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Legal aspects of the development of integration processes in the Eurasian Economic Union

Abstract. *The article discusses issues related to integration processes within the Eurasian Economic Union (EAEU) and explores general patterns of integration observed in modern states. It examines the varying speeds of integration within the EAEU. While the Union State of Russia and Belarus has been forming since the 1990s, the active phase of its establishment and the pursuit of goals outlined in the Treaty on the Establishment of the Union State began in 2022. In May 2023, Kazakhstan was also invited to join this Union State, but it rejected the proposal at the highest political level and instead suggested focusing on the prospects for economic integration within the EAEU. This created a unique situation where there were two types of integration within a single integration association. On one hand, there is the Union State of Belarus and Russia, and on the other hand, there are the remaining EAEU members, including Kazakhstan, who collaborate under the framework of the Treaty on the EAEU signed on May 29, 2014. The article also discusses the practical implementation of the Strategic Directions for the Development of Eurasian Economic Integration until 2025. It analyzes certain provisions of the treaty concerning the powers of the EAEU Court, raising doubts about whether they align with the interests of Kazakhstan. A comparison is made between the legal consolidation of integration processes in the European Union through the practices of the EU Court of Justice and the potential assignment of similar functions to the EU Court of Justice. In conclusion, the article suggests that during the simultaneous pursuit of sovereignty by states and entry into integration associations, it is important to preserve and develop statehood and independence. Cooperation within the EAEU should be supplemented by broader economic interactions with all interested countries and integration associations worldwide.*

Keywords: *integration, state, law, sovereignty, EAEU, Union State, European Union, EAEU court, EU court.*

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Introduction

Integration processes, involving the establishment of intertribal and interstate associations, have been present since ancient times. The evolution of mankind itself can be seen as a continuous process of integration, progressing from small communities to larger ones, from isolation to openness, and from a state of “all against all” to universal cooperation. In the 20th century, these processes were institutionalized in international law, with the principle of cooperation between states being a fundamental tenet enshrined in the UN Charter. This principle is further elaborated in the “Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,” adopted on October 24, 1970. According to this document, states are obligated to cooperate with one another, regardless of political, economic, and social differences, in various aspects of interstate relations to maintain international peace and security, promote economic stability and progress, and improve the well-being of people [1].

Regional associations of states are established to facilitate cooperation among nations and are driven by the need to address global and domestic challenges. These interstate associations vary in terms of integration levels. Notably, the stages of integration scheme developed by American scholar B. Balassa and adopted by the World Trade Organization (WTO) provides a well-known and convincing framework for understanding these levels. The stages of integration include:

1. Free Trade Area: Members agree to eliminate customs tariffs and quotas between each other.
2. Customs Union: A common customs policy is established towards third countries.
3. Common Market: All barriers to the movement of factors of production among participating countries are removed. Economic policy coordination and alignment of economic indicators are addressed.
4. Economic Union: Achieved at a stage of high economic development, this stage involves the pursuit of coordinated or even unified economic policies, along with the elimination of all remaining obstacles. Suprastate bodies may be created.
5. Monetary Union: A form of economic union that includes coordinated floating of national currencies, establishment of fixed exchange rates supported by participating countries' central banks, creation of a single regional currency, and the formation of a regional bank serving as the currency's emission center.
6. Full Economic Integration: Involves the establishment of a single economic policy and the unification of the legal framework. Key conditions include a common tax system, standardized norms, unified labor legislation, and more [2].

Additionally, political union can be observed when an integration association pursues a unified or coordinated foreign policy and maintains a common stance in international organizations.

At present, the European Union represents the highest level of integration, where economic and political unification of member states has been achieved, accompanied by the adoption of a single regional currency. The euro, known for its stability, has become the second world reserve currency after the US dollar. The Eurasian Economic Union (EAEU), established by the founding agreement on May 29, 2014, and enforced since January 1, 2015, is an international organization promoting regional economic integration. The EAEU ensures the freedom of movement of goods, services, capital, and labor, as well as the coordination, alignment, or unification of policies in specific sectors defined by the treaty and international agreements within the Union [3]. According to B. Balassa's classification, the EAEU corresponds to the 4th level of integration, an "economic union."

The EAEU holds various meetings, conferences, and events, where numerous documents are adopted to analyze ongoing work and outline future plans. In May 2023, the second Eurasian Economic Forum took place with the participation of leaders from EAEU member states (Armenia, Belarus, Kazakhstan, Kyrgyzstan, and the Russian Federation). The forum addressed a number of issues related to further economic, technical, and humanitarian cooperation, among others.

During his speech at the forum, President of Kazakhstan K.K. Tokayev highlighted the existence of two types of integration within the EAEU. One is the Union State, represented by Belarus and Russia. According to K.K. Tokayev, this represents a unique precedent or phenomenon in world political history—a state created through the formula of "two countries - one state," encompassing a unified political, legal, military, economic, monetary, cultural, and humanitarian space. It includes a single union government and a single union parliament, and even the possession of nuclear weapons is consolidated between the two countries.

Furthermore, there is another level of integration represented by Kazakhstan, Kyrgyzstan, and Armenia, and it is crucial to acknowledge this reality. The question arises: How will we navigate and operate in these circumstances? This poses a conceptual question that needs to be addressed [4].

Indeed, President K.K. Tokayev highlighted the presence of two types of integration within a single integration association. On one hand, there is the Union State of Belarus and Russia. On

the other hand, the remaining members of the EAEU, including Kazakhstan, operate within the framework of the Treaty on the EAEU. Given this context, it is pertinent to analyze the global patterns of integration association development, the core principles of the Treaty on the EAEU, the concept of the Union State of Belarus and Russia, and the emerging trends of qualitatively distinct integrations within the EAEU. These trends have the potential to bring about significant changes in the nature of the integration association.

Methodology

The analysis employed various general scientific methods in accordance with the research objective. These included the dialectical method, methods of analysis and synthesis, the system method, and the method of historicism. Additionally, specific scientific methods such as comparative-legal analysis, quantitative-statistical analysis, comparative methods in studying international and national law, examination of foreign practices, and analysis of scientific literature were utilized. The application of these methods facilitated a comprehensive analysis of the research problem and allowed for the formulation of proposals related to the article's topic.

Discussion

During the second Eurasian Economic Forum held in May 2023, discussions encompassed various topics, including the implementation of the "Strategic Directions for the Development of Eurasian Economic Integration until 2025." This strategic framework, also known as the EAEU Strategy - 2025, was adopted on December 11, 2020 [5]. It is important to note that the document not only outlines key measures and mechanisms for achieving the goals and objectives established by the Treaty on the EAEU but also allows for the incorporation of new forms and areas of economic integration among the Union Member States. Experts estimate that the "EAEU Strategy – 2025" consists of 332 measures aimed at advancing Eurasian economic integration. Successful implementation of this strategy will necessitate the adoption of over ten international treaties, approximately 25 amendments and additions to the Treaty on the EAEU, and the development and approval of more than 250 regulatory acts within the Union [6]. With only 1.5 years remaining until the completion of the EAEU Strategy 2025, the acceleration of its implementation, or at least its key aspects, is crucial. In this context, each participating state needs to safeguard its participation goals within the association and uphold its respective values. For Kazakhstan, this primarily entails preserving and strengthening sovereignty while fostering economic cooperation.

These tendencies, characterized by the simultaneous upholding of national sovereignty and the desire to strengthen international economic cooperation, are prevalent among countries worldwide. In the realm of international relations, states work together to develop agreed norms of law and voluntarily assume obligations in pursuit of mutually beneficial cooperation and the resolution of regional and global challenges. Given the current stage of our country's development, two primary areas can be identified: the strengthening of sovereignty and the advancement of national statehood, and active participation in the formation and functioning of effective and competitive regional associations that primarily consider the economic interests of participating countries.

Our emphasis on the first priority stems from the enduring significance of the idea of national sovereignty. Regardless of the pace of integration within the Commonwealth of Independent States (CIS) or globally, the notion of national sovereignty not only remains relevant but is also gaining support among its advocates. As noted by Yu.A. Tikhomirov, despite the significant influence of other legal systems, the national legal "self-sufficiency" of each country retains its essence [7]. National statehood is not eroded or diminished; rather, it continues to evolve and retain its distinct characteristics.

The integration of post-Soviet countries, which led to the establishment of the EAEU, unfolded gradually through the collaborative efforts of the countries with the greatest interest in

integration, forming what is known as the integration core. Similar to how Germany and France play a crucial role in the European Union (EU), the United States in NAFTA, and Brazil and Argentina in Mercosur, Russia and Kazakhstan have assumed the role of the integration core in the Eurasian space. These two countries possess substantial economic and military capabilities among the CIS nations and have consistently advocated for mutually beneficial economic integration. It is this partnership that paved the way for the creation of the EAEU.

Since approximately 2022, with the events in Ukraine and subsequent international economic sanctions imposed on Russia and Belarus, these two countries have intensified their cooperation. Currently, Russia and Kazakhstan are moving towards closer integration, not only in the economic sphere but also in other areas. The foundation for such an association lies in the Treaty on the Establishment of the Union State signed on December 8, 1999. Article 1 of this treaty highlights that the participating states aim to create the Union State, which represents a new phase in the process of uniting the peoples of both countries into a democratic legal state [8].

In accordance with the Treaty, several institutions will be created, including the Supreme State Council, the Parliament, the Council of Ministers, the Court, and the Accounts Chamber (Article 4). The union state will have its own symbols of statehood, such as a coat of arms, flag, anthem, and other attributes (Article 10). Additionally, it will have a single monetary unit with a central bank responsible for its issuance (Article 13). The treaty also envisions the formation of a unified legal system.

At the present stage, integration associations of states around the world are giving rise to new realities, such as regional or integration law. Regional law, exemplified by the European Union law and the emerging Eurasian Economic Union law, represents a rapidly evolving phenomenon. On one hand, it is rooted in international law, and on the other hand, it is developing as a distinct system of law of a new type. This system is primarily based on international treaties governing regional associations, which impose binding obligations on member states.

Indeed, the law of regional associations, also known as supranational law, does not possess absolute supremacy over the domestic laws of sovereign member states. The establishment of regional association institutions and the transfer of certain powers to them from the national bodies of participating countries does not imply a loss of sovereignty for those states. Professor A.H. Abashidze's statement is correct in highlighting that "Regardless of the status or self-assigned interpretations of sovereignty within integration associations, sovereign states will continue to be the fundamental units of the international political system for the foreseeable future. The example of Brexit serves as a reminder that the core of the system remains with the sovereign states." [9].

The experience of the European Union highlights that the supranational character of EU law has been primarily shaped by the decisions of its institutions, particularly the European Court of Justice (ECJ) located in Luxembourg. The ECJ played a crucial role in interpreting the contractual framework of the Community and establishing the primacy of EU law over national law. Its decisions affirmed the direct effect of EU decisions and the priority of regional law over national law, ultimately contributing to the development of the EU's legal system as a regional association.

Examining certain areas of the "EAEU Strategy – 2025" reveals that if the planned objectives are realized, the EAEU could become an expanded version of the Union State of Russia and Belarus. However, clause 9.2 of the strategy, which focuses on the effectiveness of the Union's judicial system, raises concerns. It proposes the creation of a mechanism to ensure the mandatory enforcement of decisions made by the EAEU Court. This move could lead to the politicization of the court's work and deviate from the initial purpose of the EAEU as a purely economic integration entity. It may resemble the EU Court of Justice, which established a legal system and the highest level of integration among EU member states. This direction was not originally outlined in the Treaty on the EAEU.

The idea of political integration within the EAEU, with supranational bodies and a common legal system for member states, is not widely supported by politicians and scholars, including

in Kazakhstan. The EAEU was established as an exclusively economic association. During the signing ceremony of the Treaty on the Eurasian Economic Union, N.A. Nazarbayev, addressing his colleagues - the President of the Russian Federation V.V. Putin and President of Belarus A.G. Lukashenko emphasized: "First of all, the union is economic and does not affect the independence and political sovereignty of the states participating in the integration process" [10]. This position remains unchanged for the current President K.K. Tokayev. He directly called the invitation of the leader of Belarus to Kazakhstan's accession to the Union State of the Russian Federation and the Republic of Belarus a "joke", which will enable our country to become a co-owner of nuclear weapons. According to K.K. Tokayev. "There is no need for this, since there are other integration associations, first of all, the Eurasian Economic Union. As for nuclear weapons, we do not need them, since we have acceded to the Treaty on the Non-Proliferation of Nuclear Weapons and the Treaty on the Ban on Nuclear Weapons Tests. We remain true to our commitments under these international instruments. I think that cooperation in this vast Eurasian region, or, as they say now, Greater Eurasia, should develop in the economic direction, in which we are all interested. We need to create a real common market" [11].

Conclusions

Thus, in the conditions of the EAEU, Kazakhstan and other participating countries, with the exception of Russia and Belarus, do not force the creation of closer integration like the Union State of the Russian Federation and the Republic of Belarus. The presidents of the participating countries, politicians and scientists consider it important to preserve sovereignty and recognize the undeniable supremacy of the national Constitution in relation to the right of regional association. Caution in the approaches of states to integration processes is also expressed in the fact that the interstate regional association includes countries striving for an equal partnership and not wanting to see a single center in any country. The success of the integration of the European Union is largely due to the fact that it is made up of a number of countries that are approximately equal in terms of economic development, human capital, and so on. In addition, only in some CIS countries, the constitutions have a provision on the possibility of limiting sovereignty in order to create some kind of union of states. For example, Article 79 of the Constitution of the Russian Federation provides for the possibility of the participation of the Russian Federation in interstate associations and the transfer of part of its powers to them in accordance with international treaties, if this does not entail restriction of the rights and freedoms of man and citizen and does not contradict the foundations of the constitutional order of the Russian Federation. In the Constitution of the Republic of Uzbekistan, in the chapter "Foreign Policy", Article 17 states that "The Republic may enter into alliances, enter into commonwealths and other interstate formations, and also withdraw from them, based on the highest interests of the state, the people, their welfare and security [12].

It is correct that the Constitution of the Republic of Kazakhstan does not explicitly include provisions regarding the transfer of sovereign rights to any organizations or integration associations. However, the Law of the Republic of Kazakhstan "On International Treaties of the Republic of Kazakhstan" does mention the possibility of participating in interstate associations and international organizations that involve the transfer of a part of Kazakhstan's sovereign rights or establish the legal binding nature of decisions made by their bodies for Kazakhstan [13]. While the Constitution holds the highest legal force and direct effect over the entire territory of Kazakhstan, the existence of such a provision in the law raises questions about its compatibility with the Constitution. It could be argued that this provision contradicts the constitutional framework of the country. Therefore, there may be grounds to consider the mentioned norm in the Law of the Republic of Kazakhstan "On International Treaties of the Republic of Kazakhstan" as unconstitutional and subject to cancellation, or to propose appropriate amendments to align it with the Constitution of Kazakhstan.

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Еуразиялық экономикалық одақтағы интеграциялық процестерді дамытудың құқықтық аспектілері

Аңдатпа. Мақалада Еуразиялық экономикалық одақ (ЕАЭО) шеңберіндегі интеграциялық үдерістердің кейбір мәселелері, сондай-ақ қазіргі мемлекеттердің интеграциялық үдерістерінің жалпы заңдылықтары қарастырылған. Ресей мен Беларусь одақтық мемлекеті 1990 жылдардан бері қалыптасып келе жатқанына қарамастан, оның қалыптасуының белсенді кезеңі және Одақтық мемлекет құру туралы шартта бекітілген мақсаттарды жүзеге асыру 2022 жылдан басталды. Сонымен қатар, Қазақстан да 2023 жылдың мамыр айында осы Одақтық мемлекетке шақырылды, ол жоғары саяси деңгейде бұл ұсынысты қабылдамады және ЕАЭО аясындағы экономикалық интеграцияны дамыту перспективаларына назар аударуды ұсынды. Бір интеграциялық бірлестіктің ішінде интеграцияның екі түрі болған кезде ерекше жағдай болды. Бұл, бір жағынан, Беларусь пен Ресейдің одақтық мемлекеті. Екінші жағынан, 2014 жылғы 29 мамырдағы ЕАЭО туралы шарт аясында ынтымақтасатын ЕАЭО-ның қалған мүшелері, оның ішінде Қазақстан да бар.

Мақалада Еуразиялық экономикалық интеграцияны дамытудың 2025 жылға дейінгі стратегиялық бағыттарын іс жүзінде іске асырудың кейбір мәселелері де қарастырылған. Оның ЕАЭО Сотының өкілеттіктеріне қатысты кейбір ережелері талданады, бұл олардың Қазақстанның мүдделеріне сай келетініне күмән тудырады. ЕО Сотының Еуропалық Одақтағы интеграциялық процестерді құқықтық консолидациялау тәжірибесін ЕО Сотының сол функцияларды иелену мүмкіндігінің перспективаларымен салыстыру жүргізді. Қорытынды ретінде параллельді процестерді жүзеге асыру кезінде – мемлекеттердің егемендікті бекітуі және интеграциялық бірлестіктерге кіруі, мемлекеттік пен тәуелсіздіктің сақталуы және дамуы қажет деген пікір берілген. ЕАЭО-дағы ынтымақтастық барлық мүдделі елдермен және әлемнің интеграциялық бірлестіктерімен кеңірек экономикалық өзара іс-қимылмен толықтырылуы керек.

Түйін сөздер: интеграция, мемлекет, құқық, егемендік, ЕАЭО, Одақ мемлекеті, Еуропалық одақ, ЕАЭО соты, ЕО соты.

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Правовые аспекты развития интеграционных процессов в Евразийском экономическом союзе

Аннотация. В статье рассматриваются некоторые вопросы интеграционных процессов в рамках Евразийского экономического союза, а также общие закономерности интеграционных процессов современных государств. Рассмотрены разноскоростные интеграционные процессы, происходящие в ЕАЭС. Несмотря на то, что еще с 1990-х годов формировалось Союзное государство России и Белоруссии, активная фаза своего становления и осуществления целей, закрепленных в Договоре о создании Союзного государства, началась с 2022 года. Более того, в это Союзное государство в мае 2023 года был приглашен и Казахстан, который на высшем политическом уровне отклонил это предложение и предложил сосредоточиться на перспективах развития экономической интеграции в рамках ЕАЭС. Сложилась уникальная ситуация, когда сложилось два типа интеграции внутри одного интеграционного объединения. Это, с одной стороны, Союзное государство Белоруссии и России. С другой стороны – оставшиеся члены ЕАЭС, в том числе и Казахстан, которые сотрудничают в рамках Договора о ЕАЭС от 29 мая 2014 года. В статье также рассмотрены некоторые вопросы реализации на практике Стратегических направлений развития евразийской экономической интеграции до 2025 года. Проанализированы некоторые его положения, касающиеся полномочий Суда ЕАЭС, вызывающие сомнение в том, что они отвечают интересам Казахстана. Дано сравнение практики Суда ЕС в деле правового закрепления процессов интеграции в Европейском Союзе с перспективами возможного наделения Суда ЕС такими же функциями. В качестве вывода приведено мнение о том, что при реализации параллельных процессов – утверждения государствами суверенитета и вступления в интеграционные объединения, государственность и независимость должны быть сохранены и развиты. Сотрудничество в ЕАЭС должно дополняться более широким экономическим взаимодействием со всеми заинтересованными странами и интеграционными объединениями мира.

Ключевые слова: интеграция, государство, право, суверенитет, ЕАЭС, Союзное государство, Европейский Союз, Суд ЕАЭС, Суд ЕС.

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