

## LEGAL PROBLEMATICS CONCERNING WITH THE NATIONALITY OF MNCS

**Loiy Yousef Saleh Al-Daoud**

University of Debrecen, Faculty of Law, Debrecen, Hungary  
loai.daoud@hotmail.com

**Abstract:** *The subject of nationality of Multinational Enterprises (MNEs) has a great importance scientifically and practically. This subject is considered as an innovative subject. Its scientific significance shows from that multinational enterprises are considering as new phenomenon and representing great economic force that enjoy advanced material and technical capabilities. In the practical sense, discussion the subject of the legal problems concerning with the Nationality of MNEs contributes to organize the activity of MNEs within a specific legal framework. Studying the nationality of MNEs raises with legal problems. The jurisprudence differed about the definition of the nationality of MNEs, as well as the possibility of the company enjoying nationality. The main aim of the current research is to discuss the Legal problematics concerning with the nationality of MNCs. The study concluded that multinational corporations (MNC) have a specific nationality, although one side of the jurists has denied this matter. It is a fact that cannot be denied. This nationality aims to determine the country to which the company belongs and which operates on its territory, determines the extent to which it enjoys rights under its law and the extent to which it complies with the obligations imposed by this law. As well as, it is clear that both parties (deniers and supporters) agree on the need to link morale to a particular state, because of the legal and political significance of this link, which shows its status, its legal system and its rights. The difference between the two views is limited to the conformity and the appropriate of using the nationality term for this association. It is more appropriate term for the natural person, and perhaps the term 'political submission of the state' is more accurate for the moral person. But as long as the term of nationality is common and used and is intended to be clear, there is no objection to using it in the field of the moral person as well. The researcher recommends conducting further studies regarding the subject of the current study, such as studying the criteria by which the nationality of the multinational companies (MNCs) can be determined in an attempt to clarify the subject further.*

**Keywords:** *Multinational companies (MNCs); nationality; and jurisprudence.*

**JEL Classification:** F23; J53; H19.

### 1. Introduction

The change and development that has emerged in the international economic system, the openness of countries to international trade, the flourishing of foreign direct and indirect investments and the great technological development in the means of production, transport and communication have led to the emergence of modern legal and economic concepts that were not common in the past<sup>5</sup>. One of

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<sup>5</sup> A.M.Rugman, *The End of Globalization*, London 2000; Pankaj Ghemawat, "Semiglobalization and International Business Strategy," *Journal of International Business Studies* 34 (2003); Jan Wouters and Anna-Luise Chané, *Multinational Corporations in International Law*. Leuven Center for Global Governance Studies. Working. Paper No. 129 – December 2013, p. 4.

these concepts is the emergence of a corporate pattern that differs from traditional companies whose activities are not limited to the international borders of a country<sup>6</sup>. This type of company is characterized by its economic strength and its activity which extends beyond the borders of a given country to several countries at the same time<sup>7</sup>. It is difficult to find a specific legal organization for multinational enterprises, as the idea is still alien to most modern laws that may ignore them or take them into account only within very narrow limits with limited legal consequences<sup>8</sup>. Multinational companies (MNCs) have become the hands of developed countries to develop their economies beyond their borders<sup>9</sup>. The growth and prosperity of these companies in developing countries is one of the most difficult aspects, due to legal, social, economic and political reasons<sup>10</sup>. These reasons prompted developing countries to demand the establishment of international covenants and rules governing the activity of these companies<sup>11</sup>. In contrast, multinationals have sought to evade national laws in the countries where they operate and have sought to get international legal personality<sup>12</sup>.

The term used for this type of company (multinational companies) leads to the search for whether these giant entities enjoy the nationality of a particular country at the international level<sup>13</sup>. The opinions differed about the standard adopted to determine this nationality, which is considered as a tool to bring the company into a given state which enjoys its diplomatic protection and subject to its national law in its inception and conduct, and therefore can acquire rights.

The subject of nationality of MNCs has a great importance scientifically and practically. This subject is considered as an innovative subject. Its scientific significance shows from that multinational enterprises are considering as new phenomenon and representing great economic force that enjoy advanced material and technical capabilities. In the practical sense, discussion the subject of the legal problems concerning with the Nationality of MNCs contributes to organize the activity of MNCs within a specific legal framework. Studying the nationality of MNCs raises with legal problems. The jurisprudence differed about the definition of the nationality

<sup>6</sup> Fahd Al-Ghaloud, the impact of multinational companies on the new international economic order after the events of September 11, 2012. Master of Political Science, University of Jordan, 2012, p. 24.

<sup>7</sup> M. Wilkins, The Emergence of Multinational Enterprise, Cambridge, Mass. 1970; M. Wilkins, The Maturing of Multinational Enterprise, Cambridge, Mass. 1974; EVREN KÖKSAL, THE IMPACT OF MULTINATIONAL CORPORATIONS ON INTERNATIONAL RELATIONS -A STUDY OF AMERICAN MULTINATIONALS. A thesis SUBMITTED TO THE GRADUATE SCHOOL OF SOCIAL SCIENCES OF MIDDLE EAST TECHNICAL UNIVERSITY, 2006, 17.

<sup>8</sup> Geoffrey G. Jones, Nationality and Multinationals in Historical Perspective. Harvard Business School, 2005, p. 4.

<sup>9</sup> Geoffrey G. Jones, Nationality and Multinationals in Historical Perspective, 2005. Available at: <http://www.hbs.edu/faculty/Publication%20Files/06-052.pdf>, p. 4.

<sup>10</sup> Jan Wouters and Anna-Luise Chané, Multinational Corporations in International Law, Op cit, p. 23.

<sup>11</sup> See; Agnidipto Tarafder, The Legal Status of Trans-National Corporations in International Law. Available at: <http://www.publicinternationallaw.in/system/files/essayfiles/legalstatusoftranscorp-may2014-adipto.pdf>, 2014; Galiya Kulubekova, SCUOLA DI DOTTORATO DI RICERCA IN: DIRITTO INTERNAZIONALE E DIRITTO PRIVATO E DEL LAVORO. Sede di co-tutela: Università degli Studi di Padova (Italia), 2016; Surender Munjal, Pawan Budhwar and Vijay Pereira, A perspective on multinational enterprise's national identity dilemma, Journal for the Study of Race, Nation and Culture, 2017.

<sup>12</sup> Mogili Malika, Multinational corporations and their impact on the rule of law. Master of Laws, Business Administration, 2014, p.30.

<sup>13</sup> Robin F. Hansen, The International Legal Personality of the Multinational Enterprise and the Governance Gap Problem. Degree of Master of Laws Faculty of Law McGill University, Montréal, 2009, p. 5.

of MNCs, as well as the possibility of the company enjoying nationality. The main aim of the current research is to discuss the Legal problematics concerning with the nationality of MNEs.

## 2. Definition of multinational companies MNCs

MNCs are those companies operating in several countries, consisting of a mother company in the origin country and have many branches in the host countries<sup>14</sup>. MNC defined as the company which operates its business in two or more countries<sup>15</sup>. It is also can be defined as an organization whose annual sales volume exceeds \$ 100 million and has facilities or production branches in six or more foreign countries<sup>16</sup>. Multinational enterprises are defined as regional or geographical transnational corporations, and have production units distributed to a number of foreign countries, enabling them to operate without any national control<sup>17</sup>. It is also known as the company that manages and owns investment projects in more than one foreign country<sup>18</sup>.

MNEs are large in size and have a variety of activities<sup>19</sup>. This means that their business is not limited to produce of one major commodity, but rather they have multiple products<sup>20</sup>. The main motivation and desire of this diversity is the desire of the senior management to reduce the probability of loss. If the company loses in one activity; then it can succeed in other activities<sup>21</sup>.

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<sup>14</sup> Ruth Aguilera, Ki Noh, Jin Kim, and Xiaowei Yaorui, 'Technical Note: Globalization, Globaloney, Semi-Globalization, and the Multinational Enterprise', 2014. Available at: <https://web.northeastern.edu/ruthaguilera/wp-content/uploads/2017/03/Technical-Note-Globaloney.pdf>. p. 1.

<sup>15</sup> Andrea Ascani, Aspects of Multinational Enterprises in the Global Economy: Location, Organisation and Impact. A thesis submitted to the Department of Geography & Environment of the London School of Economics for the degree of Doctor of Philosophy, London, July 2015, p. 15.

<sup>16</sup> EVREN KÖKSAL, THE IMPACT OF MULTINATIONAL CORPORATIONS ON INTERNATIONAL RELATIONS -A STUDY OF AMERICAN MULTINATIONALS. Op cit, p. 7.

<sup>17</sup> Eva Knutsen, Multinationals and Emerging Markets. Copenhagen Business School, 2012, p. 1.

<sup>18</sup> Mogili Malika, Multinational corporations and their impact on the rule of law. Master of Laws, Op cit, p.15.

Also see; Cook, W.N. Multinationals, globalization and industrial relations", in Morley, Michael J., Gunnigle, P. & Collings, D.G., Global Industrial Relations, Oxon: Routledge, 2006; Ozoigbo, B.I., & Chukuezi, C.O., The Impact of Multinational Corporations on the Nigerian Economy, European Journal of Social Sciences, 19(3), 2011; Bulus, H., & Ango, N.A. Multinational Corporations: Corporate Social Responsibility Performance in Lagos State, Nigeria: A qualitative analysis, European Journal of Globalization and Development Research, 5(1), 2012; Osibanjo, A. O.; Oyewunmi, A. E. & Salau, O. P., Globalization and Multinational Corporations: The Nigerian Business Environment in Perspective. IOSR Journal of Business and Management (IOSR-JBM). 8. Volume 16, Issue 11. Ver. III (Nov. 2014).

<sup>19</sup> Fahd Al-Ghaloud, the impact of multinational companies on the new international economic order after the events of September 11, Op cit, p. 25.

See; Rajneesh Narula, Globalisation of Innovation: The Role of Multinational Enterprises. f International Economics & Management, Copenhagen Business School, Howitzvej 60 2000 Frederiksberg, Denmark, 2003; Rajneesh Narula and José Guimón, THE CONTRIBUTION OF MULTINATIONAL ENTERPRISES TO THE UPGRADING OF NATIONAL INNOVATION SYSTEMS IN THE EU NEW MEMBER STATES: POLICY IMPLICATION. OECD Global Forum on International Investment, 2009.

<sup>20</sup> Jan Wouters and Anna-Luise Chané, Multinational Corporations in International Law, Op cit, p. 5.

<sup>21</sup> Geoffrey G. Jones, Nationality and Multinationals in Historical Perspective, Op cit, 6.

### 3. Definition of the nationality of multinational corporations

There has been controversy among jurists over the possibility of granting nationality to a multinational company<sup>22</sup>. Part of the jurists indicated to the possibility of enjoying the company with nationality, and some of them rejected this. Regarding the definition of the nationality of MNEs, jurists differed on giving a certain definition to these enterprises. In general, nationality can be defined as a political and legal association that binds the individual to the state<sup>23</sup>. Nationality is a necessary means necessitated by the imperatives of the current international system for the distribution of the population to States. Nationality has been defined as the criterion by which the legal distribution of individuals in the international community is determined<sup>24</sup>. The International Court of Justice defined nationality as a legal relationship in which an original and solidarity association was established in terms of living, interests and sentiments<sup>25</sup>.

The jurists differed in defining the nationality. Some of the jurists focused on their definition of nationality on the legal side, where they dealt with mutual obligations between individuals and the state. A number of jurists focused on the political side, explaining the political implications of domestic law and international law. Other jurists focused on their definition of nationality on social ties as nationality represents a spiritual feeling and social integration. Other jurists considered that nationality represents a political and legal bond between the individual and the State.<sup>26</sup>

The nationality of the company is the legal association that binds the company to a particular state, through which the company is engaged in the national economy of the state, which results in the subordination of these companies to the sovereignty of the state concerned and benefit from its protection. In other words, the nationality of companies is the legal relationship existing between a company and a particular country, through which the company is integrated into the national economy of the state associated with it, subject to its sovereignty and enjoys its protection.<sup>27</sup>

French jurisprudence introduces the concept of the nationality of a commercial company, but the French legislator did not explicitly refer to the nationality of the company, nor was it mentioned in the general principles of law. Hence the scholars have difficulty in controlling this concept, since nationality in the strict sense is the subjection of a person to the law of a particular state. By applying this definition to a business, it can be concluded that the nationality of a company is the subjection of a particular company in all its aspects to the law of a specific State.<sup>28</sup>

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<sup>22</sup> Montenegro, A. "The Development of Pirelli as an Italian Multinational 1872- 1992," in G. Jones and H. G. Schröter (eds.), *The Rise of Multinationals in Continental Europe*, Aldershot 1993.

<sup>23</sup> Talaat Al Hadidi. *International Legal position for Multinational Enterprises*. Dar Al-Hamed for Publishing and Distribution, First Printing, Amman, 2008, p.194

<sup>24</sup> Tayeb Zeruti. *Mediator to explain Algerian nationality*. Al Kahnah Press, Algiers, 2002, p.18

<sup>25</sup> Adly Abdel Karim. *Legal system of contracts between foreign countries and persons*. PhD thesis, Faculty of Law and Political Science. University of Abu Bakr Talsman, 2011, 98.

<sup>26</sup> Tayeb Zeruti. *Mediator to explain Algerian nationality*, Op cit, p. 19.

<sup>27</sup> Hisham Khaled, *Nationality of the Company*, University Thought House, Alexandria, 2000, 70.

<sup>28</sup> Michel de juglart , Benjamin Ippolito , *cours de droit commercial : les sociétés commerciales* , 2VOL , 10 édition , Montchrestien , Paris 1999 , P 94.

#### 4. The discrimination of the nationality of multinational corporations (MNCs) on the personality of natural persons

The nationality of a multinational company is distinguished from the nationality of natural persons by a set of characteristics. If we clarify the relationship between the individual and the State, it will be noted that it is specific as a spiritual bond based on a sense of allegiance to the State, and this sense is not available in the moral person. Also, the nature of the moral person also contravenes the obligation of some national duties such as the performance of military service. In this section, the most important differences between the nationality of the company as a moral person and the nationality of natural persons will be highlighted.

**First:** the relationship of nationality is a real association involving a social meaning between the individual and the state. It also involves a relationship between flesh and blood. This relationship is based on moral and psychological principles that apply to human beings because they have bodies and a spirits. Other than moral persons represent legal entities, their importance is limited only to their economic value. The purpose of their recognition is to determine their legal scope and subordination.<sup>29</sup>

**Second:** The importance of nationality for the natural person is reflected in the fact that it is a means of determining the people's component in the state, and moral persons do not enter the general census of citizens<sup>30</sup>.

**Third:** The basis for determining the nationality of the natural persons and the implications of granting the nationality to them is not available in the moral person.<sup>31</sup>

**Fourth:** The legal means used to determine the nationality of the natural person are different from the means of determining the subordination of the moral person. In the first case, the state defines its citizens according to the legislation of its nationality. In the second case, the legal rules are double. These are controls from which the state chooses the appropriate ones, such as the headquarters officer.<sup>32</sup>

**Fifthly,** a natural person is usually associated with one state, whatever its place of work, and it cannot be imagined in two places at the same time, while the place of the moral person, which is characterized by the power of international proliferation, is likely to be associated with several countries and may become a relationship with the first State to which it belonged weak and does not reflect the fact of the nationality union. Transnational corporations or multinational corporations are an example of that. They are as global economic groups that are not in fact linked to the traditional standards of any country, although they are categorically fragmented in independent and focused legal units but in fact belong to a single group that shares and monopolizes the sectors of activity without the State being able to control and to suppress the mechanisms of such illegal operations.<sup>33</sup>

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<sup>29</sup> Tayeb Zeruti. Mediator to explain Algerian nationality, Op cit, p. 83.

<sup>30</sup> Meta Hussein. Nationality of multinational corporations. Master's degree in Law Division, Specializes in International Private Relations Law, 2016, p. 7.

<sup>31</sup> Tayeb Zeruti. Mediator to explain Algerian nationality, Op cit, p. 84.

<sup>32</sup> Meta Hussein. Nationality of multinational corporations, Opcit,p.6.

<sup>33</sup> I bid, p. 7.

## 5. The nationality of multinational corporations (MNCs) from the perspective of international jurists

The recognition of the moral person in contemporary law has become a constant fact. This person is considered as an influential legal entity in social and economic life, and imposed itself despite the controversy over the jurisprudence because of its available material possibilities, its spread strength and its life length compared to the natural person with limited possibilities and means.<sup>34</sup>

Nationality has a particular importance to a commercial company as a legal entity, where the company's acquisition of a specific nationality means its entitlement to protect the state which granting nationality, in addition to enjoying the privileges determined by the legislation of that state<sup>35</sup>. Therefore, the company must abide by the laws of that state while maintaining its public order<sup>36</sup>. Despite the importance acquired by the nationality of the company as an independent legal entity; however, its approval was not a consensus among jurists, and there was a dispute between them in granting the nationality to the moral person. Jurists were divided into deniers and supporters to grant nationality to the moral person<sup>37</sup>.

### ***5.1 The deniers side to enjoy the company with the nationality***

Many jurists of private international law have denied that moral persons have the same nationality as a natural person. In their opinion, the nationality is a legal and political link between the State and its constituent individuals, in which the element of the people in the State is determined, which makes it limited only to natural persons. On the other hand, nationality builds emotional and psychological bonds between individuals and the state, and these emotions do not exist for people who have no body that bears pain or a spirit of hope.<sup>38</sup>

#### ***First: The arguments underlying this view***

Nationality is by nature a social and political bond between individuals and the state to which they belong, where nationality develops a sense of loyalty from individuals towards their state. This is unimaginable for the moral person, which is only a legal unit that has no effect on the number of people of the state<sup>39</sup>.

Nationality is also based on the existence of a blood link between individuals and the State, which cannot be applied to moral persons. In addition, rights and duties of a political nature, such as the right to vote, to stand for election to public elections, to engage in public service, and military service are restricted to natural persons without moral persons.<sup>40</sup>

The owners of this opinion also show that nationality is not binding to perform the company (as a moral person) for its functions, since the determination of the law to which the company is subject to perform its functions is due to the standard of the

<sup>34</sup> Tayeb Zeruti. Mediator to explain Algerian nationality, Op cit, P. 83.

<sup>35</sup> Salami Saed. Implications for the Moral Personality of a Trading Company. Research submitted to obtain a master's degree. Faculty of Law and Political Science, University of Abu Bakr Belqayd, Talsman, 2012, p 79.

<sup>36</sup> I bid, p. 79.

<sup>37</sup> Meta Hussein. Nationality of multinational corporations. Op cit, p. 9.

<sup>38</sup> Mohammed Farid Al - Arini. Commercial Companies, New University House, Alexandria, 2003, p 58.

<sup>39</sup> Salami Saed. Implications for the Moral Personality of a Trading Company, Op cit, p. 80.

<sup>40</sup> Meta Hussein. Nationality of multinational corporations, Op cit, p. 9.



main management center. The laws applicable to this company are based on the laws and control systems in the company.<sup>41</sup>

### ***Second: The criticisms of this view***

The first argument shows that there is confusion between the concept of nationality as a legal system in the sense of the affiliation of a person to certain states, and the nationality as a social content. The sense of political and spiritual loyalty to the nationality is not a legal pillar for its existence. Some individuals do not have this feeling, such as the children who do not have the ability to discriminate, as well as the crazy people.<sup>42</sup>

Moreover, the absence of a moral person within the constituent component of the state does not mean that the state does not recognize it. The strength of the state is not measured by the number of its people, but is measured by its economic strength, and the moral persons belonging to the state contribute a great deal in this field.<sup>43</sup>

On the other hand, for deniers who show that the association of nationality is in the blood association, the supporters point out that this argument is incorrect. Supporters show that the nationality of natural persons is not based on a single bond of blood; it is possible to acquire nationality on the basis of the law of nationality or by naturalization. In addition, the Algerian legislator stated in article 50 of the Algerian Civil Code that "... companies whose main position is abroad and has an activity in Algeria are considered to have their status under the domestic law of Algeria ...".<sup>44</sup> According to this text, it is possible to say that the home of companies operating outside Algeria is Algeria. As the nationality of the company is determined by the domicile in most cases, the nationality of these companies is Algerian nationality. Consequently, this method can be considered one of the naturalization methods of moral persons including the MNCs.<sup>45</sup>

With regard to the argument that moral persons are unable to enjoy the rights and duties of a natural person; the supporters assert that such companies have a major role, both politically and economically. In particular with regard to the actions exercised by large corporations in all systems, and thus determine the fate of these states politically.<sup>46</sup>

And for the opinion of the latter argument that shows that the recognition of the nationality of the company is not necessary to carry out its activity or achieve its purpose is also incorrect. The determination and the recognition of the nationality of the company determine its belonging to a state concerned and therefore recognize the applicable law, and its rights and duties are determined in the direction of that state.<sup>47</sup>

### ***5.2 The supporters side to enjoy the company with the nationality***

These jurists see that the nationality of a moral person is not the same as that of a natural person, but it is rather a fantasy and a method of legal drafting. However, the existence of an interdependence between the moral person and the State is a real

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<sup>41</sup> Salami Saed. Implications for the Moral Personality of a Trading Company, Op cit, p. 80.

<sup>42</sup> Tayeb Zeruti. Mediator to explain Algerian nationality, Op cit, P. 85.

<sup>43</sup> I bid, P. 85.

<sup>44</sup> Article 50 of the Algerian Civil Code.

<sup>45</sup> Meta Hussein. Nationality of multinational corporations, Op cit, p. 10.

<sup>46</sup> I bid, p. 10-11.

<sup>47</sup> Salami Saed. Implications for the Moral Personality of a Trading Company, Op cit, p. 81.

necessity that cannot be condoned as long as this company is recognized as a moral personality and its legal activity exceeds the boundaries of the State, thus, this company must be linked to a particular State to determine its status in terms of the extent of its rights (national or foreign)<sup>48</sup>. The problem of the use of rights should also be resolved through the designation of the relevant law in the event of conflict (conflict of laws and conflict of international judicial jurisdiction). The status of moral person differed if he is a national or a foreigner, exactly like the natural person<sup>49</sup>. The identification of the nationality of the company is necessary in many respects, as it aims to achieve the following:

1. To know the amount of rights enjoyed by the moral person and which the state is restricted to its citizens only. Particularly in the area of trafficking, such as the right to tax exemption and the right to receive subsidies.
2. To know the State which has the right to protect this moral person because of it's belonging to it.
3. Determining the legal system that is subject to it at the time of its establishment and at its administrations, applying the tax system to it, etc.

***First: The arguments underlying this view***

Nationality is considered as a legal system based on belonging to the state or its subordination, which is achieved for the company as a moral person as well as for natural person<sup>50</sup>.

On the other hand, the restriction of certain rights and obligations to natural persons without moral persons does not exclude the idea of nationality from the company as a moral person, where the non-enjoyment of moral person with these rights may occur in some cases for the natural persons through the abstention of natural persons from the application of these rights, however, nationality cannot be denied from these natural persons.<sup>51</sup>

There is also a great similarity between natural persons and moral persons in terms of the effects of the enjoyment of nationality as a system that the law provides for both the natural person and the moral person such as the right to own and conduct economic activities, which necessitates the need to determine the nationality of the moral person<sup>52</sup>. This is mainly due to the need to know the extent to which the moral person has the right to enjoy the prescribed rights such as the privileges granted by States to their nationals, such as tax exemption, access to subsidies, the extent to which the State protects its nationals and moral persons. In addition to the knowledge of the legal system that the company is subject to when it is established and managed or when its work is terminated, or in terms of providing the protection to the company in the international field, especially in exceptional circumstances such as war, where the state provides the necessary protection to its national companies at the international level as one of its nationals, to enable them to compete with foreign companies<sup>53</sup>.

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<sup>48</sup> Tayeb Zeruti. Mediator to explain Algerian nationality, Op cit, P. 84.

<sup>49</sup> Nadia Fadil. The provisions of the company in accordance with the Algerian commercial law. Dar Houma for Printing, Publishing and Distribution, 6th edition, Algeria, 2006, p. 64.

<sup>50</sup> Meta Hussein. Nationality of multinational corporations, Op cit, p. 10.

<sup>51</sup> Meta Hussein. Nationality of multinational corporations, Op cit, p. 11.

<sup>52</sup> I bid, p. 12.

<sup>53</sup> I bid, p. 12.



### ***Second: Supporting the company's enjoyment of nationality according to the judiciary Judgments***

At the end of the 19th century and the beginning of the twentieth century, the judiciary settled on the idea of corporate nationality. It ruled that every commercial company is considered a moral person. As well as, Nationality as it is from the requirements for natural persons is also considered a requirement of moral persons. Every commercial company has a nationality that defines its legal status, and this nationality is defined by law<sup>54</sup>. In 16/4/1983, the 'Nancy court' stated that "the commercial company is a distinct moral person from the personality of its members, and therefore has a very special nationality and has a special financial obligation independent of their obligation." In 21/5/1957, the Paris Court of Appeal ruled that the company, which has only a part of its activity but whose head office is located in Paris, where the General Assembly and the Board of Directors are located and where the members of senior management and oversight are located, has French nationality<sup>55</sup>.

The French Court of Cassation also applied the rules of nationality to moral persons, as regards companies of persons. These companies were considered French regardless of the nationality of their members as long as they were established in France and in accordance with the conditions established by French law. In 20/10/1953, the French Court of Cassation ruled that the nationality of the French companies is determined by the place of the head office.<sup>56</sup>

## **6. Conclusion**

It is clear that multinational companies have become one of the most influential entities in the economic field on the international scene, because of its enormous material and human resources that extend to various countries of the world. MNCs seek to transform the world into a single economic arena with the aim of extending its influence and tightening its control over the business sectors of the world, bypassing the territorial boundaries of States.

Multinational corporations have a specific nationality, although one side of the jurists has denied this matter. It is a fact that cannot be denied. This nationality aims to determine the country to which the company belongs and which operates on its territory, determines the extent to which it enjoys rights under its law and the extent to which it complies with the obligations imposed by this law.

As a conclusion to the above it is clear that both parties (deniers and supporters) agree on the need to link morale to a particular state, because of the legal and political significance of this link, which shows its status, its legal system and its rights. The difference between the two views is limited to the conformity and the appropriate of using the nationality term for this association. It is more appropriate term for the natural person, and perhaps the term 'political submission of the state' is more accurate for the moral person. But as long as the term of nationality is common and used and is intended to be clear, there is no objection to using it in the field of the moral person as well, where it is clear through this term that:

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<sup>54</sup> Salami Saed. Implications for the Moral Personality of a Trading Company, Op cit, p. 83.

<sup>55</sup> Meta Hussein. Nationality of multinational corporations, Op cit, p. 12.

<sup>56</sup> Salami Saed. Implications for the Moral Personality of a Trading Company, Op cit, p. 85.

1. The law applicable to the moral person because it arises only under a legal regime that governs and determines its activity.
2. To determine the status of the company in a particular country and to indicate the rights and obligations it enjoys by appointing a status whether it is a national or a foreigner, and this is what has been decided by the most correct opinion, in terms of jurisprudence, judicial and legislative, and what I support.

The researcher recommends conducting further studies regarding the subject of the current study, such as studying the criteria by which the nationality of the multinational companies (MNCs) can be determined in an attempt to clarify the subject further.

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