



Università  
Ca' Foscari  
Venezia

Corso di Dottorato di ricerca  
in Diritto, mercato e persona  
ciclo 31

Tesi di Ricerca  
in cotutela con Università Statale di Astrakhan

**Political and legal processes  
and perspectives of the  
EAEU**

A comparative analysis  
SSD: IUS/13

**Coordinatore del Dottorato**

ch. prof. Carmela Camardi

**Supervisore**

ch. prof. Fabrizio Marrella

**Supervisore cotutela**

ch. prof. Rafik Usmanov

**Dottorando**

Patricio Ignacio

Barbirotto

Matricola 800404

# INDEX

	INTRODUCTION	1
1.	Subject	4
2.	Problem	5
3.	Significance of the Research	6
4.	Theoretical Framework	10
5.	Previous works on the Subject	15
6.	Novelty of the Research	22
7.	Objectives	22
	CHAPTER 1: METHODOLOGY AND RESEARCH METHODS	25
1	Chapter overview	25
2	Methodology: a theoretical overview	26
2.1	Comparative research	28
2.2.	Political science and international relations	29
2.2.1.	Formal methods	29
2.2.2.	Case study	32
2.2.3.	Quantitative analysis	35
2.2.4	Final considerations on the considered methodologies for research in political science and international relations	37
2.3.	Law	38
2.3.1.	Characteristics of studies in international law	40
2.3.2.	Characteristics of studies in European Union law	41
2.3.3.	Characteristics of studies in comparative law	42
2.3.4.	Final considerations on the considered fields of research in law	43
3.	Research design	44

CHAPTER 2: THEORETICAL AND METHODOLOGICAL ANALYSIS OF THE POLITICAL AND LEGAL PROCESSES IN CONTEMPORARY POST-SOVIET STATE		49
1.	Historical analysis of political and legal processes within and between Post-Soviet States	50
1.1.	Reforms and changes in late 1980's Soviet Union	53
1.2.	The New Union Treaty: the Union of Sovereign States	60
1.3.	The coup d'état and the dissolution of the Soviet Union	62
2.	Cooperation between Post-Soviet Governments after the fall of the Soviet Union	76
2.1.	The Commonwealth of Independent States	77
2.1.1.	Military cooperation	79
2.1.2.	The "Rouble zone" and economic divorce	82
2.1.3.	The CIS member States as fully sovereign States	83
2.1.4.	The activities and the role of the CIS after 1993	85
2.1.5.	Theoretical overview of the State and nation building process in CIS members after 1993	86
2.1.6.	Final considerations on the CIS and further development of regional integration	98
2.2.	Customs agreements and Treaty on Increased Integration	100
2.2.1.	Customs agreements	100
2.2.2.	Treaty on Increased integration and Treaty on the Customs union and the Common economic space	104
2.2.3.	Domestic situation	105
2.3.	The Eurasian Economic Community	107
2.3.1.	The Eurasian Customs Union	109
2.3.2.	The Eurasian Common Economic Space	116
3.	Political and juridical relation between Contemporary Post-Soviet States	121
3.1.	The formation of the Eurasian Economic Union	122
3.2.	Relations between EAEU Member states and the other Post-Soviet States	126
CHAPTER 3: COOPERATION WITHIN THE EURASIAN ECONOMIC UNION FRAMEWORK – TENDENCIES AND DEVELOPMENT PERSPECTIVES		128
1.	Political and legal systems of the EAEU member states	129
1.1.	Armenia	130
1.2.	Belarus	132
1.3.	Kazakhstan	140
1.4.	Kyrgyzstan	149
1.5.	The Russian Federation	150
1.6.	EAEU member States systems in relation to regional integration	166
2.	The Eurasian Economic Union	167

2.1	Treaty on the Eurasian Economic Union	168
2.1.1.	Part I: general provision and bodies of the Union	169
2.1.1.1.	Supreme Eurasian Economic Council	171
2.1.1.2.	Intergovernmental Council	173
2.1.1.3.	Eurasian Economic Commission	175
2.1.1.4.	Court of the Eurasian Economic Union	180
2.1.1.5.	Overall results of the EAEU bodies since 2015	185
2.1.2.	Part II: The current state of the customs union	194
2.1.2.1.	Custom regulation: the Customs code of the EAEU	195
2.1.2.2.	Foreign Trade	198
2.1.2.3.	Technical Regulation	202
2.1.3	Part III: The single economic space	204
3.	Issues beyond economy	210
3.1.	Key observations on the Eurasian Economic Union current state	210
3.1.1.	Results and achievements of Eurasian Economic integration: 2015-2018	211
3.1.2.	Critical observations on the Eurasian Economic Union current state of integration	216
3.2.	Perspectives and sceneries of future integration	222
	CHAPTER 4	227
	BIBLIOGRAPHY	232

## INTRODUCTION

SUMMARY: 1. Subject. – 2. Problem. – 3. Significance of the Research. – 4. Theoretical framework. – 5. Previous works on the Subject. – 6. Novelty of the Research. – 7. Objectives

It has been 25 years since the Soviet Union fall apart. In December 1991, the country, which has been for long time one of the two world superpowers, ceased to exist<sup>1</sup>. In her place, 15 new Nation state bodies entered the UN as independent entities<sup>2</sup>. To dissolve such a country was not easy: some of the constitutional entities of the Soviet Union had a long history and independent states, such as the Russian Federation (the country that, de jure, substituted the Soviet Union within the United Nations) while others, saw independence for the first time in history. Moreover, the countries had deep relations, which dated sometimes long before the constitution of the Soviet Union itself. Leave such a huge space without any form of common governance was not only politically dangerous but

---

<sup>1</sup> Declaration no. 142-N of the Soviet of the Republics of the Supreme Soviet of the USSR, December 26<sup>th</sup>, 1991.

<sup>2</sup> United Nations data. <http://www.un.org/en/index.html>

also impossible<sup>3</sup>. When the Soviet Union disaggregated, along the national identity building process and state building process, which started in each former soviet republic (and in some which were autonomous republics within other republics such as Chechenia or Tatarstan)<sup>4</sup>, the leaders of the constituent republics of the Soviet Union felt the need to give to the (former) Soviet Space a supranational order. Being part of a single state for a little bit less than a century, the newly independent countries were too deeply tied in terms of economy, social and cultural relations and even legal framework.

In order to save the aforementioned ties and to organise the now called Post Soviet Space, different projects of regional integration were put forward by the leaders of the constituent republics of the Soviet Union, with the exception of the Baltic States (Estonia, Latvia and Lithuania) which turned to European organisations immediately after independence. The first design of a body comprising the (former) Soviet Republics was the Union of Sovereign States, that was thought during the last months of existence of the Soviet Union not as a regional integration body but as an entity that could save the Union itself as a State. The idea was to change the Union form from a federal model to a confederal model where independent states would delegate some competences to the new union and share a common currency and foreign and defence policies<sup>5</sup>. Armenia,

---

<sup>3</sup> P. KUBICEK, *The Commonwealth of Independent States: an example of failed regionalism?*, in *Review of International Studies*, No. 35, 2009, pp. 237–256

<sup>4</sup> V. TOLZ, *Forging the Nation: National Identity and Nation Building in Post-Communist Russia*, in *Europe Asia Studies*, Vol. 50, N. 6, 1998, pp. 993-1022

<sup>5</sup> V. TISHKOV, *Ethnicity, Nationalism and Conflict in and After the Soviet Union: The Mind Aflame*, 1<sup>st</sup> Ed, London, Sage Publications, 1997, pp. 49-56

Georgia and Moldova rejected the project, joined the Baltic republics on the path to gain full independence and did not participate to the draft of the new treaty. The remnant nine republics held referendum on the New Union Treaty (the referendum was held also in the six republics that did not participate to the draft but it was mostly boycotted<sup>6</sup>). Despite having gained support of the majority of voters, following the August coup d'état attempt tensions between Moscow and the nine republics grew and the Treaty was never signed. All the nine republics gained full independence before the end of the year and on December 8, 1991 Belarus, Russia and Ukraine, having ascertained that the independence of the nine republics was already a fact, established the Commonwealth of Independent States<sup>7</sup>. This is the first true regional integration project in the Post-Soviet Space and was followed by several projects, which saw the light since then.

From 1991 on, a series of different projects of regional integration saw the light in the space once occupied by the Soviet Union. The projects developed to different extents and some had strong political connotation like the Union State of Belarus and the Russian Federation, which brought the two States closer in many fields, reaching a confederal-alike degree of integration for example in the field of freedom of movement<sup>8</sup>. Other regional integration projects that involve more countries were and are

---

<sup>6</sup> CSCE, *Referendum in the Soviet Union: A Compendium of Reports on the March 17, 1991 Referendum on the Future of the U.S.S.R.*, 1991.

<https://www.csce.gov/sites/helsinkicommission.house.gov/files/Referendum%20in%20the%20Soviet%20Union.pdf>

<sup>7</sup> Declaration of the Presidents of the Republic of Belarus, the Russian Soviet Federal Socialist Republic and the Ukraine. [http://www.gorby.ru/userfiles/file/zayavlenie\\_glav\\_gosudarstv.pdf](http://www.gorby.ru/userfiles/file/zayavlenie_glav_gosudarstv.pdf)

<sup>8</sup> G. IOFFE, *Understanding Belarus: Belarussian identity*, in *Europe-Asia Studies*, Vol. 55, No. 8, 2003, pp. 1241-1272.

focused on developing deeper economic integration or coordinate a common security policy into the Post-Soviet space. Finally, the last project, in chronological terms, of these regional integration designs is the Eurasian Economic Union (EAEU), which was enforced on January 1<sup>st</sup> 2015. The body, which is the subject of the present work, represents the latest stage of a regional economic integration started in 1992 and at the same time goes beyond the sole economic sphere, with features of a supranational organisation<sup>9</sup>.

## 1. Subject

The Eurasian Economic Union, the subject of the present work, started as an economic project involving Belarus, Kazakhstan, the Russian Federation, later joined by Armenia and Kirghizstan. The new organisation originates from the proposal, back in 1994, of Kazakh President Nursultan Nazarbayev to build an Eurasian Union<sup>10</sup>. During the following two decades Belarus, Kazakhstan and Russia have lead the group of States involved in the regional design. The agreements signed in mid-90s were followed by more concrete steps at the beginning of the XXI century: in 2000 the three countries, together with Kirghizstan and Tajikistan established the Eurasian Economic Community, a project of a common market. In 2010 Belarus, Kazakhstan and the Russian Federation went

---

<sup>9</sup> E. VINOKUROV, *Eurasian Economic Union: Current state and preliminary results*, in *Voprosy Ekonomiki*, Vol. 3, 2017, pp. 54-70

<sup>10</sup> Kazakh President Nursultan Nazarbaev proposed Eurasian integration in a speech at Lomonosov University in Moscow on March 29, 1994. The text of his speech is available at the website [http://www.eaeunion.org/upload/iblock/006/1994\\_1\\_1.jpg](http://www.eaeunion.org/upload/iblock/006/1994_1_1.jpg)



further establishing the Customs Union, followed in 2012 by the Eurasian Economic Space. The Eurasian Economic Commission, the executive body of the common economic space, was established the same year. Finally, on May 29, 2014, the Treaty on the Eurasian Economic Union was signed, coming into effect on January 1, 2015. The Customs Union and the Economic Space merged into the new organisation. A Court of the Eurasian Economic Union was established in place of the Court of the Eurasian Economic Community.

The Eurasian Economic Union, despite its birth as a commercial and economical agreement, it is undeniable that given the importance of the actors and the area, it brings also a strong political character. The organisation, developing its own political structures and legal framework, has clear features of a supranational organisation, resembling in many of its structures the model of the European Union. It is in fact impossible not to look at the EU as a precedent for what regards the political processes that have driven to the establishment and lead the development of the EAEU especially, but not only, in terms of political structures and legal framework, which regulates the relations within the Union and to the outside.

## **2. Problem**

The EAEU is a very recent subject of study. So far, only few works on this specific topic have been published. A first assessment on the first two years of existence has been made by Russian scholar Evgenij

Vinokurov<sup>11</sup>. The paper shows that at the current state of development, it is necessary to go further in analysing the basic political and legal processes within the new organisation. The problem of the present work must therefore be focused on moving forward in exploring the basis of the EAEU. It means that the problem is represented by the processes of development of the political structures and legal framework of the Eurasian Economic Union, focusing on the functioning of the legal framework and the interaction with the development of the political culture, both at domestic and international levels.

### **3. Significance of the Research**

Nowadays regionalism has become a main feature of international relations in every sphere. The Post-Soviet space is one of the key areas in today's world politics and economy and most of today's geopolitical processes involve the Russian Federation as a major player. It is undeniable that the country has a primary importance in the world balance. Being the Russian Federation the biggest actor in all the regional integration processes in the Post-Soviet area, and for what concerns the present work the biggest actor in the development of the EAEU, any process in the area has not only local importance for what concerns domestic consequences in the Countries directly involved but it acquires also an international dimension.

The Eurasian Economic Union is at the moment the deepest project in terms of integration, as the five involved countries agreed to act as a

---

<sup>11</sup> E. VINOKUROV, *Eurasian Economic Union: Current state and preliminary results*, op. cit

single player on international trade matters and they agreed to establish supranational bodies such as a court of justice and a parliament<sup>12</sup>. The current state of the EAEU, discussions on its further development of and the perception of the Union between governments, have given the Union itself some characters and some perspectives of being not a merely economic union but also a political one. To analyse the political development of the Union and the process of creation of a common legal framework for the whole Eurasian Economic Union (a potential supranational legal order that, once again, resembles the European Union) is fundamental for two reasons: the first is to understand the Eurasian Economic Union itself. The second is to create the basis for further studies on how to deal with the EAEU as external actors as could be the conclusion of international treaties with the Union or, as private actors, develop business relations with EAEU member states.

The relevant aspects on which to focus the research and that make it significant can be divided in three categories: some of the aspects are more related to the domestic level, while others are linked to the level of international politics. Finally, some relevant aspects on which to focus are connected to international economy. All those three levels are deeply interconnected and it is hard to trace boundaries between them.

At the domestic level, in order to understand the functioning and the role of the EAEU great relevance is to be given to the matters related with people movement within the area, the establishment of a common market,

---

<sup>12</sup> J. VYMJATINA, D. ANTONOVA, *Creating a Eurasian Union: Economic Integration of the Former Soviet Republics*, 1<sup>st</sup> Ed., London, Palgrave Macmillan, 2014, p. 23.

a common legal framework<sup>13</sup>. More in general, key indicator on the perspectives of development for the Union is the degree of development of the political culture<sup>14</sup><sup>15</sup> for which a key role is played by the development of national identity. Most of the member states are in fact countries that achieved independence relatively recently. Those countries are on the path of developing a national consciousness<sup>16</sup> and that is a fact that could play a big role in process of regional integration that by definition requires a transfer of sovereignty in given fields from the nation states to the supranational body.

Moving to the international level, in terms of politics the area represents one of the key areas of interest. It is impossible to ignore that any regional integration process involving one of the major world actors, as the Russian Federation. Moreover, the project of the EAEU involves pretty much all the area covered two decades ago by one of the two world super powers and it is seen as a bridge to dialogue with some countries, which have lately gained an important place on the international arena like the People's Republic of China and Iran. The peculiar position of the EAEU, makes the body a potential primary actor in the war against international terrorism, since some of the member countries are bordering

---

<sup>13</sup> R. DRAGNEVA, K. WOLCZUK, *Eurasian Economic Integration: Institutions, Promises and Faultlines*, in D. CALDIER, ed., *The Geopolitics of Eurasian Integration*, London, LSE Ideas Special Reports, 2014, pp. 8-15.

<sup>14</sup> A. LIBMAN, *Regionalisation in Central Asia*, in *EDB Eurasian Integration Yearbook*, Vol. 2, 2009, pp. 95-114

<sup>15</sup> E. VINOKUROV, A. LIBMAN, *Eurasian Integration: Challenges of Transcontinental Regionalism*, 1<sup>st</sup> Ed., London, Palgrave Macmillan, 2012, p. 58

<sup>16</sup> G. SMITH et alia, *Nation building in the Post Soviet Borderlands*, 1<sup>st</sup> Ed., Cambridge, Cambridge University Press, 1998, pp. 1-3.

some hot areas such as Afghanistan or have experienced problems with international terror themselves, as the attacks of December 2013 and April 2017 in Russia. The relevant aspects on this level regard first of all the founding Treaty and all the following treaties that regulate the relations between the Member States, along to the political decisions taken within the intergovernmental Union bodies. Then it is fundamental to analyse treaties, agreements and political relations established between the Union and extra-Union players.

In terms of world economy, the EAEU still retains today its primary importance once held by the Soviet Union for what concerns energy issues, thanks to its wide reserves of oil, natural gas and coal, and also thanks to the infrastructures which have allowed for decades to transport fossil fuels to the European market. The area also enjoys a primary position in international commerce, especially for two reasons: first of all, it represents a wide common market of more than 180 million people<sup>17</sup>. Second, it is the area through which transit a large amount of the Chinese production towards Europe. This area will be further strengthened by the development of a high speed railway from China to Europe, which will increase the amount of goods transit through the area and therefore the importance of a regulating body as the Eurasian Economic Union<sup>18</sup>. The key aspect to analyse the impact of the EAEU in world economy will be the legal

---

<sup>17</sup> Author calculations based on UN database data. Department of Economics and Social Affairs, *World Statistics Pocketbook 2018 Edition*, New York, United Nations, 2018.

<sup>18</sup> T. ZIMMERMAN, “*The New Silk Road: China, the U.S. and the future of Central Asia*”, New York University - Center of International Cooperation, 2015

framework the Union will adopt. Understanding it is also necessary in order to develop international trade relations with EAEU Member States.

#### **4. Theoretical framework**

The present work has a strong interdisciplinary character since the political aspects of the building of the EAEU are as important as the construction of the legal framework and the development and adoption of legal measures by the Eurasian Economic Union. The interdependence of the two sciences is in the construction of a supranational organisation very tight. While political will is necessary to move forward the process of EAEU building, at the same time the functioning of the Union and to some extent the political processes as well, have to be regulated by the legal framework. Therefore, a full comprehension of the theory, the methods and the facts of political science and legal science are fundamental for a successful result.

The context where the Eurasian Economic Union births is that of regional integration. Scientific studies in this field, something that move beyond philosophical or utopian speculation, born and developed in order to understand and explain the phenomenon of European integration that started in 1950s. Danish scholar Finn Laursen notes how in the first phase of European regional integration scholars were focused on finding a definition for regional integration itself<sup>19</sup>. Was in such a context that Karl Deustch argued that regional integration was ‘the attainment, within a territory, of a “sense of community” and of institutions and practices strong

---

<sup>19</sup> F. LAURSEN, “*Theory and Practice of Regional Integration*”, Jean Monnet/Robert Schuman Paper Series, Vol. 8, No. 3, February 2008

enough and widespread enough to assure, for a “long” time, dependable expectations of “peaceful change” among its population’ and introduced the idea of a supranational government.<sup>20</sup>

The first theoretical studies on regional integration following the establishment of European Communities are related to the neo-functional school. In late 1990s the liberal intergovernmental theory developed as another major school to explain European integration<sup>21</sup>.

The first school includes the works of Ernst Haas, one of the very first scholars who devoted his academic life to study regionalism. Haas theorises that the nation states are persuaded to transfer some competences to a new centre, which gains jurisdiction over the states themselves<sup>22</sup>. Leon Lindberg adds to this the idea of the states taking common decisions together in collective way and not at national level or, alternatively, by delegating the decision-making to new central institutions<sup>23</sup>. Neo-functionalism was later being adapted and reformulated in order to explain changes in the European process as well as to explain regional integration projects that from 1960s have interested other areas of the planet<sup>24</sup>.

---

<sup>20</sup> K. W. DEUTSCH, *Political Community and the North Atlantic Area: international organization in the light of historical experience*, 1<sup>st</sup> Ed., Princeton, Princeton University Press, 1957, pp. 5-6

<sup>21</sup> F. LAURSEN, “Comparing Regional Integration Schemes: International Regimes or Would-be Politics?”, in Jean Monnet/Robert Schuman Paper Series, Vol. 3 No. 8, September 2003

<sup>22</sup> E. B. HAAS, *The Uniting of Europe: : political, social, and economical forces, 1950-1957*, 1<sup>st</sup> Ed., Stanford, Stanford University Press, 1958.

<sup>23</sup> L. N. LINDBERG, *The Political Dynamics of European Economic Integration*, 1<sup>st</sup>Ed., Stanford, Stanford University Press, 1963

<sup>24</sup> E. B. HAAS, P. SCHMITTER, *Economics and Differential Patterns of Political Integration: Projections about Unity in Latin America*, in *International Organization*, Vol. 18, No. 4, 1964, pp. 705-737

Andrew Moravcsik introduced liberal intergovernmentalism in 1990s. The American scholar explains regional integration processes in Europe by establishing three phases of decision making: the first occurs at national level, the second consists in intergovernmental negotiation (what Moravcsik calls ‘interstate bargain’) and finally the third phase is where the States delegate or pool decision making within international institutions, as it is the European Commission<sup>25</sup>.

The reason why the focus of the theoretical framework is set on the European Union it is that the Eurasian Economic Union closely resembles part of the structure of the European Union. As stated in the previous paragraphs, the Eurasian Economic Union, along a common economic space and a customs union, has established a court of justice and a commission that, as will be further explained in the following chapters of the present research, works similarly to the European Commission. So far, the European Union was the sole regional integration organisation to have developed such features, making it a supranational union.<sup>26</sup> A specific theory for the Post-Soviet integration has been developed by Russian scholars Aleksander Libman and Evgenyj Vinokurov, who proposed the idea of ‘holding-together regionalism’, useful for those processes where the subjects of integration were once part of one state<sup>27</sup>.

Both the neo-functional and the liberal intergovernmental approach, start studying regional integration from the national level. A key

---

<sup>25</sup> A. MORAVCSIK, *The Choice for Europe*, 1<sup>st</sup> Ed., Ithaca, Cornell University Press, 1998, p. 24

<sup>26</sup> F. LAURSEN, *Comparative Regional Integration: Europe and Beyond*, 1<sup>st</sup> Ed., New York, Routledge, 2010, p. 5

<sup>27</sup> A. LIBMAN, E. VINOKUROV, *Holding-Together Regionalism: Twenty years of Post-Soviet integration*, 1<sup>st</sup> Ed., London, Palgrave Macmillan, 2012, pp. 11-36



role in regional integration processes is played by the political culture of the countries involved in integration. The relationship between regional integration and political culture is a circular one. First the culture of the population and the elites of a given country influences the discourse on the regional integration process. Then the relationship goes the other way round, when the regional integration process shapes the political culture of the member states' populations and elites.<sup>28</sup>

When the relationship goes from the political culture to the regional integration process and orients it, the degree of development of the national identity and the political institutions are major factors. Integration between different nation states poses the question if one has to give up its own identity to embrace the regional one and the understanding of such a question largely depends on the degree of development of national identity.<sup>29</sup>

The relationship direction from the regional integration process towards political culture, determines in this case how the Eurasian Economic Union influences the political culture of its member states. This happens through political and legal initiatives of the supranational bodies that affect the thinking and the actions of the people and the elite.

Regional integration brings about the establishment of international treaties and other legal measures that regulate the functioning of the

---

<sup>28</sup> B. SCHLIPPHAK, T. MENNIKEN, *Assessing attitudes toward regional integration processes*, in, P. DE LOMBAERDE, R. G. FLÓRES, P. LELIO IAPADRE, M. SCHULZ, eds., *The Regional Integration Manual: Quantitative and Qualitative Methods*, 1<sup>st</sup> Ed., New York, Routledge, 2011, pp. 24-50

<sup>29</sup> T. RISSE, “*Regionalism and Collective Identities: The European Experience*”, presented at El estado del debate contemporáneo en Relaciones Internacionales, Buenos Aires, Argentina, July 27 – 28, 2000

regional organisation and the relations within it. Moreover, a deep supranational integration design, as the European Union example shows, possibly leads to the establishment of a supranational level of law that, in the European case, prevails over national legislation in case of conflict between the two.

The establishment of an Eurasian legal system is at its beginning point. At the moment the legal corpus of the Eurasian Economic Union is made by the Treaty on the Eurasian Economic Union, that has absorbed former treaties on regional integration, the Customs Code of the Eurasian Economic Union, as well the national legislation of the member states on the reception of the EAEU laws at domestic level. If the European Union law is today considered as a supranational legal order, both an object and a subject of International Law that shares features of International Law (where it originates) and domestic legal system<sup>30</sup>, the Eurasian Economic Union law is still at its first stage. The authors who have written on EAEU law, consider it as a part of international law<sup>31</sup> but the European Union example shows that there is a theoretical space for further development in supranational way.

The process of establishment of a legal order along with the fact that the Eurasian Economic Union has today similar institutions and can potentially develop other bodies like a parliament, make a comparative study between the EAEU and the EU natural. This thing has started to be

---

<sup>30</sup> B. DE WITTE, *EU law: is it international law?*, in C. BARNARD, S PEARS, ed., *European Union Law*, Oxford, OUP, 2014, pp. 174-195

<sup>31</sup> R. A. KURBANOV, *Eurasian law in law system of the Russian Federation*, in *International Law*, N. 2, 2017, pp. 45-65

done also by scholars from the EAEU member states such as the Russians Anatolij Kapustin<sup>32</sup> and Kamil' Bekjašev<sup>33</sup>.

## 5. Previous Works on the Subject

The question of the development of the EAEU is a relatively new scientific problem for the scholars and the analysts who focus on the Post-Soviet space and its regional integration processes. Being the Eurasian Economic Union a new subject on the international, the level of the studies is constantly in development. Both the studies on the internal political construction of the Union (political culture and political relations between the member countries) and on the construction of the legal framework (which regulates the structures necessary to the functioning of the Union and the relations of the Union with the other international players) have been taken into considerations by authors. Literature on the subject has been divided into two macro groups, one regarding the political aspects and one including the legal ones. The macro group including the works on politics has then been in one group of works related to regional integration and one related to political culture and identity issues. The macro group containing the legal works on the subject has been divided into two groups, one including the official legal acts issued by the Eurasian Economic Union and one that includes all the works on the legal matters related to the organisation. Such a division has been done mainly due to practical reasons

---

<sup>32</sup> A. Ja. KAPUSTIN, *Pravo Evrazijskogo Ekonomičeskogo Sojuza: meždunarodno-pravovoj discours*, in *Žurnal rossijskogo prava*, No. 11, 2015, pp. 59-69

<sup>33</sup> K. A. BEKJAŠEV, *EAES: meždunarodnaja (mežgosudarstvennaja) organizacija ili meždunarodnoe (mežgosudarstvennoe) ob'edinenie*, in *EvrAzijskij juridičeskij žurnal*, Vol. 11, No. 78, 2014, pp. 14-16

since boundaries between disciplines in the present work are not always fixed due to the research interdisciplinary nature.

Starting by the works on the regional integration processes, the theoretical foundation is given, as briefly explained in paragraph 4, keeping in mind that many of the works on regional integration were developed in order to understand the development of the European Union, which lead to see processes in a comparative perspective. The first works on regional integration processes are those written between late 1950s and early 1980s by Karl W. Deutsch (*Political Community and the North Atlantic Area: international organization in the light of historical experience*, 1957), Ernst B. Haas (*The Uniting of Europe: : political, social, and economical*, 1957; *Economics and Differential Patterns of Political Integration: Projections about Unity in Latin America*, 1964, with Philippe Schmitter), Leon N. Lindberg (*The Political Dynamics of European Economic Integration*, 1963) and Joseph S. Nye (*International Regionalism*, 1968) within the neo-functional school. Andrew Moravcsik (*The choice for Europe*, 1998) added to the theory of regional integration a liberal intergovernmental approach in 1990s and early 2000s. In the last 20 years, questions and interpretations to explain regional integration has been proposed by Ben Rosamond (*Theories of European Integration*, 2000), Finn Laursen (*Comparing Regional Integration Schemes: International Regimes or Would-be Politics*, 2003; *Theory and Practice of Regional Integration*, 2008; *Comparative Regional Integration: Europe and Beyond*, 2010), James Caporaso (*The European Union and Forms of State: Westphalian, Regulatory or Post-Modern?*, 1996; *Transforming Europe: Europeanization and Domestic Change*, 2001, with Maria Green Cwles and Thomas Risse; *Integrating Institutions: Rationalism, Constructivism,*

*and the Study of the European Union*, 2003, with Joseph Jupile and Jeffrey T. Checkel), Mark Pollack (*The Engines of European Integration: Delegation, Agency, and Agenda Setting in the EU*, 2003) and the already cited as co-author in a Caporaso's work Thomas Risse (*Regionalism and Collective Identities: The European Experience*, 2000; *A Community of Europeans?: Transnational Identities and Public Spheres*, 2010) among others. A very interesting theoretical model is the one proposed by Aleksander Libman and Evgenyj Vinokurov ( *Holding-Together Regionalism*, 2012) who put forward the idea of a holding together regionalism, to refer specifically to Post-Soviet processes.

With the works of Aleksander Libman (*Regionalisation and regionalism in the post-Soviet space: Current status and implications for institutional development*, 2007) and Evgenyj Vinokurov, who often have worked together (*Is it really different? Patterns of regionalisation in the post-Soviet Central Asia*, 2011; *Eurasian Integration: Challenges of Transcontinental Regionalism*, 2012) it is possible to move from a theoretical level that often uses the European Union as a concrete case study, to a level focused on the Eurasian Economic Union, on the building process and on its first achievements. Analysis on the regional processes in the Post-Soviet space, not only about the EAEU, were developed, among others, by Andrej Cygankov (*Russia's Foreign Policy: Change and continuity in national identity*, 2006), Julija Vymjatnina and Darija Antonova (*Creating a Eurasian Union: Economic Integration of the Former Soviet Republics*, 2014), Rilka Dragneva and Kataryna Wolczuk (*Russia, the Eurasian Customs Union and the EU: Cooperation, Stagnation or Rivalry*, 2012; *Eurasian Economic Integration: Law, Policy and Politics*, 2013; *Eurasian Economic Integration: Institutions, Promises and*

*Faultlines*, 2015), Ksenia Khirkam (*The formation of the Eurasian Economic Union: How successful is the Russian regional hegemony?*, 2016), Aleksander Knobel (*Евразийский экономический союз: перспективы развития и возможные препятствия*, 2015), Natl'ja A. Vasil'eva and Marija L. Lagutina (*Формирование Евразийского союза в контексте глобальной регионализации*, 2012), Oksana V. Petrovskaja (*Eurasian Economic Union: how to preserve*, 2015) and Kathleen J. Hancock (*The Newest Member: The Eurasian Customs Union*, 2009).

The second group of works for what concerns the political aspects related to the subject of the research are those works focusing on political culture, including the formation of national identity, and its relationship with the regional integration processes as explained in paragraph 4. The basis for any research on the aforementioned field are the works of Gabriel Almond (*The Civic Culture*, 1963, with Sydney Verba), David Easton (*The Political System. An Inquiry into the State of Political Science*, 1951; *An Approach to the Analysis of Political Systems*, 1957; *The Analysis of Political Structure*, 1990), Lucian Pye together with Sydney Verba (*Political Culture and Political Development*, 1965), Dankwart Rustow (*Modernization and Comparative Politics: Prospects in Research and Theory*, 1968), Stephen Whitefield (*Political Culture and Post-Communism*, 2005), Jan Kubik (*Beyond Political Culture: culture of politics and politics of culture*, 2004) and Philippe Schmitter (*What Democracy is...and is not*, 1991, with Terry Karl) among others. More specifically on national identity wrote Eric Hobsbawm (*The Invention of Tradition*, 1983; *The Short XX Century*, 1994), Benedict Anderson (*Imagined Communities: Reflections on the Origin and Spread of Nationalism*, 1983), Ernst Gellner (*Nations and Nationalism*, 1983),

Miroslav Hroch (*Národy nejsou dílem náhody: Příčiny a předpoklady utváření moderních evropských národů*, 2009) and Valerij Tishkov (*О российском народе и национальной идентичности в России*, 2006) who analysed the formation and the development of the national identities of the Russian Federation as did Vera Tolz (*Forging the Nation: National Identity and Nation Building in Post-Communist Russia*, 1998). Works on the national identity building of the EAEU Member States have been also written. The listed works are not the only works available on the topic but are those taken as a reference for the present work. Belarus has been studied by Grigory Ioffe (*Understanding Belarus: Belarussian identity*, 2003) and Liudmila Volakhava (*Belarusians' Self-Identification in the Context of Civilizational Borderland*, 2013), while about Kazakhstan wrote Aziz Burkhanov (*Kazakhstan's National Identity-Building Policy: Soviet Legacy, State Efforts and Societal Reaction*, 2016). Finally Armenian Post-Soviet national identity was examined by Sergey Mansyan (*Armenia's Attitude Towards its Past: History and Politics*, 2009) and Hrach Badayan (*Soviet Armenian Identity and Cultural Representation*, 2008), while Kyrgyz by Eugene Huskey (*National identity from scratch: Defining Kyrgyzstan's role in world affairs*, 2006). A general work on the national identities in the Post-Soviet space was done by a team lead by Graham Smith (*Nation building in the Post Soviet Borderlands*, 1998).

Many scholars have gone deeper into the subject of the present work and have linked the theoretical works on political culture to the Eurasian Economic Union, its Member States and regional integration in Post-Soviet space. Authors who have been following the EAEU formation since the very beginning have written important works exploring this field. Among them Igor Zadorin and Viktor Moysov (*Integration Sentiment in Post-*

*Soviet Countries: Status and Dynamics*, 2013) and by the aforementioned Aleksander Libman (*Regionalisation in Central Asia*, 2009), also in cooperation with Evgenyj Vinokurov (*Eurasia and Eurasian Integration: Beyond the post-Soviet Border*, 2011). Vinokurov also wrote a first assessment on the first two years of life of the Eurasian Economic Union (*Eurasian Economic Union: Current state and preliminary results*, 2011). A similar work from the Belarussian perspective was written by Arsenij Sivickij and Jurij Carik (*Беларусь в ЕАЭС: год спустя (неутешительные итоги и сомнительные перспективы)*, 2016).

Shifting the attention to the second macro group, the starting point are the major legal encyclopaedias in English language (*The Max Planck Encyclopedia of Public International Law*), in Italian language (*Digesto Italiano*) and in Russian language (*Большая юридическая энциклопедия*). The relevant entries are those that define the key concepts of the present work: international organisation, supranational organisation, customs union, single economic space, freedom of movement.

Looking closer to the legal aspects of the Eurasian Economic Union, it is useful to see the definition of the Sources of the EAEU Law made by Kamil A. Bekjašev (*ЕАЭС: международная (межгосударственная) организация или международное (межгосударственное) интеграционное объединение*, 2014). The Russian legal expert lists the Sources of the EAEU Law as: the general principles of International Law; the generally recognised principles of International Law; the Treaty on the Eurasian Economic Union; the treaties between the EAEU and other organisations; binding and decisions of the EAEU organs. At the current state of development of the Eurasian Economic Union the most important



documents to understand the perspectives for the Union as an international player in terms of world politics and economy are indeed the Treaty on the Eurasian Economic Union, which establishes the structure and the functioning of the organisation, and the Customs Code of the Eurasian Economic Union, which regulates trade relationships within the EAEU and between the EAEU and the outside. The full application of those legal documents is the basis for a real common economic space. How the law is applied is shown by the domestic legal measures of the Member States adopted to comply to the EAEU Law, by the decisions and the sentences of the Court of Eurasian Economic Union and by related mandatory decisions of the Union organs.

The academic works on the Eurasian Economic Union legal framework, as stated in paragraph 4, so far consider the Eurasian Law as a part of International Law. The most important contributions to the discussion on the EAEU Law are those by Rashad A. Kurbanov (*Теоретические основы Евразийского права*, 2016), Anatolij Ja. Kapustin (*Право Евразийского экономического союза: международно-правовой дискурс*, 2015), and the already mentioned Kamil' A. Bekjašev who participated along with Damir K. Bekjašev, Sergej Ju. Kaškin and others to the redaction of an important volume edited by Evgenyj G. Moiseev (*Международно-правовые основы создания и функционирования Евразийского экономического союза*, 2016) that gives an outlook of the legal evolution of the integration in the Post-Soviet space.

## **6. Novelty of the Research**

The present work develops the studies on a subject, the Eurasian Economic Union, which is at the moment of writing not yet well analysed, basically due to chronological reasons since the Eurasian Economic Union was established in 2015. While most of the works are oriented to the past, explaining the historical development of the EAEU, or to the present, exploring the ongoing processes, the present work aims to add a focus to the future perspectives. The results of the present work may be the basis for further developing the studies on the Eurasian Union, especially in developing a further comparative analysis between the European and the Eurasian unions and more in general to understand the role of the EAEU on the world stage.

Under this light, a huge importance is to be given to the legal aspects of the Eurasian Economic Union. The present work aims to offer also basis for the studies on the Eurasian Economic Union law, under the perspective of it becoming a new field of studies as it happened with the European Union law. The existing material on the EAEU Law, as explained in par. 4 and 5, is focused on its early stage and sees the EAEU Law as a part of International Law but a work focused on the perspectives must consider the possibility of it to develop as a distinct system following the European Law model.

## **7. Objective of the Research**

The objective of the research is to answer to two basic key questions emerged raised by the study of the available literature on the subject. The

answer to those questions, which are not yet addressed or fully covered, will determine which perspectives for the future the organisation has and, the most important, the role that the Eurasian Economic Union will play for her citizens and on the global stage. The two key points are strongly interdependent, since the outcome of the first question may dramatically influence the answer to the second.

The first question to answer regards the nature of the union itself and has a strong political character. The member states have different degrees of political developments, in terms of political institutions, national identity and, more widely, political culture, which is developed to different extents in the member states. At the moment is not clear, for example, how the EAEU could work in terms of political integration of the institutions. Some countries are willing to develop common policies in fields such a freedom of movement or even security, while others stated that the union will be only an economical body. One of the two main question to which this work aims to give an answer is how can be the development of the EAEU influenced by national identity and political culture and how the Union will influence political culture and identity. To do so, are necessary not only the existing works on the subject but also primary sources, both from governmental agencies and from independent surveyors.

The second question is strongly linked to the first one but has a legal accent. The EAEU already has a developing legal structure, which will have to be enriched according to the development of the union itself. The legal codex will be different in case of a mere economical union rather than in the case of a more political structure, like, for example, in the case of the European Union. Moreover the EAEU will have to provide a legislation

regarding the international relations of the body itself, especially in the fields where the union is already active, it means, international economy and international commerce. The key point on this issue is how will the legal order work, if there will be the development of a new legal order similarly to what happened with the EU legal order. In order to give an answer to this question the main sources will be primary documents from the legal bodies of the member states and from the legal bodies of the Union itself.

In order to analyse the mentioned problems and come to a solution it is necessary to use different methods from both the political science and the legal science: historical method and narrative method are fundamental for what concerns the historical events that led to the fall of the Soviet Union and to the development of various projects of regional integration. With those methods is also possible to understand the reasons of the current political culture state in the member countries. Dialectic and comparative studies give the method framework for what regards the further development of political culture and above all for what regards the structure and the development of the legal framework. To have an overall view on the interactions between the political and the legal aspects it is useful to adopt an empiric approach, given the ongoing nature of the project. A complete outlook on the research methods is given in Chapter 1 of the present work.

# CHAPTER 1: METHODOLOGY AND RESEARCH METHODS

SUMMARY: 1. Chapter overview – 2. Methodology: a theoretical overview – 2.1. Comparative research – 2.2. Political science and international relations – 2.2.1. Formal methods – 2.2.2 Case study – 2.2.3. Quantitative analysis – 2.2.4 Final considerations on the considered methodologies for research in political science and international relations – 2.3. Law – 2.3.1 Characteristics of studies in international law – 2.3.2 Characteristics of studies in European Union law – 2.3.3 Characteristics of studies in comparative law – 2.3.4. Final considerations on the considered fields of research in law – 3. Research design

## 1. Chapter overview

The present work, as presented in the introduction, has as subject the Eurasian Economic Union. This subject is considerably new and there are still a lot of question to be answered, starting from the relations of the international organisation with its member States, its functioning on legal and institutional terms and which relations the Union develops with third parties. All this issues are addressed in the present research, using these elements as the basis to focus on two more specific questions that have a

great impact on the future of the Eurasian Economic Union. The first question is about the relation that the regional integration process has established with the political culture of the member States and how the latter influence the development of the integration itself. The second question is about the legal order of the Eurasian Economic Union, it means the way the functioning and the development of the organisation is regulated, and if such legal order can be compared to the European Union law as a legal system with supranational features. While the first question seems to have a political science and international relations character, and the second a legal one, in fact both questions are interrelated and are seen in the framework of the present research as two sides of the same coin. In the present chapter, first there is an overview on the most used methodologies in the relevant disciplines. Later, a specific methodological approach for this research is proposed, along with the research design.

## **2. Methodology: a theoretical overview**

The present work has a strong interdisciplinary nature, as can be understood from the introduction. International Relations and Political Science on the one side and Law on the other play both an equal role in giving an answer to the questions that represent the objective of the present research. It is necessary to use an equal level of competences in both disciplines, often switching from the field of International Relations to the field of Law and vice versa.

Moreover, the subject of the research, the Eurasian Economic Union, it is formed by different entities, the Member States, that have much in common having shared a common past for 85 years but that also present

differences and peculiarities that must be analysed and compared to understand the functioning and the development of the Eurasian Economic Union as a whole. The EAEU herself is to be compared to another organisation as the European Union.

Given these premises, it is clear that it is impossible to adopt a monolithic methodological approach. The two keywords that characterise the methodology of the present research are interdisciplinarity and comparison. In order to reach the project objective it is necessary to develop a specific methodology that uses methods from the most suitable methodological approaches used in International Relations and Political Science and in Law research. Such a multi-methodological approach must take into account that, as stated earlier, in order to study an entity made up by several entities and lately study the relations of the entity with similar ones, a comparative research approach is fundamental. Therefore, the methodology used for both International Relations and Political Science and Law is to be developed in the broader methodological framework of comparative research that will serve as the main structure to contain all the contributions other methodological approaches offer.

In the following subsection will be briefly examined different methodological approaches. The first exposed approach is comparative research, to the move on to methodologies used in the used in research in the fields of International Relations and Political Science and Law. The aim is to point what are in general the main characteristics, the possible advantages and the disadvantages of each approach.

In the second section of the chapter, we finally then design a methodological framework suitable for the present research and expose the

research plan. The used methods will be chosen from all the examined methodological approaches and combined in order to maximise the advantages and minimise the disadvantages.

### 2.1. Comparative research

Comparative research is the methodological approach that will serve as a general framework for the whole work. To compare means, basically, to look at two or more objects and look for what matches and what does not. Given two or more systems (that can be seen as based on case studies), to make a comparative research on them, consists into analysing the characteristics and the processes within the system, pointing out the relations and finally individuating what are the similarities and what instead makes each system unique<sup>34</sup>.

A comparative research requires the application of various methods and methodological approaches to study the cases (or systems) and to identify what variables or case elements are the most relevant to compare. Both a case-based approach and a variable-based approach have their own pluses and minuses.

For the present research are applied both those methods proper of the International Relations and Political Science and those of Law, especially those used in the field of international law and European Union law (as a supranational system). The comparison will happen at an intra-system

---

<sup>34</sup> K. W. DEUSTCH, *The systems theory approach as a basis for comparative research*, in *International Social Science Journal*, Vol. 36, Nos. 99-102, 1984



level (the so-called ‘subsystems’<sup>35</sup>) and, finally, at system level, by comparing the Eurasian Economic Union to the European Union.

The comparative research approach serves as a framework, but useful information and data on the functioning of the Eurasian Economic Union are gathered and analysed inside the case study, before the ‘comparative moment’. For this reason it is important to move on to the most used methodologies in International Relations and Political Science and in Law, the two pillar disciplines of the present research. After a brief analysis of the methodological approaches, it will be explained how these are combined in the research design.

## **2.2. International Relations and Political Science**

While in the Past, methodology in International Relations and Political Science’s research was rather monolithic and not open to contamination from other methodological frameworks, in Today’s research are stressed the comparative advantages of the three main methodological approaches in International Relations and Political Science. The three main methodological approaches in contemporary research are formal methods, case study methods and quantitative analysis<sup>36</sup>.

### **2.2.1. Formal methods**

The first main methodological framework taken into account are formal methods, which belong to the quantitative research approach group. It consist in applying formal mathematical models to politics and

---

<sup>35</sup> Ibid.

<sup>36</sup> D. F. SPRINZ, Y. WOLINSKI-NAHMIAS , *Introduction*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, 1<sup>st</sup> Ed., Ann Arbor, University of Michigan Press, 2004, p. 5.

international relations including international economics. A model, in general, can be defined as simplified picture of a part of the real world<sup>37</sup>. Therefore, to use mathematical models to research in international relations and politics means to design a simplified version of the real phenomenon giving not the whole picture but those variables considered the most relevant to a specific research in order to come to logical deductions<sup>38</sup>. Due to its nature, formalisation has been successfully used especially in those areas linked to foreign economic policymaking and international cooperation<sup>39</sup>.

There is a large number of models used while applying formal methods. A brief list of most used model in international relations research includes: the Richardson's arms race model, the first popular model used to study international relations, introduced to study arm races and that consider that both players are acting in reflex to each other actions<sup>40</sup>; game theory models, more suitable to fields other than security and that takes into account rational behaviour and considers the interdependence of the

---

<sup>37</sup> C. A. LAVE, J. G. MARCH, *An introduction to Models in Social Sciences*, 1<sup>st</sup> Ed., New York, Harper & Row, 1975, p. 6.

<sup>38</sup> D. SNIDAL, *Formal Models of International Politics*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 228

<sup>39</sup> H. MILNER, *The Analysis of International Relations: International Political Economy and Formal Models of Political Economy*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 265-266

<sup>40</sup> D. SNIDAL, *Formal Models of International Politics*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 241

players<sup>41</sup>. A very useful development of the game theory models for the international relations are the models based on the so-called two level game theory, proposed between 1980s and 1990s. These take into account both domestic and international players and elements in order to reflect the greater complexity of contemporary international relations where domestic and foreign levels are deeply tied and interrelated<sup>42</sup>. Moving to a specific sector of international relations, namely international trade, most popular models used in research can be divided into factoral models, based onto the Stolper-Samuelson theorem, and sectoral models, based on the Ricardo-Viner theorem<sup>43</sup>.

The aforementioned models represent an example of the basic models, that can be modified in variables and adapted to different situations to better analyse a given problem. Actually, models are guide in describing a phenomenon, and to isolate factors that are necessary to understand a problem provides help in developing the first basic theoretical layer of the work on which then further develop with the help of other methodologies.

On the other side, formal models present an important disadvantage due to the intrinsic nature of the models themselves: models are too

---

<sup>41</sup> H. MILNER, *The Analysis of International Relations: International Political Economy and Formal Models of Political Economy*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 271

<sup>42</sup> A. KYDD, *Game Theory and Security Studies: The Art of Shaker Modelling*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 356

<sup>43</sup> H. MILNER, *The Analysis of International Relations: International Political Economy and Formal Models of Political Economy*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 276

general. This means that they are good as a guide but they can mislead if not used along with other methodologies in order to further develop the research. This is especially true regarding testing and deductive conclusions, since if used alone, models can lead to multiple conclusions, sometimes even contradictory<sup>44</sup>, that is why, in case models are used, it is important to do it in order to create a first research layer on which work later using different methodological approaches.

### 2.2.2. Case Study

Case study is the second fundamental methodological system taken into account in the present work and it is one of the qualitative research approaches used in international relations and political science<sup>45</sup>, even if quantitative data might be taken into account, making case study different from pure qualitative research<sup>46</sup>. The core of case study is, as the expression itself suggests, the case which is defined as a given phenomenon that occurs within a specific geographical framework observed in a specific moment, which can be a given moment or a period<sup>47</sup>. A detailed case can be study as a single case or to identify the most important elements and features in order to compare it to other cases.

---

<sup>44</sup> D. SNIDAL, *Formal Models of International Politics*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 239.

<sup>45</sup> A. KLOTZ, *Case Selection*, in A. KLOTZ, D. PRAKASH, eds., *Qualitative Methods in International Relations: a pluralist guide*, 1<sup>st</sup> Ed., New York, Palgrave MacMillan, 2008, p. 43.

<sup>46</sup> R. YIN, *Case Study Research: Design and Methods*, 4<sup>th</sup> Ed., Thousand Oaks, SAGE, 2009, p. 19.

<sup>47</sup> J. GERRING, *Case Study Research: Principles and Practices*, 1<sup>st</sup> Ed., Cambridge, Cambridge University Press, 2007, p. 19.

Case study methods can be traced back to the British philosopher John Stuart Mill and his ‘method of difference’, that consist in comparing two (or more) cases that are identical in all the considered variables except one, and analyse the differences. It is easy to understand that such a situation is practically impossible to find in reality, and therefore it is necessary to find more complex paths to case study<sup>48</sup>. In international relation and political science, especially in studying security issues and conflict situations, a popular method is ‘process-tracing’. In process-tracing the researcher identifies the key factors in the development of a case and also the similarities between two (or more) cases if the research focuses on the comparison and the analysis of different cases. Process-tracing can be somehow considered similar to diplomatic historical analysis when applied to political science<sup>49</sup>. Congruence testing, another popular method of case study, relies on a model with dependent and independent variables and focuses on analyse how congruent if, under the light of the values of the independent variables, the results obtained for the dependant variables reflect or not reality or, eventually, can be expected<sup>50</sup>. Finally, counterfactual analysis is a method of case study through which the researcher faces the problem of the interdependence of variables and, more in general causes and effect. If empirically can be said that *a* was necessary for *b* to happen, by using counterfactual analysis it is possible to deeper

---

<sup>48</sup> A.M. KACOWICZ, *Case Study Methods in International Security Studies*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 113.

<sup>49</sup> Ibid.

<sup>50</sup> A. BENNETT, *Case Study Methods: Design, Use, and Comparative Advantages*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 32

analyse if *non-b* would have happened in case *non-a* were the first variable. Due to its nature, it might be used to check confirmation bias but if not used with discipline can lead to non-accurate and controversial results<sup>51</sup>.

The main advantages of methods of case study methodology applied to international relations research in relation to formal methods and quantitative analysis is the examination of particular cases, analysing a specific historical framework that allows to better identify relevant variables and how these interact in the cause-effect process. By using case study methods it is possible understand what are the most relevant variables and features to analyse a given problem, and by doing so also identify new variables that allow to develop and propose new theories<sup>52</sup>. Moreover, case study allows to address the causal mechanisms of a given process, both by tracing all the phases of a process, both by finding historical explanation for phenomena. In view of the above, it seems clear that case study methods are also a way to address complex causal relations where different variables interact at different points of the processes<sup>53</sup>.

On the other side since case study considers single particular cases, sometimes related to very specific situations and phenomena, it is complicated to determine how representative the cases are in a broader context. To determine the representativeness of a case and how statistically relevant variables the cases are represent areas are in which case study methods cannot provide solid answers<sup>54</sup>. When using case study methods,

---

<sup>51</sup> Ibid.

<sup>52</sup> Ibid., 35.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid., 20.

there is also the risk to run into biases such as the case selection bias (during the case design phase) or the confirmation bias, that affects the way evidence and results are interpreted<sup>55</sup>. Moreover, there is no guarantee that two or more considered cases are in fact independent. Along the research it might pointed out that the two or more cases were actually related, resulting in little or no novelty for the research<sup>56</sup>. There is also another risk when using case study, indeterminacy, that incurs when there is a large number of variables for a little number of cases. When this happens, the results might be that becomes impossible to exclude explanations for the case making the research basically inconclusive<sup>57</sup>.

### 2.2.3. Quantitative analysis

Finally, third methodological approach taken into account for what concerns international relations and political science is quantitative analysis, an approach that uses statistical methods to study a given problem by processing data applying the laws of probability<sup>58</sup>, which is extremely helpful in confirming theoretical expectations or in explaining why empirical evidence does not match the theoretical model adopted. Moreover, in the field of international political economy, quantitative analysis has grown dramatically in studies concerning international trade

---

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> B. BRAUMOELLER, A. SARTORI, A., *Empirical-Quantitative Approaches to the Study of International Relations*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 129.

and economic sanctions, contributing to significant progress in these fields<sup>59</sup>.

Methods used when adopting a quantitative approach are those proper of statistics, that it basically means to elaborate mathematical indicators that synthesise a huge amount of data. As a matter of example, GDP (Gross Domestic Product), is a mathematical indicator that expresses in one figure a huge amount of data that cover every aspect of the economic output of a country. Such a statistical representation of a relevant aspect of the subject of the research, allows to compare and to relate variables that would be otherwise almost impossible to use in a broad research. Obviously, statistics offer a simplified representation of reality that does not take into account other elements that might be relevant to the whole picture. It seems clear that a quantitative approach have its own advantages but also carries a series of problems or limitations that must be taken into account.

The most obvious advantage of using quantitative methods in research is that they allow to deal with an impressive amount of data, collecting them from a great amount of cases. All the collected data is summarised and made usable, providing an important stimulus for developing theories<sup>60</sup>. In addition to this, using statistics in research creates greater transparency, it means that statistics somehow 'force' to explicitate assumptions, making them clear and creating the possibility to find

---

<sup>59</sup> E. MANSFIELD, *Quantitative Approaches to International Political Economy*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIAS., eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 171.

<sup>60</sup> Ibid.



solutions in case assumptions are violated<sup>61</sup>. Quantitative methods present also the advantage to make possible to set clear standards, as can be easily understand by thinking to statistical indicators that standardise values for all the players involved. The usage of mathematics moreover, allows to check and eventually confirm (or not) the relations between variables and help to identify causes. A final advantage of using quantitative methods is in testing the result of the research: different explanations can be tested against one another and identify strengths and weaknesses of each one<sup>62</sup>.

As for formal methods and case study, quantitative analysis presents also a series of disadvantages. The first disadvantage is represented by the risk that the statistical test, as accurate as they are, might have no real meaning to the research. This kind of mistakes are known as errors of specification<sup>63</sup>. Another class of possible mistakes while applying statistical methods are the errors of inference. Errors of inference happen when statistics are applied regardless of reality, to the point that a theory can be rejected on the sole basis that, following a statistical assessment, a variable is likely to produce no effect on the object of the research<sup>64</sup>.

#### **2.2.4. Final considerations on the considered methodologies for research in international relations and political science**

The brief overview on the main methodological approaches used in international relations allows to identify some useful methods for the

---

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> B. BRAUMOELLER, A. SARTORI, A., *Empirical-Quantitative Approaches to the Study of International Relations*, in D. F. SPRINZ, Y. WOLINSKI-NAHMIA, eds., *Models, Numbers, and Cases: Methods for Studying International Relations*, op. cit., p. 133.

<sup>64</sup> Ibid., 139.

present research, borrowed from different methodological approaches. Combining elements from different methodologies allows to compensate the weaknesses of a given approach with the strengths of a different one. The most suitable approach for the subject and the purposes of the present work is the case study. This allows to concentrate on the Eurasian Economic Union in every relevant aspect, to compare against each other its member States as single cases and the whole Union to the European Union. The contribution of formal methods is evident in the analysis of the causes for regional integration in the post-Soviet area, while quantitative analysis plays a role in gathering macroeconomic data that allow to study the economic results and the achievements produced by the interaction between the Eurasian Economic Union and the member States. Before tracing the research design and explained how the methods are integrated into the methodology of the present work it is necessary to move on to the main methodological approaches used in the second pillar of the research, law.

### 2.3.Law

Legal doctrine, the product of the research activity of legal scholars, is a vast field that has a number of characteristics that might sometimes seem as contradictory or at least, at the first sight, not clearly related. A useful and effective schematisation developed by a legal scholar, defines legal doctrine as hermeneutic, argumentative, empirical, explanatory, axiomatic, logical and normative discipline<sup>65</sup>. If it is true that all of these

---

<sup>65</sup> M. VAN HOECKE, *Legal Doctrine: Which Method(s) for What Kind of Discipline?*, in M. VAN HOECKE, ed., *Methodologies of legal research: Which Kind of Method for What Kind of discipline?*, 1<sup>st</sup> Ed., Oxford and Portland, Hart Publishing, 2016, p. 9.

elements characterise legal research, it is also true that according to which element is more relevant in one's approach to the subject (for example a legal positivist approach differs from a natural law approach), the conceptions of the discipline vary, as vary the features of the used methodology<sup>66</sup>. Nevertheless, the hermeneutic factor has always been the most relevant in characterising legal doctrine and under this light, methodology of legal research can be synthesised in three moments that correspond to the classical phases of scientific method: first the legal scholar collects empirical data, it means to identify which legal documents are relevant. Later, the researcher analyses and interprets data, it means the researcher works on the legal documents identifying and those aspects that are relevant for the purposes of the research. Finally, based on the analysis and the interpretation work, the legal scholar builds new theories and test them against existent ones<sup>67</sup>. Under this light, the general methodology of legal research is not different from the general scientific method. Nevertheless, if the described methodology is definitely true, it is also too general and oversimplified. Law as a discipline includes several branches and each branch prefers to focus on specific aspects rather than on others. For the purposes of the present work, those branches are international law, European Union law and comparative law. In the following sections will be exposed the main characteristics of each mentioned branch and how these influence the general methodology of legal research.

---

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

### 2.3.1. Characteristics of studies in international law

Researching in international law means to deal with branch of law that has in the word ‘international’ its distinctive point. Contemporary international law has seen several developments during the last century, probably the multiplication of players being the most relevant. While once only the States were subjects of international law, today the number of subjects has grown to include intergovernmental and non-governmental international organisations and transnational corporations are all players in an international society in which the boundaries between ‘public’ and ‘private’ are not clear as they were some decades ago. Contemporary international law is therefore ‘transnational’ and presents several features that make it different from domestic law. The lack of a higher legislative body (as it is the State in relation to domestic law), the plurality of administrative centres, the lack of mandatory means of dispute resolution and enforcement of the judgement and its incompleteness are all characteristics of international law<sup>68</sup>. Given those differences between domestic and international law, the risk when approaching the subject is therefore to confuse, for what concerns relations between States, international law with moral or politics: to avoid it, it is necessary to use, in research, the persuasion proper of legal arguments<sup>69</sup>. A research approach might imply a dialectic between a deductive moment, in which the legal acts are studied to determine which rules of international law are based on

---

<sup>68</sup> D. CARREAU, F. MARRELLA, *Diritto internazionale*, 2<sup>nd</sup> Ed., Milano, Giuffrè Editore, 2018, pp.29-46.

<sup>69</sup> M. KOSSKENIEMMI, Max Planck Encyclopedia of Public International Law, s.v. *Methodology of International Law*, 2007. <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1440>

them and an inductive moment, in order to verify the result and the effectiveness of said rules<sup>70</sup>. It is indeed the principle of effectiveness that, under a realist approach, gives strength to international law in relations between States and also allow to build arguments in its favour rather than confusing it with moral or politics<sup>71</sup>.

### 2.3.2. Characteristics of studies in European Union law

European Union law, which is a relatively new discipline, shares some features of general international law but it has its own specifics that make it an unique case on the world scene. In the European Union case it is in fact correct to use the often abused expression ‘supranational law’ to describe the law of the Union, even if with some limitations<sup>72</sup>. Moreover, the role of law within the European Union plays a primary role not only as a source of legal effects but also in the integration process (including the development of an identity), what is known as ‘integration through law’<sup>73</sup>. The so-called exceptionalism of European Union law in respect to international law<sup>74</sup> makes it difficult to approach European Union law under the light of theoretical lenses developed for other branches of law such as national law or international law. For this reason, new instruments

---

<sup>70</sup> Encyclopedia of Public International Law, vol. 7, *Methodology of International Law*, 1984, pp. 336-339, in C. DOMINICÉ, *L'ordre juridique international entre tradition et innovation*, 1<sup>st</sup> Ed., Ginevra, Graduate Institute Publications, 1997, pp. 3-22.

<sup>71</sup> D. CARREAU, F. MARRELLA, *Diritto internazionale*, op. cit., pp. 47-48.

<sup>72</sup> Ibid., 8.

<sup>73</sup> On this topic: M. CAPPELLETTI, M. SECCOMBE, J. H. WEILER, eds., *Integration through law: Europe and the American Federal Experience*, 1<sup>st</sup> Ed., Berlin and New York, Walter de Gruyter, 1986.

<sup>74</sup> M. LIČKOVÁ, *European Exceptionalism in International Law*, in *The European Journal of International Law*, Vol. 19, N. 3, 2008, pp. 463-490.

of research are to be developed<sup>75</sup> relying on and taking into account the contribution of the today most used approaches such as the already mentioned natural law approach and legal positivism approach but also several others like for example constitutionalism or new governance approach<sup>76</sup>.

### 2.3.3. Characteristics of studies in comparative law

Comparative law intrinsically requires to deal with legal documents which are not proper of the researcher's own legal system. To compare in fact, as stated earlier in general terms about comparative research, mean to find what is similar and what is different between two or more objects, in this case one is supposed to be the researcher's own legal document (or even a system) and the other or the others to which the researcher is external. For this reason, research in comparative law, while sharing with the other branches of law the main features, introduces a strong element of alterity<sup>77</sup>. This necessary and forced dialectic between an term of comparison to which the researcher is 'internal' and a term of comparison to which the researcher is 'external' reflects in the activity the researcher and in the methodology to apply. When researching in fact, there is need to fully understand not simply the legal document, which is the object of the study, but it is necessary to have also a complete understanding of the institutions where the document was created and the legal system where it

---

<sup>75</sup> R. CRYER, T. HERVEY, B. SOKHI-BULLEY, *Research Methodologies in EU and International Law*, 1<sup>st</sup> Ed., Oxford and Portland, Hart Publishing, 2011, p.20.

<sup>76</sup> *Ibid.*, 35-73. These two chapters of the book are dedicated to a thorough overview over the most used methodological approaches.

<sup>77</sup> J. BELL, *Legal Research and the Distinctiveness of Comparative Law*, in M. VAN HOECKE, ed., *Methodologies of legal research: Which Kind of Method for What Kind of discipline?*, op. cit., p. 167.

produces legal effects. More in general, since culture lays at the basis of human societies (therefore including institutions and legal systems) it becomes fundamental that the researcher develops a full understanding of the culture, including the language, of the object of the comparison<sup>78</sup>. This implies that research in comparative law carries some degree of interdisciplinarity, an element that differentiates this branch of legal research from others<sup>79</sup>. Consequently, part of the methodological approach in comparative law research, involves the study of disciplines other than law, in order to be able use them as a solid basis on which to develop the research in comparative law<sup>80</sup>.

#### **2.3.4. Final considerations on the considered fields of research in law**

Methodologies of law use many empirical data to start the research, by interpreting legal text and building on it possible theories. This suits perfectly the need of the present research to understand the nature of the law of the Eurasian Economic Union. The Treaty on the Eurasian Economic Union and the Customs Code are the main legal acts to be analysed. In addition, the most relevant regulations and decision of the EAEU institution are to be taken into account since they are fundamental for the application of the law in the most relevant fields of activity of the organisation, first of all international economy.

---

<sup>78</sup> Ibid., 169-171.

<sup>79</sup> G. SAMUEL, *Does One Need an Understanding of Methodology in Law Before One Can Understand Methodology in Comparative Law?*, in M. VAN HOECKE, ed., *Methodologies of legal research: Which Kind of Method for What Kind of discipline?*, op. cit., p. 208.

<sup>80</sup> M. ADAMS, *Doing What Doesn't Come Naturally. On the Distinctiveness of Comparative Law*, in M. VAN HOECKE, ed., *Methodologies of legal research: Which Kind of Method for What Kind of discipline?*, op. cit., p. 239.

The methods of legal research are to be applied taking into account the specific characteristics of the studied branches of legal research. They are to be used in parallel with the already exposed methods of international relations and political science in the research design exposed below, combined in order to create a dialectic between the two pillars of the research to develop an analysis on the Eurasian Economic Union that is as comprehensive as possible.

### **3. Research design**

Being the Eurasian Economic Union a new subject, this means that on the one side the research presents a high degree of novelty. On the other it presents methodological and theoretical problems, since there is a scarcity of data, both empirical and theoretical, on the subject itself. Main sources of information will be primary sources such as legal acts, official reports and data from the institutions, that need to be integrated into the general theoretical and methodological framework of the involved disciplines. For these reasons the research has been structured in a way that allows to maintain a high degree of organisation of information, following, when possible and necessary, historical-chronological criteria, and of clarity in analysis, in order to favour the emergence of inferences and, finally, to come to conclusions about the problems posed in the introduction.

Chapter 2 of the present work will be dedicated to a methodological and theoretical analysis of the legal and political processes in the post-Soviet space, with a special focus on the regional integration processes that led to the creation of the Eurasian Economic Union. Following a



chronological approach, the Eurasian Economic Union and its member States will be designed as cases to study in the following chapter. It will be necessary to maintain a dialectic between the events that happened on the international scene and on the domestic scene, since, as stated in the introduction, regional integration processes influence the domestic scene in terms of politics, law, economy and, non last, society and, *vice versa*, what happens at domestic level influences the regional integration process. In the design of the case, will be checked how the formal model that sees economic crisis as one of the engines for regional integration works and moreover statistical methods will be used to show the most relevant indicators to see the results of the integration process. The chronological approach is considered to be necessary since from the very basic stages of literature review emerge that the regional integration process in the post-Soviet space stemmed straight from the dissolution of the Soviet Union. Nevertheless, the Soviet Union counted fifteen constituent republics and each became an independent State, but the Eurasian Economic Union only counts five members States. On the other side, the Eurasian Economic Union appears to be the deepest degree of integration reached by post-Soviet States since the dissolution of the USSR. For this reason, the chronological criteria in analysing information allows to identify the reasons of the lack of success of the previous regional integration projects and why some post-Soviet States find their interest to be better expressed in other regional integration processes outside the post-Soviet space (or in no integration at all). Finally, partially as a consequence of what explained so far, following a chronological criteria allows to identify the reasons that led the current five member States to establish a deeply integrated organisation such as the EAEU.

Chapter 3 is dedicated, on the basis of the theoretical layer traced in chapter 2, to the analysis of Eurasian Economic Union as a case to study and also to the analysis of the actual situation of the member States as micro cases that make up the main case. The legal and political systems of the member States are briefly analysed and compared against one another to see how they deal with the Eurasian Economic Union and what the domestic limitations to integration are. Using the structure of the Treaty on the Eurasian Economic Union as a guideline, the Eurasian Economic Union institutional and legal system is then analysed, and a section is dedicated to the practical results of the organisation and to how the Eurasian Economic Union works in practical areas such as international trade. In parallel, a comparison with the European Union is carried on, in order to point out the similarities but also to find the most relevant differences between the two neighbour organisations. As stated in the introduction and explained in the relevant sections of the work, despite the existence of several international organisations of regional integration, the European Union has been chosen as model to compare. The reasons lie in the similar institutional and legal architecture of the two organisations, to the extent that some author have spoken of the EAEU as an EU-inspired or EU-modelled organisation<sup>81</sup>. Of course, the two organisations present deep differences but the similarities that appear clear since the very first phases of literature analysis, combined to the relations between the two blocks, make the EU the perfect system to which compare the EAEU. Other regional integration organisations, such as the African Union, the Union of South American Nations or the Association of South-East Asian

---

<sup>81</sup> See chapter 2.3.

Nations just to mention some of the most significant, for different reasons would have made comparison less significant for the objective of the present work, which is to understand the mechanisms of working and the perspective of development of the Eurasian Economic Union as a whole.

Chapter 4 is the conclusive one. In the chapter, after a brief summary of all the previous work, the findings of the research are exposed and an answer to the two basic questions of the work are proposed, considering eventual alternatives and figuring out potential developments of the organisation and of its international role.

The reason for such methodological approach and research design resides in the necessity of traced a detailed case study that has a very peculiar origin, being somehow a process of regional reintegration after the disintegration of the region that happened when the Soviet Union was dissolved. The relative scarcity of studies on the subject and the novelty represented by the Eurasian Economic Union represent a challenge since a large quantity of information is to be analysed and taken into account in order to give an answer to the double-sided question that is at the core of the work. A more rigorous and less inter-methodological methodological approach would have reduced the possibilities for a broad research on one of the most interesting novelties in international relations such as the Eurasian Economic Union, a subject that involves international politics, law and international economy and at this stage of development worth to be studied in its complexity. Nevertheless, in the future, when the studies on the subject will be more developed (also thanks to the contribution of the present work), more specific researches could be designed and moved

forward in order to approach more specific issues and move forward the studies on the Eurasian Economic Union.

**CHAPTER 2:**  
**THEORETICAL AND METHODOLOGICAL ANALYSIS**  
**OF THE POLITICAL AND LEGAL PROCESSES IN**  
**CONTEMPORARY POST-SOVIET STATES**

SUMMARY: 1. Historical analysis of political and legal processes within and between Post-Soviet States – 1.1. Reforms and changes in late 1980's Soviet Union – 1.2. The New Union Treaty: the Union of Sovereign States – 1.3. The coup d'état and the dissolution of the Soviet Union – 2. Cooperation between Post-Soviet Governments after the fall of the Soviet Union – 2.1. The Commonwealth of Independent States – 2.1.1. Military cooperation – 2.1.2. The "Rouble zone" and economic divorce – 2.1.3. The CIS member States as fully sovereign States – 2.1.4. The activities and the role of the CIS after 1993 – 2.1.5. Theoretical overview of the State and nation building process in CIS members after 1993 – 2.1.6. Final considerations on the CIS and further development of regional integration – 2.2. Customs agreements and Treaty on Increased Integration – 2.2.1. Customs agreements – 2.2.2. Treaty on Increased integration and Treaty on the Customs union and the Common economic space – 2.2.3. Domestic situation – 2.3. The Eurasian Economic Community – 2.3.1. The Eurasian Customs Union – 2.3.2. The Eurasian Common Economic Space – 3. Political and juridical relation between Contemporary Post-Soviet States –

### 3.1. The formation of the Eurasian Economic Union – 3.2. Relations between EAEU Member states and the other Post-Soviet States

#### 1. Historical analysis of political and legal processes within and between Post-Soviet States

In December 1991 the world map changed dramatically. The Union of Soviet Socialist Republics (USSR or Soviet Union) dissolved and the fifteen constituent Soviet republics became independent and sovereign States<sup>82</sup>. By December 26<sup>th</sup>, 1991, the State that for 46 years had been one of the two world superpowers ceased to exist<sup>83</sup>. Despite it is not the aim of

---

<sup>82</sup> The criteria used to define an “independent and sovereign State” are those that stem from the Article 1 of the Convention of Montevideo, December 26<sup>th</sup> 1933, <https://treaties.un.org/doc/Publication/UNTS/LON/Volume%20165/v165.pdf> and from Max Weber’s theory of the Modern State, exposed in WEBER, M., *Politik al Beruf*, in *Gesammelte Politische Schriften* (Muenchen, 1921). Article 1 states that the State as a subject of International Law should present four characteristics: a stable population, a defined territory, government and capacity to enter into relations with the other States. In Max Weber’s theory, the German politologist and sociologist affirms that the State is the entity that retains the monopoly on the legitimated use of physical force. Under those criteria, the newly independent States of the Soviet Union are, in alphabetical order: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. A chronological overview on the declaration of independence of the single States is exposed in section 1.1.

<sup>83</sup> Declaration of the Council of the Republics of the Supreme Council of the USSR, December 26<sup>th</sup> 1991, <http://vedomosti.sssr.su/1991/52/#1561>. The Declaration states that “Опираясь на волю, [...] о создании Содружества Независимых Государств, Совет Республик Верховного Совета СССР констатирует, что с созданием Содружества Независимых Государств Союз ССР как государство и субъект международного права прекращает свое существование” (“On the premises of the will [...] of establishment the Commonwealth of Independent States, the Council of the Republics of the Supreme Council of the USSR ascertains that with the establishment of the

the present work to go through the whole story of the Soviet Union and its dissolution, it is necessary to understand the most relevant facts happened during the last years of existence of the USSR. Given the methodological approach explained in chapter 1, going through the years that led to the dissolution of the USSR is fundamental for the success of the research. The case that is going to be the subject of the present work and the single cases that make up the main case and are all strongly tied to the USSR and her dissolution.

First of all because the Eurasian Economic Union, the subject of the research, is a regional integration organisation which member States are former Soviet Republics<sup>84</sup>. The people of some of these republics had never experienced modern statehood before the Soviet experience: having been conquered by the Russian Empire in XIX century, these Central Asian polities had been incorporated by the Soviet State<sup>85</sup> that established in the area a number of Soviet Republics. The republics were conceived around an ethno-national group that represented the majority of the population in each republic. The Soviet Constitutions granted these republics, for the first time, modern administrative and government structures<sup>86</sup>, though within the boundaries of self-government the federal laws determined to be proper to the republics. In such a context, the Central Asian polities

---

Commonwealth of Independent States the Union of the Socialist Soviet Republics as a State and as a subject of international law, terminates its existence”).

<sup>84</sup> See the introduction

<sup>85</sup> J. HEATHERSHAW, *Central Asian Statehood in Post-Colonial Perspective*, in E. KAVALSKI, *Stable outside, fragile inside: post-Soviet statehood in Central Asia*, Farnham, Ashgate, 2010, pp.87-101

<sup>86</sup> M. LARROTCHA PARADA, “*Central Asia: The Long Road to Statehood*”, ISPSW Strategy Series: focus on Defense and International Security, N. 305, Dec. 2014. [https://www.files.ethz.ch/isn/186585/305\\_Larrotcha\\_Parada.pdf](https://www.files.ethz.ch/isn/186585/305_Larrotcha_Parada.pdf)

experienced for the first time modern legal structures and a modern political life. Therefore, it is easy to understand the deep impact the Soviet past had in framing the political and legal culture of the new-born States<sup>87</sup>.

Second, the Eurasian Economic Union herself stems from the dissolution of the Soviet Union and the consequent processes of regional integration, something that is defined by the expression “holding-together regionalism”, a specific pattern for regionalisation projects that involve States that were once part of a single entity<sup>88</sup>. Given such premises, appears evident that not having a clear understanding of the facts happened in late 1980s-early 1990s in the then Soviet Union makes understanding of the single cases (i.e. the single member States of the Eurasian Economic Union and the Eurasian Economic Union herself) extremely difficult if not impossible.

The regional integration process that has led to the Eurasian Economic Union not only involves States once part of a pre-existing unity, as the expression “holding together regionalism” suggests, but the regional integration process started during the disintegration process of the previous entity<sup>89</sup>. The Commonwealth of the Independent States is, in fact, both the direct consequence of the projects to reform the Soviet Union and the first regional integration project in the Post-Soviet Space<sup>90</sup>.

---

<sup>87</sup> Ibid.

<sup>88</sup> A. LIBMAN, E. VINOKUROV, *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, op. cit., pp. 12-13

<sup>89</sup> A. LIBMAN, E. VINOKUROV, *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, op. cit., pp. 16

<sup>90</sup> P. KUBICEK, *The Commonwealth of Independent States: an example of failed regionalism?*, op. cit.



### 1.1. Reforms and changes in 1980's Soviet Union

The historical analysis presented in this section starts from 1980s, when the Soviet Union underwent deep reforms. The choice is dictated by the general recognition of the aforementioned reforms as a turning point in Soviet Union dynamics, the beginning of the processes that would eventually lead to the dissolution of the State. Nevertheless, an overall knowledge of Soviet history it will be useful to the reader, since other periods of Soviet history will be referred<sup>91</sup>. On November 10<sup>th</sup> 1982, the death Leonid Il'ič Brežnev opened the issue of the succession to the leadership of the USSR. A scholar defined the first two and a half years after Brežnev's death as the 'interregnum'<sup>92</sup>, a period during which two successive leaders were in charge. First was Jurij Vladimirovič Andropov, from November 12<sup>th</sup> 1982 until his death on February 9<sup>th</sup> 1984. His successor was Konstantin Ustinovič Černenko, from February 13<sup>th</sup> 1984 until March 10<sup>th</sup> 1985, the day of his death. The "interregnum" ended on March 11<sup>th</sup> 1985 when Michail Sergeevič Gorbačev was elected General Secretary of the Communist Party of the Soviet Union.

The Soviet Union entered the 1980s and the interregnum in a state of decline especially for what concerns economy. On the one side the Country had become a leader in military and aeronautical technology, on the other agricultural and industrial production were in steady decline, and even more dramatic was the specific situation in the sectors of consumer

---

<sup>91</sup> On the overall history of the Soviet Union a brief bibliography includes: N. WERTH, *Histoire de l'Union soviétique: de l'Empire russe à la Communauté des Etats indépendants : 1900-1991*, 6<sup>th</sup> Ed., Paris, PUF, 2008;

<sup>92</sup> N. WERTH, *Histoire de l'Union soviétique: de l'Empire russe à la Communauté des Etats indépendants : 1900-1991*, 6<sup>th</sup> Ed., Paris, PUF, 2008, p. 296

goods and food production. The situation was unsustainable for a world super power and for a modern society a deep reforms were necessary<sup>93</sup>.

J. V. Andropov, right after his election gave the impression that a new course started, the leader put a strong accent on fighting corruption and on moralising Soviet society starting from the Communist Party, being this the first step to reform and transform every aspect of the Soviet system, from economy to politics. Nevertheless, his term in office lasted only fifteen months and it proved to be too short to show concrete results<sup>94</sup>. Even shorter was his successor K. U. Černenko's term that lasted only eleven months, some of which in a hospital bed. After his death was announced on March 11<sup>th</sup>, his successor M. S. Gorbačev was immediately elected<sup>95</sup>. Černenko's funeral was attended by the Vice-President of the United States of America, first time the leaders of both the Soviet Union and the USA met in Moscow since early 1980s. An author suggest that a more relaxed international climate was instrumental to the internal Soviet reforms, since it would have allowed to make more resources available transferring them from the military to other areas of Soviet economy<sup>96</sup>.

Michail Sergeevič Gorbačev was the youngest elected leader of the post-Stalin era and in his inaugural address, he stressed the need for reforms and of a peaceful international climate. Many works have been

---

<sup>93</sup> E. DI NOLFO, *Storia delle Relazioni Internazionali*, 5<sup>th</sup> Ed., Bari, Editori Laterza, 2008, pp. 1311-1312

<sup>94</sup> N. WERTH, *Histoire de l'Union soviétique: de l'Empire russe à la Communauté des Etats indépendants : 1900-1991*, op. cit., p. 298

<sup>95</sup> Izvestija N°74 (21148), March 12<sup>th</sup> 1985, p. 1. Also New York Times, N°, March 12<sup>th</sup> 1985, p. 1, <https://www.nytimes.com/1985/03/12/world/chernenko-dead-moscow-73-gorbachev-succeeds-him-urges-arms-control-economic.html>

<sup>96</sup> E. DI NOLFO, *Storia delle Relazioni Internazionali*, op. cit., p.1312

written on the endeavour of M. S. Gorbačev as Soviet leader, generally regarded as one of the most important personalities of XX century. For the purposes of the present work after explaining in very few words the meaning of the keywords of Gorbačev's intended reforms, it will be necessary to focus on the rise of national movements and the process of institutional reforms of the Soviet Union. The first of Gorbačev's keywords is 'glasnost', a Russian idea of political openness and transparency (which is actually the literal meaning of the word) intended not only at Government and at official levels but also in terms of public discussion<sup>97</sup>. The second keyword is 'perestrojka', a more ambitious project of total transformation of Soviet economy rather than just an acceleration<sup>98</sup>. Finally, the third keyword is 'demokratizacija', the reform of the whole political system in a more liberal direction, calling for example for multi-candidate elections<sup>99</sup>. All the mentioned concepts were key in the deep reform process the Soviet Union underwent during the second half of 1980s. The period is the subject of several works that go deeply into the single issues and the reform process as a whole. For the purposes of the present work, as it was stated earlier, there are two issues on which focus the attention. The first involves political culture in the Soviet republics, more specifically the rise of ethnical national movements. The second issue is the reform of the institutions and politics of the Soviet Union that will lead to the plan to reform the Union itself.

---

<sup>97</sup> Enciclopedia Treccani online, s.v. *glasnost*. <http://www.treccani.it/enciclopedia/glasnost/>; also see note 98

<sup>98</sup> Bol'shaja rossijskaja enciklopedija, s.v. *perestrojka*. [https://bigenc.ru/domestic\\_history/text/2330846](https://bigenc.ru/domestic_history/text/2330846);

<sup>99</sup> Ibid.

The Soviet ideology, with its accent on class identity, has kept ethnical national identities marginal for decades. Even if ethnical national elements were indeed present in Soviet society, first of all the construction itself of the constituent Republics around a titular nation and the indication of the individual nationality on the passport<sup>100</sup>, since the establishment of the Soviet Union the official ideology has put the accent on the Soviet motherland and the class identity. The new climate of transparency introduced by the policies of M. S. Gorbačev changed the situation, since the increasing freedom in terms of public speech and press promoted the politicisation of cultural movements that so far had been sleeper and not organised at all. Among these movements, there were some to which the ethno-national element was fundamental, such as the Baltic dissidents<sup>101</sup>.

The organisation of organised cultural movements, lead to protest and revolts that were not national itself in character but in fact involved an ethno-national group, growing to the point that the Country was interested by several large nationalistic manifestations starting from 1988<sup>102</sup>. Starting from the Armenian protests because of the situation of Nagorno-Karabakh region in February 1988<sup>103</sup>, national mobilisation grew stronger in almost all the Soviet Republics. A strong symbolic meaning had the so-called ‘Baltic Way’, on August 23<sup>rd</sup> 1989, when about two million people formed a human chain that connected the three Baltic capitals in support of

---

<sup>100</sup> For an analysis of the Soviet approach to the national question see section 1.5 of the present chapter.

<sup>101</sup> M. R. BEISSINGER, *Nationalism and the Collapse of Soviet Communism*, in *Contemporary European History*, No 3, Vol 18, 2009, pp. 331-347

<sup>102</sup> Ibid.

<sup>103</sup> On the Nagorno-Karabakh issue N. RONZITTI, *Il conflitto del Nagorno-Karabakh e il Diritto Internazionale*, Torino, Giappichelli, 2014

independence from the Soviet Union and symbolically unifying the three countries in a common effort to gain independence from the Soviet Union<sup>104</sup>. The rise of an ethno-national element in Soviet political culture of late 1980s, influenced the political decisions in the Soviet republics, including the first ‘declaration of sovereignty’ adopted by some of the Soviet republics, the first being the Soviet Socialist Republic of Estonia in November 1988<sup>105</sup>, a step that opened the path to the full independence of the republics. Of course, the whole national discourse, including the official statements of a number of Republics, caused that the national question became one of the main topics of discussion also at central Government level. Moreover, the importance of ethno-national movements will later play a dramatic role in shaping the newly independent post-Soviet States<sup>106</sup>.

The new political culture and overall cultural climate, of which the national question is one but the only element, went along the reform of Soviet institutions and politics, an instrument through which M. S. Gorbačev was willing to reform the entire Soviet Union. Extensive works and analysis have been developed on Soviet reforms in late 1980s across the last two decades, therefore the present work does not go into depth on the overall reform process but it instead shows how some characters of the Soviet system were changed and how these helped the dissolution of the Soviet Union. On this regard, one of the most important reform was the

---

<sup>104</sup> N.R. MUIZNIEKS, *The Influence of the Baltic Popular Movements on the Process of Soviet Disintegration*, in *Europe-Asia Studies*, N. 1, Vol. 47, pp. 3-25

<sup>105</sup> Declaration of the Supreme Soviet of the Estonian Socialist Soviet Republic on the Sovereignty of the Estonian SSR, November 15<sup>th</sup>, 1988. <https://www.riigiteataja.ee/akt/27849>

<sup>106</sup> For more details on the State- and Nation-building processes see section 1.5. of the present chapter.

electoral reform that allowed for liberalisation of political competition, resulting in the legislative election of 1989<sup>107</sup>. From those elections on, Soviet politics saw the development of an emerging multi-party system, starting from movements within the Communist Party of the Soviet Union and from different civic organisations already active in the Country (as the mentioned organisations in the Baltic Republics). The liberalisation of the party scene in the Soviet Union will eventually lead to the emergence of new figures and movements that will become major actors during the last year of existence the Soviet Union. A major example of this is represented by the election of the then Head of the Supreme Council of the RFSR Boris Nikolaevič El'cin, who run as independent and not as a member of the CPSU, to the post of President of Russian Soviet Federative Republic (RSFR) by winning the elections on June 12<sup>th</sup> 1991<sup>108</sup>. Another reform, or better series of reforms, that had dramatic impact on the dissolution of the USSR was the reformation of the institutions. It was enforced by a constitutional amendment adopted on December 1<sup>st</sup>, 1988 establishing a new Congress of People's deputies<sup>109</sup>, an elective organ (to which was applied the new electoral law<sup>110</sup>) and transforming the Supreme Soviet of the USSR in a permanent organ elected by the new Congress<sup>111</sup>. Later, in 1990, a further development introduced the figure of the President of the

---

<sup>107</sup> Law of the USSR “on the election of People’s Deputies”, December 1st 1988.

<http://rusarchives.ru/projects/statehood/09-27-zakon-vybory.shtml>

<sup>108</sup> Results of the Russian 1991 Presidential Elections, <https://yeltsin.ru/news/kak-eto-bylo-pervye-vybory-prezidenta-rossii/>

<sup>109</sup> Law of the USSR no. 9853-XI “on amendments and additions to the Constitution (Basic Law) of the USSR”, December 1<sup>st</sup> 1988. <http://constitution.garant.ru/history/ussr-rsfsr/1977/zakony/185466/>

<sup>110</sup> See note 107.

<sup>111</sup> Law of the USSR no. 9853-XI, cit. note 109.

Union of Socialist Soviet Republics, who became the head of State in lieu of the chairman of the Præsidium of the Supreme Soviet of the USSR<sup>112</sup>.

During the process of reformation, some of the national movements in the Soviet Republics grew stronger, to the point that they controlled the Supreme Soviet of some of the given Constituent Republic. The aforementioned declaration of sovereignty of Estonia<sup>113</sup> was followed by Lithuania (May 26, 1989<sup>114</sup>), Latvia (July 28, 1989<sup>115</sup>) and Azerbaijan (September 23, 1989<sup>116</sup>). Across 1990, all the other Republics would issue a similar declaration<sup>117</sup>, while the three Baltic Republics would eventually declare full independence and the exit from the structure of the USSR. At this point appeared clear that institutional reforms promoted by M. S. Gorbačev required to take a different direction and in November 1990 the Supreme Soviet supported Gorbačev's proposal of a new Union Treaty<sup>118</sup>.

---

<sup>112</sup> Law of the USSR no. 1360-I "on the creation of the office of the President of the USSR and on amendments and additions to the Constitution (Basic Law) of the USSR", March 14<sup>th</sup> 1990. <http://constitution.garant.ru/history/ussr-rsfsr/1977/zakony/185465/>. The law states that the President of the USSR is the Head of State of the USSR, introducing the statement as art. 127 of the Constitution.

<sup>113</sup> Declaration of the Supreme Soviet of the Estonian Socialist Soviet Republic on the Sovereignty of the Estonian SSR, cit. note 105.

<sup>114</sup> Declaration of the Supreme Council of the Lithuanian Socialist Soviet Republic on the State Sovereignty of Lithuania, May 26<sup>th</sup> 1989.

<sup>115</sup> Declaration of the Supreme Council of the Latvian Socialist Soviet Republic on the State Sovereignty of Latvia, July 28<sup>th</sup> 1989. [http://www.saeima.lv/4maijs/docs/d\\_28julijs.htm](http://www.saeima.lv/4maijs/docs/d_28julijs.htm)

<sup>116</sup> Constitutional law of the Azerbaijani Socialist Soviet Republic on the State Sovereignty of Azerbaijani SSR, September 23<sup>rd</sup> 1989. [http://republic.preslib.az/en\\_f1.html](http://republic.preslib.az/en_f1.html)

<sup>117</sup> On the phenomenon called 'Parade of Sovereignties' see J. KAHN, *The Parade of Sovereignties: Establishing the Vocabulary of the New Russian Federalism*, in *Post-Soviet Affairs*, Vol. 16, N. 1, 2000, pp. 58-89.

<sup>118</sup> J. RUSSELL, *Improbable Unions: the Draft of Union Treaties in the USSR, 1990-1991*, in *Review of Central and East European Law*, N. 4, Vol. 22, 1996, pp. 389-416

In fact, the Soviet Union had been established in 1922 by an international treaty<sup>119</sup> signed by then four Soviet Republics and changing it, as proposed by the President, meant to transform the very structure and the nature of the USSR.

## 1.2. The New Union Treaty: the Union of Sovereign States

Following December's decision and given the situation in the Soviet Republics, on January 16<sup>th</sup> 1991 the Supreme Council of the Soviet Union adopted a decree on holding, on March 17<sup>th</sup> 1991, a referendum on the future of the Soviet Union<sup>120</sup>. Not all the Soviet Republics accepted the decision. Those that had already declared sovereignty or independence blocked the organisation of the referendum and instead organised autonomous referendums on the independence of the Republic from the Soviet Union<sup>121</sup>.

The citizens of the Soviet Union Republics where the referendum was regularly held on March 17<sup>th</sup> 1991 voted for preserving the Country in

---

<sup>119</sup> Treaty on the Creation of the Union of the Soviet Socialist Republics, December 30<sup>th</sup> 1922.

<sup>120</sup> Decree of the Supreme Council of the USSR N°1910-I, January 16<sup>th</sup> 1991.

<http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=ESU&n=4377#007387286860276121>. The decree provided for the question that should be put to voters: "Считаете ли Вы необходимым сохранение Союза Советских Социалистических Республик как обновленной федерации равноправных суверенных республик, в которой будут в полной мере гарантироваться права и свободы человека любой национальности". ("Do you consider necessary the preservation of the Union of Soviet Socialist Republics as a renewed federation of equal sovereign republics in which the rights and freedom of an individual of any nationality will be fully guaranteed?").

<sup>121</sup> CSCE, Referendum in the Soviet Union: a Compendium of Reports on the March 17<sup>th</sup>, 1991 Referendum on the Future of the USSR, Washington DC, April 1991, p. V.

<https://www.csce.gov/sites/helsinkicommission.house.gov/files/Referendum%20in%20the%20Soviet%20Union.pdf>



a renewed form. The ‘yes’ answer to the referendum question received more than 76% of the expressed preferences<sup>122</sup>. Therefore, the leaders of the nine Soviet Republics were the referendum was regularly held started drafting a new treaty known as the New Union Treaty that should transform the USSR into a new State. The negotiation process during which the nine leaders discussed about the new Treaty, known as the Novo Ogarëvo Process, was formally recognised by the Supreme Council of the USSR on May 22<sup>nd</sup> 1991. On that day, by adopting Decree N°2187-I, the Supreme Council of the USSR established that the Novo Ogarëvo Process should include representatives of the supreme organs of the USSR, which should play an active role in signing the reformation Treaty<sup>123</sup>.

The Novo Ogarëvo Process was a complicated process of political and legal negotiation between the President of the USSR M. S. Gorbačëv, the Soviet Republics and the supreme organs of the USSR. On the topic many works have been written and for the purposes of the present work only the major events and the characteristics of the new proposed reformed State will be taken into account.

During summer 1991, the Parties reached an agreement on a new reformed State, in the form of a federation, named Union of the Sovereign Soviet Republics<sup>124</sup>. This way they kept unmodified the acronym USSR. Nevertheless, during the negotiation a strong stress was put on the word ‘State’, to refer to the constituent Republics, as can be read at the first point

---

<sup>122</sup> Ibid., p. 41.

<sup>123</sup> Decree of the Supreme Council of the USSR N°2187-I, May 22<sup>nd</sup> 1991.

[http://www.libussr.ru/doc\\_ussr/usr\\_18814.htm](http://www.libussr.ru/doc_ussr/usr_18814.htm)

<sup>124</sup> Treaty on the Union of the Sovereign States, July 23<sup>rd</sup> 1991, published by Pravda, N°194 (23460), August 15<sup>th</sup> 1991. [https://yeltsin.ru/uploads/upload/newspaper/1991/izv08\\_15\\_91/index.html](https://yeltsin.ru/uploads/upload/newspaper/1991/izv08_15_91/index.html)

of the Basic Principles of the Treaty<sup>125</sup>. The word State is used the all along the Treaty to refer to the constituent Republics. This fact reflects the declarations of sovereignty that had been issued by many of the Soviet Republics at the moment of the negotiations<sup>126</sup>. Article 1 of the Treaty, left the possibility opened for other States to join the new federation, but more interesting, stated that the Constituent Republics would be able to leave the new Union of Soviet Sovereign Republics<sup>127</sup>.

On August 2<sup>nd</sup> 1991, the President of the USSR M. S. Gorbačev send a letter to the Supreme Council of the USSR in which he proposed to open the New Union Treaty for signatures on August 20<sup>th</sup> 1991<sup>128</sup>. Nevertheless, dramatic events happened in the following weeks and negotiations on the New Union Treaty had to be reopen.

### **1.3 The coup d'état and the dissolution of the Soviet Union**

On August 18<sup>th</sup> 1991, two days before the opening of the New Union Treaty for signatures, high Soviet officials established the State Committee on the State of Emergency (SCSE). Soviet people learnt about it in the early hours of August 19<sup>th</sup>, when the establishment of the SCSE was announced by the radio and, later, by Soviet television, when also an official statement

---

<sup>125</sup> Treaty on the Union of the Sovereign States, point first. The text of the Treaty says the 'Каждая республика — участник Договора — является суверенным государством.' ('Every republic – party of the Treaty – is a sovereign States'). Ibid.

<sup>126</sup> See note 117.

<sup>127</sup> Art. 1 of the Treaty on the Union of the Sovereign States, cit. note 124.

<sup>128</sup> In his speech at the Soviet television on August 2<sup>nd</sup> 1991, M. S. Gorbačev stated that ('Today I sent a letter to the heads of the delegation, delegated by the Supreme Council of the Republics, containing the proposal to open the Treaty for signature on August 20<sup>th</sup> of this year'). The speech was reported by the newspaper *Izvestija*, N°184 (23450), August 3<sup>rd</sup> 1991, p. 1.

[https://yeltsin.ru/uploads/upload/newspaper/1991/izv08\\_03\\_91/index.html](https://yeltsin.ru/uploads/upload/newspaper/1991/izv08_03_91/index.html)

was read. The document, known as the ‘declaration of Soviet leadership’, was signed by the Vice-President of the USSR Gennadij Ivanovič Janaev (reported as ‘acting president’ in the document), the Prime Minister of the USSR Valentin Sergeevič Pavlov and the responsible for State defence issues Oleg Dimitrievič Baklanov<sup>129</sup>. The declaration contained a short preamble in which was stated that, due to health reasons, presidential functions were transferred from M. S. Gorbačev to G. I. Janaev

On December 7<sup>th</sup> 1991, the President of Belarus Stanislav Stanislavovič Šuškevič, the President of the Russian Soviet Federative Republic (RSFR) Boris Nikolaevič El’cin and the President of the Ukraine Leonid Makarovič Kravčuk, along with the respective State delegations, met in the governmental hunting estate of Viskuli, in the Belarussian side of Belaveža Forest.

On the day after, December 8<sup>th</sup> 1991, the three leaders came out with two documents (known together as the Belaveža Accords) of dramatic importance<sup>130</sup>: a declaration of the Heads of State of the Republic of Belarus, the RSFR and the Ukraine<sup>131</sup> and the Agreement on the

---

<sup>129</sup> The Declaration of the Soviet Leadership was read on the TV programme ‘Vremja’. Text available at [http://www.aha.ru/~intcentr/gkchp\\_5.htm](http://www.aha.ru/~intcentr/gkchp_5.htm)

<sup>130</sup> Both documents were signed on the same day. The order in which they are presented in this section is considered by the author more functional for the subsequent explanation. Nevertheless, on the official register of legal acts of the CIS (<http://cis.minsk.by/reestr/ru/index.html#reestr/create>) the Agreement on the Establishment of the Commonwealth of Independent States is presented first and the Declaration of the Heads of State of the Republic of Belarus, the RSFR and the Ukraine second. Such is also the chronological order of signature indicated by the text of the Declaration of the Heads of State of the Republic of Belarus, the RSFR and the Ukraine.

<sup>131</sup> Declaration of the Heads of State of the Republic of Belarus, the RSFR and the Ukraine, Minsk, December 8, 1991. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=3447>

Establishment of the Commonwealth of Independent States<sup>132</sup>. The text Belaveža Accords strongly reflects the political position of the signatories during the negotiation phase<sup>133</sup>.

In the declaration, the three leaders take note of the actual situation of the talks on the new Treaty and that the exit of several Republics from the USSR is a matter of fact, insinuating that the responsibility for the economic, political and social crisis belong to the central Government<sup>134</sup>. The signatories then, when speaking about the inter-ethnic conflicts, refer to the USSR as to the “former Union” of the Socialist Soviet Republics<sup>135</sup>. The idea that the USSR no longer existed was confirmed in the following paragraph of the document, when the three Heads of States announce the creation of the Commonwealth of Independent State, which founding Agreement had been signed on the same day<sup>136</sup>. The following paragraph is an express invitation to all the other former Soviet Republics to join the

---

<sup>132</sup> Agreement on the Establishment of the Commonwealth of Independent States, Minsk, December 8, 1991. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=1>

<sup>133</sup> S. A. VOITOVICH, *The Commonwealth of Independent States: An Emerging Institutional Model*, in *European Journal of International Law*, No. 4, 1993, pp. 403-417.

<sup>134</sup> Declaration by the Heads of State of the Republic of Belarus, the RSFR and Ukraine, cit. note 131. The original text says: “[...] недальновидная политика центра привела к [...] кризису [...]” (“[...] the short-sighted policy from the centre led to [...] crisis [...]”).

<sup>135</sup> Declaration by the Heads of State of the Republic of Belarus, the RSFR and Ukraine, *ibid*. The Declaration literally says “принимая во внимание возрастание социальной напряженности во многих регионах бывшего Союза ССР [...]” (“taking into consideration the growth of social tension in several regions of the former Union of the Socialist Soviet Republics [...]”), *ibid*

<sup>136</sup> Declaration by the Heads of State of the Republic of Belarus, the RSFR and Ukraine, *ibid*. The announcement of the creation of the CSI was followed by the statement that the founding Agreement has already been signed: “[...] заявляем об образовании Содружества Независимых Государств, о чем сторонами 8 декабря 1991 года подписано Соглашение” (“[...] (We) announce the foundation of the Commonwealth of Independent States, on which the parties, on December 8th 1991, signed the (founding) Agreement”).

CIS. The invitation was also opened to other interested States<sup>137</sup>. Finally, the three leaders declare that the Member States of the CIS would respect the obligations incumbent on the former Soviet Union and that provide joint control on nuclear weapons<sup>138</sup>.

The second fundamental document signed by Boris Nikolaevič El'cin, Leonid Makarovič Kravčuk and Stanislav Stanislavovič Šuškevič was the Agreement on the Establishment of the Commonwealth of Independent States. The Agreement opens with Belarus, Russia and Ukraine recalling the fact that they are Founding States of the Soviet Union, signatories of the Treaty on the Creation of the Union of the Socialist Soviet Republics in 1922. The following sentence declares that the Union of the Socialist Soviet Republics no longer exist as a subject of international law and geopolitical entity<sup>139</sup>. The opening of the Preamble, containing the statement on the dissolution of the Soviet Union, brings

---

<sup>137</sup> Declaration by the Heads of State of the Republic of Belarus, the RSFR and Ukraine, *ibid*. It states that “Содружество Независимых Государств в составе Республики Беларусь, РСФСР, Украины является открытым для присоединения всех государств – членов Союза ССР” (“The Commonwealth of Independent States comprising the Republic of Belarus, the RSFSR and Ukraine is open for accession by all States members of the Union of Soviet Socialist Republics”).

<sup>138</sup> Declaration by the Heads of State of the Republic of Belarus, the RSFR and Ukraine, *ibid*. On this issue the Declaration words are: “Они гарантируют выполнение международных обязательств, вытекающих для них из договоров и соглашений бывшего Союза ССР, обеспечивают единый контроль за ядерным оружием и его нераспространение” (“They undertake to discharge the international obligations incumbent on them under treaties and agreements entered into by the former Union of Socialist Soviet Republics and are making provision for joint control over nuclear weapons and for their non-proliferation”).

<sup>139</sup> Agreement on the Establishment of the Commonwealth of Independent States, *cit. note 132*. The words on the dissolution of the USSR are: “Союз ССР как субъект международного права и геополитическая реальность, прекращает свое существование” (“The Union of Soviet Socialist Republic as a subject of international law and a geopolitical reality no longer exists”).

about a legal challenge, whether may the three High Contracting Parties<sup>140</sup> take decisions on the status of the Soviet Union that consisted of nine more Soviet Republics at the date of signature of the Agreement on the establishment of the Commonwealth of Independent States<sup>141</sup>.

As stated earlier, the Soviet Union was established in 1922 by a treaty signed by the Belorussian Soviet Socialist Republic (SSR), the Russian Soviet Federative Republic (SFSR), the Ukrainian Soviet Socialist Republic and the Transcaucasian Soviet Federative Socialist Republic<sup>142</sup>. The Treaty, along with the Declaration of the Creation of the USSR, were taken as basis for the Constitution of the Soviet Union of 1924. The number of the Republics increased in 1920s, when the Turkmen SSR, the Uzbek<sup>143</sup> SSR and later the Tajik SSR were established<sup>144</sup>. In 1936, a new Constitution was adopted and the architecture of the State was changed<sup>145</sup>. The Transcaucasian SFSR was split into three different Republics, the

---

<sup>140</sup> Agreement on the Establishment of the Commonwealth of Independent States, *ibid.* “между Высокими Договаривающимися Сторонами” (“between the High Contraction Parties”).

<sup>141</sup> The Baltic States had already been recognised independent States by the international community and were already full members of the United Nations since September 17<sup>th</sup>, 1991. <http://www.un.org/en/member-states/>

<sup>142</sup> Treaty on the Creation of the Union of the Soviet Socialist Republics, December 30<sup>th</sup> 1922, *cit. note* 119.

<sup>143</sup> Decree of the 3<sup>rd</sup> Congress of the Soviets of the USSR “on the membership to the USSR of the Turkmen and the Uzbek SSR”, May 13, 1925. <http://constitution.garant.ru/history/ussr-rsfsr/1924/postanovleniya/3946690/>

<sup>144</sup> Decree of the CEC of the USSR “on the immediate membership to the USSR of the Tajik SSR”, December 9, 1929. <http://constitution.garant.ru/history/ussr-rsfsr/1924/postanovleniya/3946698/>

<sup>145</sup> Constitution of the Union of the Soviet Socialist Republics, December 5 1936. [http://constitution.garant.ru/history/ussr-rsfsr/1936/red\\_1936/3958676/](http://constitution.garant.ru/history/ussr-rsfsr/1936/red_1936/3958676/)

Armenian SSR, the Azerbaijani SSR and the Georgian SSR<sup>146</sup>. Moreover, two new Soviet Socialist Republics were created, the Kazakh SSR and the Kyrgyz SSR<sup>147</sup>. Finally, in 1940s were created the Lithuanian SSR, the Latvian SSR, the Estonian SSR and the Moldovan SSR<sup>148</sup>.

In 1977, a third Constitution was adopted<sup>149</sup> and it was the fundamental chart into force in 1991 when the USSR was dissolved. 1977's Constitution mentioned in the Preamble the preservation of continuity of ideas and principles of the Constitution of 1924 (that contained the Declaration of 1922 in its Preamble and which text was based on the Treaty of 1922) and the Constitution of 1936<sup>150</sup>. The aforementioned 15 Soviet Socialist Republics were described as equal and voluntarily associated into the Union of Soviet Socialist Republics, an integral, federal and multinational State<sup>151</sup>. The Constitution also granted Federated Republics the right to secede from the Federation.

A first observation is that when the Heads of State of Belarus, Russian and Ukraine signed the Agreement on the Establishment of the Commonwealth of Independent States declaring the dissolution of the

---

<sup>146</sup> Art. 13 of the Constitution of the USSR of 1936, cit. note 145. The Article does not mention the Transcaucasian SFSR and in her place includes as constituent Soviet Republics the Armenian SSR, the Azerbaijani SSR and the Georgian SSR.

<sup>147</sup> Ibid.. The Article include as constituents Soviet Republics the Kazakh SSR and the Kyrgyz SSR.

<sup>148</sup> Art. 13 of the Constitution of the USSR of 1936, in its amended redaction of August 7th 1940, [http://constitution.garant.ru/history/ussr-rsfsr/1936/red\\_1936/3958681/](http://constitution.garant.ru/history/ussr-rsfsr/1936/red_1936/3958681/). The Article includes as constituent Soviet Republics the Estonian SSR, the Latvian SSR, the Lithuanian SSR and the Moldovan SSR.

<sup>149</sup> Constitution of the Union of the Socialist Soviet Republics, October 7, 1977, [http://constitution.garant.ru/history/ussr-rsfsr/1977/red\\_1977/5478732/](http://constitution.garant.ru/history/ussr-rsfsr/1977/red_1977/5478732/)

<sup>150</sup> Preamble of the Constitution of the Union of the Socialist Soviet Republics of 1977, *ibid.*

<sup>151</sup> Artt. 70 and 71 of the Constitution of the Union of the Socialist Soviet Republics of 1977, *Ibid.*

Soviet Union they represented indeed the only three Founding Members of the Soviet Union in 1922 (being the Transcaucasian SFSR split in 1936<sup>152</sup>). On the other side, the status of all the 15 Republics of the Union was equal, there is no mention to the Founding States as such in the Constitution of 1977 and therefore the signatories of the Agreement on the Establishment of the CIS represented just three out of twelve Republics.

The second observation is that the Belarus, Russia and Ukraine, as Republics of the Union, had the right to secede<sup>153</sup> from the Soviet Union but not to dissolve the Country. The USSR was a single entity whose sovereignty extended on the whole territory of the State and whose laws represented the highest level in the hierarchy of sources of law within the State<sup>154</sup>. From a legal perspective, therefore the dissolution of the Union of the Soviet Socialist Republics could have been challenged by the other Federate Republics or by the Central State<sup>155</sup>.

The problem of the dissolution of the USSR was not the sole question posed by the Belaževa Accords. Observers noted for example that Art. 11 formulation, that states that no foreign law, included the one of the USSR is valid on the territory of the States, would have made even more complicated than usual the normal process of legal succession of States. Moreover, in the Belaževa Accords there is no clause on the entering into force of the Treaty<sup>156</sup>.

---

<sup>152</sup> See note 146.

<sup>153</sup> Art. 72 of the Constitution of the Union of the Socialist Soviet Republics of 1977, cit. note 149.

<sup>154</sup> Art. 74 and 75 of the Constitution of the Union of the Socialist Soviet Republics of 1977, Ibid.

<sup>155</sup> S. A. VOITOVICH, *The Commonwealth of Independent States: An Emerging Institutional Model*, in *European Journal of International Law*, No. 4, 1993, pp. 403-417.

<sup>156</sup> Ibid.



The President of the Soviet Union Mikhail Sergeevič Gorbačev, in fact, tried to timidly challenge the Belaževa Accords reading a statement broadcasted on television on Monday, December 9<sup>th</sup> 1991<sup>157</sup>. In the statement, he contested the right of the three Signatories of the Accords to dissolve the Soviet Union (despite recognising the right of the three to leave the Union in any moment)<sup>158</sup>. The President of the Soviet Union also pointed out that the New Union Treaty drafted by the Council of State of the USSR was undergoing examination<sup>159</sup>. His words also suggest that Mikhail Sergeevič Gorbačev had suspicions on the fact that the Belaževa Agreement was redacted in order to sabotage the New Union Treaty. On this regard, the President expressed his perplexity, noting that the

---

<sup>157</sup> The text of the statement of the President of the Soviet Union Mikhail Sergeevič Gorbačev was reported by the newspaper “Izvestija”, N° 293, December 10<sup>th</sup> 1991, p. 2, [https://yeltsin.ru/uploads/upload/newspaper/1991/izv12\\_10\\_91/index.html](https://yeltsin.ru/uploads/upload/newspaper/1991/izv12_10_91/index.html).

<sup>158</sup> Statement of the President of the USSR M.S. Gorbačev, Ibid. On this matter the President of the USSR stated: “В любом случае для меня очевидно следующее. Соглашение прямо объявляет о прекращении существования Союза ССР. Безусловно, каждая республика имеет право выхода из Союза, но судьба многонационального государства не может быть определена волей руководителей трех республик” (“In any case it is obvious to me the following. The Agreement straight announces the end of the existence of the Union of the Soviet Socialist Republics. Definitely, any Republic has the right to exit the Union, but the destiny of a multinational State cannot be determined by the will of the Heads of three Republics”).

<sup>159</sup> Statement of the President of the USSR M.S. Gorbačev, Ibid. On the New Union Treaty and its examination the President of the USSR stated: “Вызывает недоумение скоропалительность появления документа. Он не был обсужден ни населением, ни Верховными Советами республик, от имени которых подписан. Тем более это произошло в тот момент, когда в парламентах республик обсуждается проект Договора о Союзе суверенных Государств, разработанный Государственным Советом СССР” (“The sudden appearance of the document raises perplexity. It was not discussed neither by the population nor by the Supreme Council of the Republics, in the name of which it was signed. Moreover, it happened in the very moment, when the project of the Treaty on the Union of Sovereign States drafted by the Council of State of the USSR is discussed by the Parliaments of the Republics).

document suddenly appeared, on the days of the discussion on the New Treaty at Soviet republics level<sup>160</sup>. Nevertheless, the words of the President of the Soviet Union fell on deaf ears, since Belarus, Russia and Ukraine ratified the Agreement on the Establishment of the Commonwealth of Independent States in the following days, ignoring Gorbačev's words.

Eight more Soviet Republics, instead of challenging the Belaževa Accords, decided to join the Commonwealth of Independent States. On December 21<sup>st</sup> 1991, the Leaders of Belarus, Russia and Ukraine gather along with the Leaders of Azerbaijan, Armenia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan and Uzbekistan in Alma-Ata (today Almaty), Kazakhstan. President Gorbačev again addressed the participants to the meeting, writing a letter on December 18<sup>th</sup> 1991<sup>161</sup>. This time, the President of the Soviet Union put forward his ideas on the Commonwealth, admitting that the ratification of the Agreement on the Establishment of the Commonwealth of Independent States by the Supreme Councils of the three signatory Republics, along with the statements of other Republics about joining the Commonwealth, had dramatically changed the situation<sup>162</sup>. During the Alma-Ata Summit, the Heads of State signed the

---

<sup>160</sup> Ibid.

<sup>161</sup> Letter of the President of the USSR M. S. Gorbačev to the participants to the Alma-Ata Summit on the Establishment of the Commonwealth of Independent States, [http://www.gorby.ru/userfiles/file/poslanie\\_prezidenta\\_ssr\\_18\\_12\\_.pdf](http://www.gorby.ru/userfiles/file/poslanie_prezidenta_ssr_18_12_.pdf)

<sup>162</sup> Letter of the President of the USSR M. S. Gorbačev, *ibid.* The President of the USSR writes: “Ратификация соглашения о создании содружества независимых государств Верховными оветами РСФСР, Украины, Беларуси и готовность Казахстана, Кыргызстана, Таджикистана и Туркменистана войти в состав учредителей содружества коренным образом изменили ситуацию” (“The ratification of the Agreement on the Establishment of the Commonwealth of Independent States by the Council of the RSFSR, Ukraine and Belarus and the readiness of Kazakhstan,

Alma Ata Declaration, the Protocol to the Agreement on the Establishment of the Commonwealth of Independent States, the Decision on the membership of the Member States of the CIS to the United Nations and other international organisations and the Agreement on the Coordination Institutions of the CIS. Two more documents on military matters were also signed, the Agreement on the joint measures in relation to nuclear weapons and a Protocol on the temporary joint armed forces. Together these six acts set the basis for the further development of the Commonwealth of Independent States.

The Alma Ata Declaration confirmed the dissolution of the Soviet Union and the establishment of the CIS<sup>163</sup>. All the eleven signatory States, as independent States, declare to recognise and respect the full sovereignty and territorial integrity of the other Parties<sup>164</sup>. Later the eleven States

---

Кыргызстан, Тажикистан и Туркменистан to join the founder memers of the Commonwealth have radically changed the situation”)

<sup>163</sup> Alma-Ata Declaration, Almaty, December 21<sup>st</sup> 1991.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=4>

<sup>164</sup> Alma-Ata Declaration, *ibid.* “[...]взаимного признания и уважения государственного суверенитета и суверенного равенства, неотъемлемого права на самоопределение, принципов равноправия и невмешательства во внутренние дела, отказа от применения силы и угрозы силой, экономических и любых других методов давления, мирного урегулирования споров, уважения прав и свобод человека, включая права национальных меньшинств, добросовестного выполнения обязательств и других общепризнанных принципов и норм международного права; признавая и уважая территориальную целостность друг друга и нерушимость существующих границ” (“[...]mutual recognition and respect for state sovereignty and sovereign equality, the inalienable right to self-determination, principles of equality and non-interference in internal affairs, the rejection of the use of force, the threat of force and economic and any other methods of pressure, a peaceful settlement of disputes, respect for human rights and freedoms, including the rights of national minorities, a conscientious fulfillment of commitments and other generally recognized principles and standards of international law; Recognising and respecting each other's territorial integrity and the inviolability of the existing borders”).

announced that with the creation of the Commonwealth of Independent States, the Union of Socialist Soviet Republics terminates its existence<sup>165</sup> and the international obligations of the Soviet Union will be fulfilled by the Member States of the CIS according to their own domestic constitutional procedures<sup>166</sup>. Such formulation about the end of the USSR appears to be more appropriate than the one in the Agreement on the Establishment of the Commonwealth of Independent States signed on December 8<sup>th</sup> 1991<sup>167</sup>.

The eleven States then, by signing the Protocol to the Agreement on the Establishment of the Commonwealth of Independent States<sup>168</sup> form, as High Contracting Parties, the Commonwealth of Independent States<sup>169</sup>.

---

<sup>165</sup> Alma-Ata Declaration, *ibid.* The dissolution of the Soviet Union is formulated as the following: “С образованием Содружества Независимых Государств Союз Советских Социалистических Республик прекращает свое существование” (“With the formation of the Commonwealth of Independent States, the Union of Soviet Socialist Republics ceases to exist”).

<sup>166</sup> Alma-Ata Declaration, *ibid.* On the international responsibility of the States the Declaration states: “Государства – участники Содружества гарантируют в соответствии со своими конституционными процедурами выполнение международных обязательств, вытекающих из договоров и соглашений бывшего Союза ССР” (“Participant states of the commonwealth guarantee, in accordance with their constitutional procedures, the fulfilment of international obligations stemming from the treaties and agreements of the former USSR”).

<sup>167</sup> S. A. VOJTOVICH, *The Commonwealth of Independent States: An Emerging Institutional Model*, *op.cit.*

<sup>168</sup> Protocol to the Agreement on the Establishment of the Commonwealth of Independent States between the Republic of Belarus, the Russian Federation (RSFSR) and Ukraine, Minsk, December 8<sup>th</sup>, 1991. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=6>

<sup>169</sup> Protocol to the Agreement on the Establishment of the Commonwealth of Independent States signed on December 8<sup>th</sup> 1991 in Minsk by the Republic of Belarus, the Russian Federation (RSFSR) and Ukraine, *ibid.* “Азербайджанская Республика, Республика Армения, Республика Беларусь, Республика Казахстан, Республика Кыргызстан, Республика Молдова, Российская Федерация (РСФСР), Республика Таджикистан, Туркменистан, Республика Узбекистан и Украина на равноправных началах и как Высокие Договаривающиеся Стороны образуют Содружество Независимых Государств” (“The Azerbaijani Republic, the Republic of Armenia, the Republic of

The Agreement would be in force for each State from the moment of its ratification<sup>170</sup>, a detail that was not specified in the original Agreement from December 8<sup>th</sup> 1991<sup>171</sup>.

During the summit, the Heads of State by signing the Agreement on the Coordinating Institutions of the CIS<sup>172</sup> also established the highest body of the Commonwealth of Independent States, the Council of Heads of State, and also a second body, the Council of the Heads of Government<sup>173</sup>. The Agreement also contained provisions for the competent authorities of the Member States to draft a proposal for the liquidation of the organs of the Soviet Union, to be examined by the Council of the Heads of States of the CIS on December 30<sup>th</sup> 1991<sup>174</sup>.

---

Byelorussia, the Republic of Kazakhstan, the Republic of Kirghizia, the Republic of Moldavia, the Russian Federation, the Republic of Tajikistan, Turkmenistan, the Republic of Uzbekistan and Ukraine, on an equal basis, and as high contracting parties, are forming a Commonwealth of Independent States”).

<sup>170</sup> Protocol to the Agreement on the Establishment of the Commonwealth of Independent States signed on December 8<sup>th</sup> 1991 in Minsk by the Republic of Belarus, the Russian Federation (RSFSR) and Ukraine, *ibid.* “Соглашение о создании Содружества Независимых Государств вступает в силу для каждой из Высоких Договаривающихся Сторон с момента его ратификации” (“The agreement on the creation of the Commonwealth of Independent States comes into force for each of the high contracting parties from the moment of its ratification”).

<sup>171</sup> Agreement on the Establishment of the Commonwealth of Independent States, cit. note 132.

<sup>172</sup> Agreement on the Coordinating Institutions of the Commonwealth of Independent States, Almaty, December 21<sup>st</sup>, 1991. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=2>

<sup>173</sup> Agreement on the Coordinating Institutions of the Commonwealth of Independent States, art. 1. *Ibid.* “[...] создать высший орган Содружества – “Совет Глав Государств”, а также “Совет Глав Правительств” (“[...] to establish the supreme organ of the Commonwealth – “The Council of the Heads of State”, and also the “Council of the Heads of Government”).

<sup>174</sup> Art. 2, Agreement on the Coordinating Institutions of the Commonwealth of Independent States, *ibid.* “Поручить полномочным представителям государств Содружества внести к 30 декабря 1991 года на рассмотрение Совета Глав Государств предложения об упразднении структур бывшего Союза ССР, а также о координационных институтах Содружества” (“To instruct the

Another extremely important act signed by the CIS Member States in Almaty was the Decision of the Council of the Heads of State of the CIS on the membership to the United Nations and other international organisations<sup>175</sup>. This act has dramatic importance in international relations and international law. All the eleven States supported Russian as a successor State of the USSR within the United Nations, including the seat in the UN Security Council, and other international organisations<sup>176</sup>. At international level, the immediate consequence of the decision was the letter of the Russian President to the Secretary-General of the United Nations H.E. Javier Pérez de Cuéllar. In the letter the Head of State informed that the membership of the USSR to the United Nations, including the seat at the Security Council, was to be taken over by Russia, supported in doing so by all the Member States of the CIS. Russia would assumed all the Soviet Union obligations, including financial ones<sup>177</sup>.

---

plenipotentiaries of the States of the Commonwealth to submit to the Council of the Heads of State, for December 30th 1991, a proposal on the liquidation of the structures of the former Union of Soviet Socialist Republics and also on the coordination institution of the Commonwealth).

<sup>175</sup> Decision of the Council of the Heads of State of the Commonwealth of Independent States, Almaty, December 21<sup>st</sup>, 1991. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=5>

<sup>176</sup> Decision of the Council of the Heads of State of the Commonwealth of Independent States, *ibid*. “Государства Содружества поддерживают Россию в том, чтобы она продолжила членство СССР в ООН, включая постоянное членство в Совете Безопасности, и других международных организациях” (“The States of the Commonwealth support Russia in taking over the USSR membership in the U.N., including permanent membership in the Security Council and other international organizations”).

<sup>177</sup> Letter of the President of the RSFSR to the Secretary-General of the UN, December 24<sup>th</sup>, 1991.

[https://ru.wikisource.org/wiki/%D0%9F%D0%B8%D1%81%D1%8C%D0%BC%D0%BE\\_%D0%9F%D1%80%D0%B5%D0%B7%D0%B8%D0%B4%D0%B5%D0%BD%D1%82%D0%B0\\_%D0%A0%D0%A1%D0%A4%D0%A1%D0%A0\\_%D0%93%D0%B5%D0%BD%D0%B5%D1%80%D0%B0%D0%BB%D1%8C%D0%BD%D0%BE%D0%BC%D1%83\\_%D1%81%D0%](https://ru.wikisource.org/wiki/%D0%9F%D0%B8%D1%81%D1%8C%D0%BC%D0%BE_%D0%9F%D1%80%D0%B5%D0%B7%D0%B8%D0%B4%D0%B5%D0%BD%D1%82%D0%B0_%D0%A0%D0%A1%D0%A4%D0%A1%D0%A0_%D0%93%D0%B5%D0%BD%D0%B5%D1%80%D0%B0%D0%BB%D1%8C%D0%BD%D0%BE%D0%BC%D1%83_%D1%81%D0%)

Finally, during the Almaty summit were signed two documents concerning military issues. One was signed by all the eleven Heads of State and regarded the Armed Forces and the nuclear arsenal, to be put under a joint headquarter until reformation<sup>178</sup>. The second one was the Agreement on the joint measures in relation to nuclear weapons<sup>179</sup> and involved Belarus, Kazakhstan, Russia and Ukraine. Under the Agreement the Parties were bound to non-proliferation obligations<sup>180</sup> and adopted provisions to liquidate nuclear weapons<sup>181</sup>. In case of necessity before the complete destruction or removal of the weapons in Belarus and Ukraine, the President of the Russian Federation shall take the decision on the usage of the weapons, in agreement with the Heads of States of the other contracting Parties<sup>182</sup>.

The whole Almaty summit was described by a scholar as the last step of a dismemberment process, which led to the extinction of the Soviet Union. The Alma-Ata Declaration is to be seen as the *contrarius actus* to the Treaty on the Creation of the USSR of 1922 and put the final word on the existence of the Union of Soviet Socialist Republics<sup>183</sup>.

---

B5%D0%BA%D1%80%D0%B5%D1%82%D0%B0%D1%80%D1%8E\_%D0%9E%D0%9E%D0%9D\_%D0%BE%D1%82\_24.12.1991

<sup>178</sup> Protocol of the meeting of the Heads of Independent States, December 21<sup>st</sup>, 1991.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=3412>

<sup>179</sup> Agreement on the joint measures in relation to nuclear weapons, December 21<sup>st</sup>, 1991.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=3>

<sup>180</sup> Agreement on the joint measures in relation to nuclear weapons, *ibid*.

<sup>181</sup> Agreement on the joint measures in relation to nuclear weapons, *ibid*.

<sup>182</sup> Agreement on the joint measures in relation to nuclear weapons, *ibid*.

<sup>183</sup> T. SCHWEISFURTH, *Vom Einheitsstaat (UdSSR) zum Staatenbund (GUS)*, in *ZaöRV*, 48, No. 3, 1992, pp. 541-702

After the Almaty summit, events evolved extremely fast. The Russian Federation, whose official name was still Russian Socialist Federative Soviet Republic (RSFSR)<sup>184</sup>, was officially renamed the day after the request to the United Nations, on December 25<sup>th</sup> 1991, when the Supreme Council of the RSFSR approved the law on the name change<sup>185</sup>.

From this moment on, all the States (that can be now defined “Post-Soviet States”) will cooperate as sovereign Countries within different regional cooperation frameworks, starting from the Commonwealth of Independent States. As will be exposed in Section 2, regional cooperation in the Post-Soviet space followed different paths (all in some way stemmed from the Commonwealth of Independent States) that has brought about different regional integration projects between the Post-Soviet States, the most recent one being the Eurasian Economic Union, the subject of the present research.

## **2. Cooperation between Post-Soviet Governments after the fall of the Soviet Union**

In this section of the work the relations between the former Soviet States will be examined, putting the focus on the regional integration projects developed before the creation of the Eurasian Economic Union. Such analysis allows to understand in general the dynamics of the relations within the Post-Soviet space and, more specifically, to enter into the

---

<sup>184</sup> Both the Belaževa Accords and the Alma-Ata Protocols were stipulated under the name of Russian Federation (RSFSR), see notes 131 and 132.

<sup>185</sup> Law of the RSFSR N°. 2094-I "On renaming of the Russian Soviet Federative Socialist Republic", December 25<sup>th</sup>, 1991. [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_7402/](http://www.consultant.ru/document/cons_doc_LAW_7402/)



political and legal dynamics both within and between Post-Soviet States and to fully understand the regional integration process that led to the Eurasian Economic Union. These will all be key elements in chapter 3, when the member States of the EAEU will be analysed and compared as single cases and then the EAEU will be analysed as a case herself and put into relation with the European Union into a comparative perspective.

## 2.1. The Commonwealth of Independent States

The first regional integration design taken into account is the Commonwealth of Independent States (CIS), which genesis was discussed in section 1 of the present chapter.

After its controversial establishment, the Heads of the States, which have signed the Almaty Protocol ten days earlier, met again in Minsk, Belarus, to sign, on December 30<sup>th</sup> 1991, the Temporary agreement on the Council of the Heads of States and the Council of the Heads of Government of the Commonwealth of Independent States<sup>186</sup>. With the Agreement, two councils were established, in order to coordinate the work and the cooperation within the CIS<sup>187</sup> and they had the faculty of establishing new working organs and subsidiary bodies<sup>188</sup>.

An important step taken during the first year of existence of the Commonwealth of Independent States was the adoption of the Charter of

---

<sup>186</sup> Temporary agreement on the Council of the Heads of States and the Council of the Heads of Government of the Commonwealth of Independent States, Minsk, December 30<sup>th</sup>, 1991. <http://www.cis.minsk.by/page.php?id=10914>

<sup>187</sup> Preamble to the Agreement on the Establishment of the Commonwealth of Independent States, cit. note 132..

<sup>188</sup> Art. 7 of the Agreement on the Establishment of the Commonwealth of Independent States, Ibid.

the CIS, on January 22<sup>nd</sup> 1993<sup>189</sup>. The document has been fundamental in shaping the Commonwealth of Independent States and in defining its role. In Article 1, the Charter remarks the independence of the Member States, and states that the Commonwealth is not a State and has not supranational powers<sup>190</sup>. A strong accent is placed on economic cooperation, with the goal of establishing a common economic space to guarantee the so called “four freedoms” (free movement of goods, services, capital and labour)<sup>191</sup>. The Charter was ratified by all the Members States of the Commonwealth of Independent States, including Georgia at the moment of its accession on December 9<sup>th</sup> 1993<sup>192</sup>. The sole exceptions are Turkmenistan and Ukraine, which not having ratified the Charter<sup>193</sup>, according to Article 7 cannot be considered as Member States of the CIS but are recognised as Founding States<sup>194</sup> or Participant States<sup>195</sup>. Nevertheless, both States participate in the summits of the Commonwealth of Independent States and no acts of the CIS state a clear distinction between Member or Participant statuses<sup>196</sup>.

---

<sup>189</sup> Charter of the Commonwealth of Independent States, January 22<sup>nd</sup>, 1992. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=187>

<sup>190</sup> Art. 1 of the Charter of the Commonwealth of Independent States, Ibid.: “Содружество не является государством и не обладает наднациональными полномочиями” (“The Commonwealth is not a State and it has no supranational powers”).

<sup>191</sup> Art. 19 of the Charter of the Commonwealth of Independent States. Ibid..

<sup>192</sup> Charter of the Commonwealth of Independent States, cit. note 189.

<sup>193</sup> CIS, *On the Commonwealth of Independent States*, Official website of the CIS, <http://cis.minsk.by/page.php?id=174>

<sup>194</sup> Art. 7 of the Charter of the Commonwealth of Independent States, cit.

<sup>195</sup> See note 193.

<sup>196</sup> V. V. VOROB'EV, *Étapy formirovanja Sodružestva Nezavisimyh Gosudarstv v 1990-3 gody*, in *Vestnik Čel'jabskogo gosudarstvennogo universiteta*, 34, No 249, 2011, pp. 90-96

For at least two years, 1992 and 1993, the role of the Commonwealth of Independent States appeared to be that of coordinating the separation between the Post-Soviet States. Cooperation was then focused towards a process of “regulated dismembering” more than a process of regional integration. To this extent, two were the most important institutions functioning during the first years of existence of the Commonwealth of Independent States<sup>197</sup>.

### 2.1.1. Military cooperation

The first important institution active within the CIS in its very first moments of existence were the joint armed forces of the Commonwealth of Independent States. The basis for the joint armed forces was the Agreement on the Strategic forces signed in Minsk on December 30<sup>th</sup> 1991<sup>198</sup>. On February 14<sup>th</sup> 1992, the Heads of State signed a further Agreement on the Status of Strategic Forces<sup>199</sup> in which put the forces under the Command of Strategic Forces. The Command was made up by the Council of the Heads of States and the Command of the Joint Armed Forces of the CIS<sup>200</sup>. On the same day, the Heads of eight States, signed a

---

<sup>197</sup> A. LIBMAN, E. VINOKUROV  *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, op. cit., p. 39

<sup>198</sup> Agreement between the Participant States of the Commonwealth of Independent States on the Strategic forces, February 14<sup>th</sup>, 1992. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=9>

<sup>199</sup> Agreement between the Participant States of the CIS on the Status of the Strategic Forces, February 14<sup>th</sup>, 1992. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=32>

<sup>200</sup> Agreement on the Status of the Strategic Forces, *ibid.* “Руководство Стратегическими силами Содружества осуществляет Командующий Стратегическими силами, подчиненный Совету глав государств и Главнокомандующему Объединенными Вооруженными Силами Содружества Независимых Государств” (“The Leadership of the Strategic Forces of the Commonwealth is hold by the Commander of the Strategic Forces, subordinated to the Council of the

second act, the Agreement on Joint Armed Forces for a transitory period<sup>201</sup> in which established joint armed forces. The provisions were extended on March 20<sup>th</sup> 1991 to all the Member States of the CIS by the Agreement of Kiev on Joint Armed Forces for a transitory period<sup>202</sup>. On the same day was also signed the Decision on the High Command of the Joint Armed Forces of the Commonwealth of Independent States<sup>203</sup>, officially establishing the High Command, under the powers given to the Council of Heads of State by the Temporary agreement on the Council of the Heads of States and the Council of the Heads of Government of the Commonwealth of Independent States<sup>204</sup>.

Nevertheless, already in 1992 all the Post-Soviet States had already started a process of construction and development of national armed forces. On May 15<sup>th</sup> 1992 in Tashkent, the Heads of State of six States

---

heads of State and to the General Command of the United Armed Forces of the Commonwealth of Independent States”)

<sup>201</sup> The Parties of the agreement were Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan and Uzbekistan. Agreement on Joint Armed Forces for a transitory period. Minsk, February 14<sup>th</sup>, 1992. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=33>

<sup>202</sup> Agreement on Joint Armed Forces for a transitory period. Kiev, March 20<sup>th</sup>, 1992. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=59>.

<sup>203</sup> Decision on the High Command of the Joint Armed Forces of the Commonwealth of Independent States, Kiev, March 20<sup>th</sup>, 1992.. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=65>

<sup>204</sup> Decision on the High Command of the Joint Armed Forces, *ibid.* “принимая во внимание Временное соглашение о Совете глав государств и Совете глав правительств Содружества Независимых Государств от 30 декабря 1991 года, решили: 1. Создать Главное командование Объединенных Вооруженных Сил Содружества Независимых Государств” (“taking into attention the Temporary Agreement on the Council of the Heads of State and the Council of the Heads of Government of Commonwealth of Independent States from December 30<sup>th</sup> 1991, decided: 1. To establish the High Command of the Joint Armed Forces of the CIS”).

signed the Collective Security Treaty<sup>205</sup>. The Treaty, while still referring to the Joint Armed Forces of the CIS and to the High Command, set the basis for a cooperation between national armies. In 1993 the project of the Joint Armed Forces of the CIS was drastically scaled down. The Joint High Command lost its prominent role, being rethought as an organ with coordinating functions named Headquarter for coordination of the military cooperation<sup>206</sup>. At the same time, more importance gained the Collective Security Treaty. First, in 1993 it was joined by three more States, Georgia (September 9<sup>th</sup> 1993, before than the official accession to the CIS<sup>207</sup>), Azerbaijan (September 23<sup>th</sup> 1993)<sup>208</sup> and Belarus (December 31<sup>st</sup> 1993)<sup>209</sup>. Second, the Treaty entered finally into force on April 20<sup>th</sup> 1994 for five years and was registered at the United Nations<sup>210</sup>. With the development of cooperation within the framework of the Collective Security Treaty, military cooperation was strengthened outside CIS. In 1999, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia and Tajikistan signed first renewal of the Treaty on collective security<sup>211</sup>, while Azerbaijan, Georgia and Uzbekistan refused the renewal retreating from the Treaty.

---

<sup>205</sup> Collective Security Treaty, Tashkent, May 15<sup>th</sup>, 1992.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=79>. The original Signatories were Armenia, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan and Uzbekistan.

<sup>206</sup> Decision on the Headquarter for coordination of military cooperation of the Participant States of the CIS. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=293>

<sup>207</sup> Collective Security Treaty, cit. note 205.

<sup>208</sup> Ibid.

<sup>209</sup> Ibid.

<sup>210</sup> Registration of the Collective Security Treaty at the United Nations, [http://www.odkb-csto.org/documents/detail.php?ELEMENT\\_ID=128](http://www.odkb-csto.org/documents/detail.php?ELEMENT_ID=128)

<sup>211</sup> Protocol on the prolongation of the Treaty on Collective security. [http://www.odkb-csto.org/documents/detail.php?ELEMENT\\_ID=127](http://www.odkb-csto.org/documents/detail.php?ELEMENT_ID=127)

On October 7, 2002, the six States established the Collective Security Treaty Organisation<sup>212</sup>, an international organisation with juridical personality<sup>213</sup> still active nowadays as it will be exposed later. Military cooperation at an all-CIS level is today less active, despite an important mostly political role is played by the Council of the Ministers of Defence of the CIS<sup>214</sup>, an organ to which all the functions of the Headquarter for military coordination were transferred starting January 1, 2006<sup>215</sup>.

### 2.1.2. The “Rouble zone” and economic divorce

The other important institution functioning within the Commonwealth of Independent States during the transitional years immediately after the dissolution of the Soviet Union was the so-called “Rouble zone”. Immediately after the dissolution of the Soviet Union, all the 15 former Soviet Republics continued using the Soviet rouble as their currency, maintaining a zone where the rouble was still the legal currency. Moreover, all the newly established States had established their own central banks that, nevertheless, issued non-cash credits in roubles, even in those cases when the issuing of national cash ‘coupons’ started already. The situation started slowly to change, also under pressure of the Central Bank of the Russian Federation that introduced new requirements and adopted

---

<sup>212</sup> Charter of the Collective Security Treaty Organisation, October 7, 2002. [http://www.odkb-csto.org/documents/detail.php?ELEMENT\\_ID=124](http://www.odkb-csto.org/documents/detail.php?ELEMENT_ID=124)

<sup>213</sup> Agreement on the Legal status of the Collective Security Treaty Organisation, Chişinău, October 7, 2002. [http://www.odkb-csto.org/documents/detail.php?ELEMENT\\_ID=125](http://www.odkb-csto.org/documents/detail.php?ELEMENT_ID=125)

<sup>214</sup> *Military cooperation*, Official CIS website. <http://www.cis.minsk.by/page.php?id=8622>

<sup>215</sup> Decision on improvement and reform of the Commonwealth of Independent States organs, Kazan’, August 26, 2005. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=1817>

policies that promoted more extensive adoption of the national ‘coupons’ or currencies in place of the rouble<sup>216</sup>.

For some States, the abandonment of the ‘Rouble zone’ was their own decision, as for example in the case of the Baltic countries. For other, the abandonment was accelerated by the exchange of rouble notes decided in summer 1993 by the Central Bank of the Russian Federation<sup>217</sup>. Nevertheless, within the CIS framework, a number of bilateral and multilateral agreements were signed, with the aim of re-establish some sort of monetary union<sup>218</sup>. The matter has also been object of speculation at the moment of the establishment of the Eurasian Economic Union, even if so far, as will be seen later, no official proposals for a monetary union between Member States has been put forward<sup>219</sup>.

### **2.1.3. The CIS member States as fully sovereign States**

1992 was the year in which all the former Soviet Republics established themselves a fully sovereign and independent States. On the one side the former Soviet Republics created the institutions and the structures, which are proper of sovereign and independent States. On the other cut the legal bonds that still tied them to each other as parts of a common State and negotiated new agreements as independent subjects, as

---

<sup>216</sup> M. DABROWSKI, *“The Reasons of the Collapse of the Ruble Zone”*. Center for Social & Economic Research, Warsaw, 1995.

<https://poseidon01.ssrn.com/delivery.php?ID=2200901270650030961261130931241030640540380890370480420101093081118000071112087093100042033122009045047071018124069105117016052078043034093126112088095000098124007069044125004076127094013065017112003076089019106001127086001100068029097081104074112&EXT=pdf>

<sup>217</sup> Ibid.

<sup>218</sup> Ibid.

<sup>219</sup> See chapter 3.2.

in the aforementioned case of the Treaty of collective security<sup>220</sup>. All the 15 former Soviet Republics, succeeded in being internationally recognised, becoming part of the international community. Being all the 15 former Soviet Republics fully sovereign and independent subjects on the international scene, by 1993 it became clear that any form of re-establishment of the Soviet Union, even in a deeply reformed fashion, were not realistic any more<sup>221</sup>. All the post-Soviet States were interested by processes of State and nation building, including the establishment of new political systems, State structures, legal systems and the developing of new types of political culture and national identities. Moreover, the post-Soviet States had to face the challenge of the world of international relations, of which became active players while before, as Soviet Republics, were represented on the international scene almost exclusively by the Soviet government<sup>222</sup>. The State and nation building processes will be thoroughly examined in section 1.5. of the present chapter, focusing on the transition between political and legal systems that means government systems, the new constitutional charts (and therefore the legal systems) and the

---

<sup>220</sup> See section 1.1 of the present chapter.

<sup>221</sup> As a matter of example, all the post-Soviet States had join the United Nations as full members by 1992. <http://www.un.org/en/member-states/>

<sup>222</sup> Art. 73.10 of the Constitution of the Union of the Socialist Soviet Republics of 1977, cit. note 149. The Constitution theoretically allowed the Soviet Republics for some degree of international relations: “представительство СССР в международных отношениях; связи СССР с иностранными государствами и международными организациями; установление общего порядка и координация отношений союзных республик с иностранными государствами и международными организациями; [...]” (“representation of the USSR in international relations; the USSR's relations with other states and with international organisations; establishment of the general procedure for, and co-ordination of, the relations of Union Republics with other states and with international organisations;[...]”)



development of the national identity and the political culture. It is instead more complicated to give an extensive overview of the international relations of all the post-Soviet States after 1993. Some of the States oriented their international policies toward aiming to keep closer ties with the former Soviet States, while other, especially the Baltic States, oriented their foreign policies towards the integration into the system of the European Union<sup>223</sup>. Moreover, the Russian Federation, as the Successor State of the Soviet Union, was bound by the international obligations of the USSR, including the permanent seat at the Security Council of the United Nations. For this reason, and given the impossibility of cover the whole matter, for what concerns international relations of the post-Soviet States, in the present work the focus is set on those processes that have led to the establishment of the Eurasian Economic Union in 2015<sup>224</sup>. Before going in depth in both the domestic and the international developments of the post-Soviet States, a few words must be said about the role of the first regional integration project in the post-Soviet Space, the Commonwealth of Independent States.

#### **2.1.4. The activities and the role of the CIS after 1993**

After the transition from the Soviet Union to fully sovereign States, the Commonwealth of Independent States considerably slowed down its activity. Many of the several signed documents have never entered in force for real. Starting from 1993, the Member States of the CIS started to

---

<sup>223</sup> The three States signed an association agreement with the EU in 1995 and later on the same year formally applied for membership. European Union, The History of the European Union – 1995, [https://europa.eu/european-union/about-eu/history/1990-1999/1995\\_en](https://europa.eu/european-union/about-eu/history/1990-1999/1995_en)

<sup>224</sup> See the introduction

dialogue on integration not anymore as a whole group, but in smaller groups of States, something that can somehow recall the multi-speed model within the European Union<sup>225</sup>. On September 24<sup>th</sup> 1993 in Moscow, the Member States of the CIS signed the Treaty on the Establishment of an Economic Union<sup>226</sup> that served as basis for future deeper economic integration, as will be seen from section 2.X Integration within the framework of the Commonwealth of Independent States will continue based on the cooperation of smaller groups of Countries that in 2000 would establish a new international organisation, the Eurasian Economic Community<sup>227</sup> (know as EurAsEC). The economic crisis of the second half of 2000s would then speed up further integration between the members of the Eurasian Economic Community<sup>228</sup> and finally would bring about the evolution of the latter into the Eurasian Economic Union.

#### **2.1.5. Theoretical overview of the State and nation building process in CIS members after 1993**

At domestic level, political and legal processes took different paths in different States. Once the stage of establishing full sovereignty was passed, the nation building of the single Post-Soviet States has developed in its own specific way. In chapter 3, this will be examined in depth for what concerns the Eurasian Economic Union Member States. Nevertheless

---

<sup>225</sup> A. LIBMAN, E. VINOKUROV, *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, op. cit. , pp. 41-42

<sup>226</sup> Treaty on the Establishment of an Economic Union, Moscow, September 24<sup>th</sup>, 1993.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=257>

<sup>227</sup> Treaty on the Establishment of the Eurasian Economic Community, Astana, October 10<sup>th</sup>, 2000.

[http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor\\_EvrAzES.aspx](http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor_EvrAzES.aspx)

<sup>228</sup> A. LIBMAN, E. VINOKUROV, *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, op. cit., p. 51

it is necessary now to briefly go through some key areas of State and nation building in Post-Soviet States. This is necessary for two reasons: first to give a theoretical layer to the case studies exposed in chapter 3 (in this case, the single Member States of the EAEU), and second to better understand the overall dynamics of interaction across the years that led to the establishment of the Eurasian Economic Union. The most relevant key areas of State and nation building for the present research are the development of the political and legal systems of the Post-Soviet States and the development of national identity and, more in general, of the political culture in the Post-Soviet States.

The political and legal system change in the Post-Soviet States started during the last years of existence of the Soviet Union, when the Soviet reforms increased the importance of Soviet Republics governmental structures and was then further strengthened during the aforementioned events that led to the full independence of the Soviet Republics and its establishment as full sovereign States. In this kind of seismic shifts, such as the transition from the Soviet Socialist system to the Post-Soviet one, the new State system can be seen as the result of a negotiation happened during the transition between the old system (in this specific case the Soviet Union) and the new one (the fifteen newly established sovereign republics). The negotiation involves to different extents both the institutional elites of the old system and non-institutional elites<sup>229</sup>. The objects of the negotiation in such cases are the new Constitution, and more in general the legal system, the government system, the electoral system and the conditions for

---

<sup>229</sup> G. GILL, *Democracy and Post-Communism: Political change in post-communist world*, 1<sup>st</sup> Ed., London and New York, Routledge, 2002, p. 20

real competition<sup>230</sup>. Of these four, the key elements concerning the development of the political and the legal system are the adoption of a new Constitution as a fundamental law on which to base the whole legal and political system and, subsequently, the type of government system. The electoral system and the conditions for competition will be considered later when exploring the issues linked to political culture.

The first key issue for the post-Soviet States was the adoption of new Constitutions. Though it happened in parallel to other events, like for example the establishment of new government structures, the new charts would have to reflect the aforementioned deep ongoing changes and serve as the fundamental law with which all the other laws should comply. It is, in fact, in the Constitution where the Government system and all the relations between States powers and institutions are precisely defined<sup>231</sup>. In fact, the preparatory works for the adoption of new constitutional charts had already started before the disintegration of the Soviet Union<sup>232</sup>, since following the Gorbačev's reformations it appeared clear that the Union itself was to be profoundly reformed at many levels (as exposed in section 1) and a new Union-level Constitution was to be adopted. For example, the Russian Federation, then Russian FSSR, started working on her new

---

<sup>230</sup> Ibid.

<sup>231</sup> M. N. MARČENKO, *Sovetskoe i postsovetskoe gosudarstvo i pravo*, 1st Ed., Moscow, Prospekt, 2017.

<sup>232</sup> R. LUDIKOWSKI, *Constitution Making in the Countries of Former Soviet Dominance: Current Development*, in *Georgia Journal of International and Comparative Law*, Vol. 23, N. 2, 1993, pp. 155-267

Constitution in 1990<sup>233</sup>. With few exceptions<sup>234</sup>, the adoption of the new charts became real only starting from late 1993. Not taking into account the aforementioned exceptions, the Russian Federation was the first State to adopt a new Constitution on December 25<sup>th</sup> 1993<sup>235</sup>. Gradually all the other Countries adopted their constitutional charts, abolishing the Soviet-time Constitutions that, despite deeply amended, were still the fundamental laws of the States, providing for the system of government<sup>236</sup>.

New post-Soviet Constitutions presented sections on the State organisation and the system of government, on the judiciary and on the fundamental rights of the citizens. Moreover, the charts include specific procedures for constitutional amendment<sup>237</sup>. Given the tremendous change in political system occurred with the regime change, the new constitution presented a drastically different approach, if compared to Soviet Constitutions. Among many differences, the one that many scholars pointed out to be the first clean break with the previous constitutional approach is new conception of separation of power, marked by the new

---

<sup>233</sup> Ibid.

<sup>234</sup> Not taking into account the Baltic States, only Uzbekistan (December 8<sup>th</sup>, 1992, <http://constitution.uz/en>), and Turkmenistan (May 8<sup>th</sup>, 1992, <https://wipolex.wipo.int/en/legislation/details/11374>) adopted a new Constitution during the first year of independence. Kyrgyzstan did it in 1993 (May 5<sup>th</sup>, 1993, <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN003682.htm>).

<sup>235</sup> Constitution of the Russian Federation, December 12<sup>th</sup>, 1993. <http://constitution.kremlin.ru/>

<sup>236</sup> The other post-Soviet States started adopting new charts starting from 1994. A full database can be found at the Constitute Project portal. <https://www.constituteproject.org/search?lang=en>

<sup>237</sup> R. R. LUDIKOWSKI, *Constitution Making in the Countries of Former Soviet Dominance: Current Development*, *op. cit.*

constitutional courts<sup>238</sup>, created in order to scrutinise the constitutionality of law in the Post-Soviet states. Such an organism of law control was not present in the Soviet legal system<sup>239</sup> and was instead discredited by previous Soviet-era charts<sup>240</sup>.

A second fundamental break with the Soviet legal and political tradition is the introduction in post-Soviet Constitutions of the division between public law and private law<sup>241</sup>. If in practice private law existed in order to regulate relations between private citizens, it will suffice to recall the existence of a Soviet civil code, on the theoretical level Soviet doctrine refused the division between public and private law<sup>242</sup>. This was mostly due to ideological reasons, and based on V. J. Lenin ideas on the non-recognition of private property<sup>243</sup>. The dramatic changes in Soviet society and economy, including the emergence of private property and private enterprises starting from the late years of existence of the Soviet Union required a development of private law and all its branches<sup>244</sup>.

Finally, a third fundamental difference, though less technical if compared with the constitutional court issue or the distinction between public and private law, is the rejection of an official state ideology. If Soviet

---

<sup>238</sup> R. TEITEL, *Post-Communist Constitutionalism: A Transitional Perspective*, in *Columbia Human Rights Law Review*, Vol 26, 1994, pp. 167-190. Also M. N. MARČENKO, *Sovetskoe i postsovetskoe gosudarstvo i pravo*, op. cit.

<sup>239</sup> M. N. MARČENKO, *Sovetskoe i postsovetskoe gosudarstvo i pravo*, op. cit..

<sup>240</sup> R. R. LUDIKOWSKI, *Constitution Making in the Countries of Former Soviet Dominance: Current Development*, op. cit.

<sup>241</sup> *Ibid.* Also M. N. MARČENKO, *Sovetskoe i postsovetskoe gosudarstvo i pravo*, op. cit.

<sup>242</sup> M. N. MARČENKO, *Sovetskoe i postsovetskoe gosudarstvo i pravo*, op. cit., p.

<sup>243</sup> *Ibid.*

<sup>244</sup> *Ibid.*

Constitution made clear that Marxist-Leninist communist ideology was the state official ideology<sup>245</sup>, the post-Soviet charts on their side generally state that the State does not support any particular ideology but is instead open to ideological diversity and pluralism. Such principles are established, for example, at article 13 of the Constitution of the Russian Federation<sup>246</sup>, at article 4 of the Constitution of the Republic of Belarus<sup>247</sup> or at article 5 of the Constitution of the Republic of Kazakhstan<sup>248</sup>. One of the most relevant consequences of this shift is that if for the Soviet State the economy was based on the goal of building communism<sup>249</sup>, the post-Soviet States adopt constitutional measures that set the basis for the development of a capitalist economy<sup>250</sup>.

The three aforementioned novelties introduced by the new Constitutions are the most relevant for understanding the political and legal systems of Today's post-Soviet States, their relations and their activity in regional integration processes. Obviously, the differences between the Soviet and the Post-Soviet legal and political order are not limited to only these but a deeper analysis lies outside the scope of the present work.

It is necessary to add a final reflection on the post-Soviet Constitutions and their relations with the politico-legal changes and developments in post-Soviet space. On the one hand, constitutional charts

---

<sup>245</sup> Preamble and art. 6 of the Constitution of the Union of the Socialist Soviet Republics of 1977, cit. note 149.

<sup>246</sup> Art. 13 of the Constitution of the Russian Federation, cit. note 235.

<sup>247</sup> Art. 4 of the Constitution of Belarus. <http://pravo.by/pravovaya-informatsiya/normativnye-dokumenty/konstitutsiya-respubliki-belarus/>

<sup>248</sup> Art. 5 of the Constitution of Kazakhstan. <http://www.parlam.kz/en/constitution>

<sup>249</sup> Preamble of the Constitution of the Union of the Socialist Soviet Republics of 1977, cit. note 149.

<sup>250</sup> M. N. MARČENKO, *Sovetskoe i postsovetskoe gosudarstvo i pravo*, op. cit.

reflected, and where shaped by, the events and the climate of change of late 1980s and early 1990s. On the other, they served as a framework for the development of, first, all government systems, then, more in general, of the political and legal systems of the post-Soviet States and, finally, of a political culture.

In terms of government system adopted by Post-Soviet States, presidentialism, both in its pure form or in a semi-presidential form, was the most popular choice. An observer, speculated that one reason for such choice in almost all Post-Soviet States might have been on the one side the need of a strong executive power in order to delivery epochal reforms and on the other the lack of a strong party system<sup>251</sup>. Presidential system in Post-Soviet space, in its pure form, proved to be successful in terms of stability, including that of those elements necessary for the growth of material living conditions<sup>252</sup>. The stability of semi-presidential systems varies on a case by case basis, often depending on the specific functions assigned to the presidency and on the functions assigned to the parliament<sup>253</sup>. While the choice between presidentialism and parliamentarism has often led to debates on whether form of government it is more helpful to democratisation, regarding the Post-Soviet context, it has been observed that the priority for government systems is to increase

---

<sup>251</sup> S. HOLMES, *A Forum un Presidential Powers: The Postcommunist Presidency*, in *East European Constitutional Review*, 2, No 3, 1993 (3, No 1, 1994), pp.36-39

<sup>252</sup> V. G. EGOROV, A. V. ABRAMOV, S. N. FEDORČENKO, *Sravnitel'naja politologija Postsovetskogo prostranstva*, 1<sup>st</sup> Ed., Moscow, Knorus, 2017, p.265

<sup>253</sup> V. G. EGOROV, A. V. ABRAMOV, S. N. FEDORČENKO, *Sravnitel'naja politologija Postsovetskogo prostranstva*, op. cit., pp.267-269



as much as possible the participation of the State population in the political decision-making process<sup>254</sup>.

Concerning the developing of national identity and political culture, the Member States of the Commonwealth of Independent States had to face the issue of ethnical identities. The approach of the Soviet Union to the national question was called by an observer as institutionalised multinationality, where all the nationalities inhabiting the Soviet Union were considered constituent elements of the State<sup>255</sup>. The Soviet Republics of the Soviet Union had a titular nation that was the officially major ethnic group within the Republic (and a similar system was adopted within those Soviet Republics that contain Autonomous Soviet Republics). Nevertheless there was not a full correspondence between national territory and personal nationality and significant parts of the population of the single Soviet Republics belonged a non-titular nationality of the territory<sup>256</sup>. Such process of national identity building proved to be problematic when the Soviet Union no longer existed<sup>257</sup>. The situation evolved when the Soviet Republics became full independent States: first of all, they had to start a nation-building process and national identity building process external to the Soviet Union framework. Second, they were forced to deal with national minorities within they territory and at the same time large numbers people belonging to a given nationality were living outside the borders of

---

<sup>254</sup> V. G. EGOROV, A. V. ABRAMOV, S. N. FEDORČENKO, *Sravnitel'naja politologija Postsovetskogo prostranstva*, op. cit., p.279

<sup>255</sup> R. BRUBAKER, *Nationhood and the national question in the Soviet Union and post-Soviet Eurasia: An institutionalist account*, in *Theory and Society*, Vol. 23, 1994, pp. 47-78

<sup>256</sup> Ibid.

<sup>257</sup> G. SMITH et alia, *Nation Building in the Post-Soviet Borderlands: The Politics of national identity*, 1<sup>st</sup> Ed., Cambridge, Cambridge University Press, 1998, p. 6

the State emerged from the Soviet Republic based on that given national territory.

From a theoretical point of view, building a national identity means to imagine a community that lives inside a given space and that shares a common history and a common set of values and traditions<sup>258</sup>. In modern multinational States, it has established a model based on a common civic nation that somehow “includes” several ethno-cultural nationalities as components of the civic nation itself. The Post-Soviet States, in most cases, have approached the national question putting the emphasis on the collective identity centred on the dominant national group, therefore adopting a model mostly based on ethno-cultural elements. Some of the States have also defined themselves in their Constitutions as the national homeland for a given nationality and an overall nationalising tendency was observed in the Post-Soviet Republics starting from the moment of their independence<sup>259</sup>. A scholar has identified such a tendency as the view the elites had of the Soviet-Republics as unrealised nation States, meant to be nation States after independence<sup>260</sup>. The national identity builders approached the realisation of the nation State in the Post-Soviet space along three lines. The first line is represented by a de-sovietisation operation. The second line is the shaping of new boundaries between “us” and “them”, basically following three tendencies: the tendency to

---

<sup>258</sup> B. ANDERSON, *Imagined Communities: Reflection on the Origin and Spread of Nationalism*, Rev. Ed., London and New York, Verso, 1991

<sup>259</sup> G. SMITH, *Nation Building in the Post-Soviet Borderlands: The Politics of national identity*, op. cit., pp.2-3

<sup>260</sup> R. BRUBAKER, *Nationhood and the national question in the Soviet Union and post-Soviet Eurasia: An institutionalist account*, op.cit.

essentialise, the tendency to historicise and the tendency to totalise. Finally, the third line is given by the standardisation within States's borders, it means to standardise culture, education and language in order to make the territory of the State coincident with the territory of the ethno-cultural nation<sup>261</sup>.

A significant exception to such an ethnically driven national identity building process in Post-Soviet States is the one of the Russian Federation, a Country who started her own national identity building process long before the establishment of the Soviet Union. The shaping of the modern identity of the Country started contemporaneously in late XVIII-early XIX century as in most of Europe and it presents today a model based on a civic nation (defined by the word "rossiskij") and several ethno-cultural nationalities (such as "ruskij")<sup>262</sup>.

Moving from the problem of national identity in post-Soviet States to the wider question of the development of the political culture, it will be impossible in the present work to cover all the spectrum of the development of a dynamic matter such as political culture in post-Soviet States from the moment of their independence. During the first years following the dissolution of the Soviet Union, the term political culture was abused to explain pretty much everything that could not be explained otherwise<sup>263</sup>. The dissolution of the Soviet Union broke a unity that had

---

<sup>261</sup> G. SMITH et alia, *Nation Building in the Post-Soviet Borderlands: The Politics of national identity*, *op. cit.*, pp.13-17

<sup>262</sup> V. A. TISHKOV, "O Rossijskom narode i nacional'noj identičnosti v Rossii", Valerij Tishkov's personal site.. [http://www.valerytishkov.ru/cntnt/publikacii3/publikacii/o\\_rossisko.html#](http://www.valerytishkov.ru/cntnt/publikacii3/publikacii/o_rossisko.html#)

<sup>263</sup> F. J. FLERON, Jr, *Post Soviet Political Culture in Russia: An Assesment on Recent Empirical Investigations*, in *Europe-Asia Studies*, Vol. 48, N°2, 1996, pp. 225-260

hold together, for almost a century, a number of republics. Nevertheless, the soviet republics had their own past and culture before the establishment of the Soviet Union. For this reason political culture developed differently in each post-Soviet State, even if the Soviet tradition represented a common shared background for all the States<sup>264</sup>. A common features that shared by many post-Soviet States are that for most of them the transition from the socialist system to the liberal state happened under the same, or almost the same, leadership that was in charge during the dissolution of the Soviet Union or that took in office soon after<sup>265</sup>. On the one side, under these leaderships many reforms were made, introducing in a first moment liberalism in political culture<sup>266</sup>. On the other, a strong accent has been on national identity, as explained before, making the identity issue another element of the political culture of the State. Finally, the little, if any, alternation in power granted stability but created a sense of political apathy, failed in establishing a well-developed party system and stimulate civic society to actively participate in political life<sup>267</sup>. Nevertheless, from mid 2000s signs of a shift to a greater involvement of citizens in politics and a more active political culture in some post-Soviet

---

<sup>264</sup> V. G. EGOROV, A. V. ABRAMOV, S. N. FEDORČENKO, *Sravnitel'naja politologija Postsovetskogo prostranstva, op. cit.*, pp.391-392

<sup>265</sup> Most of the leaders of the post-Soviet States were already high ranks of the Soviet administration, if not the signatories of the Almaty Declaration as for example Kazakh President Mr Nursultan Nazarbaev, Uzbek President Mr Islam Karimov or Turkmen President Sarparmurat Niyazov.

<sup>266</sup> V. G. EGOROV, A. V. ABRAMOV, S. N. FEDORČENKO, *Sravnitel'naja politologija Postsovetskogo prostranstva, op. cit.*, pp.222

<sup>267</sup> M.M.HOWARD, *The Weakness of Civil Society in Post-Communist Europe*, 1<sup>st</sup> Ed., Cambridge, Cambridge University Press, 2003, p. I

States, like for example, in different forms, the Russian Federation, the Caucasus States, Moldova or Ukraine.

For what concerns political culture in relation to the integration process, it has been noticed that the term ‘eurasianism’ has slowly become an identity term that groups the post-Soviet States for what concerns those share cultural traits that make integration possible. Actually, as was stated earlier, already in 1994 the President of Kazakhstan Nursultan Nazarbaev used the term ‘eurasian’ to refer to the post-Soviet space and the Soviet heritage<sup>268</sup>. In this sense, for regional integration the Russian Federation still plays a major cultural role for those post-Soviet States that participate today in the process<sup>269</sup>, as showed, for example, by socio-cultural role of Russian language in the other States of the area<sup>270</sup>.

This necessary and brief overview will be followed in chapter three by a detailed exposition of the characteristics the Constitutions of the member States of the Eurasian Economic Union and of the government systems of these States. Equally, the national identity building processes of the five Member States of the Eurasian Economic Union will be examined in detail, using the theoretical overview here exposed, as well as the development of the Member States political culture. Moreover, in the next chapter it will be exposed the relation of the Constitutions, the legal orders and of the government systems relation with the regional integration

---

<sup>268</sup> V. G. EGOROV, A. V. ABRAMOV, S. N. FEDORČENKO, *Sravnitel'naja politologija Postsovetskogo prostranstva*, op. cit., pp.405-407

<sup>269</sup> V. G. EGOROV, A. V. ABRAMOV, S. N. FEDORČENKO, *Sravnitel'naja politologija Postsovetskogo prostranstva*, op. cit., pp.409

<sup>270</sup> V. G. EGOROV, A. V. ABRAMOV, S. N. FEDORČENKO, *Sravnitel'naja politologija Postsovetskogo prostranstva*, op. cit., pp.394

process, since, in general, integration process require adaptations of the internal order<sup>271</sup>.

#### **2.1.6. Final considerations on the CIS and further development of regional integration**

The success and the current situation of the Commonwealth of Independent States it is not the object of the present research. Some observers pointed out that the main problem of the Commonwealth of Independent States as a regional integration organisation was in its genesis. If on the one side, it was useful to coordinate an orderly divorce<sup>272</sup> and to function as a shock absorber<sup>273</sup>, on the other side, every Post-Soviet State had its own reasons to join the Commonwealth of Independent States and there was not common interest at the very beginning of the process<sup>274</sup>. Nevertheless, based on this section, it can be said that regardless on the functioning of the Organisation as a whole after the first years of existence, the Commonwealth of Independent Nations has indeed served as an inter-state framework within which have been developed many agreements and treaties, both bilateral and multilateral. In such a context, those Post-Soviet States willing for deeper integration have developed that greater cooperation, especially in the economic field, mentioned before. Those processes have eventually led to the creation of the Eurasian Economic

---

<sup>271</sup> R. PETROV, P. VAN ELSUWEGE, *Post-Soviet Constitutions and Challenges of Regional Integration - Adapting to European and Eurasian integration projects*, 1st Ed., Oxford, Routledge, 2017

<sup>272</sup> P. KUBICEK, *The Commonwealth of Independent States: an example of failed regionalism?*, op. cit.

<sup>273</sup> Ibid.

<sup>274</sup> Ibid.

Union. Curiously, as stated earlier, the Collective Security Treaty Organisation counts today with the same members of the Eurasian Economic Union, with the addition of Tajikistan<sup>275</sup>, hypothetically opening the door to concretely resume talks about deeper integration in fields other than economy.

To move on to the next section it is necessary to go back Treaty on the Establishment of an Economic Union of 1993 and to briefly discuss the speech that Kazakh President Nursultan Nazarbaev gave at Moscow State University on March 29<sup>th</sup> 1994<sup>276</sup>. The Kazakh Head of State observed that the Commonwealth of Independent States did not answer the needings of integration of the Post-Soviet States, noting that almost all the more than 400 signed documents within the CIS were not in force<sup>277</sup>. Consequently, Nazarbaev put forward the idea of an “Eurasian Union” that could provide of a brand new level of integration, in the form of a new intergovernmental organisation<sup>278</sup>. The thought out organisation should have supranational organs in order to administrate two key areas: a common economic space and joint defence policy<sup>279</sup>. The speech is considered a cornerstone for the whole regional integration process in the Post-Soviet space, which developments will be exposed from the next section on.

---

<sup>275</sup> See section 1.1. of the present chapter.

<sup>276</sup> Speech of the Kazakh President Nursultan Nazarbaev, cit. note 10.

<sup>277</sup> Speech of the Kazakh President Nursultan Nazarbaev, *ibid.*

<sup>278</sup> Speech of the Kazakh President Nursultan Nazarbaev, *ibid.*

<sup>279</sup> Speech of the Kazakh President Nursultan Nazarbaev, *ibid.*

## **2.2. Customs agreements and Treaty on Increased Integration**

As stated in section 2.1, the regional integration processes between Post-Soviet States, continued mostly on the path of economic integration. Following the multi-speed model, a group of three States emerged as that today, in view of the establishment of the Eurasian Economic Union in 2015, can be seen as the engine for integration in the Post-Soviet space. Those States are Belarus, Kazakhstan and the Russian Federation and are those that, after the completion of the separation between Post-Soviet States, moved the first steps for deeper integration by establishing in 1995 a customs union.

### **2.2.1. Customs agreements**

The first concrete step taken after Nursultan Nazarbaev's speech were the talks to establish a customs union in early 1995 between Belarus, Kazakhstan and the Russian Federation. The first agreement was signed between Belarus and the Russian Federation in Minsk on January 6<sup>th</sup> 1995. The Agreement on the Customs Union between the Russian Federation and the Republic of Belarus<sup>280</sup>, stems from a bilateral international relations process between the two States, seeking for deeper integration. Previously Belarus and the Russia Federation had already concluded an Agreement on a unified monetary system (September 8<sup>th</sup> 1993)<sup>281</sup> and, based on this one, an Agreement on the common regulation of foreign economic

---

<sup>280</sup> Treaty on the Customs Union between the Russian Federation and the Republic of Belarus, Minsk, January 6<sup>th</sup>, 1995. [http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor\\_06011995.aspx](http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor_06011995.aspx)

<sup>281</sup> Agreement on the union of the monetary system of the Republic of Belarus with the monetary system of the Russian Federation, Moscow, September 8<sup>th</sup>, 1993. [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_5873/](http://www.consultant.ru/document/cons_doc_LAW_5873/)



activities (April 12<sup>th</sup> 1994)<sup>282</sup>. The latter is mentioned in the preamble of the Treaty on the Customs Union<sup>283</sup>. In the preamble of the Treaty the Signatories also refer to the World Trade Organisation (WTO), established on January 1<sup>st</sup> 1995, showing the will of joining the WTO in the future<sup>284</sup>. At the same time the Parties included in the Treaty on the Customs Union several agreements on signed at the Commonwealth of Independent States level, including the principles for customs legislation of the Member States of the CIS, endorsed on December 10<sup>th</sup> 1994<sup>285</sup> and lately adopted on February 10<sup>th</sup> 1995<sup>286</sup>. The establishment of the customs union was intended to proceed by stages, being the unification of customs territories

---

<sup>282</sup> Agreement on the common regulation of foreign economic activities as part of the union of the monetary system of the Republic of Belarus with the monetary system of the Russian Federation, Moscow, April 12<sup>th</sup>, 1994. <http://dokipedia.ru/document/5170360>

<sup>283</sup> Treaty on the Customs Union between the Russian Federation and the Republic of Belarus, cit.note 280. “констатируя достижение определенных результатов в рамках подписанного 12 апреля 1994 г. (Москва) Соглашения между Правительством Российской Федерации и Правительством Республики Беларусь о едином порядке регулирования внешнеэкономической деятельности” (“constating the achievement of determined results within the framework of the Agreement between the Government of the Russian Federation and the Government of the Republic of Belarus on the common regulation of foreign economic activity signed on April 12<sup>th</sup> 1994 in Moscow”).

<sup>284</sup> Treaty on the Customs Union between the Russian Federation and the Republic of Belarus, *ibid*. “признавая международные общепринятые нормы в экономических отношениях и ориентируясь на правила ГАТТ/ВТО; подтверждая приверженность свободному развитию взаимного экономического сотрудничества” (“recognising the commonly accepted international norms of economic relation and orienting on the rules of the GATT/WTO”)

<sup>285</sup> Treaty on the Customs Union between the Russian Federation and the Republic of Belarus, *ibid*.

<sup>286</sup> Decision on the Principles for Customs Legislation of the Member States of the Commonwealth of Independent States, Almaty, February 10<sup>th</sup>, 1995. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=415>

and the decisions on the legal status of the customs union and on the destiny of international treaties then in force, part of the last stage<sup>287</sup>.

On January 20<sup>th</sup> 1995, the provisions of the Treaty between the Russian Federation and Belarus were basically extended to Kazakhstan. On that day in Moscow, the three States signed the Agreement on the Customs Union<sup>288</sup>. The preamble of the Agreement states that the customs union is part of the strategy of development of that projected economic union which Treaty was signed in 1993<sup>289</sup>. On the same day, the Russian Federation and Kazakhstan signed an Agreement on common regulation of foreign economic activities<sup>290</sup>, similarly to what had already happened earlier between Russia and Belarus<sup>291</sup>. As for the Russia-Belarus document, also the Agreement between Russia and Kazakhstan was included in the

---

<sup>287</sup> Treaty on the Customs Union between the Russian Federation and the Republic of Belarus, cit. note 280.

<sup>288</sup> Treaty on the Customs Union, Moscow, January 10<sup>th</sup>, 1995.

[http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor\\_20011995.aspx](http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor_20011995.aspx)

<sup>289</sup> Treaty on the Establishment of an Economic Union, cit.

<sup>290</sup> Agreement between the Government of the Russian Federation and the Government of the Republic of Kazakhstan on the common regulation of the foreign economic activity, Moscow, January 10<sup>th</sup>, 1995. <http://docs.cntd.ru/document/901761660>

<sup>291</sup> Agreement on the common regulation of foreign economic activities as part of the union of the monetary system of the Republic of Belarus with the monetary system of the Russian Federation. Cit.

Agreement on the Customs Union<sup>292</sup>. The parties also agreed on the future establishment of a regulation body for the customs union<sup>293</sup>.

The number of the customs union Member States increased, when Kyrgyzstan joined in 1996<sup>294</sup> and Tajikistan in 1999<sup>295</sup>, denoting the importance of the project for regional integration in the area. On the other side, during the first five years of existence the Governments of the Member States did not succeed in establishing a real free trade area, tariffs were not standardised as it were not standardised the single national customs procedures<sup>296</sup>. In the same time, all the customs union Member States have separately applied to become members of the WTO<sup>297</sup>.

On February 26<sup>th</sup> 1999, the Member States took a fundamental step towards deeper and more functional integration by signing a brand-new

---

<sup>292</sup> Treaty on the Customs Union, *cit.* Договаривающиеся Стороны согласились, что неотъемлемыми частями настоящего Соглашения являются Соглашение между Правительством Российской Федерации и Правительством Республики Казахстан о едином порядке регулирования внешнеэкономической деятельности от 20 января 1995 года” (“The Parties agree that an inalienable part of the present Agreement is also the Agreement between the Government of the Russian Federation and the Government of the Republic of Kazakhstan on the common regulation of the foreign economic activity of January 20th 1995”)

<sup>293</sup> Treaty on the Customs Union, *ibid.* “В целях реализации настоящего Соглашения, Договаривающиеся Стороны на основе отдельного соглашения создадут исполнительный орган Таможенного союза” (“in order to fulfil the present Agreement, the Parties will create an executive organ of the Customs union on the basis of a separate agreement”)

<sup>294</sup> Treaty on the accession of the Kyrgyz Republic to the Agreements on the Customs Union, March 26<sup>th</sup>, 1996. <http://keden.kz/ru/zakon.php?id=13912>

<sup>295</sup> Treaty on the accession of the Republic of Tajikistan to the Agreements on the Customs Union, February 26<sup>th</sup>, 1999. <http://docs.cntd.ru/document/901785212>

<sup>296</sup> T.M. LAWSON, S. A. ERICKSON, “*History and Status of the CIS Customs Union*”. U.S. Department of Energy – Lawrence Livermore National Laboratory, August 31st, 1999. <https://e-reports-ext.llnl.gov/pdf/236817.pdf>

<sup>297</sup> See chapter sections 2.3.1 and 2.3.2. of the present chapter.

Treaty, the Treaty on the Customs union and the Common economic space<sup>298</sup>.

### **2.2.2. Treaty on Increased integration and Treaty on the Customs union and the Common economic space**

The preamble on 1999's Treaty on the Customs union and the Common economic space opens by referring to a preceding Treaty signed on March 26<sup>th</sup> 1996, the Treaty between the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation on increased Integration in the Economic and Humanitarian Fields<sup>299</sup>. The brand new Treaty in article 1 states that the objective of the High Contracting Parties is to pursue deeper integration in several fields, including economy, with the final perspective to create a Community of integrated States<sup>300</sup>. Was on this basis that the aforementioned Treaty on the Customs union and the Common economic space<sup>301</sup> was signed in 1999. The Parties committed to complete the realisation of the customs union and on its basis establish a common economic space<sup>302</sup> in which they

---

<sup>298</sup> Treaty on the Customs union and the Common economic space, Moscow, February 26<sup>th</sup>, 1999.

[http://www.eurasiancommission.org/ru/act/trade/catr/nontariff/Pages/Dogovor\\_26021999.aspx](http://www.eurasiancommission.org/ru/act/trade/catr/nontariff/Pages/Dogovor_26021999.aspx) .

Tajikistan signed both the accession agreement to the customs union and the new Treaty on the same day.

<sup>299</sup> Treaty between the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation on increased Integration in the Economic and Humanitarian Fields, Moscow, March 26<sup>th</sup>, 1996. <http://docs.cntd.ru/document/1901125>

<sup>300</sup> Treaty between the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation on increased Integration in the Economic and Humanitarian Fields, art. 1. *ibid*.

<sup>301</sup> Treaty on the Customs union and the Common economic space, *cit. note 298*.

<sup>302</sup> Art. 2 of the Treaty between the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation on increased Integration in the Economic and Humanitarian Fields, *cit.note 299*.

should develop an effectively functioning common market for goods, services, capitals and labour force. Within the common economic space, the parties should seek convergences for what concerned fiscal, monetary, financial, commercial and custom policies. Also a common system of was to be created in the common economic space<sup>303</sup>. For the realisation of the objectives of the Treaty, the Parties fixed a multi-stage process that contemplated also a future stage, in which the Parties would work for an agreement on the basic macroeconomic parameters<sup>304</sup>.

About one and a half year later, the Parties decided to move things forward and to create a brand new organisation in order to realise the objectives of the Treaty on customs union and the common economic space and established the Eurasian Economic Community<sup>305</sup>.

### **2.2.3. Domestic situation**

While the post-Soviet States were seeking multilateral forms of cooperation different from the Commonwealth of Independent States (but negotiated and developed within its framework) on the foreign scene, on the domestic level the situation during the first years following the establishment of the post-Soviet republics as independent States was definitely complex. The events that happened on the domestic scene played a role in the following acceleration of the regional integration

---

<sup>303</sup> Art. 3 of the Treaty between the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation on increased Integration in the Economic and Humanitarian Fields, Ibid..

<sup>304</sup> Art. 7 of the Treaty between the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation on increased Integration in the Economic and Humanitarian Fields, Ibid..

<sup>305</sup> Treaty on the establishment of the Eurasian Economic Community, cit. note 227.

process in the following decade<sup>306</sup> and for this reason is necessary to give a brief overview of them. One of the main challenges to face for the post-Soviet countries was to enforce those reform that were necessary to finally fully transform the socio-economic system from the late Soviet one to a liberal and market oriented one. Such reforms were made in all the States, but with different characteristics and tempos: while in Kazakhstan and the Russia Federation reforms were fast and quite radical, in other countries like Ukraine the reforms were slower or a had strong ethnic character as in the case of Belarus and the Central Asian republics<sup>307</sup>. In terms of economy, the very first years after independence were extremely rough. Until 1994, the GDP of all the post-Soviet States dramatically decreased, included that of the Baltic countries<sup>308</sup> that never participated into any regional integration project in the post-Soviet space. In the second half of the decade, the economies of the Baltic and of the Caucasus States, started to grow again, while the economies of most of the other countries continued to decline until the end of the millennia<sup>309</sup>. In particular, the largest economy among the post-Soviet states, the Russian Federation, suffered of a tremendous economic crisis started in 1997 and that peaked in 1998 when, in the context of the monetary crisis that hit that year several

---

<sup>306</sup> A. LIBMAN, E. VINOKUROV, *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, op. cit. , pp. 45

<sup>307</sup> N. KALEDIN, *Post-soviet space: background and the results of regionalization*, in *Baltic Region*, N°1, 2009, pp. 26-35

<sup>308</sup> J. THOREZ, *The post-soviet space between north and south: Discontinuities, disparities and migrations*, in *Development in Central Asia and the Caucasus: Migration, Democratisation and Inequality in the Post-Soviet Era*, I.B. Tauris, 2014, pp.215 - 241

<sup>309</sup> Ibid.

countries, the rouble lost 61 % of its value over two months<sup>310</sup>. The Russian economic crisis of 1998 is often seen as the bottom of the economic crisis in the post-Soviet space. Even if not all the economies started recovering right in 1998<sup>311</sup>, the devaluation and the economic reforms that were made in Russian economy triggered a period of economic growth that lasted ten years<sup>312</sup>. Being crisis often one of the engines for regional integration, and being Russia the undisputed leader economy among post-Soviet countries, it is possible to argue that the events that happened in the second half of 1990s in the economic sphere (and consequently in the social sphere) played a role in pushing government to speed up the regional integration process<sup>313</sup>. This was reflected by the signature of the aforementioned international treaties and by the establishment of the Eurasian Economic Community, an international organisation that moved regional integration in the post-Soviet space to a new level.

### 2.3. Eurasian Economic Community

On October 10<sup>th</sup> 2000, the five States signed a new Treaty that established the Eurasian Economic Community (EurAsEC)<sup>314</sup>. Until this moment, cooperation had been carried on within the Commonwealth of

---

<sup>310</sup> A. SHLEIFER, D. TREISMAN, *A Normal Country: Russia After Communism*, in *Journal of Economic Perspectives*, Vol. 19, N° 1, 2005, pp. 151–174

<sup>311</sup> J. THOREZ, *The post-soviet space between north and south: Discontinuities, disparities and migrations*, *op. cit.*

<sup>312</sup> According to the World Bank, Russian economy has grown constantly, at impressive rates, for ten years between 1998 and 2008.

<https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=RU>

<sup>313</sup> A. LIBMAN, E. VINOKUROV, *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, *op. cit.*, pp. 59.

<sup>314</sup> Treaty on the Establishment of the Eurasian Economic Community, *cit.* note 227.

Independent States framework, while with the establishment of the EurAsEc, a brand new international organisation with conferred powers<sup>315</sup>, cooperation was moved to a new dimension. The organisation, according to article 2 of the Treaty<sup>316</sup>, the EurAsEc should serve as the framework organisation where to pursue the deeper integration proposed in the previous Treaties. In order to coordinate, supervise and manage the integration process, the EurAsEC was endowed with four bodies: the Interstate Council, the Integration Council, the Interparliamentary Assembly and the Community Court<sup>317</sup>. Some of the organs were already functioning, established by previous treaties<sup>318</sup> while the establishment of the EurAsEC Court introduced a jurisdictional body, in order to guarantee the uniform application and interpretation of EurAsEC legislation and to solve economic disputes arising within the organisation between the Member States<sup>319</sup>.

While the first years of existence of the EurAsEC saw a slow overall development, on the other side cooperation between Member States moved forward on unilateral initiative basis within the framework provided by the organisation<sup>320</sup>. In the first decade of 2000s saw the relations between Post-Soviet States became complicated and tensions arose<sup>321</sup>, and

---

<sup>315</sup> Art. 1 of the Treaty on the Establishment of the Eurasian Economic Community, Ibid.

<sup>316</sup> Art. 2 of the Treaty on the Establishment of the Eurasian Economic Community, Ibid.

<sup>317</sup> Art. 3 of the Treaty on the Establishment of the Eurasian Economic Community, Ibid.

<sup>318</sup> The Interstate Council, the Integration Council and the Interparliamentary Assembly were provided for by the Article 5 of the Treaty on the Customs union and the Common economic space, cit.

<sup>319</sup> Art. 8 of the Treaty on the Establishment of the Eurasian Economic Community, cit. note 227.

<sup>320</sup> A. LIBMAN, E. VINOKUROV,  *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, op. cit., p. 42

<sup>321</sup> E. FINKEL, Y. M. BRUNDY, *Russia and the colour revolutions*, in Democratization, Vol. 19, N. 1, 2012, pp. 15-36



the general framework made things more complicated for an organic development of the EurAsEc as an instrument of regional integration. An example might be the case of Uzbekistan, which joined the organisation in 2006, but decided to withdraw only two years later, in 2008<sup>322</sup>, upon disagreements on the further integration and developments regarding the customs union and without having implemented many of the organisation treaties<sup>323</sup>. A strong stimulus to move integration forward was given by 2007 financial crisis<sup>324</sup>, and practical steps were taken in order to realise the two main goals of the Eurasian Economic Community: the customs union and the common economic space.

### 2.3.1. Eurasian Customs Union

The customs union (CU) was the first body to be put forward. A first Treaty was signed on October 6<sup>th</sup> 2007, when in Dushanbe Belarus, Russia and Kazakhstan, the promoters of the customs union in '90s, signed the Agreement on the establishment of a common customs territory and the creation of the customs union<sup>325</sup>. The Agreement established eight requirements that must met after which the supreme body shall take the decision to merge the national customs territories into the common

---

<sup>322</sup> *Uzbekistan Business Law Handbook*, updated Ed., Washington DC, International Business Publications, 2013, p. 33

<sup>323</sup> A. LIBMAN, E. VINOKUROV,  *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, op. cit., p. 46

<sup>324</sup> A. LIBMAN, E. VINOKUROV,  *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, op. cit., p. 48

<sup>325</sup> Agreement on the establishment of a common customs space and the creation of the customs union, Dushanbe, October 6<sup>th</sup>, 2007. [http://www.tsouz.ru/Docs/IntAgrmnts/Pages/D\\_sozdETTiformTS.aspx](http://www.tsouz.ru/Docs/IntAgrmnts/Pages/D_sozdETTiformTS.aspx)

customs territory<sup>326</sup>. On the same day, the three Parties created the Commission of the customs union<sup>327</sup>, a permanent organ deputy to create the conditions and supervise the development of the customs union establishment process<sup>328</sup>. The States would eventually delegate to the Commission certain powers<sup>329</sup>, within which the Commission adopts binding decisions<sup>330</sup>, making it the first real supranational organ of the EurAsEc, since the other bodies adopted an intergovernmental approach. The Commission will be later transformed into one of the principal bodies of the whole regional integration process<sup>331</sup>.

In the following two years, the Parties signed a number of Treaties and the Interstate Council adopted several decision in order to pursue the objectives established by the Agreement on the establishment of a common customs territory and the creation of the customs union<sup>332</sup>. On November 27<sup>th</sup> 2009, finally, the Heads of State of Belarus, Kazakhstan and Russia officially adopted the Decision n° 24 on creation of establishment of the common customs space within the EurAsEc<sup>333</sup> from July 1<sup>st</sup> 2010. The Decision was adopted along with other important documents, among

---

<sup>326</sup> Art. 2 of the Agreement on the establishment of a common customs space and the creation of the customs union, Ibid.

<sup>327</sup> Treaty on the creation of the Commission of the customs union, October 6<sup>th</sup>, 2007.  
<http://www.tsouz.ru/AboutKTS/Pages/37.aspx>

<sup>328</sup> Treaty on the creation of the Commission of the customs union, art. 1. Cit.

<sup>329</sup> Treaty on the creation of the Commission of the customs union, art. 2. Cit.

<sup>330</sup> Treaty on the creation of the Commission of the customs union, art. 7. Cit.

<sup>331</sup> See chapter 3.2.1.1.3.

<sup>332</sup> The complete list of legal documents that form the legal framework of the Customs Union is available at the EAEU legal portal, <https://docs.eaeunion.org>

<sup>333</sup> Decision n° 24 of the Interstate Council of the EurAsEc, November 27<sup>th</sup>, 2009.  
[https://docs.eaeunion.org/docs/en-us/0146795/ic\\_26112009\\_24](https://docs.eaeunion.org/docs/en-us/0146795/ic_26112009_24)

which the Decisions, both in force from January 1<sup>st</sup> 2010, on the common regulation for both customs tariffs<sup>334</sup> and non-tariff regulation<sup>335</sup> and the Decision on the adoption of the Treaty on the customs code of the customs union<sup>336</sup>, signed on the same day and containing the customs code of the CU<sup>337</sup>.

The establishment of the customs union was marked by the adoption of common tariffs and non-tariff regulation starting from January 1<sup>st</sup> 2010, and by the establishment of the common customs territory and the adoption of the customs code starting from July 1<sup>st</sup> 2010. From that moment on, the path was open for the introduction of concrete novelties that influenced not only the relations between the CU Member States but also the relations between the CU and third countries, especially for what regard commercial relations.

The first important novelty developed within the customs union are the newly established technical regulations<sup>338</sup>. The technical regulations of the Customs Union were the first concrete move towards actual integration of the markets of the Member States. The aim of the regulations is to unify

---

<sup>334</sup> Decision n° 18 of the Interstate Council of the EurAsEc on the common customs tariffs regulation, November 27<sup>th</sup>, 2009. [https://docs.eaeunion.org/docs/en-us/0044908/ic\\_31102012\\_18](https://docs.eaeunion.org/docs/en-us/0044908/ic_31102012_18)

<sup>335</sup> Decision n° 19 of the Interstate Council of the EurAsEc on the common non-tariffs regulation, November 27<sup>th</sup>, 2009. [https://docs.eaeunion.org/docs/en-us/0045200/ic\\_27112009\\_19](https://docs.eaeunion.org/docs/en-us/0045200/ic_27112009_19)

<sup>336</sup> Decision n° 17 of the Interstate Council of the EurAsEc on the Treaty on the customs code of the customs union, November 27<sup>th</sup>, 2009. [https://docs.eaeunion.org/docs/en-us/0145221/ic\\_31102012\\_17](https://docs.eaeunion.org/docs/en-us/0145221/ic_31102012_17)

<sup>337</sup> Treaty on the customs code of the customs union, November 27<sup>th</sup>, 2009. [https://docs.eaeunion.org/docs/en-us/0045323/cc\\_19112012](https://docs.eaeunion.org/docs/en-us/0045323/cc_19112012)

<sup>338</sup> Agreement on the common principles and rules on technical regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation, Saint Petersburg, November 18<sup>th</sup>, 2010. [http://www.tsouz.ru/DOCS/INTAGRMNTS/Pages/Oprincipah\\_texreg.aspx](http://www.tsouz.ru/DOCS/INTAGRMNTS/Pages/Oprincipah_texreg.aspx)

and substitute national technical standards such as the Belorussian BelST, the Kazakh GOST-K and the Russian GOST-R<sup>339</sup>. Regulations have been introduced gradually, and the whole system has been inherited today by the Eurasian Economic Union that integrated the CU within its structure<sup>340</sup>. Once a new technical regulation on a given product category has been adopted, national standards are substituted by this and the process of introduction is still ongoing, under the supervision of the Eurasian Economic Commission<sup>341</sup>. Every single product that entered the CU territory (today the territory of the CU of the EAEU) from a third Country should prove its conformity to the technical regulations by being certified and awarded the EAC mark (Eurasian Conformity Mark)<sup>342</sup>. The assessment of the product is carried on using one of the three assessment methods provided by CU legislation: the EAC declaration, the EAC certification or the State registration. Being this topic nowadays a matter of the Eurasian Economic Union, it will be further discussed in Chapter 3 of the present work. The introduction of the technical regulations as a common mean of standardisation for all the Member States of the CU marked a milestone in international commercial relations in Post-Soviet space. On international commerce, third Countries started to deal with the CU as to a single actor instead of dealing with the single Member States,

---

<sup>339</sup> Art. 5 of the Agreement on the common principles and rules on technical regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation, Ibid.

<sup>340</sup> See chapter 3.2.1.2.3.

<sup>341</sup> Eurasian Economic Commission, *Technical Regulation and Standardisation*, <http://www.eurasiancommission.org/en/act/texnreg/deptexreg/tr/Pages/default.aspx>

<sup>342</sup> Decision of the Commission of the Eurasian Customs Union N. 711, July 15<sup>th</sup>, 2011, [https://docs.eaeunion.org/docs/ru-ru/0145498/cuc\\_02082011\\_711](https://docs.eaeunion.org/docs/ru-ru/0145498/cuc_02082011_711), modified by the Decision of the Commission of the Eurasian Customs Union N. 800, September 23<sup>rd</sup>, 2011. [https://docs.eaeunion.org/docs/ru-ru/0146489/cuc\\_29092011\\_800](https://docs.eaeunion.org/docs/ru-ru/0146489/cuc_29092011_800)

similarly to what happened with the development of the European Communities into a single economic space.

Another interesting novelty that followed the establishment of the Customs Union and regarded both the single Member States and the international relations systems is the development of the relations between the Member States and the World Trade Organisation (WTO). First of all, the States that in 2010 formed the Customs Union, had applied for WTO membership during 1990s. Nevertheless, the negotiations proceeded slowly and when in 2007 Belarus, Kazakhstan and Russia signed the Treaty that set the basis for the CU<sup>343</sup>, none of the Countries was yet a member of the WTO. In June 2009, at the XXIII intergovernmental summit of the EurAsEC, the Russian Federation suggested that, given both the will of the single States to join the WTO and the priority of creating the customs union, negotiations on the accession to the WTO of the CU as an unique subject should be open<sup>344</sup>. This position was based on Art. 12 of the

---

<sup>343</sup> Agreement on the establishment of a common customs space and the creation of the customs union, cit. note 325.

<sup>344</sup> In his declaration at the XXIII intergovernmental summit of the EurAsEC, the then Prime Minister of the Russian Federation V. V. Putin stated that: 'Главы правительств наших стран, выполняя решение глав государств о приоритетном формировании Таможенного союза, подтверждая свою приверженность присоединению к Всемирной торговой организации, отмечая, что в последние годы процесс присоединения к ВТО стал фактором сдерживания интеграционных процессов, подчеркивая высокий потенциал экономик наших стран и преимущества их глубокой интеграции, решили: [...] Уведомить Всемирную торговую организацию о намерении начать переговорный процесс по присоединению к ВТО Таможенного союза Республики Беларусь, Республики Казахстан и Российской Федерации как единой таможенной территории'. ('The Heads of Government of our States, fulfilling the decision of the Heads of Government on the priority of establishing the Customs Union, confirming our commitment to access the World Trade Organisation, noting that during the last year the process of accession to the WTO became a factor that forced integration processes, underlining the high potential of the economies

Agreement establishing the WTO that allows customs territories to accede the agreement<sup>345</sup>, as it is the case of the European Union<sup>346</sup>. Nevertheless, the joint access proposal was never further developed and all the three States continued the accession process separately. The first to join the WTO was the Russian Federation, on August 22<sup>nd</sup>, 2012<sup>347</sup>, while Kazakhstan joined on November 30<sup>th</sup>, 2015<sup>348</sup>, already as a member of the EAEU. More complicated is the case of Belarus: the Country suspended negotiations in 2005<sup>349</sup> and resumed them in 2017. The deputy minister of

---

of our States and the advantages of their deeper integration, decided: [...] to inform the World Trade Organisation about the intention to start a negotiation process on the access to the WTO of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation as a single customs territory'). Full text available at, [http://www.tsouz.ru/AboutETS/Pages/news\\_id=21.aspx](http://www.tsouz.ru/AboutETS/Pages/news_id=21.aspx)

<sup>345</sup> Agreement establishing the WTO, art. 12, par. 1, states that 'Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto'. Agreement establishing the WTO, [https://www.wto.org/english/docs\\_e/legal\\_e/04-wto.pdf](https://www.wto.org/english/docs_e/legal_e/04-wto.pdf)

<sup>346</sup> The European Union is a WTO member since January 1<sup>st</sup> 1995, [https://www.wto.org/english/thewto\\_e/countries\\_e/european\\_communities\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/european_communities_e.htm)

<sup>347</sup> Notification of acceptance and entry into force of the Protocol on the Accession of the Russian Federation to the Marrakesh Agreement establishing the World Trade Organisation done at Geneva on 16 December 2011. WT/LET/860, al sito [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S009-DP.aspx?language=E&CatalogueIdList=35466,53455&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=35466,53455&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True)

<sup>348</sup> Notification of acceptance and entry into force of the Protocol on the Accession of the Republic of Kazakhstan to the Marrakesh Agreement establishing the World Trade Organisation done at Geneva on 27 July 2015. 2011WT/LET/1093, [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S009-DP.aspx?language=E&CatalogueIdList=229753,229654,225926,225927,135658,133630,131324,130101,124929,121223&CurrentCatalogueIdIndex=4&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=229753,229654,225926,225927,135658,133630,131324,130101,124929,121223&CurrentCatalogueIdIndex=4&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True)

<sup>349</sup> WTO, Belarus accession status.

[https://www.wto.org/english/thewto\\_e/acc\\_e/a1\\_belarus\\_e.htm#status](https://www.wto.org/english/thewto_e/acc_e/a1_belarus_e.htm#status)

foreign affairs of Belarus, when negotiations resumed, stated that the membership to the EAEU was one of the reasons for the Country to resume the process<sup>350</sup>.

On November 18<sup>th</sup>, 2011, in anticipation of the upcoming novelties in the integration process, the heads of State of the member States of the Customs Union, issued a joint declaration entitled ‘Declaration on the Eurasian economic integration’<sup>351</sup>, and reunited as the Supreme Eurasian Economic Council, issued their first decision and established the Eurasian Economic Commission<sup>352</sup>. The Commission, which functions were established by a Treaty signed on the same day of the decision of the Supreme Eurasian Economic Council<sup>353</sup>, was to replace the Commission of the customs union starting from January 1<sup>st</sup>, 2012. The new body, in addition to the function of regulation and control on the development of the customs union and the future common economic space, had also the task to develop and put forward proposals to strengthen integration between member States<sup>354</sup>. Moreover, the body had the faculty to issue binding decisions that formed the legal basis of the customs union and the

---

<sup>350</sup> According to what stated in his opening speech at the eight meeting of the working group on the accession of Belarus by the vice-minister for Foreign Affairs of Belarus H.E. Andrej Eudačenko, following the accession to the EAEU, Belarus already applies all the norms and principles of the WTO already applied by the other member States. Geneva January 24<sup>th</sup>, 2017. [https://www.wto.org/english/news\\_e/news17\\_e/acc\\_blr\\_24jan17\\_e.pdf](https://www.wto.org/english/news_e/news17_e/acc_blr_24jan17_e.pdf).

<sup>351</sup> Declaration on the Eurasian economic integration, November 18<sup>th</sup>, 2011. <http://kremlin.ru/supplement/1091>

<sup>352</sup> Decision of the Supreme Eurasian Economic Council N°1, November 18<sup>th</sup>, 2011. [https://docs.eaeunion.org/docs/en-us/0146860/ic\\_31102012\\_1](https://docs.eaeunion.org/docs/en-us/0146860/ic_31102012_1)

<sup>353</sup> Treaty on the Eurasian Economic Commission, November 18<sup>th</sup>, 2011. [https://docs.eaeunion.org/docs/en-us/0043667/ic\\_17112012\\_2](https://docs.eaeunion.org/docs/en-us/0043667/ic_17112012_2)

<sup>354</sup> Art. 1 of the Treaty on the Eurasian Economic Commission, Ibid.

common economic space and were to be directly applied on the territory of the member States<sup>355</sup>. The Eurasian Economic Commission became the first permanent body within the EurAsEC framework and would play an important role in the development of both the customs union and the common economic space.

### 2.3.2. Eurasian Economic Space

The Eurasian Single Economic Space (SES), already introduced in the aforementioned section on the Eurasian Economic Commission, was the second main objective of the EurAsEC and was established on January 1<sup>st</sup>, 2012<sup>356</sup>. Originally, member States were those that were already members of the customs union, Belarus, Kazakhstan and the Russian Federation<sup>357</sup>. The Supreme Eurasian Economic Council decided the establishment of the SES on December 19, 2011, when adopted the decision N°9<sup>358</sup>, in which took note that conditions for the establishment of the SES established in the Decision of the Interstate Council of the EurAsEC of December 9<sup>th</sup>, 2010, N°65<sup>359</sup> were fulfilled. Consequently, the decision stated the entry into force of 17 international treaties, in which the characteristics and the conditions of functioning of the Eurasian Common Economic Space are defined<sup>360</sup>. The 17 agreements cover a large number

---

<sup>355</sup> Art. 5 of the Treaty on the Eurasian Economic Commission, Ibid.

<sup>356</sup> Eurasian Economic Commission, *Evrasijskaja èkonomičeskaja integracija: cifry i fakty*, 2013, pp. 18-21

<sup>357</sup> Decision of the Supreme Eurasian Economic Council N. 9, December 19, 2011. [https://docs.eaeunion.org/docs/en-us/0044316/scd\\_22122011\\_9](https://docs.eaeunion.org/docs/en-us/0044316/scd_22122011_9)

<sup>358</sup> Decision of the Supreme Eurasian Economic Council N. 9, Ibid..

<sup>359</sup> Decision of the Interstate Council of the EurAsEC N. 65, December 9, 2010. <https://www.alt.ru/tamdoc/10sm0065/>

<sup>360</sup> Art. 3 and 4 Decision of the Interstate Council of the EurAsEC N. 65, Ibid..



of economic problems and were adopted in order to promote harmonisation and deeper integration between the member States<sup>361</sup>.

The SES moved integration further and prepared the conditions for the establishment of the Eurasian Economic Union, that would eventually absorb both the customs union and the common economic space. The binding decisions of the main regulatory bodies, the Supreme Economic Council and the Eurasian Economic Commission, created the legal basis of the CU and the SES that would later be codified into the Treaty that

---

<sup>361</sup> The 17 agreements entered into force on January 1<sup>st</sup>, 2012 and that formed the legal basis of the Single Economic Space are: the Agreement on cooperation in fight to illegal labour migration from third countries (December 9<sup>th</sup>, 2010); the Agreement on the legal status of the labour migrants and their family members (November 19<sup>th</sup>, 2010); the Agreement on the agreed macroeconomic policy (November 9<sup>th</sup>, 2010); the Agreement on the creation of the conditions to guarantee the free circulation of capitals on the financial markets (December 9<sup>th</sup>, 2010); the Agreement on the agreed principles of monetary policy (December 9<sup>th</sup>, 2010); the Agreement on common principles and regulations of the activities of the subjects of the natural monopolies (December 9<sup>th</sup>, 2010); the Agreement on the common principles and regulations on concurrency (December 9<sup>th</sup>, 2010); the Agreement on the common regulation for the assignment of industrial subsidies (December 9<sup>th</sup>, 2010); the Agreement on the common regulation on state agricultural subsidies (December 9<sup>th</sup>, 2010); the Agreement on state (public) purchases (December 9<sup>th</sup>, 2010); the Agreement on commercial services and investments in member States of the Common Economic Space (December 9<sup>th</sup>, 2010); the Agreement on the common principles and regulations in the area of protection and defence of intellectual property (December 9<sup>th</sup>, 2010); the Agreement on the organisation, regulation, functioning and development of the common oil and oil products markets of Belarus, Kazakhstan and Russia (December 9<sup>th</sup>, 2010); the Agreement on the access guarantee to the services of natural monopolies in the sphere of electric energy, including basics on price determination and tariff policy (November 19<sup>th</sup>, 2010); the Agreement on the rules of access to the services of the natural monopolies' subjects in the sphere of the gas transportation by gas transportation systems, including basics on price determination and tariff policy (December 9<sup>th</sup>, 2010); the Agreement on the access of railways services, including basics on tariff policy (December 9<sup>th</sup>, 2010); the Agreement on the common principles of technical regulation in Belarus, Kazakhstan and Russia (November 18<sup>th</sup>, 2010).

established the EAEU<sup>362</sup>. As explained earlier, the legal provisions of the regulatory bodies had direct effect on the domestic law of the member States and this granted the alignment of the domestic law and the law of the CU and the SES<sup>363</sup> and giving to the provisions adopted by the Commission and the Supreme Council, at least in theory, some supranational traits.

Year 2014 was an intense year not only for the customs union and the common economic space, but also for the Eurasian Economic Community as a whole. First, as stated in the introduction to the present work, on May 29<sup>th</sup> was signed the Treaty on the Eurasian Economic Union, that will be deeply examined in the rest of the present chapter and in chapter 3. Being the Eurasian Economic Union thought as the organisation to succeed to the Eurasian Economic Community, the latter was dissolved by the signature, on October 10<sup>th</sup>, 2014, in Minsk, of the Treaty on termination of the Eurasian Economic Community<sup>364</sup>. The organisation ended its activities on January 1<sup>st</sup>, 2015 and a number of treaties, provisions and institutions of the EurAsEC, as will be seen later, were inherited by and integrated into the structure of the Eurasian Economic Union. This is

---

<sup>362</sup> R. DRAGNEVA, K. WOLCZUK, *Eurasian Economic Integration: Institutions, Promises and Faultlines*, in D. CALDIER, ed., *The Geopolitics of Eurasian Integration*, London, LSE Ideas Special Reports, 2014, pp. 11.

<sup>363</sup> Ibid.

<sup>364</sup> Treaty on the termination of the Eurasian Economic Community, Minsk, October 10th 2014.  
<http://docs.cntd.ru/document/420227082>

the case of the customs union<sup>365</sup> and the common economic space<sup>366</sup>, and also of the court of the Eurasian Economic Union<sup>367</sup>.

Before moving on to the evolution of the Eurasian Economic Community, the Eurasian Customs Union and the Eurasian Economic Space into the object of the present work, Eurasian Economic Union, it is necessary to make some final considerations on the results obtained by the regional integration process represented by the EurAsEC, the CU and the EAES. The organisation, in its first years of life, as shown by official data, has seen sensible a growth in terms GDP. The gross domestic product of the member States grown steadily until the global financial crisis of 2007<sup>368</sup>. As shown earlier, the global financial crisis of 2007 stimulated the establishment of the Customs Union and of the EAES. Important analysts and scholars welcomed the establishment of the CU with scepticism, since they expected the GDP of the member States to decrease due to the trade-diversion effects<sup>369</sup>. In fact, during the first years of existence of the CU, mutual trade did not grow as expected by the participant Parties and, curiously, trade grew stronger with third countries<sup>370</sup>. Reasons for this range from the specialisation of member States, especially the Russian Federation and Kazakhstan, in the production of raw materials to the

---

<sup>365</sup> Treaty on the Eurasian Economic Union, Astana, May 29<sup>th</sup>, 2014.

[https://docs.eaeunion.org/docs/ru-ru/0033610/itia\\_05062014](https://docs.eaeunion.org/docs/ru-ru/0033610/itia_05062014)

<sup>366</sup> Ibid.

<sup>367</sup> Ibid.

<sup>368</sup> All the data are provided by the Interstate Statistical Committee of the CIS. <http://www.cisstat.com/>

<sup>369</sup> L. VINHAS DE SOUZA, “*An Initial Estimation of the Economic Effects of the Creation of the EurAsEC Customs Union on Its Members*”, World Bank - Economic Premise, The World Bank, N°47, January 2011.

<sup>370</sup> K. BORODIN, A. STROKOV, *The Customs Union in the CIS*, in *Journal of Economic Integration*, Vol 30, N°2, 2015, pp. 334-358

inflation rates and the liberalisation of the markets that made consumer goods from the CU partners less competitive than those from third countries<sup>371</sup>. Nevertheless, the overall results allowed the member States to move integration forward and to establish the single economic space<sup>372</sup>. The will of the member States was clearly to seek deeper integration, in fact after establishing the single economic space the member States continued the integration process by creating the Eurasian Economic Union. Some observers have noticed that any move towards further integration should have been very well prepared in order to avoid unsettled issues while working within a common framework such as the customs union<sup>373</sup>. To do an assessment of the results of the EurAsEC, in addition to macroeconomic data and quantitative results, it is necessary to take into account also some qualitative results that have had actually a great impact on business and trade. The aforementioned technical regulations of the CU are a huge step forward towards deeper integration and they represented the first brick for today's technical regulations of the EAEU. Economic players, who want to export their goods to any member State, since the introduction of the technical regulations, need to obtain the EAC mark and to respect technical standards that are the same for all the member States<sup>374</sup>. Moreover, the adoption of the aforementioned customs code represented a first attempt to provide the CU with uniform legislation. Both this

---

<sup>371</sup> Ibid.

<sup>372</sup> I. V. LESKOVA, D. M. ERMAKOV, G. I. ANDRUSCHENKO, S. V. RASPOPOV, S. A. KHMELEVSKAYA, *Relevant Aspects of the Integration of Post-Soviet Countries in the Project of the Eurasian Economic Space*, in *Review of European Studies*, Vol 7, N° 6, 2015

<sup>373</sup> L. VINHAS DE SOUZA, "An Initial Estimation of the Economic Effects of the Creation of the EurAsEC Customs Union on Its Members", op. cit.

<sup>374</sup> See section 2.3.1. of the present chapter.

elements mean that the customs space established within the EurAsEC dealt with external Countries as single economical player, and still does today, strengthened by the framework given by the EAEU.

The CIS, as explained before, proved to be not effective as expected as a mean of regional integration. The organisation worked instead first as a mean to ‘control the divorce’ between the Post-Soviet Republics, and then as an inter-State framework for further development of cooperation on bilateral or even multilateral, but not all-post-Soviet, level<sup>375</sup>. The experience of the Eurasian Economic Community (and the stemmed organisations, the Customs Union and the Eurasian Economic Space), undoubtedly, benefited from the CIS framework, and at the same time, member States have been able to move forward cooperation and integration to a much deeper level. Figures and considerations above, show that on the one side the results have been fluctuating, but on the other, the whole EurAsEC environment has influenced member States in terms of policies, legislation and economy. Today, thanks to those concrete results, is it possible to affirm that the Eurasian Economic Community triggered a process of regional integration that is without parallel to previous processes and that evolved eventually into the Eurasian Economic Union.

### **3. Political and juridical relation between Contemporary Post-Soviet States**

The Eurasian Economic Union (EAEU), as explained, traces its origin to the previous regional integration processes in post-Soviet space,

---

<sup>375</sup> See section 2.1.6. of the present chapter.

especially to the EurAsEC, the international organisation that the EAEU substituted. Curiously, something similar in terms of denomination happened when the European Communities merged into the European Union, with the word ‘union’ evoking a sense of stronger and deeper ties and bonds between member States.

### **3.1. The formation of the Eurasian Economic Union**

Under the guidance of the Eurasian Economic Commission and the Supreme Economic Council, the integration was taken to a deeper level, by establishing a new international organisation where to merge all the structures created up to the moment. The decision to form the Eurasian Economic Union was formalised on May 29th, 2014 when the Presidents of Belarus, Kazakhstan and the Russian Federation signed the Treaty on the Eurasian Economic Union<sup>376</sup>. The Treaty, as mentioned before, entered in force on January 1st 2015. The first enlargement happened on January 2nd, 2015, when Armenia joined the EAEU after having signed the accession agreement on October 10<sup>th</sup>, 2014<sup>377</sup>. The fifth member, Kirghizstan signed the accession agreement on December 23<sup>rd</sup>, 2014 and joined the EAEU on August 12<sup>th</sup>, 2015<sup>378</sup>.

It was less than one year and a half between the establishment of the Common Economic Space and the creation of the Eurasian Economic

---

<sup>376</sup> Treaty on the Eurasian Economic Union, cit.

<sup>377</sup> Agreement on Accession of the Republic of Armenia to the Treaty on the Eurasian Economic Union, dated May 29, 2014, October 10<sup>th</sup>, 2014. [https://docs.eaeunion.org/docs/ru-ru/0037297/itia\\_11102014](https://docs.eaeunion.org/docs/ru-ru/0037297/itia_11102014)

<sup>378</sup> Agreement on Accession of the Kyrgyz Republic to the Treaty on the Eurasian Economic Union, dated May 29, 2014, December 23<sup>rd</sup> 2014.. [https://docs.eaeunion.org/docs/ru-ru/0137066/itia\\_26122014](https://docs.eaeunion.org/docs/ru-ru/0137066/itia_26122014)

Commission and the signature of the Treaty on the Eurasian Economic Union. The will of the parties to speed up the integration process and to evolve the EurAsEC into the Eurasian Economic Union has many reasons. In March 2013, the official Concept of the Foreign Policy of the Russian Federation already stated among priorities the establishment of the Eurasian Economic Union not only for economic purposes but also to create a bridge between Europe and Asia-Pacific<sup>379</sup>. Such a declaration holds a geopolitical meaning and, in fact, since its origins, the idea has contained an intrinsic geopolitical role, especially in offering an alternative to the association with the European Union for the post-Soviet States<sup>380</sup>. The role of the European Union in the areas that were once part of the Soviet Union, has often be a matter of tension in Euro-Russian relations, and the establishment of an alternative organisation, where indeed Russia plays a primary economic and cultural role<sup>381</sup>, represents both an important geopolitical instrument for the Russian Federation and an important occasion for regional integration for the post-Soviet republics. The institutionalisation of the European Union influence in the post-Soviet space, such as the association agreements negotiated and developed in the framework of the EU Eastern partnership, was pointed out as one of the key factors that resulted into the decision to speed up the regional

---

<sup>379</sup> 2013 Foreign Policy Concept of the Russian Federation.

[http://www.mid.ru/en/foreign\\_policy/official\\_documents/-/asset\\_publisher/CptICk6BZ29/content/id/122186](http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptICk6BZ29/content/id/122186)

<sup>380</sup> A. ZAGORSKIJ, “*Russia-EU relations at a crossroads: common and divergent interests*”, Working Papers, Russian International Affairs Council, N. 3, 2016.

<sup>381</sup> See chapter 3.3.1.1.

integration process<sup>382</sup>. To properly understand why the relations between the Russian Federation and the European Union have been fundamental for the Eurasian integration process, it is necessary to remark the preeminent role of the Russian Federation plays in the integration process itself. The country counts for 87% of the aggregate GDP of the EAEU and 87% of the population<sup>383</sup>. But it is not only a matter of quantitative data. The country has also played a leader role in the area in terms of cultural influence<sup>384</sup>, at least since the Imperial times and later increased during the Soviet era when, for example, Russian language was the official language for all the ethno-cultural nationalities that resided in the Soviet Union. Some authors argued that the Eurasian Economic Union is Russian-driven process to reintegrate a space that 'disintegrated' after 1991<sup>385</sup>. This approach has the virtue of pointing out the undoubted role of the Russian Federation in building the Eurasian Economic Union. Nevertheless, taking into account the development of the relations between the post-Soviet States and the dynamics of the integration process in the region, the holding-together model<sup>386</sup> seems to better describe the ongoing dynamics. Moreover, the holding-together model does not reject the idea that a

---

<sup>382</sup> L. DELCOUR, K. WOLCZUK, *Eurasian Economic Integration: Implications for the EU Eastern Policy*, in R. DRAGNEVA, K. WOLCZUK, *Eurasian Economic Integration: Law, Policy and Politics*, 1<sup>st</sup> Ed., Cheltenham, Edward Elgar, 2013, p. 202

<sup>383</sup> See chapter 3.3.1.1.

<sup>384</sup> V. G. EGOROV, A. V. ABRAMOV, S. N. FEDORČENKO, *Sravnitel'naja politologija Postsovetskogo prostranstva*, op. cit., p.

<sup>385</sup> R. DRAGNEVA, K. WOLCZUK, *Eurasian Economic Integration: Institutions, Promises and Faultlines*, in D. CALDIER, ed., *The Geopolitics of Eurasian Integration*, London, LSE Ideas Special Reports, 2014, pp. 22

<sup>386</sup> A. LIBMAN, E. VINOKUROV, *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*, op. cit., p. 48



reintegration process is going on, and recognises the role of the Russian Federation, but focuses more on the fact that the member States share a common past<sup>387</sup> rather than on the hegemonic will of one (or more) of the parties.

If on the contrast between the Eurasian Economic Union and the European Union it has already been said, many scholars pointed out that there exist many similarities between the two organisations and that somehow the EAEU was modelled in some aspects on the EU. As it was said earlier, this represents one of the main issues approached in the present work. Starting from the institutional model, that will be deeply analysed in chapter 3, the similarities between the Eurasian Economic Union and the European Union suggest that the former has been deeply inspired by the latter<sup>388</sup>. The experience of the European Union provided the Eurasian Economic Union an institutional model on which build its own institutional framework in order to seek the highest possible degree of functioning of the organisation <sup>389</sup>.

The way the EAEU works and its internal and external relations are the object of the next chapter, chapter 3. Nevertheless, before moving on to analyse it, it is necessary to make some considerations on why only five

---

<sup>387</sup> Ibid.

<sup>388</sup> R. DRAGNEVA, “*The Eurasian Economic Union: Balancing Sovereignty and Integration*”, Working Papers, Institute of European Law, N. 10, 2016.  
[http://epapers.bham.ac.uk/2220/1/IEL\\_Working\\_Paper\\_10-2016-dragneva.pdf](http://epapers.bham.ac.uk/2220/1/IEL_Working_Paper_10-2016-dragneva.pdf)

<sup>389</sup> H. HAUKKALA, *The impact of the Eurasian Customs Union on EU-Russia Relations*, in R. DRAGNEVA, K. WOLCZUK, *Eurasian Economic Integration: Law, Policy and Politics*, op. cit. , p. 169

out of the original fifteen Soviet republics are involved in the integration process.

### **3.2. Relations between EAEU Member states and the other Post-Soviet States**

Not all the post-Soviet States are interested by the processes of regional integration in the post-Soviet space. The Baltic States, since the beginning of the dissolution process, followed the path of a deeper integration with Europe and the NATO. Estonia, Latvia and Lithuania entered the European Union in 2004 and NATO in 2002. Similarly, Georgia, after a complicated relationship with the Commonwealth of Independent States, moved towards pro-NATO and European Union positions after the Georgian War of 2008, leaving the CIS in 2009.

Definitely more complex is the situation of Ukraine, often one of the promoters of regional integration processes until 2004, when the country shifted from its traditional positions in the post-Soviet space to completely different position, seeking a closer integration with the European Union. The tension over Ukraine culminated in 2014 with the Ukrainian crisis, that led to tense relations between Russia and the European Union.

The position of Moldova is also complicated. The country is divided, since 1992, between the ethnic Moldovan population, that aims to have closer ties with Romania and with the European Union, and the self-declared independent republic of Transnistria, a de facto autonomous entity that seeks deeper integration with the Russian Federation. The

country, at first oriented towards the EU, shifted her position lately, achieving the status of observer member to the EAEU<sup>390</sup>.

The Central Asian republics are probably the area where the Eurasian Economic Union has more chances to enlarge. As it was explained in the present chapter, Tajikistan and Uzbekistan have often played an active role in regional integration and have been themselves members of different regional organisations such as the CSTO and the EurAsEC. This issue will be further developed in the next chapter when analysing the enlargement perspectives of the Eurasian Economic Union.

After this brief explanation of the position of the post-Soviet States on the international scene and the attitude they have towards the regional integration process, it is possible to go back to the Eurasian Economic Union and analyse the structure and the functioning of the organisation in chapter 3.

---

<sup>390</sup> See chapter 3.3.2.

## CHAPTER 3: COOPERATION WITHIN THE EURASIAN ECONOMIC UNION FRAMEWORK – TENDENCIES AND DEVELOPMENT PERSPECTIVES

SUMMARY: 1. Political and legal systems of the EAEU member states – 1.1. Armenia – 1.2. Belarus – 1.3. Kazakhstan – 1.4. Kyrgyzstan – 1.5. The Russian Federation – 1.6. EAEU member States systems in relation to regional integration – 2. The Eurasian Economic Union – 2.1. Treaty on the Eurasian Economic Union – 2.1.1. Part One: general provisions and bodies of the Union – 2.1.1.1. Supreme Eurasian Economic Council – 2.1.1.2. Intergovernmental Council – 2.1.1.3. Eurasian Economic Commission – 2.1.1.4. Court of the Eurasian Economic Union – 2.1.1.5. Overall results of the EAEU bodies since 2015 – 2.1.2. Part II: The current state of the customs union – 2.1.2.1. Customs regulation: the Customs code of the EAEU – 2.1.2.2. Foreign Trade – 2.1.2.3. Technical Regulation – 2.1.3. Part III: The single economic space – 3. Issues beyond economy – 3.1. Key observations on the Eurasian Economic Union current state – 3.1.1. Results and achievements of Eurasian Economic integration: 2015-2018 – 3.1.2. Critical observations on the Eurasian Economic Union current state of integration – 3.2. Perspectives and sceneries of future integration

## 1. Political and legal systems of the EAEU member states

The Eurasian Economic Union (EAEU) counts with five member States that were once constituent republics of the Soviet Union. The ‘holding together’ pattern of regional integration, already discussed in chapter 2, implies that being the participants once part of a unique subject, they have a number of shared characteristics, in this case in terms of legal and political systems and political culture. Nevertheless, the more than 25 years of existence as independent States of the post-Soviet republics have brought about several differences when compared against each other. This section is dedicated to a brief analysis of the characteristic of political and legal systems and the political culture of the member States. The importance of such an analysis resides in the fact that there is a circular relation between the single States and the regional integration process<sup>391</sup>. On the one side, the domestic order and situation influence the building of the regional integration, for example when meetings and negotiations happen at intergovernmental level each country tends to reflect positions and instances previously discussed at domestic level. On the other side, as the example of the European Union shows, the regional integration structure influences directly (for example by the direct application of the organisation law at domestic level) or indirectly (for example in adopting reforms that ease the integration process) the domestic system of the member States. The five member States of the Eurasian Economic Union

---

<sup>391</sup> See the introduction.

are examined in alphabetic order, before making a brief comparison in order to find similarities and differences and moving onto the functioning of the Eurasian Economic Union as a single subject.

### 1.1. Armenia

Armenia it is not a founding member of the Eurasian Economic Union, having joined the organisation after its establishment<sup>392</sup>. While the analysis for the founding members is more extensive, what it is interesting regarding Armenia and its accession to the EAEU is the development of the country's foreign policy in the years following the dissolution of the Soviet Union up to these days.

Armenian foreign policy has been traditionally oriented towards Russia, even during the pre-Soviet era. Such an approach continued right after 1991, when the country gained sovereignty and the priority in foreign relations was to maintain the link with Russia<sup>393</sup>. A shift in positions happened with the second President of Armenia, Mr Robert Kocharyan, who introduced the concept of complementarity, a multi-direction foreign policy ideology in which Armenia positioned herself neutrally between foreign powers, despite officially aiming to integrate into European system and institutions<sup>394</sup>. Further developments happened after the third President of Armenia, Mr Serzh Sargsyan, took office in 2008. The

---

<sup>392</sup> See section 2.1. of the present chapter.

<sup>393</sup> A. TERZYAN, *The evolution of Armenia's foreign policy identity: the conception of identity driven paths. Friends and foes in Armenian foreign policy discourse*, in K. KAKACHIA, A. MAKAROV, eds., *Values and Identities as Sources of Foreign Policy in Armenia and Georgia*, 1<sup>st</sup> Ed, Tbilisi, Universal, 2016, pp. 145-183

<sup>394</sup> Ibid.

President put the accent on the Armenian identity, and pursued stronger relation with both the European Union, which Eastern Partnership was entered in 2009 and with which negotiated an association agreement<sup>395</sup>, and Russia<sup>396</sup>. In fact in 2013, Armenia declared that was ready to join the customs union and in fact, in 2014 joined the Eurasian Economic Union<sup>397</sup>. Such a decision, led to a renegotiation of the association agreement with the EU, since it included a free trade agreement that would have been impossible to implement given the membership of the country to the EurAsEC (and then to the EAEU). Today official position of the Armenian Ministry of Foreign Affairs maintains such a multi-vector character, considering priorities the friendly relations with Russia, the integration in the 'European family' and also good relations with the United States<sup>398</sup>. A separate analysis should be done on the issue of Nagorno-Karabakh and Armenian foreign relations, but it goes beyond the scope of the present work<sup>399</sup>. The issue has always played a major role in the Armenian foreign policy concept, and on this regard, it is important to notice that the country is member of the CSTO, the military alliance introduced in the previous chapter<sup>400</sup> and that will be further discussed later on this chapter.

---

<sup>395</sup> European Commission, *EU launches negotiations on Association Agreements with Armenia, Azerbaijan and Georgia*, Press Debate Release. [http://europa.eu/rapid/press-release\\_IP-10-955\\_en.htm](http://europa.eu/rapid/press-release_IP-10-955_en.htm)

<sup>396</sup> A. TERZYAN, *The evolution of Armenia's foreign policy identity: the conception of identity driven paths. Friends and foes in Armenian foreign policy discourse*, op. cit., pp. 145-183

<sup>397</sup> Treaty on the accession of Armenia to the EAEU, cit.

<sup>398</sup> Official statement of the Armenian MFA on Foreign policy, <https://www.mfa.am/en/foreign-policy>

<sup>399</sup> On the Nagorno-Karabakh issue see N. RONZITTI, *Il conflitto del Nagorno-Karabakh e il diritto internazionale*, op. cit.

<sup>400</sup> See chapter 2.2.1.1.

## 1.2. Belarus

The Republic of Belarus is one of the three then Soviet republics that started the dissolution of the Soviet Union, participating in the Belavezha process. The agreement was ratified by the Supreme Soviet of Belarus on December 10<sup>th</sup>, 1991, and independence became effective on December 26<sup>th</sup>, following the formal dissolution of the Soviet Union<sup>401</sup>.

The authorities of the Soviet Republic of Belarus, after the declaration of sovereignty and the consequent proclamation of the supremacy of the Belarussian legal acts over Soviet ones, started to draft a new Constitution in November 1991, while the country was still a federate member of the USSR. It took Belarus two and a half years and three drafts to adopt the new chart, on March 15<sup>th</sup> 1994<sup>402</sup>. On the same day, the Supreme Soviet of Belarus adopted a law that made void the old Constitution and the Declaration of Sovereignty, that up to that moment had been serving as the fundamental law of independent Belarus. The fundamental law was inspired by different constitutional experiences, not only from the outside but also from the Soviet one<sup>403</sup>. The original chart as

---

<sup>401</sup> See chapter 2.1.3.

<sup>402</sup> Constitution of Belarus, <http://pravo.by/pravovaya-informatsiya/normativnye-dokumenty/konstitutsiya-respubliki-belarus/>

<sup>403</sup> G.A. VASILIEVICH, *Konstitucija. Čelovek. Gosudarstvo*, vol. 7, e-book, Minsk, Pravo i Ekonomika, 2010, p. 19, .docx



amended through two referendums, one held in 1996<sup>404</sup> and one in 2004<sup>405</sup>, and current chart in force counts 146 articles.

In the first chapter are expressed the foundations of the constitutional system and Belarus is defined as a democratic, unitary and social State based on the rule of law<sup>406</sup>. Later in the chapter, article 8 recognises the supremacy of general principles of international law, and guarantees that Belorussian laws comply with principles of international law<sup>407</sup>. Nevertheless, it is prohibited the conclusion of international agreements that are contrary to the Constitution of the State<sup>408</sup> and the article does not expressly affirm the supremacy of international treaties over Belorussian law.

In the fourth section the chart provides for the political system of the State: the chart outlines a presidential republic, where the head of State, the President<sup>409</sup>, retains large powers, especially after 1996 referendum and 2004 referendum that lifted the original limit of two terms for presidential election<sup>410</sup>. Powers of the President include those of appointing the Prime

---

<sup>404</sup> Venice Commission, Opinion on the amendments and addenda to the Constitution of the Republic of Belarus as proposed by i: the President of the Republic & ii: the Agrarian and Communist groups of parliamentarians, Strasbourg, November 18th, 1996.

[https://www.venice.coe.int/webforms/documents/?pdf=CDL-INF\(1996\)008-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-INF(1996)008-e)

<sup>405</sup> Venice Commission, Opinion on the referendum of 17 October 2004 in Belarus, Strasbourg, October 8th, 2004. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2004\)029-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2004)029-e)

<sup>406</sup> Art. 1 of the Constitution of Belarus, cit. note 247.

<sup>407</sup> Art. 8 of the Constitution of Belarus, cit. note 247.

<sup>408</sup> Art. 8.3 of the Constitution of Belarus, cit. note 247.

<sup>409</sup> Art. 79 of the Constitution of Belarus, cit. note 247.

<sup>410</sup> Venice Commission, Opinion on the referendum of 17 October 2004 in Belarus, op. cit.

minister and the Government members<sup>411</sup>, and also to appoint a large number of judges of the Supreme, Constitutional and Economic courts<sup>412</sup>. Moreover, the President can at any time dissolve the Government or dismiss ministers and dismiss judges<sup>413</sup>. The President of Belarus can also put forward draft laws that must be examined by the Parliament<sup>414</sup>. Since 1994, the office of President has been held by Mr Aleksandr Lukašenka, a figure that has dominated Belarusian politics pretty much since the establishment of the independent State to nowadays and whose influences on the political culture and the international relations of the country will be further examined later on.

After describing the office of president, the Belarusian Constitution moves on in structuring the political system of the State by outlining the functions and the role of the bicameral Parliament of Belarus<sup>415</sup>. The Parliament is the representative and the legislative body of the State and it is made by a lower and an upper house<sup>416</sup>. The lower house, the Chamber of representatives is made up by 110 elected deputies, while the upper house, the Council of the Republic, serves as a chamber of territorial representation<sup>417</sup>. The Parliament shares the legislative initiative with the President, the Government and can also act on behalf of citizens that can propose to the lower house a draft by collecting 50,000 signatures<sup>418</sup>. Any

---

<sup>411</sup> Art. 80 of the Constitution of Belarus, cit. note 247.

<sup>412</sup> Ibid.

<sup>413</sup> Ibid.

<sup>414</sup> Ibid.

<sup>415</sup> Chapter 4 of the Constitution of Belarus, cit. note 247.

<sup>416</sup> Art. 90 of the Constitution of Belarus, cit. note 247.

<sup>417</sup> Art. 91 of the Constitution of Belarus, cit. note 247..

<sup>418</sup> Art. 99 of the Constitution of Belarus, cit. note 247.

draft must be read and passed in both chambers<sup>419</sup>, a procedure that, as noted by some scholars, resembles that of the Italian Parliament<sup>420</sup>. Nevertheless, the non-confidence vote is a responsibility of the sole lower chamber, the House of Representatives<sup>421</sup>.

The non-confidence vote takes the analysis to the Government, which functions are organisation are outlined in chapter 5. The Government is defined as the exerciser of the executive power and is accountable to the President of Belarus and responsible to the Parliament<sup>422</sup>. The head of the Government is the Prime minister, who is appointed by the President<sup>423</sup>, and who is responsible for the activities of the cabinet<sup>424</sup>. When it comes to the powers that the cabinet holds, the Constitution states that along the duties proper to the executive power, the Government shall implement the instructions of the President of Belarus<sup>425</sup>. The complex relationship between the President, the Parliament and the Government, makes the definition of the political system of Belarus complicated. While it could be described as an example of semi-presidential system, the large powers of the President in terms not only of control and guarantee but also in terms of giving instructions to the Parliament and the Government, makes the definition of Belarus as a semi-

---

<sup>419</sup> Art. 100 of the Constitution of Belarus, cit. note 247.

<sup>420</sup> G.A. VASILIEVICH, *Konstitucija. Čelovek. Gosudarstvo*, vol. 7, Minsk, Pravo i Ekonomika, 2010, p. 19, .docx

<sup>421</sup> Art. 94 of the Constitution of Belarus, cit. note 247.

<sup>422</sup> Art. 106 of the Constitution of Belarus, cit. note 247.

<sup>423</sup> Art. 84 of the Constitution of Belarus, cit. note 247.

<sup>424</sup> Art. 106 of the Constitution of Belarus, cit. note 247.

<sup>425</sup> Art. 107 of the Constitution of Belarus, cit. note 247.

presidential system too simplistic<sup>426</sup>. Some scholars have proposed the definition of a ‘ruling-president system’, a type of authoritarian rule of the State<sup>427</sup>, as an alternative to the expression ‘semi-presidential system’.

The whole Belarussian political system has, as introduced earlier in this section, dominated by the figure of Aleksandr Lukašenka, who has served as President since 1994. His influence on the political system reflected also on the political culture of Belarus, which seems to have the features proper of the political culture of an illiberal democracy<sup>428</sup>. Presidential elections in the country have been always criticised by international observer as for being a mere mean of power legitimacy by the presidential office and not an open electoral run<sup>429</sup>. The system has also prevented a large participation of civic platforms and a considerable involvement of citizens in active politics<sup>430</sup>.

A relevant role in national political culture has been played by the development of the Belarussian national identity, which has been complicated. For a long time it was hard to talk about a genuine

---

<sup>426</sup> On the issue: L. HOLMES, *Post-Communist Leadership*, in R.A.W. RHODES, P. ‘T HART, *The Oxford Handbook of Political Leadership*, Oxford, OUP, 2014, p. 644 and also R. ELGIE, *What is semi-presidentialism and where to find it?*, in R. ELGIE, S. MOESTRUP, eds., *Semi-Presidentialism Outside Europe: A Comparative Study*, London, Routledge, 2007, p. 5

<sup>427</sup> R. HAGUE, M. HARROP, J. MCCORNICK, *Political Science: a comparative introduction*, London, Palgrave, 2016, p. 63

<sup>428</sup> R. HAGUE, M. HARROP, J. MCCORNICK, *Political Science: a comparative introduction*, op. cit., pp.202-203. Authors refer to Almond and Verba studies on political culture and offer an updated view that suits the current political situation on global scale.

<sup>429</sup> OCSE/ODIHR Election observation mission, *Final report*, January 28<sup>th</sup>, 2016.

<https://www.osce.org/odihr/elections/belarus/218981?download=true>. The report concerns 2015 Presidential election but it contains references to previous reports and recommendations of the OSCE.

<sup>430</sup> Ibid.

Belorussian national identity. A study conducted in 2003 demonstrates how Belarus was a country experiencing a ‘split identity disorder’: two different sides confronted as the true bearers of Belorussian identity and national idea. The ‘Westernisers’ who support the idea of Belarus being a heir nation of the Grand Duchy of Lithuania, separate and distinct from the Russian Nation and who advocate a fully independent Belarus. The opposite faction bears the idea of Belarus being part of a wider Russian Nation and supports stronger ties with Moscow. The Belarus population resulted to be mostly uninterested and uninvolved in the process of national identity development. The situation has slightly changed albeit the two sides still exist. As argued in 2003, a drive towards a Belorussian National Identity independent from the Russian one would have been brought up by a subaltern position (either real or perceived) in the relations with Russia<sup>431</sup>. In the past ten years, a series of events has somewhat changed the relation between Minsk and Moscow. The Belorussian administration started a new policy that, whilst recognizing the common Slavic ties, underlines the differences within the two nations. A Belorussian National Identity sets a solid basis in the building of a stable Belarus both in economic and in foreign policy terms<sup>432</sup>. Some first results can be seen in the 2009 census, with a rise in the population defining itself ‘Belorussian’, which has reach 83.7% from 77.9% in 1989<sup>433</sup>. A symbolic event happened in July 2014 when President Lukašenka gave the

---

<sup>431</sup>G. IOFFE, *Understanding Belarus: Belarussian Identity*, op. cit.

<sup>432</sup>A. NICE, “*Playing Both Sides: Belarus between Russia and the EU*”. DGAPanalyse, N 2, March 2012. <https://core.ac.uk/download/pdf/42106639.pdf>

<sup>433</sup>V. SMOK, “*The Impact of Lukashenka’s Rule*”. Ostrogorski Centre Belarus Digest, N 3, December 9<sup>th</sup>, 2013.

Independence Day speech in Belarusian, rather than in Russian as he had always done, showing the intention to promote the national language (which is largely unknown even by those who call themselves Belarusians) as an instrument of national identity building<sup>434</sup>. The a very dynamic situation makes very difficult to predict whether the national identity building process will move towards the direction advocated by the ‘Westerniser’ side or towards the ‘pro-Russian’ side, especially under the light of the regional integration process in the area and the emergence of the idea of an ‘eurasian’ identity<sup>435</sup>. Nevertheless, the very latest developments on the international scene suggest that the Belarusian administration seeks a role as an intermediate actor between the Russian Federation and Europe<sup>436</sup>. In order to achieve this goal, it is likely that policies will go on the direction of fully independent Belarusian national identity, though very well linked to Russia and the common Slavic roots.

The international relations of Belarus are the final point of the present brief overview on the legal and political processes in the country. The country has been, since the moment of her independence, one of the most actives players in the post-Soviet space, as showed by the involvement of Belarus in the most important regional integration processes in the area, including the primary role in the establishment of the Eurasian Economic

---

<sup>434</sup> K. BARUSHKA, *After decades of Russian dominance, Belarus begins to reclaim its language*, The Guardian, January 28, 2015. <https://www.theguardian.com/world/2015/jan/28/-sp-russian-belarus-reclaims-language-belarusian>

<sup>435</sup> See chapter 2

<sup>436</sup> L. VOLAKHAVA, *Belarusian’s Selfidentification in the Context of Civilizational Borderline*, in *Sravnitel’naja politika*, Vol. 1, N. 11, 2013, pp. 4-22

Union<sup>437</sup>. Regional integration and international cooperation were intended to be an important part of Belarus political life at the moment of the adoption of the Constitution<sup>438</sup>, and dispositions on the supremacy of international law were expressly provided for<sup>439</sup>. On a broader level of international relations, in the past international observers had noted the country's attachment to Soviet memory and a special relation with the Russian Federation. An indication of this proximity can be seen in the signing of a series of agreements between 1995 and 1998<sup>440</sup> for a so-called 'Union State', finally established in 1999<sup>441</sup>. The Union State ties the two countries in a confederate structure, although there is a debate whether the Union State was intended to evolve as a loose confederation or more as a federation<sup>442</sup>. This question has been to be answered by the adoption of a Constitution for the Union State, that should better define the boundaries of competencies and international role of the Union<sup>443</sup>. Nevertheless, while the Union State is still existent today, little results have been produced:

---

<sup>437</sup> See chapter 2

<sup>438</sup> G.A. VASILIEVICH, *Konstitucija. Človek. Gosudarstvo*, op. cit., p. 50, .docx

<sup>439</sup> Art. 8 of the Constitution of Belarus. cit. note 247.. The Republic of Belarus shall recognise the supremacy of the generally recognised principles of international law and shall ensure the compliance of laws therewith.

The Republic of Belarus in conformity with the rules of international law may on a voluntary basis enter interstate formations and withdraw from them.

Conclusion of treaties that are contrary to the Constitution shall not be permitted.

<sup>440</sup> All the agreements signed by the two States leading to the Union State can be found at the official documents database of the Union State. <http://www.soyuz.by/about/docs/>

<sup>441</sup> Treaty on the Establishment of the Union State, Moscow, December 8<sup>th</sup>, 1999.

<http://www.soyuz.by/about/docs/dogovor5/>

<sup>442</sup> A. ŽULYS, *Towards a Union State of Russia and Belarus*, in *Lithuanian Foreign Policy Review*, N. 15-16, pp. 148-169

<sup>443</sup> Ibid.

progress in integration has been achieved in defense and security, while little was done on the political level, to the extent that the Constitution of the Union State has not been drafted yet<sup>444</sup> despite being provided for in the founding Treaty<sup>445</sup>. Economic integration was shifted to the EurAsEC first and finally to the EAEU level. Finally, in the last decade, Belarus shifted its position, deftly contradicting Russia on a number of issues, and tended to serve as a bridge between the Russian Federation and the European Union. This tendency is evident in Belarus' decision, after the 2013 Ukrainian crisis, to act as a mediator between the conflicting sides thus establishing itself as a neutral country<sup>446</sup>. Nevertheless, the official direction of Belarus' foreign policy sees the Russian Federation as her primary partner and regional integration activity historically within the CIS and, in Today's perspective, within the Eurasian Economic Union and also within the CSTO as her main priorities<sup>447</sup>.

### 1.3. Kazakhstan

Despite Kazakhstan did not participate in Belavezha process, the country enthusiastically welcomed independence and hosted the Almaty meeting on December 1991, where the protocol that dissolved the Soviet Union was signed<sup>448</sup>. Since then the country moved in the direction of

---

<sup>444</sup> A. MARTYNAUS, *Political Bargaining in the Union State of Russia and Belarus*, in *Contemporary European Studies*, N. 2, 2013, pp. 69-88

<sup>445</sup> Article 62 of the Treaty on the Establishment of the Union State, cit.

<sup>446</sup> C. TOSI, *La Guerra in Ucraina rilancia la neutrale Bielorussia*, Limesonline, February 26<sup>th</sup>, 2015.  
<http://www.limesonline.com/rubrica/la-guerra-in-ucraina-rilancia-la-neutrale-bielorussia>

<sup>447</sup> Priorities of the foreign policy of the Republic of Belarus,  
[http://mfa.gov.by/en/foreign\\_policy/priorities/](http://mfa.gov.by/en/foreign_policy/priorities/)

<sup>448</sup> See chapter 2.1.3.



liberal reforms transforming radically the economy and the society of the State.

The current Constitution of Kazakhstan<sup>449</sup> was adopted by referendum on August 30<sup>th</sup>, 1995<sup>450</sup>. Right after independence, as all the post-Soviet States, the country used Soviet Constitution of 1978 amended and integrated by a number of laws such as the law ‘on the independence of the Republic of Kazakhstan’<sup>451</sup>. A first post-Soviet Constitution was adopted on January 28<sup>th</sup>, 1993<sup>452</sup> and was, as said, substituted two and a half years later. The current Constitution of Kazakhstan counts with 98 articles, and was amended four times, in 1998, in 2007, in 2011 and in 2017.

Section I of the Constitution gives the main features of the constitutional order of the State, which is a democratic, secular, legal and social republic in which the individual’s life and rights represent her highest values<sup>453</sup>. The Constitution is the highest juridical force and international Treaties of which Kazakhstan is part have priority over national laws<sup>454</sup>. In fact, the Constitutional Council of Kazakhstan must control the compliance of international treaties with the Constitution

---

<sup>449</sup> Constitution of Kazakhstan, cit. note 248.

<sup>450</sup> National Digital History, *The history of the Constitution of the Republic of Kazakhstan*, Qazaqstan Tarihy, September 2<sup>nd</sup>, 2014. <https://e-history.kz/en/publications/view/723>

<sup>451</sup> Constitutional Law of the Republic of Kazakhstan ‘on the State independence of the Republic of Kazakhstan’, December 16<sup>th</sup>, 1991. [http://adilet.zan.kz/eng/docs/Z910004400\\_](http://adilet.zan.kz/eng/docs/Z910004400_)

<sup>452</sup> Institute of History of State CS MES of Republic of Kazakhstan, *The Constitution of the Republic of Kazakhstan in 1993*, Qazaqstan Tarihy, January 11<sup>th</sup>, 2017. <https://e-history.kz/en/contents/view/1205>

<sup>453</sup> Art. 1 of the Constitution of Kazakhstan, cit. note 248.

<sup>454</sup> Art. 4 of the Constitution of Kazakhstan, cit. note 248.

before the signature<sup>455</sup>, and, in case the treaty is not compliant, it can not be signed, ratified or brought into effect<sup>456</sup>. Another reference to international law are to be found later, when the Constitution states the principles of the international relations of the State, which must respect principles and norms of international law<sup>457</sup>.

Section III of the Constitution of Kazakhstan covers the office of the President. The President of Kazakhstan, directly elected for a five years term<sup>458</sup>, is the head of State and gives the direction for both domestic and foreign policy<sup>459</sup>. The number of the terms an individual can serve as President is limited by Constitution to two consecutive terms. Nevertheless, such limitation does not apply to the first President of Kazakhstan<sup>460</sup>. Since the independence of the State in 1991, Nursultan A. Nazarbaev, who was the President of the Kazkah SSR at the time of the Almaty declaration, has held the office and this make him the only leader of the Eurasian Economic Union member States who was already in power during the Soviet era. The powers the Constitution grants to the President are many and grant to the President a large control over domestic and foreign policy<sup>461</sup>. Moreover, the following section of the Constitution, which is dedicated to the Parliament, gives the President important powers

---

<sup>455</sup> Art. 72.3 of the Constitution of Kazakhstan, cit. note 248.

<sup>456</sup> Art. 74 of the Constitution of Kazakhstan, cit. note 248.

<sup>457</sup> Art. 8 of the Constitution of Kazakhstan, cit. note 248.

<sup>458</sup> Art. 41 of the Constitution of Kazakhstan, cit. note 248.

<sup>459</sup> Art. 40 of the Constitution of Kazakhstan, cit. note 248.

<sup>460</sup> Art. 43 of the Constitution of Kazakhstan, cit. note 248.

<sup>461</sup> Art. 44 of the Constitution of Kazakhstan, cit. note 248.

of legislative initiative and of control over the priority of the bills examined and voted by the Parliament<sup>462</sup>.

The Parliament, to which is dedicated Section IV<sup>463</sup>, holds the legislative power<sup>464</sup> and is formed by two chambers, an upper one (the Senate), which is indirectly elected, and a lower one (the Majilis), which is directly elected<sup>465</sup>. Legislative initiative, other than to the President, belongs to the MPs, to the Government, and the procedure must be initiated in the Majilis<sup>466</sup>. The Parliament of Kazakhstan is today dominated by Presidential party Nur Otan, which holds 84 seats out of 98<sup>467</sup>. Elections, held on March 20<sup>th</sup>, 2016, were, according OSCE, formally well organised, even if not fully compliant with international standards, but the most important remark that has been done regards the absence of a real competition and real alternatives to Nur Otan<sup>468</sup>. Such a strong majority, strengthens even more the figure of President of Kazakhstan.

The Government of Kazakhstan<sup>469</sup>, which holds the executive power<sup>470</sup>, is nominated by the President, who appoints the Prime Minister. The Prime Minister, within 10 days from his appointment, suggests the

---

<sup>462</sup> Art. 61 of the Constitution of Kazakhstan, cit. note 248.

<sup>463</sup> Section IV of the Constitution of Kazakhstan, cit. note 248.

<sup>464</sup> Art. 49 of the Constitution of Kazakhstan, cit. note 248.

<sup>465</sup> Art. 50 of the Constitution of Kazakhstan, cit. note 248.

<sup>466</sup> Art. 61 of the Constitution of Kazakhstan, cit. note 248.

<sup>467</sup> OSCE/ODIHR Election Observation Mission, *Final Report*, June 27<sup>th</sup>, 2016.

<https://www.osce.org/odihr/elections/kazakhstan/248781?download=true>

<sup>468</sup> Ibid.

<sup>469</sup> Section V of the Constitution of Kazakhstan, cit. note 248.

<sup>470</sup> Art. 64 of the Constitution of Kazakhstan, cit. note 248.

structure and the composition of the cabinet to the President<sup>471</sup>. The most important powers the Constitution grants to the Government are those related to develop the main directions of State policies and to organise and supervise the implementation of said policies<sup>472</sup>. The political system drawn by the Constitution and the way it has been put in practice developed a strong presidential system, despite some observers describe it as formally semi-presidential<sup>473</sup>, with the office of the President, which plays a pivotal role in all the aspects of political life<sup>474</sup>. This feature is strengthened in the case of the figure of Mr Nursultan Nazarbaev, who, being the first president of the Kazakhstan, enjoys special provisions such as the aforementioned lack of limitations for the number of terms he can run.

As for most of the Central Asian post-Soviet States, Kazakhstan's political culture is conservative and strongly tied to the building of the national identity of the State, being the Soviet experience the sole experience of statehood they had before entering the world scene as independent States in 1991. In such a context there has been single strong man who is seen as the guarantor of the State independence and sovereignty, as reflected by the figure of the Kazakh President briefly presented earlier. The majority of population, despite the modernisation of the country, maintain a so-called parochial behaviour towards politics, with a substantial lack of interest in active participation and shows strong

---

<sup>471</sup> Art. 65 of the Constitution of Kazakhstan, cit. note 248.

<sup>472</sup> Art. 66 of the Constitution of Kazakhstan, cit. note 248.

<sup>473</sup> R. HAGUE, M. HARROP, J. MCCORNICK, *Political Science: a comparative introduction*, op. cit., p. 157

<sup>474</sup> R. HAGUE, M. HARROP, J. MCCORNICK, *Political Science: a comparative introduction*, op. cit., p.63

support for the political system<sup>475</sup>. Furthermore, Kazakhstan is the EAEU member State that has experienced the most problematic national identity building process, struggling to construct a solid national identity. This hinders the development of any regional integration going beyond the economic sphere. Since the first talks on the matter, the Kazakh political elites made it clear that the regional integration process had to be merely economic. The country is not seeking any form of political integration, which could undermine Kazakhstan's sovereignty, as underscored several times by Kazakh representatives at different levels before the establishment of the Eurasian Economic Union<sup>476</sup>. Like other Central Asian countries, leaders rely on local cultural elites who are educated in Kazakh schools, grown in Kazakh society (often in rural environment) and who tend to perceive other cultures (i.e. Russian) as foreign. Along them there is a smaller group composed by those who assimilated both cultures as their own. Such members of intelligentsia tend to carry the memory of the past and, often informally, seek some kind of revenge on the 'alien' culture<sup>477</sup>. As suggested by a Kazakh scholar, a process of strong ethnic national identity building is in place<sup>478</sup>. However, the Kazakhisation is happening at a mild pace despite the policies to create a double-level national identity within a multi-ethnic state. This is evident in the usage, for example, of Kazakh language for toponyms that had a non-Kazakh name (in 2014 the

---

<sup>475</sup> S. BEIMENBETOV, "Modernisation and political culture in Kazakhstan", Research Paper Kazakh-German University, Almaty, 2018

<sup>476</sup> R. TASHKINBAYEV, *Kazakhstan lawmakers see no reason to create Eurasian Parliament*, Tengri News, Dec 10, 2013, accessed May 3, 2016. <https://en.tengrinews.kz/opinion/435/>

<sup>477</sup> G. SMITH et al., *Nation Building in the Post Soviet Borderlands*, (Cambridge: CUP, 1998), 139-141

<sup>478</sup> A. BURKHANOV, *Kazakhstan's National Identity-Building Policy: Soviet Legacy, State Efforts and Societal Reaction*, in *Cornell International Law Journal*, Vol. 50, N. 1, Article 1.

President of Kazakhstan Nursultan Nazarbaev proposed a public discussion to change the name of the country itself, from Kazakhstan to a more ‘Kazakh’ sound, Qazaq Yeli<sup>479</sup>). Any formal attempt to establish a double-level identity lacked both strength and legal basis, resembling the old Soviet national policies without the existence of Soviet national republics<sup>480</sup>. Considering the elements took into account, Kazakh national-identity situation and the statements of her Government make any involvement of Kazakhstan in any regional integration project and in particular in the Eurasian Economic Union, in terms other than economical, very unlikely at least on the short leg. Nevertheless, it is interesting to observe if in the years to come there will be a development of an ‘Eurasian identity’, as outlined in chapter 2<sup>481</sup>, being the Kazakh President Nursultan Nazarbaev one of the main promoters of this idea. Despite being the President one of the main promoters, on the other side regional identities being often perceived as something that reduces the own national identity by the public opinion of those States that are in a process of developing it, ultimately representing an obstacle for regional integration<sup>482</sup>.

Finally, moving on to the State’s international relations and foreign policy, it is interesting to notice that the preamble to the Constitution of

---

<sup>479</sup>The Economist, *Don’t call me Stan*, The Economist, Feb 22, 2014, accessed June 18, 2016.

<http://www.economist.com/news/asia/21597006-president-wants-change-what-country-called-dont-call-me-stan>

<sup>480</sup>A. BURKHANOV, *Kazakhstan’s National Identity-Building Policy: Soviet Legacy, State Efforts and Societal Reaction*, op. cit.

<sup>481</sup> See chapter 2.2.1.5.

<sup>482</sup> Ibid.

Kazakhstan states the importance the world scene has for the country<sup>483</sup>. Kazakhstan foreign policy, since the dissolution of the Soviet Union, has characterised for its pragmatic and realistic character<sup>484</sup>: on the ‘intra-post-Soviet’ level, the country has always been one of the main players in integration, along with the Russian Federation and Belarus, and it was actually Kazakh President Nursutal Nazarbaev who first spoke about an Eurasian Union in 1994<sup>485</sup>. Nevertheless, in the relations with third countries, Kazakhstan always has tried to follow a multi-vector policy, looking for several paths of cooperation and, to some extent, integration. One of the main partners of Kazakhstan has become the People’s Republic of China and in 1990s the country has signed agreements also with the United States of America and proposing herself as a player in major international issues as it happened in 2003 when President Nazarbaev offered to mediate between Iraq and the international community<sup>486</sup>. Such a pragmatic approach finds its roots both in the previously exposed ‘open issue’ of Kazakh national and state identity, that forces to a pragmatic rather than an ideological approach<sup>487</sup>, and in the powers the Constitution gives to the head of State in determining the main directions of country’s foreign policy<sup>488</sup>. Kazakhstan, and this is an additional but not less important reason for the pragmatic approach in international relations,

---

<sup>483</sup> Preamble to the Constitution of Kazakhstan, cit. note 248.

<sup>484</sup> S.N. CUMMINS, *Eurasian bridge or murky waters between east and west? Ideas, identity and output in Kazakhstan's foreign policy*, in *Journal of Communist Studies and Transition Politics*, Vol. 19, N.3, pp. 139-155

<sup>485</sup> See chapter 2.2.1.6.

<sup>486</sup> S.N. CUMMINS, *Eurasian bridge or murky waters between east and west? Ideas, identity and output in Kazakhstan's foreign policy*, op. cit

<sup>487</sup> Ibid.

<sup>488</sup> Art. 125 of the Constitution of Kazakhstan, cit. note 248.

bases much of its economy on the exportation of oil and gas<sup>489</sup>. Under this light, the country has pursued an active policy in establishing relations not only with third countries but also in promoting cooperation between Kazakh oil and gas companies and foreign partners, including for what concerns the building of infrastructures that would allow Kazakhstan to bypass the traditional Russian pipelines<sup>490</sup>. The country has also played a very active role in the recent developments on the status of the Caspian Sea, an area that has historically considered strategic for the Kazakh State. It is interesting to notice that the current Kazakhstan's concept of foreign policy, does not mention Eurasian integration as one of the State's goals, but seems rather focused on strengthening the position of the country on the world scene<sup>491</sup>. Nevertheless, the Eurasian Economic Union is viewed as a mean to reach the goals of the concept, and it seems to be intended in a strict economic sense<sup>492</sup>.

---

<sup>489</sup> See section 3.1.1. of the present chapter.

<sup>490</sup> P. İPEK, *The role of oil and gas in Kazakhstan's foreign policy: Looking east or west?*, in *Europe-Asia Studies*, Vol. 59, N. 7, pp. 1179-1199

<sup>491</sup> Foreign Concept for 2014-2020 Republic of Kazakhstan. <http://mfa.gov.kz/en/erevan/content-view/koncepcia-vnesnej-politiki-rk-na-2014-2020-gg>

<sup>492</sup> Point 2. of the Priorities and tasks of Kazakhstan's Foreign Policy states that the country will continue 'Viewing Eurasian economic integration as an effective tool for promotion of a sustainable position in the modern world, Kazakhstan will strengthen the Customs Union and the Common Economic Space in order to build the Eurasian Economic Union on its basis.

During the course of implementing the process the following principles will be observed: inviolability of the political sovereignty, economic rationalization of the decisions, gradual approach, pragmatism and mutual benefit, equal representativeness of parties in all integration organs and consensus at all levels of collaboration'. Ibid.



## 1.4. Kyrgyzstan

Kyrgyzstan, like Armenia, it is not a founding member of the EAEU. Despite her small size and despite being the smallest economy of the Union<sup>493</sup>, Kyrgyzstan has a position of primary strategic importance on the world map. For this reason, since 1991, the country has attracted the interest not only of the Russian Federation but also of the United States and of the People's Republic of China, which have attempted to establish solid ties with the Central Asian State. The interest expressed by some of the world most relevant powers towards Kyrgyzstan, make the Kyrgyz foreign policy interesting under the light of the State integration in the Eurasian integration process and its geopolitical meaning.

The approach of Kyrgyzstan to the international scene has been multi-vector since the independence of the country. In fact, if one the one side the aforementioned geographical position of the State represents a matter of interest and therefore an advantage for a relatively poor country, on the other, it poses risks on State security and sovereignty<sup>494</sup>. The integration into the EAEU represents under this light a way to protect State security, through strengthening ties with the Russian Federation, which is already a military partner of Kyrgyzstan in the framework of the CSTO<sup>495</sup> and which is negotiating the establishment of a military base in the country<sup>496</sup>. Furthermore, Kyrgyzstan has among its priorities to resolve

---

<sup>493</sup> See section 3.1.2. of the present chapter

<sup>494</sup> C. KAINAZAROVA, “*New Trends in Kyrgyz Foreign Policy*”, MPRA Paper N. 86491, 2018.  
[https://mpra.ub.uni-muenchen.de/86491/1/MPRA\\_paper\\_86491.pdf](https://mpra.ub.uni-muenchen.de/86491/1/MPRA_paper_86491.pdf)

<sup>495</sup> See chapter 2.2.1.1.

<sup>496</sup> C. KAINAZAROVA, “*New Trends in Kyrgyz Foreign Policy*”, op. cit.

borders disputes with her neighbours, nominally Tajikistan and Uzbekistan<sup>497</sup>. Despite little if any progresses have been registered in the negotiations with the former, an agreement was reached between Kyrgyzstan and the latter, and a treaty that settles most of the border disputes was signed in 2017<sup>498</sup>.

### 1.5. The Russian Federation

The Russian Federation, like Belarus, is one of the three States that participated in the Belaveža process in 1991 that formally started the dissolution of the Soviet Union<sup>499</sup>. The peculiarity of the Russian Federation consists in the fact that succeeded to the Soviet Union as a State recognised by the international community, preserving the role that was once of the Soviet superpower including the seat at the United Nations<sup>500</sup>.

Right after the declaration of sovereignty on June 12<sup>th</sup>, 1990, the Council of Deputies started the draft of a new constitutional chart. In the meantime, following the aforementioned Belaveža process, the Russian Federation became an independent State, with the RSSFR Constitution of 1978, amended and integrated by the declaration of sovereignty as her constitutional chart. The adoption of a new Constitution was not an easy process, several drafts were presented both before and after the dissolution of the Soviet Union and a major clash happened in 1993, when there was a crisis between the Parliament and the President of the Russian Federation

---

<sup>497</sup> New Concept of the Kyrgyz Foreign Policy. <http://www.mfa.gov.kg/contents/view/id/31>

<sup>498</sup> Treaty between the Republic of Uzbekistan and the Kyrgyz Republic on the Uzbek-Kyrgyz State Border, Bishkek, September 5th, 2017.

<sup>499</sup> See chapter 2.1.

<sup>500</sup> Ibid.

Mr Boris El'cin, which required the intervention of the armed forces<sup>501</sup>. The chart adopted on December 12<sup>th</sup>, 1993<sup>502</sup>, was then amended three times. A first time 2008 during Mr Dmitrij Medvedev presidency, when the length of the term of the President and of the PMs was extended to six and five years respectively starting from the following presidential term, which elections were eventually won by Mr Vladimir Putin. The Constitution was then amended twice in 2014, once on February 5<sup>th</sup> and once on July 21<sup>st</sup>, with both reforms that gave the President of the Russian Federation more control powers on the judiciary and the upper chamber by extending his or her powers to nominate attorneys and senators. It is necessary to add, before moving to the main characters of the chart, that the Constitution of the Russian Federation was modified in other occasions, but always concerning the number or the name of the federal subjects. Such changes are introduced by a simplified procedure through a constitutional law in case of new subjects joining the federation (including new subjects arising from the merge of two already existing subjects)<sup>503</sup> or even through a decree of the President of the Russian Federation as in the case of the change of the name<sup>504</sup>. The Constitution of the Russian Federation has 137 articles, divided in nine chapters.

---

<sup>501</sup> On the 1993 Russian constitutional crisis: R. Kh. KHASBULATOV, *Velikaja rossijskaja tragedija*, 1<sup>st</sup> Ed, Moscow, TOO Sims, 1994.

<sup>502</sup> Constitution of the Russian Federation, cit. note 235.

<sup>503</sup> Art 137.1 of the Constitution of the Russian Federation, cit. note 235.

<sup>504</sup> Art. 137.2 of the Constitution of the Russian Federation, cit. note 235.

The first chapter of the Constitution are dedicated to the constitutional system foundations<sup>505506</sup>. Following the preamble in which the chart states the multinational character of the Russian people, article 1 states that the Russian Federation is founded on democratic basis and on the rule of law<sup>507</sup>. Emphasis is posed on the separation of powers<sup>508</sup>, that an observer noted as a cornerstone of the whole Russian system<sup>509</sup>. An interesting position is contained in article 15.4, where the role of international law is expressly recognised. In case of conflict between a Russian law and a provision of an international agreement of the Russian Federation, the international one prevails<sup>510</sup>. The constitutional foundations of the State are followed by a full chapter dedicated to human rights and freedoms<sup>511</sup>, a matter introduced already in article 2<sup>512</sup> and that has a special importance: about one third of the Constitution is dedicated to human rights<sup>513</sup>. The first two chapters, which are amendable only through a special procedure, are followed by chapter three in which is outlined the administrative structure of the State in the form of a federation.

---

<sup>505</sup> Chapter 1 of the Constitution of the Russian Federation, cit. note 235.

<sup>506</sup> Chapter 2 of the Constitution of the Russian Federation, cit. note 235.

<sup>507</sup> Art. 1 of the Constitution of the Russian Federation, cit. note 235.

<sup>508</sup> Art. 10 of the Constitution of the Russian Federation, cit note 235.

<sup>509</sup> T. REMINGTON, *Is There Separation of Powers in Russia?*, summary by E. SCOTT, Carnegie Endowment for International Peace, January 9<sup>th</sup>, 2001. <http://carnegieendowment.org/2001/01/09/is-there-separation-of-powers-in-russia/a80v>

<sup>510</sup> Art. 15.4 of the Constitution of the Russian Federation, cit. note 235.

<sup>511</sup> Chapter 2 of the Constitution of the Russian Federation, cit. note 235.

<sup>512</sup> Art. 2 of the Constitution of the Russian Federation, cit. note 235.

<sup>513</sup> Chapter 2 includes articles from 17 to 64, that means 47 articles out of 137 in total.

Chapter four addresses the office of the President of the Russian Federation, the head of State<sup>514</sup>, who holds the office for a term of six years and for no more than two consecutive terms<sup>515</sup>. Among the powers of the President of the Russian Federation, there is the duty to nominate the Prime Minister<sup>516</sup> and the right to chair the sessions of the Government of the Russia Federation<sup>517</sup>. The President exercise also an important power in the nomination of judges, proposing to the higher chamber of the Parliament a candidate for the higher courts and appointing the judges of the federal courts<sup>518</sup>. Moreover, the President as the head of the State has fundamental duties in relations to the armed forces<sup>519</sup> and to the foreign affairs of the country<sup>520</sup>. The President of the Russian Federations, hold significant powers in terms of legislative activity. The President has in fact a strong power of legislative initiative by exercising the faculty of sending to the Parliament drafts of new laws<sup>521</sup> and also addressing the Parliament once per year informing about what are the objective of the State in domestic and foreign policy<sup>522</sup>. Further, the President has the right to issue decrees and regulations that must be conform to the Constitution and the Federal laws<sup>523</sup>. For example, the special economic measures related to the European Union sanctions have been introduced through a presidential

---

<sup>514</sup> Chapter 4 of the Constitution of the Russian Federation, cit. note 235.

<sup>515</sup> Art. 81 of the Constitution of the Russian Federation, cit. note 235.

<sup>516</sup> Art. 83.a) of the Constitution of the Russian Federation, cit. note 235.

<sup>517</sup> Art. 83.b) of the Constitution of the Russian Federation, cit. note 235.

<sup>518</sup> Art. 83 of the Constitution of the Russian Federation, cit. note 235.

<sup>519</sup> Art. 87, 83.h) and 83.k) of the Constitution of the Russian Federation, cit. note 235.

<sup>520</sup> Artt. 86 and 83.j) of the Constitution of the Russian Federation, cit. note 235.

<sup>521</sup> Art. 84.4 of the Constitution of the Russian Federation, cit. note 235.

<sup>522</sup> Art. 84.f) of the Constitution of the Russian Federation, cit. note 235.

<sup>523</sup> Art. 88 of the Constitution of the Russian Federation, cit. note 235.

decree<sup>524</sup>. The office of the President of the Russian Federation has been held by three individuals since the declaration of independence: first was Boris N. El'cin, who was the President of the RSSFR and held the office of the President of the Russian Federation until 1999. The second President, who is today in charge, is Vladimir V. Putin, appointed acting President in 1999 and elected in 2000. He held the office for two terms, until 2008, and was elected again, for a third term in 2012 and for a fourth one in 2018. Since he was not allowed to run in 2008 due to constitutional limitations, he supported the candidature of Dmitriy A. Medvedev, who was elected and became the third President of the Russian Federation.

The chapter of the Constitution that outlines the office of the President is followed by a chapter dedicated to the Parliament of the Russian Federation<sup>525</sup>, the Federal Assembly, which holds the legislative power<sup>526</sup>. The Assembly is formed by two chambers<sup>527</sup>: the lower chamber, the Duma, is composed by 450<sup>528</sup> directly elected MPs<sup>529</sup>. The upper chamber, the Federation Council, is composed by two senators per each constituent entity of the Russian Federation and senators are indirectly elected at local level<sup>530</sup>. The legislative process begins in the Duma<sup>531</sup>, on

---

<sup>524</sup> Decree of the President of the Russian Federation N° 560, August 6<sup>th</sup>, 2014, 'On the adoption of separate special economic measures in order to ensure the safety of the Russian Federation'.

<http://kremlin.ru/acts/bank/38809>

<sup>525</sup> Chapter 5 of the Constitution of the Russian Federation, cit. note 235.

<sup>526</sup> Art. 90 of the Constitution of the Russian Federation, cit. note 235.

<sup>527</sup> Art. 95.1 of the Constitution of the Russian Federation, cit. note 235.

<sup>528</sup> Art. 95.3 of the Constitution of the Russian Federation, cit. note 235.

<sup>529</sup> Art. 96.2 of the Constitution of the Russian Federation, cit. note 235.

<sup>530</sup> Art. 95.2 of the Constitution of the Russian Federation, cit. note 235.

<sup>531</sup> Art. 105 of the Constitution of the Russian Federation, cit. note 235.

the initiative of a large number of subjects. In addition to the President, the Government and the chambers, legislative initiative belongs also to the legislative bodies of the entities of the Russian Federation and also to the higher courts (the Constitutional Court, the Supreme Court and the Higher Arbitration Court) for what concerns matters in their competences<sup>532</sup>. When a federal law is approved by the Duma, it must be sent to the Federation Council for approval, which may be explicit (by obtaining the majority of votes in the upper chamber). Approval might also be implicit (in case the upper chamber does not examine the bill in 14 days), unless the bill regards a matter for which examination by the Federation Council is mandatory. The Duma is today in control of the government's party 'United Russia', which holds 340 seats out of 450<sup>533</sup>. International observers have noticed several progresses in Russian electoral system in terms of compliance to international standards, even if the elections were not considered fully compliant to international standards especially for what concerns restrictions in campaigning, registration of the candidates, access to mass media and in general in terms of electoral competition<sup>534</sup>.

The Russian political system is completed by the Government, to which is dedicated Chapter 6 of the Constitution<sup>535</sup> and which exercises the executive power<sup>536</sup>. The Government is headed by a Prime Minister

---

<sup>532</sup> Art. 104 of the Constitution of the Russian Federation, cit. note 235.

<sup>533</sup> Official data from the State Duma of the Russian Federation. <http://duma.gov.ru/en/duma/factions/>

<sup>534</sup> OSCE/ODIHR Election Observation Mission, *Final Report*, December 23<sup>th</sup>, 2016.

<https://www.osce.org/odihr/elections/russia/290861?download=true>

<sup>535</sup> Chapter 6 of the Constitution of the Russian Federation, cit. note 235.

<sup>536</sup> Art. 110 of the Constitution of the Russian Federation, cit. note 235.

appointed by the President of the Russian Federation<sup>537</sup>, and the dialectic between the two offices results in a semi-presidential system, which is unbalanced on the side of the President, who can influence on decisions that officially are outside the boundaries of his or her powers<sup>538</sup>. In broad terms, the main duties of the Government is to ensure the application of the policies of the Russian Federation<sup>539</sup> and to ensure the implementation of the Constitution, of the federal laws and of the decrees of the President<sup>540</sup>.

The nature of the semi-presidential system of the Russian Federation, allows to shift the discourse on the political culture of the Russian Federation, a discourse, which is complex and that in this work will be exposed only those elements necessary for the development of the project. The post-Soviet political culture of Russia, still relies on the strong figure of the leader, accepted by the majority without really put under discussion leader's work as long as it does not clash with majority's values and life and grants security and order<sup>541</sup>. In fact, Vladimir V. Putin serves as President of the Russian Federation since he was appointed in 1999 with exception of the 2008-2012 term. During said term, the candidate he supported, Dmitrij A. Medvedev, won the elections and appointed Vladimir V. Putin Prime Minister. In all the elections, Vladimir V. Putin

---

<sup>537</sup> Art. 111.1 of the Constitution of the Russian Federation, cit. note 235.

<sup>538</sup> V. G. EGOROV, A. V. ABRAMOV, S. N. FEDORČENKO, *Sravnitel'naja politologija Postsovetskogo prostranstva*, op. cit., p.267

<sup>539</sup> Art. 114 of the Constitution of the Russian Federation, cit. note 235.

<sup>540</sup> Art. 115 of the Constitution of the Russian Federation, cit. note 235.

<sup>541</sup> R. HAGUE, M. HARROP, J. MCCORNICK, *Political Science: a comparative introduction*, Cit. p.



obtained large majorities<sup>542</sup>, and even if some international observers describe Russian presidential elections, as well as parliamentary, not fully compliant to international standards<sup>543</sup>, it is also a matter of fact that Vladimir V. Putin encounters the favour of a large part of the population<sup>544</sup>. The country moved on the path of liberal democracy after the end of the Soviet era, but the transformation slowed down to eventually stop in late 1990s, following the economic and social crisis<sup>545</sup>. The economic growth, the impressive improvement of life conditions and the several international successes of the new political elite, such as the end of the Chechnya crises and the invitation of Russia to the G8 were warmly welcomed by Russian citizens, in contrast to 1990s chaos. Under the new positive conditions, the process of establishing a democratic political environment became secondary to the improvement of economics and life conditions and to the restoring of the Russian Federation as a world power. The democratic achievements of 1990s were not wiped out, but a political system often classified as ‘illiberal democracy’ developed within the democratic framework, and active participation of citizens to political life is relatively small<sup>546</sup>.

The Russian identity and the role of Russia in the world, in opposition to external enemies willing to destabilise the State entered

---

<sup>542</sup> OSCE/ODIHR Election Observation Mission, *Final Report*, June 6<sup>th</sup>, 2018, p. 26.

<https://www.osce.org/odihr/elections/383577?download=true>

<sup>543</sup> OSCE/ODIHR Election Observation Mission, *Final Report*, June 6<sup>th</sup>, 2016. Op. cit.

<sup>544</sup> Approval rating of Vladimir Putin since he became President for the first time was never under 60%. <https://www.levada.ru/indikatory/odobrenie-organov-vlasti/>

<sup>545</sup> See chapter 2.2.2.3.

<sup>546</sup> R. HAGUE, M. HARROP, J. MCCORNICK, *Political Science: a comparative introduction*, op. cit. p. 227

Russian political culture. Nevertheless, a fairly active civil society, especially if compared to the other founding member States of the EAEU, maintained a role in politics which has been growing in the last years. Being the Russian identity at the core of today political ideology and culture and the identity question of primary importance for regional integration, it is useful to underline that the Russian Federation is the member of the Eurasian Economic Union with the most developed one. Due to its strong ties with European History, the country started building a modern identity in late XVIII - early XIX century along with most western national states<sup>547</sup>. Nevertheless, the Russian Federation presents two distinct traits: the first is a multinational (multi-ethnic) nature, which lead to two different levels of national identity (a universal one linked to the civic, legal and social values of the country, known as 'rossijskij' and a second linked to cultural elements defining the ethno-national identity, known as 'russkij'). The second trait is the communist influence that reshaped traditional elements, such as the value of the Orthodox Church or the Czarism. Those values are being reconsidered today in the current process of identity building. As to her multinational nature: Ethnic Russians represent the majority, which set common standards such as language and traditions, but there are other ethnic nationalities living within the country. Such structure leads to what a Russian scholar calls a double level of national identity. On one hand, there is common civic nation, the 'rossijskij', shared by all and built around laws, language and key events (i.e. the Second World War victory). On the other hand there are different cultural identities built around traditional elements and linked to the histories, languages and religions of the ethnic

---

<sup>547</sup> V. TISHKOV, " *O Rossijskom narode i nacional'noj identičnosti v Rossii*", cit. note 262.

groups, such as the ‘ruskij’ for the ethnic Russian majority<sup>548</sup>. Since the borders of social concepts are not always well marked, it is necessary to add that, in defining ‘Russian identity’ *rossijskij* and *russkij* are declined in a plurality of positions. According to another scholar there are five declination, each contributing to the general definition of both *rossijskij* and *russkij*. Other than these current two we can historically find the following: the Union identity, similar to *rossijskij* for its supranational character but lacking civic characteristics; the Russians as a nation of eastern Slavs who share common history and traditions; and the Russians as the speakers of Russian languages, regardless of their ethnic origin<sup>549</sup>. All these tendencies were present in history and influenced the development of the two current ideas of *rossijskij* and *russkij*. Regarding the second aspect: the Soviet Revolution and the fall of Soviet rule altered the conceptions of *rossijskij* and *russkij*. The later transition to the current system helped smooth the borders between them. If the legal and the so-called ‘civic religion’ could be changed through the institutions, the *russkij* had to be changed with a joint effort by both institutions from above and society from below. Russian cultural movements and tendencies that were active in shaping the cultural nationality of the country in general and of the ‘ruskij’ representatives in specific had very different aims and spirits, and after the fall of the Soviet Union there have been different tendencies, including extremist movements, each carrying its own idea of national

---

<sup>548</sup>Ibid.

<sup>549</sup>V. TOLZ, *Forging the Nation: National Identity and Nation Building in Post-Communist Russia*, in *Europe Asia Studies*, op. cit.

identity<sup>550</sup>. Based on the above, it is possible to state that the Russian national identity, both in its civic idea of ‘rossijskij’ and its ethno-cultural idea of ‘russkij’ (as well as most other ethno-cultural nationalities which consider themselves both as ‘rossijskij’ and ‘something else’ that we are unable to analyse in this paper) are well formed and mature, and are not an obstacle to any process of regional integration. On the contrary, it is arguable that the establishment of an ‘Eurasian identity’ will be favoured by the already developed and double national identity.

Before finally approaching the issue of the Russian foreign policy, it is necessary to remember that, as for what concerns political culture, the matter has been extensively covered in many scientific works. For the purposes of the present work, only a brief summary will be presented, focusing on two matters: the role of the Russian Federation in the global questions and the integration processes in the post-Soviet area, first of all the Eurasian Economic Union. When the international community took note of the dissolution of the Soviet Union in 1991, the Russian Federation was recognized as the Successor State, also under the endorsement of the other post-Soviet States that signed the Almaty declaration<sup>551</sup>. Nevertheless, if Soviet foreign policy had a strong ideological component, the Russian Federation was, as introduced in the section dedicated to the national identity, entering a process of rebuilding of her identity and her ideology. If during Boris El’cin terms as President the country seemed to be completely rejecting the Soviet and keen to join the so called ‘western

---

<sup>550</sup>A. LIKACHEVA, I. MAKAROV, *National Identity and the Future of Russia*, Moscow, Valdai Discussion Club Report, 2014, pp. 21-23. [http://vid-1.rian.ru/ig/valdai/Identity\\_eng.pdf](http://vid-1.rian.ru/ig/valdai/Identity_eng.pdf)

<sup>551</sup> Chapter 2.1.1.3.

States’, in late 1990s and especially after the inauguration of Vladimir Putin, the direction of foreign policy shifted to the reestablishment of Russia as a major independent player on the world scene<sup>552</sup>. The Russian 2000 foreign policy concept puts the accent on the role of the Russian Federation on the world scene, actively partnering with third countries to the establishment of a new world order that takes into account the dramatic changes on the world stage that had happened in 1990s<sup>553</sup>. The foreign policy concept recalls some of the positions already expressed in the national security concept of the same year, which has a strong international character. Such a document openly criticise the then ongoing development of a unipolar system of international relations and supports the idea of a multipolar system<sup>554</sup>. The document focuses on the threats the Russian Federation has to face, especially in terms of security, and recalls the role the country should have in the global system, being historically one of the ‘world’s major countries’, as stated expressly stated on the national security concept<sup>555</sup>. The 2000 foreign policy concept was replaced in 2008 by a new foreign policy concept<sup>556</sup> that, though based on the previous one, shows that the country has changed her approach to her international partners, due to the international context, from a ‘soft-power’ based one to a ‘hard-

---

<sup>552</sup> J. MANKOFF, *Russian Foreign Policy: the return of power politics*, Plymouth, Rowman & Littlefield Publishers, 2009, p. 11

<sup>553</sup> 2000 Foreign Policy Concept of the Russian Federation.

<https://fas.org/nuke/guide/russia/doctrine/econcept.htm>

<sup>554</sup> 2000 National Security Concept of the Russian Federation.

[http://www.mid.ru/en/foreign\\_policy/official\\_documents/-/asset\\_publisher/CptICk6BZ29/content/id/589768](http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptICk6BZ29/content/id/589768)

<sup>555</sup> Ibid.

<sup>556</sup> 2008 Foreign Policy Concept of the Russian Federation. <http://en.kremlin.ru/supplement/4116>

power' based one<sup>557</sup>. Also, the following version of the foreign policy concept, the 2013 foreign policy concept<sup>558</sup>, is based on the previous documents and does not present major changes as also stated by the minister of foreign affairs Mr Sergej Lavrov<sup>559</sup>. It has been noticed that in 2000 foreign policy concept, also in the Russian case, the directions followed in international relations are tied to the question of the development of national identity<sup>560</sup>. This idea is reflected also in following versions of the foreign policy concept, taking into account the developments in the building of national identity already exposed earlier. In 2016, the Russian Federation issued a new foreign policy concept<sup>561</sup>, according to the official statements of Russian officials because of the changes in international situation and the difficulties in building the emerging new multipolar world order<sup>562</sup>. In fact, the active involvement of the Russian Federation in some of the most critical international sceneries had grown dramatically between 2013 and 2016. If of the Ukrainian crisis

---

<sup>557</sup> F. J. RUIZ GONZÁLEZ, *The Foreign Concept of the Russian Federation: a comparative study*, Framework Paper, 06/2013, Instituto Español de Estudios Estratégicos, 2013.

<sup>558</sup> 2013 Foreign Policy Concept of the Russian Federation.

[http://www.mid.ru/en/foreign\\_policy/official\\_documents/-/asset\\_publisher/CptICk6B6BZ29/content/id/122186](http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptICk6B6BZ29/content/id/122186)

<sup>559</sup> A. MONAGHAN, "The New Russian Foreign Policy Concept: Evolving Continuity", Russia and Eurasia, Chatham House, N. 2013/03, 2013

<sup>560</sup> M. LIGHT, *In search of an identity: Russian foreign policy and the end of ideology*, in *Journal of Communist Studies and Transition Politics*, Vol. 19, N. 3, pp. 42-59

<sup>561</sup> 2016 Foreign Policy Concept of the Russian Federation.

[http://www.mid.ru/en/foreign\\_policy/official\\_documents/-/asset\\_publisher/CptICk6B6BZ29/content/id/2542248](http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptICk6B6BZ29/content/id/2542248)

<sup>562</sup> TASS, *MID RF po poručeniju prezidenta razrabaryvaet novuju redakciju koncepcii vnešnej politiki*, TASS online, April 9<sup>th</sup>, 2016. <https://tass.ru/politika/3190700>

has already been said<sup>563</sup>, in the years that followed the 2013 concept, the Russian Federation entered also the Middle East theatre intervening in the Syrian civil war<sup>564</sup>. The 2016 foreign policy concept, while based on the previous ones, presents some important differences. The first was already stated and it the emergence of a new multipolar world in which the United States and the so-called western countries are striving and losing their dominant position<sup>565</sup>. The second big difference from the previous versions is the call for equal treatment in international relations, especially for what concerns the relations with the United States of America. This attitude emerges when the Russian Federation openly states that the dialogue with the USA can be beneficial only if build not only on trust but also on the respect of the counterpart interests and of the principle of non-interference in domestic affairs<sup>566</sup>. Actually, the 2016 foreign policy concept of the Russian Federation presents a third big difference from its previous versions, which is the approach of the country to the regional integration processes in the post-Soviet area. It was deliberately saved for last since it is the most relevant for the purposes of the present work and since it is not just a difference from the 2013 concept but more of a process of evolution of the idea since 2000. The 2000 concept mentioned the Commonwealth of Independent States as the sole form of regional integration and cooperation with the other post-Soviet States, with the only exception of

---

<sup>563</sup> See chapter 2.3.2.

<sup>564</sup> RBC, *Prezident Sirii obratilsja k Rossii s pros'boj o voennoj pomošči*, RBC online, September 30<sup>th</sup>, 2015. <https://www.rbc.ru/politics/30/09/2015/560b97489a79476f7150d5d2>

<sup>565</sup> Point 72 of the Section IV of the 2016 Foreign Policy Concept of the Russian Federation, cit.note 561.

<sup>566</sup> Point 72 of the Section IV of the 2016 Foreign Policy Concept of the Russian Federation, cit. cit.note 561.

the then newly established Union State of Russia and Belarus, which was earlier discussed in the present section<sup>567</sup>. In 2008 version of the foreign policy concept, while the CIS still has a preeminent role, also the EurAsEC and the CSTO find a place among Russian regional priorities<sup>568</sup>. The first is seen as the core for economic integration in the area<sup>569</sup>, while the CSTO is to be into the central institution to ensure security in the Eurasian space<sup>570</sup>. The role of regional integration structures seems to be fundamentally unchanged in 2013 foreign policy concept, with the CIS at the first place in Russian priorities<sup>571</sup>. Nevertheless, the establishment of Eurasian Economic Union is presented as priority and the then future organisation as a potential model of association of which should benefit also the CIS itself. Moreover, the new organisation should serve as a link between Europe and the Asia-Pacific area<sup>572</sup>. The EurAsEC is crucial in the process of strengthening the customs union, the common economic space,

---

<sup>567</sup> The Union State of Russian and Belarus was exposed in the section dedicated to the international relations of Belarus, see chapter 3, section 1.2.

<sup>568</sup> Section IV of the 2008 Foreign Policy Concept of the Russian Federation, cit.note 556.

<sup>569</sup> Section IV of the 2008 Foreign Policy Concept of the Russian Federation, cit.note 556. The section mentions Belarus and Kazakhstan as the main partner in building the customs union of the EurAsEC and list as a Russian priority 'further strengthen EurAsEC as a core element of economic integration' among the reasons why to strengthen the EurAsEC. Ibid.

<sup>570</sup> Section IV of the 2008 Foreign Policy Concept of the Russian Federation, Ibid.. In the section is said that the Russian Federation works 'on transforming the CSTO into a central institution ensuring security in its area of responsibility'.

<sup>571</sup> Section IV of the 2013 Foreign Policy Concept of the Russian Federation, cit. note 558.

<sup>572</sup> Point 44 of the Section IV of the 2013 Foreign Policy Concept of the Russian Federation, cit.note 558. At point 44 is stated that 'Russia sees as a priority the task of establishing the Eurasian Economic Union aiming not only to make the best use of mutually beneficial economic ties in the CIS space but also to become a model of association open to other states, a model that would determine the future of the Commonwealth states. The new union that is being formed on the basis of universal integration principles is designed to serve as an effective link between Europe and the Asia-Pacific region'. Ibid.



and the role of the Eurasian Economic Commission that were to become the basis for the EAEU<sup>573</sup>. In addition, the role of the CSTO seems to be higher than in the past in the priorities of the Russian Federation, since it is regarded as a key element in the security system in the post-Soviet space but it is also to be transformed into an universal organisation able to face security challenges<sup>574</sup>. Finally, in 2016 foreign policy concept, the Eurasian Economic Union and the cooperation with the other member States, acquires a preeminent position in Russian priorities. Despite the CIS being still at the first place, to the Commonwealth are dedicated only few lines<sup>575</sup>, while the EAEU appears to be the key instrument of regional integration for Russia<sup>576</sup>. Along with the EAEU, the CSTO maintains the role already expressed in 2013 concept<sup>577</sup> and it is shown a renewed interest in the Union State of Russia and Belarus, being listed in the second place among Russian priorities, even if only very few words are dedicated to the Russian and Belarussian project<sup>578</sup>.

---

<sup>573</sup> Point 48, let.b) of the Section IV of the 2013 Foreign Policy Concept of the Russian Federation, Ibid.

<sup>574</sup> Point 47 of the Section IV of the 2013 Foreign Policy Concept of the Russian Federation, Ibid. The CSTO is regarded 'as one of the key elements of the modern security system in the post-Soviet space. The task of transforming the CSTO into a universal international organization capable of counteracting current challenges and threats under the growing pressure of diverse global and regional factors in the area of its responsibility and the adjoining regions remains relevant'. Ibid.

<sup>575</sup> Point 49 of the Section IV of the 2016 Foreign Policy Concept of the Russian Federation, cit.note 561.

<sup>576</sup> Point 51 of the Section IV of the 2016 Foreign Policy Concept of the Russian Federation, cit. note 561

<sup>577</sup> Point 52 of the Section IV of the 2016 Foreign Policy Concept of the Russian Federation, cit. note 561

<sup>578</sup> Point 50 of the Section IV of the 2016 Foreign Policy Concept of the Russian Federation, cit. note 561

## 1.6. EAEU member States systems in relation to regional integration

The brief analysis of the political and legal systems of the EAEU member States and the overview on their foreign policies, serves to identify some key points that will be reflected in the regional integration process, as it will be seen in the following sections of the present work. First, all the Constitutions of the member States recognise the role of international law and are, either implicitly or explicitly, open to a cession of parts of State's sovereignty to an international organisation and to the establishment of a common regional legal system. Second, the political systems of the States, and this is especially true for the three founding member States which together account for approximately 99% of the EAEU GDP<sup>579</sup>, have a strong political figure at the centre being built around the concepts of presidentialism or semi-presidentialism. Third and final remark, all the member States, also as the result of their relatively recent independence, are building their national identity. This element might represent a challenge for the building of a collective regional identity especially for those States which have obtained independence after the dissolution of the Soviet Union for the first time. The holding-together integration process, which intrinsically refers to the shared past as a single State, might be in fact perceived as a treat to their existence as independent States.

---

<sup>579</sup> See section 3.1.1. of the present chapter.

## 2. The Eurasian Economic Union

The Eurasian Economic Union (EAEU), as explained in previous chapters, represents the most developed stage of regional integration in the Post-Soviet area, and gathers the five States exposed in sections 1 and 2 of the present chapter. The genesis of the organisation and all the political and legal processes that led to the establishment of the EAEU are thoroughly exposed in chapter 2.

The aim of this section, is to analyse how the EAEU works both on the internal and on the external level. On the internal level, this means to analyse the institutional structure of the EAEU, the relations between the member States within the framework of the EAEU institutions and the legal framework of the organisation. On the external level the analysis will focus on the external action of the EAEU and on the relations between the EAEU and third parties, with a special focus on the European Union on the one side, and with other strategic partners of the EAEU on the other.

The analysis starts by the main legal documents of the Eurasian Economic Union and follows their structure in order to approach political issues. The first is the Treaty on the Eurasian Economic Union<sup>580</sup>, which outlines and defines the basic mechanisms of functioning and governance of the Union, providing for the institutional architecture. With the help of the Treaty, including the annexes, it will be analysed how the EAEU works and functions also in the major areas of economy. The second document analysed is the Customs Code. The code entered into force on January 1<sup>st</sup>,

---

<sup>580</sup> Treaty on the Eurasian Economic Union, cit. note 365.

2018<sup>581</sup>, and represents the main legal reference for the economic operators from third countries that are willing to deal with the Eurasian Economic Union. Finally, in section 3, the analysis moves to all those aspects that for different reasons are tied to the Eurasian Economic Union but that are not strictly (or at all) economic, such as the geopolitical significance of the organisation or the relations with the CSTO.

## 2.1. Treaty on the Eurasian Economic Union

The Treaty on the Eurasian Economic Union is the main legal act of the organisation, and its drafting and signature process have been exposed in the previous chapter<sup>582</sup>.

The brief preamble of the Treaty on the Eurasian Economic Union states that the Treaty is based on the Declaration of Eurasian economic integration of November 18<sup>th</sup>, 2011<sup>583</sup>, and makes no other references to previous regional integration organisations in the post Soviet space<sup>584</sup>. Nevertheless, the preamble states that the parties takes into account the regulations, rules and principles of the WTO (of which, as explained in previous chapters, not all the member States of the EAEU are part) and finally recalls the commitment of the parties to the objectives and the principles of the United Nations<sup>585</sup>.

---

<sup>581</sup> Customs code of the Eurasian Economic Union. [https://docs.eaeunion.org/docs/en-us/01413569/itia\\_12042017](https://docs.eaeunion.org/docs/en-us/01413569/itia_12042017)

<sup>582</sup> See chapter 2.3.1.

<sup>583</sup> See chapter 2.3.1 and 2.3.2

<sup>584</sup> Preamble of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>585</sup> Ibid.

### 2.1.1. Part I: general provisions and bodies of the Union

Part one of the Treaty is divided in four sections: Section I of the Treaty counts only two articles: article 1 establishes the Eurasian Economic Union as an international organisation of regional integration and, interestingly, states that the Eurasian Economic Union shall have international legal personality<sup>586</sup>. This article is followed by article 2, which contains a list of terms and definitions used in the text of the Treaty<sup>587</sup>. Section II is dedicated to the basic principles, objectives, jurisdiction and law of the Union and counts five articles. The Eurasian Economic Union functions under the universally recognised principles of international law and in total respect of the sovereignty and the specific political systems of the member States, which commit to create the conditions for the functioning of the Union<sup>588</sup>. Among the objectives of the EAEU, the development of the common market for goods, services, capital and labour seems logic. Nevertheless, such an achievement it is not at the first place on the objective list. The first objective stated in the Treaty is to create the conditions for a sustainable development of the economies of the Member States, in order to raise the standard of living of the population. This gives the Union a social function, since the economic growth must be seen under the light of increasing live standards of citizens<sup>589</sup>. After the definition of principles and objectives, the Treaty faces the issue of the jurisdiction of the Union and its law. The jurisdiction of the EAEU is established by the member States in the Treaty and in following treaties within the Union,

---

<sup>586</sup> Art.1 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>587</sup> Art. 2 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>588</sup> Art. 3 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>589</sup> Art. 4 of the Treaty on the Eurasian Economic Union, cit. note 365.

and the parties commit to carry out common policies in those fields of Union jurisdiction. In any case, in economic fields other than those of exclusive jurisdiction of the Union, the member States should seek to pursue common or harmonised policies<sup>590</sup>. Within its jurisdiction, the Eurasian Economic Union is entitled by the parties to engage in international activity, including that of negotiating and entering international treaties<sup>591</sup>. Section II, also defines of which legal acts consists the law of the EAEU. The list counts, obviously, the Treaty itself, treaties concluded by the parties within the Union, those international treaties the Union will eventually conclude with third parties and finally the decisions and the dispositions of the Supreme Eurasian Economic Council and the Eurasian Intergovernmental Council<sup>592</sup>. The decisions issued by the mentioned bodies (of which will be told in the next section), are to be enforced in the member States, in the way provided by their domestic legislation<sup>593</sup>.

Section III of the Treaty describes what is to be considered the institutional architecture of the Eurasian Economic Union and lists and outlines the competences of the bodies, some of which were already mentioned in Section II, that are in charge to ensure the governance of the EAEU. The bodies of the Union, as established in the Treaty are the Supreme Eurasian Economic Council, the Eurasian Intergovernmental Council, the Eurasian Economic Commission and the Court of the

---

<sup>590</sup> Art. 5 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>591</sup> Art. 7 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>592</sup> Art. 6 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>593</sup> Ibid.

Eurasian Economic Union<sup>594</sup>. At first sight, the governance structure seems similar to that of the European Union and this aspect is to be further analysed after the detailed presentation of each body.

#### **2.1.1.1. Supreme Eurasian Economic Council**

The Supreme Eurasian Council is the highest body of the Eurasian Economic Union and it is composed by the heads of the member States<sup>595</sup>. The Supreme Council must consider all the main issues related to the Union, and define the direction and the strategic for further deepening the integration between the member States<sup>596</sup>. The Treaty, as understandable, gives to the Supreme Council several powers. Among the most relevant, some of them are related to the composition and the activities of other bodies of the Union. This means, that the Supreme Council approves the composition of the board of the Eurasian Commission and appoints the chairman of the Commission<sup>597</sup>, and has also the power to earlier end the term of the chairman<sup>598</sup>. Moreover, the Supreme Council has the power to approve the rules of procedure of the Commission<sup>599</sup>. In addition to the powers the Supreme Council has in relation to the Commission, the highest body of the Union also appoints the judges of the Court of the Union, who are recommended by the member States<sup>600</sup>. Finally, if considered necessary, the highest body of the Union has the power to establish new auxiliary

---

<sup>594</sup> Art. 8 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>595</sup> Art. 10 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>596</sup> Art. 12 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>597</sup> Art. 12.2 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>598</sup> Art. 12.3 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>599</sup> Art. 12.5 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>600</sup> Art. 12.4 of the Treaty on the Eurasian Economic Union, cit. note 365.

bodies in specific areas<sup>601</sup>. Other powers the Treaty gives to the Supreme Council are those related to the budget of the Union. First of all, the Supreme Council has the power to approve the budget of the Union, the regulation on the budget and the report on its implementation<sup>602</sup>. The Intergovernmental Council drafts all these three elements, as it will be seen later<sup>603</sup>. Second, it is a duty of the Supreme Council to determine how much each member State is to pay to the budget of the Union, it means to determine the amount of contribution of each State to the common budget<sup>604</sup>. The Treaty gives to the highest body of the Union also significant powers for what concerns the activity between the EAEU and third States. First, the Supreme Council determines the procedures of accession to (and withdraw from) the Union<sup>605</sup> and second, grants (and revokes) the status of observer State or candidate State to those States that request it and begin the accession process<sup>606</sup>. Nevertheless, probably the most important powers for what concerns the international activities of the Union are the power of approval of the procedure for international cooperation of the Union<sup>607</sup> combined to the power of enter negotiations on behalf of the Union and, eventually, enter international treaties<sup>608</sup>. This is extremely significant and it is a sign of supranational powers of the Eurasian Economic Union since the member States might be bounded to

---

<sup>601</sup> Art. 12.22 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>602</sup> Art. 12.6 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>603</sup> Art. 15 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>604</sup> Art. 12.7 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>605</sup> Art. 12.12 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>606</sup> Art. 12.13 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>607</sup> Art. 12.14 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>608</sup> Art. 12.15 of the Treaty on the Eurasian Economic Union, cit. note 365.



international obligations by treaties that were not directly negotiated nor directly entered by the States themselves but by the Union. Nevertheless, all the decisions taken within the Supreme Council are taken by consensus. Therefore any adopted decision is not objected by any of the member States and that means that in fact all the heads of State agree to be bounded by the treaties entered by the EAEU.

What has been said about the international treaties entered by the Union, is also true for what concerns the Supreme Council decisions and dispositions, which are the means the Supreme Council has in order to pursue its duties and to implement the objectives of the EAEU<sup>609</sup>.

As seen earlier, the three founding members have internal political systems with a strong office of the president, although, as in the case of the Russian Federation, in the framework of a semi-presidential system. This reflects onto the powers and the strength the Treaty gives to the Supreme Council.

#### **2.1.1.2. Intergovernmental council**

The Eurasian Intergovernmental Council is the second body of the Union listed on the Treaty. It has the main task of ensure the implementation of the Treaty, of other treaties concluded with the Union and of the Supreme Council decisions and to control on the performance of the mentioned acts<sup>610</sup>. It is formed by the heads of Government of the member States<sup>611</sup> and it has a strong dialectic with the Supreme Council:

---

<sup>609</sup> Artt. 11-12 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>610</sup> Art. 16.1 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>611</sup> Art. 14 of the Treaty on the Eurasian Economic Union, cit. note 365.

many of the powers the Treaty gives to the Intergovernmental Council are related to powers held by the Supreme Council. The most important example on this regard is the aforementioned power to approve the drafts of the budget of the Union, the regulation on the budget and the report on the implementation of the budget<sup>612</sup>, which are to be then approved in their final version by the highest body of the Union, the Supreme Council. Another power tied to the powers of the Supreme Council is the power to present candidates both for the Council and the Board of the Eurasian Economic Commission<sup>613</sup>, that are to be appointed by the Supreme Council. Other powers of the Intergovernmental Council then, are related to control functions as in the case of the activity of regulation and control of the financial and economic activities of the bodies of the Union<sup>614</sup>.

As for the Supreme Council, also the Intergovernmental Council performs its task through decisions and dispositions<sup>615</sup>. The character of such acts is, again as for those of the Supreme Council, mixed. On the one side, the Treaty establishes that dispositions of the Intergovernmental Council are to be enforced in the territory of the member States<sup>616</sup>. On the other side, the Intergovernmental Council adopts both decisions and dispositions by consensus<sup>617</sup> and, as the name of the body suggests and as it has been explained earlier, the adopted acts are the manifestation of the direct will

---

<sup>612</sup> Art. 16.5 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>613</sup> Art. 16.4 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>614</sup> Art. 16.6 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>615</sup> Art. 17 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>616</sup> Art. 6 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>617</sup> Art. 17 of the Treaty on the Eurasian Economic Union, cit. note 365.

of the Governments of the member States and of negotiations at intergovernmental level.

### **2.1.1.3. Eurasian Economic Commission**

The Eurasian Economic Commission is the permanent EAEU body that carries the supranational character of the organisation<sup>618</sup>. While the Supreme Council and the Intergovernmental Council represent the inter-State dimension of the EAEU, the Commission works as an EAEU institution, carrying out its activities and duties in the interest of the organisation as the expression of the general interest of the member States. The current Eurasian Economic Commission, located in Moscow, Russia<sup>619</sup>, is the heir body of the Eurasian Economic Commission established at the time of the Eurasian Economic Community<sup>620</sup>, which, in turn, was the rethought development of the Commission of the Customs Union<sup>621</sup>. The EAEU Commission is made of two constituent sub-bodies, with different functions: the Council of the Commission and the Board of the Commission<sup>622</sup>.

The Council of the Commission is the regulatory section of the Commission, in charge for the regulation of the integration process, and moreover, supersedes the general activities of the Commission as a whole<sup>623</sup>. Each member State has one representative at the Council of the Commission, who is a Deputy Head of the Government in the State

---

<sup>618</sup> Art. 18 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>619</sup> Ibid.

<sup>620</sup> See chapter 2.3.

<sup>621</sup> Ibid.

<sup>622</sup> Art. 11 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>623</sup> Art. 22 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

appointed according to domestic procedures<sup>624</sup> and each member of the Council of the Commission has one vote<sup>625</sup>. The Council serves as a ‘control chamber’ within the Commission, which organises the activities of legal regulation of the Union<sup>626</sup> and instructing the Board of the Commission<sup>627</sup>, which decisions can be amended or even cancelled by the Council<sup>628</sup> and which structure in terms of Departments and staff is to be approved by the Council<sup>629</sup>. The Council of the Commission shall also approve the draft of the budget of the Union<sup>630</sup>, the plan of development of the information system<sup>631</sup> and evaluate the results of the monitoring over the development and the implementation of the international treaties that form the Union’s law<sup>632</sup>, which are all activities performed by the Board of the Commission. In addition to the mentioned control and supervising functions, the Council of the Commission represents the link between the Commission and the Supreme and the Intergovernmental Councils. On this regard, the Council of the Commission submits to the Supreme Council the main directions for integration<sup>633</sup> and to the Intergovernmental Council the reports on the impact of the Union regulation.

The Board of the Commission is the ‘executive chamber’ of the Commission and, among the EAEU bodies, it is the organ that holds the

---

<sup>624</sup> Art 23 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>625</sup> Art. of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>626</sup> Art. 24.1 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>627</sup> Art. 24.14 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>628</sup> Art. 24.3 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>629</sup> Art. 24. 6 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>630</sup> Art. 24 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>631</sup> Art. 24 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>632</sup> Art. 24.4 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>633</sup> Art. 24.2 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

supranational element. The Board of the Commission, in fact, is composed by an equal number of commissioners, determined by the Supreme Council, for each member State<sup>634</sup>. Members of the Board of the Commission, once appointed by the Supreme Council for a renewable term of four years<sup>635</sup>, are independent from national authorities, and are reliable only to the Eurasian Economic Union authorities<sup>636</sup>. In order to grant their independence from national authorities and their commitment to the interests of the EAEU, members of the Board of the Commission are forbidden to combine any other professional duties with the membership to the Board, except for academic activities<sup>637</sup>. In addition, there is a series of prohibitions concerning the non-work activities of the members of the Board. Such prohibitions range from being engaged in business, to the usage of the material means of the Commission for personal purposes or at the expenses of a third person, to the disclosure of confidential information and finally to the prohibition to be engaged in political and civic activity<sup>638</sup>. The Board of the Commission is headed by a Chairman, appointed among the members by the Supreme Council and in charge for a single, non-renewable term of four years<sup>639</sup>. The structure of the Board of the Commission resembles that of the European Commission, with a series of subdivisions headed by a commissioner called Minister, with competences in different areas. Being the executive body of the Commission, the Board

---

<sup>634</sup> Art. 31 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>635</sup> Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>636</sup> Art. 34 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>637</sup> Art. 35. of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365. The article states that the exception regards 'teaching, research or creative activities'.

<sup>638</sup> Art. 36 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>639</sup> Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

has a large number of powers in different fields: first, it is a duty of the Board of the Commission to develop proposals to strengthen integration, either from scratch or from working on proposals forwarded by the member States<sup>640</sup>. Moreover, the Board promotes integration by implementing the decisions and the dispositions of the other bodies of the Union, the Supreme Council and the Intergovernmental Council, and also the decisions adopted by the Council of the Commission<sup>641</sup>, all legal acts that form integral part of the UEEA law. The Board has also an important function of monitoring the implementation of the international treaties within the UEEA and the decisions of the Commission<sup>642</sup>. The Board also notifies the member States about the requirements for the said implementation<sup>643</sup> and, following the monitoring activity, prepares report that are evaluated by the Council of the Commission. The reporting activity is one of the most important of the Board of the Commission: the body prepares official recommendations to for the member States<sup>644</sup> and expert reports concerning the proposals that the Commission receives from the member States<sup>645</sup>. Finally, concerning its function as ‘integration core’, the Board of the Commission drafts international treaties and those decisions of the Commission that will be later adopted by the Council of the Commission<sup>646</sup>.

---

<sup>640</sup> Art. 43.1 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>641</sup> Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>642</sup> Art. 43.4 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>643</sup> Art. 43.5 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>644</sup> Art. 43.6 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>645</sup> Art. 43.7 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>646</sup> Art. 43.15 of Annex 1 to the Treaty on the Eurasian Economic Union, cit. note 365.

The Commission is both an executive and regulatory body and it is intended to be the body that ensures the functioning of the whole system and pushes forward integration between the member States. To do so, the legal instruments the Commission (both the Council and the Board) has are the earlier mentioned decisions, dispositions and recommendations<sup>647</sup>. Decisions have binding effect for the member States, while dispositions have an organisational and administrative character. Recommendations are non-binding and are aimed to suggest to the member States which actions to take in order to fully implement the EAEU law<sup>648</sup>. The areas on which the Commission can exercise its power and therefore can issue the aforementioned legal instruments are those proper of the customs union and the common economic space. The Commission has operates in customs regulation and foreign trade (including tariff and non-tariff regulation, technical regulation, sanitary measures, management of customs duties and the regimes to apply to third parties), in macroeconomic policy (including monetary policy) and financial policy (including banking, insurance and security markets) and a number of issues related to the common EAEU market (competition, public subsidies and procurement, energy policies and monopolies, mutual trade in services and investments, transports and transportation, intellectual property and labour movement)<sup>649</sup>.

---

<sup>647</sup> Art. 17 of the Treaty on the Eurasian Economic Union, cit. note 365. Provisions of art. 29 of Annex 1 concern the activities of the Council of the Commission while those of art 49 of Annex 1 concern the Board of the Commission.

<sup>648</sup> Art. 13 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>649</sup> Art. 2 of the Treaty on the Eurasian Economic Union, cit. note 365.

Such a broad extent of areas of competence, the legal instruments that the Commission might use, its permanent character and its supranational nature especially in the Board of the Commission which is fully independent from the authorities of the member States, make the Commission itself the true ‘engine of integration’ among the institutional bodies of the Eurasian Economic Union.

#### **2.1.1.4. Court of the Eurasian Economic Union**

Along with the three examined bodies which, forcing a bit the classical categorisation of the separation of powers, represent the legislative and the executive power, the Eurasian Economic Union counts also on a permanent judicial body, the Court of the Eurasian Economic Union, which is located in Minsk, Belarus<sup>650</sup>. The functions and the power of the body are contained in Annex 2 to the Treaty, the Statute of the Court of the EAEU<sup>651</sup>. The body has the function of ensuring the uniform application of Eurasian Economic Union law in the territory of all the member States<sup>652</sup>. The number of judges who compose the Court is fixed by the Treaty at two judges per member State<sup>653</sup>, each in charge for a term of nine years<sup>654</sup> and appointed by the Supreme Council<sup>655</sup>. The Court is the successor to the old Court of the Eurasian Economic Community: Nevertheless, if the Eurasian Commission, as seen earlier, can be

---

<sup>650</sup> Art. 19 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>651</sup> Annex 2 to the Treaty on the Eurasian Economic Union, (hereinafter Statute of the Court of the Eurasian Economic Union), cit. note note 365.

<sup>652</sup> Art. 2 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>653</sup> Art. 7 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>654</sup> Art. 8 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>655</sup> Artt. 8 and 10 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.



considered a reformed version of the Commission of the Eurasian Economic Community, in the case of the Court the member States have decided for a brand new body instead of reforming the old one<sup>656</sup>. This poses two legal issues: first is that the lack of legal succession between the two courts, makes the Court of the Eurasian Economic Union has jurisdiction only on disputes that have arisen only after its establishment (January 1<sup>st</sup>, 2015, when the Treaty on the Eurasian Economic Union entered into force). Second, said lack of legal succession makes the Court of the Eurasian Economic Union not bounded to the legal precedents of the Court of the Eurasian Economic Community<sup>657</sup>.

The Court resolves disputes arisen in connection to the law on the Eurasian Economic Union both at the request of a member State<sup>658</sup> and at the request of an economic entity<sup>659</sup>. In the first case, the Court decides on the compliance of a given international treaty within the Union with the Treaty on the EAEU and on the compliance of a decision of the Commission with the Treaty on the EAEU, with other treaties within the Union and with decisions of other bodies of the Union. When requested by a State, the Court also decides on the observance of the legal system of the EAEU by a member State. The Court decides also on challenging actions or omissions of the Commission<sup>660</sup>. In case the Court is requested by an economic entity, it must be either a juridical person or a physical

---

<sup>656</sup> E. DIYANCHEKO, K. ENTIN, *The Court of the Eurasian Economic Union: Challenges and Perspectives*, in *Russian Law Journal*, Vol. 2, N. 5, 2017, pp. 53–74

<sup>657</sup> *Ibid.*

<sup>658</sup> Art. 39.1 of the Statute of the Court of the Eurasian Economic Union, *cit. note 365*.

<sup>659</sup> Art. 39.2 of the Statute of the Court of the Eurasian Economic Union, *cit. note 365*.

<sup>660</sup> Art. 39.1 of the Statute of the Court of the Eurasian Economic Union, *cit. note 365*.

person registered as an entrepreneur (in both cases the entity might be registered in a member State or in a third State). In such a case, the decision of the Court is on the compliance of a decision of the Commission with the Treaty on the EAEU or international treaties within the Union, in the case it entails a violation of rights and interests of the economic entity envisaged by said treaties. Moreover, the Court can decide on challenging actions or omissions of the Commission that eventually bring about the scenery described as in the case of compliance of the decisions of the Commission<sup>661</sup>. When requested by a State, if the application is admitted and the Court considers that the plaintiff is right, the Court issues a binding decision<sup>662</sup> that must be executed by the parties in the way they consider the most suitable<sup>663</sup>. A boundary to the freedom of the parties in the execution of the Court's decision is provided for those cases in which the Commission is involved, since the latter is forced to amend its decisions<sup>664</sup> (which in some cases can be even suspended by the Court<sup>665</sup>) or to correct or take actions<sup>666</sup>. Such a way of executing Court decisions is actually the sole way available in case the request to the Court is submitted by an economic entity, since being this the case, the decision can also be directed towards the Commission, which is bounded and forced to enforce said decision<sup>667</sup>. In case the decision of the Court upon a State request is not executed, the member State that brought the matter before the Court is

---

<sup>661</sup> Art. 39.2 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>662</sup> Art. 99 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>663</sup> Art. 103 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>664</sup> Art. 111 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>665</sup> Art. 112 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>666</sup> Art. 113 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>667</sup> Art. 100 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

entitled to raise the issue to the Supreme Eurasian Economic Council, which will established the necessary measures for its execution<sup>668</sup>. In the case instead the decision of the Court is issued upon the request of an economic entity and said decision it is not executed by the Commission, the economic entity should apply to the Court that should, within 15 days, raise the matter before the Supreme Eurasian Economic Council for measures to resolve the issue<sup>669</sup>. It is necessary to specify, that the Court only examines a request from an applicant if this meets a series of condition, the most relevant of which is that the applicant has previously addressed a member State or the Commission to solve the issue at pre-trial stage<sup>670</sup>.

Along to the decision on controversies, if requested by the member States and the bodies of the Union (and in certain cases limited to labour issues also by employees and officials of the Union), the Court has also the important role of providing clarifications to provisions of the Treaty on the EAEU, international treaties within the EAEU, decisions issued by the bodies of the EAEU<sup>671</sup> and treaties of the Union with third parties in case the treaty provides for it<sup>672</sup>. The clarifications given by the Court of the EAEU have an advisory character for the member States, which can opt for a different joint interpretation<sup>673</sup>.

---

<sup>668</sup> Art. 114 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>669</sup> Art. 115 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>670</sup> Art. 43 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>671</sup> Art. 46 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>672</sup> Art. 48 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>673</sup> Art. 47 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

It has been noticed that the Court has no jurisdiction for what concerns preliminary rulings if referred by a national court, a power which was instead proper of the Court of the Eurasian Economic Community<sup>674</sup>. Such a reduction in powers for the Court seems to be a paradox, being the main function of the Court to ensure the uniform application and interpretation of the EAEU law throughout the territory of the Union<sup>675</sup>, and the lack of power in terms of preliminary rulings seems to detach the national courts from the EAEU system<sup>676</sup>. Nevertheless, it has been argued that the preliminary ruling in the case of the Court of the Eurasian Economic Community was requested only once<sup>677</sup>, and that despite such limitation, the Court of the Eurasian Economic Union has not lost all its influence on national courts<sup>678</sup>. In fact, the role of the Court of the Union is still of primary importance for national courts in case a domestic legal act, based on a Commission's decision ruled 'non-compliant' by the Court of the Union, is challenged before a domestic court<sup>679</sup>. The relevance of the Court of the Union for national courts it is also evident in the case a national court itself refers to positions previously stated by the Court of the Union in the reasons of a decision<sup>680</sup>. There is also another major difference

---

<sup>674</sup> E. DIYANCHEKO, K. ENTIN, *The Court of the Eurasian Economic Union: Challenges and Perspectives*, op. cit.

<sup>675</sup> Art. 2 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

<sup>676</sup> M. KARLIUK, "The Limits of the Judiciary within the Eurasian Integration Process". Law, National Research University Higher School of Economics, 2016.

<sup>677</sup> Preliminary ruling of the Court of the EurAsEC upon request of the Supreme Economic Court of Belarus, № 1-6/1-2013, July 10<sup>th</sup>, 2013. <http://courteurasian.org/doc-21093>

<sup>678</sup> E. DIYACHENKO, K. ENTIN, *The Court of the Eurasian Economic Union: Challenges and Perspectives*, op. cit.

<sup>679</sup> Ibid.

<sup>680</sup> Ibid.

between the Court of the Union and the Court of the Eurasian Economic Community, which results in a reduction of powers of the former if compared to the latter<sup>681</sup>. Under current statute, only member States can report a supposed non-observation by another member State and request an intervention of the Court, while at the time of the previous Court such an action could be taken by the Commission<sup>682</sup>.

#### 2.1.1.5. Overall results of the EAEU bodies since 2015

The four EAEU bodies presented up to this point represent the core of the governance of the Union and what drives the whole integration process. The activity registered during since their establishment on January 1<sup>st</sup>, 2015, has been intense. Concerning the activity of the inter-governmental level bodies of the EAEU, the Supreme Council issued 118 decisions<sup>683</sup> and 27 dispositions<sup>684</sup> while the Intergovernmental Council, 28 decisions<sup>685</sup> and 86 dispositions<sup>686</sup>. On the supranational level the activity of the Union bodies increased, holding the Commission the executive power and therefore having the duty to issue most of the regulation of the customs union and the common economic space. The Council of the

---

<sup>681</sup> M. KARLIUK, *“The Limits of the Judiciary within the Eurasian Integration Process”*. Op. cit.

<sup>682</sup> E. DIYACHENKO, K. ENTIN, *The Court of the Eurasian Economic Union: Challenges and Perspectives*, op. cit.

<sup>683</sup> The Supreme Council issued 40 decisions in 2015, 30 in 2016, 19 in 2017 and 29 in 2018.

<sup>684</sup> The Supreme Council issued 5 dispositions in 2015, 7 in 2016, 5 in 2017 and 10 in 2018.

<sup>685</sup> The Intergovernmental Council issued 10 decisions in 2015, 9 in 2016, 4 in 2017 and 5 in 2018.

<sup>686</sup> The Intergovernmental Council issued 19 dispositions in 2015, 19 in 2016, 23 in 2017 and 25 in 2018.

Commission issued 469 decisions<sup>687</sup>, 144 dispositions<sup>688</sup> and 7 recommendations<sup>689</sup> and the Board of the Commission on its side issued 762 decisions<sup>690</sup>, 826 dispositions<sup>691</sup> and 131 recommendations<sup>692</sup>. Among the legal acts issued by the two tiers of the Commission there are the acts through which technical regulations, introduced in chapter 2 and that will be further analysed later, are adopted. For what concerns the activity of the judiciary, the Court of the Eurasian Economic Union, the body issued 15 decisions<sup>693</sup>, upon request of both economic entities and member States, and 12 clarifications that serve as an important source of interpretation of the Eurasian Economic Union's law<sup>694</sup>.

Shifting from the quantitative dimension to the qualitative one and taking the similarities with the European Union structure as starting point

---

<sup>687</sup> The Council of the Commission issued 93 decisions in 2015, 166 in 2016, 111 in 2017 and 99 in 2018

<sup>688</sup> The Council of the Commission issued 31 dispositions in 2015, 33 in 2016, 39 in 2017 and 41 in 2018

<sup>689</sup> The Council of the Commission issued 2 recommendations in 2015, 1 in 2016, 3 in 2017 and 1 in 2018

<sup>690</sup> The Board of the Commission issued 178 decisions in 2015, 173 in 2016, 190 in 2017 and 221 in 2018

<sup>691</sup> The Board of the Commission issued 191 dispositions in 2015, 229 in 2016, 204 in 2017 and 202 in 2018

<sup>692</sup> The Board of the Commission issued 30 recommendations in 2015, 38 in 2016, 32 in 2017 and 31 in 2018

<sup>693</sup> The Court issued 3 decisions in 2015, 5 in 2016, 6 in 2017 and 1 in 2018. Of these 14 were upon request of an economic entity and only one, No. CE-1-1/1-16-BK, was raised by a member State, the Russian Federation, against another member State, Belarus, for supposed non-compliance. The full list of the decisions issued by the Court of the Eurasian Economic Union is available at the Court's internet site. <http://courteurasian.org/>

<sup>694</sup> The number of clarifications given increased since the establishment of the Court. No clarifications were given in 2015, only 2 in 2016 and the number raised to 5 both in 2017 and 2018.

for analysing the work of the four bodies and their impact on the integration process, a first observation regards the Supreme and the Intergovernmental Councils. The peculiar structure shaped on two distinct Councils, reflects the internal political systems of the member States: as it has been presented earlier in this chapter, the founding States adopt either a semi-presidential system or a presidential system with features proper to the former<sup>695</sup>. Such a system is reflected by the direct representation of both the heads of State (Supreme Council) and the heads of Government (Intergovernmental Council) within the EAEU structure, with the former that, as has been seen, the last word over the actions former. On the other side, the Intergovernmental Council prepares most of the work that is later carried on by the Supreme Council. This relation between the two Councils and their structure differ from the European Council and the Council of the European Union. Despite being both the EAEU and the EU bodies the bearers of the intergovernmental dimension of the relations between the member States, there are substantial differences that deserve to be pointed out and briefly explained. First, the structure of the EU bodies is different and based rather on the powers and the competencies than on the domestic institutional system of the member States. The European Council is composed by the heads of Government or State, according to the domestic system, the President and the President of the Commission of the EU<sup>696</sup>. The Council (not to be confused with the European Council) is structured by functional areas and therefore can take ten different configurations,

---

<sup>695</sup> See chapter 3.1.6

<sup>696</sup> Art. 15 of the Consolidated version of the Treaty on European Union (hereinafter Treaty on European Union). <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012M/TXT&from=EN>

according to the matters that are to be discussed<sup>697</sup>. Every country is represented by the respective minister according to the configuration of the Council in a given meeting<sup>698</sup>. The second difference between the EAEU and the EU intergovernmental bodies lays on their legal functions. If, as it has been explained, both the Supreme Council and the Intergovernmental Council of the EAEU have strong legislative powers<sup>699</sup>, the European Council, though having several powers of appointment, has not legislative functions but defines the general political directions and priorities of the EU<sup>700</sup>, while the Council shares legislative powers with the European Parliament<sup>701</sup>. And it is precisely the existence of a directly elected parliament in the European Union case and its absence in the Eurasian Economic Union structure that marks a big difference between the governance structures of the two organisations and their own legislative processes. The ordinary EU procedure needs an equal footing between the Council and the Parliament<sup>702</sup>, while the EAEU procedures lack of such an element of balance between the intergovernmental and the directly elected dimension. The establishment of a directly elected parliament of the Eurasian Economic Union has been long discussed since the negotiations on the EAEU. Russian President V.V. Putin, in 2013, stated that the establishment of a parliament was possible, even if he argued it might have

---

<sup>697</sup> Art. 236 of the Consolidated version of the Treaty on the Functioning of the European Union (hereinafter Treaty on the Functioning of the European Union), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

<sup>698</sup> Art. 16. 6 of the Treaty on European Union, cit.

<sup>699</sup> See chapter 3.2.1.1. and chapter 3.2.1.2.

<sup>700</sup> Art. 15.1 of the Treaty on European Union, cit.

<sup>701</sup> Art. 16.1 of the Treaty on European Union, cit.

<sup>702</sup> Art. 294 of the Treaty on the Functioning of the European Union, cit.



been an inter-parliamentary structure rather than an elected parliament<sup>703</sup>. Nevertheless, in November 2014, the parties declared that even if it has been discussed and it could have been established in the future, at that moment there were no need and no conditions for an EAEU parliament<sup>704</sup>. A future establishment of a parliamentary structure, eventually starting from an inter-parliamentary body that would involve national MPs, presents at least two advantages in terms of development of the EAEU and strengthening integration. First, assuming the future parliament will play a role in the EAEU legislative process as in the case of the European Union, it would reduce the predominance of the intergovernmental dimension of the legislative process, balancing them with a dimension proper to the Union. If on the one side it might seem a reduction for State sovereignty (in the case of the establishment of a parliament, member States will be forced to appoint more powers to the Union than what they currently do), on the other it would allow to collectively face challenges and issues that can be faced only at regional level. A second advantage from which the Union will benefit in the case of the establishment of a parliament, is given by the strengthening of the democratic representation within the Union, being the MPs elected directly from the citizens on the member State. Such an element, which was taken into account when the European Parliament

---

<sup>703</sup> Creation of Eurasian Union parliament deemed possible. "We're upholding an idea of creating an inter-parliamentary structure. We should agree with our partners. There are different views. Some believe that we've not reached this stage," <http://tass.com/russia/708233>

<sup>704</sup> Tengri News, *Eurasian Parliament creation off agenda?*, Tengri News online, [https://en.tengrinews.kz/politics\\_sub/Eurasian-parliament-creation-off-EEU-agenda-257648/](https://en.tengrinews.kz/politics_sub/Eurasian-parliament-creation-off-EEU-agenda-257648/). "Maybe this would sound too straight forward, but at the moment I do not think that by creating, say, a Eurasian Parliament we can solve many of the current pressing problems and issues of the Eurasian Economic Union,"

was established, would help in making the Eurasian Economic Union closer to the citizens. Eventually it would also help in developing an 'Eurasian identity', which, as has been seen in chapter 2, it is Today at its embryonic stage, still dealing with the 'post-Soviet identity' as the shared identity among the citizens of the EAEU member States<sup>705</sup>.

Moving from the intergovernmental bodies to the supranational body represented by the Eurasian Commission, it becomes apparent the role of the Commission as permanent governance body of the Union, similarly to what happens in the European Union. Nevertheless, while the European Commission is composed by officials that once appointed act only in the interests of the European Union<sup>706</sup>, the peculiar structure of the Eurasian Commission makes so that there is a significant direct presence of the member States within the Commission itself. Unlike the EU Commission, which is formed only by a College, the EAEU Commission, as has been explained, has a two-tier structure. The upper tier, composed by national officials who hold a post in domestic Governments, despite having limited in number powers, actually supersedes and approves every action of the Board of the Commission, keeping it, to some extent, under the control of the national States. The Board of the Commission, which appears to be modelled on the EU Commission, has therefore significant limitations in its supranational power, which is exercised only as the executive branch of the EAEU bodies. Another relevant difference with the EU Commission is indeed the limited legislative initiative of the EAEU Commission. In the European Union system, the Commission has, with a

---

<sup>705</sup> See chapter 2.2.1.5.

<sup>706</sup> Art. 17 of the Treaty on European Union. Cit.

series of limitations and balances, the exclusive power to formally propose legislation to the European Parliament, developing a legislative process, which formally involves both the bodies of the EU and the member States<sup>707</sup>. Such a dynamic is absent in the Eurasian Economic Union: the legislative initiative of the Commission is limited, and even when the Commission exercise its legislative powers, the final step is taken by the Council of the Commission. As it has been seen, the Council of the Commission is composed by officials of the States' Governments and it reduces therefore the autonomy and the supranational scope of the Commission activities, including the legislative one.

Some final considerations on the Court of the Eurasian Economic Union must take into account that, unlike the executive and the legislative bodies, jurisdictional bodies act with different timeframes. A period of about four years is short for an extensive evaluation of the Court activity, nevertheless some considerations can be drafted, especially for what concerns the contribution of the Court to the integration process and its perspectives. While the two main criticisms to the Court powers (lack of preliminary ruling and impossibility for the Commission to request the Court on non-observance of EAEU law by member States) have been exposed earlier, it is interesting to notice that a big part of the activity of the Court has been dedicated to the interpretation of the Union's law upon request of the member States and the Union bodies. On this regard, a very important step towards the recognition of the supremacy of the EAEU law was moved on April 4<sup>th</sup>, 2017, when the Court used the expressions 'direct applicability' and 'direct effect' in reference to a request for clarification on

---

<sup>707</sup> Art. 14 of the Treaty on European Union, cit.

some Treaty dispositions by a member State<sup>708</sup>. This means that despite the criticism on the influence of the Court, its role and its opinion is still fundamental for the activities of the Union and its development. The opinion of the Court has been asked in a wide range of matters, such as the status of the decisions of the former Commission of the Customs Union<sup>709</sup>, customs tariffs<sup>710</sup>, transfer of money<sup>711</sup>, railways transport<sup>712</sup> or the status of professional sportsman and sportswomen<sup>713</sup> among the others<sup>714</sup>. On the other hand, the limited powers in dispute resolution resulted in 12 cases examined<sup>715</sup>. The pre-trial condition that need to be meet for the request to be accepted<sup>716</sup> means that economic entities should undergo a dispute settlement procedure with the Commission prior to request the Courts. Moreover, the Court has not the power to entitle any material compensation to the economic entities in case the Court rules in favour of them, but only to force the Commission to act in order to change an act ruled non-compliant with the treaties and affecting a right of the economic entity. Such elements make the role of the Court as a dispute resolution centre it is not as effective and important as its role as legal interpreter for the Union bodies and the member States. As for Today, the Court cannot be considered an effective dispute resolution centre especially for what

---

<sup>708</sup> Advisory opinion № CE-2-1/1-17-BK, April, 4th, 2017. <http://courteurasian.org/page-25081>

<sup>709</sup> Decision № CE-2-1/2-18-BK. <http://courteurasian.org/page-25861>

<sup>710</sup> Decision № CE-2-3/1-16-BK. <http://courteurasian.org/page-24691>

<sup>711</sup> Decision № CE-2-1/3-18-BK. <http://courteurasian.org/page-26271>

<sup>712</sup> Decision № CE-2-1/2-17-BK. <http://courteurasian.org/page-25381>

<sup>713</sup> Decision № CE-2-2/5-18-BK. <http://courteurasian.org/page-26241>

<sup>714</sup> The complete list of clarifications given by the Court it is available at the official internet site of the Court. <http://courteurasian.org/>

<sup>715</sup> Ibid.

<sup>716</sup> Art. 43 of the Statute of the Court of the Eurasian Economic Union, cit. note 365.

concerns economic entities, and it is not comparable yet to the Court of the European Union and the role it has played and still plays in the European integration process. If on the one hand to increase the powers of the Court requires amendments to the Treaty, which can be done only by the member States, on the other some observers have noticed that even under the current conditions the importance of the Court can be increased and the EAEU legal system strengthened. This might happen when the Court will build a reputation, a process that needs the involvement of the Union bodies and the member States that are the sole entities that can guarantee the enforcement of the Court decisions and eventually extend the Court powers as part of the integration process<sup>717</sup>. This should be followed by the national courts, which are expected to include references to the decisions of the Court in their own judgements<sup>718</sup> since there is no other mechanism today for the uniform application of the Union law throughout the member States<sup>719</sup>. Finally, the third layer into which the Court should grow in terms of reputation of the Court is among the economic entities. This can be done only if the work of the Court is efficient and accessible<sup>720</sup>, proving the economic players that the Court itself it is a reliable way to see their own rights protected within the Eurasian Economic Union.

---

<sup>717</sup> E. DIYACHENKO, K. ENTIN, *The Court of the Eurasian Economic Union: Challenges and Perspectives*, op. cit.

<sup>718</sup> Ibid.

<sup>719</sup> M. KARLIUK, “*The Eurasian Economic Union: and EU-like legal order in the post-Soviet Space?*”. Op. cit.

<sup>720</sup> E. DIYACHENKO, K. ENTIN, *The Court of the Eurasian Economic Union: Challenges and Perspectives*, op. cit.

### 2.1.2 Part II: The current state of the customs union

Following provisions on the budget of the Union, that end the Part I of the Treaty<sup>721</sup>, Part II is dedicated to the customs union, one of the two fundamental elements inherited from the EurAsEC<sup>722</sup>. Part II opens with provisions on the exchange of information and on common statistics<sup>723</sup>, before moving to the functioning of the customs union. The Treaty establishes that within the customs union is in place a common market<sup>724</sup>, which includes the economic space and within which is granted freedom of movement for good, persons, services and capitals<sup>725</sup>. Customs duties are collected by the member States<sup>726</sup>, and then transferred and distributed among them, while no duties, tariffs, non-tariff regulation, safeguard, anti-dumping or countervailing measures are to be applied in mutual trade<sup>727</sup>. Nevertheless, some exceptions can be applied if necessary to protect human life and health, public morals and order, environment including animals and plants, culture or in order to fulfil international obligations or for reasons of national security<sup>728</sup>. Special provisions are then provided for the common market of medicines and medical products<sup>729</sup>. Such a market, which should function under the provision of separate international

---

<sup>721</sup> Section IV of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>722</sup> Part II of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>723</sup> Section V of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>724</sup> Art. 25.1.1) of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>725</sup> Art. 28.2 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>726</sup> Art. 26 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>727</sup> Art. 28.3 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>728</sup> Art. 29.1 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>729</sup> Section VII of the Treaty on the Eurasian Economic Union, cit. note 365.

treaties within the Union<sup>730</sup>, was established in 2016 and it is still under construction. Once completed, it will allow mutual recognition for the certification of the national drugs agencies and will guarantee common quality and control standards. There is then, in Part II of the Treaty, three sections that deserve to be address separate since they regard some key points about how the EAEU deals with third parties in international business.

### 2.1.2.1. Customs regulation: the Customs code of the EAEU

Section VIII contains only one article, which states that customs regulation is to be applied according to the customs code of the Eurasian Economic Union and, in general, to the law of the Union<sup>731</sup>. This provision directly refers to one of the most important legal documents that form the law of the EAEU, the customs code of the EAEU. The code was adopted after a long negotiation, the Treaty on the Customs code of the Eurasian Economic Union, which Annex 1 is the customs code<sup>732</sup>, was signed in Moscow on April 11<sup>th</sup>, 2017<sup>733</sup> and was ratified by all the Parties by the end of the same year and entered into force on January 1<sup>st</sup>, 2018<sup>734</sup>. Up to that date, it was still on force the old code of the Eurasian Economic Community<sup>735</sup>. The code takes into account the framework of the WTO,

---

<sup>730</sup> Artt. 30.2 and 31.2 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>731</sup> Art. 32 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>732</sup> Customs code of the Eurasian Economic Union, cit. note 581.

<sup>733</sup> Treaty on the Customs code of the Eurasian Economic Union, Moscow, April 11<sup>th</sup>, 2017.

[https://docs.eaeunion.org/docs/ru-ru/01413569/itia\\_12042017](https://docs.eaeunion.org/docs/ru-ru/01413569/itia_12042017)

<sup>734</sup> Eurasian Economic Union, *Novyj tamozenyj kodeks vstupit v silu s 1 janvarija 2018 goda*, November, 14<sup>th</sup>, 2017. [http://www.eurasiancommission.org/ru/nae/news/Pages/14\\_11\\_17.aspx](http://www.eurasiancommission.org/ru/nae/news/Pages/14_11_17.aspx)

<sup>735</sup> Art. 101 of the Treaty on the Eurasian Economic Union, cit. note 365.

which principles are directly referred for what concerns customs value of goods<sup>736</sup> and has the goal to take to the minimum national customs regulation having as much direct applicability as possible<sup>737</sup>. The code is structured in nine sections: general principles<sup>738</sup>, customs tariffs and fees<sup>739</sup>, customs operation and operators<sup>740</sup>, customs procedures<sup>741</sup>, special provisions and conditions of movement for specific categories of goods<sup>742</sup>, customs controls<sup>743</sup>, customs bodies<sup>744</sup>, customs activities and authorised economic operators<sup>745</sup> and transitional provisions<sup>746</sup>. One of the main distinctive features of the code is the introduction of a single window mechanism. Such a system was intended to be one of the key principles of the EAEU customs union since its origins. The decision of the Supreme Council (then a body of the EurAsEC) was signed on the same date of the Treaty on the Eurasian Economic Union<sup>747</sup>, and it is based on a Commission's research performed upon another 2012 Supreme Council's

---

<sup>736</sup> Art. 38 of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>737</sup> Eurasian Economic Commission, , <http://www.eurasiancommission.org/ru/nae/news/Pages/30-12-2017-1.aspx>

<sup>738</sup> Section I of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>739</sup> Section II of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>740</sup> Section III of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>741</sup> Section IV of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>742</sup> Section V of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>743</sup> Section VI of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>744</sup> Section VII of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>745</sup> Section VIII of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>746</sup> Section IX of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>747</sup> Decision of the Supreme Eurasian Economic Council N°68 “On basic directions of development of the ‘single window’ mechanism in the system of regulation of the foreign trade activities”, Astana, May 29<sup>th</sup>, 2014. [https://docs.eaeunion.org/docs/ru-ru/0043891/scd\\_30052014\\_68](https://docs.eaeunion.org/docs/ru-ru/0043891/scd_30052014_68)



decision<sup>748</sup>. The implementation of the mechanism, in the form of national single windows, mutual recognition of electronic information and the connection of the national single windows to the integrated information system of the EAEU, is the result of a 5-year process<sup>749</sup>. In general, the EAEU single window relies on new IT technologies, which play a primary role in managing customs procedures: customs declarations are to be done in electronic way<sup>750</sup> and thanks to the IT systems of the national agencies, connected to the central EAEU system, all the documents are registered automatically, as well as the release of goods. Goods are released in no more than 4 hours<sup>751</sup> even if in special cases release time can be extended, as for example in the case there is a suspicion of an infringement of intellectual property rights<sup>752</sup>.

A second major novelty included in the customs code is the regulation for the authorised economic operators (AEO), which simplifies international business with the EAEU. The AEOs are juridical persons established within a member State<sup>753</sup>, which must be compliant to a series

---

<sup>748</sup> Decision of the Supreme Eurasian Economic Council N°21 “On the realisation of the fundamental directions of integration”, Moscow, December 19<sup>th</sup>, 2012. [https://docs.eaeunion.org/docs/ru-ru/0044374/scd\\_20122012\\_21](https://docs.eaeunion.org/docs/ru-ru/0044374/scd_20122012_21)

<sup>749</sup> Decision of the Supreme Eurasian Economic Council N°19 “On the means of implementation of the fundamental directions of development of the ‘single window’ mechanism in the system of regulation of the foreign trade activities”, Moscow, May 8<sup>th</sup>, 2015. [https://docs.eaeunion.org/docs/ru-ru/0147689/scd\\_12052015\\_19](https://docs.eaeunion.org/docs/ru-ru/0147689/scd_12052015_19)

<sup>750</sup> Art. 104.3 of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>751</sup> Art. 119 of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>752</sup> Art. 124 of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>753</sup> Art. 430 of the Customs code of the Eurasian Economic Union, cit. note 581.

of conditions<sup>754</sup> and be registered in a dedicated registry<sup>755</sup>. Following the registration, the Commission adds the AEO to the common EAEU registry and the AEO receives a certification. There exist three types of certification, which allow them to operate under different conditions and enjoying different advantages<sup>756</sup>. The most relevant advantages the AEO enjoys are, among the others, the release of goods before the presentation of the declaration and easier customs controls for those AEOs that have a first-type certification<sup>757</sup>. AEOs that have a second-type certification can store goods at their warehouses and have them controlled at their own warehouse, under the most favourable conditions for the AEO<sup>758</sup>. The third-type certification allows the AEO to enjoy both the benefits granted under the first- and the second-type certifications<sup>759</sup>. Moreover, the code is open for mutual recognition of the AEOs of third Parties, both on the basis of international agreement between the Union and third Parties<sup>760</sup>. Such a provision opens interesting perspectives in case of a future agreement between the Eurasian Economic Union and the European Union.

#### **2.1.2.2. Foreign trade**

Section IX of the Treaty on the Eurasian Economic Union is dedicated to the foreign trade activities of the Union. Within the foreign trade policy, the Treaty is open to agreements concluded by the Union

---

<sup>754</sup> Art. 433 of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>755</sup> Art. 431 of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>756</sup> Art. 432 of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>757</sup> Art. 437.2 of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>758</sup> Art. 437.3 of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>759</sup> Art. 437.4 of the Customs code of the Eurasian Economic Union, cit. note 581.

<sup>760</sup> Art. 437.8 of the Customs code of the Eurasian Economic Union, cit. note 581.

(eventually jointly with the member States) with third parties in the sphere of competence of the Union and to the membership to international organisations<sup>761</sup>. Such a provision offers two important perspective for the Eurasian Economic Union: the first is the conclusion of trade agreements with third parties, as already happened with Vietnam and is under discussion with a number of other States<sup>762</sup>. The second is the accession of the EAEU, as a single custom territory, to the WTO (as already proposed at the time of the Customs Union of the EurAsEC<sup>763</sup>), an issue that will be briefly addressed later on this chapter<sup>764</sup>. In addition to basic provisions for what concerns tariff regulation and non-tariff measures<sup>765</sup>, the Section defines also a series of principles and rules that should be adopted when trading with third parties. In particular, the most favourite nation treatment<sup>766</sup> and the free trade regime<sup>767</sup> provisions refer directly to the WTO, in this case to the GATT 1994. Despite not directly referring to the WTO, the EAEU may also grant a special preferential treatment to developing and least developed countries, reducing the import custom duties for goods imported from the former and applying a zero rate for what concerns the latter<sup>768</sup>. For what concerns the rules of origin of the good imported to the Union, the procedure and the rules for the

---

<sup>761</sup> Art. 33 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>762</sup> See section 3.1.2. of the present chapter.

<sup>763</sup> See chapter 2..2.3.1.

<sup>764</sup> See section 3.1.2. of the present chapter.

<sup>765</sup> Section IX.2 of the Treaty on the Eurasian Economic Union, note 365.. Procedures regarding tariff regulation are contained in Annex 6, while those regarding non-tariff measures are contained in Annex 7.

<sup>766</sup> Art. 34 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>767</sup> Art. 35 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>768</sup> Art. 36 of the Treaty on the Eurasian Economic Union, cit. note 365.

determination of the country of origin are to be established by the Commission. Such a provision applies also to countries, which are parties of a Free Trade Agreement with the EAEU, in case the agreement does not establishes any rules for the determination of the origin of the goods<sup>769</sup>.

As expected for such an organisation, relations with trade partners of the Union are to be conducted at supranational level by the Commission, eventually jointly with the member States, both for what regards the elimination of restrictive measures towards a third party<sup>770</sup> and for what regards the adoption of response measures towards a third party<sup>771</sup>. Further, the Union as a whole, may adopt measure to promote the export of the Union's production and of the concept of 'good of the Eurasian Economic Union', in accordance to international treaties and to the rules of the WTO<sup>772</sup>.

In general, the WTO regulation has a fundamental role in the whole framework of the EAEU. Annex 31 provides that all corresponding relations within the EAEU are to be regulated 'by the Treaty on Functioning of the Customs Union within the Multilateral Trade System'<sup>773</sup>. Said Treaty was signed by Belarus, Kazakhstan and the Russian Federation within the framework of the customs union in 2011<sup>774</sup> with a view on the accession of the custom union member States to the WTO.

---

<sup>769</sup> Art. 37 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>770</sup> Art. 39 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>771</sup> Art. 40 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>772</sup> Art. 41 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>773</sup> Annex 31 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>774</sup> Treaty on Functioning of the Customs Union within the Multilateral Trade System, Minsk, May 19, 2011. [https://docs.eaeunion.org/docs/ru-ru/0144796/itot\\_17052013](https://docs.eaeunion.org/docs/ru-ru/0144796/itot_17052013)

Briefly, the Treaty provides that once the Parties became members of the WTO, the WTO provisions and the conditions negotiated by the Parties for the accession concerning powers that the Parties have ceded to the customs union, become part of the legal system of the customs union<sup>775</sup>. Furthermore, the Parties must work in order to harmonise the legal system of the customs union with the aforementioned WTO provisions and commitments of the Parties to the organisation and, as long as the legal system is not amended, WTO provisions have priority over the custom union's ones<sup>776</sup>. What was established in 2011 by the Treaty on Functioning of the Customs Union within the Multilateral Trade System applies today to the Eurasian Economic Union as result of Annex 31 and therefore the EAEU legal system must be compliant to the WTO law. It is necessary to add an observation: the Parties have already aligned most of the legal framework of the customs union, before the establishment of the EAEU, to the WTO law, following the accession of the Russian Federation to the WTO<sup>777</sup>.

---

<sup>775</sup> Art. 1 of the Treaty on Functioning of the Customs Union within the Multilateral Trade System, cit.

<sup>776</sup> Art. 2 of the Treaty on Functioning of the Customs Union within the Multilateral Trade System, cit.

<sup>777</sup> Eurasian Economic Commission, WTO, integration in Eurasian and Eurasian Economic Union, The third China Round Table on WTO Accessions: Post Accession: "Maximizing the Benefits of WTO Membership and Global Economic Integration".

[https://www.wto.org/english/thewto\\_e/acc\\_e/Session1AndreyTochinEurasianEconomicIntegration.pdf](https://www.wto.org/english/thewto_e/acc_e/Session1AndreyTochinEurasianEconomicIntegration.pdf)

2 to 5 June 2015

### 2.1.2.3. Technical regulation

Section X of the Treaty on the Eurasian Economic Union<sup>778</sup> is dedicated to technical regulation, to which is dedicated also Annex 9<sup>779</sup>. Technical regulation was already discussed in chapter 2, since it was introduced at the time of the customs union of the EurAsEC<sup>780</sup>. Having the customs union been ‘inherited’ from the EurAsEC, what was said on technical regulation is still valid also under the environment of the EAEU. Technical regulations are developed with the goal to guarantee quality and safety of the goods that enter that enter the common market<sup>781</sup> and it is a duty of the Commission to compile a list of products to which apply technical regulations and standards<sup>782</sup>. All the goods that enter the market must be certified in terms of quality and safety, which, for those products in the common list of the Commission, means to be compliant to the respective technical regulation<sup>783</sup>. Technical regulations, as stated in previous chapter, have the purpose to offer common standards within the EAEU and to overcome national standards such as GOST-R (Russian Federation), GOST-K (Kazakhstan) or BelST (Belarus). Nevertheless, if a product is in the list of the Commission but the correspondent EAEU technical regulation is not in force yet, national standards and regulations are to be applied<sup>784</sup>. The reason behind this, is that the introduction of the

---

<sup>778</sup> Section X of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>779</sup> Annex 9 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>780</sup> See chapter 2.2.3.1.

<sup>781</sup> Art. 52 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>782</sup> Ibid.

<sup>783</sup> Art. 54 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>784</sup> Point 3 of Annex 9 to the Treaty on the Eurasian Economic Union, cit. note 365.

technical regulations happens gradually, and there are still areas which are not covered yet. As for today, there is more than 40 technical regulations already in force or already approved and due to enter in force in the next years<sup>785</sup>. Moreover, more than ten other technical regulations are currently under development by the Commission and its specialised agencies. To export goods to the EAEU, it is necessary to have the products assessed in form of declaration of conformity, certification of conformity or State registration<sup>786</sup> and products, which have been proved compliant need to bear the EAC mark (that can be seen as the EAEU equivalent of the CE mark of the EU)<sup>787</sup>, as it was explained earlier. Despite being the type of certification required and the assessment mode stated in each technical regulation and not being therefore a common procedure to all the technical regulations<sup>788</sup>, a common trait is that an authorised representative must represent the applicant. This might be either a physical or a juridical person registered on the territory of the EAEU<sup>789</sup>. Only after having obtained the EAC mark goods can enter the common market.

Following the section dedicated to technical regulation, two more sections conclude Part II of the Treaty. Section XI is dedicated to

---

<sup>785</sup> The full list of the EAEU Technical Regulations is available at the Eurasian Economic Commission official website.

<http://www.eurasiancommission.org/ru/act/texnreg/deptexreg/tr/Pages/%D0%A2%D0%B5%D1%85%D0%BD%D0%B8%D1%87%D0%B5%D1%81%D0%BA%D0%B8%D0%B5%20%D1%80%D0%B5%D0%B3%D0%BB%D0%B0%D0%BC%D0%B5%D0%BD%D1%82%D1%8B%20%D0%A2%D0%B0%D0%BC%D0%BE%D0%B6%D0%B5%D0%BD%D0%BD%D0%BE%D0%B3%D0%BE%20%D1%81%D0%BE%D1%8E%D0%B7%D0%B0.aspx>

<sup>786</sup> Point 5 of Annex 9 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>787</sup> Point 6 of Annex 9 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>788</sup> Point 5 of Annex 9 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>789</sup> Ibid.

sanitary, veterinary and phytosanitary quarantine measures and Section XII contains provisions for the protection of consumer rights.

### **2.1.3. Part III: The single economic space**

Part III of the Treaty is dedicated to the single economic space, which, as the customs union, has been inherited by the EAEU from the EurAsEC. The development of the single economic space is to be pursued gradually, unifying first those markets and economic areas in which there already is a high degree of harmonisation. Those areas of the common economic space which require a more extensive intervention at the domestic level by the member States, are therefore to be integrated later, after common harmonised policies will already be implemented by the member States. Section XIII of the Treaty is dedicated to the agreed macroeconomic policy, which should be implemented by the member States, in accordance to Annex 14 to the Treaty<sup>790</sup>, in order to guarantee a balanced degree of development. The Commission play an important role in this matter, since has the task to coordinate the implementation of the agreed macroeconomic policy at domestic level<sup>791</sup>.

Similarly, the following section<sup>792</sup> contains provisions for the agreed monetary policy. The role of national currencies is to be enhanced and in order to coordinate the exchange rate policy, a new body, composed by the governors of the national central banks is to be established<sup>793</sup>. In the past it has been speculated that a common currency could have eventually been

---

<sup>790</sup> Annex 14 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>791</sup> Art. 62 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>792</sup> Section XIV of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>793</sup> Art. 64 of the Treaty on the Eurasian Economic Union, cit. note 365.



adopted. Nevertheless, the topic has been dropped and no further discussion has been held, at least formally, on the topic. Section XV is dedicated to the liberalisation of trade in services, incorporation, activities and investments between the member States, with the final goal to complete a common market in these areas<sup>794</sup>. In addition to provisions for the relations between member States, included a detailed section on foreign investments and their protection<sup>795</sup>, there is a general permission for member States to sign international treaties with third Parties, as long as they make the same concession provided by the international treaty to the other member States of the EAEU<sup>796</sup>. In fact, the member States should only to seek coordination for what concerns foreign trade in services, but no specific supranational role is played by the Union<sup>797</sup>. It is interesting to notice that, for what concerns relations with third Parties in these areas, there seems to be a predominant role of the member States, in opposition to what happens in the European Union where the Union bodies carry on negotiations of international treaties on these areas<sup>798</sup>.

Section XVI regards the regulation of financial markets, one of the most interesting areas of integration, on which member States and Union bodies are working with the goal to create a common financial market<sup>799</sup>. To the matter is dedicated also Annex 17 to the Treaty. The member States have planned to complete the common financial market by 2025<sup>800</sup>. First

---

<sup>794</sup> Annex 16 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>795</sup> Section VII of Annex 16 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>796</sup> Chapter 6 of Section VI of Annex 16 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>797</sup> Art. 38 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>798</sup> Art. 207 of the Treaty on the functioning of the European Union, cit. note 365.

<sup>799</sup> Art. 70 of the Treaty on the Eurasian Economic Union, cit note 365.

<sup>800</sup> Art. 103 of the Treaty on the Eurasian Economic Union, cit. note 365.

steps have been moved since 2016<sup>801</sup>, upon request of the Supreme Council of the EAEU<sup>802</sup>. The principles under which the common market is to be built are harmonisation, liberalisation and, finally unification<sup>803</sup>. Not only the Governments of the member States are involved in the process but also central banks and regulatory bodies, since it is necessary to harmonise regulation and supervision of domestic financial markets<sup>804</sup>. An important step forward on this issue has been taken November 6<sup>th</sup>, 2018, when the member States signed a protocol on harmonisation of regulation on the financial sector<sup>805</sup>. An important role in the building process is played by the exchange of information between national bodies, since they must agree on common principles to share financial information<sup>806</sup>. The issue plays primary importance for the freedom of movements of capitals and an agreement on the matter was signed on December 23<sup>rd</sup>, 2014, a few days before the entrance into force of the Treaty of the EAEU<sup>807</sup>. Further,

---

<sup>801</sup> Eurasian Economic Commission, *EEK budet razrabatyvat' koncepciju formirovanija obščego finansogo rynka Evrazijskogo ekonomičeskogo sojuza*, December 1<sup>st</sup>, 2016.

<http://www.eurasiancommission.org/ru/nae/news/Pages/01-12-2016-2.aspx>

<sup>802</sup> Decision of the Supreme Eurasian Economic Council N°6, November 30<sup>th</sup>, 2016, 'on the development of a Concept on the establishment of the common financial market of the Eurasian Economic Union'. [https://docs.eaeunion.org/docs/ru-ru/01415483/sco\\_11042017\\_6](https://docs.eaeunion.org/docs/ru-ru/01415483/sco_11042017_6)

<sup>803</sup> Bank of Russia, *Stroitel'stvo formirovanija obščego finansogo rynka Evrazijskogo ekonomičeskogo sojuza: osnovy, sposoby dostiženija i ožidaemye rezul'taty*, p. 7.

<http://www.cbr.ru/content/document/file/36566/fr.pdf>

<sup>804</sup> Points 21-26 of Annex 17 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>805</sup> Agreement on harmonisation of legislation of the member States of the Eurasian Economic Union in the sphere of financial markets, Moscow, November 6<sup>th</sup>, 2018. [https://docs.eaeunion.org/docs/ru-ru/01419538/itia\\_07112018](https://docs.eaeunion.org/docs/ru-ru/01419538/itia_07112018)

<sup>806</sup> Point 27 of Annex 17 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>807</sup> Agreement on the exchange of information, including confidential, in the financial sphere in order to create the conditions on the financial markets for free movement of capitals, Moscow, December 23<sup>rd</sup>, 2014. [https://docs.eaeunion.org/docs/ru-ru/0147212/itia\\_13012015](https://docs.eaeunion.org/docs/ru-ru/0147212/itia_13012015)

member States must work on mutual recognition of banking, insurance and financial operators' licenses<sup>808</sup>. When completed, the common market of financial services will allow banks, insurances and financial operators to provide their services on the whole territory of the EAEU. To regulate the common financial market, the member States must create a supranational regulatory body, which will be located in Almaty and that will have the powers and the functions member States will be willing to confer<sup>809</sup>.

Following the Section on financial markets, the Treaty continues with Section XVII, dedicated to taxation and Section XVIII dedicated to competition. Section XIX and Section XX concern a matter, which has primary importance for the EAEU member States economies: natural monopolies and energy. The management of natural monopolies and the creation of common markets of energy, oil and oil products and gas is a delicate issue for States, which economies rely on a large part on said sectors. The first common market to be created is the market of electric energy, which is under development. The Commission is working in order to establish it and to make it operative starting from July 1<sup>st</sup>, 2019<sup>810</sup>, and the international treaty within the EAEU will be adopted in the form of amendments to the Annex 21 to the Treaty on the EAEU<sup>811</sup>. Once operative, equal conditions should be granted for all the operators and

---

<sup>808</sup> Point 37 of Annex 17 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>809</sup> Art. 103 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>810</sup> Art. 104.3 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>811</sup> Eurasian Economic Commission, *Format dogovora ob obščem elektronergetičeskom rynke Sojuza soglasovan na urovne zamestitelej ministrov energetiki stran EAES*, May 16<sup>th</sup>, 2018.

<http://www.eurasiancommission.org/ru/nae/news/Pages/16-05-2018-3.aspx>

also should be ensure interstate transmission of electricity<sup>812</sup>. For the creation of the other two energy markets, gas and oil and oil products, member States have established a detailed plan, which started with the studying of a conception for both markets by the Commission. The concept relative to the gas market was approved on February 12<sup>th</sup>, 2016<sup>813</sup>, while the concept on the oil and oil products market was approved on May 5<sup>th</sup>, 2016<sup>814</sup>. Concepts are followed by programmes on the implementation and the deadline for the completion of the projects is January 1<sup>st</sup>, 2024<sup>815</sup>. Following the completion of the programme member States should sign two international treaties, one concerning the gas market and one concerning oil and oil products market, which shall enter into force no later than January 1<sup>st</sup>, 2025<sup>816</sup>. In general, plans for both markets establish a series of intermediate goals in order to achieve an extensive harmonisation of national regulations, unify and develop common standards and technical regulations. In addition, member States must establish common rules for the functioning of the common markets and for the access to the transportation systems. The perspectives of such a project are enormous: once created and fully operative, the common market of gas and the common market of oil and oil products will make the Eurasian Economic Union a major player on the world energy scene, strengthening the position

---

<sup>812</sup> Annex 21 to the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>813</sup> Eurasian Economic Commission, *Sovet EEK odobril Konceptiju formirovanija obščego rynka gaza EAES*, February 12<sup>th</sup>, 2016. <http://www.eurasiancommission.org/ru/nae/news/Pages/12-02-2016-2.aspx>

<sup>814</sup> Eurasian Economic Commission, *Na zasedanii Evrazijskogo Mežpravitel'stvennogo soveta odobren proekt koncepcii formirovanija obščih rynkov nefi I nefteproduktov EAES*. May 21<sup>st</sup>, 2016. <http://www.eurasiancommission.org/ru/nae/news/Pages/21-05-2016-2.aspx>

<sup>815</sup> Art. 104.4 and 104.6. of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>816</sup> Artt. 104.5 and 104-7 of the Treaty on the Eurasian Economic Union, cit. note 365.

of the Russian Federation and Kazakhstan, which are already key players on these markets, and affecting other players such as the European Union or the People's Republic of China<sup>817</sup>.

Following the sections dedicated to energy markets, Part III of the Treaty covers other important areas of the common economic space. Section XXI contains provision for a coordinated transport policy between member States<sup>818</sup>, Section XXII is dedicated to State procurement<sup>819</sup> and Section XXIII regards intellectual property and its protection<sup>820</sup>, which is to be granted in accordance to the international conventions on the matter<sup>821</sup>. The last three sections of Part III of the Treaty have a strong impact on businesses at national level: Section XXIV covers industrial agreed policy<sup>822</sup> and regulates State subsidies to the enterprises<sup>823</sup>. Similarly, Section XXV is dedicated to the agreed common agricultural policy<sup>824</sup>. Finally, section XXVI address the delicate issue of labour migration, establishing the principles for the free movement of labour force across the EAEU<sup>825</sup>.

---

<sup>817</sup> M. PASTUKHOVA, K. WESTPHAL, *Eurasian Economic Union Integrates Energy Markets – EU Stands Aside*. SWP Comments, Stiftung Wissenschaft und Politik -SWP- Deutsches Institut für Internationale Politik und Sicherheit, N.5, January 2018.

<sup>818</sup> Section XXI of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>819</sup> Section XXII of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>820</sup> Section XXIII of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>821</sup> Art. 90.3 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>822</sup> Section XXIV of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>823</sup> Art. 93 of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>824</sup> Section XXV of the Treaty on the Eurasian Economic Union, cit. note 365.

<sup>825</sup> Section XXVI of the Treaty on the Eurasian Economic Union, cit. note 365.

This brief analysis of the activities and the functioning of the Eurasian Economic Union shows that the project has been established with ambitious goals. Some of these goal were already achieved and some are to be achieved in the next years, as for example the establishment of the common market of energy, gas, oil and oil products or the common financial market. Some additional reflections on the activities of the EAEU since its establishment, some final considerations and some perspectives, are outlined in the following section, before summing up the conclusion in the final chapter of the present work.

### **3. Issues beyond economy**

Up to this point the analysis focused on the development of the Eurasian Economic Union as a regional economic integration process. Nevertheless, some of the examined elements lead the discourse beyond economics and open interesting perspectives for development of integration in other fields, as it has happened for the European Union. Before moving to analyse those perspectives, it is necessary to present some data to understand what does it mean, in practical terms, and what has been achieved by the member States for what concerns integration. Also, it is useful to sum up some conclusive critical points steaming from the previous analysis on the current state of the Eurasian Economic Union.

#### **3.1 Key observations on the Eurasian Economic Union current state**

As a matter of clarity, will be first presented, with the help of statistical data, the achievements of the Eurasian Economic Union in terms of economic integration and later some critical observations will be discussed.

### 3.1.1 Results and achievements of Eurasian Economic integration: 2015-2018

The Eurasian Economic Union gathers together the most extensive common economic space on the planet, that has boundaries with the European Union on the West and China on the East extending until the shores of the Pacific Ocean. Such a territory means also a common market made by the 181 million inhabitants of the member States. The largest population among the member States is that of the Russian Federation, that counts 143.965 million people (79,6% of the Union's population)<sup>826</sup>, followed by Kazakhstan, with 18.404 million people (10.2% of the total)<sup>827</sup> and Belarus with 9.452 million (5.2% of the total population of the EAEU)<sup>828</sup>. Together, the three founding member States of the Eurasian Economic Union sum up 95% of the population, while Armenia, with 2.934 million (1.6% of the total)<sup>829</sup>, and Kyrgyzstan, with 6.133 million (3,4% of the total)<sup>830</sup>, count only for the 5% of the Union's population.

Such a relation that sees the founding member States to have a higher quantitative specific weight in relation to the two States that joined later is reflected also by the statistics concerning the GDP of the Union, which in 2017 amounted to 1,810.792 billion dollars<sup>831</sup>. Within the group of the founding members, again, there is, again, a predominant position of the

---

<sup>826</sup> Department of Economics and Social Affairs, *World Statistics Pocketbook 2018 Edition*, New York, United Nations, 2018, p. 204

<sup>827</sup> Ibid., 142.

<sup>828</sup> Ibid., 51.

<sup>829</sup> Ibid., 42.

<sup>830</sup> Ibid., 146.

<sup>831</sup> Eurasian Economic Commission, *Evrasijskij ekonomičeskij sojuz v cifrah – kratkij statističeskij sbornik, Moscow, 2018*, p. 44

Russian Federation, which sums a GDP of 1,577.870 billion dollars (86.2% of the share of the whole GDP of the EAEU)<sup>832</sup>. Kazakhstan follows with 159.407 billion dollars (9.3% of the total)<sup>833</sup>, while Belarus results to be the smaller economy among the founding members, with a GDP of 54.413 billion dollars (which represents 3.3% of the total)<sup>834</sup>. For what concerns the smallest member States, Armenia, which is the least populated member State, recorded a GDP of 11.537 billion dollars (0.7% of the total)<sup>835</sup> while Kyrgyzstan results to be the smallest economy of the whole EAEU, having recorded a GDP of 7.565 billion dollars (0.5% of the total)<sup>836</sup>.

Combining data relative to the population and to the GDS of the Eurasian Economic Union, emerges that the organisation represents an enormous market of more than 181 million people, that sums a GDP of more than 1,800 billion dollars. Nevertheless, figures are dominated by the Russian Federation, that accounting for almost of the 80% of population and 85% of the GDP of the Union, seems to have a predominant role in the EAEU balance. It is necessary to add, that the when the EAEU was established in 2015, the member States, especially the Russian Federation, were experiencing an economic crisis related to a number of factors, many of which linked to the international situation, such as the oil prices crash and the sanctions deriving from the Ukrainian crisis. The GDP of the member States generally shrank in 2015, as a result of the aforementioned crisis in 2014. Recovery started in 2016, and steady growth signs were recorded in

---

<sup>832</sup> Ibid.

<sup>833</sup> Ibid.

<sup>834</sup> Ibid.

<sup>835</sup> Ibid.

<sup>836</sup> Ibid.



2017<sup>837</sup>. In addition, informally, preliminary data show that the growing trend is ongoing and confirmed also for 2018<sup>838</sup>.

In its first years of existence, the Eurasian Economic Union recorded a general trade surplus, in a general growing trend, showing strong signs recovery from the aforementioned economic crises that lead international exchanges with the area to decrease<sup>839</sup>: Russian exports in 2017 have reached 359.2 billion dollars, while imports reached 228.2 billion dollars, resulting in surplus of 130.9 billion dollars<sup>840</sup>. Kazakhstan as well recorded in 2017 a surplus of 19 billion dollars, resulting from a record of 48.3 billion dollars of exports and 29.3 billion dollars of import<sup>841</sup>. Belarus, the third member of the ‘founding group’, shows a slightly different situation, having recorded in 2017 a slight trade deficit, of just 5 billion dollars. This figure results for an overall export of 29.3 billion dollars and imports of 34.2 billion dollars<sup>842</sup>. The balance of trades of the two smaller member States, Armenia and Kyrgyzstan, is way more unbalanced towards importation, but the small dimension of their economies in relation to the economies of the other member States, makes the contribution of their balances of trades

---

<sup>837</sup> Ibid.

<sup>838</sup> T. BORDACHEV, “Russia in Asia and Eurasia in 2018”, *Valdai discussion club expert opinion*, December 29<sup>th</sup>, 2018. <http://valdaiclub.com/a/highlights/russia-asia-eurasia-2018/>

<sup>839</sup> Data show that there was a strong decrease of international trade between 2014 and 2015, a stabilisation of the general trend between 2015 and 2016, year in which recovery started, and steady growth in 2017. Eurasian Economic Commission, *Vnešnja trgovlja tovarami. Statistika Evrazijskogo ekonomičeskogo sojuza. 2017 god*, Moscow, 2018, p. 23

<sup>840</sup> Banca Intesa, *EAEU's Trade and Geopolitics in a Global Scenario in Transition*, October 2018, p.

14

<sup>841</sup> Ibid.

<sup>842</sup> Ibid.

to the collective EAEU balance of trades virtually negligible<sup>843</sup>. The overall balance of trade the EAEU recorded for 2017 was 740.8 billion dollars, resulting form 440.5 billion dollars of exports and 300.3 billion dollars of imports, for a total surplus of 140.2 billion dollars<sup>844</sup>. A qualitative observation on the overall balance of trade of the EAEU is necessary to better understand the data. If it is true that the balance is positive, looking to the product categories appear evident that most of the export (47.9%) is represented by gas, oil and oil products<sup>845</sup>, while the imports are represented by products that have a high added value, especially machinery (30.4%), food and agricultural products (12,7%), and vehicles (12,2%)<sup>846</sup>. There have been official statements from officials of the member States about the will to change the trend, also taking profit of the conditions offered by the EAEU in order to promote import substitution through mutual trade<sup>847</sup>. In general, statements show the will to diversify and transform the general structure of the economies of the EAEU, today based on the oil & gas sector, especially true for what concerns the founding members.

Therefore, if the data above show overall positive signs for the foreign economy of the EAEU, at least in quantitative terms, on the other hand it is interesting to notice how the Eurasian Economic Union has influenced the mutual trade of the member States. Under growing GDP and foreign

---

<sup>843</sup> Ibid.

<sup>844</sup> Ibid.

<sup>845</sup> Ibid., p. 15.

<sup>846</sup> Ibid.

<sup>847</sup> Eurasian Economic Commission, *Prospects of import substitution for agricultural and food products in the EAEU reviewed at St. Petersburg International Forum*, June 6<sup>th</sup>, 2016.

<http://www.eurasiancommission.org/en/nae/news/Pages/06-06-2016-1.aspx>

trade trends, the organisation has shown an increasing impact on the mutual trade of the member States since its establishment. Mutual trade in goods, in 2015, experienced a decrease, in a context of general recession, and the final figure was only the 74.2% of the figure of 2014<sup>848</sup>, the year before the establishment of the EAEU. The following year, mutual trade decreased slightly, recording a final value of 94.2% of the value of 2015<sup>849</sup>. Nevertheless, a turnaround can be observed starting from September 2016, when the monthly values begin to be higher to those from 2015<sup>850</sup>. Year 2017 in fact ended recording an overall value for mutual trade that was 127.3% of the value of the previous year<sup>851</sup>, a strong sign about the success of the EAEU and the positive effects on the economies of the member States. Despite data for 2018 have not been revealed yet, declarations of officials of the member States suggest that the rising trend continues<sup>852</sup>. The increase of GDP and both external and mutual trade, and its positive effects on the economies of the member States, in the general context of economic recovery, is a solid signal of the success, for what concerns the economic sphere, of the Eurasian Economic Union in its first years of existence and of strengthening of economic integration. The Treaty and

---

<sup>848</sup> Eurasian Economic Commission, *Vzaimnaja trgovlja tovarami. Statistika Evrazijskogo ekonomičeskogo sojuza. 2015 god*, Moscow, 2016, p. 11

<sup>849</sup> Eurasian Economic Commission, *Vzaimnaja trgovlja tovarami. Statistika Evrazijskogo ekonomičeskogo sojuza. 2016 god*, Moscow, 2017, p. 17

<sup>850</sup> *Ibid.*, 19.

<sup>851</sup> Eurasian Economic Commission, *Vzaimnaja trgovlja tovarami. Statistika Evrazijskogo ekonomičeskogo sojuza. 2017 god*, Moscow, 2018, p. 11

<sup>852</sup> Russian Prime Minister Dmitrij A. Medvedev, at the meeting of the Intergovernmental Council held in Minsk on November 27th, 2018, stated: “В первые три квартала внутрисоюзная торговля выросла приблизительно на 13,5–14%. [...]”; (“During the first three quarters mutual trade within the Union increased of about 13.5-14%”) .<http://government.ru/news/34850/>

the Customs Code provide for a solid framework, as has been explained earlier, for the development of economic relations between the Union and third parties in a basically WTO-compliant framework, and for the development of the common economic space. The environment for economic growth offered by the EAEU proves to be way more beneficial for the member States than previous integration projects which, in fact, were not able to promote economic growth and mutual trade to such an extent as has happened within the Eurasian Economic Union<sup>853</sup>.

### **3.1.2. Critical observations on the Eurasian Economic Union current state of integration**

Following the discussion on the economic success of the EAEU, it is necessary to draft some critical considerations on the state of integration, on how the member States cooperate within the Union and how the Union deals with third parties. This can be done starting from the analysis on the functioning of the Eurasian Economic Union bodies, the customs union, the common economic space and the Eurasian Economic Union law.

First, it appears that the EAEU at its current stage of integration relies a lot on the intergovernmental level and lacks of a strong own, supranational, dimension. The Commission, at the moment, lacks the strength and the authority of the European Commission and works under the direct control of national governments due to its peculiar structure that involves national officials. Nevertheless, the activity of the Commission as a whole since the establishment of the Eurasian Economic Union has been intense and has proven to be efficient in its function, producing important

---

<sup>853</sup> See chapter 2.

regulation for the customs union and the common economic space and pushing forward integration. In the future, member States will be required to further cede sovereignty in order to strengthen integration, as is the case, for example, of the common financial market, which will be provided with its own supranational regulatory body and such developments are expected to increase the supranational dimension of the EAEU.

Second, the activity of the Commission and more in general of all the bodies of the Union towards strengthening integrations, shows that the economic integration between the member States it is far to be completed. Figures above show that within the EAEU there is a huge imbalance between the three founding member States, that have a similar economic structure based on oil & gas sector, and the rest of the members, and within this group there is a strong dominant position of the Russian Federation, which counts for more than 80% of GDP. Moreover, in such a context, it is observed that the economies of the EAEU have achieved a different development level, also in socio-economic terms, making harmonisation of economies and economic policies a challenge. In fact, despite many progresses and a positive outlook on further development, supported by the integration plans for the years to come, in some important economic issues the member States seemed not to be always on the same page, especially when the economy mixes with international politics and national priorities. During the Ukrainian crisis<sup>854</sup> for example, while the European Union acted as a single entity and introduced economic measures against the Russian Federation, that was not the case of the Eurasian Economic Union, where only the Russian Federation reacted to the EU measures. If

---

<sup>854</sup> See chapter 2.3.2.

there are deep reasons in favour of that (the political implications of the matter, the deeper degree of integration of the EU and the fact that the EU introduced sanctions only against Russia the two more obvious), on the other hand appears clear that the Eurasian Economic Union did not react as a single economic entity. Furthermore, there were registered cases of violations of Russian countersanctions enabled taking advantage of the customs union and using Belarus and Kazakhstan as entrance gates to the Russian market<sup>855</sup>. Nevertheless, disagreements or different positions on specific issues should not make forget the overall successful results of the economic integration, as proved by the figures explained earlier.

The Ukrainian example serves also to move onto the third observation: in its first years of existence, the EAEU did not succeed in being widely treated and acknowledged as a single economic and geopolitical entity. The European Union, which is the organisation that has served in this work as the comparison term for the Eurasian Economic Union, has not initiated official relations with it<sup>856</sup>. Also the World Trade Organisation examined the Treaty on the EAEU only in 2018, almost four years after the birth of the organisation, in a meeting where was discussed the renegotiation of the tariff commitments to the WTO of Armenia,

---

<sup>855</sup> O. FRITZ, E. CHRISTEN, F. SINABELL, J. HINZ, “*Russia’s and the EU’s sanctions: economic and trade effects, compliance and the way forward*”. EU Directorate General for External Policies Study, October 2017.

<sup>856</sup> M. RUSSELL, “*Eurasian Economic Union: The rocky road to integration*”. EPRS Briefing, April 2017.

[http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599432/EPRS\\_BRI\(2017\)599432\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599432/EPRS_BRI(2017)599432_EN.pdf); Eurasian Economic Commission, *Dialogue between EAEU and EU: a Common Economic Space from Lisbon to Vladivostok through the eyes of European businesses*, February 19<sup>th</sup>, 2018.

[http://www.eurasiancommission.org/en/nae/news/Pages/19\\_02\\_18.aspx](http://www.eurasiancommission.org/en/nae/news/Pages/19_02_18.aspx)

Kyrgyzstan and Kazakhstan<sup>857</sup>. During the meeting there was no statement about eventual intentions to jointly access the WTO as a custom territory as has been expressed in 2010, even though it might happen in the future especially after the accession of Belarus to the organisation<sup>858</sup>, but the member States emphasised how the EAEU already complies with the WTO principles and rules<sup>859</sup>. The lack of strong recognition as a single entity, does not mean that the external action of the EAEU has been negative at all. If the success of economic integration on the internal dimension is proven by the aforementioned figures, the results of the EAEU on the external dimension are also important, even if they passed over almost in silence. The EAEU and the member States signed a free trade agreement with the Socialist Republic of Vietnam on May 29<sup>th</sup>, 2016 (entered in force on October 5<sup>th</sup>, 2016)<sup>860</sup>, an agreement on economic cooperation with the People's Republic of China on May 17<sup>th</sup>, 2018<sup>861</sup>, and on the same day an interim agreement with the Islamic Republic of Iran<sup>862</sup>. Moreover, talks on further free trade or cooperation agreements are

---

<sup>857</sup> World Trade Organisation, *WTO members review regional trade agreements covering EU, Ghana and EAEU*, November 19<sup>th</sup>, 2018, [https://www.wto.org/english/news\\_e/news18\\_e/rta\\_19nov18\\_e.htm](https://www.wto.org/english/news_e/news18_e/rta_19nov18_e.htm)

<sup>858</sup> See chapter 2.2.3.1.

<sup>859</sup> World Trade Organisation, *WTO members review regional trade agreements covering EU, Ghana and EAEU*, op. cit.

<sup>860</sup> Free Trade Agreement between the Eurasian Economic Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part. Nur-Sultan, May 29<sup>th</sup>, 2015. [https://docs.eaeunion.org/docs/en-us/0147849/iatc\\_02062015](https://docs.eaeunion.org/docs/en-us/0147849/iatc_02062015)

<sup>861</sup> Agreement on economic and trade cooperation between the Eurasian Economic Union and its Member States, of the one part, and the People's Republic of China, of the other part. Astana, May 17<sup>th</sup>, 2018. [https://docs.eaeunion.org/docs/ru-ru/01417817/iatc\\_21052018](https://docs.eaeunion.org/docs/ru-ru/01417817/iatc_21052018)

<sup>862</sup> Interim Agreement leading to formation of a free trade area between the Eurasian Economic Union and its Member States, of the one part, and the Islamic Republic of Iran, of the other part. Astana, May 17<sup>th</sup>, 2018. [https://docs.eaeunion.org/docs/ru-ru/01417815/iatc\\_21052018](https://docs.eaeunion.org/docs/ru-ru/01417815/iatc_21052018)

ongoing with other countries such as Singapore<sup>863</sup>, Israel<sup>864</sup> and India<sup>865</sup>, proving that the EAEU is very active on the international scene and seeks for increased recognition and reputation. Furthermore, as presented earlier on this section<sup>866</sup>, geography gives the Eurasian Economic Union a strategic position on the map, directly linking the Chinese, and in general Eastern Asian, markets on the one side and the European market on the other. For international economic relations, this means that the EAEU is likely to play a dramatic role in the future development of world commerce linked to the ‘New Silk Road’<sup>867</sup> and to the ‘Greater Eurasia’ concept<sup>868</sup>.

Taking the question of acknowledgement to the domestic level leads to a fourth consideration. For the development of regional integration, it is necessary that the regional organisation it not only outside its borders, but also within them, that means among its population, and it has been noticed how people already benefit of the results of EAEU integration, but is not

---

<sup>863</sup> Eurasian Economic Commission, Negotiations on FTA Agreement between the EAEU and Singapore to end up in 2019, November 15<sup>th</sup>, 2018.

<http://www.eurasiancommission.org/en/nae/news/Pages/15-11-2018-5.aspx>

<sup>864</sup> Eurasian Economic Commission, Approaches to negotiations for Free Trade Zone Agreement between the EAEU and Israel have been defined, April 27<sup>th</sup>, 2018.

<http://www.eurasiancommission.org/en/nae/news/Pages/27-04-2018-2.aspx>

<sup>865</sup> Eurasian Economic Commission, EAEU and India began formal negotiations on a free trade agreement, March 6<sup>th</sup>, 2017. <http://www.eurasiancommission.org/en/nae/news/Pages/3-06-2017.aspx>

<sup>866</sup> See section.3.1.1. of the present chapter.

<sup>867</sup> A. V. OSTROVSKII, *Prospects to interface the silk road economic belt and the Eurasian Economic Union projects*, in *Herald of the Russian Academy of Sciences*, Vol. 87, N. 6, 2017, pp. 480-490.

<https://link.springer.com/article/10.1134/S1019331617060041>

<sup>868</sup> M. KACZMARSKI, W. RODKIEWICZ, “*Russia’s Greater Eurasia and China’s New Silk Road: adaptation instead of competition*”. OSW Commentary, N. 219, Warsaw, Centre for Eastern Studies, July, 21<sup>st</sup>, 2016. [https://www.osw.waw.pl/sites/default/files/commentary\\_219.pdf](https://www.osw.waw.pl/sites/default/files/commentary_219.pdf)



always aware of it<sup>869</sup>. As for today, many of the member States seems to be struggling more with they own national identity, which plays an important role in the political culture of the single member States and which are at different states of development, as was explained earlier in this chapter<sup>870</sup>. This process not always looks with favour on regional integration, especially if this is taken beyond the borders of economy. Nevertheless, the development of some type of common identity at some stage of integration, which must be perceived as a shared belonging to the EAEU and not as something pit against the single national identities. Despite something is moving, especially in the perception of the ‘Eurasian identity’ as alternative to ‘post-Soviet identity’<sup>871</sup>, it will be a delicate and important challenge for the future of the EAEU to be acknowledge and to create a sense of belonging among its population.

Finally, moving to a plan that somehow embraces the four considerations drafted insofar, a brief consideration regards the Eurasian Economic Union legal system. The concept of integration through law has been briefly exposed in chapter one, and law has been a major instrument of integration for the European Union. The Eurasian Economic Union legal system is still young and needs to be further developed and strengthened, as was explained in the section dedicated to the Court of the Union. If as remarked by the Court in the aforementioned advisory opinion, the law of the Union is directly applicable and enforceable on the entire area of the EAEU, the weakness of the Court, which has not powers

---

<sup>869</sup> T. BORDACHEV, *“Russia in Asia and Eurasia in 2018”*, *op. cit.*

<sup>870</sup> See section 1 and further of the present chapter.

<sup>871</sup> See chapter 2.

about preliminary ruling and which cannot be requested by the Commission on supposed violations by the States, puts the responsibility on the enforcement mostly on the member States. The development of the legal system, of which arguably would benefit the whole integration process as has happened in the European Union, requires the will of the member States to do so. The effectiveness of the law of the EAEU within their territories depends on them, in practice through the work of higher Courts, which can block any legal act of the Union<sup>872</sup>. Further, the extension of Court's powers require Treaty amendments, which are in the hands of the member States will.

### **3.2. Perspectives and sceneries of future integration**

Understanding what has been achieved by the Eurasian Economic Union and the member States in terms of integration, and also what are the main critical points, leads the discourse to the future of the organisation and of the whole integration process. If the priority in the short term is to complete the common economic space and the economic integration, it also appears clear how the degree of interrelation between the member States is such that their future relations cannot be contained within the boundaries of economy. The geopolitical importance of the EAEU was already shown in the previous chapter, and raised questions at the time of the genesis of the organisation<sup>873</sup>. Moreover, as the example provided by the European Union shows, even economic integration at a certain point

---

<sup>872</sup> R. PETROV, P. KALINICHENKO, *On Similarities and Differences of the European Union and Eurasian Economic Union Legal Orders: Is There the 'Eurasian Economic Union Acquis'?*, in *Legal Issues of Economic Integration*, Vol. 43, N. 3, 2016, pp. 295-307.

<sup>873</sup> See chapter 2.2.1.5.

requires the discourse to be taken beyond economy to move forward integration. It is necessary to remember that from a formal legal point of view, integration in fields other than economy requires amendments to the Treaty and therefore the political will of the member States to do so.

On the medium and the long terms, future challenges for the Union can be addressed only through a scenario of further and deeper integration, in order to give a positive answer to the critical observations pointed out earlier. A higher degree of integration should start from the political will of the member States to cede sovereignty in exchange for common advantages on the global scene. This would mean to strengthen the supranational dimension, in first place the role of the Commission and later of the further supranational bodies and agencies that are to be established, such as the financial market control body expected for year 2025. In parallel, starting from political will, there should be a strengthening of the role of the Court in order to strengthen the Union legal order and make it a supranational reference in the spheres of competence of the Union for the member States. A natural consequence of a higher degree of integration would be also the introduction of a parliamentary assembly, in support to the Commission and to the legislative process. A parliamentary assembly would also help to address the issue of the lack of identification of the population of the EAEU with the Union itself, making them actively participating in the integration process. Moreover, it would raise the degree of democracy within the Union, being the assembly a direct expression of people's will and not a body nominated by national governments such as the Commission.

In the future, the Eurasian Economic Union will have to address the question of enlargement and the relations with two international relation issues within the post-Soviet space: for what concerns enlargement, the EAEU is open to any Eurasian State willing to join, but fundamentally, as its genesis shows, it is focused on the integration of the willing post-Soviet States. Two States are the strongest candidates for membership. The first is Tajikistan, which has often been indicated as the most probable future member State of the Union, the country was already a member of the EurAsEC and has a strategic position, especially under the light of the New Silk Road. Nevertheless, the country has been studying the matter since the draft of the Treaty and has not expressed an official position yet. Moreover, there still are some unresolved dispute borders with Kyrgyzstan, an EAEU member State, which have in occasions caused armed confrontation and casualties and which should be resolved prior to a future Tajikistan accession to the Union. The second State, which can be seen as a potential candidate membership is Moldova, which has a more complicated relation than Tajikistan towards post-Soviet integration. During the early stages of the formation of the EAEU, the country was oriented towards deeper integration with the European Union, and signed an EU association agreement in 2014. A change in Moldovan leadership and foreign policy priorities, following the election of Mr Igor Dodon in 2016, led to a drastic change. Moldova started seeking integration into the EAEU and at the same time cancelled the agreements with the European Union. In 2017, it was announced that the country was granted the status of EAEU observer State.

Moving from the enlargement question to issues related with the relations within the post-Soviet space, the first the Union has to address will be how to deal with the Commonwealth of Independent States Free Trade Area (CISFTA), an extensive FTA negotiated by all member States of the CIS but Azerbaijan before the establishment of the EAEU. The agreement is in force for EAEU member States, Tajikistan, Moldova, Uzbekistan and Ukraine. Nevertheless, if some of these countries, as said for Tajikistan, are perspective members of the EAEU, other countries are pursuing different directions of integration. Following the Ukrainian crisis and the signature of a FTA between the EU and Ukraine, the Russian Federation suspended CISFTA towards Ukraine, which in reaction applied countermeasures, while formally nothing changed between Ukraine and the other EAEU member States. The Eurasian Economic Union will be forced to face the issue of the CISFTA, especially if other States, such as Moldova (which is an observer at the EAEU but which in the recent past, as shown earlier, has sought integration into the EU space), would pursue different directions of integration.

The second international issue, with which the EAEU will be forced to deal has a potentially enormous geopolitical impact and it is the future of the CSTO, the military organisation introduced in chapter 2. As said earlier, Tajikistan is a serious candidate for membership, and in that case, the composition of both the EAEU and the CSTO would coincide. It is possible then to argue that there are chances that the CSTO might be integrated into the EAEU, as it happened, albeit some variations, with the Western European Union, a European military alliance, which was integrated into the European Union. The integration of the CSTO into the

Eurasian Economic Union takes definitely the discourse on integration beyond the borders of economy, and opens another series of questions, starting from the perspectives of a political union, which go well beyond the boundaries of this research.

In next chapter, which concludes the present work, will be briefly summarised what has been said up to this point, identifying the answers to the main problems of the research and giving some hints for the development of integration between EAEU member States and also some suggestions for future researches on the matter.

## CHAPTER 4: CONCLUSIONS

In chapter two, the research focused on the development of the post-Soviet republics as independent States and of the relations between them in the ‘holding-together integration’ framework. Following the events in chronological order, starting from the dissolution of the Soviet Union, the establishment of the Commonwealth of Independent States and emergence of the ‘Eurasian Union’ concept, it has been analysed how the post-Soviet States developed the main characteristics of their political and legal systems. In parallel, the analysis concentrated on how the regional integration projects developed in the area, on the reasons why the Commonwealth of Independent States has changed its role and on how Belarus, Kazakhstan and Russia emerged as the engine of the integration processes in the area. Under this light, special attention on those processes that led to the establishment of the customs union in 2010 and of the single economic space in 2012. Those two projects, established within the framework of the Eurasian Economic Community represent the first practical steps towards the building of the Eurasian Economic Union.

Chapter 3, analyses first the domestic systems of the member States in terms of legal and political system, political culture (with a special focus on the issue of the national identity, which is a major element of post-Soviet societies) and foreign policy. Subsequently, the analysis moves to the

Eurasian Economic Union structure and functioning: using the Treaty on the Eurasian Economic Union as a guide, the research goes through the Union bodies, the functioning of the customs union and of the single economic space. The first part is fundamental to understand the reasons behind the institutional architecture of the EAEU and the EAEU internal dynamics between the member States. Finally, the results obtained by the EAEU since its establishment are discussed, including some critical points that emerged during the research, and some perspectives for the future development of the Union are drafted.

The results, the critical observations and the future perspectives of the EAEU are the starting point to draw the appropriate conclusions to the work, first by to answering the two questions that were identified as those of key importance for understanding the Eurasian Economic Union.

The first question to answer regards the relation between member States and the EAEU and the dynamic of the integration process. It has been said that the dynamic of regional integration develops in a circular way with mutual influence between both levels, as it happens in the EU. What can be observed in regard to the EAEU integration process, it is that the integration process is, at its current state, much driven by the member States, and among them, by the group of the three founding members. It is true that the EAEU is a very recent project and therefore the will of the member States is fundamental, but, on the other side, it appears that the States are reluctant to give real autonomy to the organisation. The Commission of the EAEU, which is the body that, similar to the European Commission, should work in the interest of the EAEU 'thinking Eurasian', it is in practice under the control of national Governments through its



peculiar two-tier structure, where the upper, supervising tier is made up of national Government officials of the member States. Such a predominantly one-direction dynamic reflects on the fact that the EAEU it is little perceived by the populations of the member States, even if the results achieved by the organisation, as seen in chapter 3, are already affecting everyday lives of the people in member States. If there is almost no perception of the economic influence of the EAEU, even smaller is the perception outside the economic sphere, where the influence of the organisation is much smaller due to the mentioned one-direction integration dynamic. Very little influence has been noticed in terms of influence of the EAEU on the political cultures of the member States, with the exception of the slow emergence, mostly among intellectuals, of a 'Eurasian identity' concept, either in parallel with or in substitution of the 'post-Soviet identity'. A major obstacle for the emergence of such an idea is the current state of development of national identities of the member States and the fact that national identities are used as tools of both domestic and foreign policy by the elites of said States. In the future, to overcome this obstacle and allow integration to progress further, it would be desirable first that the integration process moves to the circular dynamic in which there is mutual influence between the member States and the integration organisation. This is likely to happen once the EAEU will be solid enough and an important tool might be for example helped by the establishment of a parliament. Second, it would be desirable that the member States stress on education in order to spread among the population initially a 'Eurasian awareness' based on the results of the EAEU, which can later turn into an 'Eurasian identity' that must be complementary and not rival to the single member State national identities.

Perspectives on the future of the integration dynamics take the discourse to the second question to answer, that means the legal instruments that regulate the EAEU and the integration process and whether such legal order can be compare to EU law in terms of supranational character. To address this question, it is necessary to recall the importance of law in the integration processes, as remarked by the concept of 'integration through law' in the EU. Again, the key point to answer the question, takes the discourse back to the one-direction dynamic of integration. Even if the Treaty provides for EAEU supranational legislation, in fact almost everything it is decided and enacted at intergovernmental level, and, as mentioned, even the acts of the Commission are to be approved by the Council of the Commission, which is an intergovernmental body. This point a first huge difference between the EAEU and the EU law. A second one is given by the role and the powers of the Court of the EAEU, the judicial body of the organisation, which is in charge for ensuring the uniform application of the EAEU law throughout the territory of the Union. On the body a lot has been said in chapter 3 that can be summarised in the lack of effectiveness both in dispute resolution (the Court cannot decided for material compensation) and in the interaction with domestic courts (there are no provisions on preliminary ruling). Therefore, the effectiveness of the EAEU law is in the hands of the member States and of the national courts that can be definitely helpful in supporting the Court of EAEU in building a reputation. Nevertheless, this might not be enough and for the future, it would be desirable that the political will of the member States leads to amendments to the Treaty in order to allow a legislative process more centred on the EAEU and also to allow the Court to be more incisive.

The concluding point that emerges from the answers to the two questions, is that for the further development of the integration of the EAEU, will be fundamental the political will of the national Governments and elites to cede more sovereignty to the integration organisation. Both the strengthening of the EAEU as an organisation and the strengthening of the EAEU legal system, require in fact more powers to be conferred to the EAEU from the member States. A greater cession of sovereignty to the EAEU will be more and more important as integration will involve areas that go beyond the boundaries of economy, as explained in chapter 3. The international role of the EAEU, for example within the WTO and in the relations with the EU, the issues related to the enlargement and, in future, the relationship with the CSTO, are all matters that force the EAEU to cross the boundaries of economy and that push the EAEU towards that geopolitical role that has been argued since the very early stages of its conception.

## BIBLIOGRAPHY:

### BOOKS

- B. ANDERSON  
Imagined Communities: Reflection on the Origin and Spread of Nationalism, Rev. Ed., London and New York, Verso, 1991
- C. BARNARD, S PEARS, ed.  
European Union Law, Oxford, OUP, 2014
- W.E. BUTLER  
The Law of Treaties in Russia and the Commonwealth of Independent States, 1<sup>st</sup> Ed., Cambridge, Cambridge University Press, 2002
- D. CALDIER  
The Geopolitics of Eurasian Integration, London, LSE Ideas Special Reports, 2014
- M. CAPPELLETTI, M. SECCOMBE, J. H. WEILER, eds.  
Integration through law: Europe and the American Federal Experience, 1<sup>st</sup> Ed., Berlin and New York, Walter de Gruyter, 1986
- D. CARREAU, F. MARRELLA  
Diritto internazionale, 2<sup>nd</sup> Ed., Milano, Giuffrè Editore, 2018
- R. CRYER, T. HERVEY, B. SOKHIBULLEY  
Research Methodologies in EU and International Law, 1<sup>st</sup> Ed., Oxford and Portland, Hart Publishing, 2011
- K. CZEREWACZ-FILIPOWICZ, A. KONOPELKO  
Regional Integration Processes in the Commonwealth of Independent States: Economic and Political Factors, 1<sup>st</sup> Ed., New York, Springer, 2017

- P. DE LOMBAERDE, R. G. FLÔRES,  
P. LELIO IAPADRE, M. SCHULZ,  
eds. The Regional Integration Manual:  
Quantitative and Qualitative Methods,  
1<sup>st</sup> Ed., New York, Routledge, 2011
- K. W. DEUTSCH Political Community and the North  
Atlantic Area: international organization  
in the light of historical experience, 1<sup>st</sup>  
Ed., Princeton, Princeton University  
Press, 1957
- E. DI NOLFO Storia delle Relazioni Internazionali, 5<sup>th</sup>  
Ed., Bari, Editori Laterza, 2008
- C. DOMINICÉ L'ordre juridique international entre  
tradition et innovation, 1<sup>st</sup> Ed., Ginevra,  
Graduate Institute Publications, 1997
- R. DRAGNEVA, K. WOLCZUK, eds. Eurasian Economic Integration: Law,  
Policy and Politics, 1<sup>st</sup> Ed., Cheltenham,  
Edward Elgar, 2013
- V. G. EGOROV, A. V. ABRAMOV, S.  
N. FEDORČENKO Sravnitel'naja politologija  
Postsovetskogo prostranstva, 1<sup>st</sup> Ed.,  
Moscow, Knorus, 2017
- R. ELGIE, S. MOESTRUP, eds. Semi-Presidentialism Outside Europe: A  
Comparative Study, London, Routledge,  
2007
- A. FERRARI Putin's Russia: Really back?, 1<sup>st</sup> Ed.,  
Milan, ISPI, 2016
- J. GERRING Case Study Research: Principles and  
Practices, 1<sup>st</sup> Ed., Cambridge,  
Cambridge University Press, 2007
- G. GILL Democracy and Post-Communism:  
Political change in post-communist  
world, 1<sup>st</sup> Ed., London and New York,  
Routledge, 2002
- E. B. HAAS The Uniting of Europe: political, social,  
and economical forces, 1950-1957, 1<sup>st</sup>  
Ed., Stanford, Stanford University Press,  
1958

- R. HAGUE, M. HARROP, J. MCCORNICK, Political Science: a comparative introduction, London, Palgrave, 2016
- S. HOHMANN, C. MOURADIAN, S. SERRANO, J. THOREZ, eds. Development in Central Asia and the Caucasus: Migration, Democratisation and Inequality in the Post-Soviet Era, London and New York, I.B. Tauris, 2014
- M.M.HOWARD The Weakness of Civil Society in Post-Communist Europe, 1<sup>st</sup> Ed., Cambridge, Cambridge University Press, 2003
- K. KAKACHIA, A. MAKAROV, eds. Values and Identities as Sources of Foreign Policy in Armenia and Georgia , 1st Ed, Tbilisi, Universal, 2016
- E. KAVALSKI, ed. Stable outside, fragile inside: post-Soviet statehood in Central Asia, Farnham, Ashgate, 2010
- A. KLOTZ, D. PRAKASH, eds. Qualitative Methods in International Relations: a pluralist guide, 1<sup>st</sup> Ed., New York, Palgrave MacMillan, 2008
- F. LAURSEN Comparative Regional Integration: Europe and Beyond, 1<sup>st</sup> Ed., New York, Routledge, 2010
- C. A. LAVE, J. G. MARCH An introduction to Models in Social Sciences, 1<sup>st</sup> Ed., New York, Harper & Row, 1975
- A. LIBMAN, E. VINOKUROV Holding-Together Regionalism: Twenty years of Post-Soviet integration, 1<sup>st</sup> Ed., London, Palgrave Macmillan, 2012
- L. N. LINDBERG The Political Dynamics of European Economic Integration, 1<sup>st</sup>Ed., Stanford, Stanford University Press, 1963
- K. MALFLIET, L. VERPOEST, E. VINOKUROV The CIS, the EU and Russia: Challenges of Integration, 1<sup>st</sup> Ed., Basingstoke and New York, Palgrave Macmillan, 2007

- J. MANKOFF Russian Foreign Policy: the return of power politics, Plymouth, Rowman & Littlefield Publishers, 2009
- M. N. MARČENKO Sovetskoe i postsovetskoe gosudarstvo i pravo, 1st Ed., Moscow, Prospekt, 2017
- L. MÄLSKOO, W. BENEDEK, eds. Russia and the European Court of Human Rights, 1<sup>st</sup> Ed., Cambridge, Cambridge University Press, 2018
- A. MORAVCSIK The Choice for Europe, 1<sup>st</sup> Ed., Ithaca, Cornell University Press, 1998
- R. PETROV, P. VAN ELSUWEGE, Post-Soviet Constitutions and Challenges of Regional Integration - Adapting to European and Eurasian integration projects, 1st Ed., Oxford, Routledge, 2017
- R.A.W. RHODES, P. 'T HART The Oxford Handbook of Political Leadership, Oxford, OUP, 2014
- N. RONZITTI Il conflitto del Nagorno-Karabakh e il Diritto Internazionale, Torino, Giappichelli, 2014
- L. E. SLUCKIJ, ed. Protivorečija i vyzovy evrazijskoj integracii: puti preodolenija, Moscow, Naučnaja Mysl', 2018
- G. SMITH et alia Nation building in the Post Soviet Borderlands, 1<sup>st</sup> Ed., Cambridge, Cambridge University Press, 1998
- D. F. SPRINZ, Y. WOLINSKI-NAHMIAS, eds. Models, Numbers, and Cases: Methods for Studying International Relations, 1<sup>st</sup> Ed., Ann Arbor, University of Michigan Press, 2004
- V.TISHKOV Ethnicity, Nationalism and Conflict in and After the Soviet Union: The Mind Aflame, 1st Ed, London, Sage Publications, 1997
- M. VAN HOECKE, ed. Methodologies of legal research: Which Kind of Method for What Kind of

discipline?, 1<sup>st</sup> Ed., Oxford and Portland, Hart Publishing, 2016

- G.A. VASILIEVICH      Konstitucija. Človek. Gosudarstvo, vol. 7, E-book Ed., Minsk, Pravo i Ekonomika, 2010
- E. VINOKUROV, A. LIBMAN      Eurasian Integration: Challenges of Transcontinental Regionalism, 1<sup>st</sup> Ed., London, Palgrave Macmillan, 2012
- J. VYMJATINA, D. ANTONOVA      Creating a Eurasian Union: Economic Integration of the Former Soviet Republics, 1<sup>st</sup> Ed., London, Palgrave Macmillan, 2014
- N. WERTH      Histoire de l'Union soviétique: de l'Empire russe à la Communauté des Etats indépendants : 1900-1991, 6<sup>th</sup> Ed., Paris, PUF, 2008
- R. YIN      Case Study Research: Design and Methods, 4<sup>th</sup> Ed., Thousand Oaks, SAGE, 2009

## PAPERS IN JOURNALS

- M. R. BEISSINGER, *Nationalism and the Collapse of Soviet Communism*, in *Contemporary European History*, No 3, Vol 18, 2009, pp. 331-347
- K. A. BEKJAŠEV, *EAES: međunarodna(mež gosudarstvennaja) organizacija ili međunarodnoe (mež gosudarstvennoe) ob''edinenie*, in *Evrazijskij juridičeskij žurnal*, Vol. 11, No. 78, 2014, pp. 14-16
- K. BORODIN, A. STROKOV, *The Customs Union in the CIS*, in *Journal of Economic Integration*, Vol 30, N°2, 2015, pp. 334-358
- R. BRUBAKER, *Nationhood and the national question in the Soviet Union and post-Soviet Eurasia: An institutionalist account*, in *Theory and Society*, Vol. 23, 1994, pp. 47-78
- A. BURKHANOV, *Kazakhstan's National Identity-Building Policy: Soviet Legacy, State Efforts and Societal Reaction*, in *Cornell International Law Journal*, Vol. 50, N. 1, Article 1



- S.N. CUMMINS, *Eurasian bridge or murky waters between east and west? Ideas, identity and output in Kazakhstan's foreign policy*, in *Journal of Communist Studies and Transition Politics*, Vol. 19, N.3, pp. 139-155
- E. DIYANCHEKO, K. ENTIN, *The Court of the Eurasian Economic Union: Challenges and Perspectives*, in *Russian Law Journal*, N. 5, Vol. 2, 2017, pp. 53–74
- E. FINKEL, Y. M. BRUNDY, *Russia and the colour revolutions*, in *Democratization*, Vol. 19, N. 1, 2012, pp. 15-36
- F. J. FLERON, Jr, *Post Soviet Political Culture in Russia: An Assesment on Recent Empirical Investigations*, in *Europe-Asia Studies*, Vol. 48, N°2, 1996, pp. 225-260
- E. B. HAAS, P. SCHMITTER, *Economics and Differential Patterns of Political Integration: Projections about Unity in Latin America*, in *International Organization*, Vol. 18, No. 4, 1964, pp. 705-737
- S. HOLMES, *A Forum un Presidential Powers: The Postcommunist Presidency*, in *East European Constitutional Review*, 2, No 3, 1993 (3, No 1, 1994), pp.36-39
- A. ISPOLNIKOV, *Prioritet, prijamoe dejstvie I prijamoj effect norm prava Evrazijskogo ekonomičeskogo sojuza*, in *Journal of International Law and International Relations*, Vol. 80-81, N. 1-2, 2017, pp. 11-21
- P. İPEK, *The role of oil and gas in Kazakhstan's foreign policy: Looking east or west?*, in *Europe-Asia Studies*, Vol. 59, N. 7, pp. 1179-1199
- J. KAHN, *The Parade of Sovereignties: Establishing the Vocabulary of the New Russian Federalism*, in *Post-Soviet Affairs*, Vol. 16, N. 1, 2000, pp. 58-89
- N. KALEDIN, *Post-soviet space: background and the results of regionalization*, in *Baltic Region*, N°1, 2009, pp. 26-35
- A. Ja. KAPUSTIN, *Pravo Evrazijskogo Ekonomičeskogo Sojuza: međunarodno-pravovoj discurs*, in *Žurnal rossijskogo prava*, No. 11, 2015, pp. 59-69
- A. KNOBEL, *Evrazijskij ekonomičeskij sojuz: perspektivy razvitija i vozmožnye prepjastvija*, in *Voprosy Ekonomiki*, No. 3, 2015, pp. 87-108
- P. KUBICEK, *The Commonwealth of Independent States: an example of failed regionalism?*, in *Review of International Studies*, No. 35, 2009, pp. 237–256
- R. A. KURBANOV, *Eurasian law in law system of the Russian Federation*, in *International Law*, No. 2, 2017, pp. 45-65

- I. V. LESKOVA, D. M. ERMAKOV, G. I. ANDRUSCHENKO, S. V. RASPOPOV, S. A. KHMELEVSKAYA, *Relevant Aspects of the Integration of Post-Soviet Countries in the Project of the Eurasian Economic Space*, in *Review of European Studies*, Vol 7, N° 6, 2015, pp. 231-238
- A. LIBMAN, *Regionalisation in Central Asia*, in *EDB Eurasian Integration Yearbook*, Vol. 2, 2009, pp. 95-114
- M. LIČKOVÁ, *European Exceptionalism in International Law*, in *The European Journal of International Law*, Vol. 19, N. 3, 2008, pp. 463-490
- M. LIGHT, *In search of an identity: Russian foreign policy and the end of ideology*, in *Journal of Communist Studies and Transition Politics*, Vol. 19, N. 3, pp. 42-59
- R. LUDIKOWSKI, *Constitution Making in the Countries of Former Soviet Dominance: Current Development*, in *Georgia Journal of International and Comparative Law*, Vol. 23, N. 2, 1993
- A. MARTYNAUS, *Political Bargaining in the Union State of Russia and Belarus*, in *Contemporary European Studies*, N. 2, 2013, pp. 69-88
- N.R. MUIZNIEKS, *The Influence of the Baltic Popular Movements on the Process of Soviet Disintegration*, in *Europe-Asia Studies*, Vol. 47, N. 1, pp. 3-25
- R. PETROV, P. KALINICHENKO, *On Similarities and Differences of the European Union and Eurasian Economic Union Legal Orders: Is There the 'Eurasian Economic Union Acquis'?*, in *Legal Issues of Economic Integration*, Vol. 43, N. 3, 2016, pp. 295-307.
- S. P. ROBERTS, A. MOSHES, *The Eurasian Economic Union: a case of reproductive integration?*, in *Post Soviet Affairs*, Vol. 32, N. 6, 2016, pp. 542-565
- J. RUSSELL, *Improbable Unions: the Draft of Union Treaties in the USSR, 1990-1991*, in *Review of Central and East European Law*, Vol. 22, N. 4, 1996
- A. SHLEIFER, D. TREISMAN, *A Normal Country: Russia After Communism*, in *Journal of Economic Perspectives*, Vol. 19, N° 1, 2005, pp. 151-174
- T. SCHWEISFURTH, *Vom Einheitsstaat (UdSSR) zum Staatenbund (GUS)*, in *ZaöRV*, 48, No. 3, 1992, pp. 541-702
- M. SISU VICARI, *The Eurasian Economic Union- approaching the economic integration in the post-Soviet space by EU-emulated elements*, in *Revue Interventions économiques* [Online], N. 55, 2016. <http://interventionseconomiques.revues.org/2823>

R. TEITEL, *Post-Communist Constitutionalism: A Transitional Perspective*, in *Columbia Human Rights Law Review*, Vol 26, 1994, pp. 167-190

V. TOLZ, *Forging the Nation: National Identity and Nation Building in Post-Communist Russia*, in *Europe Asia Studies*, Vol. 50, No. 6, 1998, pp. 993-1022

N. VASIL'EVA, M. LAGUTINA, *Formirovanie Evrazijskogo sojuza v kontekste global'noj regionalizacii*, in *Evrazijskaja ekonomičeskaja integracija*, Vol. 16, N. 3, 2012, pp. 19-29

E. VINOKUROV, *Eurasian Economic Union: Current state and preliminary results*, in *Voprosy Ekonomiki*, Vol. 3, 2017, pp. 54-70

S. A. VOITOVICH, *The Commonwealth of Independent States: An Emerging Institutional Model*, in *European Journal of International Law*, No. 4, 1993, pp. 403-417

L. VOLAKHAVA, *Belarusian's Selfidentification in the Context of Civilizational Borderline*, in *Sravnitel'naja politika*, Vol. 1, N. 11, 2013, pp. 4-22

V. V. VOROB'EV, *Étapy formirovanja Sodružestva Nezavisimyh Gosudarstv v 1990-3 gody*, in *Vestnik Čel'jabskogo gosudarstvennogo universiteta*, 34, No 249, 2011, pp. 90-96

A. ŽULYS, *Towards a Union State of Russia and Belarus*, in *Lithuanian Foreign Policy Review*, N. 15-16, pp. 148-169

## WORKING PAPERS, OCCASIONAL PAPERS AND UNPUBLISHED OR INFORMALLY PUBLISHED WORKS

S. BEIMENBETOV, *“Modernisation and political culture in Kazakhstan”*, Research Paper Kazakh-German University, Almaty, 2018

M. DABROWSKI, *“The Reasons of the Collapse of the Ruble Zone”*. Center for Social & Economic Research, Warsaw, 1995.

<https://poseidon01.ssrn.com/delivery.php?ID=220090127065003096126113093124103064054038089037048042010101093081118000071112087093100042033122009045047071018124069105117016052078043034093126112088095000098124007069044125004076127094013065017112003076089019106001127086001100068029097081104074112&EXT=pdf>

R. DRAGNEVA, *“The Eurasian Economic Union: Balancing Sovereignty and Integration”*, Working Papers, Institute of European Law, N. 10, 2016.  
[http://epapers.bham.ac.uk/2220/1/IEL\\_Working\\_Paper\\_10-2016-dragneva.pdf](http://epapers.bham.ac.uk/2220/1/IEL_Working_Paper_10-2016-dragneva.pdf)

- R. DRAGNEVA, K. WOLCZUK, *“The Eurasian Economic Union Deals, Rules and the Exercise of Power”*, Research Paper, Russia and Eurasia Programme, Chatham House, 2017.  
<https://www.chathamhouse.org/sites/default/files/publications/research/2017-05-02-eurasian-economic-union-dragneva-wolczuk.pdf>
- O. FRITZ, E. CHRISTEN, F. SINABELL, J. HINZ, *“Russia’s and the EU’s sanctions: economic and trade effects, compliance and the way forward”*. EU Directorate General for External Policies Study, October 2017.
- M. KACZMARSKI, W. RODKIEWICZ, *“Russia’s Greater Eurasia and China’s New Silk Road: adaptation instead of competition”*. OSW Commentary, N. 219, Warsaw, Centre for Eastern Studies, July, 21<sup>st</sup>, 2016.  
[https://www.osw.waw.pl/sites/default/files/commentary\\_219.pdf](https://www.osw.waw.pl/sites/default/files/commentary_219.pdf)
- C. KAINAZAROVA, *“New Trends in Kyrgyz Foreign Policy”*, MPRA Paper N. 86491, 2018. [https://mpra.ub.uni-muenchen.de/86491/1/MPRA\\_paper\\_86491.pdf](https://mpra.ub.uni-muenchen.de/86491/1/MPRA_paper_86491.pdf)
- M. KARLIUK, *“The Limits of the Judiciary within the Eurasian Integration Process”*. Law, National Research University Higher School of Economics, 2016
- M. LARROTCHA PARADA, *“Central Asia: The Long Road to Statehood”*, ISPSW Strategy Series: focus on Defense and International Security, N. 305, Dec. 2014. [https://www.files.ethz.ch/isn/186585/305\\_Larrotcha\\_Parada.pdf](https://www.files.ethz.ch/isn/186585/305_Larrotcha_Parada.pdf)
- F. LAURSEN, *“Comparing Regional Integration Schemes: International Regimes or Would-be Politics?”*, in *Jean Monnet/Robert Schuman Paper Series*, Vol. 3 No. 8, September 2003
- F. LAURSEN, *“Theory and Practice of Regional Integration”*, *Jean Monnet/Robert Schuman Paper Series*, Vol. 8, No. 3, February 2008
- T.M. LAWSON, S. A. ERICKSON, *“History and Status of the CIS Customs Union”*. U.S. Department of Energy – Lawrence Livermore National Laboratory, August 31st, 1999. <https://e-reports-ext.llnl.gov/pdf/236817.pdf>
- A. LIKACHEVA, I. MAKAROV, *National Identity and the Future of Russia, Moscow*, Valdai Discussion Club Report, 2014, pp. 21-23. [http://vid-1.rian.ru/ig/valdai/Identity\\_eng.pdf](http://vid-1.rian.ru/ig/valdai/Identity_eng.pdf)
- A. MONAGHAN, *“The New Russian Foreign Policy Concept: Evolving Continuity”*, Russia and Eurasia, Chatham House, N. 2013/03, 2013
- A. NICE, *“Playing Both Sides: Belarus between Russia and the EU”*. DGAPAnalyse, N 2, March 2012. <https://core.ac.uk/download/pdf/42106639.pdf>

A. V. OSTROVSKII, *Prospects to interface the silk road economic belt and the Eurasian Economic Union projects*, in *Herald of the Russian Academy of Sciences*, Vol. 87, N. 6, 2017, pp. 480-490

M. PASTUKHOVA, K. WESTPHAL, “*Eurasian Economic Union Integrates Energy Markets – EU Stands Aside*”. SWP Comments, N.5, January 2018. Berlin: Stiftung Wissenschaft und Politik -SWP- Deutsches Institut für Internationale Politik und Sicherheit

T. RISSE, *Regionalism and Collective Identities: The European Experience*, “El estado del debate contemporáneo en Relaciones Internacionales,” Buenos Aires, Argentina, July 27 – 28, 2000

F. J. RUIZ GONZÁLEZ, *The Foreign Concept of the Russian Federation: a comparative study*, Framework Paper, 06/2013, Instituto Español de Estudios Estratégicos, 2013.

M. RUSSELL, “*Eurasian Economic Union: The rocky road to integration*”. EPRS Briefing, April 2017

V. SMOK, “*The Impact of Lukashenka’s Rule*”. Ostrogorski Centre Belarus Digest, N 3, December 9<sup>th</sup>, 2013.

V. A. TIŠKOV, O Rossijskom narode i nacional’noj identičnosti v Rossii, Valerij Tishkov’s personal site..  
[http://www.valerytishkov.ru/cntnt/publikacii3/publikacii/o\\_rossisko.html#](http://www.valerytishkov.ru/cntnt/publikacii3/publikacii/o_rossisko.html#)

L. VINHAS DE SOUZA, “*An Initial Estimation of the Economic Effects of the Creation of the EurAsEC Customs Union on Its Members*”, World Bank - Economic Premise, The World Bank, N°47, January 2011.

A. ZAGORSKIJ, “Russia-EU relations at a crossroads: common and divergent interests”, Working Papers, Russian International Affairs Council, N. 3, 2016

T. ZIMMERMAN, “*The New Silk Road: China, the U.S. and the future of Central Asia*”, *New York University - Center of International Cooperation*, 2015

## REPORTS AND OFFICIAL PUBLICATIONS OF INTERNATIONAL ORGANISATIONS AND PRIVATE INSTITUTIONS

Banca Intesa	<i>EAEU's Trade and Geopolitics in a Global Scenario in Transition</i> , October 2018
Bank of Russia	Stroitel'stvo formirovanija obščego finansogo rynka Evrazijskogo ekonomičeskogo sojuza: osnovy, sposoby dostiženja i ožidaemye rezul'taty, p. 7. <a href="http://www.cbr.ru/content/document/file/36566/fr.pdf">http://www.cbr.ru/content/document/file/36566/fr.pdf</a>
CSCE	Referendum in the Soviet Union: a Compendium of Reports on the March 17th, 1991 Referendum on the Future of the USSR, Washington DC, April 1991, p. V. <a href="https://www.csce.gov/sites/helsinkicommission.house.gov/files/Referendum%20in%20the%20Soviet%20Union.pdf">https://www.csce.gov/sites/helsinkicommission.house.gov/files/Referendum%20in%20the%20Soviet%20Union.pdf</a>
Eurasian Economic Commission	<i>Evrazijskaja ékonomičeskaja integracija: cifry i fakty</i> , 2013
Eurasian Economic Commission	<i>Vzaimnaja trgovlja tovarami. Statistika Evrazijskogo ekonomičeskogo sojuza. 2015 god</i> , Moscow, 2016
Eurasian Economic Commission	<i>Vzaimnaja trgovlja tovarami. Statistika Evrazijskogo ekonomičeskogo sojuza. 2016 god</i> , Moscow, 2017
Eurasian Economic Commission	<i>Vzaimnaja trgovlja tovarami. Statistika Evrazijskogo ekonomičeskogo sojuza. 2017 god</i> , Moscow, 2018
Eurasian Economic Commission	<i>Evrazijskij ekonomičeskij sojuz v cifrah – kratkij statističeskij sbornik</i> , Moscow, 2018
OSCE/ODIHR Election Observation Mission,	Final report, January 28 ,2016. <a href="https://www.osce.org/odihr/elections/belarus/218981?download=true">https://www.osce.org/odihr/elections/belarus/218981?download=true</a> .
OSCE/ODIHR Election Observation Mission,	Final Report, June 27 <sup>th</sup> , 2016. <a href="https://www.osce.org/odihr/elections/kazakhstan/248781?download=true">https://www.osce.org/odihr/elections/kazakhstan/248781?download=true</a>
OSCE/ODIHR Election Observation Mission,	December 23 <sup>th</sup> , 2016. <a href="https://www.osce.org/odihr/elections/russia/290861?download=true">https://www.osce.org/odihr/elections/russia/290861?download=true</a>

OSCE/ODIHR Election Observation Mission,	Final Report, June 6 <sup>th</sup> , 2018, p. 26. <a href="https://www.osce.org/odihr/elections/383577?download=true">https://www.osce.org/odihr/elections/383577?download=true</a>
Venice Commission	Opinion on the amendments and addenda to the Constitution of the Republic of Belarus as proposed by i: the President of the Republic & ii: the Agrarian and Communist groups of parliamentarians, Strasbourg, November 18, 1996
Venice Commission	Opinion on the referendum of 17 October 2004 in Belarus, Strasbourg, October 8, 2004. <a href="https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2004)029-e">https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2004)029-e</a>

## LEGAL ACTS

### International Treaties and other legal acts of the Eurasian Economic Union

Treaty on the Eurasian Economic Union, Astana, May 29, 2014.  
[https://docs.eaeunion.org/docs/ru-ru/0033610/itia\\_05062014](https://docs.eaeunion.org/docs/ru-ru/0033610/itia_05062014)

Agreement on Accession of the Republic of Armenia to the Treaty on the Eurasian Economic Union, dated May 29, 2014, October 10th, 2014.  
[https://docs.eaeunion.org/docs/ru-ru/0037297/itia\\_11102014](https://docs.eaeunion.org/docs/ru-ru/0037297/itia_11102014)

Agreement on Accession of the Kyrgyz Republic to the Treaty on the Eurasian Economic Union, dated May 29, 2014, December 23 2014.  
[https://docs.eaeunion.org/docs/ru-ru/0137066/itia\\_26122014](https://docs.eaeunion.org/docs/ru-ru/0137066/itia_26122014)

Agreement on the exchange of information, including confidential, in the financial sphere in order to create the conditions on the financial markets for free movement of capitals, Moscow, December 23, 2014. [https://docs.eaeunion.org/docs/ru-ru/0147212/itia\\_13012015](https://docs.eaeunion.org/docs/ru-ru/0147212/itia_13012015)

Customs code of the Eurasian Economic Union.  
[https://docs.eaeunion.org/docs/en-us/01413569/itia\\_12042017](https://docs.eaeunion.org/docs/en-us/01413569/itia_12042017)

Free Trade Agreement between the Eurasian Economic Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part. Burabay, May 29, 2015. [https://docs.eaeunion.org/docs/en-us/0147849/iatac\\_02062015](https://docs.eaeunion.org/docs/en-us/0147849/iatac_02062015)

Agreement on economic and trade cooperation between the Eurasian Economic Union and its Member States, of the one part, and the People's Republic of China, of the other part. Astana, May 17, 2018. [https://docs.eaeunion.org/docs/ru-ru/01417817/iatc\\_21052018](https://docs.eaeunion.org/docs/ru-ru/01417817/iatc_21052018)

Interim Agreement leading to formation of a free trade area between the Eurasian Economic Union and its Member States, of the one part, and the Islamic Republic of Iran, of the other part. Astana, May 17, 2018. [https://docs.eaeunion.org/docs/ru-ru/01417815/iatc\\_21052018](https://docs.eaeunion.org/docs/ru-ru/01417815/iatc_21052018)

## **Constitutions and other legal acts of the member States**

### **Armenia**

Official statement of the Armenian MFA on Foreign policy, <https://www.mfa.am/en/foreign-policy>

### **Belarus**

Constitution of Belarus. <http://pravo.by/pravovaya-informatsiya/normativnye-dokumenty/konstitutsiya-respubliki-belarus/>

Priorities of the foreign policy of the Republic of Belarus, [http://mfa.gov.by/en/foreign\\_policy/priorities/](http://mfa.gov.by/en/foreign_policy/priorities/)

### **Kazakhstan**

Constitution of Kazakhstan. <http://www.parlam.kz/en/constitution>

Constitutional Law of the Republic of Kazakhstan 'on the State independence of the Republic of Kazakhstan', December 16<sup>th</sup>, 1991.

<http://adilet.zan.kz/eng/docs/Z910004400>

Foreign Concept for 2014-2020 Republic of Kazakhstan.

<http://mfa.gov.kz/en/erevan/content-view/koncepcia-vnesnej-politiki-rk-na-2014-2020-gg>

Notification of acceptance and entry into force of the Protocol on the Accession of the Republic of Kazakhstan to the Marrakesh Agreement establishing the World Trade Organisation done at Geneva on 27 July 2015. 2011WT/LET/1093, [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S009-DP.aspx?language=E&CatalogueIdList=229753,229654,225926,225927,135658,133630,131324,130101,124929,121223&CurrentCatalogueIdIndex=4&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=229753,229654,225926,225927,135658,133630,131324,130101,124929,121223&CurrentCatalogueIdIndex=4&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True)

### **Kyrgyzstan**

Treaty between the Republic of Uzbekistan and the Kyrgyz Republic on the Uzbek-Kyrgyz State Border, Bishkek, September 5, 2017.



## **Russian Federation**

Constitution of the Russian Federation. <http://constitution.kremlin.ru/>

2000 Foreign Policy Concept of the Russian Federation.

<https://fas.org/nuke/guide/russia/doctrine/econcept.htm>

2000 National Security Concept of the Russian Federation.

[http://www.mid.ru/en/foreign\\_policy/official\\_documents/-/asset\\_publisher/CptICkB6BZ29/content/id/589768](http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptICkB6BZ29/content/id/589768)

2008 Foreign Policy Concept of the Russian Federation.

<http://en.kremlin.ru/supplement/4116>

Notification of acceptance and entry into force of the Protocol on the Accession of the Russian Federation to the Marrakesh Agreement establishing the World Trade Organisation done at Geneva on 16 December 2011. WT/LET/860,

[https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S009-DP.aspx?language=E&CatalogueIdList=35466,53455&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=35466,53455&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True)

2013 Foreign Policy Concept of the Russian Federation.

[http://www.mid.ru/en/foreign\\_policy/official\\_documents/-/asset\\_publisher/CptICkB6BZ29/content/id/122186](http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptICkB6BZ29/content/id/122186)

Decree of the President of the Russian Federation N° 560, August 6<sup>th</sup>, 2014, 'On the adoption of separate special economic measures in order to ensure the safety of the Russian Federation'. <http://kremlin.ru/acts/bank/38809>

2016 Foreign Policy Concept of the Russian Federation.

[http://www.mid.ru/en/foreign\\_policy/official\\_documents/-/asset\\_publisher/CptICkB6BZ29/content/id/2542248](http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptICkB6BZ29/content/id/2542248)

## **International Treaties and other legal acts relevant to regional integration**

Collective Security Treaty, Tashkent, May 15, 1992.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=79>

Treaty on the Establishment of an Economic Union, Moscow, September 24, 1993.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=257>

Agreement on the union of the monetary system of the Republic of Belarus with the monetary system of the Russian Federation, Moscow, September 8, 1993.

[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_5873/](http://www.consultant.ru/document/cons_doc_LAW_5873/)

Agreement on the common regulation of foreign economic activities as part of the union of the monetary system of the Republic of Belarus with the monetary system

of the Russian Federation, Moscow, April 12, 1994.  
<http://dokipedia.ru/document/5170360>

Kazakh President Nursultan Nazarbaev's speech at Lomonosov University in Moscow on March 29, 1994.  
[http://www.eaeunion.org/upload/iblock/006/1994\\_1\\_1.jpg](http://www.eaeunion.org/upload/iblock/006/1994_1_1.jpg)

Treaty on the Customs Union between the Russian Federation and the Republic of Belarus, Minsk, January 6, 1995.  
[http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor\\_06011995.aspx](http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor_06011995.aspx)

Treaty on the Customs Union, Moscow, January 10, 1995.  
[http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor\\_20011995.aspx](http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor_20011995.aspx)

Decision on the Principles for Customs Legislation of the Member States of the Commonwealth of Independent States, Almaty, February 10, 1995.  
<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=415>

Treaty between the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation on increased Integration in the Economic and Humanitarian Fields, Moscow, March 26, 1996.  
<http://docs.cntd.ru/document/1901125>

Treaty on the Customs union and the Common economic space, Moscow, February 26, 1999.  
[http://www.eurasiancommission.org/ru/act/trade/catr/nontariff/Pages/Dogovor\\_26021999.aspx](http://www.eurasiancommission.org/ru/act/trade/catr/nontariff/Pages/Dogovor_26021999.aspx) .

Protocol on the prolongation of the Treaty on Collective security, Moscow, April 2, 1999. [http://www.odkb-csto.org/documents/detail.php?ELEMENT\\_ID=127](http://www.odkb-csto.org/documents/detail.php?ELEMENT_ID=127)

Treaty on the Establishment of the Eurasian Economic Community, Astana, October 10, 2000.  
[http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor\\_EvrAzES.aspx](http://www.tsouz.ru/Docs/IntAgrmnts/Pages/Dogovor_EvrAzES.aspx)

Charter of the Collective Security Treaty Organisation, October 7, 2002.  
[http://www.odkb-csto.org/documents/detail.php?ELEMENT\\_ID=124](http://www.odkb-csto.org/documents/detail.php?ELEMENT_ID=124)

Agreement on the Legal status of the Collective Security Treaty Organisation, Chişinău, October 7, 2002. [http://www.odkb-csto.org/documents/detail.php?ELEMENT\\_ID=125](http://www.odkb-csto.org/documents/detail.php?ELEMENT_ID=125)

Agreement on the establishment of a common customs space and the creation of the customs union, Dushanbe, October 6, 2007.  
[http://www.tsouz.ru/Docs/IntAgrmnts/Pages/D\\_sozdETTiformTS.aspx](http://www.tsouz.ru/Docs/IntAgrmnts/Pages/D_sozdETTiformTS.aspx)

Treaty on the creation of the Commission of the customs union, October 6, 2007.  
<http://www.tsouz.ru/AboutKTS/Pages/37.aspx>

Decision n° 17 of the Interstate Council of the EurAsEc on the Treaty on the customs code of the customs union, November 27, 2009.  
[https://docs.eaeunion.org/docs/en-us/0145221/ic\\_31102012\\_17](https://docs.eaeunion.org/docs/en-us/0145221/ic_31102012_17)

Treaty on the customs code of the customs union, November 27, 2009.  
[https://docs.eaeunion.org/docs/en-us/0045323/cc\\_19112012](https://docs.eaeunion.org/docs/en-us/0045323/cc_19112012)

Decision n° 18 of the Interstate Council of the EurAsEc on the common customs tariffs regulation, November 27, 2009. [https://docs.eaeunion.org/docs/en-us/0044908/ic\\_31102012\\_18](https://docs.eaeunion.org/docs/en-us/0044908/ic_31102012_18)

Decision n° 19 of the Interstate Council of the EurAsEc on the common non-tariffs regulation, November 27, 2009. [https://docs.eaeunion.org/docs/en-us/0045200/ic\\_27112009\\_19](https://docs.eaeunion.org/docs/en-us/0045200/ic_27112009_19)

Decision n° 24 of the Interstate Council of the EurAsEc, November 27, 2009.  
[https://docs.eaeunion.org/docs/en-us/0146795/ic\\_26112009\\_24](https://docs.eaeunion.org/docs/en-us/0146795/ic_26112009_24)

Decision of the Interstate Council of the EurAsEC N. 65, December 9, 2010.  
<https://www.alta.ru/tamdoc/10sm0065/>

Treaty on Functioning of the Customs Union within the Multilateral Trade System, Minsk, May 19, 2011. [https://docs.eaeunion.org/docs/ru-ru/0144796/itot\\_17052013](https://docs.eaeunion.org/docs/ru-ru/0144796/itot_17052013)

Decision of the Commission of the Eurasian Customs Union N. 711, July 15, 2011, [https://docs.eaeunion.org/docs/ru-ru/0145498/cuc\\_02082011\\_711](https://docs.eaeunion.org/docs/ru-ru/0145498/cuc_02082011_711), modified by the Decision of the Commission of the Eurasian Customs Union N. 800, September 23, 2011. [https://docs.eaeunion.org/docs/ru-ru/0146489/cuc\\_29092011\\_800](https://docs.eaeunion.org/docs/ru-ru/0146489/cuc_29092011_800)

Declaration on the Eurasian economic integration, November 18, 2011.  
<http://kremlin.ru/supplement/1091>

Decision of the Supreme Eurasian Economic Council N°1, November 18, 2011.  
[https://docs.eaeunion.org/docs/en-us/0146860/ic\\_31102012\\_1](https://docs.eaeunion.org/docs/en-us/0146860/ic_31102012_1)

Treaty on the Eurasian Economic Commission, November 18, 2011.  
[https://docs.eaeunion.org/docs/en-us/0043667/ic\\_17112012\\_2](https://docs.eaeunion.org/docs/en-us/0043667/ic_17112012_2)

Decision of the Supreme Eurasian Economic Council N. 9, December 19, 2011.  
[https://docs.eaeunion.org/docs/en-us/0044316/scd\\_22122011\\_9](https://docs.eaeunion.org/docs/en-us/0044316/scd_22122011_9)

Treaty on the termination of the Eurasian Economic Community, Minsk, October 10, 2014. <http://docs.cntd.ru/document/420227082>

## Legal acts related to the dissolution of the Soviet Union and the Establishment of the Commonwealth of Independent States

Treaty on the Union of the Sovereign States, July 23 1991, published by Pravda, N°194 (23460), August 15 1991.

[https://yeltsin.ru/uploads/upload/newspaper/1991/izv08\\_15\\_91/index.html](https://yeltsin.ru/uploads/upload/newspaper/1991/izv08_15_91/index.html)

Declaration of the Presidents of the Republic of Belarus, the Russian Soviet Federal Socialist Republic and the Ukraine, Minsk, December 8, 1991.

[http://www.gorby.ru/userfiles/file/zayavlenie\\_glav\\_gosudarstv.pdf](http://www.gorby.ru/userfiles/file/zayavlenie_glav_gosudarstv.pdf)

Agreement on the Establishment of the Commonwealth of Independent States, Minsk, December 8, 1991.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=1>

Alma-Ata Declaration, Almaty, December 21, 1991.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=4>

Protocol to the Agreement on the Establishment of the Commonwealth of Independent States between the Republic of Belarus, the Russian Federation (RSFSR) and Ukraine, Minsk, December 8<sup>th</sup>, 1991. Almaty, December 21, 1991.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=6>

Agreement on the Coordinating Institutions of the Commonwealth of Independent States, Almaty, December 21, 1991.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=2>

Decision of the Council of the Heads of State of the Commonwealth of Independent States, Almaty, December 21, 1991.

<http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=5>

Letter of the President of the RSFSR to the Secretary-General of the UN, December 24<sup>th</sup>, 1991.

[https://ru.wikisource.org/wiki/%D0%9F%D0%B8%D1%81%D1%8C%D0%BC%D0%BE\\_%D0%9F%D1%80%D0%B5%D0%B7%D0%B8%D0%B4%D0%B5%D0%BD%D1%82%D0%B0\\_%D0%A0%D0%A1%D0%A4%D0%A1%D0%A0\\_%D0%93%D0%B5%D0%BD%D0%B5%D1%80%D0%B0%D0%BB%D1%8C%D0%BD%D0%BE%D0%BC%D1%83\\_%D1%81%D0%B5%D0%BA%D1%80%D0%B5%D1%82%D0%B0%D1%80%D1%8E\\_%D0%9E%D0%9E%D0%9D\\_%D0%BE%D1%82\\_24.12.1991](https://ru.wikisource.org/wiki/%D0%9F%D0%B8%D1%81%D1%8C%D0%BC%D0%BE_%D0%9F%D1%80%D0%B5%D0%B7%D0%B8%D0%B4%D0%B5%D0%BD%D1%82%D0%B0_%D0%A0%D0%A1%D0%A4%D0%A1%D0%A0_%D0%93%D0%B5%D0%BD%D0%B5%D1%80%D0%B0%D0%BB%D1%8C%D0%BD%D0%BE%D0%BC%D1%83_%D1%81%D0%B5%D0%BA%D1%80%D0%B5%D1%82%D0%B0%D1%80%D1%8E_%D0%9E%D0%9E%D0%9D_%D0%BE%D1%82_24.12.1991)

Law of the RSFSR N°. 2094-I "On renaming of the Russian Soviet Federative Socialist Republic", December 25<sup>th</sup>, 1991.

[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_7402/](http://www.consultant.ru/document/cons_doc_LAW_7402/)

Declaration no. 142-N of the Soviet of the Republics of the Supreme Soviet of the USSR, December 26, 1991.

Temporary agreement on the Council of the Heads of States and the Council of the Heads of Government of the Commonwealth of Independent States, Minsk, December 30, 1991. <http://www.cis.minsk.by/page.php?id=10914>

Charter of the Commonwealth of Independent States, January 22, 1992. <http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=187>

## CASES

Preliminary ruling upon request of the Supreme Economic Court of Belarus	Court of the EurAsEC	№ 1-6/1-2013, July 10, 2013. <a href="http://courteurasian.org/doc-21093">http://courteurasian.org/doc-21093</a>
Advisory opinion upon request of the Ministry of Justice of the Republic of Belarus	Court of the EAEU	№ CE-2-1/1-17-БК, April, 4, 2017. <a href="http://courteurasian.org/page-25081">http://courteurasian.org/page-25081</a>

## Estratto per riassunto della tesi di dottorato

L'estratto (max. 1000 battute) deve essere redatto sia in lingua italiana che in lingua inglese e nella lingua straniera eventualmente indicata dal Collegio dei docenti.

L'estratto va firmato e rilegato come ultimo foglio della tesi.

Studente: Patricio Ignacio Barbirotto \_\_\_\_\_ matricola: 800404 \_\_\_\_\_

Dottorato: Diritto, mercato e persona \_\_\_\_\_

Ciclo: 31 \_\_\_\_\_

Titolo della tesi<sup>1</sup> : Political and legal processes and perspectives of the EAEU - A comparative analysis \_\_\_\_\_

### Abstract:

La tesi di ricerca si concentra sull'Unione Economica Eurasiatica (UEEA), organizzazione internazionale di integrazione regionale istituita il primo gennaio 2015 su iniziativa della Federazione Russa, della Bielorussia e del Kazakistan, come evoluzione di una serie di progetti di integrazione regionale che hanno origine con lo scioglimento dell'Unione Sovietica, secondo una dinamica chiamata "holding-together integration". L'organizzazione appare ispirata nell'architettura all'Unione Europea e nel lavoro, oltre all'analisi della genesi e dello sviluppo dell'UEEA, si presta attenzione alla comparazione tra le due organizzazioni. Speciale attenzione è dedicata sia al funzionamento dell'UEEA che allo sviluppo del suo sistema legale, che apre prospettive interessanti per quanto riguarda la formazione di un sistema comune allo spazio eurasiatico.

The research is focused on the Eurasian Economic Union (EAEU), an international organisation for regional integration established on January 1, 2015, on the initiative of the Russian Federation, Belarus and Kazakhstan, as a development of a series of regional integration processes that originated from the dissolution of the Soviet Union, following a dynamic known as 'holding-together integration'. The organisation seems to have been inspired by the architecture of the European Union and in the work, along with the creation and the development of the EAEU, it is paid attention to comparison between the two organisations. A special focus is put on both the functioning of the EAEU and the development of the legal systems, which opens interesting perspectives for what concerns the development of a common system throughout the Eurasian space.

Firma dello studente

\_\_\_\_\_

\_\_\_\_\_

<sup>1</sup> Il titolo deve essere quello definitivo, uguale a quello che risulta stampato sulla copertina dell'elaborato consegnato.



Università  
Ca' Foscari  
Venezia

## DEPOSITO ELETTRONICO DELLA TESI DI DOTTORATO

### DICHIARAZIONE SOSTITUTIVA DELL'ATTO DI NOTORIETA'

(Art. 47 D.P.R. 445 del 28/12/2000 e relative modifiche)

Io sottoscritto .....

nat ... a ..... (prov. .... ) il .....

residente a ..... in ..... n. ....

Matricola (se posseduta) ..... Autore della tesi di dottorato dal titolo:

.....  
.....  
.....

Dottorato di ricerca in .....

(in cotutela con .....)

Ciclo .....

Anno di conseguimento del titolo .....

### DICHIARO

di essere a conoscenza:

- 1) del fatto che in caso di dichiarazioni mendaci, oltre alle sanzioni previste dal codice penale e dalle Leggi speciali per l'ipotesi di falsità in atti ed uso di atti falsi, decado fin dall'inizio e senza necessità di nessuna formalità dai benefici conseguenti al provvedimento emanato sulla base di tali dichiarazioni;
- 2) dell'obbligo per l'Università di provvedere, per via telematica, al deposito di legge delle tesi di dottorato presso le Biblioteche Nazionali Centrali di Roma e di Firenze al fine di assicurarne la conservazione e la consultabilità da parte di terzi;
- 3) che l'Università si riserva i diritti di riproduzione per scopi didattici, con citazione della fonte;
- 4) del fatto che il testo integrale della tesi di dottorato di cui alla presente dichiarazione viene archiviato e reso consultabile via internet attraverso l'Archivio Istituzionale ad Accesso Aperto dell'Università Ca' Foscari, oltre che attraverso i cataloghi delle Biblioteche Nazionali Centrali di Roma e Firenze;
- 5) del fatto che, ai sensi e per gli effetti di cui al D.Lgs. n. 196/2003, i dati personali raccolti saranno trattati, anche con strumenti informatici, esclusivamente nell'ambito del procedimento per il quale la presentazione viene resa;
- 6) del fatto che la copia della tesi in formato elettronico depositato nell'Archivio Istituzionale ad Accesso Aperto è del tutto corrispondente alla tesi in formato cartaceo, controfirmata dal tutor, consegnata presso la segreteria didattica del dipartimento di riferimento del corso di dottorato ai fini del deposito presso l'Archivio di Ateneo, e che di conseguenza va esclusa qualsiasi responsabilità dell'Ateneo stesso per quanto riguarda eventuali errori, imprecisioni o omissioni nei contenuti della tesi;
- 7) del fatto che la copia consegnata in formato cartaceo, controfirmata dal tutor, depositata nell'Archivio di Ateneo, è l'unica alla quale farà riferimento l'Università per rilasciare, a richiesta, la dichiarazione di conformità di eventuali copie.

Data \_\_\_\_\_

Firma \_\_\_\_\_

## AUTORIZZO

- l'Università a riprodurre ai fini dell'immissione in rete e a comunicare al pubblico tramite servizio on line entro l'Archivio Istituzionale ad Accesso Aperto il testo integrale della tesi depositata;
- l'Università a consentire:
  - la riproduzione a fini personali e di ricerca, escludendo ogni utilizzo di carattere commerciale;
  - la citazione purché completa di tutti i dati bibliografici (nome e cognome dell'autore, titolo della tesi, relatore e correlatore, l'università, l'anno accademico e il numero delle pagine citate).

## DICHIARO

- 1) che il contenuto e l'organizzazione della tesi è opera originale da me realizzata e non infrange in alcun modo il diritto d'autore né gli obblighi connessi alla salvaguardia di diritti morali od economici di altri autori o di altri aventi diritto, sia per testi, immagini, foto, tabelle, o altre parti di cui la tesi è composta, né compromette in alcun modo i diritti di terzi relativi alla sicurezza dei dati personali;
- 2) che la tesi di dottorato non è il risultato di attività rientranti nella normativa sulla proprietà industriale, non è stata prodotta nell'ambito di progetti finanziati da soggetti pubblici o privati con vincoli alla divulgazione dei risultati, non è oggetto di eventuali registrazione di tipo brevettuale o di tutela;
- 3) che pertanto l'Università è in ogni caso esente da responsabilità di qualsivoglia natura civile, amministrativa o penale e sarà tenuta indenne a qualsiasi richiesta o rivendicazione da parte di terzi.

A tal fine:

- dichiaro di aver autoarchiviato la copia integrale della tesi in formato elettronico nell'Archivio Istituzionale ad Accesso Aperto dell'Università Ca' Foscari;
- consegno la copia integrale della tesi in formato cartaceo presso la segreteria didattica del dipartimento di riferimento del corso di dottorato ai fini del deposito presso l'Archivio di Ateneo.

Data \_\_\_\_\_

Firma \_\_\_\_\_

La presente dichiarazione è sottoscritta dall'interessato in presenza del dipendente addetto, ovvero sottoscritta e inviata, unitamente a copia fotostatica non autenticata di un documento di identità del dichiarante, all'ufficio competente via fax, ovvero tramite un incaricato, oppure a mezzo posta

Firma del dipendente addetto .....

Ai sensi dell'art. 13 del D.Lgs. n. 196/03 si informa che il titolare del trattamento dei dati forniti è l'Università Ca' Foscari - Venezia.

I dati sono acquisiti e trattati esclusivamente per l'espletamento delle finalità istituzionali d'Ateneo; l'eventuale rifiuto di fornire i propri dati personali potrebbe comportare il mancato espletamento degli adempimenti necessari e delle procedure amministrative di gestione delle carriere studenti. Sono comunque riconosciuti i diritti di cui all'art. 7 D. Lgs. n. 196/03.