

ICWC of Central Asia: limits of legal capacity

Yu.Kh. Rysbekov

Scientific Information Center of the Interstate Commission for Water Coordination (SIC ICWC) of Central Asia, 11, Karasu-4, Tashkent, 100187, Republic of Uzbekistan

E-mail: yusuprysbekov@icwc-aral.uz , Yusuf.Bek.004@rambler.ru

As is generally known, the subjects of laws of international treaties (IT) are the subjects of international law (IL), i.e. states and international organizations (IO). The major attribute of the IL subject is its power to carry out independent international actions as well as perform rights and duties. Conclusion of IT with other IL subjects is one of the forms of participation of IO in legislative activity – creation of international legal norms (ILN). According to Article 6 of the 1986 Vienna Convention [1], «*The capacity of an international organization to conclude treaties is governed by the rules of that organization*». A key phrase in the law is the phrase «Rules of the organization» governing the relationship between IOs as it pertains to the conclusion of IT (creation of IL rules) in its own name. The answer to the question «What do the rules of the organization imply?» can be found in Article 2 of the 1986 Vienna Convention: «... “the rules of the organization” mean, particularly, constituent acts of the IO, “decisions and resolutions...” adopted in accordance with that» [1].

The following conclusion is drawn from the above-stated and from the analysis of legal status of ICWC:

Constituent acts (CA) of ICWC [2, 3, 4, 5] have no provisions about the ICWC capacity to create legal ILNs that are obligatory for the ICWC founders, since it is not provided by its founders (5 CA states) with independent (autonomous) will, rights, and competence. According to ICWC CA, its autonomous will and rights apply only to its functionality. Within this (special) competence, ICWC has the right to independently choose the means and ways to execute its rights and duties entrusted by the states-founders. At the same time, ICWC, as IO, does not replace a state in international relations, except for especially stipulated cases, since the rights of IO are derivative of the rights of the states that have founded it. Accordingly, no IO without the agreement of the states-founders “*may not undertake activities that affect the interests of its members*” [6]. This applies to ICWC too, which, as well as EC IFAC and ISDC, is involved in the development of draft international law acts in the transboundary water cooperation area.

Sources:

[1] Vienna Convention on the Law of Treaties between states and international organizations or between international organizations (Vienna, 21 March 1986).

[2] Agreement “On cooperation in joint management, use and protection of interstate sources of water resources” (Alma-Ata, 18 February 1992).

[3] Agreement “On the status of the International Fund for Saving the Aral Sea (IFAS) and its organizations” (Ashgabat, 9 April 1999).

[4] Agreement “On joint actions towards solving the Aral Sea and Priaralie problems, environmental improvement and provision of... of the region” (Kyzyl-Orda, 26 March 1993).

[5] Statute on ICWC of Central Asia (Tashkent, 5 December 1992).

[6] Bekyashev, K. D. International, interstate organizations. Lawyer’s encyclopedia. // <http://eyu.sci-lib.com/article0001177.html>