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History, current state and prospects of development of international financial law

La historia, el estado actual y las perspectivas del desarrollo del derecho financiero internacional

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Abstract

The article examines different concepts of international financial law, its role in maintaining order in the world financial system. The author examines the connection between international financial law and other regulators in the international financial system: private international law, national law. The international financial system as a complex phenomenon comprises various groups of interconnected social relations related to cross-border capital flow. The international financial relations involve direct interrelations between public legal bodies, while the private bodies are involved only in terms of national jurisdictions where domestic law or international private law (if the foreign element appears in these relations) are enforced. The influence of international financial law on private bodies is indirect and is enforced only through the influence on domestic law of States. Today, the concept of public finance is added up with the criterion of the public interest that dictates the necessity of State legal public regulation in such spheres as banking, securities market and insurance. The key qualification criterion of international financial relations is the maintenance of public economic order aiming at secure functioning of national financial systems and international financial system as a whole through international cooperation.

Palabras clave: international financial law, finance, financial system, international law, international finance.

Resumen

El artículo examina los diferentes conceptos de derecho financiero internacional, su papel en el mantenimiento del orden en el sistema financiero mundial. El autor examina la conexión entre el derecho financiero internacional y otros reguladores en el sistema financiero internacional: el derecho internacional privado, derecho nacional. El sistema financiero internacional, como un fenómeno complejo, abarca diferentes tipos de relaciones sociales, las cuales pueden ser divididas en dos grandes grupos. El primer grupo son las relaciones establecidas entre sujetos de derecho público, es decir entre Estados y organizaciones internacionales vinculadas por los regímenes jurídicos internos, en los cuales toman parte personas, entidades jurídicas y propiedad extranjera. El segundo grupo son las relaciones derivadas tanto de los movimientos financieros transfronterizos, así como de personas naturales y jurídicas, cuando los residentes y propiedad nacional se encuentran en jurisdicciones extranjeras. La influencia del derecho financiero internacional sobre organismos privados es indirecta y se aplica sólo a través de la influencia en el derecho interno de los Estados. Hoy día, el concepto de las finanzas públicas se añade con el criterio del interés público que dicta la necesidad de la regulación del Estado en esferas tales como la banca, los mercados de valores y de seguros. Un criterio restrictivo clave que debe ser tenido en cuenta para regular las relaciones financieras internacionales consiste en la cooperación entre Estados para garantizar el orden económico público, destinado a mantener el funcionamiento seguro de los sistemas financieros nacionales y el sistema financiero internacional en su conjunto.

Keywords: derecho financiero internacional, finanzas, sistema financiero, derecho internacional, finanzas internacionales.

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I. INTRODUCTION

While only the first decade of the XXI century is over, this short period of time was enough to bring intensified globalization processes to the significant transformation of the world financial system architecture.

The international financial system that had been developed by the second half of the last century failed to further meet the society needs, and due to its unipolar character imposed risks both to the world economy as a whole and to the sovereign national economies.

Since the 70s of the XX century, the monopoly role of the dollar as the world reserve currency weakens. At the same time, the economic potential of the European States not only grows, but also enhances the national currencies exchange rates stabilization. The national currencies are used in international transactions more and more often.

In the XXI century, the introduction of the first supranational currency Euro became a main evidence of the world financial system evolution. Before Euro, interaction had been carried out only on the national currencies level. Introduction of Euro resulted in changes in national legal systems of the European countries, and in international legal regulations implementation. The mentioned processes influenced not only currency legislation, but also regulations in budget, taxation and investment relations.

It is worth mentioning that at the turn of the XX century, the integration economic processes also intensify in other parts of the world: the Eurasian Economic Community (EurAsEC) is established at the post-soviet territory; North American Free Trade Agreement (NAFTA) acts in the Western Hemisphere; on the basis of The Customs and Economic Union of Central Africa – the corresponding economic community acts; Asian States undertake real actions towards establishing a regional currency union.

Along with the existing world financial centers in London, New-York, Zurich and Geneva a role of new marketplaces in Hongkong, Dubai and Singapur strengthens. The world order is not unipolar any longer.

Global financial crisis of the end of this century first decade showed inefficiency of the existing legal tools, and necessitated their refinement. Transformation of the international financial system caused renewal of the national legislations connected to financial relations regulation in many countries and also resulted in reconsidering approaches of such regulation. Genesis of the current foreign legislation evidences a new tendency, namely strengthening of governmental regulating of economics, and redistribution of functions between financial controlling and supervising bodies.

Thus, Dodd-Frank Wall Street Reform and Consumer Protection Act (The Dodd - Frank Act) has been enacted in the USA on July 21, 2010, and the bills aiming at giving new life to the Glass-Steagall Act (The Banking Act of 1933) have been submitted to the Congress in April and July, 2011.

The calls for the necessity of reforming The Financial Services Authority (FSA) and moving its financial sector surveillance functions to The Bank of England appear in the Great Britain more and more often. At the same time, Russia plans to consolidate investment and banking surveillance under one governmental facility, i.e. Bank of Russia.

On the international level, the world financial crisis enhanced the development of new international regulation principles of banks supervision - Basel III (Third Basel Accord). These principles are meant to address the internal and external deficiencies (risks) of the national bank systems, including macroeconomic and institutional factors, and to take into account stability of all financial market segments.

In order to solve the sovereign-debt problem, The European Financial Stability Facility (EFSF) is established. And, finally The European Central Bank (ECB) has been empowered to supervise euro zone banks in 2013.

The above tendencies together with openness of economic borders caused the evolution of the State sovereignty notion. Liberalization of investment legislation and introduction of foreign investors to the

national jurisdiction require refinement of financial safety and surveillance tools both on the private companies level, and on the level of the national financial systems.

No doubt, Russia having the ambitious aim of setting up an international financial centre in Moscow and improving its investment climate cannot avoid the global processes connected to legal regulation of the financial relations.

II. INTERNATIONAL FINANCIAL SYSTEM AND THE LAW

As a complex phenomenon, the international financial system comprises various groups of interconnected social relations related to cross-border capital flow. These relations emerge as a result of bank systems and world financial market functioning, international payment and currency operations activities, investment projects development, and also under the frame of credit relations and sovereign-debts settlement.

The abovementioned social relations groups of private and public legislation, of both domestic and inter-State character are tightly interconnected, but at the same time, they are regulated by the specific legislative tools. Due to the fact, that the international financial system involves versatile relations these tools are influenced by both national and international legislations (both private and public).

One of the biggest legal superstructures of the international financial system is the phenomenon that is defined as international financial law in various legal systems. Since the end of XIX century, this jurisprudence term has been used when characterizing the financial relations emerging at the international level, and at the level of private bodies including those with a foreign element.

Some of the concepts of international financial law are rather contradictory in terms of defining its subject matter and position within the legal system; this is not least because of various meanings of the term "finance".

The first concepts of international financial law are based on law of public finance, which originates from Cameralistics science.

It is widely accepted by the authors of legal literature, that finance (public) —is the economic relations that result in managing financial resources of the State and other public legal institutions, in redistribution of the public product, and in society needs fulfillment control (Karaseva, 1997, p. 78).

Encyclopedic definition of the State (public) finance provides the following: it is a system of monetary relations connected with allocating and use of funds required by State functioning (Bernard (Ed.), 1996).

There is another definition of finance which is used as a synonym of the word “money” when characterizing monetary relations. For example, bank, investment and insurance relations are of monetary character; however, relating them to the domestic financial law category is still disputable in Russian legal science.

It is worthwhile to provide a brief historic overview of international financial law concepts proposed by scientists of different countries, and its role in maintaining rule of law in the international financial system.

III. SOME FOREIGN APPROACHES TO THE INTERNATIONAL FINANCIAL LAW STUDY

Legal science studying international finance has emerged between XIX and XX century under the influence of the augmented integration processes.

In 1899, a book by A. Garelli, *The International Tax Law*, is published in Italy, the general part of the book is titled “La scienza della finanza internazionale tributaria”, that translates as “International Financial Tax Science”.

The first paragraph of the *Ragioni economiche e finanziarie del sorgere tardivo del diritto internazionale finanziario* (*Economic and Financial Reasons*

of *Late Emergence of International Financial Law*) represents the author's effort to set up the basis for the new branch of the international public law - financial law. The effort is based on the complex approach encompassing economic and legal analysis of the subject under study.

A. Garelli names the migration processes growth accompanied with the capital flow of the second half of the XIX century as one of the economic conditions of the international financial law emergence. The author's main focus lies on double taxation (Garelli, 1899, p. 2).

A. Garelli notices that the international legal acts of the financial sphere are close in nature to the domestic financial legislation; at the same time, the scholar points out the discrepancy between the international financial relations principles and national interests of the individual States (Garelli, 1899, pp. 2-6).

Despite the fact that the main part of Garelli's work *The International Tax Law* dwells on the international legal aspects of taxation (national and international legal bills in this sphere, unification of tax legislation, various types of taxes), its true value is in covering such fundamental problems as State sovereignty evolution under the international law influence, national legislation and international legal bills correlation, categories of residency and citizenship for the taxation purposes.

It ought to be noted, that considering taxation as a principle element of the international financial relations is also common for other scholars: Professor of Comparative Legislation from the Lozanne University, E. Lehr (1897, p. 428), and later, German lawyer E. Isay (1934, p. 3), and French law scholars J-P. Niboyer (1946, p. 28) and M. Chretien (1955).

In 1907, a work by Dutch author A. Van Daehne Van Varick, *The International Financial Law Before the Hague Conference*, comes out. The book outlines principle provisions of international debt law. The book contains a number of practical recommendations on developing international tools of protecting funds borrowed by the foreign States, international arbitrage functioning, and combating bankruptcy of the sovereign States.

A. Van Daehne Van Varick (1907) distinguishes between national and international aspects of the legal regulation of the State debts, and names two key obstacles that hinder the development of international framework for settling debt problems that are still challenging to some extent in the present day: *theoretical that is connected to the notion of State sovereignty, and practical that is connected to the USA policy* (p. 7).

As an outcome of the second Hague conference of 1907, a total of 13 Conventions have been signed, and they form the basis of the international humanitarian law. One of the Conventions addresses the international debt relations settlement. This is the Convention Respecting the Limitation of the Employment of Force for Recovery of Contract Debts (The Hague, October 18, 1907) that sets the principle of not using diplomatic or armed force by the foreign Governments for the recovery of debts of another country and its citizens. This Convention of 1907 is also called Drago-Porter Convention after the representatives from Argentina and the USA, L. M. Drago and H. Porter, whose ideas have provided the basis for the Convention.

The principle of non-use of force for public debts recovery has been firstly declared by Argentinean lawyer and diplomat C. Calvo in 1868. This principle has been used in the context of numerous interventions of the European States in Latin American countries, and later the concept has been developed by Argentinean Minister of Foreign Affairs, L. M. Drago.

On December 29, 1902, L. M. Drago writes a letter to Argentinean Ambassador regarding the armed conflict in Venezuela where he states: *A State debt cannot be a reason for armed intervention or, more so for occupation of the American nations territories by the European power* (Wyshinskiy (Ed.), 1948). A number of works by L. M. Drago that are devoted to international law provide the rationale for this principle (Drago, 1907; Drago & Vivot, 1911).

The approach that relates State debts to the subject matter of international financial law is provided in the book by German-American economist A. Manes «Sovereign Defaults, Economic and Legal Aspects»

(1922) and in some works of contemporary researches (Campos Navarro, 2000; Bailliet, 2011; Beauchesne, 2013).

Austro-Hungarian scientist, G. Lippert was one of the first researches who attempted to propose extended interpretation of international financial law as an individual branch of international public law and systematized legislative rules regulating international financial relations.

In this regard, his book *International Financial Law. Systemic Summary of International Financial Rules* should be mentioned. The book offers extended interpretation of international financial law: the author refers all legislation rules regulating financial relations between States to international financial law (Lippert, 1912, p. 11).

The analysis of the abovementioned work shows lack of clearly defined position of the author in terms of the essence of international financial law that is caused by the absence of the clear-cut definition of domestic financial law.

A conclusion can be made that the genesis of the international financial-legal science has been influenced by the public finance doctrine of the end of the XIX –beginning of the XX century, when the researchers have been focused on the international legal aspects of the budgetary and tax relations mainly.

In the second half of the XX century, the science about international finance is developing more dynamically, new interesting studies with the emphasis being shifted to the international financial organizations and currency relations start to appear. This can be explained by the establishment of a number of international financial organizations after the WWII: The International Monetary Fund (IMF), The International Bank for Reconstruction and Development (IBRD), The Council for Mutual Economic Assistance (COMECON), and by transition to the multilateral regulating of international financial relations.

The issues of the legal status and activities of the above international facilities draw attention of both international and Soviet scientists. Two in-

dependent schools develop simultaneously, i. e. Socialist and bourgeois schools. It is interesting, that the dividing line of the two schools lies not in the scientific, but in the ideology field, which is proved by numerous common problems discussed in works by the authors of both schools.

In order to prove the above statement, we can mention an article by Hungarian scientist I. Szaszy (1977) "Collision of Legal Rules in the Sphere of International Financial Law". Based on the analysis of Western and Soviet studies, the article points out alike most disputable aspects of international financial law, *i. e.*: its place in the legal system (relation to the international public and private law), its subject matter, sources, and subjects of law.

Representatives of the Hungarian scientific school have made a great impact on the international legal science development. Additionally to I. Szászy, scientists T. Nagy and I. Meznerics also represent the Hungarian school.

T. Nagy (1960) defines international financial law as a part of the international public law that regulates relations between States financial systems, and financial aspects of the UN functioning, as well as functioning of other inter-State organizations, financial relations between such organizations and States (pp. 472-479).

In his works, I. Meznerics (1969, p. 397; 1979, p. 505) advocates broad interpretation of the international financial law subject matter, which according to his opinion, encompasses international taxation, customs, payment and currency relations, as well as functioning of the international financial organizations.

The undoubted value of the Hungarian school works on international financial law is detailed development of general provisions of the branch. Hungarian lawyers attempted to reason the independent original scientific concept of international financial law, and paid special attention to the subject matter and methodology of this legal branch.

A next significant stage of the international financial law science development falls onto the 80-90ies of the XX century. At this time, new works start to appear (mainly abroad) that dwell on the new approach to the branch. The new approach establishes a prevailing role of the relations connected to funds flow in international financial system with international legal aspects of banking and financial markets activities being the cornerstone of such relations.

One of such works is a book *International Financial Law* by Professor R. S. Rendell. According to Professor Rendell (1980), international financial law is a combination of the private and public legal relations connected to the international capital flow; the significant role of these relations belongs to international currency and financial and credit organizations and institutions (p. 5).

J. Benjamin's (2007) point of view provides that the financial legal regulation covers insurance relations, derivative financial instruments circulation, banking regulation, capital markets regulation, and investment regulation (pp. 4-5).

The akin position is advocated by H. S. Scott (2008), who studies international legal aspects of financial markets functioning (banking, securities) with the example of the USA, EU and Japan, and also off-shore jurisdictions in his book *International Finance: Law and Regulation*.

Professor C. Brummer (2011) also studies functioning of financial markets, risks and market discipline, international financial organizations, bank regulation and surveillance, money laundering combating, influence of soft law to international financial law, inter-State and international cooperation in investment protection in his work *How International Financial Law Works (and how it doesn't)*.

The like structure of international financial law is represented in the article by R. H. Weber and D. W. Arner (2007) "Toward a New Design For International Financial Regulation".

The authors define the international financial regulation as governmental regulating of organizations and private persons economic activities through developing rules and standards for their functioning. According to the scientists, this regulation should prevent and lower business risks, including insolvency risks, credit, investment and market risks (Weber & Arner, 2007, pp. 391- 453).

In his works *Dalhuisen on International Commercial, Financial and Trade Law*, Professor J. H. Dalhuisen (2004) considers international financial law as closely connected to the international commercial and trade law. The author studies legislation evolution in the USA and Europe in post-crisis period in the sphere of legal regulation of the financial products and services, functioning of the existing commercial and investment banks, and financial risks.

The common criterion of all above-mentioned works is the acceptance of the prevailing role of the relations, connected to the financial market functioning assurance (in board meaning) in the subject matter of international financial law. The international financial law is mainly considered as a complex branch of law; however, there are also supporters of the pure private law concept.

Thus, British Professor C. Bamford (2011) considers international financial relations to be a part of international private law, and offers his own original structure of the study program that consists of the following parts: monetary relations, intangible assets, international bond market, fiduciary obligations, credit relations, financial security, and financial contracts (p. 3).

Such approach that levels down the State role in the international financial relations seems to be significantly underdeveloped. In spite of the fact that the financial relations are closely interconnected with civil legal relations, it is inappropriate to equal them.

In our opinion, the role of international private law in regulating public relations that emerge in international financial system is as follows: when a foreign element appears in legal relations (or when national

things and persons participate in the legal relations on the territory of the other States), we have competing jurisdictions of domestic laws of two and more States. As it is known, this collision is solved by a special part of domestic law, i. e. international private law.

Thus, the international financial law is not the only regulator of the international financial system. As it has been mentioned before, the complexity of public relations emerging within the financial system conditions regulation of these relations by both international and domestic law.

IV. SOVIET PERIOD OF THE INTERNATIONAL FINANCIAL LAW SCIENCE DEVELOPMENT AND CONTEMPORARY RUSSIAN CONCEPTS

In 1949, an intergovernmental economic organization, the Council for Mutual Economic Assistance (COMECON) was founded by a resolution of the Economic Conference of the representatives from Bulgaria, Hungary, Poland, Romania, USSR and Czechoslovakia. In 1964, a system of multilateral payments was launched between the member States of this organization.

Speeding up of the economy internationalization processes caused legislation evolution both on domestic and international levels, and irrevocably brought to focus the significance of international legal aspect of the financial relations.

Professor E. A. Rovinskiy was one of the first Soviet scientists who started to study problems of international financial law.

In 1965, the magazine *Soviet State and Law* published his article "International Financial Relations and Legal Regulation". The article focused on the specifics of international financial relations. The article "About the Subject Matter of International Financial Law" was published two years later, and became a logical development of the above article.

The author offered to include financial, credit, payments and currency relations to the international financial relations (Rovinskiy, 1965, pp. 60-68).

Despite the fact, that the scientific works of the Soviet period are affected by the socialist ideology which is expressed through distinguishing between two branches of international financial law (socialist and bourgeois), many problems raised in the above articles are timeless.

Based on the analysis of the abovementioned articles we can outline the following characteristics of the public relations that constitute the subject matter of international financial law:

- 1) a uniform object for all kinds of the financial relations, i.e. money or monetary obligations;
- 2) emergence of these relations because of the State foreign affairs, while fulfilling the State external functions and tasks, or at the appearance of monetary liabilities between citizens or legal bodies of different States;
- 3) the inter-State character of the relations that is conditioned by the relations realization through the domestic governmental institutions competencies connected to the State financial activities, and its financial and credit institutions;
- 4) putting financial liabilities caused by inter-State financial relations to the national governmental budgets, State balances of payments and other State financial acts;
- 5) dependence of these relations on the State national income, direct or indirect influence on its distribution and redistribution.

E.A. Rovinskiy (1967) thinks that it is necessary to structure the international financial law on the analogy of domestic financial law by developing corresponding sub-sectors, institutions, rules, and offered his own classification of the international financial relations, identified their specifics, insisted on the necessity to acknowledge the international financial law as an individual branch, and also invoked the academic community to discuss its nature (pp. 3-33).

We can suppose that the author was inclined to consider the international financial law to be a complex formation that included rules of the international public and private law.

The article by E. A. Rovinskiy "International financial relations and their legal regulations" aroused interest among the academic lawyers of the Socialist countries and stimulated further scientific discussion.

In 1967, *Soviet State and Law* magazine published three articles by the scientists from the Social countries (Vachev, Veralskiy & Nagy), the articles were published under one title «The emergence and development of the international financial relations». In general, the authors supported E. A. Rovinskiy's concept of the international financial law, however, they proposed a number of clarifications.

Thus, M. Veralskiy offered an expanded definition of the international financial law subject matter by adding insurance and tax relations to international budget and monetary-credit relations (Vachev, Veralskiy & Nagy, 1967, p. 64).

The Hungarian scientist T. Nagy advocated the necessity to study the international financial law as an individual branch of the international public law, a set of rules that regulate financial relations between the States, and also finances of the international organizations (Vachev, Veralskiy & Nagy, 1967, p. 65).

N. Vachev, a law academician from Bulgaria outlined two groups of international financial relations: 1) those emerging at the contest and cooperation between States and regulated by international public law; 2) those emerging between a State and physical or legal persons, or between physical and legal persons if such relations interfere with sovereignty of two or more States (Vachev, Veralskiy & Nagy, 1967, p. 68).

The problems of international financial law are also studied in the works of another famous law academician V. I. Lisovski. His book *International Trade and Financial Law* (1974) contains the whole section devoted to international financial law, where the following problems are studied: subject matter and source of international financial law, its history, legal status of the international financial organizations, international currency relations, financial aspects of the international contracts and aid agreements, legal aspects of the international organi-

zations funds and financial control of their activity, legal aspects of the financial responsibility for breach of the international liabilities.

V. I. Lisovski (1974) wrote: "Unlike domestic financial law, international financial law has coordinating but not subordinating character, as the parties of the latter are the States, and the relations between States should be built not on the hierarchy principle but on the principles of parity and mutual interests accommodation" (pp. 134-135).

According to V. I. Lisovski (1966) the international financial relations are the variety of the international economic relations. As one of the main characteristics of the international financial law, the scientist names its close connection both to international public law and international private law, and he also acknowledges the inter-State character of the international financial relations (p. 370).

It is worth mentioning that sometimes a subject of the legal regulation of the international financial law was wrongfully narrowed in Russian legal literature, i.e. the branch was equated with international currency law. In particular, such approach was characteristic of the work by A. B. Altshuler (1984) *International Currency Law*, where the author describes international currency law as a young science which is at the intersection of international public law, international private law, civic, governmental, financial law, and also economic and other social studies.

The study subject of A. B. Altshuler comprises organization and functioning of international currency system (socialistic and capitalistic), international financial organization activities, legal basis of international payments and credits. The author defines legal relations that are regulated by the international currency law as currency-financial relations.

Such approach is based on the concept of the complex legal regulation of the international financial relations and is characterized by the usage of international public law on the one hand, and rules of civil, public, financial and administrative law (mainly, currency law) on the other hand (Altshuler, 1984, pp. 48-49).

It ought to be noted, that the international financial relations have not been studied deeply at the Soviet period and the abovementioned works are fundamental for the international-legal financial science of that time. The role of financial law has been wrongfully undervalued during Soviet period due to administrative-control management of the country economy. The international financial law study program has been taught only in a few Universities, at the Departments of the international legal studies.

However, in the 90ies of the last century, the position of Russia in the international financial system has strengthened due to participation of Russia in many international financial organizations (World Bank of Reconstruction and Development, European Bank of Reconstruction and Development, Paris and London Clubs, G-8, etc.). At that time, new studies in the sphere of international financial law started to appear.

A work by V. M. Shumilov (2005), *International Financial Law*, should be mentioned among the works by current Russian researchers, as well as a textbook with the same title by G. V. Petrova (2009).

V. M. Shumilov (2005) includes two groups of relations into the subject matter of international financial law: relations between States, international organizations in terms of cross-borders funds flow, and between public bodies in terms of domestic legal regimes that regulate financial resources and private operators functioning. The author considers this formation as public law, i.e. a sub-branch of international economic law (pp. 48-49).

The author of this work absolutely agrees with such approach for the following reasons. Historically, the international financial law is based on the concept of public finances which has been altering and developing through time. That is why, the relations that develop on the inter-State level with interaction of the national financial systems (budget, currency, credit, etc.), and relations on the level of the international organizations connected to funds flow are singled out in the international financial law subject matter.

CONCLUSIONS

Development and diversification of the economic relations regardless the prevalence of private bodies in them ground the necessity of the State regulation and sometimes international legal regulation. This is connected to the level of integration of such bodies into the national and international financial systems, as well as to the risk level induced by their global functioning.

The activities of credit, investment, and insurance companies have a set of common specific features: first, they are connected with funds allocation and providing financial services; second, they are connected to risk; third, these activities are regulated in market economy through developing their principles and rules to lower risks and maintaining public economic order.

Today, the concept of public finance is added up with the criterion of the public interest that dictates the necessity of State legal public regulation in such spheres as banking, securities market, and insurance. When such regulation acquires international legal features, it refers to international financial law (such approach to the international financial law definition has been also offered by the scientists R. H. Veber and D.U. Arner).

It appears that the category of “public economy order” should be used as the systemic criterion for defining the subject matter of international financial law.

Until now, a uniform approach to understanding international financial law has been worked out neither in national nor in foreign legal literature. The principle discussions try to limit a range of public relations that constitute its subject matter, and to define whether international financial law has public law, private law or complex nature, and also to determine its position in legal system.

While speculating on the status of international financial law in the legal system we need to bear in mind that traditionally the term “international” has different meanings in international private and public

law. The international public law regulates relations between public legal institutions. At the same time, the international private law regulates relations that emerge between parties of different countries and that stand outside the national legal system.

A wide range of public relations appear within the international financial system, however, not all of them are included in the subject matter of international financial law. As it has been mentioned before, along with international financial law (public), international private law and domestic law are also involved in regulating these relations.

Thus, the international financial relations involve direct interrelations between public legal bodies, while the private bodies are involved only in terms of national jurisdictions where domestic law or international private law (if the foreign element appears in these relations) are enforced. The influence of international financial law on private bodies is indirect and is enforced only through the influence on domestic law of States.

International financial law serves the law and order maintenance in the international financial system, it is meant to develop legal tools for international capital circulation. This differentiates the branch from the international economic law that regulates international trade. Therefore, it is proposed to consider international financial law to be an individual branch of international public law.

The rules of this branch have the systemic characteristics and possess specific internal structure. The general part of international financial law includes the following basic provisions: fundamental principles of the branch, international legal forms and methods of financial activities of different bodies, financial legal basis of governmental associations and international financial organizations, basics of financial control in international sphere, bank surveillance, financial monitoring and other general issues.

The specific part of international financial law consists of several divisions (sub-branches) where the provisions of the general part are detail-

led: the international financial-legal regulating of currency, payments, banking and insurance relations; international relations in the sphere of State credit (debt), securities and financial instruments market, etc.

The key qualification criterion of international financial relations is the maintenance of public economic order aiming at secure functioning of national financial systems and international financial system as a whole through international cooperation.

It is also necessary to distinguish between the notions of international financial law as a branch of international public law and as a study discipline. In case of the study discipline, complex approach should be employed in order to form full and comprehensive understanding of the up-to-date status of the international financial system among students.

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