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INTERNATIONAL ORGANIZATIONS OF GLOBAL COMPETENCE IN BANKING AND RELATED LEGAL RELATIONS

ABSTRACT. In this article considers the trends in relations between Ukraine and international financial organizations. In particular, the authors have analysed the cooperation of Ukraine with the European Bank for Reconstruction and Development, the International Monetary Fund and the World Bank.

The main purpose has been drawn conclusions about close cooperation of Ukraine and international financial organizations. The relevance of this work is mindful of the fact that in today's Ukraine isn't protected from the market situation, as it has developed, both for additional economic factors and for political minds. A significant part of the economic potential of the country at the current stage is being realized by the very beginning of this cooperation with international financial and banking organizations. Looking at the current state of the economy of Ukraine, that political instability, as it is already trying to endure a long period, for her life, it is necessary to support such international organizations as the International Monetary Fund, the European Bank for Reconstruction.

There are several approaches to studying the mechanism of functioning of international political relations. On the one hand, there is a state-legal approach, according to which international political relations are relations of nation-states, their diplomatic and military alliances. On the other hand, in recent years it is gaining a political approach, according to which participants in international political relations are not only relations between states, but also other policies - social institutions of the state. During the last international organizations as the best for the world order within certain regions and other countries of the world.

The relationship between international relations and international organizations is structural and logical in nature, since international organizations, according to the formal-legal approach, are the subjects of international relations, as well as the state and international movements. And if the first international organizations were non-political in nature, in the context of the globalized world and the dominant integration processes, it was the political component that began to play a leading role.

KEYWORDS: international finance organization; banking system; globalization; legal relations.

At the heart of the legal nature of international organizations is the existence of common goals and interests. The functions of international organizations can be regulatory, control, operational, etc. They are limited by the scope of their assigned competence. The competence itself is limited by the treaty framework outlined by the participating states in the treaty documents. International organizations are an organizational form of international cooperation. The current system of international organizations numbers more than 4,000, of which more than 300 are intergovernmental. At the heart of this system is the United Nations. The classification of international organizations is diverse and depends on the criteria used.

1. According to the nature of membership and the legal nature of the members of an international organization are divided into interstate (intergovernmental) and non-governmental. Intergovernmental organizations are characterized by state membership, the existence of a constituent international treaty, and permanent bodies. It acts in the interests of the Member States while respecting their sovereignty and is a subject of international law.

2. The circle of participants of intergovernmental organizations, which are divided into universal, open to participation in all regional states (UN and its specialized agencies), and members who may be members of one region.

3. In terms of competence, intergovernmental organizations are divided into organizations of general competence and special competence. The activities of organizational general competence cover all areas of relations between member states: political, economic, social, cultural, etc. (UN, Council of Europe, League of Arab States). Organizations of special competence operate in cooperation in one area (Universal Postal Union, International Labor Organization, World Health Organization, etc.) and are divided into areas of activity – political, economic, social, cultural, scientific, religious.

4. By the nature of their powers, international organizations are divided into interstate and supranational (supranational). The first group includes international organizations that are the implementation of interstate cooperation and decide which are addressed to member states. The purpose of supranational organizations is to achieve integration. Their decisions are extended to natural and legal persons of the Member States. The supranational organization is represented by the European Union (EU).

5. According to the conditions of participation in the members of the international organization are divided into open statistics, in which any public body can have discretion, and closed, where the reception of the initial founders (NATO)¹.

At present, Ukraine is in such a financial and economic situation that only fruitful cooperation with international financial organizations can become

¹ І Балута, 'Аналіз діяльності міжнародних неурядових організацій в умовах глобалізації' (2017) 1 Актуальні проблеми державного управління 106–12.

a real way out, along with tough implementation of reforms. Consider Ukraine's cooperation with the International Monetary Fund.

For almost 70 years, the International Monetary Fund has been an institution for providing funds to countries in dire need. The specificity of the Fund, compared to other international financial organizations, is that in its activities it combines the functions of regulation, financing, supervision and advice of member states in the macroeconomic sphere. This complexity has allowed it to become one of the most important mechanisms of global governance.

In addition to receiving financial income in the form of interest refunds, the Fund also puts forward political conditions for reform, which to some extent reflect the interests of major creditor countries. "Reforms in exchange for loans" has not always been the defining *modus operandi* of the international finance organizations. However, since the late 80's of the last centuries, the political conditionality of loans has become the predominant practice of the Fund².

The globalization of social and economic processes has led to the interchange of national markets, goods and services. Before the services, which have seen the greatest expansion of the financial services of international banks. The international turnover of penny assets is due at the hour of the opening of the financial and monetary financial and credit calculations³.

We can say that at present the history of human development there is an international banking system, which has its own history. The peculiarity of the international banking system is that it was created artificially and it reflected the development of the international system in general.

Among domestic and foreign works on international and banking law, insufficient attention is paid to the study of the development of the international banking system. However, it should be noted that there are works that study the history of the origin and development of the first banks and banking in general in different trade and economic conditions within individual regions and states⁴.

Among researchers in the field of international banking there is no consensus on the emergence of the concept of "bank". According to some researchers, the concept originated from the Italian concept of "bank" – a table for unfolding coins for exchange. According to other researchers, from the French word "banque", which also means table⁵.

To date, the date of the first banks has not been determined. It is believed that the first banking operations were operations to save money. That is, it can be concluded that the earliest transactions included operations on the

² М Антонович, *Міжнародне публічне право: навчальний посібник* (КМ Академія, Алерта 2003) 107.

³ Балута (н 1) 106–12.

⁴ К Борисов, *Международные организации: История создания, структура и деятельность Организации Объединенных Наций* (1967) 17.

⁵ М Баймуратов, *Міжнародне право* (Одіссей 2002) 54.

acceptance and storage of deposits. This function was performed by churches or individuals. Preservation of values was guaranteed by the inviolability of churches, monasteries and temples. At the same time, there were people who lent money at interest (moneylenders). The international banking system existed in Babylon (around the VIII century BC), which already at that time had an idea of banknotes. Also in ancient Greece, the Trapeziums took deposits from the Greeks for storage to make payments at the expense of depositors. In addition, they were also provided with securities, contracts and documents for safekeeping. In ancient Rome there were mensarii and argentarii – bankers. Butchers were the prototype of Greek trepezes, and Argentarians were engaged in taking money for safekeeping (deposits, contributions), providing loans, as well as engaged in transferring money to other cities⁶. This period of international financial development is considered the beginning of international banking. The level of development of banking at that time depended on commodity – cash flows in economic affairs. The modern banking system dates back to the Middle Ages in Italy. At that time, Italy was one of the most famous centers of trade routes, connecting Europe and the East. If we rely on historical sources, we can say that the prototypes of the first modern banks appeared in the fifteenth century. in Genoa (St. George's Bank), Venice and Florence. A bank called Vanco della Piazza de Rialto was established in Venice in 1584. The republic declared a monopoly on banking at the time and banned private individuals from doing so. However, a little later the ban was lifted⁷. At the same time, an accounting system emerged.

Beginning of the seventeenth century. marked by the fact that in Amsterdam (1609), Hamburg (1618) and England (1694) there were similar to Italian banks. That is, we can say that even before the New Age, banks were a special type of business activity in which there was a concentration and distribution of monetary borrowed capital. Banks acted as intermediaries between creditors and borrowers. Initially, banks performed four main tasks (granting loans, making payments, saving money to create capital in the future, issuing checks and banknotes). However, later the whole financial and credit system was formed around the banks. During the period of great geographical discoveries, the national interests of certain countries rose, which contributed to the fact that banking became part of the globalization process of economic relations. in the XVI century. silver and gold began to come from America. As a result, some banks lost their monopoly on it. This contributed to the fact that the scope of banking changed. During the money circulation began to use the functions of banks. Paper money was replaced by metal. Paper money began to be printed in large quantities. This led to the emergence of loans that replaced real money. At that time, the issuance of metal money

⁶ Баймуратов (н 5) 523.

⁷ А Скопин, *Международные организации: учебное пособие* (ГУ ВШЭ 2007) 70.

was appropriate for the state and the church. And banks and credit institutions were interested in issuing credit money, the most famous of which at that time were the Rothschild Banking House, the Morgan Banking House, and so on. A little later, in the XVII century. in Europe, the division of banks began in the areas of services they provided. Thus began the emergence of highly specialized banks (for example, the British Bank for the canvas; the Prussian Bank for Maritime Trade; the Paris Accounting Office; issuing banks, mortgage banks, pawnshops; fat banks, deposit banks)⁸.

The next stage in the development of the international banking system was the exit of bank capital beyond national borders. The range of use of banking operations was expanded in the XIX century. Banking operations have gone beyond the borders of a separate state. At this time, banking had three main areas of action:

1. Supporting the development of industry abroad.
2. Providing loans for foreign trade.
3. Issuance of government loans of foreign countries⁹.

From the very beginning, all banking operations (credit, financial, currency) were controlled through bilateral agreements. However, shortly afterwards, the countries began to conclude multilateral contracts in order to resolve their economic issues. Because of this in the twentieth century. there was a need for international legal regulation of international economic relations. This task was solved within the framework of the Brussels 1921 and Genoese 1922 conferences, the aim of which was to solve economic problems. However, at that time the countries were not ready to form a joint international body to regulate foreign exchange transactions and negotiations did not yield the desired result¹⁰. However, the results of the negotiations and some of the issues raised at these conferences came under international scrutiny. An example of this is the fact that in 1923 a conference on lending was held in Paris¹¹.

An international body for joint controlling in the international banking sector was first established during the opening of the Bank for International Settlements (BIS) in 1930, which covered lending at the time. Its creation was an example of an attempt to solve the problem of multilateral international settlements. The bank was founded under the leadership of six central banks from different countries (Belgium, Great Britain, Germany, Italy, France and Japan) and US banks. The basis for the bank's activities was international law. The bank was located in Switzerland. The main mission of the bank was to create conditions for cooperation of banks of member countries and

⁸ Скопин (н 7) 75.

⁹ А Капустин, *Международные организации в глобализирующемся мире* (Российский ун-т дружбы народов, 2010) 40.

¹⁰ О Кучик, 'Функциональні особливості діяльності міжнародних організацій' (2006) 17 Вісн. Львів. ун-ту. Сер. Міжнар. відносини 102.

¹¹ В Буткевич, В Мицик та інші, *Міжнародне право. Основні галузі* (Львів 2001) 86.

create special conditions for international financial transactions, maintaining international financial stability, coordination of financial markets (Article 3 of the first Statute)¹².

It should be noted that this bank is still the main and most important banking institution on the world stage. The bank began operations in Basel in 1930. Within two years, by 1932, it had been joined by 19 other European member states. The Bank for International Settlements is used not only by central banks, but also by various international financial institutions. A characteristic feature of the bank is that it constantly organizes meetings with member countries and various financial institutions, banks, contacts with the Group of Ten¹³.

At that time in the international banking system there was no experience of joint financial and foreign currency lending operations, it emerged only in the second half of the twentieth century. In the 1930s, the international banking system experienced a crisis related to crises in the world economy and in the monetary sphere. The gold standard collapsed in the 1930s, leading countries to build barriers to trade that were a deterrent to international trade. All this has led to the need to build an international monetary system that would reproduce the existing political and economic situation. In order to develop the world monetary system in 1944, a congress of allied countries was convened in the United States. It aimed to create an international organization that would perform the functions of controlling the world monetary system, to curb the balance of payments deficit. Thus, two organizations emerged, the purpose of which was to provide loans to member countries of credit organizations during the formation of the payment deficit in the countries and the support of the national currency. These organizations were the International Monetary Fund (IMF) in 1945 and the International Bank for Reconstruction and Development (IBRD). The IMF's primary task was to create a truly viable monetary system.

Currently, the IMF is an organization that occupies a special place in the UN. The International Monetary Fund solves issues of international cooperation in finance, maintains the stability of the national currency of each member country, in case of temporary imbalances in member countries provides short-term loans to cover this deficit, provides advisory services on monetary and financial issues¹⁴.

The World Bank (or, alternatively, the World Bank Group) is an intergovernmental monetary and credit organization, which includes 188 countries. The World Bank acts as a global investment regulator. The main tasks of the World Bank are:

¹² О Кучик (ред), *Міжнародні організації: навчальний посібник* (Знання 2005) 194.

¹³ Там само 29.

¹⁴ М Мальський, Ю Мороз (ред), *Український дипломатичний словник* (Знання 2011) 188.

1. Providing countries – participants in long-term loans and borrowings to support the economies of states.
2. Participation in foreign investments and attracting foreign investment.
3. Support of international trade.
4. Support of balances of payments of the participating countries¹⁵.

Today the World Bank includes the following organizations:

1. International Bank for Reconstruction and Development (IBRD).
2. International Development Association (IDA), established in 1960 to provide soft loans to member countries that can't take loans from the World Bank.
3. International Finance Corporation (IFC), established in 1965 to provide assistance to the private sector¹⁶.
4. International Investment Guarantee Agency (IAGI), established in 1988 to provide guarantees to foreign investors against losses and investment risks¹⁷.
5. International Center for the Settlement of Investment Disputes (ICSID), established in 1966 to resolve disputes between governments and foreign investors¹⁸.

Each of these organizations, on the one hand, performs the role of an independent international organization, and on the other hand, is subordinate and part of the World Bank¹⁹.

At the next stage of development of the international banking system began to create international regional banks. The European Investment Bank (EIB) was the first international regional bank to be established in 1958 by the member states of the European Union. The purpose of this bank is to attract investment in the functioning and development of countries participating in the development of a common international market²⁰. Funds in the European Investment Bank are raised through the issuance of bonds. The funds are invested in general in transport development, energy development, information development and communications.

In the XX century also created many international monetary organizations, which include:

1. International Bank for Economic Cooperation (IECB), established in 1964, which included member countries – Bulgaria, Hungary, the GDR, Mongolia, Poland, Romania, the USSR, Czechoslovakia and Cuba. The main area of activity of the bank is the financing of foreign trade and servicing counterparties, primarily member countries of the bank.

¹⁵ А Кутейников, *Международные межправительственные организации. Теоретико-социологический анализ* (Издательский дом Санкт-Петербургского государственного университета 2012) 345.

¹⁶ Кутейников (н 15) 175.

¹⁷ Archer Clive, *International Organizations* (3rd edn, Routledge 2001)

¹⁸ Кутейников (н 15) 8.

¹⁹ А Мокій, Т Яхно, І Бабець, *Міжнародні організації* (Центр учбової літератури) 352.

²⁰ С Іванов, К Клименко, 'Співробітництво України та ЄБРР: тенденції розвитку' (2016) 3 Наукові праці НДФІ 5–23.

2. International Investment Bank (IIB), founded in 1970 to ensure the development and economic cooperation of socialist countries. The Bank is an open organization, of which any country may become a member, which will adhere to the Agreement on the Establishment of the Bank and the Charter of the Bank.

3. The European Bank for Reconstruction and Development (EBRD), established in 1991 to help strengthen the market economy in Central and Eastern Europe. The bank is characterized by supporting private entrepreneurs. The bank will receive investments from individual companies directly and indirectly to strengthen financial institutions, reorganize the bank's structure²¹.

4. Black Sea Trade and Development Bank (BSEC), established in 1994 by the Black Sea countries (Azerbaijan, Albania, Bulgaria, Armenia, Greece, Moldova, Russia, Romania, Turkey and Ukraine) to strengthen economic cooperation between the Black Sea countries. The Bank addresses issues related to maritime and land transport, agriculture, trade, industry and the energy sector, etc.

The structure of international regulation of credit and financial relations has changed due to the collapse of the colonial system and the emergence of a large number of independent states. Young sovereign countries sought to carry out industrialization. The idea of industrialization also spread to Latin American countries. The idea of industrialization required money that the International Monetary Fund and the International Bank for Reconstruction and Development could not find in full. Regional development banks have been set up to address this issue.

The reasons for the emergence of regional development banks include the following:

1. The need to address specific regional issues that may not always be taken into account by the International Monetary Fund and the International Bank for Reconstruction and Development.

2. Regional policy of industrialized countries aimed at the development of countries under their influence.

3. The collapse of the colonial system and the emergence of a large number of independent countries.

4. The struggle between countries for a new economic order.

5. Development of regional cooperation and economic integration of developing countries.

6. The relocation of the main flows of foreign private investment in industrialized countries, it leads to their replacement in developing countries, public or international foreign investment²².

²¹ К Клименко, С Іванов, 'Співробітництво Європейського банку реконструкції та розвитку з окремими країнами європейського та азійського регіонів' (2016) 11 Фінанси України 55.

²² Буткевич, Мицик (н 11) 161–3.

Regional development banks began to appear in the early 60's of the twentieth century. They include:

1. Inter-American Development Bank (IDBA), established in 1959, the purpose of which was to create conditions for socio-economic development in Latin America and the Caribbean.

2. African Development Bank (AFBD), established in 1963 through the recommendations of the Economic Commission for Asia.

3. Asian Development Bank (ADB), which emerged in 1965 through the recommendations of the Economic Commission for Asia and the Far East to promote economic and social development of Asia and the Far East²³.

Regional development banks operate in specific economic regions and aim at goals that are driven by the needs of developing countries. They have similar goals – the development of the economy of a particular region, the same type of formation of liabilities, one form of government, the same type of objects of management (agriculture, industry, infrastructure). However, they also have differences in the level of economic development of countries on different continents: Asia, Africa and Latin America. An important feature of such banks is the participation of developed countries, not only developing countries²⁴.

The next stage in the development of the international banking system was the allocation of interregional development banks. Unlike regional development banks, interregional development banks have a number of very special and unique features.

Characteristic features of interregional banks:

1. Functioning within individual groups.
2. Contribute to the improvement of cooperation between the states of different regions.
3. Cooperate with regional banks and play the role of their borrowers²⁵.

Among the interregional banks are:

1. Arab-African International Bank.
2. Islamic Development Bank.
3. Central American Bank for Economic Integration.
4. Arab-Latin American Bank.
5. Caribbean Development Bank.
6. Arab Bank for Economic Development of Africa.
7. Arab Fund for Economic and Social Development.
8. Andean Development Corporation²⁶.

²³ Кучик (н 12) 153.

²⁴ Мальський, Мороз (н 14) 59.

²⁵ Там само 325.

²⁶ Г Морозов, *Международные организации. Некоторые вопросы теории* (2-е изд, Мысль 1974) 112.

A common feature of regional banks is that they create specific funds to increase soft loans unprofitable, but necessary for the overall development of socio-economic infrastructure.

In addition to international banks, banking organizations also include international development funds, interregional and international monetary and investment funds. The modern international banking system includes not only international banking organizations, but also non-governmental international organizations and para-organizations that do not have the status of objects of international banking law. These organizations are implementing new standards, requirements and technologies in banks. These include the Interbank Financial Telecommunications Society (SWIFT), the Paris and London Creditors' Clubs, the Group of Seven, and the FATF.

Thanks to cooperation with many banks, our country is trying to integrate into the global international banking system²⁷.

In the international arena, the number of actors in the international monetary and banking systems is increasing, and their influence on the economies of different countries is also spreading.

The international banking system contributes to the fight against international crime and international security. This is evidenced by the fight against money laundering and the application of international legal sanctions.

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²⁷ Мальський, Мороз (н 14) 316.

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МІЖНАРОДНІ ОРГАНІЗАЦІЇ З ГЛОБАЛЬНОЮ КОМПЕТЕНЦІЄЮ У БАНКІВСЬКІЙ СФЕРІ ТА СУМЕЖНИХ ПРАВОВИХ ВІДНОСИНАХ

АНОТАЦІЯ. У статті розглядаються тенденції у відносинах України з міжнародними фінансовими організаціями. Зокрема, авторка проаналізувала співпрацю України з Європейським банком реконструкції та розвитку, Міжнародним валютним фондом і Світовим банком.

Основний задум полягав у тому, щоб сформулювати висновки про тісну співпрацю України з міжнародними фінансовими організаціями. Актуальність зумовлена тим, що сьогодні Україна не захищена від ситуації на ринку, яка склалася, одночасно як за додатковими економічними факторами, так і за політичними умовами. Значна частина економічного потенціалу країни на сучасному етапі реалізується вже з самого початку такої співпраці з міжнародними фінансовими та банківськими організаціями. Зважаючи на нинішній стан економіки України, на політичну нестабільність, яку вона намагається пережити тривалий період, протягом усього її існування, необхідною є підтримка таких міжнародних організацій, як Міжнародний валютний фонд, Європейський банк реконструкції та розвитку.

Існує кілька підходів до вивчення механізму функціонування міжнародних політичних відносин. З одного боку, існує державно-правовий підхід, згідно з яким міжнародні політичні відносини – це відносини національних держав, їх дипломатичних і військових союзів. З другого боку, останнім часом набирає прихильників політичний підхід, згідно з яким учасниками міжнародних політичних відносин є не тільки відносини між державами, а й інші політико-соціальні інститути держави. Останнім часом це міжнародні організації як найкращі для світового порядку в окремих регіонах, так і інших країнах світу.

Зв'язок між міжнародними відносинами та міжнародними організаціями має структурно-логічний характер, оскільки міжнародні організації, згідно з формально-юридичним підходом, є суб'єктами міжнародних відносин, так само як держава та міжнародні рухи. І якщо перші міжнародні організації мали не політичний характер, то в умовах глобалізованого світу та домінуючих інтеграційних процесів саме політична складова стала відігравати провідну роль.

Ключові слова: міжнародна фінансова організація; банківська система; глобалізація; правові відносини.