бўлмаган тақдирда ижтимоий ҳимоя хизматлари томонидан уйнинг ярим нархи тўланган холатда яшаш жой билан таъминланади. Агар ёлғиз она меҳнатга лаёқатсиз бўлса ойига қўшимча 70 евро тўланиб, бепул уй-жой билан тўлиқ таъминланди. Бундан ташқари ҳар бир боланинг коммунал тўловлари учун 300 евро ҳар ойда ҳукумат томонидан тўлаб борилади.

Японияда ёлғиз оналарга ҳар ойда 230 йен тўлаб борилади. Болаларнинг ҳужжатларини расмийлаштириш тўлиқ ҳукумат томонидан кафолатланади. Ёлғиз онани иш билан таъминлаш давлат томонидан кафолатланади.

Германияда ёлғиз оналар учун турли дастурлар қабул қилинган улар, она ва болаларнинг соғлиғи дастурлари, таълим дастурлари, ижтимоий ҳимоя ва уй-жой билан таъминлаш дастурлари, ишсиз ёлғиз оналарни иш билан таъминлаш дастурлари, солиқда имтиёзлар берилиши дастурлари белгиланган. Давлат томонидан ҳар ойда ёлғиз оналар учун 235-300 еврогача тўловлар тўланади. Ҳар бир дастурда ёлғиз оналар учун қўшимча тўловлар белгиланиб, улар учун очилган махсус ҳисоб-рақамга тўлаб борилади.

Англияда давлат томонидан ёлғиз оналар учун уларнинг иш билан таъминланганлик, турар жой билан таъминланганлик ҳолатларидан келиб чиқиб, давлат ҳимояси белгиланган. Давлат томонидан 250-300 фунд тўловлар тўланади. Бундан ташқари ҳар бир ҳукумат вазифа ва ваколатларидан келиб чиқиб, ўзининг йиллик ижтимоий ҳимоя дастурларини белгилайди.[7]

Юқоридаги таҳлилларга асосан қуйидаги хулосаларга келиш мумкин.

Биринчидан, ёлғиз она жумласига ҳуқуқий ҳуқуқий таърифни яратиш ва Ўзбекистон Республикаси Оила кодексида акс эттириш мақсадга мувофиқдир.

Иккинчидан, ёлғиз она сифатида қаралиши учун фақатгина қонуний никоҳда бўлмаганлик ҳолатигина эмас балким, қонуний никоҳда бўлган аёл турмуш ўртоғи билан қонуний ажрашмаган ҳолатда, субъектив сабабларга кўра боласини ёлғиз ўзи парвариш қилиши; қонуний никоҳди мавжуд бироқ турмуш ўртоғининг эрта вафот этиши каби ҳолатлари ҳам инобатга олиниши лозим.

Учинчидан, миллий ҳуқуқ тизимида ёлғиз оналарни ҳуқуқий жиҳатдан ҳимоя қилувчи норматив ҳуқуқий ҳужжатларни унификация қилиш мақсадга мувофиқдир.

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CONTEMPORARY DEVELOPMENT TRENDS OF INTERNATIONAL TRADE LAW

Annotation: this article is devoted to the analysis of contemporary development trends of international trade law, namely the reduction of state participation in legal regulation of relations between subjects of private international trade, harmonization, unification and modernization of norms of international trade law.

Key words: model laws, unification, modernization, harmonization, legal system, international cooperation, UNIDROIT, UNCITRAL, globalization.

Аннотация: данная статья посвящена анализу современных тенденций развития международного торгового права, а именно снижению роли государства в регулировании правовых отношений между субъектами международного торгового права, гармонизации, унификации и модернизации норм международного торгового права.

Ключевые слова: модельные законы, правовая система, международное сотрудничество, УНИДРУА, ЮНСИТРАЛ, глобализация.

Аннотация: ушбу мақола халқаро савдо ҳуқуқини ривожланишнинг замонавий тенденциялари, хусусан халқаро савдо ҳуқуқи субъектлари ўртасидаги муносабатларни ҳуқуқий тартибга солишда давлатнинг ролини камайтириш, халқаро савдо ҳуқуқининг нормаларини уйғунлаштириш, бирхиллаштириш ва модернизация қилиш масалаларини таҳлил қилишга бағишланган.

Калит сўзлар: модель қонунлар, бирхиллаштириш, уйғунлаштириш, модернизация қилиш, ҳуқуқий тизим, халқаро ҳамкорлик, УНИДРУА, ЮНСИТРАЛ, глобализация.

For all the times economy was of crucial importance for all the states in the world. Governors always wanted to provide richer economy for their citizens whether by wars or by stimulation and development of their national economies, or by making agreements with foreign countries to foster their economic growth.

Nowadays we can see that the most developed industrial countries have decisive influence not only on global economic processes in the world but also on political processes. They own fundamental economic, financial and technical resources.

Economic power is a very strong mechanism that can be used as an instrument to achieve political goals. Moreover, it defines International Economic Law. The more powerful a country's economy is - the higher is its role in international relations and in formation of most important international norms. Industrialized countries occupy a central position in trade, finance, foreign investment, in the transfer of the results of scientific and technological progress. “Their official legal positions, as well as the results of the work of these countries’ press, covering the practice, are widely disseminated and reflected in scientific concepts and textbooks and, as a result, it influences on professional approach to certain problems” [1]. Lawyers from industrially developed countries also note these moments.

Trade is perhaps the most dynamic area of the social relations. Competition compels trade participants to create new products and services, to seek out and develop new markets, to expand contacts on international level. Trade is usually associated with a high risk. Therefore, it requires clear, predictable, stable and fair rules that can be adapted to the changing economic situation in order to preserve the balance of interests of the parties. However, the differences between the regulation of business turnover by the national legislation often creates unnecessary legal obstacles to cross-border trade. Many legal orders do not sufficiently take into account the current level of business turnover. As a result of the application of different norms to the same type of relations, the rights of different states are subject to conflicts and discrepancies. As a result, international transactions prove to be devoid of a reliable legal basis. Meanwhile, without the trade development - there is no growth in welfare. Trade relations firmly connect states with common interests. Thus, they contribute to the maintenance of peace, stability and progress much more effectively than political declarations, assurances, appeals and slogans. Realizing such a primary role of international trade, the international community, from the end of the XIX century, took measures to jointly improve its rules in the interests not only of its participants, but also of the whole society.

Since the end of the XIX century, international economic ties have intensified. The number of foreign trade transactions has grown significantly, and they themselves have become more diverse and more complex. There was a need for international cooperation in the field of trade law. As a result, the unification of the international trade law started its formation between the states. In some cases, model rules were applicable only to international transactions, and in others - also to national ones. One of the most important events for the development of the international trade law was the establishment in 1893 of the Hague Conference on Private International Law, the main task of which was the development of model conflict of laws rules [2]. At the same time, the Conference was created with the expectation of a limited number of states that are similar in terms of economic, social, cultural and legal development and political structure. The attempts were made to unify the legal norms at the regional level: in Scandinavia in the middle of the 19th century and in America, the Inter-American Council of Jurists, which developed model rules in the field of trade and transportation of goods.

In the twentieth century, the methods used were directed not only at the development of model conflict of laws rules [3], but also at the creation of model rules of substantive law [4]. It was achieved through the conclusion of international conventions, the use of model contracts and general conditions of sale (supply). As a result of the growing interdependence of national economies and economic integration, a certain degree of unification in certain key areas (negotiable instruments, maritime transportation, arbitration) was achieved through international conventions. The rules governing international trade in all national systems, regardless of politics and ideology, have acquired considerable similarity. Such principles as autonomy of the will of the parties in concluding contracts, binding compliance with pacta sunt servanda, and the settlement of disputes through negotiations and other procedures, as well as arbitration, have become universally recognized.

The rules of international trade law have now been formulated by international governmental and non-governmental organizations: the International Institute for the Unification of Private Law (UNIDROIT), UN bodies and specialized agencies, including the Economic Commissions for Europe, Asia, Africa, Latin America, the United Nations Conference on Trade and Development, The International Bank for Reconstruction and Development, ICAO, WIPO, the Hague Conference on Private International Law, trade bodies - The International Chamber of Commerce, the International Maritime Committee, associations of international lawyers - the Association of International Law and a number of others.

Each of the organizations that formulate the rules of international trade law conducted this activity in its own limited area and out of communication with others. This in many cases led to duplication of work. Activities in the field of international trade law were uncoordinated. In addition, many conventions were of only regional importance [5], none of the standard-setting organizations had universal membership, and the rules developed by non-governmental organizations, were subject to application only in case of non-contradiction to the imperative norms of law. As a result, the unification, security and predictability necessary for world trade were very limited. In this regard, there was a need to address the issue of the development of international trade law at the universal level, namely, the level of the UN General Assembly. To accomplish this task, a special Commission on International Trade Law (UNCITRAL) was established, which became the main universal center for the joint development of norms that take into account the interests and characteristics of all common legal systems of the world.

In parallel with the activation of the different forms of international cooperation, the cooperation without the participation of governments started developing. For this purpose, standard contracts, the general principles of contract law, formulated by international organizations, and other instruments started being widely used. Chambers of commerce and business associations started working out the rules of international trade.

The era of globalization has caused new problems associated with the processes of convergence of societies' lifestyle in different countries. It is becoming increasingly obvious: for sustainable development, the priority should be the preservation of the diversity of national cultural characteristics, along with the creation and application of model rules in a number of areas, primarily in the field of international commerce. In other words, there are those spheres of social relations where it is necessary to maintain diversity, preserve differences, and above all it is a field of culture. At the same time, there are those areas of social life in which unification is appropriate, desirable and even necessary - this is private law, especially trade law, as well as human rights. In the framework of trade law, it has also become generally accepted to address the regulation of specific areas of trade, rather than trying to cover the whole range of trade relations.

Describing the development of the international trade law in general, it is necessary to point out the inherent contradictions. These contradictions do not indicate a crisis of international trade law, but serve as a source of its development. There is a contradiction between the dynamism of international trade and the static nature of legal norms. The internationally-agreed method of unification is often criticized. It is noted that an international treaty is concluded at a certain qualitative and quantitative level of

development of trade relations and technological progress, and if they significantly change, it already becomes an inadequate instrument of regulation. For example, the Convention on the Unification of Certain Rules on Bills of Lading of 1924 became obsolete by the middle of the 20th century, which was one of the reasons for the establishment of the 1978 Hamburg Rules. As a result, a new treaty or protocol is required (the Universal Copyright Convention of September 6, 1952, to which two protocols have been adopted) or the modification of the old one [6]. Then it often works for different states in different editions. To resolve this contradiction, the nonconventional method of unification - the development of codes of custom, such as the Principles of International Commercial Contracts, developed in 1994 by UNIDROIT, intended for use by mutual agreement of the parties, as well as model treaties - has become increasingly used. There was such a phenomenon as polycentrism of subjects of law-making in the field of international trade law.

However, it does not mean that the conventional method of unification has become obsolete. Within its framework, the necessary flexibility of regulation can be ensured: a number of conventions provide that parties to commercial contracts may exclude certain provisions thereof [7]; the customs of business turnover and the business occurrences established between the parties are recognized as binding [8]. In addition, none of the unification methods are not without flaws. Although the codes of customs, produced by non-governmental organizations and other non-compulsory codes of state, introduce greater legal certainty, their disadvantage is the possibility of contradiction with their peremptory norms of internal law, excluding the application of their norms. In addition, such sets of principles, as well as standard contracts, themselves need regular updating. In some cases, a more acceptable instrument for regulating international trade relations is the document adopted by the state or states, a convention or law, and in others - rules developed by international organizations in terms of participants in business turnover.

Also significant contribution to the harmonization of international trade is made by the national codification of private international law due to the fact that - they usually take into account the content of international treaties and other international legal instruments and they help to eliminate gaps in legal regulation, which eliminates obstacles to international business. Moreover, due to their integrity and wide scope of application, they ensure the certainty and predictability of the legal regulation of international private-legal turnover. Legal unification, as practice shows, is achieved only in limited areas, and most of the social relations, at least if we consider the near future, remains in the sphere of regulation of national laws.

There is also contradiction between the need to preserve the diversity of lifestyles and the achievement of uniform sustainable business rules. At the present stage, this contradiction is solved by the fact that, as noted above, not all areas of social relations are the proper subject of unification. However, certain issues of family, inheritance law, citizenship issues have become the subject of international legal regulation [9]. With regard to uniform trade law, it is now recognized that by eliminating obstacles to international trade, it promotes greater diversity of international business turnover, its sustainable growth and enrichment through the adoption of advanced foreign experience. In other words, in the uniformity of trade law there is a variety of trade relations.

And the last contradiction we will analyze, is between the special interests of countries and the need for universally recognized rules. This contradiction deepens due to the unequal level of development of many countries. In the work "On the Spirit of the Laws", S. Montesquieu noted that the laws should be adapted for the country for which they are created, correlated with its governance, territory, climate, population, traditions, morality [10]. In order to resolve this contradiction, reservations in conventions have traditionally been applied. However, they are not enough to solve the problem completely. In this regard, together with unification, there are activities to harmonize the law, in which the laws do not become the same, differences remain, but those differences that significantly damage international trade relations are eliminated. In order to harmonize the law, along with the conventions, the work of UNCITRAL has resulted in the application of uniform laws and legislative guidelines (sets of general principles on which laws should be based). The Uniform Law allows the adoption of the national law taking into account the national specifics, and the legislation admits a wide range of instruments to achieve its goals. It should be noted that, similarly, in the European Union (i.e. at the regional level), conventions and regulations are applied as a means of rigid unification, as well as directives in which the participating states set certain goals, each of which is able to use their methods of achievements. Here, however, it is necessary to pay attention to a significant difference: EU legal certificates are mandatory for member countries, whereas documents produced by international organizations are adopted by states at their discretion. This is due to a higher level of economic integration and legal unification among the EU countries.

What concerns the trends in the development of international trade law, we should note that despite the desire of businessmen to maximally autonomously regulate their relations with the reduction of state participation in it to a minimum, the importance of "traditional" methods of uniform legal regulation, such as international treaties and internal laws, remains. In addition, the development of international legal instruments does not preclude the development of national legislation in the field of trade law. It does not mean that conflict rules and internationally-contractual methods of international trade law are being withdrawn. They are just being modified with new legal instruments of a different nature. In the variety of means of legal regulation, the uniformity of the regulation is concluded, and this is the main consistent pattern of the development of the modern international trade law.

The growth of the number of national laws regulating trade turnover that are of international origin [11] is another important trend of the development of international trade law. In addition, there is an increasing inclusion in the international regulations of provisions on the relationship between their actions in the event of a contradiction in their provisions with the provisions of other international normative documents. This is a consequence of the intersection of the scope of such acts. The complementary effect of codes of customs, general conditions and principles (the so-called lex mercatoria) in relation to international conventions, closely related to the noted regularity. Often, lex mercatoria is used in cases where a particular issue in the convention is not resolved or resolved insufficiently clearly. For example, the 1994 Principles of International Commercial Contracts are often applied by courts and arbitration as general principles on which the 1980 Vienna Convention on Contracts for the International Sale

of Goods is based. Thus, such documents replace the effect of national laws, which may be more adequate for international traffic due to the international character of lex mercatoria.

In a number of cases, there is an indication in international documents of the results that should be achieved, mainly without the strict prescription of the means to achieve them. This remark refers to international treaties and other normative acts, such as the EU directives, where only binding obligations are established. It is also true for reference documents, such as the Legislative Guide on Privately Financed Infrastructure Projects of 2001, the Legislative Guide on Insolvency Laws of 2004, which outlines possible options for achieving harmonization goals.

It should be noted that there is a tendency to increase the participation of States in conventions on international trade law developed by international organizations and the growing number of states that have adopted legislation on the basis or in accordance with the provisions of the model laws prepared by UNCITRAL. However, the entry into force of such conventions still requires considerable time. Many states, for different reasons, are slow to adhere to international documents, even in cases when they themselves participate in their development, they still prefer to observe their application by other states. However, it is necessary to take into account that often the states, not participating in a certain convention, actually bring their legislation in line with its provisions.

There is also a consistent pattern that the unification and harmonization of law is accompanied by its modernization and this is becoming more evident, especially with regard to new regulations, such as e-commerce for example, and also the old regulations that are emerging on a new level of social relations, such as conciliation. Uniform norms are developed not by simply mixing existing national legal norms, but by formulating new, modern ones.

Concluding, it is important to note that the gradual expansion of the unification and coherence of private law is a reflection of the increased mutual influence of states, even those which are very distant from each other. Growing mutual impact, including the legal sphere, the importance of comparative jurisprudence remains and even increases. It allows to get acquainted with the existing models of legal regulation, critically comprehend and adapt them on the way of protection of national interests and their alignment with the interests of the international community.

Finally, it is important to make the following observation: for the long-term global development of international trade it is not enough to adopt close or even identical legal norms, a coordinated, interrelated development of national legal system is needed. This requires closer cooperation between all countries within the framework of international organizations and consideration of the jointly developed principles of law-making in their legislative activities.

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