

PROBLEMS OF IMPROVING OF THE LEGAL FRAMEWORK OF THE EURASIAN ECONOMIC UNION

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The Eurasian Economic Union (hereinafter referred to as the EAEU), as regional economic integration and as a model of strategic development, is the response of the post-Soviet countries to the challenges of fragmentation of global economic governance and increased regionalization. The EAEU is a platform for mutually beneficial cooperation between Russia, Belarus, Kazakhstan, Kyrgyzstan, Armenia. The main goal of the EAEU until 2030 is to achieve and maintain high-quality and sustainable economic growth of the participating countries.

The processes of interstate integration in the economic, political and other spheres in the post-Soviet space are a fundamentally new field of rule-making, which began to form after the abolition of the USSR literally from scratch, if you do not mean the legal framework of the European Union, which has become a kind of legal «model range» for, before in all, the Eurasian Economic Union as the closest post-Soviet integration format to the EU.

One of the most popular and promising areas of modern social thought is the «concept of Eurasianism». Its foundation was laid by scientists of the «Eurasian trend» among the Russian emigration in Europe in the first half of the 20th century. The founders of the theory of Eurasianism – P.N. Savitsky, G.V. Florovsky, N.S. Trubetskoy, G.V. Vernadsky, S.M. Soloviev, L.N. Gumilev – believed that the commonality of the Eurasian space is predetermined by nature itself, and its historical development is based on the close interaction of natural-geographical and socio-cultural factors [1; 677].

Eurasian theorists believed that from this point of view, the Russian people cannot be attributed to the Europeans or Asians that it belongs to a completely original Eurasian ethnic community. Based on this approach, the representatives of classical Eurasianism developed the idea of the Eurasian civilization, which is in contrast to the Romano-Germanic civilization developed on the basis of the priority of the spiritual principle of the individual and society, dialectic and synthesis of opposites of East and West, tradition and innovation, between socialism and capitalism, liberalism and conservatism.

G.V. Vernadsky wrote about the high unifying potential that exists in Soviet society, he created an integral scheme for the formation of a single Eurasian state, starting from the Scythians and up to the Soviet period. The basis of the Eurasian statehood should be the consideration of the mutual interests of the participants. According to the conviction of Eurasian scientists, the peoples in the Eurasian space are not competitors, but allies, and therefore the emergence of an all-Eurasian state based on the principles of voluntariness and mutual benefit is historically inevitable [2; 16].

In the early 1990s, the ideas of the Eurasian theorists were creatively rethought by the President of Kazakhstan N.A. Nazarbayev in the concept of «practical Eurasianism» developed by him, contained in the «Project on the formation of the Eurasian Union of States (EAC)» [3].

In the process of the formation of a new legal space in the CIS countries, several directions and conceptual vectors can be distinguished.

Firstly, the process of life of the newly independent states demanded from each of them an almost complete renewal of the entire legal system. Secondly, this process required updating all international treaties and agreements and the formation of a new and modern system of legal support for international contacts of the CIS member states. Thirdly, the interaction of the post-Soviet states and the need to restore broken ties and their subsequent strengthening required the formation of a legal basis for this interaction, including the basis for economic, political and other integration.

Note that the process of total renewal of the national legal systems of the CIS member states could not be synchronous, and therefore very soon at least three problems appeared in the legal field of the former USSR: conceptual and other desynchronization of the legal systems of the post-Soviet states, the growth of contradictions between national legal systems and international law and the growing contradiction between the need of each of the CIS countries to protect their national market and the rules that are established by the rules of the WTO and other regulatory international bodies and organizations [4; 7].

The establishment of the CIS, EurAsEC, the Customs Union of Belarus, Kazakhstan and Russia allowed the countries of the post-Soviet space to approach the solution of the following tasks: to synchronize the process of lawmaking, to determine the limits of national jurisdictions, to start forming a new (Eurasian) legal field, that is, to determine the limits of Eurasian jurisdictions.

Of particular interest is the contractual framework for Eurasian integration and the formation of the Common Economic Space (hereinafter - the CES). Before the formation of the Customs Union (hereinafter referred to as the CU), the agreements concluded between the participants in the integration processes were exclusively declarative in nature. Since the establishment of the Customs Union in Northern Eurasia, an intensive process of legal support for the formation of the Common Economic Space and the corresponding unification of national legal systems in the field of customs, tax legislation, product certification, etc.

During the negotiations, 28 international treaties concluded within the framework of the Customs Union and the Common Economic Space were preserved as independent ones. The Treaty on the Eurasian Economic Union, concluded on May 29, 2014 in Astana, entered into force on January 1, 2015 [5]. From that moment on, the work to improve the contractual base of Eurasian integration was not only continued – it reached a new level.

According to experts, the formation of the Eurasian legal space began with the signing of the Treaty on the Establishment of the CIS, that is, we can say that the complete destruction of the Soviet legal space did not happen. The possibilities of forming a single legal space have grown sharply with the formation of the Customs Union of Belarus, Kazakhstan and Russia and have increased many times since the signing by a number of CIS countries of the Treaty on the Establishment of the Eurasian Economic Union.

Obviously, economic integration presupposes the convergence of legal systems not only in the economic sphere, but also in the sphere of social and other relations. For example, the formation of a single labor market requires not only the establishment of rules common for the countries participating in the Eurasian integration for migrants, but also the unification of labor legislation, national education systems of post-Soviet countries, and some aspects of civil legislation.

A separate topic for research is the legal personality of the EAEU and Eurasian legislation and international law. Of course, the EAEU is based on the principles of international law. However, law enforcement practice shows that recently in a number of Western countries double standards are increasingly being applied. Especially in those cases when it comes to the activities of those countries and organizations against which various sanctions of a political and economic nature are applied.

Successful integration requires a legal basis, which includes three components: the first is the national legal level, which, in order to enter the interstate level, must be harmonized with the legal acts of the integration entity (EAEU, CIS, etc.), forming its second level. Such a harmonization of two levels of legal regulation (national and transregional) provides an opportunity for the member states not only to ensure the implementation of integration tasks, but also to enter the third level of legal regulation in the future, which implies the harmonization of the regional legal system with the global system of regulation of economic and trade relations [6; 55].

In general, the legal framework should consist, firstly, of treaty norms, secondly, the norms of the internal law of an interstate association, which enshrine the rules of the internal

organization of the activities of their bodies, and, thirdly, the norms of law that are established by the bodies of the Union for their direct or indirect application in regional integration member states. In this regard, the process of regional integration and the formation of the legal framework of the Eurasian Economic Union presuppose a clear legal terminology, rethinking of almost all general theoretical concepts, including the key ones that make up the «framework» of jurisprudence, such as «sources of law», «types of sources of law», «hierarchy of sources of law», etc.

Professor M.T. Alimbekov, noting the groundlessness of the opinion of some researchers who consider the creation of the Eurasian Economic Union as a kind of transition from traditionally interstate cooperation to the creation of a prototype of a union state – an international supranational association, to which states give part of their sovereign competence. It is premature to talk about the emergence of a new type of organization, a unique structure and legal order that does not fit any of the currently existing political and legal forms. And, based on such verified postulates, it is not entirely justified to call the bodies of the Eurasian Economic Union supranational, according to the above-named author [7; 45].

It follows from the foregoing that all sovereign states are interconnected; in the aggregate, all members of the international community are players and active participants in the world economy. Self-restraint of the state in entering the world economy threatens with disintegration, backwardness of the national economy, destruction of infrastructure, and similar gloomy forecasts.

Consequently, the application by the term «supranational body of the Union», «supernatinalizm» should be deleted in the future not only in documents, but also in official statements concerning the activities of the EAEU, as such an approach may give rise ambiguity in the content, functions and objectives of the Eurasian Economic Union. It is permissible to use only the words «supranational bodies of an international organization».

Today EAEU becomes the most important subject of foreign economic activity in the global economy. Eurasian Union is a full-fledged single market (with certain restrictions) with the generated system of instruments of legal regulation of their activities. Regulatory measures of foreign economic activities of the Union and its individual participants form the basis of a common foreign trade activity. Foreign trade policy of EAEU is part of the law of the Eurasian Economic Union, which arose in connection with the formation and development of post-Soviet integration processes. The law of Union is the result and the instrument of the Eurasian integration.

It follows from the foregoing that all sovereign states are interconnected, together all members of the international community are the players and active participants of the global economy. Self-limitation of the state in the output of the global economy, threatens disintegration, backwardness of the national economy, the destruction of infrastructure and similar dire predictions.

EAEU will be the core of economic integration in the post-Soviet space, defining the ways of its development on the long term. Creation and active work of the Union have a historical significance for the future of its member-states and other post-Soviet countries, which in the prospect will join it. The formation of such powerful regional association – a landmark event as for the Eurasian continent and for the world as whole. EAEU will be a major obstacle for the construction on the planet unipolar world that comes to life a whole new geo-economic reality of the XXI century.

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Literature:

1. Savitsky P.N. Geographical and geopolitical foundations of Eurasianism // Classics of geopolitics, XX century: Publishing house AST, 2003. – 731 p.
2. Vernadsky G.V. Mongols and Russia. – Tver: 1997. – 480 p.
3. Nazarbayev N.A. Speech at Moscow State University. M. Lomonosov on March 29, 1994 // <http://e-history.kz/ru/publications/view/567>
4. Mansurov T.A. EurAsEC: from economic cooperation to the Eurasian Economic Union // Business Glory to Russia. – 2015. – No. 5-1 (48). – P.5-9.
5. Agreement on the Eurasian Economic Union (concluded in Astana on May 29, 2014). [Electronic resource] // https://online.zakon.kz/Document/?doc_id=31565247#pos=1;-117
6. International legal framework for the creation and functioning of the Eurasian Economic Union: monograph / K. A. Bekyashev, D. K. Bekyashev, S. Yu. Kashkin et al. – M.: Prospect, 2015. – 176 p.
7. Alimbekov M.T. On the question of the political and legal status of the future Eurasian Economic Union // Law and State. – 2013. – No. 1 (58). – P. 43-46.

ADMINISTRATIVE PENALTIES AND MEASURES OF ADMINISTRATIVE AND EDUCATIONAL INFLUENCE APPLIED TO MINOR OFFENDERS IN THE REPUBLIC OF KAZAKHSTAN

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The procedure for imposing administrative penalties on minor violators of administrative bans is carried out on general grounds in cases directly provided for by law. In addition, this order has its own specifics.

Thus, in accordance with the code of administrative offences of the Republic of Kazakhstan, when determining the conditions for the application of types of administrative penalties, the current legislation provides for a number of significant exceptions in relation to persons who have committed administrative offenses in adolescence. The educational role of administrative penalties applied primarily to minors will be significantly strengthened and the possibility of replacing administrative sanctions with measures of administrative and educational influence will be expanded.

Thus, in accordance with Part 2 of Article 65 of the code of administrative offenses, "an administrative penalty may be imposed by applying educational measures to a minor who has committed an administrative offense." [1] in addition, the legislator takes into account the fact that minor offenders depend on their age, the nature of the administrative offense committed, the method of its commission, the reasons, the goals, etc. Therefore, the degree of public danger of crimes committed by adolescents in most cases is lower than that of similar crimes committed by adults.

Solving the issue of the nature and application of punishment helps to identify and ensure the most favorable regime of educational influence by eliminating harmful influences on the teenager and consolidating the results of educational work.

Thus, an administrative penalty is a measure of state coercion applied to it by a judge, authorities (officials) authorized by law for the commission of an administrative offense and is expressed in the form of deprivation or restriction of the rights and freedoms of a minor who has committed an offense provided for in the Code of administrative offenses.