORGANIZATIONS: STRUCTURILIZATION AND ITS PLACE IN THE GENERAL SYSTEM OF INTERNATIONAL LAW

Abstract. This article examines the methodological issues of structuring the diplomatic law of international organizations, its place in the system of international law. The interdisciplinary nature of the diplomatic law of international organizations, its relationship with diplomatic and consular law and the law of international organizations has been disclosed. An emphasis is given to the main features and essential institutions of the diplomatic law of international organizations.

Keywords and expressions: international organizations, diplomatic law, representative offices, interdisciplinary, sub-branch, institutions, convention, treaty, immunities and privileges, accreditation, the UN, the CIS, Uzbekistan.

Аннотация. Ушбу мақолада халқаро ташкилотлар дипломатик ҳуқуқининг структураланиши (тузилиши), унинг умумий халқаро ҳуқуқ тизимидаги ўрни тадқиқ этилган. Халқаро ташкилотлар дипломатик ҳуқуқининг тармоқлараро характери, дипломатик ва консуллик ҳуқуқи ва халқаро ташкилотлар ҳуқуқи билан мутаносиблиги очиқ берилган. Халқаро ташкилотлар дипломатик ҳуқуқининг асосий белгилари ва муҳим институтлари ажратиқ берилган.

Таянч сўзлар ва иборалар: халқаро ташкилотлар, дипломатик ҳуқуқ, ваколатхоналар, тармоқлараро характер, тармоқости, институтлар, конвенция, шартнома, имтиёзлар ва дахлсизликлар, аккредитация, БМТ, МДХ, Ўзбекистон.

Аннотация. В настоящей статье исследованы методологические вопросы структурирования дипломатического права международных организаций, его место в общей системе международного права. Раскрыт межотраслевой характер дипломатического права международных организаций, его соотношение с дипломатическим и консульским правом и правом международных организаций. Выделены основные признаки и существенные институты дипломатического права международных организаций.

Опорные слова и выражения: международные организации, дипломатическое право, представительства, межотраслевой характер, подотрасль, институты, конвенция, договор, иммунитеты и привилегия, аккредитация, ООН, СНГ, Узбекистан.

Since the second half of the XXth century, there has been a steady increase in the role of international organizations in the international system that wields its influence on the solution of complicated problems of mankind. Today, international organizations play an important role in almost all areas of modern international relations, and they are one of the effective means of multilateral cooperation, within which states resolve complex issues of world politics. In this sense, the UN, the SCO, the CIS and a number of other multilateral and regional organizations are in the fairway of the development of modern international relations. In this regard, the President of the Republic of Uzbekistan Sh. M. Mirziyoyev in his speech at the 72nd session of the UN General Assembly noted the followings, "We are convinced that the United Nations should continue to play a central role in international relations" [1], as well as in his speech at a meeting of the Council of CIS Heads of States emphasized that the Commonwealth [of Independent States] has fully proved its relevance and significance'; and that there is a clear understanding of the need for further development and strengthening of the organization, as well as the steadfast increase of its international prestige [2].

International organizations act not only as the "forum" of coordinating the will of states, but also participate as independent actors in various types and forms of international relations. Being an integral part of the international system, international organizations along with states have a significant impact on the course of world development [3, p.46].

One of the defining trends of the foreign policy line of the Republic of Uzbekistan is cooperation with various universal and regional organizations. On this occasion, President of the Republic of Uzbekistan Sh. M. Mirziyoyev rightly notes that "our partnership with the United Nations, the OSCE, the SCO, the Organization of Islamic Cooperation, other authoritative international organizations and financial institutions" has reached a qualitatively new level [4].

As the role of international organizations is getting consolidated in matters of the establishment and development of multi-faceted international relations, the majority of member states have permanent missions under international organizations, and

non-member states (non-member states) have permanent observers thereof [5, p.67]. Representation is considered to be one of the important foreign bodies of foreign relations of states [6, p.377], [7, p.134].

The representation of states at international organizations and the representation of international organizations on the territory of member states is a relatively new institution of international law. Its appearance is explained by the development of international organizations, their transformation into significant centers of international life, the concentration of the knottiest international problems of our time into international organizations [8, p.63].

Currently, permanent missions of states under international organizations have become an extremely important link in diplomatic activities abroad [9, p.246]. A practical example can be given as an evidence of the above mentioned. Well, for example, with the advent of the League of Nations, states began to establish permanent missions with international intergovernmental organizations. The first six permanent missions under the League of Nations were created as early as 1920. In 1936, there were 46 of them in Geneva, with a total of 58 League members [10]. Since the creation of the UN, the number of state representations at international organizations has increased even faster, along with the growing number of international intergovernmental organizations and independent states. By April 1948, 45 of the 57 UN member states had organized their missions, or, as they were called then, permanent delegations [11]. By the end of 1970, 125 of the 127 UN members had permanent missions in New York; only the Gambia and Fiji did not create representative offices [12, p.23]. Today, almost all UN member states - 193 states - have their offices at the United Nations [13].

In connection with the above, we note that already in the 70s and 80s of the XXth century, individual scholars reasonably began to promote the idea of the diplomatic law of international organizations [12], [14]. We also mention that in modern international law, this provision has strong and sturdy positions [15], [16], [17].

At the same time, widespread opinion is that there is only a “dual branch” of diplomatic and consular law [18, p.3]. We cannot agree with the given expression of

a national scientist, Professor G.Yuldasheva and a number of other international lawyers, since the system of diplomatic and consular law includes four sub-branches: diplomatic law, consular law, the law of special missions and diplomatic law of international organizations. Our conclusion is consistent with the doctrine of diplomatic and consular law, and also supported by the words of professor H. Rakhmankulov, that “relations of an international public law nature can be established between states, between states and international organizations, and also between international organizations” [19, p.35]. In addition, we can also note the statement of the Russian researcher I. Chistokhodova, who quite rightly notes that “domestic science of international law does not pay enough attention to aspects related to the representation of states in international intergovernmental organizations, and as for the delegation at international conferences, special missions, specialized missions and representative offices of international intergovernmental organizations in states or under other international intergovernmental organizations, in the national doctrine of international law there is a noticeable gap” [20]. Consequently, it can be regarded that the actuality as well as the presence of the diplomatic law of international organizations is proved.

The diplomatic law of international organizations has a pronounced contiguous character, i.e. it is thought to be interdisciplinary, and applies both to the law of international organizations and diplomatic and consular law, since this sub-branch covers issues of representation of international organizations on the territory of member states, as well as on diplomatic and consular law, since it also covers the representation of states under international organizations.

Consequently, it is possible to note with certainty the interdisciplinary nature of the diplomatic law of international organizations in its application to relations between states and international organizations and international organizations and states, which is an integral part of the law of international organizations and diplomatic and consular law.

Conceptually, we take into account the fact that the representation institute, namely, the representation of states at international organizations and the

representation of international organizations on the territory of the member states, is the central part of the diplomatic law of international organizations.

The institute of representation, having a diplomatic character, differs from the actual diplomatic missions in its functionality. Permanent representation of states in an international organization is “a diplomatic mission, with features determined by the nature of the functions of this body” [21, p.198]. The permanent missions of members and permanent observers or representatives of non-members of an international organization are very similar to the diplomatic missions of states. Both consist of diplomats and have diplomatic ranks and functions. Host States provide all permanent missions with privileges and immunities that are very reminiscent of diplomatic ones [22]. The representation of states in the framework of the diplomatic activities of international organizations and conferences, as noted by the UN International Law Commission, has its own characteristics. A state representative under an international organization is not a representative of his state in the host state, as it is the case with a diplomat accredited to that state. The representative of the state in an international organization represents its state in this organization [23].

With regard to differences in the privileges and immunities of these missions, a distinctive feature of the immunity regulation of UN member states representatives is the lack of direct reference of the diplomatic nature of this immunity, though it is considered as such [24, p.77]. By their nature, the activities of both permanent representatives and observers are of a diplomatic nature, and their status in terms of privileges and immunities has been equated with the status of diplomatic representatives and representatives [25, p.93]. In addition, the Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character of 1975 assumes that the staff of permanent missions at international organizations represent their state at the international organization, and not in the state in which the organization is located. Consequently, on the one hand, the Vienna Convention of 1975 extends to representatives of states at international organizations the traditional norms of diplomatic law enshrined in the Vienna Convention on Diplomatic Relations of 1961, on the other hand, it takes into account

the specificity of the subject-matter of regulation, which consists in regulating relations with international organization, and not with the host state [26, p.33].

The activities of permanent missions of states under international organizations have a number of similarities with the activities of diplomatic missions. Common feature is the basis of their legal status: both of them represent their states in the international arena. The difference between them, if we mention the main one, is as follows:

- The head of diplomatic mission represents his state, as a rule, with one state (in some cases in two and more states), i.e. its activity is aimed primarily at maintaining and developing bilateral relations between sovereign states.
- The Permanent Representative under an international organization acts as a representative of a state under a special international formation, which is a derivative, specific subject of international law - an international intergovernmental organization. Its activity is aimed, first of all, at ensuring the interests of its state at this international organization and promoting the implementation of the goals and principles of this organization, defined by its charter. In other words, it operates mainly within the framework of multilateral diplomacy [11, p.13]

Summarizing, we note that the legal nature of the representation is characterized by the following aspects:

the representation institute is a kind of implementation of the principle of the sovereign equality of states, in that part where states have the absolute right to equal participation in interstate relations and to be represented in international relations;

the representation institute fully implements the principle of representation and participation of states in the activities and functioning of international organizations;

the representation institute is the key tier of the international organization and the represented country, without which there is no way that international organizations can exist;

the representation is the foreign-policy body of a sovereign state;

the representation by status is diplomatic;

due to the fact that a representative office is a foreign-policy body of a sovereign state, any other state, even the state in whose territory the headquarters of the international organization is located, has no right to interfere in its activities;

representation of states at international organizations, though they are inherently diplomatic, cannot fully enjoy the status used by embassies, because their diplomatic nature is peculiar to them due to the fact that they are foreign-policy offices. By their nature, representative offices are accredited under an international organization, i.e. in a derivative subject of international law, and embassies in a state, primary subjects of international law.

Thus, it is possible to conclude that there is a limited character of the status of state representative offices under international organizations.

The international legal nature of representative offices is stipulated by the following:

The status of representative offices is primarily determined by international law, namely the conventions of 1946, 1947, 1969 and 1975. However, this rule is fully implemented only in respect of state representations at international organizations. The status of representative offices of international organizations on the territory of Member States is determined by a bilateral agreement between an international organization and a host country;

Missions enjoy quasi-diplomatic status. Although in their very nature, their status is diplomatic, but in terms of volume, much narrower than the status of diplomatic missions - embassies;

Although the diplomatic law of international organizations is a sub-branch of international law, regulation of status, especially ensuring the security and status of missions and their staff, is more dependent on national law and national institutions and mechanisms, since in the diplomatic law of international organizations, there is no dispute resolution mechanism as provided in the Optional Dispute Resolution Protocol to the Vienna Convention on Diplomatic Relations of 1961.

Conceptually, we note that the state representation at an international organization acts on behalf of the accrediting state, ensures the participation of his

country in the activities of the international organization and its bodies, representing and defending the national interests of his country within the international organization, implements the foreign policy ruling as well as concept of his country within the international organization and most importantly, it carries out operational and permanent communication between the represented state and the international organization, which is the basis of the representation institute.

In connection with what has been said, in our view, the dominant methodology for the formation of diplomatic law of international organizations should be the doctrine of modern international law, its fundamental norms and principles, the inalienable right of states to participate in the activities of international organizations, be represented in the work of its bodies, protect rights, interests and the identity of their representatives.

Accordingly, it can be asserted that a new sub-branch has emerged in the system of public international law - the diplomatic law of international organizations. A new approach to the international legal regulation of international relations between states and international organizations and between international organizations and states should be fixed within the framework of the diplomatic law of international organizations, which will allow codifying international legal norms in this area and ultimately serve the progressive development of norms, principles and legal relations therein.

The characteristics of the diplomatic law of international organizations can be seen in the followings:

It acts as a branch of diplomatic and consular law;

It has an interdisciplinary character - it refers both to diplomatic and consular law, as well as the law of international organizations;

It has its own structure consisting of certain institutions combining certain norms - the institute of state representations at international organizations, the institute of representations of international organizations in member states, the institute of privileges and immunities of representations and representatives of states at international organizations, the institution of privileges and immunities of

representations and representatives of international organizations in Member States, and others;

It has its normative bases in the UN Conventions of 1946 and 1947, the 1975 Vienna Convention and the 1994 Convention;

It has a double legal regulation mechanism, on the one hand, by the norms of international law, and on the other, by the norms of the national legislation of the receiving states.

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