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RUSSIA, UKRAINE, BELARUS IN THE PROGRAM DOCUMENTS OF THE THREE GOVERNMENTS OF ANGELA MERKEL (2005–2017)

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The article traces the evolution of assessments of the role of Russia, Ukraine and Belarus as the most important partners of Germany in Eastern Europe in the system of the regional priorities of the German foreign policy basing on the content of the program documents of the three Angela Merkel's governments: 2005, 2009 and 2013 Coalition Agreements and 2006 and 2016 "White Papers on German security policy and the future of the Bundeswehr". As a result, the most significant changes in the vision of the German interests in Eastern Europe, which occurred during Angela Merkel's chancellorship and can exert a decisive influence on the future German foreign policy, were revealed.

***Key words*:** Angela Merkel's governments; German foreign policy; Coalition Agreements; White Papers on German security policy and the future of the Bundeswehr; Eastern Europe; Russia; Ukraine; Belarus; Enlargement of the European Union.

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РОССИЯ, УКРАИНА, БЕЛАРУСЬ В ПРОГРАММНЫХ ДОКУМЕНТАХ ТРЕХ ПРАВИТЕЛЬСТВ А. МЕРКЕЛЬ (2005–2017)

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Прослежена эволюция оценок роли России, Украины и Беларуси как важнейших партнеров Германии в Восточной Европе в системе региональных приоритетов внешней политики ФРГ исходя из содержания программных документов трех правительств А. Меркель: коалиционных соглашений (2005, 2009 и 2013 гг.), а также белых книг о политике безопасности и будущем бундесвера (2006 и 2016 гг.). В результате выявлены наиболее значимые изменения в видении германских интересов в Восточной Европе, которые произошли в период нахождения у власти канцлера А. Меркель и способны оказать определяющее влияние на дальнейшую внешнюю политику ФРГ.

Ключевые слова: правительства А. Меркель; внешняя политика Германии; коалиционные соглашения; белые книги о политике безопасности и будущем бундесвера; Восточная Европа; Россия; Украина; Беларусь; расширение Европейского союза.

The changes in assessments of the role of Russia, Ukraine and Belarus in Germany's foreign policy, which occurred in 2005–2017 and are reflected in the contents of the most important program documents of the three governments of Chancellor Angela Merkel, allow us to trace the evolution of the vision of Eastern Europe in the system of priorities in the German foreign policy. The analysis and systematization of these changes provide an opportunity to identify the strategic objectives of the German foreign policy towards this important region, as well as specific tasks in the building of bilateral relations with Russia, Ukraine and Belarus. The results of such study would be of interest to forecast the policy of the next German government regarding these three states, taking into account the fundamental geopolitical transformations in the region after the power shift in Ukraine and the annexation of Crimea by Russia in February – March 2014. They strengthened the importance of Eastern Europe for the foreign policy of Germany as an informal leader of the European Union.

It is necessary to mention the program documents, on which this research is based. These are the three Coalition Agreements 2005, 2009 and 2013, which contained the main principles and objectives of Germany's foreign policy, as well as two editions of the "White Papers on the German security policy and the future of the Bundeswehr" 2006 and 2016, which specified its tasks in various spheres of national security and military development. The content of these government documents also correlated closely with the provisions for the foreign policy of the Party Manifesto of the Christian-Democratic Union 2007, which is still a basic document that defines the ideological and political goals of the ruling Christian democrats as the most influential party of the present-day Germany.

The first German government, led by their leader Angela Merkel, which began to work in late November 2005, inherited from her predecessors, and namely the governments of Helmut Kohl (1991–1998) and Gerhard Schroeder (1998–2005), a holistic vision of the Post-Soviet area as a united political-geographical region with Russia in its center. The Russian Federation as a geopolitical successor of the Soviet Union was seen as Germany's strategic partner for ensuring security and stability in Eastern Europe. The German policy towards all other Post-Soviet countries, including Lithuania, Latvia and Estonia, corresponded to the German interests in Russia, the growing economy and the reviving domestic market of which were of obvious interest for Germany's companies in the early XXI century. Thus, Germany's consent to approve the membership of the three Baltic countries in NATO was given only after President Vladimir Putin said in September 2001 that Russia admitted such expansion to the East to be a mistake, but was not intended to hinder it.

However, the geopolitical changes in the region forced the new German government to make some adjustments to its previous holistic vision. The EU and NATO expansion in 2004 made the border with Belarus, Russia and Ukraine an external frontier of the "Greater Europe" as a geopolitical unity and shaped the present-day understanding of Eastern Europe as a region beyond the new EU eastern borders. It required that Angela Merkel's government formulate new principles for the future relations with the eastern neighbors, which were to ensure stability in the region, to expand economic and trade cooperation with all Eastern European countries, which was beneficial for German producers of high-tech goods and services, and to take into account their increasingly diverging interests. In this regard, an obvious challenge for the German foreign policy was President Victor Yushchenko's rise to power in Ukraine. He declared his readiness to strengthen the course towards Europe, including the future membership in the EU and NATO. The German-Belarusian relations did not require such revision and developed steadily, especially in the economic sphere, but were complicated by critical assessment of some aspects of the political development of Belarus

by the German government. Generally, it was in 2005 when the German government presented a program document that contained the most detailed and expanded vision of the future German policy towards all these three countries.

The first Coalition Agreement "Together for Germany – with Courage and Humanity" ("Gemeinsam für Deutschland – mit Mut und Menschlichkeit") was signed on 11 November 2005 and became a basis for the formation of the first government of Angela Merkel, which consisted of the Christian Democratic Union (CDU) / the Christian Social Union (CSU) and the Social Democratic Party (SPD) representatives. The tasks of the German policy towards Russia, Ukraine and Belarus were mentioned in the paragraph "Stability, Security and Cooperation in Europe and the World", which was devoted to foreign policy issues. The partners within the ruling coalition stressed a need to maintain a strategic partnership with Russia in the framework of bilateral relations and in the process of its cooperation with the European Union, and promised also to strengthen a support for the process of Russia's modernization in the political, economic and public spheres. The authors of the document noted a special interest of Germany for a success of the complex process of building a stable democracy in Russia, development of bilateral trade and long-term cooperation in the energy area. At the same time, the new government of Germany stressed that it should not lead to unilateral dependence from supply of hydrocarbon raw materials from Russia [1, p. 134]. It reflected a desire of all ruling parties' leaders to distance themselves from the policy of former Chancellor Gerhard Schroeder. On the eve of the Bundestag elections on 18 September 2005, he was accused of lobbying a German-Russian project of offshore natural gas pipeline construction from Vyborg in Russia and to Greifswald in Germany along the Baltic Sea bottom, operated by the Nord Stream AG (the North European Gas Pipeline Company in 2005–2006). The former Chancellor has been elected Chair of its Shareholders' Committee after leaving the German policy and retains this position until now [2, p. 11, 285].

Russia was also considered to be an important partner in the fighting against regional and global risks and threats, including international terrorism, as well as in cooperation with its immediate neighbors. Such approach testified to Germany's desire to take into account the Russian interests in the entire Post-Soviet area, and the first Angela Merkel's government emphasized this explicitly in this program document. It also promised to work together with other EU members to find the best political solution to the conflict in Chechnya. With that, the development of relations with Russia should not contradict a spirit of friendship and trust in cooperation with mutual neighbors of both countries. Germany made a promise to build relations with the states of Eastern Europe, as well as South Caucasus and Central Asia, based on common values. A special attention in the document was paid to relations with Ukraine and Belarus. The goal of the Germany's policy towards the former was a further full support for the process of political and economic reforms. The government of Angela Merkel supported implementation of the EU decision on 21 February 2005 on deepening and strengthening relations with Ukraine, which should find its own place in Europe. Any prospects of its EU membership were not mentioned. Together with the European partners, Germany expressed its adherence to strengthening democracy, rule of law and human rights in the Republic of Belarus [1, p. 134].

The next program document, which was promulgated by the government of Angela Merkel on 25 October 2006, was *White Paper 2006 on German security policy and the future of the Bundeswehr* ("Weißbuch 2006 zur Sicherheitspolitik Deutschlands und zur Zukunft der Bundeswehr"). It replaced the 1994 White Paper, presented by the government of Helmut Kohl, against the backdrop of the large-scale geopolitical consequences after the collapse of the USSR and disappearance of the Soviet sphere of influence in Eastern Europe. In 2006, it became obvious that Vladimir Putin's government was able to stabilize the political situation, ensure economic growth and make Russia an important partner for Germany in the sphere of international security. The new "White Paper" mentioned a need to develop and deepen long-term and sustainable bilateral partnerships in this area, including the activity of the Russia – NATO Council. Its participation in the international forces led by NATO in Kosovo (KFOR) in 1999–2003 was indicated as an outstanding example of successful cooperation, as well as the joint fighting against international terrorism. Germany expressed a special interest for successful modernization of Russia, given its potential and influence on the World and European politics and economy, including such important and unstable regions as the South Caucasus and Central Asia. The government of Angela Merkel was ready to provide a necessary support to this process and promote a closer cooperation between Russia and the EU and NATO. The document noted that this country was an important supplier of energy resources and a trading partner for many European countries, among which there certainly was Germany itself. Ukraine, which was on the way of policy transformation after the "Orange revolution" 2004, was promised further support from Germany in the process of political and economic reforms as well as was proposed to continue the "intensified dialogue" with NATO members on issues of membership and participation in operations of the Alliance opened in 2005. The White Paper welcomed the active European Neighborhood Policy towards the countries of Eastern Europe, the South Caucasus and Central Asia, which was designed to strengthen the European security area [3, p. 23, 31, 55–56].

An aspiration for a strategic partnership between the EU and Russia, based on the universal values of the Council of Europe and taking into account the interests of the Central and Eastern European states, was also mentioned in a special paragraph of the CDU *Party Manifesto "Freedom and security. Principles for Germany"* ("Freiheit und Sicherheit. Grundsätze für Deutschland"), which was adopted at the party congress on 3–4 December 2007 in Hannover. It was only the third party manifesto during the previous fifty years of the CDU existence, and could be assessed as the evidence of the Christian Democrats' new leadership and Chancellor Angela Merkel's personal striving to present a systemic vision of the party values and principles in the new century. It was declared that Germany, like Europe and the West as a whole, were very interested in good relations with Russia, and the Christian Democrats expressed their readiness to intensify cooperation in the political, economic and public spheres and to support democratic development, rule of law, media pluralism and civil society of Russia by an open and inclusive dialogue. It is significant that relations with other countries of Eastern Europe, including Ukraine, were not mentioned in the CDU Manifesto 2007 [4, p. 108].

The second Coalition Agreement "Growth. Education. Cohesion" ("Wachstum. Bildung. Zusammenhalt") was signed on 26 October 2009 and became a basis for a new ruling coalition led by Chancellor Angela Merkel, which was formed from the CDU / the CSU and the Free Democratic Party (FDP) representatives. By that time, a format of future relations between the EU and its eastern neighbors was already defined at the summit in Prague, where the Eastern Partnership as an initiative of the EU was inaugurated on 7 May 2009. Germany expressed its readiness to build cooperation with its participants (Belarus, Ukraine, Moldova, Azerbaijan, Armenia and Georgia) based on common values [5, p. 117].

A special attention was paid again to relations with Russia, which was called an important partner of Germany in resolving of actual regional and global problems, including the situation in Afghanistan and the Middle East, negotiations on the Iranian nuclear program, fighting against international terrorism, climate change and global epidemics. The ruling parties supported Russia's course to modernization and improving of the situation with human rights, rule of law and democracy, and promised to promote the continuation of the bilateral public dialogue. In the framework of relations with Russia, the German government made a commitment to take into account the rightful interests of the neighboring states and to avoid unilateral dependence in the energy sphere. Germany also wanted to use more actively the Russia – NATO Council as a forum for discussing security issues to achieve close cooperation and even strategic partnership in accordance with the Founding Act Russia – NATO 1997. The Coalition Agreement expressed a hope that the Russian government would return to compliance with the treaty regime to reduce the conventional weapons in Europe, and for this purpose, Germany declared its readiness to ratify the Adapted Conventional Armed Forces in Europe Treaty [5, p. 119–120].

This document was signed on 9 November 1999 at the OSCE summit in Istanbul, but was ratified only by Belarus, Ukraine, Kazakhstan, and Russia. Due to growing contradictions with NATO members, President Vladimir Putin signed a decree on suspension of the Treaty on Conventional Armed Forces in Europe 1990 (CFE) and related international treaties by the Russian Federation on 13 July 2007 [6]. The next day, on 14 July 2007, Russia suspended its ratification of the Adapted Treaty 1999.

The authors of the new Coalition Agreement not only recognized some problems in relations with Russia, but also preferred not to mention Ukraine, which was within the 2005–2007 program documents focus. By the autumn of 2009, internal political contradictions in this country were aggravated again and former allies President Viktor Yushchenko and Prime Minister Yulia Tymoshenko turned into political rivals despite similar ideological positions. In these circumstances, the government of Angela Merkel limited itself to mention only the Eastern Partnership as a form of the EU cooperation with all eastern neighbors, including Ukraine, which was obviously entering a new period of political uncertainty.

The third Coalition Agreement "Shaping Germany's future" ("Deutschlands Zukunft gestalten") was signed on 27 November 2013 and allowed Chancellor Angela Merkel to form her third government with the participation of the representatives of the CDU / the CSU and the Social Democratic Party (SPD). Special attention in this document was paid to the ways of overcoming the financial crisis in the EU, which became a serious challenge for the European integration. The agreements on association, free trade and facilitation of the visa regime with the EU were called the best instruments for cooperation with the members of the Eastern Partnership [7, p. 116].

The content of the special paragraph "Open Dialogue and Broad Cooperation with Russia" differed substantially from the 2005 and 2009 versions. Speaking about Germany's close historical connection with this country, which is the largest and the most important partner for the EU, the authors of the document promised to hold an open dialogue with the Russian government on various views on partnership for modernization in public, political and economic spheres of Russia. Any efforts to broaden and deepen bilateral relations at the level of state institutions and civil society, including the St. Petersburg Dialogue further development, which united representatives of the public sectors from both countries, were welcomed and

supported. Germany declared its intention to explore new forms of public dialogue and to intensify bilateral contacts with the representatives of the new Russian middle class and civil society [7, p. 118]. Exactly these social strata in big cities took the most active part in political protests in Russia in December 2011 – May 2012 directed against the consolidation of power around President Vladimir Putin, who was elected for the third term.

The new government of Angela Merkel called Russia to adhere to the standards of democracy and the rule of law in accordance with its international obligations, including the rules of the World Trade Organization. Germany stated its aspiration for further liberalization of the visa regime for Russian entrepreneurs, scientists, students and civil activists. The authors of the Agreement recognized a need to create a solid basis for the enhancement of the scientific and analytical examination of the Russian politics and the entire region of Eastern Europe, which indicated serious claims about the quality of the materials that had been submitted previously to the federal government. The Agreement also dwelled upon the elaboration of a more concerted EU policy towards Russia as well as a new partnership agreement, the expansion of cooperation in the Baltic Sea region and the enhancement of cooperation in the sphere of foreign policy and security. The key role of deepening of the trilateral dialogue between Germany, Poland and Russia in this process was underlined. The German government traditionally promised to take into account the reasonable interests of the neighboring countries in the framework of building relations with Russia. The authors of the document recognized that security in Europe is possible only with Russia's participation and called for joint efforts to promote settlement of conflicts in the region, and, in particular, expected progress in settling the Transnistrian issue [7, p. 118]. To accelerate this process, a special Memorandum of Cooperation between Russia and the EU was signed as a result of the meeting between President Dmitry Medvedev and Chancellor Angela Merkel in Schloss Meseberg on 4–5 June 2010 [8].

The ruling coalition of the CDU / CSU and the SPD promised to facilitate the start of the US-Russian disarmament negotiations, and called for a more effective use and the reinforcement of the strategic role of the Russia – NATO Council. Their mutually beneficial cooperation was manifested during the withdrawal of the NATO-led troops of the International Security Assistance Force (ISAF) from Afghanistan. Germany made a commitment to find such a joint solution with its NATO-partners regarding the ballistic missile defense system in Europe, which would not lead to new tensions and arms race [7, p. 117–118].

As a result, the 2013 Coalition Agreement was the first program document, which contained a reference to all major contradictions in bilateral relations. These were the opposite assessments of the situation with human rights and civil liberties in Russia, various approaches to the settlement of regional conflicts, growing contradictions in Russia's relations with Poland and the Baltic States. Nevertheless, the government of Angela Merkel still evaluated the German-Russian relations as a partnership and therefore could offer its assistance in the organization of the US-Russian negotiations.

A fundamentally new period in the German-Russian relations began after the aggravation of the political crisis in Ukraine in November 2013 – February 2014, the annexation of Crimea by Russia in March 2014 and subsequent escalation of the armed conflict in the eastern part of Ukraine. All these events led to a systemic crisis in cooperation between Russia and all Western countries, including Germany. Relying on its economic, political and military potential accumulated at the beginning of this century, the Russian government was ready to defend resolutely and consistently its interests in Eastern Europe and did not intend to make concessions to Western countries, as it did in the 1990s and early 2000s.

Significant changes in strategic vision of the German-Russian relations were reflected in the new edition of the *White Paper 2016 on German security policy and the future of the Bundeswehr* ("Weißbuch 2016 zur Sicherheitspolitik und zur Zukunft der Bundeswehr") submitted by the German government on 13 July 2016. It was stated that Russia openly put in question the European peace by means of its readiness to realize its own interests with use of force and unilateral change of borders guaranteed by the international law, which was manifested in Crimea and the East of Ukraine. The authors of the White Paper stressed that this would entail far-reaching consequences for the security in Europe and therefore also for the security of Germany. The crisis in and around Ukraine was called an obvious reflection of the long-term development of Russia's domestic and foreign policies. Russia was turning away from a close partnership with the West and emphasized a strategic rivalry. Internationally, Russia presented itself as an independent center of power with global aspirations. The intensification of military activity on the external EU and NATO borders and the increasing use of hybrid instruments for a purposeful erosion of the border between war and peace, which created uncertainty about the Russian foreign policy goals, were cited as manifestations of such policy. It was also pointed out that in the process of comprehensive modernization of the armed forces Russia was ready to go beyond the existing international treaty obligations. All these actions required a response not only from the affected countries, but also from the EU and NATO. In this regard, it was stated that without a fundamental change of the political course Russia would present a challenge for security on the Euro-

pean continent in the near future. At the same time, the authors of the White Paper recognized that Europe still maintained a wide range of common interests and relations with Russia. As the largest neighbor of the EU and a permanent member of the UN Security Council, this country had a special responsibility at the regional and global levels to overcome common problems and international crises, therefore sustainable security and prosperity in Europe and for Europe could not be ensured in the future without reliable cooperation with Russia. Consequently, a right combination of collective defense and building of resilience with measures for ensuring cooperative security and sectoral cooperation was particularly important in dealing with this country [9, p. 31–32].

A new vision of Russia's role in the system of priorities and interests of Germany's foreign policy, contained in the White Paper 2016, triggered a tough response from the Russian Foreign Ministry. In a statement on 21 July 2016, the publication of the new White Paper edition was assessed as "Berlin's another anti-Russian insinuation", which "is cementing a confrontational component of its entire policy in regard to Russia in the long term". This is regrettable and will be taken into account in the process of further building of the bilateral relations [10].

The protracted negotiations about the formation of the new fourth ruling coalition headed again by Chancellor Angela Merkel after the Bundestag elections on 24 September 2017 marked significant contradictions on the acute problem of further migration policy among the main German parties, namely the CDU/CSU, the SPD, the FDP and the Greens, which participated in coalition negotiations. However, the points of view of these parties on the goals and tasks of the German policy concerning Eastern Europe almost coincide, which shows consensus in principle on this issue. Their four pre-election 2017 programs contained a more or less sharp criticism of the Russian policy in Ukraine [11, p. 55; 12, p. 84; 13, p. 54–55; 14, p. 75, 80]. At the same time, all parties, which are able to participate in the government formation ("regierungsfähig"), hoped that Russia will implement the 2015 Minsk Agreements and continue a comprehensive dialogue aimed at ensuring a long-term and sustainable security in Europe [11, p. 64; 12, p. 84; 13, p. 54–55; 14, p. 75, 79–80]. They also preferred not to mention the prospects of including Ukraine and other countries of the region in the EU, believing reasonably that, in the circumstances of growing crisis trends within the EU, the discussion of the terms and conditions of its expansion is inappropriate and inopportune.

Therefore, it may be assumed that such approaches will probably be reflected in the new Coalition Agreement and will form a basis for the foreign policy of the next government of Germany. It will aspire to retain the role of the main Western agent in negotiations with Russia in the context of further deterioration of the US-Russian relations and, at the same time, to enhance its geopolitical position as an informal coordinator of the gradual convergence between the EU and its eastern neighbors, which are the Eastern Partnership members.

In conclusion, it should be emphasized that the evolution in the assessment of the role of Russia, Ukraine and Belarus in the system of regional priorities of the German foreign policy in 2005–2017 reflected in the content of the documents of Angela Merkel's governments and traced in this research, allows to highlight the following key features in relation to each of these three countries:

1. The consistent and purposeful policy of the Russian government directed to consolidating power within the country and restoring its geopolitical influence on the entire territory of the former Soviet Union increasingly contradicted Germany's aspirations as an informal leader of the united Europe to fix a geopolitical situation in Eastern Europe shaped after the collapse of the USSR in 1991. The governments of Angela Merkel were ready to interact with Russia as the guarantor of stability in the region and as the key economic partner without paying any particular attention to criticism of the situation with human rights and civil liberties, which was clearly reflected in the content of the 2005–2009 documents. Nevertheless, in 2013, it was no longer possible to ignore this problem, but the criticism of the Russian policy was very cautious and was compensated by the declaration of a wish to secure a partnership nature of bilateral relations. The content of 2016 White Paper reflected the fundamental changes in the assessment of Russia after 2014, the policy of which was viewed as a challenge to the security of Germany and the entire EU. The same approach will obviously be present in the new Coalition Agreement, which will allow to form the fourth government headed by Chancellor Angela Merkel in 2018.

2. None of the program documents contained any concrete promises regarding Ukraine, which aims to be involved in the European integration. Its participation in the Eastern Partnership and implementation of the association agreement were considered a satisfactory level of interaction between Ukraine and the EU. This reflected the unreadiness of Germany, as an informal leader of the European Union, to support its next large expansion in the near future in the context of significant contradictions within the EU and colossal expenditure on adaptation of potential new members.

3. Belarus was mentioned only in the 2005 Coalition Agreement in the context of a need to strengthen democracy, rule of law and human rights. At the same time, the consistent efforts of the Belarusian government to ensure stability and security in Eastern Europe and especially to achieve the settlement of the conflict in Ukraine led to a noticeable improvement in

relations with Germany and other European states in 2015–2017. It could be assumed that perspectives for the development of relations with Belarus as an important partner for Germany on the EU eastern borders will be given more attention in the new Coalition Agreement.

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BELARUS – GERMANY: MAIN TRENDS AND STAGES OF THE DEVELOPMENT OF INTERGOVERNMENTAL RELATIONS IN THE 1990s – FIRST HALF OF THE 2010s

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The present paper analyzes the intergovernmental relations of Belarus and Germany in the 1990s – 1st half of the 2010s, characterizes their main stages, considers the achievements and problems of interaction, and defines the place of the German vector in Belarus's foreign-policy strategy. The author draws the conclusion that in the period under investigation Germany was Belarus's chief political and economic partner among the developed countries and that a significant amount of progress was achieved in different areas of cooperation. The difficulties in the countries' intergovernmental relations reflected the contradictions of the functioning of the modern global system and resulted from different historical and civilizational trajectories and levels of political, economic, and cultural development.

Key words: foreign policy; Belarus – Germany relations; economic cooperation; political dialogue; Nazi victim compensation; humanitarian cooperation; investments; external trade.

БЕЛАРУСЬ – ГЕРМАНИЯ: ОСНОВНЫЕ ТЕНДЕНЦИИ И ЭТАПЫ РАЗВИТИЯ МЕЖГОСУДАРСТВЕННЫХ ОТНОШЕНИЙ В 1990-х – ПЕРВОЙ ПОЛОВИНЕ 2010-х гг.

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Проанализированы межгосударственные отношения Беларуси и Германии в 1990-х – первой половине 2010-х гг., охарактеризованы их основные этапы, рассмотрены достижения и проблемы взаимодействия, определено место германского вектора во внешнеполитической стратегии Беларуси. Сделан вывод о том, что Германия в рассматриваемый период являлась основным политическим и экономическим партнером Беларуси среди развитых стран, стороны достигли прогресса в различных сферах сотрудничества. Сложности в межгосударственных отношениях отражали противоречия функционирования современной мировой системы и являлись следствием различного исторического и цивилизационного опыта, уровня политического, экономического, культурного развития.

Ключевые слова: внешняя политика; белорусско-германские отношения; экономическое сотрудничество; политический диалог; компенсации жертвам нацизма; гуманитарное сотрудничество; инвестиции; внешняя торговля.

In the 1990s – 1st half of the 2010s, the Federative Republic of Germany remained Belarus's main partner in the West. The partnership of the two countries in the period under consideration had a multifaceted, complicated, and controversial character. In Belarusian and foreign studies the topic of Belarus – Germa-

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ny relations was dealt with in a wide range of publications [1–12]. The investigation of this problem makes it possible to answer many vital questions regarding the participation of Belarus in international relations at the turn of the millennium, detect the distinctive features of the process of foreign-policy priorities formation, analyze the development of relations with the developed countries and regional organizations, and consider the achievements and difficulties of international cooperation.

Belarus formed its foreign policy course towards Germany on the basis of its national interests and taking into account the pan-European context of cooperation. In establishing the principles and directions of partnership with Germany, the Belarusian leadership regarded this cooperation as a top priority in relations with the West and acted on the premise that both republics shared common interests in maintaining peace and stability in the European region and were aware of the necessity of building a fair and democratic world order, integrating Belarus in the global political, economic, scientific, cultural, and information space, and creating beneficial conditions for the development of the Belarusian economy. The unique character of Germany – Belarus cooperation was due to the historic peculiarities of the two countries' relations and primarily their confrontation in both world wars as well as to Germany's economic influence in the region. A number of other factors also contributed favorably: the countries were not involved in territorial or ethnic disputes and had previously amassed a certain amount of experience in the field of cooperation. Belarus's capabilities as a partner were conditioned by the republic's economic, political, and cultural potential. Politically, Belarus counted on Germany's assistance in the formation of steadfast bonds with European and Euro-Atlantic organizations.

Germany's policy towards Belarus was elaborated and conducted in the mainstream of the EU's common policy towards the post-Soviet space. The main constituents of Germany's foreign-policy course towards the CIS are as follows: creation of a sustainable security system in Europe, endorsement of democratic reforms and transformation to functional market economies, assistance in the development of cooperation with international organizations, settlement of regional and national conflicts, reinforcement of Germany's economic and political positions, and development of relations in the cultural and humanitarian fields. The Republic of Belarus was considered a significant participant of the pan-European system of relations and an important partner in the region. Germany assisted Belarus in the process of formation of its cooperation with the European Union and other international organizations. Belarus was of prime importance to Germany as a link to other CIS states and a major transit country between the EU and Russia. A special place in Germany's foreign policy was assigned to European values: promoting democracy, fostering the rule of law and human rights. Of sensitive character to the German party was the issue of historic responsibility for Nazi crimes in WWII. This factor led to Germany's carrying out humanitarian and cultural projects in Belarus, including payments to victims of Nazi persecution and assistance in the minimization of the consequences of the Chernobyl disaster.

The period of the establishment and progressive development of Germany – Belarus intergovernmental relations covers the time interval from mid-1990 to the end of 1996. The Declaration of State Sovereignty of the Byelorussian Soviet Socialist Republic, adopted in July 1990, allowed the Belarusian leadership to enter into contact with the German government. This process took place in the context of the collapse of the bipolar world and the USSR, the end of the cold war, and the formation of a new system of international relations and transformation processes in the post-Soviet space. One of the most important steps of the Belarusian leadership aimed at establishing relations with Germany was the working visit of the Chairman of the Supreme Soviet Stanislav Shushkevich to Berlin in late September 1991.

After the collapse of the USSR, Germany was among the first to recognize the Republic of Belarus as an independent nation (30 December 1991). On 13 March 1991 Hans-Dietrich Genscher, German Vice-Chancellor and Minister of Foreign Affairs, came to Minsk with an official visit to hold negotiations with the Belarusian leadership. As a result of that visit, an agreement establishing diplomatic relations between Belarus and Germany was concluded. The phrase *resumption of diplomatic relations*, employed in the document on the initiative of the Belarusian party, reflected the historic continuity of interaction. During the March 1992 negotiations Belarus and Germany came up with a common approach to the development of intergovernmental cooperation and aligned their positions towards a range of international problems [13; 14].

In 1992–1996, the two countries rapidly intensified political dialogue, held a number of meetings at the highest level, signed agreements on cooperation in various fields, and opened their respective embassies. Along with the development of relations with the German federal structures, Belarus paid much attention to German states: North Rhine-Westphalia, Brandenburg, Lower Saxony, Schleswig-Holstein, Saxony-Anhalt, etc.

After the 1994 presidential election, a new period began for the country's foreign policy. Germany's response to the changes happening in Belarus was reasonable and realistic. The German media, politicians, and experts unequivocally underscored the free character of the election.

A major positive role for the establishment of contacts between the new Belarusian leadership and the German government, continuation of political dialogue, and discussion of topical issues of bilateral relations

was played by the talks between the Belarusian Minister of Foreign Affairs Vladimir Senko and his German counterpart Klaus Kinkel, held in Oldenburg on 24–26 August, 1994. During the visit, the ministers signed a Joint Declaration on the Foundations of Relations between the Republic of Belarus and the Federative Republic of Germany, which defined the chief directions of intergovernmental cooperation in the political, economic, humanitarian, and cultural fields [15].

In late 1994 – early 1995, the main topic of Belarus – Germany relations was the necessity to form a legal and treaty basis for interaction. 1995 made it clear that Belarus and the West had different approaches to a number of international problems. First of all, that concerned the sensitive issue of NATO's enlargement. In late February 1995 President Lukashenko suspended the Treaty on Conventional Armed Forces in Europe (CFE). The issue of Belarus's commitment to the CFE, the development of the political situation in the country, the prospects of bilateral relations, the problems linked with the forthcoming allocation of credit by the IMF, and the development of relations with the EU were discussed in Minsk in August 1995 by the German Vice-Chancellor and Minister of Foreign Affairs Klaus Kinkel, President Alexander Lukashenko, and the Belarusian Minister of Foreign Affairs Vladimir Senko [16, S. 40340, 40399].

President Lukashenko's working visit to Germany in April 1996 proved to be an important step for the broadening of economic cooperation. During it Alexander Lukashenko met with his German counterpart Roman Herzog, the leaders of the German states North Rhine-Westphalia, Lower Saxony, and Berlin, and businessmen to discuss the directions of cooperation. The Belarusian Head of state said that Belarus had to use Germany's example if it wanted to achieve economic power [17].

The results of the constitutional referendum of 24 November 1996 drastically changed the stance of Germany and the EU towards the republic. In September 1997, the Council of the EU agreed on a set of restrictive measures against Belarus. Germany took an active part in elaborating the EU policy towards Belarus in the wake of the 1996 referendum. The Belarusian leadership saw in the EU's decision its unreadiness for the objective analysis of the situation and a manifestation of the policy of double standards. The aggravation of intergovernmental relations after the 1996 referendum led to a new period in Belarus – Germany interaction, spanning from late 1996 to late 2001. This period is characterized by Belarus's building its foreign policy towards Germany in the context of integration with Russia and the EU sanctions.

Bearing in mind the difficulties of the country's political and economic development, the Belarusian leadership sought to preserve the attained level of political and economic relations with Germany. In early 1997, President Lukashenko, interviewed for the German magazine *Wostok*, noted that the level of Belarus – Germany relations depended more on Germany's stance than on the Belarusian leadership and voiced his hopes that Germany would pursue a more independent policy towards Belarus [18].

A huge role for the sustention of intergovernmental relations was played by President Lukashenko's working visit to Germany in late April 1998, during which focus was on the practical side of the establishment of economic cooperation between the two countries. Summing up the negotiations, President Lukashenko said the German business had a great interest in cooperation with Belarus and emphasized that Russia and Germany were Belarus's main foreign-trade priorities [19].

In the late 1990s, the Belarusian diplomacy concentrated its efforts in relations with the EU on realizing the OSCE's decision to inaugurate a consultative and monitoring group in Minsk. In 1998 Germany-Belarus relations were put to a test as a result of the conflict concerning ambassadorial residences in Drozdy, settled only by the end of that year.

In the early 2000s, Belarus progressed into a new phase, characterized by a strengthened statehood and a full-fledged model of social and economic development. In this period, the Belarusian leadership aimed at pragmatic cooperation under conditions of the EU's eastward enlargement and the ensuing confrontation with Russia. The European Union continued its policy of sanctions against Belarus. Nevertheless, the Belarusian leadership regarded its relations with Germany as a top priority. After the 2001 presidential election, Germany and the EU came up with a step-by-step strategy, the realization of which obviously contributed to the process of further discussion of the format of EU – Belarus cooperation and the amelioration of bilateral relations. Having the biggest experience in cooperation and widest opportunities for influence, Germany was maximally involved in this process, and its position contributed to the settlement of some controversies between Belarus and the EU.

A remarkable role in contacts at the political, expert, and public levels was played by the Minsk Forums, organized by the German-Belarusian Society since 1997. These meetings were dedicated to topical issues of Belarus's economic and political development and the development of Belarus – Germany and Belarus – EU relations.

The EU's and NATO's 2004 enlargement proved to be an important factor in European politics and had a tremendous impact on the geopolitical position of Belarus and its relations with the West. At the same time, a number of reasons emerged for the amplification of contacts between Belarus and the EU, which led to brand new approaches to the development of relations between the parties. As a result of the EU's 2004 enlargement, Germany strengthened its position in the region and proceeded to a new quality of relations with the CIS states, including Belarus.

At a July 2004 meeting with the heads of Belarusian embassies abroad, President Lukashenko noted the role of Germany in Europe and the importance of Belarus – Germany cooperation. For instance, he emphasized the necessity of using Germany's experience in creating small and medium businesses and alternative sources of power. Under conditions of the common economic space of Belarus and Russia being built, the Belarusian President suggested that the role of Germany as the closest trade partner be assessed anew and stressed the unity of Russia's and Germany's interests in the transit of energy resources through Belarus [20].

In 2007–2010, a certain amount of progress was achieved in Belarus – Germany relations, and the parties started to overcome the negative consequences of the restriction of political contacts of the preceding decade. In the 1st half of 2007, Germany presided over the European Union. During the German presidency in the Council of the EU, the negotiations on the conditions of the further development of relations between Belarus and the EU were activated. In July 2007, while accepting the credentials of the new German ambassador Gebhardt Weiss, President Lukashenko again pointed out the special place of Germany in Belarus's political and economic interests [21].

Taking into account the actions of the Belarusian leadership and the results of the parliamentary election, the Council of the EU decided to resume political dialogue with Belarus in October 2008. Germany was instrumental in the amelioration of Belarus – EU relations and supported the republic in its cooperation with other international organizations. In 2009–2010, Belarus and Germany held a number of negotiations at the high level. Belarus's Minister of Foreign Affairs Sergei Martynov's visit to Germany in February 2009 was seminal. During the meeting, the parties elaborated an Agreement on the rehabilitation of Belarusian underage citizens in Germany [22].

Launched in 2009, the Eastern Partnership initiative was a far-reaching project within the framework of the European Neighborhood Policy, aimed at the expansion of cooperation with Belarus, Ukraine, Moldova, Georgia, Armenia, and Azerbaijan. Belarus's entry in the Eastern Partnership opened new horizons for cooperation with the EU members, including Germany.

Belarus's presidential election of 19 December 2010 was a turning point for the country's political history and had a tremendous impact on Belarus's relations with the West. The Western nations sharply criticized the actions of the Belarusian leadership concerning the calculation of the results and the brutal crackdown on the demonstrations of protest. Being one of the most experienced and influential EU power in the post-Soviet space, Germany paid much attention to the Belarusian issue and initiated a new EU policy towards Belarus. On 31 January 2011, the Council of the EU decided to resume the regime of restrictive measures against Belarus.

The period between 2013 and 2017 was one of the most difficult in the history of Belarus's foreign policy. During it the following geopolitical changes happened: realization of Russia's approaches towards the regional system of relations; Ukraine's political crisis of 2013–2014 and the birth of the Russian-Ukrainian conflict; deepening confrontation between Russian and the West; the inauguration of the Eurasian Economic Union; Georgia's, Moldova's, and Ukraine's Association Agreements with the European Union.

Nevertheless, Belarus managed to strengthen its international position, becoming an important ground for the discussion and solution of the whole range of issues related to the Donbass conflict and normalizing its relations with the West.

The most important event in Germany – Belarus relations in this period was the German Chancellor Angela Merkel's visit to Minsk on 11–12 February 2015 to participate in the four-sided negotiations on Ukraine. The coming of the leaders of Germany, Russia, France, and Ukraine acknowledged Belarus's contribution in the stabilization of the situation in the region. As a result of the difficult negotiations, the parties agreed on the terms of a ceasefire in the Donbass and a complex of measures designed to altogether settle the crisis. It should be noted that Angela Merkel was the first German Chancellor to visit Belarus, and her meeting with President Lukashenko in the course of the negotiations opened new opportunities for the normalization and development of bilateral relations [23].

Germany's approach to the Eastern Partnership evolved too. In particular, the German government started to take into account the interests of Belarus as a member of the Eurasian integration project. In 2015, Germany assisted Belarus in joining the European Higher Education Area (Bologna Process). In February 2016, the EU Foreign Affairs Council decided to lift the majority of sanctions against Belarus. This led to the intensification of cooperation with Germany at all levels. Thus, in 2016–2017, there were multiple meetings of Belarus's and Germany's Ministers of Foreign Affairs, the official delegation of the German Parliament visited Belarus, the Belarusian-German Working Group on Trade and Investments gathered, and a number of other bilateral events in the economic, cultural, and humanitarian fields were organized. On the whole, in 2014–2016, Belarus – Germany political relations reached a major turning point, which is due to the increasing role of Belarus in the settlement of the Donbass crisis and its détente with the EU. In sum, Germany – Belarus cooperation gradually enters a new stage corresponding to a greater extent to the potential and interests of both countries.

In Belarus – Germany relations, the economic constituent has always been one of the chief areas of cooperation. The fundamental principles, directions, and forms of economic cooperation were formulated in a number of agreements between the Republic of

Belarus and the Federative Republic of Germany. In early April 1993, when the Belarusian delegation, headed by the Deputy Chairman of the Council of Ministers of the Republic of Belarus Mikhail Miasnikovich, visited Germany, the parties signed a treaty on the development of full-scale cooperation in the fields of economy, industry, and science and a treaty on promoting and protecting investments.

In order to facilitate and coordinate economic contacts, a Belarusian-German Council of Economic Cooperation was inaugurated in mid-1992. The meetings of the Council were dedicated to the results of cooperation, discussion of future projects and the possibility of credit allocation, and analysis of economic reforms in Belarus. In 1992–1996, there were four meeting of the Council. After the introduction of EU sanctions against Belarus, the Council was dissolved in September 1997, and in 1999 a bilateral working group on trade and investments was created. On the whole, in the middle of the 1990s, the infrastructure of economic cooperation, adapted to the political realities of Belarus – Germany relations, was fully built. In 2009–2010, the Belarusian-German Council of Economic Cooperation resumed its work.

Germany and Belarus assigned a vital role in the process of reforming Belarus's economy to the Federal Government's program of consultative assistance *Transform*, covering different areas of economy, science, and education and acting in 1992–2000. In 2001 Germany supplemented *Transform* with a Support Program for Belarus. It was elaborated in view of the common EU approach, in particular, much emphasis was placed on the development of civil society in Belarus, support of public initiatives, development of bilateral cooperation in different fields, and integration into the European structures.

In the early 1990s, a lot of German foundations and programs began to work in Belarus, first of all, those aimed at training specialists in the areas of economy, science, and education: the German Academic Exchange Service (DAAD), the Alexander-Humboldt, Friedrich-Ebert, Konrad-Adenauer, Robert-Bosch Foundations, the Max-Planck Institute, etc.

In the 2000s, among the new forms of cooperation in the economic field were the activity of the Belarusian-German Working Group on Trade and Investments and the launch of the Days of German Economy in Belarus.

In a number of areas of cooperation (technical assistance, investments, foreign trade), Germany was Belarus's leading partner in the EU. For example, in 2001–2015, the volumes of trade tended to increase: bilateral trade between Belarus and Germany rose fivefold and Germany's share in Belarus's foreign trade stabilized at 5–6 %. Germany was the major trade partner for Belarus in Europe: in 2009 Germany's share in Belarus's trade with the EU was 20.2 % (23.8 % in imports, 15 % in exports) [24, p. 671]. According to Belarusian data, as of January 2015, in terms of accumulated foreign capital, Germany was the fifth among the countries-investors, having 3.5 %, or 350.5 million US dollars [25, p. 16–17]. In early 2015, 333 enterprises in Belarus had German capital (the 6th place among other countries) [25, p. 8–9]. Both sides repeatedly stressed the significance of Belarus as a transit country for Germany and the EU. New prospects for bilateral economic relations were opened by the formation of the Eurasian Economic Union.

A special place in bilateral relations in the first half of the 1990s was devoted to the political issues of the German reunification. In this context, the problem of reconciliation and mutual understanding gained much importance. In late March 1993, the Ministers of Foreign Affairs of Belarus, Russia, Ukraine, and Germany signed an Agreement on the financial compensation to the victims of the Nazi regime during WWII. Within this agreement, more than 125 thousand Belarusian citizens received 100 million euro [8, S. 17].

In July 2000, Germany decreed the creation of the Foundation *Memory*, *Responsibility*, *Future*, the funds of which were to be paid to over 1.5 million forced workers from the Nazi-occupied countries during WWII, including 170 thousand Belarusian citizens. Within this program, more than 130 thousand Belarusian citizens received around 354 million euro [8, S. 17].

In May 2015, the German Parliament decided to pay a symbolic sum of 2500 euro to former Soviet prisoners of war during WWII. Germany kept its promise to carry out the residential construction program for the former Soviet troops that were withdrawn from Germany to the territory of the Republic of Belarus. According to German data, in 1991–1995, Germany spent 600 million euro in the residential construction and troop retraining programs in Belarus [8, S. 17]. This was the biggest program of financial assistance to Belarus on the German part.

In June 1996, the Belarusian and German Governments signed a War Graves Agreement. According to it, the parties took the responsibility to ensure the protection of war graves and the eternal peace of the dead from both sides. The realization of the agreement was entrusted to the German People's Union for the Care of War Graves and the Belarusian Ministry of Defense. Despite the fact that the Agreement never came into force, the governments of both countries continued to implement its provisions.

Germany was one of the first nations to offer assistance to the people of Belarus suffering from the Chernobyl disaster. Cooperation in this area began in the late 1980s as part of Germany – USSR relations. A huge positive role for the organization of cooperation between Belarus and Germany in minimizing the effect of Chernobyl was played by the Memorandum on assistance to victims of the Chernobyl disaster, signed by the Belarusian and German Governments in March 1994. In this memorandum, both parties stipulated

their wish to maintain effective cooperation in the field of smoothing out the consequences of the Chernobyl disaster. The Belarusian and German Governments created benign conditions for public initiatives and humanitarian organizations and endorsed a number of projects aimed at eliminating the effects of the nuclear catastrophe [1–5]. A significant role in the realization of cooperation in this area was played by the activity of the Otto-Hugo Institute of Radiology (Munich University), headed by professor H. Lengfelder. In the middle of the 1990s, Germany and Belarus started to cooperate on rehabilitation activities for Chernobyl victims on the territory of Belarus. A major joint initiative was the 1994 opening of the rehabilitation center *Nadezhda (Hope) XXI century* for children affected by the Chernobyl disaster. All in all, Germany spent 340 million euros in humanitarian aid from 1986 to the early 2000s [8, S. 17].

In May 2000, President Lukashenko met with the representatives of German charitable organizations. The Belarusian leader highly valued the German humanitarian aid and the country's role in dealing with the effects of Chernobyl.

The cooperation of Belarusian and German governmental and public organizations, initiatives, and private persons was a considerable contribution to the process of reconciliation and building mutual understanding between Belarus and Germany. The realization of Germany's humanitarian programs greatly helped to solve practical issues connected with the consequences of Chernobyl.

Belarus – Germany cultural cooperation was also an important part of bilateral relations. It was based on a March 1994 Agreement on cultural cooperation, signed by the German and Belarusian Governments. The Goethe-Institute was instrumental in establishing and strengthening links between the two nations and developing meaningful cultural dialogue. It began to work in Belarus in July 1993 and focused on the following tasks: organization of the library, popularization of the German language in Belarus, and realization of cultural projects. The opening of the Minsk International Education Center in September 1994 was a major event in Belarus's cultural and public life. The Center sought to bring together the two nations, ensure their cooperation, reconciliation, and mutual understanding, conduct joint projects in the areas of economy, wildlife preservation, cultural exchange, minimization of the effects of Chernobyl, development of the youths and women movement, dialogue between the churches, etc. As part of the Center, a German Economic Club, uniting the interests of German enterprises in Belarus, was inaugurated in 1994.

Drawing the conclusion, one can say that Germany-Belarus relations were formed on the basis of partnership and mutual benefit and that the parties achieved considerable progress in different fields of cooperation. The political dialogue mechanism favored the elaboration of the principles of bilateral relations and the definition of the main directions of cooperation. The two countries built a solid treaty and legislative basis for interaction and effective institutions of cooperation. Belarus's stance towards the solution of the Donbass crisis led to the adoption, within the framework of the OSCE and the Normandy format, of a series of agreements aimed at the settlement of the conflict. Belarus-Germany economic cooperation promoted the development of the Belarusian economy and increased its competitiveness and integration into the global economic system. Belarus and Germany achieved progress in the area of historical reconciliation and realized the international agreements of 1993 and 2000 on financial compensation to victims of Nazi persecution. In the field of the minimization of the effects of Chernobyl, Germany was Belarus's main partner among foreign nations. Both countries assigned much importance to the development of cultural relation and the expansion of cooperation in the areas of science and education. In the period under investigation, Germany remained Belarus's chief political and economic partner in the West.

The difficulties of Belarus – Germany relations reflected the contradictions of the functioning of the present-day global system and resulted from different historical and civilizational backgrounds and levels of political, economic, and cultural development. In the course of cooperation, several groups of contradictions emerged. First, a range of contradictions concerned the German assessment of the direction and pace of political and economic reforms in Belarus. The peculiarities of Belarus's domestic policy after the 1996 referendum were sharply criticized by Germany and the EU on the whole and led to the lasting policy of restrictive measure against Belarus, which held back the further development of cooperation. Belarus, on its part, was firm in promoting the principles of equal rights, sovereignty, and non-interference in its relations with the EU. The second group of contradictions concerned a number of bilateral relations issues, in particular, the War Graves Agreement and the conditions of the realization of humanitarian aid programs. In the economic field, there were both objective and subjective obstacles due to the capabilities of the Belarusian market, distinctive features of the Belarusian economic model, the State's dominance in economic affairs, and legal conditions for the activity of foreign investors. The third group of contradictions formed on the basis on non-aligned approaches to the problems of regional and international scales: the security architecture in Europe, NATO's enlargement, the West's export of democracy and its methods, integration projects in the post-Soviet space, and the growing opposition of Eurasian and European integration. The difficulties in bilateral relations limited the possibilities of Belarus – Germany cooperation.

Belarus-Germany relations were to a great extent influenced by the European integration process. Bela-

rus and Germany participated in different integration projects, which became competitors in political and economic terms. The German leadership effectively employed the capabilities of the EU and other European organizations to reach its political goals regarding Belarus. Germany's stance was defining in the formation and realization of the EU's Belarusian policy. In the 1990s – early 2010s, Belarus took an active part in regional organizations in the post-Soviet space, but within the CIS, the Union State of Belarus and Russia, the Collective Security treaty Organization, and the Eurasian Economic Community, there were no efficient mechanism to elaborate and conduct the common principles of relations towards other countries and regional organizations. The inauguration of the Eurasian Economic Union created new opportunities to coordinate the political and economic activity of its members on the international arena. Belarus's initiatives to form a mechanism of interaction between the Eurasian Economic Union and the EU contribute to creating benign conditions for further cooperation between Belarus and Germany.

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THE SIGNIFICANCE OF EURASIAN AND EUROPEAN INTEGRATIONS IN THE FOREIGN POLICY OF THE REPUBLIC OF BELARUS (1991–2017)

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The article analyzes the position of the Republic of Belarus on the issue of participation in the processes of Eurasian and European integrations in 1991–2017. It is noted that the integration policy of Belarus was built on the basis of preserving the sovereignty of the Belarusian state, equality of the participants of the integration projects and real benefits for the Belarusian state and the Belarusian people. To a greater extent, the Eurasian integration projects met these requirements (Belarusian-Russian enterprises, EurAsEC, EAEU), which predetermined the active participation of Belarus in Eurasian integration. The European integration project did not meet the expectations of the Belarusian authorities and did not receive massive support from the Belarusian society. As a consequence, the cooperation with the EU became a subsidiary direction of the Belarusian foreign policy and integration activity.

Key words: Republic of Belarus; integration; the Union State of Belarus and Russia; the Eurasian Economic Union; the European Union; Eastern Partnership.

ЗНАЧЕНИЕ ЕВРАЗИЙСКОЙ И ЕВРОПЕЙСКОЙ ИНТЕГРАЦИЙ ВО ВНЕШНЕЙ ПОЛИТИКЕ РЕСПУБЛИКИ БЕЛАРУСЬ (1991–2017)

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Анализируется позиция Республики Беларусь по вопросам участия в процессах евразийской и европейской интеграций в 1991–2017 гг. Отмечено, что интеграционная политика Беларуси выстраивалась на основе сохранения суверенитета белорусского государства, равноправия участников интеграционных проектов и реальной пользы для белорусского государства и белорусского народа. В большей мере этим требованиям соответствовали евразийские интеграционные проекты (белорусско-российские объединения, ЕвразЭС, ЕАЭС), что предопределило активное участие Республики Беларусь в евразийской интеграции. Европейский интеграционный проект не в полной мере соответствовал пожеланиям белорусских властей и не получил массовой поддержки белорусского общества. Вследствие этого сотрудничество с ЕС стало вспомогательным направлением белорусской внешнеполитической и интеграционной активности.

Ключевые слова: Республика Беларусь; интеграция; Союзное государство Беларуси и России; Евразийский экономический союз; Европейский союз; Восточное партнерство.

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Introduction

Integration is broadly defined as the combination of parts into a unitary whole. Usually, the process of integration covers the fields of politics and economics. Political integration involves the unification of political forces within the state or inter-state structures for the sake of achieving certain political goals (improving status on the world stage, securing sustainable socio-economic development). Economic integration presupposes the unification of the States on the basis of the formation of deep steady interrelations and the division of labour between the national economies.

Integration processes have become an integral component of international relations in the XX century. A striking example of integration was the appearance of the Soviet Union in 1922 by uniting several formally independent Soviet republics. Political decision on unification led to the emergence of a unified political, economic, cultural and other spaces and acquired a certain ideological slant, which allowed the USSR to survive over 60 years. In the second half of the XX century integration associations appeared in Western Europe (the European Communities), Eastern Europe (the Council for Mutual Economic Assistance), South-East Asian Nations (ASEAN), Latin America (the Andean Community). At the turn of the XX and XI centuries integration has become the dominant trend in international relations.

Global trends could not affect the Republic of Belarus. Active participation in integration processes was one of the basic priorities of its foreign policy since aquiring the status of an independent state in 1991. The purpose of this article is to assess the features and results of the participation of the Belarusian state in the integration processes in Europe and Eurasia in 1991–2017.

The objectives of the article are the following:

• to study the prerequisites for connection of the Republic of Belarus to the various integration projects;

• to determine the key priorities of the participation in the integration processes;

• to highlight the characteristics features of Belarus' connection to the integration projects and the degree of its involvement in these projects;

• to evaluate the significance of Belarus in various integration projects.

The issue of participation of Belarus in integration processes has received the coverage in scientific publications by A. Sharapo, V. Shadursky, V. Snapkovski, A. Rusakovich, M. Chasnouski, A. Tihhomirov, A. Baychorov, E. Dostanko, V. Ulakhovich, S. Kizima, P. Brigadin, D. Rothman, N. Veremeeva, E. Semak, R. Turarbekova, E. Douhan, Yu. Shevtsov, I. Karbalevich, M. Myasnikovich [1–30]. A number of publications on the involvement of the independent Belarusian state in the European and Eurasian integration projects was prepared by the experts of the Center for strategic and foreign policy studies and the Belarusian Institute for Strategic Studies (in Vilnius) [31; 32]. Outside the Republic of Belarus the issues under discussion were covered by researchers from Russia, Poland, and Germany [33–46]. In the USA, some aspects of integration policy of independent Belarus were studied by G. Ioffe [47].

As a rule, the problems of Belarusian participation in integration processes were considered in the context of the implementation of its foreign policy. The researchers drew attention to the desire of Belarus to maneuver between various integration projects, and insufficient degree of involvement in them (that was a usual situation in the description of Belarus' interaction with the European Union, but it has recently become applicable to the Eurasian integration associations, primarily the Eurasian Economic Union).

The scientific novelty of this article lies in conducting a comparative analysis of the participation of the Republic of Belarus in the Eurasian and European integration projects, determining the significance of these projects for the development of the Belarusian state, and assessing their impact on the state-building process in Belarus.

This article is based on the documents from the collections of the foreign policy of Belarus, the materials from the sites of the bodies of state power and administration of the Republic of Belarus, official statistical data, current materials and the media of Belarus.

The general methodology of the conducted research is based on the principles of objectivity, historicism, systematic, value approach and the combination of logical and scientific methods, including induction and deduction, analysis and synthesis, analogy, comparison, identification, generalization, classification and typology.

Also, there were employed specific historical research methods: historical genetic method, historical comparative method, historical and typological method, historical-systemic method and structural-functional method.

Belarus and Eurasian integration

In the early 1990s, the Belarusian party was primarily interested in integration on the post-Soviet (Eurasian) space. The increasing interest in that particular direction was due to the fact that during the existence of the Soviet Union, Belarus played the role of the Soviet "factory". The severance of economic and technological ties with other republics (especially with Russia) was accompanied by growing political and social instability.

In December 1991, the leaders of the Republic of Belarus took an active part in the establishment of the Commonwealth of Independent States. The Belarusian

capital became the seat of the permanent Executive and coordinating bodies of the CIS Advisory Committee and the Executive Secretariat. In 1993 Belarus signed the CIS Charter, and in January 1994 ratified it.

However, it soon became clear that the CIS did not preserve common political and economic, and other spaces. After a failed attempt to create the Economic Union within the CIS, the Belarusian leadership focused on strengthening political, military and economic ties with Russia. Explaining the necessity of that step, the Belarusian head of government V. Kebich stated in April 1994: "it is not only related by blood, the age-old unity of the Russian people. We are united economically. Almost all the energy, raw materials, the main components come from Russia, and two-thirds of our production comes back… And the only salvation is in integration" [48].

Having come to power in the summer of 1994, A. Lukashenko retained the idea of strengthening the alliance with Russia as the basis of the foreign policy of the Belarusian state. In March 1995 the President of Belarus stressed that the Belarusian and Russian peoples are fraternal Slavic peoples, and the economic cooperation with Russia is a fundamental factor in overcoming the crisis, and stabilizes many aspects of the inner life of Belarus [49].

In early 1995, Belarus formed a customs union with Russia and Kazakhstan. In the same year the intensified Belarusian-Russian political dialogue resulted in a more active cooperation between the two countries in the sphere of security and defense. In May 1995 the course for accelerating economic integration with Russia was supported by the Belarusian society (the corresponding question was put to a national referendum and received the approval of 82.4 percent of the citizens who took part in the vote) [50].

Between 1996 and 1999 Belarus and Russia established a number of associations facilitating integration (Community, Union, Union State). The result was the creation of a number of Federal structures, joint Ministerial boards, enhancement of coordination of Belarusian and Russian actions in the international arena.

In December 1999, the leaders of the Republic of Belarus and the Russian Federation expressed their intention to create a single interstate education by 2006. However, in practice, these plans have not been materialized. Belarus and Russia have maintained the status of a sovereign and independent states and their own socio-economic and political development models.

The Alliance with Russia brought Belarus a number of dividends. According to the Belarusian political analyst Yu. Shevtsov, the Union would save the Belarusian industrial base, which in turn contributed to strengthening the independence of the Belarusian state [28, p. 215]. The existence of the Union facilitated the movement of citizens of two sovereign States, created favorable conditions for increasing the turnover of goods and services, convergence of social policies of the two States, allowed Belarus to establish closer ties with Russian regions. Russia accounted for almost half of Belarusian foreign trade of goods. The importance of Russia as an energy partner and financial donor of Belarus was also crucial. In general, the Russian side was satisfied with the political model established in Belarus. Moreover, some Russian politicians considered the Belarusian model of development as a model for Russia.

Highlighting the integration with Russia as the main foreign policy priority, the Belarusian leadership did not support the initiative of the President of Kazakhstan N. Nazarbayev on the Eurasian Union launched in 1994 [51]. The official Minsk also rejected proposals for the establishment of the Baltic-Black Sea Union of Latvia, Lithuania, Belarus and Ukraine, which were put forward by the Belarusian opposition. The creation of the association of Georgia, Ukraine, Azerbaijan and Moldova (GUAM) in 1997 did not cause a positive reaction in Minsk.

The beginning of the XIX century was marked by changes on the Russian political scene. Vladimir Putin, who superseded Boris Yeltsin as the President of the Russian Federation in 2000, expressed the intention to make the integration processes in the CIS more pragmatic and beneficial for Russia. The Russian integration initiatives were accepted in Minsk without enthusiasm. In 2002, the Belarusian authorities emphasized that the deepening of integration with Russia was only possible provided that the sovereign status of the Belarusian state would be preserved and full equality of Belarus and Russia would be ensured [52]. Also, the official Minsk rejected the Russian proposal on the adoption of the Russian ruble as the currency of the Union State [53, p. 313–315].

Contradictions between the participants of the Belarusian-Russian integration associations, primarily due to their desire to preserve sovereignty, led to increased tensions. Formally, conflict situations arose between business entities regarding the conditions for admission of Belarusian agricultural products to the Russian market, transportation of Russian oil and natural gas on the Belarusian territory, prices of Russian natural gas supplied to Belarus, transfer of assets of Belarusian enterprises to Russian owners, but due to the specifics of the Belarusian and Russian economic systems they grew into interstate conflicts. However, the conflicts did not rise to antagonism in the Belarusian-Russian relations and their settlement was carried out on the basis of compromise.

After 2010 the Belarusian-Russian political dialogue maintained its high degree of activity and was not accompanied by the bursts of "information warfare", which were characteristic of the first decade of the XXI century. Belarus was strengthening cooperation with Russia's regions. Attempts were made to engage in dialogue with the representatives of the Belarusian and Russian society (including youth organizations). The

Belarusian-Russian cooperation in the sphere of defense and security remained active. In 2016–2017 Russia accounted for more than half of the foreign trade of the Belarusian goods (although trade between Belarus and Russia maintained a negative balance, and the value of trade declined after 2014). In 2016 the volume of trade turnover between Belarus and Russia amounted to 26.3 billion US dollars, for the first 9 months of 2017 – 23.2 billion US dollars [54, p. 51, 57; 55]. Russia was the main consumer of Belarusian technology-intensive and agricultural products and the only supplier of oil and natural gas to Belarus (attempts to find energy alternatives such as Turkmenistan, Azerbaijan and Venezuela in the first decade of the XXI century were not successful). Belarus developed its nuclear power industry exclusively with Russia. The relationship between the two countries in the fields of culture and information remained intense. The Union State's bodies continued to operate. The budget of the Union State was enacted annually, which enabled the financing of joint development programs. The Union State had the TV and radio, and print media.

The combination of the factors mentioned above predetermined the preservation of the Belarusian-Russian integration project. However, the problem was that Belarus and Russia remained sovereign states with their own specific and not always similar interests, goals and agendas in the international arena. The Union State lacked a unified economic, social, scientific and technological space, a common border, a common line of conduct in the international arena.

In the 2000s – 2010s in the framework of the CIS multilateral enterprises, focused on economic integration stepped forward. The beginning of this process started with the creation of the Eurasian Economic Community (EurAsEC) in October 2000 (by 2014 the EurAsEC included Belarus, Kazakhstan, Kyrgyzstan, Russia and Tajikistan). In 2010 the Customs Union of Belarus, Russia and Kazakhstan was established creating the basis for the formation of the Common Economic Space (CES) in 2012.

In 2012, the preparations for the creation of a new integration association – the Eurasian Economic Union (EAEU) began. The Belarusian government basically supported the idea of creating a new interstate association, but identified several "red lines". In autumn 2013, Alexander Lukashenko stressed that the new Union should not include a single currency and a "supranational add-ins" [56]. At the meeting of the Supreme Eurasian economic Council in Moscow on 29 April 2014, the Belarusian leader said that the EAEU should be based on the principle of non-exemptions and restrictions in foreign trade, including the oil trade [57]. In May 2014, the Belarusian government focused on the need to preserve the equality of all the States of the EAEU [58].

On 29 May 2014 A. Lukashenko, along with the leaders of Kazakhstan and Russia, signed the text of the Treaty establishing the EAEU at the meeting in Astana. On 1 January 2015 a specified Treaty entered into force.

From the point of view of the Belarusian side, the Treaty, which established the EAEU, was a compromise. Minsk criticized the following issues:

a) a large number of exemptions and restrictions on trade in different products;

b) inconsistency of the macroeconomic policy (Minsk critically evaluated Kazakhstan's accession to the WTO and Russia's introduction of restrictions on the admission of European agricultural products);

c) the absence of a proper energy market, and the preservation of energy preferences by the Russian side for the manufacturers of products within the Russian Federation;

d) the imposition of restrictions on access to the Russian market for Belarusian agricultural products from the Federal Service for Veterinary and Phytosanitary Surveillance (Rosselkhoznadzor);

e) inconsistency of the industrial policy (primarily the Russian Federation);

f) the lack of common transport policy, high tariffs on transportation of Belarusian goods through Russian territory and the restrictions imposed by the Russian side on the admission of Belarusian carriers;

g) the lack of clear procedures of the protection of the markets of the EAEU Member States against products from the countries that are not members of this association;

h) the lack of clear rules of the movement of goods within the Eurasian Economic Union and their certification;

i) the denial of access for Belarusian enterprises to the Russian import substitution program.

The EAEU was established in difficult conditions. Steep depreciation of the Russian ruble and the complication of Russia's relations with the EU, the US and other Western countries adversely affected the Belarusian economy in 2014. In 2015–2016 the trade turnover between Belarus and Russia, Kazakhstan and other member States of the EAEU decreased. Disagreements on several issues of economic policy led to the refusal of the Belarusian authorities to sign the Customs code of the EAEU in December 2016. But in April, 2017 A. Lukashenko approved the package of documents regarding the development of Eurasian integration (including the Customs code), and in October 2017, the agreement on the Customs code of the EAEU was ratified by the Belarusian Parliament.

A number of reasons can explain this position:

1. For a number of reasons (language, mentality, consumer demand, lower requirements to the quality of production) activities in the markets of the CIS countries were more understandable for the Belarusian citizens and product producers.

2. Belarus had the ability to maintain previous development and established relations with the regions and other administrative units of the EAEU Member States.

3. Belarus had the right to vote in the structures of the EAEU (Eurasian economic Commission, etc.) and could influence the decisions of these structures.

4. The official structure of the EAEU was not able to exert enormous political and economic pressure on Belarus (disputes are generally resolved through compromise).

5. The presence of the EAEU allowed to solve the economic problems of Belarus by facilitating the access of the Belarusian goods, services, capital and labor to the markets of other countries of the Union (primarily to Russia and Kazakhstan), the preservation of preferential treatment for Russian energy resources, and the provision of financial assistance from the Eurasian Development Bank and Eurasian Fund for Stabilization.

Thus, the EAEU was not considered by the official Minsk as an enterprise, significantly infringing the sovereign status of Belarus. The EAEU countries (primarily Russia) remained among the prior trade partners of the Belarusian state. In 2017, the volume of Belarusian trade in goods and services with these countries started to rise again. In 2016 the volume of trade turnover of Belarus with the countries of the EAEU amounted to 26.8 billion US dollars, for the first 9 months of 2017 – 23.8 billion US dollars [54, p. 30; 55].

Belarus and European Integration

An alternative to the Eurasian integration project was European integration, launched with the establishment in the 1950s of the three European Communities on the basis of the unification of 6 states in the continental Western Europe (Germany, France, Belgium, Netherlands, Luxembourg, Italy). In 1992, at the meeting of the leaders of 12 member States of the European Community in Maastricht (Netherlands), the Treaty establishing the European Union (EU) was signed. At the turn of the XX and XXI centuries, the European Union was considered to be the most successful integration Union, having gone through 4 expansions. By the mid-2010s 28 European countries were parts of it.

A positive political image and a high level of accumulated economic wealth in the EU made it attractive for the CIS countries. The intention to join the EU was declared by Ukraine, Georgia and Moldova, which expressed a corresponding desire in their political doctrines. Armenia and Azerbaijan also positively regarded prospects for the development of relations with the EU. Up to 2014 the engagement in a constructive dialogue with the EU was one of the most important priorities of the Russian foreign policy.

The EU's successful development increased its ambitions on the international stage. Among other things, the attention of European politicians was drawn to the Eastern European region. It was assumed that the incorporation of the standards and values of European countries (mainly Western Europe) by the CIS countries will automatically lead to the emergence of a single integrated space "from Lisbon to Vladivostok".

In 2008, the EU, on the initiative of Poland and Sweden developed a program called Eastern partnership, aimed at creating a neighborhood belt on the Eastern borders of the European integration Association. However, instead of creating a zone of stability and prosperity, the initiative of the European Union led to the deepening of crisis phenomena in the post-Soviet space, associated with the creation of the situation of geopolitical choice for the CIS countries. The most serious one was the crisis in Ukraine in 2013–2014, which formally marked a geopolitical victory for the EU (2014 Ukraine, Moldova and Georgia signed Association agreements with the EU), but led to tensions in relations between the EU and Russia, the inclusion of Crimea in the structure of Russia and the emergence of an armed conflict in the Donbass. However, in 2016, it became clear that the associate membership did not suggest a quick admission of the "post-Soviet Euro-optimists" to the EU.

The position of the Belarusian leadership towards European integration was based on the unwillingness to enter the EU. Accordingly, the official Minsk showed the desire to learn values and to adopt the standards proposed by the EU. From the point of view of the Belarusian authorities, it was more preferable to establish pragmatic cooperation with the EU in the spheres of economy, energy, environment, culture, health, the fight against cross-border crime and illegal migration.

Demonstrative unwillingness to follow the footsteps of the interests of the EU led to the conflict of values in the relations of Belarus with the European Union. In 1997–1998, the EU imposed a number of image and financial sanctions against Belarusian authorities and suspended the process of ratification of the Agreement on partnership and cooperation between Belarus and the EU, signed in March 1995.

The policy of sanctions by the EU against Belarus continued in the next years. Even after the appearance of a joint and a very long border between Belarus and the EU in May 2004, Brussels viewed Belarus as a neighbor of the EU only *de facto*. In 2007 Belarus was excluded from the general system of preferences. Additional problems were created by the tightening of the regime of crossing the state border of the Republic of Belarus with the neighboring countries in terms of accession of these States to the EU and joining the Schengen visa-free space, and the complexity and high cost of the procedures of obtaining entry visas in the EU countries.

In 1997–2006 the European Union and its member States tried to influence the situation in Belarus through cooperation with the representatives of the

Belarusian political opposition and NGOs. However, the attempts to finance the activities of such organizations in Belarus were suppressed by the Belarusian authorities, the opposition, and the arrangement of events (seminars, conferences, exhibitions, festivals, etc.) in the EU did not cause the desired response. The attempt of the EU to create an alternative system of television and radio broadcasting and education for Belarus was a complete failure. The propaganda of the ideas of European integration, which was carried out by the representatives of the opposition parties and movements, was not understood and supported in the Belarusian society.

However, the Belarusian leadership did not seek to completely terminate the dialogue with the EU. In July 2004, the President of the Republic of Belarus named the European Union a "strategic neighbor and strategic partner" of the Belarusian state, noting that the main interests of Belarus as a European country will center around Russia – EU [53, p. 431].

In 2007, the European Union retreated from the policy of rigid rejection of the Belarusian political realities, mandating the launch of the cross-border cooperation program *Lithuania – Latvia – Belarus*, *Poland – Belarus – Ukraine* and the *Baltic Sea Region* (the main effort within the framework programs was aimed at improving the efficiency of cross-border cooperation, ecology, transport and communications, local government, business, health), and in 2008 began to soften the sanctions policy. In December 2008 the government of Belarus and the European Commission signed the Agreement and the Protocol on the issue of explanation of the concepts, terminology and definitions used in it. These documents created the legal basis for the implementation of the projects in the framework of the European neighborhood policy and partnership.

At the end of 2008 in Brussels it was decided to include Belarus in the Eastern partnership program. In May 2009, on behalf of the Republic of Belarus, the Minister of Foreign Affairs S. Martynov and Deputy Prime Minister V. Semashko took part in the Constituent summit of Eastern partnership in Prague. Commenting on the joining of Belarus to the Eastern partnership, V. Semashko expressed the opinion that this would help to speed up the elimination of restrictions in Belarus' trade with the EU, create new opportunities for the increase in the Belarusian export to European countries, attracting European investment in the Belarusian economy, and would contribute to a more effective use of the transit potential of Belarus and to the simplification of its visa regime with the EU countries [59].

In 2009–2010 Belarusian diplomats prepared and submitted to the EU institutions a number of specific proposals on the development of cooperation, which were agreed with Lithuania and Ukraine. However, the EU officials believed that the main goal of the "Eastern partnership" should become the transformation of the Belarusian political system. In turn, the President of the Republic of Belarus said in June 2010: "We do not need Eastern partnership for the politics… We need an economic component" [60, p. 431]. The differences in interpretation determined the low efficiency of cooperation between Belarus and the EU in the framework of the "Eastern partnership".

At the end of 2010 the tension in the relations of Belarus with the European Union mounted. In early 2011, the EU resumed its policy of sanctions against Belarus. In early 2012 the relations between Belarus and the EU were on the verge of a complete rupture, although the parties did not want to go over the line.

In 2013 the relations between Belarus and the EU became more constructive. On 29 November 2013 the Minister of Foreign Affairs of the Republic of Belarus V. Makei took part in the summit of Eastern partnership in Vilnius, and expressed readiness to continue the cooperation with the European States on conditions that they would comply with the principles of equality and mutual benefit for all participating countries [61]. The corresponding framework was confirmed at the next summit of Eastern partnership in Riga in May 2015 [62].

In 2014, Minsk and Brussels held two rounds of consultations between Belarus and the EU on the issue of modernization. The EU took the path of alleviating sanctions against Belarus, and in February 2016 lifted the sanction measures passed earlier. In April 2016, the 1st meeting of the Coordinating group of Belarus – European Union was held in Brussels. The parties discussed the possibilities of intensifying existing sectorial dialogues on economy, financial and environmental protection, and the prospects of the launch of new bilateral dialogues on the subject of trade, energy, customs, modernization and technical assistance, human rights issues, etc. The 2nd meeting of the Coordinating group was held in Minsk in November 2016. Earlier, in October 2016 a bilateral dialogue on trade was launched.

In 2007–2013, within the framework of the European instrument of neighborhood and partnership, Belarus received 71.6 million euros on the programs and projects in the field of energy efficiency, ecology, standardization, medicine and regional development. Through the EU programs *Poland – Ukraine – Belarus*, *Latvia – Lithuania – Belarus* and the *Baltic Sea Region* the projects with a total budget of about 55 million euros were implemented in Belarus [63]. Many projects were carried out at the expense of the EU: the development of the state border of Belarus, modernization of the national border and customs infrastructure, sharing best practices and implementing pilot projects in energy, transport, agro food, environmental, educational, and cultural, etc. Belarus took an active part in thematic EU programs, such as TEMPUS, ERASMUS MUNDUS, TAIEX and others. In 2014, the EU adopted a national Indicative program for Belarus for 2014–2017, which included further funding of the projects and activities in the field of social policy, environment and regional development.

In November 2017, the Minister of Foreign Affairs of Belarus V. Makei took part in the next summit of Eastern partnership in Brussels. Before the summit the Foreign Ministry of Belarus published the following statement: "Belarus is interested in continuing participation in the Eastern partnership of the EU, which should be obviously useful for the citizens of Belarus and the EU, easing the business environment, contacts between people, and communication in various fields, increasing the level of objective knowledge about each other. Currently, the Eastern partnership of the EU is more like a form of cooperation, in which partners seek recognition of the European perspective. Belarus did not set itself such a goal, however, it stands for the preservation and development of the Eastern partnership of the EU as a development of non-political cooperation tool, aimed not against anyone, but to address the common challenges and issues facing the peoples and States of our region" [64]. Commenting on the results of his visit to Brussels, V. Makei stressed that cooperation with the EU is necessary to strengthen the Belarusian economy and to attract advanced technologies and investment. The main positive result of the summit, from his point of view, was the signing of the agreement on the extension of TRANS-European transport network between the EU and countries of the Eastern partnership [65].

The European Union was ranked second in the foreign trade of the Republic of Belarus. In 2016–2017 it accounted for about a quarter of Belarus' trade turnover with foreign counterparties (in 2016 the volume of trade amounted to 11.2 billion US dollars, for the first 9 months of 2017 – 10.3 billion US dollars) [54, p. 30; 66].

However, despite another thaw in relations between Belarus and the EU, problems still existed. In particular, there was no progress in the issue of simplifying the visa regime and readmission and the negotiations on signing a new agreement on partnership and cooperation had not started. The Belarusian side rejected the proposal by European politicians to abolish the death penalty and did not agree to enter into the agreement about the "small border traffic" with Lithuania and Poland, signed in 2010 (the exception was made only for Latvia, the agreement with which entered into force in March 2012). The problem of the construction of the Belarusian nuclear power plant, which converted the level of the Belarusian-Lithuanian relations to the relations of Belarus with the EU, was a stumbling block. The desire of the Belarusian leadership to be involved in military cooperation with Russia was subject to criticism from the member countries of the EU (Lithuania, Latvia, Poland). Belarusian political scientist E. Preygerman explained the presence of problems in relations of Belarus with the EU as the lack of trust and normal communication between the Belarusian leadership and the European politicians and the activities of opponents of rapprochement between Belarus and the EU (both inside Belarus and inside the EU) and the presence of the geopolitical "gap" in the Eastern European region [67].

This view is acceptable, but we should pay attention to the fact that the existence of differences between the parties determined the desire of the Belarusian authorities to maintain the sovereignty of the Belarusian state, while the establishment of the EU in fact contradicted this desire. As a result, Belarus remained outside of the European integration process, and its interaction with the EU was doomed to remain occasional.

Conclusion

1. After the Republic of Belarus had gained independence, orientation towards active participation in integration processes became one of its most important foreign policy priorities. The basic components of the Belarusian integration policy were the desire to preserve the sovereignty of the Belarusian state, to build relationships with integration partners on an equal basis and to obtain specific positive results (especially in economics) from participation in integration projects. Due to the relevant attitudes, participation in integration projects did not lead to a fundamental transformation of the Belarusian political system.

2. The participation in the Eurasian integration processes was more attractive to Belarus. The applicable setting is reinforced by the desire to preserve economic ties, established during the Soviet Union, and to maintain the stability of the Belarusian society. Activities of Belarus in the Eurasian space facilitated cultural and civilizational affinity with the other States of this space.

3. The main partner of Belarus in the Eurasian integration projects was Russia, whose special relations were supported with an active political dialogue, the significant amount of trade and investment ties, cooperation in security, cultural, linguistic and mental affinity. The peculiarity of the Belarusian-Russian relations determined the structure of the Union state while preserving the sovereignty of the States within the relevant Association. Not fully coinciding aims and objectives in foreign policy, the differences between socio-economic systems of Belarus and Russia engendered conflicts from time to time, but they did not antagonize Belarusian-Russian relations.

4. In the 2010s the Belarusian-Russian integration was extended with the entry of Belarus in the Eurasian integration associations of economic nature (Customs Union, CES, EAEU). Participation in relevant associations created favorable prerequisites for the expansion of economic cooperation of Belarus with such countries as Kazakhstan, Armenia, Kyrgyzstan, although Russia remained the main partner. As of 2017, the Belarusian authorities were not fully satisfied with the results of the cooperation within the EAEU, but considered the parti-

cipation in this integration project a promising direction towards improvement of the economic situation of the Belarusian state and not infringing its sovereignty.

5. The specifics of the approaches of the Republic of Belarus in the European integration process have determined the unwillingness of the Belarusian authorities and a significant part of Belarusian society to be a part of the European integration project. The interest in European integration was driven by the activity of the EU, granting membership to the countries geographically and historically close to Russia (Poland, Lithuania, Latvia) and the status of associate members to Ukraine, Moldova and Georgia. As in the case of the Eurasian integration associations, the activity of the Republic of Belarus in relation to the EU was predetermined by the desire to receive economic and technological support and to maintain the stability of the Belarusian social and political system.

6. The EU's desire to base its policy towards Belarus on values engendered the conflict between the two sides. The conflict was accompanied by the introduction of sanctions against the Belarusian leadership and the Belarusian state by the EU, but did not result in significant changes in the Belarusian domestic and foreign policy. The attempts by the EU to influence Belarusian politics through opposition parties and NGOs, and connecting Belarus to the Eastern partnership in 2009 was not successful. Belarus remained outside of the European integration process and carried out only "point-by-point" interaction with the EU on issues of its interests (economics, environment, energy, border cooperation, education, culture, etc.).

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OBAMA'S FOREIGN POLICY LEGACY: AMERICAN ASSESSMENTS

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Political discourse in the US is characterized by deep disagreements in assessing the outcome of Obama's foreign policy. The incumbent President keeps on trying to revise its results. The article is an overview of the most frequently used arguments made by the main political opponents – the Republicans and the Democrats, by those who had been working for the last two administrations and by the leading experts, who were directly involved in the elaboration and implementation of the American foreign policy. Their arguments and views shape the public opinion and constitute the ideological basis for the active politicians. The content of the article demonstrates that, despite the unity in determining the objectives of foreign policy, there is a sharp divide in assessing the results that have been achieved, in choosing methods of achieving goals, and the views on the strategy and tactics of ensuring national interests are diametrically opposed. The polarization of the ruling circles seriously complicates the activities of the ruling administration. D. Trump's electoral promises on foreign policy could hardly be fulfilled without its substantial modification.

Key words: Obama's presidency; political legacy; US foreign policy.

ВНЕШНЕПОЛИТИЧЕСКОЕ НАСЛЕДИЕ Б. ОБАМЫ: АМЕРИКАНСКИЕ ОЦЕНКИ

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Политический дискурс в США характеризуется глубокими разногласиями в оценке итогов внешней политики Б. Обамы. Действующий президент не оставляет попыток пересмотреть ее итоги. В статье предпринята попытка обобщения наиболее часто встречающихся оценок и взглядов основных политических оппонентов – республиканцев и демократов, политиков-практиков, ведущих экспертов, имевших непосредственное отношение к разработке и реализации внешнеполитического курса двух последних администраций. Их аргументы и взгляды формируют общественное мнение, составляют идейную базу для действующих политиков. Содержание статьи демонстрирует, что, несмотря на единство в определении целей внешней политики, методы достижения этих целей, оценки полученных результатов, взгляды на стратегию и тактику в обеспечении национальных интересов носят диаметрально противоположный характер. Поляризация правящих кругов серьезно затрудняет деятельность действующей администрации. Выполнение данных Д. Трампом предвыборных обещаний без серьезной их модификации представляется невозможным.

Ключевые слова: президентство Б. Обамы; политическое наследие; внешняя политика США.

The internal political discourse in the United States is characterized by deep disagreements in the assessment of Obama's foreign policy. The incumbent president does not abandon attempts to revise its results. In this respect, the assessments of direct participants in the events, politicians and experts, leading experts that were directly relevant to the development and implementation of the foreign policy course of the previ-

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ous republican and democratic administrations are of particular interest. Their arguments and views constitute the ideological basis for existing politicians and form public opinion. The experts whose evaluations are examined in this article include Leon Panetta, the former head of the administration of B. Clinton, the CIA director and the defense minister in the Obama administration; Derek Chollet, deputy defense minister and national security adviser in the last democratic administration, author of "The Long Game: How Obama Changed Washington and America's Role in the World" [1]; Vikram Singh is a leading specialist in the Ministry of Defense, adviser to the Secretary of State for South and South-East Asia in the same government; Fareed Zakaria is one of the most influential and popular political analysts and experts in the field of international relations, the editor of Newsweek International, Robert Kaufman, a professor of political science at the University of Pepperdine, author of "Dangerous Doctrine: How Great Obama's Strategy Weakened America" [2]; Eliot Cohen Professor, Director of the Strategic Studies Program at Johns Hopkins University, an expert on the problems of the Middle East, advisor to Secretary of State Condoleezza Rice, author of the book "The Big Stick: The Limits of Soft Power and the Necessity of Military Force" [3]; Kristen Silverberg, Assistant Secretary of State and US Ambassador to the European Union in the George W. Bush Administration, Michael Doran, Senior Fellow, Hudson University, Member of the National Security Council and Leading Specialist for the Middle East in the J W. Bush, Michael Mandelbaum, Professor of the Johns Hopkins University Center for International Relations Studies, author of the book 2016 "Mission Failure: America and the Post-Cold War Era" [4].

Foreign political heritage of B. Obama is severely criticized by his political opponents. The doctrinal bases of politics are criticized, the promises are not fulfilled, the results are negatively evaluated. Most observers believe that Obama did not have a specific foreign policy doctrine and, responding to the challenges that emerged, acted as a neorealist and a pragmatist. At the same time, he is accused of the fact that he, like R. Reagan or M. Thatcher, wanted to radically change US foreign policy based on his vision of the world. In the opinion of critics, Obama considered the process of reducing weight and the role of the United States in world affairs as an objective process and advocated limiting the excess, depleting forces of US power use, trying to replace military and economic levers with mild force, sought to abandon unilateral actions in favor of multilateral cooperation. Neorealism and pragmatism of Barack Obama manifested itself in ignoring the aggressive nature of partner countries with undemocratic power regimes and abandoning priority relations with democratic countries and traditional allies. The attempt to implement such a policy led to a weakening of positions in three vital regions for the US – in Europe, the Middle East and East Asia [5; 2, p. 7–60, 185–198]. Obama's critics pointed to the self-assurance of Obama, who believed that it was possible to solve complex international problems, such as questions of Middle East politics, relying on new rhetoric and origin [6]. It is noted that Obama, like many other politicians, is used to act in conditions when the constants of international relations were the evolutionary nature of their development and US leadership. He was elected by the Americans so that he would return the soldiers home. He did this, but was not ready for the newly emerged threats [4].

Unlike the successful foreign policy of such his predecessors as G. Truman, D. Eisenhower or R. Reagan, Obama cut defense spending. His plans could lead to a reduction of the navy to 220 surface ships, which would be less than before the outbreak of World War I and the army in numbers less than on the eve of the Second World War. Military expenditures averaged 3.1 % of GNP, while in Truman, Eisenhower, Kennedy and Reagan they were 13, 9.1, 8.6 and 6.6 % respectively. Under Reagan, 29 % of the federal budget was spent on defense, with Obama almost half as much, 15 %. There is no alternative to American power in ensuring order in the three key areas of the world. Therefore, the US should continue to adhere to the doctrine of American exclusiveness, to dominate the military sphere [2, p. 39–60]. For reducing military spending, which was the reason for the struggle to reduce the deficit of the state budget, the president was also criticized by his supporters. Panneta noted that the budget sequestration, supported by both the Democrats and the Republicans, was conducted without coordination with the military and damaged the country's defense capability [7].

In hopes of establishing partnerships and cooperation with Russia in the Middle East in 2009, Obama stopped deployment of anti-missile defense systems in Poland, Hungary and the Czech Republic, which, he believed, destabilized the situation and provoked Russia. The result was a growing military threat to US allies from Russia and Iran. Thanks to not muted microphones during the meeting between Medvedev and Obama, the world learned about the intention of the latter to continue the policy of pacification of Russia after the presidential elections of 2012. A green light was given to expand not only Russia, but also other repressive regimes [5; 2, p. 61–96]. The policy of resetting relations with Russia ended in failure. Relations with Russia are worse than during the Cold War. In 2009, being in Moscow, Obama said that in the modern world it is impossible to reflect on the categories of the 19th century, that the time of power politics, spheres of influence and block systems is a thing of the past. After the events in Ukraine in 2014, he had to admit that this is exactly the policy pursued by Russia. The

imposed sanctions against the Russian Federation are not effective enough [6].

In his pre-election speeches and policy statements, Obama promised to stop the bloodshed in the Middle East and achieve success in Afghanistan, restore US credibility in the world, reduce nuclear weapons and strengthen the nuclear non-proliferation regime. The war in Afghanistan continues. In Syria, there is the most profound humanitarian crisis since the Second World War – 0.5 million Syrians were killed, 13 million left their homes [8].

The hasty withdrawal of Americans from Iraq caused the emergence of a vacuum that was filled by IGIL. There is an increase in the influence of Iran, to a level comparable to the 1970s. the presence and influence of Russia increased. Obama broke strategic relations with Israel by putting an extremely strict condition on the refusal of construction in new territories. The Israelis are negative about the deal with Iran [8].

A blow to US authority was the unfulfilled threat of using military force against Assad if the latter used chemical weapons and kept him in power, despite Obama's repeated statements that Assad should leave. Responsibility for this lies solely with Obama, since the use of force was expressed by the military, CIA Director, Secretary of State, a written protest was signed by 51 State Department employees. Potentially there were opportunities besides direct entry of troops into Syria – no-fly zones, security zones as it was done in Yugoslavia [7; 8].

Obama underestimated the importance of the Middle East. It is in the interests of the US and its allies to maintain a balance of power when no country dominates, the nuclear nonproliferation regime operates and access to oil that is less important to the US remains, but remains vital for their European allies and Japan [5]. In the face of new challenges in the face of China and internal problems, Obama wanted to establish partnerships with hostile US Iran. Despite the agreement to limit its nuclear program in 2015, the threat of Iran's acquisition of nuclear weapons has not been eliminated. The key moments of the agreement will cease to be effective in 10 and 15 years. Iran has been lifted sanctions, its financial resources have been unblocked, but in violation of UN resolutions Iran continues its missile program, sponsors terrorist organizations [2, p. 97–144; 8]. Obama failed, as he had hoped, to change the trajectory of Iran's development – no progressive changes are expected in the country, his foreign policy has not changed. The balance of power policy in the Middle East presupposes deterring Iran, which seeks to become the dominant power in the region and has greater resources for this than Iraq or Turkey. Obama's policy gave free hand to Iran, which he used. Only the US can offer the region a stable order system. Among other things, the events in Syria are a manifestation of the conflict between Sunnis and Shiites, in which the United States must support the Sunnis [5].

In Asia, Obama, to the detriment of relations with a democratic India, gave priority to China, which increased its economic and military power. The latter contains a potential threat to the security of the US and its allies. Sooner or later, China will face the need for domestic reforms, an alternative to which can be external expansion. Weakness of the US provokes the latter. The agreement on the Transatlantic partnership is not supported by the policy of military and economic pressure on China. It is impossible to recognize the success of the Paris agreements on the prevention of climate change in 2015, as it harms the economic interests of the United States, the agreement has not received the support of the congress [2, p. 145–184].

The policy of nuclear disarmament declared by Obama was fiasco. Russia and China modernized their nuclear capabilities. North Korea continued its nuclear program and was close to creating missiles capable of reaching the US territory [8].

Obama's supporters propose to evaluate the results obtained on the basis of what legacy he got from George W. Bush and whether the US was in a better position by the time of the end of the presidency [9]. It is not true that Obama rejected the idea of American leadership or that he was against the use of military power. He carried out a balanced policy, taking into account internal and external priorities [10]. In 2008, the United States was in a difficult situation: the deepest in the country since the Great Depression, which threatened the economic crisis. In foreign policy – a dead end in the Middle East, which limited the ability to respond to new challenges. Bush relied excessively on the strength component. Unilateral actions of George W. Bush were not supported by US allies. Not enough attention was paid to East Asia. Obama managed to restore the confidence of the Allies [9].

The US refused excessive interference in the affairs of other countries, from unpredictable military adventures, Obama fulfilled the promise of withdrawing troops from Iraq and saved the lives of thousands of American soldiers. In Iraq and Afghanistan in January 2009, there were 175,000 US troops, in December 2016, 15,000. Obama's supporters recall that the agreement on the withdrawal of troops was signed by Bush. The reason for the transition of a large part of the Iraqi military to the side of the IGSIL was the persecution of Shiites by the Nuri al-Malaki government, which is hard to blame Obama. To combat terrorists, special operations and new technologies – drones – were effectively used. Under Bush, 10–12 billion US dollars a month was spent on the war in Iraq and Afghanistan. Costs with Obama were an order of magnitude less. On 2 May 2011, Osama bin Laden was liquidated [11].

In 2008, George W. Bush invaded Iraq under the false pretext of having weapons of mass destruction

there. In 2013, there really was such a weapon in Assad. And the question about it was resolved diplomatically – 12 thousand tons of chemical weapons were destroyed. It could be in the hands of terrorists. According to the calculations of the Pentagon, an attempt at a military solution would lead to the destruction of only 25–50 % of the available stockpiles of these weapons. The threat of their capture by terrorists was prevented. In Syria and Iraq, not the Americans are fighting now, but a broad coalition. Military options were considered by the administration, but the president proceeded from the fact that Syria is not the main priority for the US and there are enough calls, the answers to which require the consolidation of available resources. Obama is accused of not supporting a moderate opposition, but she was weak. He is sure that he chose the lesser of evils [10].

In 2009, it was considered a matter of time that Iran would receive a nuclear bomb. Iran had the materials to create at least one bomb. Attempts at negotiations were not successful. The situation went out of control, options for a military solution to the problem were considered. Under Obama, the US conducted a successful cyber operation against the Iranian nuclear program, secured the introduction of the strictest sanctions and Russia's consent to them, without which they lost their meaning. The sanctions were supported by China and the European allies. As a result of the negotiations and the agreement of 2015, control measures have been introduced, there are no materials for the creation of nuclear weapons, and there will be no next 10–15 years [12].

Despite the disagreements between Obama and Netanyahu, and understandable concern about the Iranian threat from Israel, relations remain the closest. Israel receives military-technical support from the United States at a greater than ever scale – 30 billion US dollars in 2008–2018 [10].

In the relations with Russia, the success was the conclusion of an agreement on a new reduction of the nuclear potentials of the two countries of START III. Russia cooperated with the United States on sanctions against Iran and the war in Afghanistan. In worsening relations, Obama can not be blamed. His actions should be evaluated in terms of reaction to the actions of the Russian side. After the events in Ukraine in 2014, the USA and Western Europe imposed severe sanctions, which cause serious damage to Russia [9].

The success of the administration was the policy in the Pacific basin. Relations with the countries of the region for the United States are more important than the Middle East. The US has a stable relationship with China, a new relationship with Vietnam. In 2016, an agreement was signed on the Trans-Pacific Partnership, which is beneficial to the US and limits China's influence. As an accomplishment that has a long-term positive significance not only for the United States, but for the entire world community, Obama's supporters cite the Paris Agreements of 2015 on climate, in the preparation of which the United States played a decisive role [12].

During the election campaign, D. Trump solidarized with almost all the arguments of critics of Obama's foreign policy, while he argued that "… after the end of the Cold War, the United States could not develop a new vision for the new era, with time, foreign policy had less and less meaning, which gave birth to one misfortune after another. Iraq, Libya, Egypt, Syria – it all started with the dangerous idea that we can build Western democracy in countries that have neither the relevant experience nor the interest to become Western democracy …. Our foreign policy has no goal, vision, strategy, a certain direction" Trump claimed that only he could remedy this situation. He considered it possible to pursue a foreign policy, which will support both Democrats and Republicans. It was not ruled out that it was possible to improve relations with Russia on the basis of a joint fight against terrorism, but on conditions that were exceptionally favorable for the United States. It was intended to force the NATO allies to pay more or take care of their own defense, to force China to abandon the manipulation of the national currency and industrial espionage, and to minimize the trade deficit in trade with it, to restore US military dominance at the expense of the expected revenues from reformed on the basis of low taxes and investments in the infrastructure of the economy. The program proposals included the restriction of illegal immigration and the construction of an insurmountable wall on the border with Mexico at its expense, the denunciation of the treaty with Iran, the withdrawal from the North American Free Trade Zone and the Paris Climate Agreements, the denial, as far as possible, of multilateral cooperation and commitments to international organizations in favor of greater freedom of the US and resolution of issues on a bilateral basis [13].

The fate of B. Obama's foreign policy heritage depends on the actions of his receiver. Practice of the first half-year of D. Trump's rule demonstrates inability to fulfill the undertaken obligations. And it's not just an understandable discrepancy between pre-election rhetoric and real politics. Opponents and supporters of B. Obama are adherents of the idea of American exclusiveness and maintaining the dominant position of the United States in world politics, so the difference in approaches to this or that question is substantially leveled. Promised by D. Trump, there will not be a sharp turn. But the existing disagreements make it unlikely that the consensus needed between the Democrats and the Republicans on the methods and means to achieve the desired goals is necessary for an effective foreign policy. Fears are a potential threat of immediate, irresponsible decisions of the aspiring to justify themselves in the eyes of voters and promised to make America again a great president.

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LEGAL REGULATION OF INTERNATIONAL MEDICAL TOURISM IN THE ERA OF DIGITAL TECHNOLOGY

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The article examines the impact of informational technologies on the legal regulation of international medical tourism. The possibility of using a block chain and smart contracts for the provision of medical services in the framework of inbound tourism and the implementation of compulsory medical insurance of foreigners are the novelties suggested by the author that can enhance the competitive advantage of the Republic of Belarus in the development of international medical tourism. Informatization of the healthcare sphere positively influences the export of medical services and the formation of a single digital market.

Key words: international medical tourism; medical services; compulsory medical insurance of foreigners; blockchain; smart contract; single digital market; international private law.

ПРАВОВОЕ РЕГУЛИРОВАНИЕ МЕЖДУНАРОДНОГО МЕДИЦИНСКОГО ТУРИЗМА В ЭПОХУ ЦИФРОВЫХ ТЕХНОЛОГИЙ

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Рассмотрено влияние информационных технологий на правовое регулирование международного медицинского туризма. В целях увеличения преимущества Республики Беларусь в развитии международного медицинского туризма предлагается использовать блокчейн и смарт-контракт для оказания медицинских услуг в рамках въездного

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туризма и осуществления обязательного медицинского страхования иностранцев. Информатизация сферы здравоохранения положительно воздействует на экспорт медицинских услуг и формирование единого цифрового рынка.

Ключевые слова: международный медицинский туризм; медицинские услуги; обязательное медицинское страхование иностранцев; блокчейн; смарт-контракт; единый цифровой рынок; международное частное право.

The Republic of Belarus is a state with a highly developed healthcare system, which allows to follow the latest world trends in this area, among which is international medical tourism. The provision of medical services using IT in conditions of sustainable development of the information society is a new trend that correlates with the innovative development of the national economy. To date, in Belarus, the legal regulation of international medical tourism, including the possibility of using digital technologies in this area, is in the stage of formation. Approved on 13 December 2017 at the II Congress of Scientists of the Republic of Belarus, the Strategy "Science and Technology: 2018–2040" [1], and adopted on 21 December 2017 the Decree of the President of the Republic of Belarus No. 8 "On the Development of the Digital Economy" [2] set a direction for solving a number of strategic tasks.

In the Belarusian doctrine, this topic has been studied fragmentarily, which is primarily due to its novelty. Certain aspects of the legal regulation of international medical tourism have been reflected in the works of a number of Belarusian authors, such as I. N. Yakhnovets [3], V. E. Androsov [4], while the normative and legal consolidation of the possibility of using information and communication technologies in this area is mainly reflected in foreign doctrine. The purpose of this article is to determine the state and prospects of the legal regulation of the Republic of Belarus in the field of international medical tourism, taking into account current trends in the development of digitalization and the establishment of a digital society.

The Law of the Republic of Belarus of 25 November 1999 No. 326-3 "On Tourism" [5], Article 3, defines international tourism (outbound and inbound) as an organizational form of tourism. The features of the organization of certain types of tourism, the list of which in this law is open, are regulated by the current legislation. It is believed that medical tourism can be attributed to a separate type of tourism, different from health and recreational tourism. To date, Belarusian legislation lacks a clear classification of the types of tourism, which leads to their confusion and further difficulties in determining the essential terms of the contract for the provision of tourist services, to which the rules established by law for a contract for fee-based provision of services (Chapter 39 of the Civil Code of the Republic of Belarus of 7 December 1998, No. 218-3[6]) are applied.

Becoming more and more popular are the tourist trips related to the rendering of fee-based medical services to foreign citizens and stateless persons, except for those permanently residing in the Republic of Belarus, within the territory of the Republic of Belarus. Given this fact, this article focuses on the legal regulation of the export of medical services, i. e. foreign trade in medical services through the provision of services by Belarusian executives to foreign customers.

In order to develop inbound medical tourism in the Republic of Belarus and improve the quality of services provided by health organizations to foreign citizens, a number of acts have been adopted, among them are the order of the Ministry of Health of the Republic of Belarus of 16 July 2010 No. 752 "On the Organization of Export of Medical Services" [7] and the order of the Ministry of Health of the Republic of Belarus of 25 August 2011 No. 843 "On the Development of Export of Medical Services" [8]. In pursuance of these normative legal acts, the healthcare organizations have developed a strategy for the development of service export based on the results of marketing research conducted on the foreign healthcare market, identified medical personnel from the officials responsible for organizing the export of medical services, delivered the order (logistics) of the medical services provided to foreign patients from the time they enter a healthcare organization to the moment of their discharge or transfer to other health organizations. According to the general rule set forth in article 13 of the Law of the Republic of Belarus of 4 January 2010 No. 105-3 "On the Legal Status of Foreign Citizens and Stateless Persons in the Republic of Belarus" [9], article 5 of the Law of the Republic of Belarus of 18 June 1993, No. 2435-XII "On Health Care" [10], foreign citizens and stateless persons temporarily staying or temporarily residing in the Republic of Belarus are entitled to affordable healthcare on a fee-paying basis. Others can be established by legislative acts and international treaties.

The modern possibilities of using information and communication technologies in the field of medicine, which relate to the creation of an "e-health" system, including the introduction of electronic medical records and the development of telemedicine, should also be effectively used for international medical tourism.

On 28 March 2018 the Decree of the President of the Republic of Belarus No. 8 "On the Development of the Digital Economy" comes into force, the norms of which provide for the implementation of activities using the technology of the transaction block register (blockchain). In global practice, the healthcare blockchain is already used to store patient's electronic medical records, which facilitates access by medical

workers from various institutions to the patients' data. The introduction of this technology improves the quality of treatment and minimizes its cost. A doctor can quickly learn the necessary information about a patient: blood group, allergic reactions, chronic diseases, tests data, and appointments, regardless of whether the patient was receiving medical care in a public or private health organization. Using this technology within integration associations is certainly relevant given the development of international medical tourism and the formation of a single digital market.

In the Republic of Belarus, pursuant to the Loan Agreement (Project "Modernization of the Healthcare System of the Republic of Belarus") [11], concluded with the International Bank for Reconstruction and Development on 25 November 2016, it is planned to introduce electronic medical records for the formation and maintenance of a single patient information archive and immediate provision of medical data.

In connection with realization of the Project "Modernization of the Healthcare System of the Republic of Belarus" and possibility of using electronic medical records, the protection of personal medical data becomes especially urgent. In Belarus, the general provisions of this aspect are contained in a number of normative legal acts, among which are the Law of the Republic of Belarus of 21 July 2008 No. 418-3 "On the Population Register" [12], and the Law of the Republic of Belarus of 10 November 2008 No. 455-3 "On Information, Informatization and Information Protection" [13].

The plan for drafting bills for 2018, approved by the Edict of the President of the Republic of Belarus, of 10 January 2018, No. 9 [14], provides for the development of the draft law of the Republic of Belarus "On Personal Data", whose main idea is to find a reasonable balance between protecting personal data, development of information technologies and the need to fulfil state functions [15].

It is advisable to develop a mechanism for processing personal medical data in the e-health system. In global practice, there are two variants of the development of events: obtaining the patient's prior voluntary informed consent to such actions or his presumed consent with the possibility of registering a refusal of digital processing of personal medical data with subsequent entering of the will in the register containing the relevant information on dissenting persons for processing data information and communication technologies. For example, a patient may object to his personal medical data being entered into electronic medical records. It should also be determined how individual groups of the population, in particular minors and legally incapacitated citizens, can realize the right of refusal. To ensure the security of information systems and guarantee the protection of personal medical data, it is necessary to determine the range of subjects involved in the processing of personal medical data through information and communication technologies. This is due to the fact that not only medical personnel, whose duty is to preserve medical confidentiality, but also other persons (for example, the Internet and hosting providers, cloud service operators) are involved in this process. The issue of the possible use of electronic personal medical data for scientific research and the implementation of state statistical activities (with anonymity of the patient) should also be addressed.

An interesting innovation is the use of smart contracts in the field of health care services. According to Clause 9 of Appendix 1 to the Decree of the President of the Republic of Belarus No. 8 "On the Development of the Digital Economy", a smart contract is a program code intended for functioning in the transaction block registry (a blockchain), or another distributed information system for the purpose of automated execution and (or) execution transactions or committing other legally significant actions. The content of a smart contract represents a description of the conditions for its execution. In the healthcare sector, smart contracts can be used to implement health insurance programs or monitor the treatment of patients when providing medical services by using information and communication technologies. When implementing the above mentioned in practice, it is necessary to consider the provisions of the current Belarusian legislation with respect to the electronic document and electronic digital signature, and first of all the norms of the Law of the Republic of Belarus of 28 December 2009 No. 113-3 "On the Electronic Document and Electronic Digital Signature" [16].

Article 13 of the Law of the Republic of Belarus of 4 January 2010 No. 105-3 "On the Legal Status of Foreign Citizens and Stateless Persons in the Republic of Belarus" states that the procedure and conditions for compulsory medical insurance for foreigners temporarily staying and temporarily residing in the Republic of Belarus are determined by the legislative acts of the Republic of Belarus. According to Chapter 15 of the Edict of the President of the Republic of Belarus of 25 August 2006 No. 530 "On Insurance Activity" [17], foreign citizens and stateless persons temporarily staying or temporarily residing in the Republic of Belarus must have a compulsory health insurance contract or a health insurance agreement, concluded with a foreign insurance organization, in the event that medical institutions provide emergency medical care. The implementation of international inbound medical tourism is impossible without compulsory insurance of a foreigner's health due to a sudden illness or accident. The use of a blockchain and smart contract technologies ensures the transfer of information on the existence of an insurance policy or a document that confirms the existence of a health insurance agreement in the form of a code that indicates the algorithm for payment of insurance compensation. However, there may be

a risk of a personal medical data breach in the case of the use of blockchain technology between commercial insurance organizations and healthcare institutions controlled by the Ministry of Health, i. e. state body. To prevent this problem, it is advisable to develop an appropriate legal regulation and make changes to the Edict of the President of the Republic of Belarus "On Insurance Activities". The development of telemedicine is a new direction in healthcare. In Russia, for example, the legal basis for the implementation of this technology arose due to the introduction on 29 July 2017 of changes in the application of information technology in the field of health care in the Federal Law of 21 November 2011 No. 323-ФЗ "On the Fundamentals of Health Care of Citizens in the Russian Federation" [18]. From 1 January 2018 in Russia, it became possible to provide remote consulting and diagnostic medical services, which opens up new horizons for international medical tourism. a patient and a doctor may be situated in different states, but the use of blockchain technology and a smart contract minimizes the risk of rendering poor-quality medical services. Payment will be made only after the treatment protocols are implemented, i. e. in the case of the provision of high-quality medical care. Blockchain keeps confidentiality and security of the messaging system, and the smart contract technology helps to ensure authenticity and identification of participants. The Decree of the President of the Republic of Belarus No. 8 "On the Development of the Digital Economy" created the conditions for the introduction of smart contracts. After the approbation of a new legal institution, it is expedient to interpret its action into the civil law by developing provisions on a smart contract in the Civil Code of the Republic of Belarus.

The provision of medical services in Belarus with the use of telemedicine has not been regulated by law. However, within the framework of the CIS, a number of documents have been adopted on the issues of digitalization of medicine: the Strategy of Cooperation of the CIS Countries in the Field of Informatization of 24 November 2006 [19]; the Memorandum on Cooperation of the CIS Member States in the Development of Compatible National Telemedicine Consulting and Diagnostic Systems of 14 November 2008 [20]; the Agreement on Cooperation in the Creation of Compatible National Telemedicine Systems and their Further Development and Use in the CIS Member States of 19 November 2010 [21]; and the Model Law of 28 October 2010 "On Telemedicine Services" [22]. On 11 October 2017, the session of the Supreme Eurasian Economic Council of the EAEU took place, at which the digital agenda of the EAEU until 2025 was discussed. The review of a joint research of the World Bank and the Eurasian Economic Commission "The Digital Agenda of the EAEU 2025: Prospects and Recommendations" [23], indicates the necessity to create harmonized legislation and a regulatory framework for the Union integration and the implementation of digital transformation. One of the main directions of the EAEU digital space creation is the digitization of the leading sectors of the economy. In paragraph 1.4 of the draft of Strategic Directions for the Formation and Development of the Digital Space of the EAEU in 2025 Perspective [24], the emphasis is also placed on the fact that one of the trends of digital transformation is cross-sectoral changes, which also includes healthcare.

Information technology affects various areas of the economy, and healthcare is no exception. Competent use of innovative ideas, established in Presidential Decree No. 8 "On the Development of Digital Economy", in conjunction with new trends in the digitalization of medicine, including the introduction of the "e-health" system and raising the question of the need for legal regulation of telemedicine, will have a positive impact on the development of the information society. The use of blockchain technology and a smart contract for the provision of medical services in the framework of inbound tourism and the implementation of compulsory medical insurance for foreigners are the innovations that can enhance the competitive advantage of the Republic of Belarus in the development of international medical tourism. Informatization of the healthcare sphere positively influences the export of medical services and the formation of a single digital market.

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ESTABLISHING THE LEGAL NATURE OF UNILATERAL ACTS OF STATES

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There is a well established proposition that an intent of a State to be bound is a primary criterion for establishing the legal character of a unilateral act. However, this proposition does not solve the problem of interpretation of a State's intent to be legally bound and of determining whether a certain act is subject to unilateral acts of States regime. A range of unilaterally formulated statements and declarations are examined in the article with a view to reveal different aspects of the process of determination of legal nature of a particular act of a State. Based on results of consideration of negative security assurances, notifications on the adoption of legislative acts, promises of granting a visa-free regime, assurances to support the acceptance of a State in an international organization, suggestions are formulated concerning the evaluation of certain unilateral statements for qualifying them as legal acts.

Key words: unilateral acts of States; unilateral promise; intent of a State.

УСТАНОВЛЕНИЕ ПРАВОВОЙ ПРИРОДЫ ОДНОСТОРОННИХ АКТОВ ГОСУДАРСТВ

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Тезис о том, что намерение государства принять юридические обязательства является основным критерием для установления правового характера одностороннего акта, можно считать устоявшимся. Однако он не решает проблемы толкования намерения государства быть юридически связанным и определения применимости режима односторонних актов государств к конкретному акту. В статье проанализированы ряд заявлений и деклараций, сформулированных в одностороннем порядке, с целью выявить различные аспекты процесса определения правовой природы акта государства. По результатам рассмотрения негативных гарантий безопасности, нотификаций о принятии законодательных актов, обещаний предоставления безвизового режима, заверений в поддержке приобретения статуса в международной организации сформулированы предложения, касающиеся оценки отдельных односторонних заявлений для квалификации их в качестве правовых актов.

Ключевые слова: односторонние акты государств; одностороннее обещание; намерение государства.

It seems that some issues concerning unilateral acts of States in international law tend to become considered settled in the scholarship. For example, there is a need to distinguish between unilateral acts of States *stricto sensu* and non-autonomous acts which are performed unilaterally, but are not capable of producing independent legal consequences corresponding to the manifested will. It seems highly unlikely that any scholar would argue today against the proposition that unilateral declarations may create legal obligations for their authors. It is also clear that among the unilateral declarations there are those which possess only political meaning and do not give rise to any legal obligations. What seems to be agreed is that in order to

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conclude whether a unilateral act of a State entails legal consequences or bears only a political meaning it is necessary to assess its legal character. Yet the process of establishing the legal character of a unilateral declaration requires additional consideration.

There are many scholarly works researching unilateral acts of States, including quite recent pieces (for example, A. Abashidze and M. Ilyashevich [1], R. Kalamkaryan [2], S. Melnik [3], K. Skubiszewski [4], K. Zemanek [5], P. Saganek [6] et al.). The authors underline the importance of distinguishing legal and political unilateral declarations and statements and point to an intention of a State-author to be legally bound by the act as a primary criterion for establishing the legal character of this act [1, p. 38–40; 3, p. 84–85; 7, p. 15–16]. However, the question of how to establish that intention did not receive enough attention.

As a result of almost 10 years of its work on the topic "Unilateral Acts of States", in 2006 the UN International Law Commission (the "Comission") has adopted the Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations. The Guiding Principles have utterly confirmed that "Declarations publicly made and manifesting the will to be bound may have the effect of creating legal obligations" (Principle 1). They also stated the necessity to take account of the content of such declarations and of the factual circumstances in which they were made in order to determine the legal effects of such declarations (Principle 3) and confirmed that "a unilateral declaration entails obligations for the formulating State only if it is stated in clear and specific terms" (Principle 7). Indeed, taken altogether these provisions may help to establish the intent of the State to be bound by its declaration. However, considering the importance ascribed by the States to the element of intent in distinguishing between legal and political declarations, it is regrettable that the Commission did not offer recommendations aimed at facilitating the process of establishing such an intent other than pointing to clarity and specificity of the wording and the need to consider the factual context of the declaration.

No wonder that the question of how to establish the intent of the State to be legally bound and thus to determine the legal character of the unilateral declaration continues to be posed in a straightforward manner in scholarly works published after the adoption of the Guiding Principles by P. Saganek (2016), Ch. Eckart (2012) and E. Kassoti (2015). Relevant parts in their monographs [6, p. 387–437; 8, parts 1III – 1IV; 9, p. 149–168] indeed contribute to establishing clarity in this regard. This article intends to make another contribution by analyzing certain unilaterally formulated acts to see the reference-points in establishing the legal character of those acts.

Thus, in this work the research will be conducted by applying the criteria of unilateral acts of States capable of creating legal obligations to specific examples from the States' practice – examples that are illustrative in terms of revealing importance of different aspects of the process of determination of legal nature of an act. This will clarify the legal regime of the examined acts and will help to develop a general algorithm of establishing the legal nature of acts of States. At the present stage the absence of such an algorithm and specific criteria for establishing legal nature of a particular act leads to inconsistency in approaches to assessment of particular unilateral declarations.

For instance, ambiguous interpretation was given in international legal doctrine to the so-called "negative security assurances" – pledges of nuclear-weapon States-parties to the Non-Proliferation of Nuclear Weapons Treaty ("NPT") on non-use of nuclear weapons against States-parties of the NPT that are not in possession of such weapons [10; 11; 12; 13; 14].

The opinions of academics on the nature of negative security assurances vary significantly. C. Goodman [7, p. 9], E. Garcia Rico del Mar and A. J. Rodriguez Carrion [15, p. 127] are of the view that such pledges are intended to be unilateral legal acts. R. Cedeño, on the contrary, believes that "The attitude of the authors and the positions of most States appear to reflect the political nature of these statements…" [16, para. 115 p. 131]. The UN GA Resolution A/Res/63/39 according to which the guarantees are qualified as unilateral declarations of the nuclear-weapon States "on their *policies* of non-use or non-threat of use of nuclear weapons against the non-nuclear-weapon States" (italics added. – *E. K.*) [17, p. 2] supports this view.

Indeed, some States that are beneficiaries of the guarantees have treated them with a fair share of skepticism. The representative of Indonesia, for example, pointed out that the statements "leave ample room for subjective interpretations" and "do not offer legitimate, reasonable and binding assurances" [18, p. 16], the representative of Malaysia stated that the guarantees "remain devoid of legal force" and "do not provide a high degree of confidence" [18, p. 16].

On the other hand, in the Commission it has been pointed out that "it was not entirely correct to say that the solemn declarations made before the Security Council concerning nuclear weapons were without legal value" [19, p. 230]. The International Court of Justice (the "Court") in its Advisory opinion On the legality of the threat or use of nuclear weapons of 1996 calls such statements *international legal* documents and equals them to the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean of 1967 (Treaty of Tlatelolco), the South Pacific Nuclear Free Zone Treaty of 1985 (Treaty of Rarotonga) and the NPT [20, para. 62–63, p. 31]. In respect of the contents of the legal principles relating to the use of nuclear weapons, the Court's Vice-president S. Schwebel has structured his dissenting opinion in the following

manner: the NPT; negative and positive security *assurances*…; *other* nuclear *treaties* [21, p. 91–95].

Such pledges indeed may be classed as unilateral legal promises. Wording used in the letters on assurances and in the relevant statements is non-ambiguous and specific ("will not use… against… except in the case…" or "undertakes not to use … against… at any time or under any circumstances") allowing to precisely determine the scope of obligations. Obligations at hand were not just stated once, but reiterated (1995 evidenced a harmonized reaffirmation of obligations undertaken by nuclear-weapon States previously to which they refer in their statements). This fact together with the fact that some States-authors felt they needed to limit the obligations with certain conditions evidence their commitment to these declarations. The form in which assurances are made (statements made at the Conference on Disarmament, reiteration of them in letters addressed to the UN Secretary General with a request to circulate them as a UN document) is very official and provides for compliance with a publicity criterion of unilateral acts. Either statements made at the Conference on Disarmament or the letters addressed to the UN Secretary General transmitting those statements contained clauses allowing to establish the attribution of the promises to the relevant States ("the Ministry of Foreign Affairs of the Russian Federation is authorized to make the following statement…" (a statement by the representative of the Ministry of Foreign Affairs of the Russian Federation), "I … give the following undertaking on behalf of my Government" (a statement of the United Kingdom Permanent Representative to the Conference on Disarmament), "Acting upon instructions from my government…" (a letter from the Permanent Representative of France to the UN). The letter of the United States of America transmitted "a statement by the Secretary of State of the United States of America… announcing a declaration by President Clinton". Cumulatively all these features (wording, form, reference to authorization) allow to conclude that there was an intention of State-authors to be bound by obligations of legal character.

The fact that the assurances have not instilled enough confidence in third States, does not deprive the acts of their legally binding nature since unilateral acts of States do not require that their addressees react to them in any way. The Permanent Court of International Justice and then the International Court of Justice have recognized the legal nature of unilateral acts of States, despite the doubts of the acts' addressees as to the acts' binding force (for instance, in the *Free Zones of Upper Savoy and the District of Gex* case of 1932, the *Nuclear Tests* case of 1974).

Although the question on the need of an agreement providing for the negative security assurances is still posed at international conferences, this does not undermine the importance of the already accepted unilateral obligations. In the Working paper "Security guarantees" presented in 2005 at the NPT Parties Conference the sole argument was made in favor of the insufficiency of the guarantees stipulated in the analyzed unilateral statements: "The primary undertaking not to aspire to nuclear weapons has been made under the NPT; it is therefore in the context of or as a part of this Treaty that security assurances should also be given" [22, p. 5].

Therefore, the addressees' trust in respect of the obligations contained in unilateral acts of States does not influence the legal characteristics of such acts. The primary aspects that have such influence are the unambiguity of wording contained in the statement and the context in which the acts are made. In the cases analyzed, the form in which the acts were made was also important for establishing States' intention to be bound by legal obligations.

The question of the form in which a unilateral international legal obligation may be undertaken deserves special attention. International law does not provide for a specific form in which unilateral acts must be made. Some researchers (Y. Andreeva [23, p. 140–141], M. Potesta [24, p. 161]) are of the view that a unilateral international legal obligation may be undertaken in the form of a domestic legislative act grating certain rights to other subjects of international law. If this was the case, such legislative acts would not be amendable or revocable on a sole discretion of the issuing State.

Some acts of Belarusian legislation indeed unilaterally provide the subjects of international law with rights that go beyond the scope of rights provided to those subjects by international treaties with them. In the Presidential Decree No. 183 of 27 March 2008 Belarus freed the Representative Office of the International Organization for Migration in Belarus of an obligation to pay the value added tax for selling goods operations, for works and services that are performed in Belarus as part of the organization's official activities as well as for the lease provided to the organization for the same purpose. This privilege goes beyond the scope of the Agreement on cooperation between the Government of the Republic of Belarus and the International Organization for Migration of 22 July 1998 and the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947, which provide tax exemptions only in relation to direct taxes.

Yet domestic legislative acts *per se* do not qualify as unilateral acts of States. Even those legislative acts which are relevant for foreign States or international organizations, do not as such produce international legal consequences. The norms of domestic law being aimed at regulation of relations within a domestic legal order, in international law may only evidence facts in a particular case, but may not be a source of international obligations. International legal obligations arise

only if a State makes a respective official statement on an international arena. However, in this case it is the respective statement of the State's competent body that will qualify as a unilateral act of that State. Otherwise, having complied with the internal procedure and having fulfilled conditions for exclusion of application of the estoppel principle, a State may withdraw the accepted obligations without reconcilement with any other actor.

In this respect it is interesting to look at the acts of a number of States (Honduras, Malaysia, Nicaragua, Peru, Ecuador and – for those holding service or diplomatic passports – Singapore) which have unilaterally established a visa-free regime for Belarusian citizens upon the fulfillment of certain conditions (term and/or purpose of trip). The respective decisions reflected in domestic legislation of the above-mentioned States were communicated to the Republic of Belarus by means of diplomatic notes to the Ministry of Foreign Affairs [26]. The most prominent example of unilateral actions of this nature taken by Belarus is Presidential Decree No. 8 of 9 January 2017, which introduced a visa-free regime for citizens of 80 States coming to Belarus for a period up to 5 days and which was broadly announced.

Despite their relevance from the point of international law unilateral obligations of this nature may be unilaterally withdrawn with no consent of the acts' addressees required. It is possible due to the fact that they, as a rule, do not constitute "promises". Notifications of changes of legislation on visa regime can rarely contain obligations aimed at the future. They rather reflect the rules that the State-author deems reasonable to apply at a particular stage of the development of its relations with other States. Unilateral change of these rules under certain circumstances may be regarded as an unfriendly act, but does not constitute a violation of international law.

So, a statement of the State's competent bodies notifying on the State's decision to grant certain rights to a subject of international law when such decision is reflected in domestic legislation may be qualified as a unilateral act of State subject to *inter alia* teleological interpretation. The latter allows to establish whether the statements in question merely reflect a particular state of affairs that is part of legal reality at a time, or whether they are aimed at undertaking obligations to be fulfilled in the future allowing addressees to rely on these obligations and, moreover, expect that their modification is to be reconciled with them rather than follow a simple notification.

In the process of establishing the legal nature of unilateral acts, the possibility to identify with more or less certainty the time-frame within which the obligation is expected to be performed is important. The International Court of Justice refused to recognize the statement of the Ministry of Justice of Rwanda in the UN Human Rights Commission on 17 May 2005 that "past reservations not yet withdrawn will shortly be withdrawn" [27, para. 45, p. 25]. Interpreting the intent of Rwanda to undertake legal obligations, the Court took into account "the general nature of its [statement's] wording" [27, para. 52, p. 27], as well as the fact that the statement was made "without indicating any precise time-frame for such withdrawals" [27, para. 51, p. 26]. It led the Court to the conclusion that Rwanda did not intend to commit a unilateral act.

Due examples of unilateral acts of promise complying with the relevant criteria would be statements regarding visa-free entry granted to foreign citizens for the periods of sport competitions, made by Russia (in 2008 and 2012) and Belarus (in 2009). On 5 May 2008 the Embassy of the Russian Federation in London officially stated that within the period from 17 to 25 May 2008 British sports fans would be able to come to Moscow for the Champions League final game between English teams without a visa upon presenting a valid passport, a ticket for the game and a migration card [28]. The legal character of this promise is evident: the statement contains a precise obligation for a defined time-term, which is formulated in a precise wording and is made by a competent State body.

An obligation of the same character was unilaterally undertaken by Belarus in 2009. The Minister of Foreign Affairs of the Republic of Belarus provided a written guarantee that Belarus would ensure visa-free entry for the participants and fans of the World Ice Hockey Championship 2014, if it were chosen to host the championship. This unilateral act may be qualified as a conditional unilateral promise that entered into force once Belarus was designated as the host of the competition.

In 2018 foreign supporters having a ticket to the matches, a valid passport and a personalized card of the spectator ("Fan ID") will be able to see the matches of the 2018 FIFA World Cup to be held in Russia without obtaining visas due to another unilateral obligation undertaken through a series of unilateral statements by the Prime-Minister of the country in 2010 (at the meeting with FIFA inspection at the stage of considering the bids to host the competition and in the Executive Committee when Russia was chosen to host the competition) and in 2012 (at the meeting with the heads of FIFA and UEFA) [29].

One of the methods suggested in the doctrine for resolving the question of whether an obligation is of legal or political nature is assuming its violation and assessing its consequences [30, p. 71]. Is it possible to establish international responsibility for violation of an act at hand? Indeed in some cases such an exercise may help to distinguish a political nature of an act. On the basis of this criterion such acts as assurances of helping to acquire the status of a member of an organization or its body [25, para. 30, p. 17] or joint state-

ments on creating an international organization in the future [31, p. 315] given in the doctrine as appropriate examples of unilateral acts of promises, in fact, cannot be considered as legal acts. Even if the fact of violation of such "promises" is proved, it is hard to imagine what form of responsibility would apply to such violation. None of the existing forms of States responsibility (including satisfaction which in this case may even exacerbate the "damage") is appropriate for such cases.

The nature of subject-matter of such assurances also speaks in favor of their political character. As it was mentioned in the UN General Assembly Sixth Committee, if, given the act's contents, its "subject may be clearly defined and the subject is of a legal nature, such a unilateral act could be considered to be of a legal nature" [32, p. 4]. In the case at hand it is hardly possible to identify any legal character of the respective statements.

Summarizing the above-mentioned, it may be once again noted that, when establishing a legal nature of unilateral statements of States, the main criterion for making a distinction between legal and political acts is the intention of a State. Given that it is a subjective element that must always be assessed and interpreted, elaboration of reference-points to clarify this process is desired. On the basis of the analysis of certain acts of States performed in this article the following reference-points are suggested. When identifying the intention to undertake a legal obligation, attention is to be paid to: 1) the wording of the statement, which must be precise ("clear and specific terms") allowing to establish the subject-matter and the scope of obligations; 2) the subject-matter of the statement which must be of legal character; 3) the possibility to identify the time-framework within which the obligation is expected to be performed; 4) the orientation of obligations to legal relations in the future (in comparison with a mere reflection of a particular state of affairs that is part of legal reality at a time); 5) the form of an act (a single requirement to the form of unilateral acts of States is that it must reflect an intent to be bound. In some cases the mere choice of the form may shift the presumption of absence of such intent to the presumption of its presence); 6) the consequences of the assumed violation of an obligation.

These suggestions concern the determination of an intent of a State to be bound by its unilateral declaration. Certainly, to establish a legally binding character of a particular unilateral act they are to be applied together with the other criteria of unilateral acts of States (publicity, authority of an official formulating an act, impossibility to impose obligations on other parties, conformity with peremptory norms of general international law).

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INTENSIFICATION OF THE DEVELOPMENT OF PRIVATE INTERNATIONAL LAW OF THE EUROPEAN UNION

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To define the main steps and the methods of the europeanisation of private international law, to find out its pros and cons and to propose possible directions for the application of the European Union experience in the practice of the Eurasian Economic Union are the objectives that the author of the present article set for herself. The positive experience of the transnationalization of sources of private international law can also be used by the Eurasian Economic Union.

Key words: private international law; europeanisation; the European Union; regional unification; sources of law.

ИНТЕНСИФИКАЦИЯ РАЗВИТИЯ МЕЖДУНАРОДНОГО ЧАСТНОГО ПРАВА В ЕВРОПЕЙСКОМ СОЮЗЕ

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Определены основные этапы и методы европеизации международного частного права, выявлены их положительные стороны и недостатки, предложены основные направления применения опыта Европейского союза в практике Евразийского экономического союза. Позитивный опыт транснационализации источников международного частного права может быть использован Евразийским экономическим союзом.

Ключевые слова: международное частное право; европеизация; Европейский союз; региональная унификация; источники права.

Entry into force on 2 September 1997 of the Treaty of Amsterdam amending the Treaty on European Union, the treaties establishing the European Communities and certain related acts (hereinafter – Amsterdam treaty) gave to F. Pocar [1, p. 873], a renowned researcher of private international law, the basis to pose a question whether the communitarisation of private international law is the revolution for the former. Today without any doubt the answer to the question is positive. To define the main steps and the methods of the europeanisation of private international law, to find out its pros and cons and to propose possible directions for the application of the European Union (hereinafter – EU) experience in the practice of the Eurasian Economic Union (hereinafter – EAEU) are the objectives that the author of the present article set for herself.

The term *europeanisation* [2; 3; 4] of private international law refers not only to the adoption of the sources of EU law which govern transnational private law relationships but also to the influence of EU law on the regulation of such relations at other levels – international and national levels along with supranational level within the framework of the regional integration organizations other than the EU.

Entry into force of the Amsterdam treaty provided additional possibilities for the europeanisation of private international law in the form of participation of the institutes of the EU in the unification of private international law and international civil procedure

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provisions. Thus, art. 65 sets out: "Measures in the field of judicial cooperation in civil matters having cross-border implications … in so far as necessary for the proper functioning of the internal market, shall include … promoting the compatibility of the rules applicable in the Member States concerning the conflict of laws and of jurisdiction".

Article 81(2) of the Consolidated version of the Treaty on the functioning of the European Union signed on 13 December 2007, by altering somewhat the text of the relevant rule further expanded the possibility to apply supranational instruments in this sphere: "For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures, particularly when necessary for the proper functioning of the internal market, aimed at ensuring… the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction; (d) cooperation in the taking of evidence".

The Court of Justice of the European Union (hereinafter – the CJEU) extended the internal competence of the EU to its external powers. In Opinion 1/03 [5] the CJEU inferred that the Community's competence to conclude international treaties may not only be directly expressed in the primary treaties, but may equally derive from other provisions of these treaties as well as from measures adopted by the institutes of the Community for the implementation of these provisions. Since the relevant authorities to achieve specific objectives have been delegated to the EU institutes by the Community, it has the competence to assume international commitments that are necessary for the achievement of these specific purposes even when it is not expressly conferred by the treaties. However, it is not necessary for international agreement's scope to coincide fully with the scope of Community legislation. Where the test of 'an area which is already covered to a large extent by Community rules' is to be applied, the assessment must be based not only on the scope of the rules in question but also on their nature and content. It is also necessary to take into account not only the current state of Community law in the area in question but also its future development, insofar as that is foreseeable at the time of that analysis 9 (p. 124–126). In Opinion 1/13 [6] the CJEU supplemented this thesis with the conclusion about the existence of the exclusive competence of the EU, even if there is only a risk of violation the uniform and consistent application of regulations in the Member States (p. 89).

It should be duly noted that the existence in the European law of some instruments designed to limit the monopoly of the EU to adopt sources of private international law and to implement the competence of the Member States to conclude the international agreements in the area of the regulation of the transnational private law relationships.

Thus, Regulation (EC) No. 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) and Regulation (EC) No. 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) specify in the preambles the aim of the elaboration of the special legislation on the conclusion by the Member States on their own behalf the international treaties with third countries on the issues within the scope of the regulations. For example, Article 42 of the preamble of the Rome I sets out "Member States would be entitled to negotiate and conclude, on their own behalf, agreements with third countries in individual and exceptional cases, concerning sectoral matters and containing provisions on the law applicable to contractual obligations".

Consequently, the Regulation (EC) No. 662/2009 of the European Parliament and of the Council of 13 July 2009 establishing a procedure for the negotiation and conclusion of agreements between Member States and third countries on particular matters concerning the law applicable to contractual and non-contractual obligations and the Regulation (EC) No. 664/2009 of the European Parliament and of the Council of 7 July 2009 establishing a procedure for the negotiation and conclusion of agreements between Member States and third countries concerning jurisdiction, recognition and enforcement of judgments and decisions in matrimonial matters, matters of parental responsibility and matters relating to maintenance obligations, and the law applicable to matters relating to maintenance obligations were adopted.

The Regulation (EC) No. 662/2009 and the Regulation (EC) No. 664/2009 approve the exclusive competence of the EU in the areas within the scope of the above-mentioned regulations as a general rule but nevertheless set out the procedure to negotiate and to conclude international agreements with third countries by Member States.

According to the established procedure, the member state must notify the European Commission of its intention to begin negotiations on the conclusion of a treaty with a third state. The Commission is obliged to check whether there is any intention to conclude such an agreement with that country within the next 24 months. In case of a negative response, the Commission shall verify compliance with the following conditions: 1) the member state has a specific interest in conclusion of the relevant agreement, caused by economic, geographical, cultural, historical, social or political ties with the third state; 2) the proposed agreement is compatible with the effectiveness of the law of the Union and does not undermine the functioning of the system established by EU law; 3) the proposed agreement does not frustrate the object and objectives of the Union's policy in the field of external relations.

In addition, the duty to include in the text of the treaty provisions for its denunciation by a member state, in the event of the subsequent conclusion of a treaty between the EU and this third state, is established.

European law granted European private international law its specific forms – directive and regulation. At the same time, the method and structure of the source of legal regulation remained the same: basic rules in the field of private international law contain bilateral conflict-of-laws rules, as well as general provisions on public policy, direct regulation, *renvoi*, enforcement of law of the country with plural legal system, in some cases – jurisdiction and recognition of foreign judgments. Hence, sources of European private international law repeat the method and structure of international treaties adopted by the Hague Conference and other organizations. It seems that such an approach is driven by the understanding of the need for interaction between the above-mentioned acts, as well as by the simplicity of the technique developed by more than a century of experience of the Hague Conference. Thus, Council Regulation (EC) No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No. 1347/2000, in accordance with mentioned EU Advisory Opinion No. 1/13 "complements and clarifies the provisions of the Hague Convention on the Civil Aspects of International Child Abduction" and establishes precedence over this convention and several other Hague Conventions on matters within the scope of the regulation. In order to determine the applicable law in EU Member States Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations refers to the Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations, if the Protocol is legally binding.

However, one cannot ignore the tendency to expand the scope of the sources of European private international law. At the initial stage, there were adopted regulations that enforced conflict-of-laws rules (they were called Rome regulations – Rome I, Rome II, Rome III – in order to emphasize the consistency principle: the origins of the European conflict of laws provisions on obligations lie in the draft of the Rome Convention, the idea of which was to develop a comprehensive legal act in the field of private international law) or dealt with the jurisdictional regime and the procedure of recognition and enforcement of foreign judgments (they were called Brussels Regulations, with a view to highlighting their genesis due to the evolution of the Brussels Convention (Brussels I regulations, Brussels Ibis, Brussels IIbis)). Currently, we see a more comprehensive construction of European regulations which include conflict-of-laws rules along with jurisdiction issues and recognition and enforcement of foreign judgments but in relation to a particular subject of legal regulation (Regulation Rome IV, Council Regulation (EU) No. 2016/1103 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes [7], Council Regulation (EU) No. 2016/1104 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships [8]).

Despite the similarity in the methodology of regulation and structure of regulatory legal acts, European instruments are specific ones. Specific characteristics of European conflict of laws' sources are explained by the duality of the goals they pursue. On the one hand, it is harmonization – uniformity and consistency – of judgments and, as a result, legal certainty, predictability and stability of international private law relationships. On the other hand, the qualifying element of private international law within the framework of this integration association is the 'filling' of these norms with European values and principles of European law, orientation towards achievement of EU goals, primarily, towards the maintaining of the common market's effective functioning, namely, the realization of the four fundamental freedoms and creation of an area of freedom, security and justice.

A striking example is the system of connecting factor in Council Regulation (EU) No. 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation [9]. The main principle is the autonomous will of the parties, limited by the law of the state of residence or last residence of the spouses, in so far as one of them still resides there, or by the personal law of at least one of the spouses or by *lex fori.* In the absence of a choice of law by the parties the applicable law is the law of the state of spouses' cohabitation or the last cohabitation, in so far as it took place not earlier than one year prior to the court session and one of the spouses still resides there, or the common citizenship of the spouses, or *lex fori*. In this case, we see a compromise between two opposing objectives: the creation of a predictable and certain legal regime and the 'harmony of judicial decisions', the overall goal of the unification process, and free movement of persons in the Union, the goal of integration, where the latter is being provided not only by the opportunity for the parties to choose a more favorable applicable law and avoid unfavorable, but also by the possibility of application of the spouses' personal law, which might be third country's law, so that national, cultural and religious traditions are taken into account, and, thus, the recognition and enforcement of judgments in those countries are simplified.

The possibility of achieving such different goals, considering various circumstances, distinguishes European private international law from the instruments of other international forums. The typical goal of any unification, which is to uniformise the application of the law of the integration association, in this case is being achieved, among other things, by institutional mechanisms designed to ensure European legal order and to achieve its goals, values and principles [10, p. 124–125]. The EU Court acts as a direct regulator which has the jurisdiction to give preliminary rulings and express an authoritative opinion on the interpretation of the norms of European law. The EUCJ played an instrumental role in the development of European law and promotion of European integration.

It should be emphasized that European private international law does not aim to replace current legislation at the universal level. As a rule, European instruments regulate those areas of social relations that are of the greatest difficulty for harmonization and unification or require specific regulation for the purposes of regional economic integration: contract law, transport relations, banking operations, and financial sector.

An indicative example is the Proposal for a Regulation of the European Parliament and of the Council on a Common European Sales Law (COD) [11]. Despite its name, this act is intended to regulate relations with consumers as a weak party: Art. 8 establishes that it applies only if the seller of goods or the supplier of digital content is a trader. Where all the parties to a contract are traders, the Common European Sales Law may be used if at least one of those parties is a small or medium-sized enterprise (which employs no more than 250 people and the annual turnover of which does not exceed 50 million euros). The new project of 2017 [12], designed to replace the draft of the Common European Sales Law, further narrows the scope of application: it regulates the contracts with the consumer, who may exclusively be an individual.

Consideration and appreciation of the effectiveness of universal regulators by EU legislator is even more clearly traced on the example of the approach to the legal regulation of international commercial arbitration. Discussions on the exclusion of the legal regulation of arbitration from the scope of the Brussels I Regulation took place even during the preparation of the Brussels Convention [13, p. 113]. Subsequently, at the drafting stage of the revision of the EC Regulation on Jurisdiction, the European Commission proposed to include in the text an article on the relation between the jurisdiction of member states and international commercial arbitration, since before the EU Court, in several preliminary rulings, confronted with the question of injunctive relief [14, p. 843, 847]. In the case *Marc Richand Co. v. Società Italiana Impianti* [15] the EC Court ruled that the litigation connected with arbitration proceedings was not within the scope of the Brussels Rules.

However, the proposal of the European Commission, submitted to Green Paper [16], to incorporate several provisions on arbitration in the draft, including the law applicable to the existence and validity of the arbitration agreement, drew sharp criticism from the arbitration institutions, so that a large number of provisions were excluded even from the Regulation's draft, except for the *lis pendens* – the rule that in order to exclude parallel proceedings between national courts and between national courts and arbitration courts establishes the priority of the arbitration courts or the court of residence of the arbitration with respect to the value, validity and consequences of the arbitration agreement [17, p. 4, 9, 35, 36].

As a result, the final text of the regulation not only does not regulate the above-mentioned issue, but includes the norm on the priority of the New York Convention over the Regulation (Part 2, Article 73).

Hence, the scope of these European instruments has no points of contact with the existing unification of international sales contacts (Vienna Convention on Contracts for the International Sale of the 11 April 1980) and international commercial arbitration (New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958).

At the same time, one cannot but note criticism on the complexity of the system of sources of EU private international law which is increasingly being heard in the doctrine [18, p. 175–176, 181; 19, p. 585–586, 592–593]. It is also called a "rag carpet", and "a mountain of regulations without a system", and "a large number of trees which are nothing like a forest" [18, p. 180].

Norms of private international law are contained in a large number of sources. The scopes of application of regulations sometimes overlap. Complexity of terminology, significant differentiation of legal environment also do not contribute the problem solving. Today international private law of the EU is a complex, multi-structural, differentiated system of legal norms, characterized by autonomy and, as a rule, direct and immediate application in the member states.

Similarly, the terms "contract", "one's party promise" and other ones should be interpreted and are being interpreted by both the EU Court and national courts without reference to national and supranational European law [20, p. 162–171].

Certainly, such situation contradicts the provisions of Article 7 TFEU, which states: The Union takes care of coherence between different directions of its policies and activities taking into account the totality of its objectives and in accordance with the principle of empowerment.

The above-mentioned difficulties in the practical usage of the sources of private international law of the EU, as a result of its fragmentation, have led to the pro-

posal of the development of comprehensive source of European law – the Code of European Procedural Law [21, p. 187–196] and the Code of European private international law [22, p. 175–186; 23; 24, p. 175–185].

However, the most suitable is the idea of autonomous complex codification of European Private International Law (comprehensive codification), the creation of a single comprehensive legal act.

One of the allegations in support of this proposal is the success of the codification of private international law at the national level in almost all Member States and in a lot of third countries. Moreover, the European region is characterized by the idea of reception of legal constructions. For example, the doctrine of "characteristic performance" was borrowed by the authors of the Rome Convention on the Law Applicable to Contractual Obligations of 19 June, 1980 and then transferred to the Rome I Regulation from the third state legal system, Switzerland, to be exact. None of legal system of the States-Members contained any similar legal institution in that time [25, p. 654–655].

Furthermore, the advantage of this approach is the advance of legal certainty and predictability, consistency and systemacy of legal regulation, as well as unified application and minimization of forumshopping. As a model for such a project, it is proposed to use the Law on Private International Law of Switzerland of 1987 [26, p. 600].

It is necessary to emphasize the receptivity of the European legislator to fresh scientific ideas, especially, to multi-vector cooperation between the doctrine and EU bodies. Thus, on 11 October 2012, the Legal Affairs Committee (JURI) of the European Parliament requested the Report on the Assessment of the Absence of Legal Regulation (CostofNon-Europereport (CoNE)) regarding the prospects for the development of the European Code of Private International Law. The purpose of such reports is to estimate social and economic costs, as well as the consequences of insufficient protection of the citizens' rights and legitimate interests due to the absence of the European Code of Private International Law.

The relevant report, presented in March 2013 [27], points out 13 spheres characterized by deficiencies in legal regulation on the EU level: legal capacity, incapacity, name and patronymic, recognition of defacto family relations, recognition of same-sex marriages, parent-child relationships, decisions about adoption, alimony obligations in defacto family relations, gifts and trusts, movable and immovable property, agency services, private life and corporations [27, p. 7].

The evaluation criteria were factors such as: costs associated with doing business (costs associated with managing business, such as arrears, unrealistic for collection, non-execution of contracts and the complicacy of their enforcement, and as a whole, loss of profits), administrative costs, including applications for recognition of civil status, apostille, cross-border activity certification and justification of the right to payment, legal costs (legal assistance, as well as representing in court, recognition contracts' legal effect, recognition documents' status, estate administration, rights of property and other assets), social and emotional costs (loss of wealth, stress and discomfort caused by the length of legal procedure), as well as the loss of the EU in a broad sense – the uncertainty and inconsistency caused by the barriers for the freedom of movement, goods, persons and services on the domestic market.

The absence of legal regulation – as a whole, the lack of regulation and applicable law, and jurisdiction, and recognition and enforcement of foreign judgments, and at the level of one or more components of private international law – entail serious legal consequences for both the administration and citizens EU, which is estimated by the economic damage to the Union in the amount of 138 million euros per year. Comparing the legal consequences of introducing changes and amendments to the sectoral legislation and codification, the authors of the report express an unconditional preference for the latter, naming its advantages – transparency, simplification of procedures, cost reduction, the possibility of non-specialists applying, creating a complete picture of the object, reducing the number of norms that lead to realization of the main goal – the implementation of the principle of legal certainty, reducing barriers and restrictions for the freedom of movement of persons in the internal market [27, p. 10], as well as simplifying the recognition of judicial decisions and the prevention of forumshopping [27 p. 12].

Conclusion

The analysis of the interaction of the unification processes presented in this paper at the universal and regional levels allows us to make the following theoretical and practical conclusions.

1. One cannot but acknowledge a substantial impact of regional unification of private international law within the EU on its universal unification. Moreover, this influence is found in several planes.

A. At the regional level, the europeanization of private international law is manifested in the proposal to international private law of new regional forms while maintaining the classical method of legal regulation, as well as the system of normative rules.

B. The scope of application of European private international law is rapidly expanding both at the horizontal level – the branch nature of regulated public relations, – and at the vertical level – the territorial nature of regulated social relations. The classical approach that regional unification is limited by the boundaries of the regional integration association is

currently failing. The scope of regulation of private international law of the EU today is not limited by relations within the Union, but extends to third countries. This thesis is being consistently developed by the EU Court in its advisory opinions and decisions.

C. At the universal level, the communitarianization of this industry leads, unfortunately, to negative consequences. First, this is seen in the loss of interest of European states, which historically, embodying the idea of F. K. von Savigny on Entscheidungsharmonie, were the driving force behind the processes of unification and harmonization, to the work of some international organizations. EU Member States leave such international institutions, which is explained both by the presence of more significant unification results at the regional level, and by the recognition, with the lightness of the Court of the EU, of the exclusive competence of the Union in the field of legal regulation of cross-border private law relations.

The practice of these organizations demonstrates the failure to create tools for universal unification on issues within the scope of legal regulation of European private international law: recognition and enforcement of foreign judgments both in general and on specific issues, for example, inheritance. Thus, this issue was deleted from the Hague Conference program immediately after the first meeting of the General Affairs Council after the adoption of the EU Regulation No. 650/2012. At the same time, there is a tendency for the EU not to "interfere" with regulation of public relations at the universal level.

At present the European doctrine expresses an extremely pessimistic view on the possibility of a universal settlement of issues that were not previously regulated at this level, for example, the law applicable to the existence and validity of the arbitration agreement at the pre-arbitration stage, and the issue of jurisdiction to consider such a dispute. The length and complexity of the process makes it impossible to revise the New York Convention. The only solution is unification at the regional level. The suggested proposal to use the instruments of the European Convention of 1961 seems too optimistic both in the above arguments and in view of the fact that only 19 EU member states participate in it. Obviously, European states will have to return to the issue of including norms on regulating aspects related to arbitration proceedings in EU law.

2. The trend of the "centrifugal" movement (from the universal to the regional one) in the conflict-of-laws rules of cross-border private legal relations, of course, has to be reflected in the EAEC right.

3. The positive experience of the transnationalization of sources of private international law can also be used by the Eurasian Economic Union. Unification acts of private international law in the post-Soviet space – Kiev Agreement on the procedure for resolving disputes related to the implementation of economic activities, dated 9 October 1992, the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases of 22 January 1993, as well as the Chisinau Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases of 7 October 2002 – no longer in tune with modern world trends.

4. The lack of special competence of the EAEC in the area of cross-border private law relations cannot be an obstacle to unification within the framework of the Eurasian Economic Union. These issues may fall within the competence of the EAEC on the basis of the doctrine of "implied authority", developed law enforcement practice of the European Union. The goals of the EAEC, as stated in Article 4 of the Treaty on the Eurasian Economic Union of 29 May 2014, are the creation of conditions for the stable development of the economies of the Member States in order to improve the living standards of their populations. The aspiration to form a single market for goods, services, capital and labor in the framework of Union – fully justifies the attribution of decisions on those issues of public relations, which are not directly attributed to the jurisdiction of the EAEC by the founding treaty, to its competence.

A special role in the interpretation and development of private international law of the EAEC can be played by the EAEC Court, the purpose of which is to ensure uniform application of the EAEC rights by the member states and the Union bodies.

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COPYRIGHT REFORM IN THE EUROPEAN UNION

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The article is devoted to the copyright reform in the EU. It shows tendencies, mechanisms and shortcomings of the development of the EU copyright legislation. The author analyzes the process of changing of the copyright regime in the Digital Single Market according to the Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market and the Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market. Conclusions are made about possible results and prospects of solving the problem of the territorial character of copyright in the context of the freedom of movement of goods and services.

Key words: copyright; intellectual property; EU; Internet; EU Digital Single Market; territorial character of intellectual property rights; private international law.

РЕФОРМА АВТОРСКОГО ПРАВА В ЕВРОПЕЙСКОМ СОЮЗЕ

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Статья посвящена реформе авторского права в ЕС. В ней показаны тенденции, механизмы и недостатки развития законодательства ЕС по авторскому праву. Автор анализирует процесс изменения авторско-правового режима на едином цифровом рынке ЕС в соответствии с проектом Директивы Европейского парламента и Совета по авторскому праву на едином цифровом рынке и Регламентом 2017/1128 Европейского парламента и Совета от 14 июня 2017 г. о трансграничной переносимости услуг по предоставлению онлайнового контента на внутреннем рынке. Сформулированы выводы о возможных результатах и перспективах решения проблемы территориального характера авторских прав в контексте свободы перемещения товаров и услуг.

Ключевые слова: авторское право; интеллектуальная собственность; ЕС; интернет; единый цифровой рынок ЕС; территориальный характер прав интеллектуальной собственности; международное частное право.

The vast majority of the representatives of the modern private international law doctrine point out that "...the issue is not necessarily how much newer or stronger intellectual property regimes are required to be for economic growth, or how far we are prepared to push back on stronger intellectual property protection, but essentially, how intellectual property can be finetuned to respond to the prevailing contingencies of diverse stakeholders" [1, p. 73].

Universal accessibility of intellectual property objects, especially copyrighted works, has been drastically challenged by the Internet. On the one hand, the Internet content is represented by creative achievements belonging to particular persons (rightholders). On the other hand, it is not easy to find and identify real infringers suitable for civil litigation. Instead, it appears to be more attractive for rightholders to protect their rights not by addressing infringers, but professional suppliers of Internet services (information intermediaries). As a result, the Internet has changed the typical subjective composition of the legal relationship of copyright infringement. Nowadays the traditional

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scheme "rightholder – infringer" is not sufficient. Information intermediaries need to be taken into account. The situation is aggravated by the fact that the Internet users, regardless of the battle between rightholders, infringers, information intermediaries, stand strongly for the free access to the Internet content, relying on the freedom of information, human rights and other legal constructions far beyond what most lawyers attribute to the grounds for the free use of works.

Modern literature on intellectual property pays much attention to the possible methods of changing of classical legal rules in order to meet the demands of all mentioned stakeholders. The problem is proclaimed as a knowledge equilibrium framework based on a political economy of intellectual property in the digital era [2, p. 92]. It is worth mentioning that scientific legal analysis are not so vigorous and fast reacting as the EU rule makers.

The aim of the article is to find a possible solution to the copyright problems in the globalized information society in the recently presented EU drafts.

The EU copyright consists of a quite large number of directives which harmonized the law of its member states on a wide range of problems, including digital aspects. The main task of the present reform is to modernize copyright in order to adapt it to the needs of the internal market. Thus, it is not only the progressive development of copyright that we have do deal with. The steps taken by the EU should be evaluated through the lens of the goals and objectives of the process of regional economic integration. The new mechanisms proposed in the EU are interesting not only for the Belarusian legislation, but for the Eurasian Economic Union (EAEU) law as well.

The copyright law harmonisation in Europe was launched in the XIX century and can be rooted in numerous bilateral treaties and the Berne Convention for the Protection of Literary and Artistic Works, 1886 (the Berne Convention). All the EU Member States shall comply with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, 1994 (TRIPS), the WIPO Copyright Treaty, 1996. The EU directives concern communitary standards on computer programs protection, copyright term, rental right, resale right, satellite broadcasting right, cable transmission right, orphan works, collective management and other narrow questions in the field of copyright. Thus, there are fertile grounds for the copyright reform.

Nevertheless, the harmonisation of the copyright of the Member States is not complete. As can be seen by the numerous cases in the practice of the Court of Justice of the EU the implementation of the EU copyright directives is controversial. The copyright laws of the EU Member States still vary drastically, particularly between common law jurisdictions (Cyprus, Ireland, Malta and the United Kingdom) and civil law countries. Normative and institutional density, in the meaning of professor K. Raustiala's expression, leaves no doubt that the EU is really moving in the direction of tightening and raising standards for the protection and enforcement of copyright [3, p. 1024].

Taking into account the conditions, historical and legal prerequisites for the reform of copyright in the EU described above, there are at least two main questions:

- What will be the substantive changes in material copyright law planned precisely for the internet relationships?
- Shall we see international private law mechanisms regarding international copyright protection for the EU internal digital market impaired by the territorial character of copyright?

A grandiose and ambitious, but timely plan to ensure the freedom of movement of goods and services in the EU internal digital market was outlined in the Communication from the Commission "A Digital Single Market Strategy for Europe" (the Strategy) [4]. The document identified the problems of bringing the digital market in line with the real market. The territorial character of intellectual property rights is brighter for industrial property objects than for copyright. It is explicable by the lack of formalities for works to be protected. The EU real internal market, i. e. offline market, triggered unitary systems of the EU trade mark, Community design, Community plan variety, unitary patent. Two decades after the beginning of this process, the rapid development of the EU online market, almost entirely built on the protected works, marked the task to overcome the territorial character of copyright. Thus, in the near future we will see a comprehensive embodiment of the European intellectual property rights concept according to Article 118 of the Treaty on the Functioning of the EU in relation to the whole system of intellectual property [5].

The Strategy begins from the very decisive and tough words: "to break down national silos in copyright legislation". It is proposed to understand these "silos" as barriers to cross-border online activity, including differences in copyright law between the EU Member States. Directives serve as the main legal instrument of the EU law for harmonisation. However, the Strategy also mentions the barriers to cross-border access to copyrighted content services and their portability. Elimination of these obstacles will demand unification and creation of the communitary legal regime under the legal grounds of regulation.

Before that, the EU copyright law developed primarily through harmonisation directives. The territorial character of copyright was only partially touched upon in some of them. For example: Article 1.2 (d) (an act of communication to the public by satellite outside the Community deemed to be occurred in a Member State), Article 8.1 (obligation of Member States to protect programmes retransmitted in their territory from other Member States) of the Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain

rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission [6]; Article 4.2 (exhausted within the Community of the distribution right) of the Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (Directive 2001/29/EC) [7].

In such manner, cooperation among the EU Member States on copyright issues has not come closely to the elimination of the territorial character of copyright. International copyright protection within the EU is mainly built on the basis of the regime of national treatment under international treaties, primarily the Berne Convention and TRIPS. As of now, there is no single legal regime for the EU copyright as it is for the EU trade mark or the Community design. The works within the EU fall within the purview of copyright protection by laws of particular Member States. The Strategy outlines that consumers at the internal EU market cannot be prevented on grounds of copyright from using in one Member State the content services acquired in another Member State. This method of reasoning directly leads to the problem of the territoriality of copyright (p. 2.4 of the Strategy). The development of the EU intellectual property law has shown that this problem can be effectively resolved by regulations.

Legislative proposals for the copyright reform indicated in the Annex to the Strategy "Roadmap for completing the Digital Single Market" are described in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Towards a modern, more European copyright framework" [8]. The document is less declarative than the Strategy and the reform is not so comprehensive. There are specific works and rights that are outlined as priority areas of interest: distribution of television and radio programmes, licenses for cross-border access to content in the audiovisual works, digitalization of out-of-commerce works, etc. Thus, as of now, the reform is of rather sporadic nature.

The process of normative procurement of the reform, despite much criticism around it, is moving rather quickly. Analyzing the legal grounds of the EU copyright reform, we rely on two reservations. Firstly, we do not touch changes in accordance with the latest trends to expand the grounds for free access to works in order to support culture, education, research or disabled people. It is not a specific feature of the EU copyright reform. The same tendencies are shown by the WIPO Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired or Otherwise Print Disabled (2013), which EU is going to join [9].

Secondly, we pass by the misunderstanding of the general public that everything on the Internet is for free and that the intention of the EU authorities to ensure wider access to content across the EU can be understood as an elimination of copyright in online regime. Nevertheless, we acknowledge that such misconceptions and large-scale protests can prevent the adoption of the planned acts. A similar situation was observed with regard to the failure of the Anti-Counterfeiting Trade Agreement [10].

There are two key documents on the EU copyright reform characterizing capability of the newly developed legal ruling to address digital challenges: Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market (the "Directive draft") [11] and Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market (the "Regulation") [12].

The Directive draft is toughly criticized for attempts to introduce new restrictive norms. However, it contains rules clarifying basic principles of copyright law and adjusting them to the Internet relations. The fundamental copyright elements have remained untouched: rightholders have monopoly; users get access to the protected work with the consent of rightholders and for remuneration; free use is allowed for limited purposes and on special grounds. The Directive draft suggests how to apply them in special surroundings of the Internet. For example, Article 4 of the Directive draft stipulates the conditions of free use for teaching purposes in conjunction with Article13 of TRIPS, Article 5 of the Directive 2001/29/EC. It is clarified that the use takes place on the premises of an educational establishment or through a secure electronic network accessible only by the educational establishment's pupils, students and teaching staff, and is accompanied by the indication of the source, including the author's name, unless this turns out to be impossible. Besides, there are a lot of reservations with regard to specific types of works, licenses, territorial scope, and compensation. Specialists on copyright law even consider the proposed version of Article 4 of the Directive draft insufficiently rigid and demand compulsory remuneration [13, p. 35, 38].

Most of the criticism relates to the incompatibility of the provisions of the Directive draft with the freedoms of the information society and the legal regime for the protection of personal data. The unwillingness and even the impossibility of adopting a directive on the basis of the proposed draft is associated with Articles 3 and 13 [14]. Contradictory nature of these provisions is seen in the enormous powers of a rightholder to intervene in the business activity of an Internet provider and in the obligations of the latter to control copyright infringements by means of content recognition technologies.

Actually, the whole body of the Directive draft is built on incomprehensible legal terminology leading to confusion. The wording of its Article 12 raises the debate about a new intellectual property right. These provisions stipulate that publishers of press publications have rights for the digital use of their press pub-

lications for a period of 20 years. The Directive draft gives numerous references to the Directive 2001/29/EC. However, with the exception of the term of protection, the elements of the new construction in the present system of copyright law are not clear. Commentators state that this article should be entirely removed from the Directive draft [13, p. 79]. Thus, the Directive draft does not suggest new material norms ready to be implemented, but only attempts to mark specific copyright law problems on the Internet. The future legislative work is needed to clarify harmonization standards of the new copyright legal ruling in the Digital Single Market. As of now, the EU Member States are not ready to follow the way proposed in the Directive draft. Several of them (Belgium, the Czech Republic, Finland, Hungary, Ireland, the Netherlands, Germany) have submitted opposing questions [14, 1].

As to the territoriality of copyright, this problem is partly touched upon in Articles 7 and 8 of the Directive draft prescribing that licenses for out-of-commerce works may be extended or presumed to apply in the process of cross-border digital use on a non-representative basis in all Member States. However, these provisions look somewhat cautious. The idea of extended collective management was generated by the Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market, and the Directive draft could be more decisive [15]. In addition, the legal technique of Articles 7 and 8 of the Directive draft leaves much to be desired (lack of the normative definition of non-commercial works, narrow scope of use, limitation by non-commercial purposes).

The second key document on the EU copyright reform is the Regulation. It was adopted in order to increase cross-border access to TV and radio programmes by simplifying copyright clearance. The Regulation is closer to the solution of the territorial character of the intellectual property than the Directive draft. It is explicable by the very obvious justification of the Regulation by the freedom of movement of services. It follows from the first recital of the preamble to the Regulation. Freedom of movement of goods and services is practically not reflected in the Directive draft.

The Regulation has the objective of permitting the Europeans to continue to access content (films, books, football matches, TV series, music, e-books or videogames) that they bought or rented online in their residence in one Member State in other Member States. Before that the EU consumers were deprived of these opportunities because of the territorial effect of the licenses given by rightholders and due to the trade practices of service providers (geo-blocking). The Regulation guarantees the portability of online services, allowing a trans-border access to copyrighted works across the EU. Paid online services of the copyrighted content must be accessible outside the place of residence of the consumer and unpaid at the provider's discretion.

In spite of a clear ruling and an obviously good effect for the Digital Single Market, the Regulation also receives criticism. For example: "The Commission is looking here for justification of the proportionality of these measures but it seems very quick to speculate that contractual negotiation will be unnecessary" [16].

Despite some shortcomings of this kind, the Regulation contains rules that can be effective. Article 3 of the Regulation states that providers shall not impose on the subscriber any additional charges for the access outside their residence. Actually it means that providers and rightholders should be sufficiently circumspect in drawing up licensing agreements on the transfer of copyright.

It is stated in Article 5 of the Regulation that upon the conclusion and renewal of a contract for payable online content service, providers shall verify the subscriber's Member State of residence. Providers can use a wide range of means in order to meet this requirement. Perhaps this procedure can be seen by providers as an excessive burden and by consumers as a threat to the protection of their personal data. However, in this way copyright can be cleared. Rightholders may authorize the provision of access to their content without verification of residence. In such case, the contract between the provider and the subscriber shall be sufficient to determine the subscriber's Member State of residence. The main rule of the Regulation (Article 7) is a ban on any contractual provisions between providers and rightholders and between providers and subscribers, which prohibit cross-border portability of online content services or limit such portability to a specific time period. These provisions are unenforceable. The provisions of Article 7 apply irrespective of the applicable law to the contracts.

Summarizing the mechanisms of the Directive draft and the Regulations, it can be concluded that the EU is still far from the unitary European copyright in the meaning of Article 118 of the Treaty on the Functioning of the EU. The territorial character of copyright can be compensated on a contractual basis through the collective management and the obligatory EU territory clause in licenses. The application of the Regulation and the Directive, which should be adopted on the basis of the improved Directive draft, will show whether such an approach is sufficient for the Digital Single Market.

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Юбилеи

Jubilees

Александр Викторович ШАРАПО

Aliaxandr Viktaravich SHARAPA

On 26 January 2018 a famous scholar, a talented educator and an organizer of scientific research, doctor of science in history, professor Aliaxandr Sharapa celebrated his 80th anniversary.

He devoted considerable effort to the creation and development of the national research school of history and current problems of international relations which was formed on the basis of the department of international relations and later of the faculty of international relations of Belarusian State University. As a result, Belarus got its own research and educational centre to instruct and train highly qualified personnel for the Ministry of Foreign Affairs and other institutes of the international activities of the young Belarusian state. In 2017, the department of international relations marked its 25th anniversary, and the research and pedagogical results of its work were highly appreciated by the Ministry of Foreign Affairs and the Ministry of Education of the Republic of Belarus.

Aliaxandr Sharapa was born on 26 January 1938 in the village of Hodorovtsy of the Lida powiat of the Novogrudok province of Poland (now it is the Lida district of the Grodno region of Belarus). After his graduation from the Minsk State Pedagogical Institute named after A. M. Gorky in 1960, he started to work as a teacher-educator in the Vileika secondary special school. Then he held various positions at the district, regional and republican bodies of the Belarusian Soviet Socialist Republic state administration. In 1973 he was sent to study at the postgraduate program of the High Party's School named after K. Marx of the Central Committee of the ruling Socialist Unity Party of Germany in Berlin, where in 1976 he successfully defended his thesis on the methodological issues of the education of the party and governmental employees in the German Democratic Republic. His elaboration of the research into that issue led to his habilitation in 1988. In the same year he became the first Belarusian researcher in history who was awarded the title of full professor abroad.

Aliaxandr Sharapa has worked at Belarusian State University since 1982, when he was appointed vice-rec-

tor for international relations and coordinated the education of foreign students from more than a hundred countries. In September 1992 on his initiative, the department of international relations was established. Moreover, he started the preparation for the creation of the special faculty of international relations demanded by the realities of the early years of the Republic of Belarus independence as an appropriate institute for the education of highly qualified specialists who could work in the Ministry of Foreign Affairs and diplomatic missions.

Professor Sharapa headed the department of international relations for 23 years (from 1992–2015) and was the head of the faculty of international relations, created on 1 October 1995, for 13 years (1995–2008). In those years, a modern system of education of international relations specialists in six different directions provided by more than 200 educators and 40 employees of 13 departments was established. Under the guidance of professor Sharapa a basic professional course "History of International Relations" was developed and a textbook on this discipline in four parts was published. He also created and implemented his special course "Germany, Austria and Switzerland: Political Systems and Foreign Policy".

On 31 October 1996, professor Sharapa was awarded "The Medal of Francisk Skorina" by the Decree of the President of the Republic of Belarus for outstanding research and pedagogical merits. He is also the Honored Worker of Education of the Republic of Belarus (2004) and has an honorary degree "The Excellence in Education" (1998), a number of honorary diplomas of the Ministry of Education, diplomas of the Council of Ministers, the State Committee on Science and Technology, the High Attestation Commission of the Republic of Belarus, and other awards. Professor Sharapa is a member of the Council of the Belarusian State University, the Commission for awarding the Prize named after V. I. Picheta, the Board of the Belarusian Association of the BSU Veterans, as well as the vice-president of the Belarusian Association of Political Sciences. He was the chairman of the Council for the defense of the doctoral dissertations for 23 years.

Under his academic supervision 16 dissertations in historical sciences including three doctor's dissertations were defended successfully, as well as a number of research projects in the framework of the Belarusian fundamental and applied scientific programs were implemented. During the realization of one of them, the publication of a multi-volume collection of documents and materials on the history of the foreign policy of Belarus was started for the first time. Overall, professor Sharapa has written more than 120 research works with the total volume of more than 400 pages, including three monographs and a number of textbooks approved by the Ministry of Education. Some papers were translated in German and published in Germany and Austria. Professor Sharapa lectured at the conferences in Belarus, Russia, Germany, Austria, Poland, Bulgaria, Switzerland, Lithuania, Estonia, and Latvia.

The faculty of international relations and the Journal of the Belarusian State University sincerely congratulate professor Aliaxandr Sharapa on his 80th anniversary and wish him further research and pedagogical achievements and new fruitful results!

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