

RECONCEPTUALIZING THE EURASIAN INTEGRATION: NEW LEGAL FRAME FOR ANEW REGIONAL TRENDS

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Strategic directions of the development of the Eurasian integration-2025 establishes new Eurasian agenda and concerns a lot of important issues. However, it is still based on the traditional approach to regional integration as economic convergence and four freedoms of movement. The article proposes a new ontological and methodological doctrine of nonlinear multifactored integration and the legal concept of a “single market of development resources”. The author drafts five directions of reconceptualizing of the Eurasian integration and stresses the importance of digitalization and academic argumentation of the inventory of the EAEU legal basis which is mentioned in the Strategy-2025.

Keywords: development resources; Eurasian Economic Union; integration; regionalization.

Re-conceptualization is explained by the fact that the idea of regional integration as such is clear and understandable, regionalization has become an alternative to the failed (so far) globalization. The concept of regional integration very clearly indicates the need to develop a single space – economic, socio-humanitarian, military and security, etc. – for a certain circle of countries with common historical, socio-cultural, economic and other interests [1, p. 23].

Analyzing the doctrine on this topic, one understands that integration is basically linked with trade and economy, with the creation of single markets and four freedoms – freedom of movement of goods, services, labor resources and capital. A simple classification of integration modalities begins with free trade area agreements and further develops to customs, economic, monetary unions, that is, a straight-line, linear movement is envisaged towards the convergence and unification of the economic sphere [1, p. 39–40]. Other spheres are institutionally separated or normative differentiated.

If one turns to the EU practice, the proof of the linearity of the processes is the initial division of the European project into several organizations: social and humanitarian issues fell within the Council of Europe, issues of military cooperation also were driven within other organizational blocs; and within the EU, development was based on three pillars with a very clear delineation of methods of interaction and the scope of powers. Nevertheless, awareness of the need to include all processes in the integration project wins. Thus, the Charter of Fundamental Rights of the European Union was accepted as a part of the EU founding instruments; the concept of three pillars ended up with the creation of the Union, which arose firstly as an idea, then as an institutional structure [2]. We see the same confirmation in the fact of “sagging” of certain areas in European integration and its consequences. Migration or refugees have not been regulated, and this is exactly what has brought Europe to huge losses, both economic and image [3, p. 121–122].

If one looks at the Eurasian region, there has initially been a tendency to lineate the integration: that is, the Eurasian Community (Union afterwards) has been covering the economic issues; whereby social and humanitarian idea of post-disintegration interaction (a role of “civilized divorce”) fell within the competence of the CIS; the idea of socio-cultural and socio-economic cooperation was in the Union State [1]. However, today there is an awareness of the complexity and interdependence of all these processes.

Ontologically, I see the re-conceptualization of the EAEU in several directions. Firstly, it's not really about linear development. The ‘spill-over’ effect proves it in many integration projects. This is a systemic evolutionary approach. Now, the EAEU is at the stage of multifactor integration. The recent agenda, the adopted acts prove that this idea has already manifested itself in practice. Now we need to ‘translate’ it into legal reality. Strategic directions for the development of Eurasian economic integration adopted by decision no. 12 of the Supreme Eurasian Economic Council of December 11, 2020, prescribe a lot [4]. However, many issues need doctrinal ‘pumping’. This act is still based on a linear approach to the integration of factors of production – here are goods, here are services, here is capital, etc. In addition, a digitalization has recently been included into the agenda of the EAEU [5]. There are programs for the development of information interaction based on the Protocol No. 3 to the Treaty [6], and the ‘space of trust’, and the electronic signature, and the exchange of information, etc. All these forms the fifth freedom – freedom of the movement of information and the creation of a single digital space. However, the integration is a single space of something more than factors of production, it is *a single space of development resources*.

This approach refers to lawmaking and implementation in regional integration unions taking into account their long-term and multifactor character, polysubjectivity and stability of integration. So, the first task of reconceptualization is to designate the idea that integration is the freedom of movement of development resources. *De jure* it should be reflected, first of all, in program documents as a norm on integration objective.

Then, it should have further evolvement in special regulations. This approach allows to perceive and to regulate integration areas – customs, investment, the labor market, education, etc. – from the point of view of ecosystems. Thus, e.g., a common labor market needs a single scientific and educational space. From the point of view of implementation in the acts, it means the creation of a legal basis for exchange programs, the promotion of double diploma projects, at least at the second stage of education, etc.

The second area of reconceptualization: competencies and institutional structure. Also, it is mentioned in the Strategic Directions. The need to strengthen the powers of the Commission to monitor compliance by Member States with Union law is very well emphasized, giving the Commission the right to apply to the Court of Justice of the Union in case of non-implementation of decisions of the Union bodies, to apply to the Supreme Council in case of non-execution of the decision. However, the Strategic directions reserve that it concerns the terms of fulfilling obligations within the framework of the internal market functioning. One can conclude, thereof, that a

systematic interpretation of what is the internal market will be crucial and narrowing approaches to the definition of the “internal market” concept will lead to a lack of competence of the Commission, which has been constantly criticized since the beginning of its activity [7].

The Court’s competence and related matters also need a new approach: there should be effective mechanisms for the execution of the Court’s decisions, a preliminary competence if necessary.

Another element in this direction is new approach to the composition of the Commission and the Court, the creation of a Eurasian civil service with the entire complex of legal regulation (the rules of admission, ethics, mechanisms for protecting their rights, and, of course, responsibility in case of failure to fulfil obligations).

The third direction: branding of the Union, its recognition within the Union and outside. It is indispensable for future of integration to disseminate knowledge on the project within population and professionals [8]. An example for higher education in law is the introduction of basic courses on the EAEU law in the state mandatory component of higher education at the 1st stage. That has already been done in Belarusian State University for specializations “Jurisprudence”, “Economic Law”, “International Law” in new plans and programs of 2021.

The fourth direction of reconceptualization, which the Union also obviously needs, is proximity to citizens and business. There are three pillars of legal regulation in this direction: 1. Transparency as an openness and communication. The system of presenting information from the Commission, from ministers has changed, there are now online broadcasts of meetings. The effect of increased interaction with the primary beneficiary of the norms created by the Commission, ‘integration from below’ is currently underestimated. 2. The citizenship of the Union. 3. The law-making initiative from citizens.

The fifth direction: coherence to external legal systems and inter-integration convergence. By and large, we are talking about the correlation of the EAEU law with other legal regimes – universal regimes of a sectoral nature – with international customs law, with WTO law [1, p. 174–184].

The Strategic Directions very correctly state that for the successful activities of the Union, it is necessary to improve the laws of the Union, to carry out its inventory and, if necessary, to bring them into line. Of course, such an inventory will be based on the directions enshrined in the Strategy of the Union, but it seems that such an inventory will be more successful if it will be widely theoretically based and reconceptualized. The given directions are only the draft circuit for this deep academic work on the new Eurasian legal doctrine.

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