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Reviews

Review of the Monograph «International Financial Standards in the Foreign Doctrine of International Financial Law» by V.V. Kudryashov

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Abstract

This paper is a review of the monograph by V.V. Kudryashov, published by INFRA-M in 2018 (Kudryashov, 2018). This 249-page monograph contains eight parts, an introduction, a conclusion and six annexes with author's translation of several international financial standards.

Keywords: International Financial Standards, Foreign Doctrine of International Financial Law.

1. Introduction

The topic of the monograph is of high relevance since the development, adoption and monitoring of compliance with the recommendations developed by a group of international financial regulators under the auspices of G20 constitute today the main method of influencing the national financial systems of states and the global financial system as a whole.

2. Materials and methods

The main sources for writing this article became the official documents of the international financial regulators, materials of the journal publications and archives. The study used the basic methods of cognition: the problem-chronological, historical and situational, systemic and the method of comparative law. Author's arguments are based on problem-chronological approach. The use of historical and situational method allows to reproduce assessment approach to the problem of the international financial law. Method of comparative law defines the difference in views on actual rules of activity of international financial legal entities. A systematic method does achieve a variety of disciplines (international law, financial law, administrative law etc) accessible and comparable, as present is determined by the past and the future - by the present and the past.

3. Discussion

The author not only reviews these standards, but also offers his own vision of their legal essence in the modern world. Special attention should be paid to the analysis of the legal basis for the international financial regulators' activities (Part 2 of the Monograph), as well as the analysis of the international financial standards implementation in the national legal order (Part 3), including in Russia (Part 6).

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Trying to determine the place of IFS and ‘soft law’ in general among the sources of international law, the author points out that “soft law presumes compliance with the basic standards and practices of states, but without the *opinio juris* necessary for the creation of ‘legally binding obligations’ according to the customary international law” (Kudryashov, 2018: 25). This approach is certainly interesting and deserves further development.

The author should be commended for the fundamental approach demonstrated in studying the foreign doctrine of international financial law (see, for example, Footnote 1). It may be said without exaggeration that the author has analyzed the works of almost all foreign authors addressing the issues of international financial regulation.

Also, the translation, performed on a high professional level, of several standards (Annexes 1-6) and financial terms throughout the monograph is of undoubted value as well.

In addition, the author is broadly informed and refers to the recent decisions of Russian arbitration courts that apply the OECD Model Convention for the purposes of interpretation (Kudryashov, 2018: 15-16).

At the same time, it seems necessary to pay attention to the following critical comments:

1. In our opinion, the author somewhat simplifies the domestic doctrine of international law, criticizing it for rigid approaches to consideration of international law sources, and for the lack of interest in the analysis of international financial standards.

We should note that the specificity of norm-making in international law, including by way of resolutions of international organizations, has been discussed in the Russian legal literature for a long time.

We may cite the classic work *Theory of International Law* by Prof. G.I. Tunkin, published in 1970; many works by Prof. I.I. Lukashuk (actually referred to by the author), which were devoted to sources of ‘soft law’; also, there is a lot of recently published works, for example, written by B.M. Ashavsky, V.A. Konnov, I.M. Lifshitz.

2. In addition, there are some terminological inaccuracies in the work. For example, the word ‘principles’ (Kudryashov, 2018: 13) is put in parentheses after the word ‘methods’, which suggests that the author equates these two concepts, however, this is not correct. In addition, the specific principles of international financial law were not distinguished, but the principles of customary international law were indicated with mentioning of the “ascent” of the former to the latter.

3. Also, it is not quite clear what the author understands by ‘public international organizations’ and ‘public world financial community’ (Kudryashov, 2018: 45).

At the same time, the above remarks do not mar the good impression of the work in general; moreover, most of the them are of a debatable nature.

4. Results

The monograph can be evaluated as a high level scientific research of the acute and very significant issue of modern international financial law; its practical application seems to be very useful and relevant.

5. Conclusion

The monograph will undoubtedly take a worthy place in the body of scientific and educational papers on international financial and legal issues and can be recommended to anyone interested in modern trends in international financial law.

References

Kudryashov, 2018 – Kudryashov V.V. (2018). *Mezhdunarodnye finansovye standarty v zarubezhnoy doctrine mezhdunarodnogo finansovogo prava* [International Financial Standards in the Foreign Doctrine of International Financial Law]: Monograph. Moscow: INFRA-M. 249 p.