DOI 10.24147/2542-1514.2018.2(3).78-88

IMPLEMENTATION OF NON-DISCRIMINATION PRINCIPLE IN LEGAL ENFORCEMENT OF INTEGRATION ASSOCIATIONS

Karina A. Ponomareva
Dostoevsky Omsk State University, Omsk, Russia

Article info
Received – 2018 August 22
Accepted – 2018 October 15
Available online – 2018 December 07
Keywords
Tax law, direct taxes, corporate income tax, law enforcement, judicial practice, European Court of Justice, prohibition of discrimination

The subject. The problems of realization of non-discrimination principle in tax law of inte-gration associations are considered in the article.
The purpose. The aim of this paper is to analyze influence of internationalization of tax law on tax law enforcement in the area of direct taxation using discrimination tests.
Methodology. The author uses methods of theoretical analysis, particularly the theory of integrative legal consciousness, as well as legal methods, including formal legal method and methods of comparative law.
The main results and scope of their application. The problems of realization of non-discrim-ination principle in EU tax law are considered in the article. The area of direct taxation is considered precisely. Roles of OECD Model Double Taxation Convention on Income and Capital and of practice of the European Court of Justice are brought into light. The possibil-ities of applying the experience of the European Union in the law enforcement practice of the Eurasian Economic Union are considered.
Conclusions. The author comes to the conclusion that in the legislation of the EAEU member states the main criterion of identifying tax discrimination is the criterion of tax residency. The novelty of the Russian legislation was the institute of tax residency of organizations, which is based on the "nationality" of the organization. We can speak about the formation of a legal regime for non-discrimination in the legal space of the EAEU.

1. Introduction

The non-discrimination regime implies that “every state has the right to grant to the subjects of its national law on the part of the partner state such taxation conditions that are not worse than the conditions provided by this state to the subjects of the national law of other countries” [1. P. 456].

The principle of the prohibition of discrimination plays an important, if not decisive, role in many branches and institutions of law: in constitutional law, European law, the institute for the protection of human rights, and commercial law. It is also directly related to tax law. The principle of the prohibition of discrimination is enshrined in the founding treaties of integration associations, article 24 of the OECD MC, the tax laws of the member states.

2. Strengthening the principle of non-discrimination in acts of international organizations

The most important source of tax law, which establishes the legal basis for the prohibition of discrimination, is the OECD Model Convention. Art. 24 of the OECD Model contains rules aimed at eliminating tax discrimination, and the grounds that the state cannot use to discriminate for tax purposes. Article 24 prohibits discrimination on the basis of nationality, and in relation to permanent missions it says that taxation of a permanent establishment which an enterprise of one Contracting State has in another Contracting State should not be less favorable in that other State than taxation of enterprises of that other State carrying out the same activity. In addition, interest, royalties and other payments made by an enterprise of a Contracting State to a resident of another Contracting State, for the purpose of determining the taxable income of such an

enterprise, shall be deductible under the same conditions as if they were paid to a resident of the first State[1].

For various reasons, but primarily for the fact that bilateral tax agreements are aimed at a lower level of integration compared to, for example, the EU, article 24 of the OECD MC, in the opinion of many researchers, covers only direct discrimination (or de jure) [2. P. 16; 3. P. 4]. The measures applied by the state should have an effect proportionate to the goals that they sought to achieve when they were introduced. So, in the decisions in cases of "Commission against Belgium"[2] and Bachmann[3]. The EU court, although it recognized as a discriminatory measure the granting by Belgium of tax breaks on income received only in this state, nevertheless, considered it justified, since it was aimed at preserving the stability of the existing national tax system and its efficiency.

Tax authority is a necessary condition for guaranteeing the internal sovereignty and external independence of the state. Without the ability to attract tax revenues to the budget, the modern state will not achieve any economic or political goal: as rightly points out in this regard D.V. Vinnitsa, "every modern state economically exists mainly due to taxation" [4. P. 403]. It is therefore not surprising that the limitation of powers in the field of taxation through the founding treaties of integration associations is a very complex topic for member states. Unlike indirect, direct taxes remain little affected in the framework of positive integration, and judicial practice has a major influence on their harmonization.

To justify direct discrimination requires a rigorous comparative test. Only if all the characteristics of legal relations between taxpayers, with the exception of nationality (Part 1, 2 of Article 24 of the OECD MK) or residency (Parts 3, 4, 5 of Article 24 of the OECD Model) are then the nationality / residency and is the only possible explanation for the application of different legal modes [2. P. 35]. Thus, all the criteria applied in national law to ensure compliance with different legal regimes do not ensure comparability until the law directly uses the criterion of nationality or residency. This approach of “strict comparability” should exclude the possibility of justifying circumstances for discrimination.

3. EU Court Practice

In the EU tax law, comparability in the process of negative integration, the main instrument of which is the practice of the EU Court of Justice, can be assessed from two different points of view: firstly, based on the approaches of the most favored nation treatment and restriction of benefits, and secondly, by establishing comparable situations in specific cases, the most famous of which will be given below.

1. Most-favored-nation and restriction of benefits. Applying this regime, the EU Court of Justice believes that the benefits granted to citizens or companies of a member state on the basis of a DTT concluded with another member state do not apply to all EU citizens, but only to those who, while implementing one of the fundamental freedoms, have in a situation comparable to that of the citizens of the first member state. Thus, in Saint-Gobain, the Court extended the validity of the DTT concluded by EU member states with third countries (Switzerland and the USA) to a non-resident company that found itself in a situation comparable to residents[4].

2. Establishing a comparable situation.

---

[1] Model Tax Convention on Income and on Capital: Condensed Version 2014, OECD Publishing // [http://dx.doi.org/10.1787/mtc_cond-2014-en]

[2] Case C-300/90 Commission of the European Communities v Kingdom of Belgium, judgment of 28 January 1992.

[3] Case C-204/90 Hanns-Martin Bachmann v Belgian State, judgment of 28 January 1992.

[4] Case C-307/97 Compagnie de Saint-Gobain, Zweigniederlassung Deutschland v Finanzamt Aachen-Innenstadt [2000] STC 854, ECJ, 21 September 1999.

In the practice of the EU Court, the key point is the choice of a "non-migrant" who can serve as an appropriate object of comparison: an assessment of whether the tax regime established for the "migrant" was less favorable depends on this choice. The practice of the Court addresses this issue from two perspectives: the Member State in which the company is based, and the host country:

1) Non-discrimination cases in the "home state" (home State non-discriminatory cases), where restrictions apply to a resident who, while exercising one of the fundamental freedoms, engaged in cross-border activities. In such situations, comparability is easy to establish, taking into account the situation of another resident, who in such a situation did not become involved in cross-border activities. Examples of areas in which the Court analyzed the comparability of residents and non-residents are:

a) dividend taxation (Manninen, FII - Group Litigation) when resident taxpayers who invested in national companies found themselves in situations comparable to residents who invested in foreign companies;

b) offset of pension contributions made in other Member States (Bachmann, Wielockx). G.P. Tolstopyatenko points out the importance of the judicial qualification of the circumstances in these cases: "Having recognized the validity of the disputed tax provisions of the Belgian law in the Bachmann case and the absence of discrimination in this particular case, the Court in subsequent cases (Wielockx case and Gustavsson case), without formally revising their conclusion on the Bachmann case, actually reduced it to the minimum possible, arguing for any arguments that limit the use of "justifying circumstances" in favor of the general principle of prohibition of discrimination on the basis of nationality (citizenship) or origin" [5. 3. 245];

c) income taxation of subsidiaries (Cadbury - Schweppes), services provided by foreign companies (Eurowings);

d) offset of cross-border losses. The Marks & Spencer case[5] was the most striking example on this issue. Let us dwell on it in more detail.

Member States are obliged to take measures to ensure clear and unequivocal determination of the amount of income and losses. [6. P. 149]. In 2005, in Marks & Spencer, the Court of Justice of the EU recognized as balanced the division of tax powers among member states in the case of preventing double counting of losses. In this and other decisions, the idea of providing "more space" for the tax sovereignty of member states is taken as the basis. A key issue in this dispute was the question of compensation for losses of subsidiaries in other Member States.

Marks & Spencer attempted to use the UK claims rule to compensate for the losses of the Belgian and German branches and reduce the taxable base in the UK. These rules limited the possibility of compensation for companies - British residents and British branches of non-resident companies. The EU court stated that if an EU member state allows a resident parent company to set off losses of a member of a group established in the same state, then a subsidiary established in another member state could be given the opportunity, if all other reimbursement methods were exhausted. In the Marks & Spencer case, the argument was proved that there were no other possibilities to offset losses of foreign subsidiaries. Otherwise, the court would not recognize the actions of the British tax authorities as contrary to the EU law (this is how the term "Marks & Spencer exclusion" appeared, that is, the obligation to set off cross-border losses if it is not possible to take them into account) [7. P. 55].

An EU court ruled that, in accordance with the FFS, basic freedoms require an EU member state in which the parent company resides to allow tax losses to be reduced by the amount of the loss if the foreign dependent company has exhausted all opportunities in its state to take into account losses in past, present or future (that is, such damages are permanent). The EU court indicated that limiting the possibility of taking into account the taxation of a group of

[5] Case C-446/03 Marks & Spencer Pic v David Halsey (HM Inspector of Taxes), ECJ, 13 December 2005.

companies of losses of a subsidiary company established in another EU country and not carrying out trading activities in the state of the main company is a restriction on the freedom of the institution, as it puts the resident subsidiary and the non-resident subsidiary at a disadvantage. Such a restriction is permissible only in order to protect the public interest or achieve the objectives of the Treaty on European Union.

EU Member States should prevent double-use of losses. The court explained that cross-border exemption within the group is permissible if two conditions exist:

the non-resident subsidiary used all possible methods of recording losses in the country of its registration, including by transferring losses to a third party or by offsetting losses and profits earned in previous periods;

losses of a foreign subsidiary cannot be taken into account in the country of its registration for future periods either by the company itself or by a third party.

The Marks & Spencer case has been continued. In the Decision of February 3, 2015 in the C-172/13. The EU court concluded that the British rules are compatible with EU law, and even granted EU member states some freedom to limit the possibility of offsetting losses incurred in other EU countries. The EU court agreed with the Commission that the current British legislation restricts the freedom of establishment. However, the Court ruled that, according to the prevailing judicial practice, the restriction can be justified in the public interest for three reasons:

- the need to maintain a balance of powers in the field of taxation between member states;
- the need to prevent double use of damages;
- the need to combat tax evasion.

The Advocate General J. Kokott expressed her opinion on the case, supporting the UK's position: "The purpose of the tax regime is to allow member companies to be subjects of taxation as if they were the single taxpayer. In light of this goal, the comparability of losses incurred by resident and non-resident subsidiaries seems to be questionable. It is impossible to treat the resident parent company and the non-resident subsidiary as the same taxpayer, while the non-resident subsidiary company is not subject to taxation in this state at all. According to established jurisprudence, a Member State needs to take into account losses from foreign activities only if it also taxes these activities, which is assessed by the Court as confirmation of the unity of the tax system, maintaining a balance between taxation of profits and reducing losses, preventing double use of losses and evading tax payment. At the same time, the General Counsel added that the revision of the decision in the Marks & Spencer case was possible and necessary: "this mode does not contribute to the activities of cross-border groups, but is an almost inexhaustible source of legal disputes between taxpayers and tax authorities of the Member States."

Unlike the General Counsel, the EU Court did not go so far in arguing that the entire loss collection system needed to be revised and followed its previous practice, but also gave Member States some freedom to limit the recording of losses incurred by group companies in other countries The EU.

2) the second group of cases are cases of discrimination in the host state (host-State discriminatory cases):

a) cases of companies and their structural divisions. A major impetus to the development of judicial practice on direct taxation was the decision of the EU Court of January 28, 1986 in the case of the Commission v. France, known as Avoir Fiscal[6]. This is one of the first decisions on tax disputes with reference to the rules governing the use of freedom of the institution. The court has long held to the position that this freedom requires the state to treat a division of a non-resident corporation in the same way as a resident.

In 1983, the European Commission carried out procedures for France on the grounds that the latter did not provide subsidiaries and agencies established in France by insurance companies that are residents of other member states from the tax deduction known as avoir. fiscal . France

[6] Case C-270/83 Commission v France [1986] ECR 273, judgement of 28 January 1986.

provided a deduction to its resident companies and resident companies of countries with which France signed DTTs, but refused to use the benefits established by these agreements in respect of units located in France.

The Commission stated that France had discriminated against resident companies of other Member States and implicitly restricted the freedom to establish branches in its territory, and representative offices were equated to companies for the purpose of calculating corporate tax. France presented a number of counterarguments, within the meaning of which the legal nature of branches and subsidiaries is different:

subsidiary for tax purposes is a resident with its own legal personality, while the branch is only a structural unit of another person;

insurance companies from other Member States could grant their units the status of a French unit, which would automatically give them the right to receive a tax deduction;

the acts of tax legislation of the Member States are different, and the issue could be resolved only by the acts of the Community or in the DTT;

the fact that non-resident companies are relieved of certain taxes, which are payable by French residents, does not give grounds to assert that they are put at a disadvantage compared to French companies.

The EU court noted that only French companies and companies - residents of four member states that concluded DTT with France, containing provisions for tax deduction, could receive this deduction.

The value of the Avoir Fiscal decision for EU tax law is extremely high. In the decision on the case Avoir Fiscal, the EU Court for the first time decided that neither the state's desire to encourage investment within the country, nor the lack of sufficient tax harmonization within the EU can serve as an argument for discrimination based on nationality, and the taxation rules should be the same as for companies. residents and non-residents.

In the case of Avoir Fiscal, we see the application of the rules governing the right to choose a place of business from the perspective of the host state - France. France was obliged to provide the same conditions to the French branches of the resident companies of other Member States and the French resident companies, since the Court found no objective differences between the first and second for tax purposes. Since both of them were taxed in the same way, they should receive a deduction on an equal footing. In other words, "the freedom to choose the place of business in the host state includes the provision of a "national regime" [8. P. 263]. The use of any other regime should be considered as a manifestation of discrimination or restriction of the said fundamental freedoms;

b) cases in which the EU Court proceeded from the criterion of "non-resident resident".

In European science there is an opinion that the application of various tax regimes in relation to national and transboundary situations is inherent in direct taxation [3. P. 4]. Fundamental freedoms according to the practice of the European Court of Justice impose a ban not only on open discrimination, but also on all hidden forms of discrimination, for example, arising from nationality. This is of great importance for tax law, the fundamental principle of which is that tax payment requirements should not be made on the basis of citizenship, but on the basis of whether it is a resident or non-resident person.

For residents, this requirement applies, as a rule, to the taxpayer's global income. Here, the basis is the thesis that a resident of a particular state regularly creates the bulk of its income in a given state, from which it benefits the economic, social, cultural infrastructure. This person must also contribute to the associated public expenditure commensurate with his or her ability. This should take into account all individual circumstances, including personal and family nature. The state of residence of a person is best suited for the tax-collecting state, since it is the center of its vital interests, the EU Court stressed in the Schumacker case.

For non-residents, the tax obligation according to the territorial principle is often limited: the state in which the income is created retains a proportionate part regardless of where and to what extent the global income is presented for taxation [9. P. 45].

Member States regularly refer to the argument that national tax measures should not conflict with fundamental freedoms, since these are categories of different orders. This was opposed by the EU Court in the Schumacker case[7]. On the one hand, the Court emphasized that with respect to direct taxes, the circumstances in which residents and non-residents are located are usually incomparable . On the other hand, for residents and non-residents, a comparable situation arises when a non-resident extracts all his income in the relevant state. The question is especially acute when an employee lives in one state and works in another.

4. Establishment of the principle of prohibition of discrimination in the law of the EAEU

The European Union has accumulated vast experience in the implementation of the principle of the prohibition of discrimination in tax law. Let us turn to the experience of the EAEU, in the practice of which there is also the use of various tax regimes in national and cross-border situations .

Section XV of the EAEU Treaty guaranteed the provision of national treatment, i.e. the mode of providing persons of other Parties (including citizens, individual entrepreneurs, suppliers and recipients of services, founders, subsidiaries and other persons controlled by the Parties) conditions for the implementation of institutions, activities and trade in services not worse than those provided by persons of their country in relation to all measures. The national regime is guaranteed to any legal and natural persons, including branches and representative offices established or established in the territory of the Union.

The agreement on the EAEU secured the most-favored-nation treatment: if a more favorable regime is applied to measures imposed for third countries than for member states, the state that introduced this measure will automatically have to extend the same or no less favorable regime and to persons of the Parties. Previously, it was impossible to apply the most favored nation treatment to persons of one Party operating in the territory of the other Party, including through organizations established by them, open branches and representative offices. Any Party could introduce any advantages in relation to persons of third countries without providing the same benefits to persons of other Parties.

Article 66 of the Treaty on the EAEU, which ensures stability and the prohibition of deterioration of the regime granted to persons of member states when trading in services, establishing, operating and investing, is reinforced by the principle of consistency set out in Article 67 of the Treaty on EAEU, which means that when taking any measures The deterioration of the conditions of mutual access is unacceptable in comparison with the conditions in force at the date of the signing of the Treaty on the EAEU, and with the conditions enshrined in this Agreement [10] .

The undoubted advantage of the EAEU Treaty is that, in Section XV, it is impossible to worsen the regimes established on the date of entry into force of the Treaty, established both in international agreements and in national legislation, as well as the obligation to eliminate existing and prevent new barriers to national or supranational trade regulation. services, institutions and activities.

The tax codes of all member states of the EAEU set the priority of rules and norms of international treaties containing provisions relating to taxes and fees over the norms of national tax codes and the laws and regulations on taxes and (or) fees adopted in accordance with them. A.N. Mambetalieva and T.M. Suleimenov state that the Member States of the integration association implement non-discriminatory (resident) taxation of individuals through harmonization (vertical (hierarchical) and horizontal) throughout the EAEU [11. P. 22].

---

[7] Case C-279/93 Finanzamt Köln-Altstadt v Roland Schumacker, judgment of 14 February 1995.

For example, in the Russian Federation, tax residents are individuals who are actually in the Russian Federation for at least 183 calendar days for 12 consecutive months (paragraph 2 of Article 207 of the Tax Code of the Russian Federation). The tax legislation of other EAEU Member States presents an approach according to which, when determining residency, is a factor of the center of vital interests. Thus, according to Article 217 of the Tax Code of the Republic of Kazakhstan (hereinafter referred to as NK RK) residents are individuals who are permanently residing in the Republic of Kazakhstan or non-permanently residing in the Republic of Kazakhstan, but whose center of vital interests is in the Republic of Kazakhstan. An individual shall be recognized as permanently residing in the Republic of Kazakhstan for the current tax period if he is in the Republic of Kazakhstan for at least 183 calendar days (including arrival and departure days) in any successive twelve-month period ending in the current tax period.

Assessment of comparability (comparability) is the main problem when considering disputes in the field of taxation of profits and incomes. A.I. Savitsky notes that “the scope of tax discrimination as a legal construction is: the subject and object spheres, including, respectively, such elements as the discriminant, comparator , discriminator and the basis of discrimination; the object of discrimination and the objective side of discrimination” [12. P. 9].

Thus, a cross-border transaction is generally compared with a similar “home” transaction. Such a “vertical comparison” is recognized as a reliable standard for comparison in order to determine whether a national measure leads to discrimination. At the same time, the question is whether the “horizontal comparability” is also necessary for federal law, i.e. comparison of two cross-border situations in transactions [13. P. 766]. It is assumed that fundamental freedoms require the Member States to ensure equal legal status for non-residents with domestic subsidiaries and non-national permanent missions [14. P. 60]. The ECJ unequivocally pointed out that “Member States are free to determine the conditions and level of taxation for various types of enterprises elected by national companies or associations operating abroad, provided that the legal regime of these companies or associations is not discriminatory compared to for similar national enterprises".

We believe that the Court of the EAEU and the national with the need to identify differences in legal regulation, it is necessary to conduct a "test of discrimination", answering the following questions:

1) Are two situations comparable? In this comparison, the actually implemented transboundary situation is subject to a hypothetical situation within the state or an actual transboundary situation with a hypothetical transboundary situation;

2) is there a comparison object (comparator) in this situation;

3) whether different rules apply to comparable situations or the same rules in relation to different situations;

4) is it possible to choose the criteria for justifying discrimination;

5) whether justified discriminatory measures are in line with the principles of proportionality and rationality.

The tax legislation of the EAEU member states establishes various tax regimes based on the legal status of the taxpayer: various tax conditions for residents and non-residents, differing in the procedure for determining the object of taxation in respect of personal income tax and income tax, tax rate application, calculation of the tax base. The judicial practice of Member States to establish the fact of tax discrimination is also diverse. The EAEU court, due to its limited competence, does not face such cases. The few tax litigations that he examined deal with indirect taxes. P Internet Direct taxation in the Treaty of the EAEC is concerned only in Article 73: if one Member State, in accordance with its legislation and the provisions of international treaties, has the right to tax the income of a tax resident of another Member State in connection with employment in the first mentioned Member State, such income shall be taxed in the first Member State from the first day employment at tax rates provided for such incomes of individuals - tax residents of this first member state.

When analyzing the practice of the Court of Justice of the EU, it is obvious that tax discrimination manifests itself in the application of the rules governing the operation of fundamental freedoms. This initial idea was also accepted by the EAEU: the principle of the prohibition of discrimination should be one of the foundations of the integration law of the EAEU based on the need to respect the freedom of movement of goods, works (services), capital and labor, and the freedom of establishment. In this regard, we believe it is necessary to empower the Court to review tax disputes related to the violation of fundamental freedoms in relation to the taxation of profits and incomes. In such cases, by analogy with European practice The EAEU court should consider national measures in the field of tax law, for example, the rules governing the taxation of residents and non-residents, in order to conflict with the basic freedoms enshrined in the Treaty on the EAEU. According to the Constitution of the Russian Federation, generally recognized principles and norms of international law and international treaties concluded by Russia constitute an integral part of its legal system and prevail over the provisions of national legislation. This principle is enshrined in article 7 of the Tax Code. Thus, in the event of a conflict of national law with the provisions of the Treaty on the EAEU, the norms of the latter are applied.

Judicial practice in the EAEU member states in cases where it was necessary to correlate the principles of equality, differentiation and non-discrimination is contradictory. In some cases, national legislation contains a rule that establishes tax discrimination against citizens of other member states, violating this or that basic freedom. The opposite situation is also possible: according to A.I. Savitsky, there is tax discrimination of citizens of the Russian Federation in comparison with workers who have the status of highly qualified specialists from other countries, including the member states of the Eurasian Economic Union [15. P. 62]. The income of such employees from employment is subject to taxation at a rate of 13% regardless of the tax residency status of the taxpayer. And if a foreign employee is not a Russian tax resident, part of his income is subject to taxation at a specified rate, and a citizen of the Russian Federation in similar conditions - at a rate of 30% (clause 3 of Article 224 of the Tax Code).

Incomes received by citizens of Belarus, Kazakhstan and Armenia are taxed at a rate of 13% from the first day of their work in the territory of the Russian Federation. The same rate applies to incomes of citizens of the Kyrgyz Republic. The Constitutional Court of the Russian Federation in Resolution of June 25, 2015 No. 16-P defended the rights of the taxpayer (citizen of the Republic of Belarus) and confirmed his right to refund the tax on personal income paid earlier at a higher rate. Citizens of the Republic of Belarus, as well as individuals who are tax residents of the EAEU Member States who work continuously for 183 days in Russia, are entitled to a tax rate of 13% upon receipt of income. In this case, when calculating personal income tax it is necessary to proceed from the Protocol of January 24, 2006 to the Agreement between the Government of the Russian Federation and the Government of the Republic of Belarus on the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income and property [27], as well as from the Treaty on the EAEU. The purpose of the Agreement is the elimination of double taxation of income and the provision of a national regime for the payment of personal income tax to individuals engaged in long-term employment in another state. Thus, the national tax regime applies to migrants from the EAEU member states working in Russia.

5. Conclusions

Thus, in the legislation of the EAEU Member States, the main criterion for identifying tax discrimination is the criterion of tax residency. The institute of tax residency of organizations, which is based on the “nationality” of the organization, became a novelty of the Russian legislation. You can talk about the formation of the legal regime of non-discrimination in the legal space of the EAEU.

REFERENCES

1. Pepelyaev S.G. (ed.). *Tax law*. Moscow, Al'pina Publ., 2015. 796 p. (In Russ.).
2. Rust A. Non-discrimination, in: Reimer E., Rust A. (eds.). *Klaus Vogel on Double Taxation Conventions*, 4th ed. Kluwer Law International Publ., 2015, pp. 1657–1735.
3. Dziurdz K., Marchgraber C. Non-Discrimination in European and Tax Treaty Law: An Overview, in: Dziurdz K., Marchgraber C. (eds.). *Non-Discrimination in European and Tax Treaty Law*, Series on International Tax Law, Vol. 94. Vienna, Linde Publ., 2015, pp. 1–9.
4. Vinnitskii D.V. The doctrine of the financial law and the main issues of development of international tax law, in: Voronova L.K., Khimicheva N.I. (eds.). *Ocherki finansovo-pravovoi nauki sovremennosti*, Monograph. Moscow, Kharkiv, Pravo Publ., 2011, pp. 400–424. (In Russ.).
5. Tolstopyatenko G.P. *European tax law*, comparative legal issue. Moscow, Norma Publ., 2001. 336 p. (In Russ.).
6. Höfstätter M., Hohenwarter-Mayr D. The Merger Directive, in: Lang M., Pistone P., Schuch J., Staringer C. (eds.). *Introduction to European Tax Law: Direct Taxation*, 2nd ed. Aufl. Wien, 2010, pp. 169–197.
7. Ponomareva K.A. Cross-border loss relief: the ECJ new decision. *Nalogoved*, 2015, no. 5, pp. 66–73. (In Russ.).
8. O'Shea T. Freedom of establishment tax jurisprudence: Avoir Fiscal re-visited. *EC Tax Review*, 2008, iss. 6, pp. 259–275.
9. Terra J.M.B., Wattel P.J. *European Tax Law*, 6th ed. Kluwer Law International, 2012. 1144 p.
10. Nevskii A. *Actual issues of the Eurasian Economic Union*. 2015. Available at "ConsultantPlus". (In Russ.).
11. Mambetalieva A.N., Sulejmenov T.M. Tax aspects of formation of labor market (work force) in the Eurasian Economic Union. *Finansovoe pravo = Financial Law*, 2015, no. 7, pp. 19–22. (In Russ.).
12. Savitskii A.I. *Legal framework of non-discrimination in tax law of the Russian Federation, of the Republic of Belarus and in the Republic of Kazakhstan*, Cand. Diss. Thesis. Yekaterinburg, 2012. 30 p. (In Russ.).
13. Kofler G. *Double-taxation agreements and European community law*. Wien, Linde Publ., 2007. 1200 p. (in German).
14. Dautzenberg N. *Business taxation in the EC internal market*, 1. Halfband. Josef Eul Publ., 1997. 935 p. (In German).
15. Savitskii A.I., Arkhipov V.G. Prohibition of discrimination in double tax treaties of the Russian Federation, of the Republic of Belarus and in the Republic of Kazakhstan. *Nalogoved*, 2012, no. 7, pp. 58–71. (In Russ.).

INFORMATION ABOUT AUTHOR

Karina A. Ponomareva – PhD in Law, Associate Professor, Department of State and Municipal Law
Dostoevsky Omsk State University
55a, Mira pr., Omsk, 644077, Russia
e-mail: karinaponomareva@gmail.com
ResearcherID: N-7562-2016

BIBLIOGRAPHIC DESCRIPTION

Ponomareva K.A. Implementation of non-discrimina-tion principle in legal enforcement of integration as-sociations. *Pravoprimenenie = Law Enforcement Re-view*, 2018, vol. 2, no. 3, pp. 78–88. DOI: 10.24147/2542-1514.2018.2(3).78-88. (In Russ.).