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**The Eurasian Economic Union:
Actors, Motivations and Discrepancies
of the Post-Soviet Integration Project**

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*A Papà e Mamma,
per credere nei miei sogni, a volte più di me.*

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INTRODUCTION

Regional integration is considered one of the main trends of global development in the 20th and 21st centuries, which regardless of scope and purpose, has involved all geographical areas around the world. The Eurasian Economic Union (EAEU) represents thus far the most successful regionalist attempt in Post-soviet Eurasia, a slice of territory which is neither Europe nor Asia, and yet presents echoes of the said continents. The regional organization advocates for a global economic polycentrism, arguing for the existence of multiple centers of power within a delineated political or economic system; in addition, the EAEU proposes itself as a geo-economic bridge connecting the European Union with China.

This economic project is the outcome of a string of integrational attempts which began with the formation of the Commonwealth of Independent States (CIS) in 1991. The CIS as it was thought did not have any supranational component as it was mainly aimed at maintaining formal ties between the former Soviet States, except for the three Baltic States, who in the meantime had chosen to undertake the process of European integration. Having finally obtained the so longed autonomy, the so-called Newly Independent States (NIS) were now undergoing a process of economic, political and cultural transition. The parallel occurrence of changes in both domestic and foreign policies will constitute a turning point in the evolution of Eurasian regionalism. The idea of a common economic Union was first introduced by Kazakhstan President Nursultan Nazarbayev back in 1994. Initially welcomed with wide skepticism, it was then repromoted by Russia a decade later, as part of its Foreign Policy concept. Later on, some of the Countries who were mostly interested in creating a free-trade area – Belarus, Kazakhstan and Russia – began to launch several economic cooperation initiatives, by drawing on the explicit experience of the European Union: the Central Asian Economic Community (1998), the Eurasian Economic Community (2000), the Customs Union between Belarus, Kazakhstan and Russia (2007) and the Single Economic Space (SES) in 2012. In particular, the EurAsEC was founded as a trial project and it is today recognized as the official predecessor to the Eurasian Economic Union. By examining its stages of integration, Evgeniy Vinokurov – one of the major EAEU scholars – views the organization as a “Customs Union +”.

The EAEU’s evolutionary path is, in the opinion of political scientists, a sort of continuum of Russia-led integration projects with the aim to re-Sovietize the Post-Soviet space as part of Putin’s “Novorossiia” initiative, in order to achieve global political recognition of his efforts devoted to creating a strong and inclusive economic regional bloc in the said area. The influence of the Federation within the Union in terms of population, Gross Domestic Product and geopolitical standing compared with the other Central Asian Republics is proving crucial to the evolution of the EAEU. Furthermore, elements such as the stark differences amongst national orders of Member States, the lack of a supranational procedure of preliminary ruling which legally binds national courts, and the absence of a parliamentary body which can serve as a reference to *all* subjects (not only confined to economic units) for challenging a breach of an act against EAEU law, constitute all concrete hindrances to the correct development of the integrative project.

The following dissertation was written with the aim of providing a better understanding of a regional phenomenon which, although unknown to the majority of Western audience, is affecting the geopolitics of the 21st century, as it involves the foreign policies of Russia and, most likely, of the European Union. Being quite a new entity in the global spectrum, scientific and accountable material in this regard is poor and hard to be found. That is why this study is also an attempt to develop a critical and compact analysis covering normative and substantive aspects of the regional organization, as to have a comprehensive overview on what takes place in our immediate neighborhood.

The research project will be articulated in six chapters.

Chapter I will depict the theoretical background against which to contextualize and evaluate the EAEU integrative project. Discussion will be done on the regionalist trends which characterized our world since the Great War, with emphasis on the economic, political, cultural and security dimensions. For the purpose of the project, there will be a short overview of the European integration, both as the most successful regionalist attempt thus far and model of inspiration for the EAEU, to then conclude with the approaches to integration in the Post-Soviet space.

Chapter II will illustrate the historical excursus of the EAEU integration process, with the most significant dates which defined the regional evolution of the Post-Soviet space in the aftermath of the demise of the Soviet Union. The focus will then shift on the rationale behind the Eurasian project – economic v. political – with reference to the geopolitical agenda of the Russian Federation.

Chapter III enlists the reasons behind the decision of EAEU Member States to join the regional organization. The second section consists on a functional analysis of the organs of the Eurasian Union, inspired by Sørensen's method, sided by a short political discourse on intergovernmentalism and supranationalism, in the attempt to clarify the interaction between institutions as well as the mechanisms of decision-making within the EAEU.

Chapter IV represents the normative corpus of the research project. It consists of a comparative analysis between the European Union and the Eurasian Economic Union, on the basis of the Treaties which have come to constitute the legal bases of the two Unions. This study was carried out by analyzing the texts of the Constitutional Laws of the five EAEU Member States, so as to better understand to what extent the principles of direct effect and supremacy are observed when implementing EAEU law on national territories.

Chapter V will then shift to a substantive analysis of the Eurasian Economic Union, with emphasis on the shortcomings of the bloc, their origin and the reasons why they are still present.

Chapter VI will eventually delve into the external relations of the Eurasian Economic Union with the regional organization of reference – the European Union – discussing the advantages and disadvantages of this venture as well as the effects of a foreseeable inter-Union cooperation involving the Post-soviet space.

Chapter 1 Regionalism: a new trend of international relations

Regionalism has emerged as the dominating factor in the development of global trade.¹ Since the mid-20th century, regional integration has been increasingly employed as a tool to construct a new global order in which regional entities are the structuring units of international relations.² According to the liberal theory, in the past as now, the *challenge* of regionalism and regional (economic) integration in a more and more globalized world is the creation and distribution of wealth, together with a pacific and regulated market that can ensure freedoms of circulation of goods, capital, labor and services. Although to the present day, conceptualizing what a region still results ambiguous, the political scientist Joseph Nye provided for a broad, yet exhaustive definition of what an *international* region is, namely, an area occupied by “limited number of states linked by a geographical relationship and by a degree of mutual interdependence”.³ But “region” can be also “a social construct constantly created and recreated in the process of global transformation”, thus responsive to changes.⁴ To assess the success or failure of integration, it is crucial to understand how *international regionalism*, intended in the descriptive sense as the formation of interstate associations or groupings on the basis of regions, while in the doctrinal sense, as the advocacy of such formations⁵, is conducive to *regionalization*, a process entailing the harmonization of the practices of national economic agents within a regulatory regime managed by a supranational entity. Therefore, we could say that “regionalism” refers to the theoretical and political dimension underlying the pragmatic and economic dimension of regionalization. These two concepts run parallel; yet, while we can have regionalism without regionalization, thus a *mere* rearrangement of the world order, the alternative way cannot occur (there cannot be practice without theory).

A regional space is defined economically integrated “*if and only if it registers a concentration of trade exchanges between states that constitute it and if an institution regulating the common laws is permanently established and formalized through an agreement ratified by all parties*”.⁶ Within the cadre of the World Trade Organization, regional economic integration is regulated under Article XXIV of the General Agreement on Tariffs and Trade (GATT). Yet, the scope of the proviso is confined to *Regional Trade Agreements (RTAs)*, which can take the form of a free-trade agreement, a customs union or a common market consisting of two or more states. There is another type of economic integration in a specific area, formalized through *Regional integration arrangements (RIAs)*, an advanced form of RTAs which seeks to achieve a deeper integration through either the harmonization of existing national policies or the creation of new policies based on mutual interests.

¹ Vinokurov, E., 2014. Mega Deal between the European Union and the Eurasian Economic Union. *Russia in Global Affairs*, No.4, 18 December, p. 3.

² Katzenstein, P. J., 2005. *A World of Regions: Asia And Europe in the American Imperium*. New York: Cornell University Press.

³ Nye, J. S., 1968. *International Regionalism: Readings*. Boston: Little, Brown and Company, p. vii.

⁴ Hettne, B. & Söderbaum, F., 1998. The New Regionalism Approach. *Politeia*, 17(3), PAGINA 6

⁵ *Ibid.*; 2

⁶ This definition was devised through the creation of a typology containing the constitutional elements of regional processes, namely the concentration of economic exchanges and the formal interstate coordination. For more see: Catherine Figuière, Laëtitia Guilhot. Vers une typologie des “processus” régionaux. Le cas de l’Asie Orientale. *Revue Tiers Monde*, Armand Colin, 2007, pp.895-917.

Going through the different attempts of regional integration throughout the world, scholars have recognized that the foregoing of national sovereignty and decision-making autonomy are two desirable conditions for the correct implementation of a regional project. Its effectiveness can be additionally assessed against the extent to which two principles are observed: *open regionalism* and *subsidiarity*. The former is a form of concerted unilateralism: it implies that any regional arrangement should be outward-looking, pointing at the liberalization of both internal and external trade. The latter focuses on the division of competences between member states and centralized bodies instituted in the region concerned.

There is not one regionalist approach: each project depends on different rules and standards, it may be either unidimensional or multidimensional, and above all, it is strongly influenced by the challenging economic and political order of the time. That is why many scholars have tried to frame three (some described four) waves or phases of regionalism.⁷ The first wave occurred between World War I and World War II, based on the attempts to lift protectionist measures and import duties vis-à-vis third states, observant of the principle of the “*Most favored nation*” (*MFN*) advocating for a non-discriminatory trade practice. The second wave was set by the inauguration of the 1944 Bretton Woods economic model, followed by a series of preferential trade agreements and mainly western-promoted regional alliances concluded between the 1950s and the 1960s, for example the European Free Trade Area (EFTA) and the European Economic Community (EEC). This is the period when region building starts to be seen as a necessary intermediate phase and tool to help states react to the challenges posed by the emerging globalization. And that is why scholars started to define this phase as “economic regionalism”, with geographical proximity as triggering cause.

The third wave took place from the 1980s onwards, with the highest peak at the end of the Cold War. It coincides with the ratification by many countries around the world of the “General Agreement on Tariffs and Trade” (GATT) in 1994, in the attempt to encourage trade development and multipolarism. This revived regionalist trend was influenced by technical advancements as well as the increasing geopolitical and geo-economic influence of the ongoing consolidation of the European project. This is a crucial phase for regionalism, particularly influenced by the transition from a hegemonic to a *post*-hegemonic stability, consequent to end of the bipolar world, that in the last twenty years has been witnessing the decline of the American hegemony and the parallel emergence of China as economic superpower.⁸ The post-hegemonic world needs to deal with institutional imbalances, caused by the absence of a superpower that can provide an equilibrium between demand and supply not only of economic goods, but also of good governance. That is why this form is associated not only with economic regionalism (like the second wave), but it also embodies security, political, social and cultural connotations, which become all elements of homogenization of a certain geographical area. As a matter of fact, this period registered a new regionalist trend, that of *non-democratic* regional organizations, that is, founded by autocracies. The end of the 20th century and the beginning of the

⁷ Mansfield, E. D. & Milner, H. V., 1999. The New Wave of Regionalism. *International Organization*, 53(3), pp. 589-627; Bhagwati, J., 1992. Regionalism versus Multilateralism. *The World Economy*, 15(5), pp. 535-556; Teldò, M., 2013. Introduction: Globalization, New Regionalism and the Role of the European Union. In: *European Union and New Regionalism: Regional Actors and Global Governance in a Post-hegemonic Era*. Farnham: Ashgate Publishing, Ltd, pp. 1-20.

⁸ Hettne, B. & Söderbaum, F., 1998. The New Regionalism Approach. *Politeia*, 17(3), pp. 6-21.

21st century registered the highest number of RTAs. Examples of this trend are the European Union (EU), the United States-Canada-Mexico Agreement (USMCA)⁹, the Southern Common Market (MERCOSUR), the Asia Pacific Economic Cooperation (APEC), the cooperative economic association formed by Brazil, Russia, India, China and South Africa (BRICS) and more. All these regional blocs were established in order to achieve comparative economic and trade advantages, additional political forums of discussion and security guarantees.

1.1 Zoom on the Third Wave: New Regionalism Approach (NRA)

Spontaneity and adaptability are the key features of new regionalism. The end of the West-East confrontation let rise new regional security challenges due to the reshuffling of previously established alliances, which could be more easily addressed through a regionalist approach. This form is more *fluid* and *open*, mingling the local, the regional and the global in a whole project, and holding into account the erosion of national powers vis-à-vis globalization due to the consolidated interdependence.¹⁰ To this purpose, the concept of “region” is becoming more and more *de-territorialized*, meaning that it is necessarily based on transnational cooperation.¹¹ Regionalization has endorsed a new meaning, namely, the creation of *new* regions out of *old* regions. Indeed, it has witnessed the evolution from rigid to flexible or ad hoc alliances, leaving space for circumstances of *geographic overlap*, making the territory a *lieu* to which different vectors of integrational development point to.

The concept of “*regionness*”, that is, the transformation of a specific geographical space from “a passive object” to an “active subject” that puts together different transnational interests, is crucial to understand the approach.¹² The process has both *endogenous* and *exogenous* elements. The former comprise the institutionalization and formalization of common norms, therefore shaping influencing internal dynamics, for instance, states’ and businesses’ strategies. The latter include the gain by the newly born regional entity of international recognition of as well as its ability to interact with other political actors. This in order to become a model for future regional integrative projects in that it poses new challenges and can produce tangible effects on international relations. According to the “domino theory,” the intensification of regional agreements is a consequence of the so-called “multiplier effect”, whereby the creation of regional (usually economic) associations incentivizes all those countries not belonging to any to either create or join one. This occurs because they realize that the benefits reaped from the membership to a regional organization, for instance a bolstered national economic growth, outweigh the costs of remaining on the sidelines.¹³ Moreover, the degree of regionness indicates the distinctiveness of a region, which in turn depends on the number of “regionalized”

⁹ The USMCA is the newly renovated agreement among the United States, Canada and Mexico signed at the end of 2018 and updating the previous commitments codified in the North American Free Trade Agreement (NAFTA) signed in 1994.

¹⁰ Molchanov, M. A., 2018. New Regionalism and Eurasia. In: *Routledge Handbook of Politics in Asia*. London and New York: Routledge, pp. 506-521.

¹¹ Closa, C., 2015. Mainstreaming Regionalism. *EUI RSCAS, Global Governance Programme-158, European, Transnational and Global Governance*.

¹² Hettne, B. & Söderbaum, F., 2000. Theorising the Rise of Regionness. *New Political Economy*, 5(3), pp. 457-472.

¹³ Vinokurov, E., 2014. Mega Deal between the European Union and the Eurasian Economic Union. *Russia in Global Affairs*, No. 4, 18 December, Issue 4.

fields. That is why, unlike the previous waves, new regionalist attempts tend to be structural instead of transitory.

In addition, this type of regionalism is both *society- (or policy-) induced*, backed up by an intergovernmental framework and usually formalized through a preferential RTA, and *market-induced*, which means it is a spontaneous process independent of government intervention and promoted by business activities. It implies the interdependence of societal and economic interactions in terms of transnational corporations and non-governmental political organizations, along with all type of social networks which bridge the civil society with economic actors. Hence, the focus is now shifted from national to transnational actors, as entities responding to global challenges occurring external to a state.¹⁴

1.2 Dimensions and advantages of new regionalism

Regionalism, as previously mentioned, articulates in various dimensions, each with its advantages. First, *economic regionalism*, which involves the transferal of national economic mechanisms on a broader scale and scope.¹⁵ This dimension is linked to geographical proximity, usually implying small distances between countries, a shared economic development and common policies and standards.¹⁶ This is because at the macroeconomic level, if the goods produced in the countries involved are strong substitutes, then demand for the same goods to third states will decrease, and competition within the region will increase. This, in turn, shifts general prices of those products down, increasing the external demand, positively influencing the economies of the importers. Furthermore, when national firms succeed in coordinating with those of the other countries in a certain region, by correctly readjusting product specialization and rationalization, the marginal cost of production diminishes. Such mechanisms enlarge the market, generate comparative trade advantages and increase trade flows. This is particularly beneficial to smaller (and usually poorer) states, who can reap the benefits of cooperation without the need to face non-regional and disadvantageous competition.¹⁷ Nonetheless, gains in trade will tend to decrease if the same states act as free riders without giving their little contribution; if there is asymmetrical economic dependence among member states, trade wars will be inevitable.

Then, there is *political regionalism*. The existence or not of such dimension was object of discussion in the literature, mainly due to the erosion of national sovereignty and the new conceptualization of territoriality and territorial sovereignty due to globalization. There are two main arguments in this regard: one is that since states have become incapable of making policy choices of their own due the constant influence geopolitical factors, the only “field” where they can compete is the global market. Hence, the reasoning

¹⁴ Obydenkova, A., 2006. *New Regionalism and Regional Integration: Exploring the links between “external” influences and “internal” factors*, Nicosia, Cyprus: European University Institute Florence.

¹⁵ Bolanos, A. G. B., 2018. *A step further in the Theory of Regional Economic Integration: A look at The Unasur’s integration strategy*. s.l. Editorial Académica Española.

¹⁶ To know more about this model of international trade, see: Anderson, J. E., 2010. The Gravity Model. *Annual Review of Economics*, NBER Working Paper, December.3(16576).

¹⁷ Tweeten, L., 1993. Trade Regionalism: Promise and Problems. *American Journal of Agricultural Economics*, August, 75(3), p. 810–816.

rebounds back to economic regionalism. The second argument is based on the idea that regional organizations become *managers* of international equilibria. Their existence implies the signature and ratification of agreements, which are part of the foreign policy commitments of a state. Thus, the national decision-making process is here crucial. In this regard, regionalism and regional integration differ from regional cooperation in that the former aim at establishing a centralized institutional framework. Intergovernmental regional cooperation, on the other hand, involves the mutual collaboration of states where there are common interests at stake, such as infrastructure or energy.

In terms of political advantages, regionalist practice entails a gradual accession of countries, according to the compatibility of their systems with the established criteria of the organization. This proves how changes within a regional association can be made incrementally, which prevents big shocks within national economies of member states. Also, regional integration usually involves a contained number of countries with common histories or interests. The small membership boosts national bargaining power, diminishes the complexity of negotiations and increases the levels of coordination and internal cohesion. These advantages accelerate the conclusion of an RTA. The shortcoming is that internal cohesion is dependent on political cooperation and on the transparency of the decision-making process, which become more and more difficult to sustain when the membership increases.

Security regionalism has caught the attention of political scientists since the aftermath of the collapse of the Soviet Union. The event has dramatically changed the nature of alliances in international relations, starting with the shift from a bipolar to a multipolar world. In order to prevent the hegemony of a state within a region, states come together to form alliances so as to balance against a “potential threat”.¹⁸ This proactive behaviour is usually typical of small states, which represent a competing field between major powers. Another type of regional coalition, somehow opposite to the one just described, is one that includes the great power itself as a guarantee of military support and protection. In this case, the higher level of security is ensured through the development of a common defense approach towards external threats, which contributes to minimize collective action problems. Under this perspective, regionalism assumes the connotation of a peace-keeping tool within a piece of territory. Hence, security is an additional benefit of regionalism. Besides being a matter of defense, it also entails protection from trade wars or monetary instability.

Lastly, there exists a *cultural regionalism*. It takes into account factors such as ethnicity and a shared cultural past. Often times, it implies the creation of a regional identity, associated with the spread of a sense of belongingness to a regional “community”.

1.3 Regional integration

Regional integration is here treated separately from regionalism as to better analyze what *integration* effectively implies. The process can be assessed against three elements: (i) the geographic scope, that is, the number of countries involved; (ii) the substantive width, which corresponds to the number of integrated areas,

¹⁸ Balance of power theory, in: Waltz, K.N., 1979. *Theory of International Politics*. Reading: Addison-Wesley Pub. Co.

such as goods, labor, etc; (iii) the depth of integration, assessing the readiness of countries to give up on their sovereignty, the number of harmonization policies implemented and the level and quality of inter-state cooperation.

Integration articulates in two dimensions: negative and positive. Negative integration refers to all those measures aimed at repealing a number of hindrances to the proper operation of an integrated economic area. They usually consist in the reduction of import duties or expansion of quotas. On the other hand, positive integration involves the creation of new *centralized* institutions or the amendment of existing means of integration. Tinbergen offered as an example the “regulation of unstable markets with a market area surpassing national frontiers”.¹⁹

The two expressions were better contextualized by John Pinder when analysing the structure of the then European Economic Community (EEC). Positive integration was hence deemed complementary to negative integration, as it entailed the creation and implementation of *coordinated* and *common* policies to fulfill economic and welfare aims, for example, the mutual recognition of professional qualifications, and therefore discourage the implementation of discriminatory economic measures. In addition, these two operations can only successfully be achieved if the policy-making power is entrusted to a centralized entity (“at the Union level”).²⁰

1.3.1 Economic integration

Economic integration is deemed both a process and a state of affairs: the former corresponds to the type of measures conducive to the abolition of discrimination between the states taking part in the process, while the latter is the actual abolition.²¹

A fundamental index of economic integration is the degree of “economic convergence”, reflecting the comparative growth rates of Member States relative to one another.²² This is included within the degree of regional convergence and coherence, understood in terms of the role a particular organization plays in the global scene, on the basis of its external relations (third states or regional counterparts). Of fundamental importance is the conceptual difference between trade liberalization and economic integration. Trade liberalization consists in the initial reduction, until possibly the elimination, of trade barriers on goods, usually in the form of customs duties. The process may reach an advanced stage, to additionally repeal non-tariff barriers, for example labelling requirements. Trade liberalization talks are usually facilitated when the interested parties are members to the World Trade Organization (WTO).²³ On the contrary, economic integration involves the elimination of *all* economic barriers with regard to all factors of production, in order

¹⁹ Tinbergen, J., 1954. *International Economic Integration*. Amsterdam: Elsevier.

²⁰ Pinder, J., 1968. *Positive Integration and Negative Integration: Some Problems of Economic Union in the EEC*. *World Today*, 24(3), pp. 88-110.

²¹ Balassa, B. A., 1962. *Theory of Economic Integration: an Introduction*. In: *Theory of Economic Integration*. London: Allen & Unwin, pp. 173-185.

²² Vinokurov, E., 2018. *Introduction to the Eurasian Economic Union*. London and New York: Palgrave Macmillan.

²³ This proviso will be contextualised in Chapter IV on the cooperation between the EU and the EAEU

to achieve a common economic space with the states concerned. Additionally, it presents elements of positive integration.

The Hungarian economist Béla Balassa is amongst the postwar economic scholars who, drawing on the Western experience, studied the effects of economic integration on national welfare, to then realize its advantages. In 1961, he developed a comprehensive theory to exemplify the mechanisms underpinning economic integration. Balassa disentangled the process in five different phases: the creation of a Free Trade Area, a Customs Union, a Common Economic Space, an economic union and, finally, a total economic integration.²⁴ A *free trade area (FTA)* implies the abolition of any quantitative restriction (above all tariffs and quotas) between the participating countries yet retaining the same restrictions vis-à-vis third states.²⁵ The formation of a *Customs Union (CU)* further encourages the movement of goods through the establishment of a common external tariff, and it additionally equalizes tariffs with non-members. The following stage, the creation of a *Common Market (CM)*, eliminates all barriers on factors' movement, including labor. The harmonization of the economic policies regulating the movement of goods and factors of production together with the adoption of a single currency led the way to the fourth phase, the establishment of an *Economic and Monetary Union (EMU)*. The last stage, the *Total Economic Integration (TEI)*, entails the unification of all policy standards in every economic field and the setting-up of a supranational authority, whose decisions are legally binding on Member States.²⁶

Finally, in order to assess the impact of integration on economic welfare, Balassa suggested the analysis of relevant changes concerning: the quantity of goods produced, the degree of discrimination between domestic and foreign commodities and the redistribution of incomes both between nationals of different countries as well as those within the individual countries.

1.3.2 Political integration

Political integration was defined by Lindberg as “the process whereby nations forgo the desire and ability to conduct foreign and key domestic policies independently of each other, seeking instead to make joint decisions or to delegate the decision-making process to new central organs”.²⁷

The economist Balassa acknowledged the role of political interests, which can manifest either at the early stage or at a later phase of integration. In fact, economic integration is partly designed to additionally counterbalance a political element of discrimination inherent in the scope of state intervention. The latter is deemed acceptable in the process of economic integration when it serves the purpose of safeguarding societal cohesion.²⁸ The WTO conducted a study on the complementarity of the processes of economic and political

²⁴ Balassa, B. A., 1962; *supra* (21)

²⁵ For an extensive definition of free-trade area, see: Walter, G., October 2007. “*Dictionary of Trade Policy Terms*”. 5 ed. Department of Foreign Affairs and Trade, Australia: World Trade Organization.

²⁶ The contribution of Balassa clarifies the different nature of the integration attempts in Eurasia (see Chapter II): while the Commonwealth of Independent States (CIS) represents an initiative of economic cooperation, the Customs Union (CU): is a concrete attempt of economic integration.

²⁷ Lindberg, L. N., 1963. *Political Dynamics of European Economic Integration*, p.6 In: s.l.:Stanford University Press

²⁸ Hettne, B., 2005. Beyond the ‘new’ regionalism. *New Political Economy*, 10(4), pp. 543-571.

integrations; it found that when the former is not accompanied by the latter, innovation and growth are slower, and the rent-seeking activity will increase as firms respond to increased competition in the economic market.²⁹ On the other hand, the politico-economic integrational activity will result in a higher degree of welfare and a boost to innovation.³⁰

The literature distinguishes three levels of institutional coordination. The first corresponds to the establishment and application of common laws bearing on relations between nations; it is a quasi-institutional coordination, usually based on an agreement without a formal institution *stricto sensu*. The second level involves the harmonization of practices within the participant member states, and therefore calls for a regulatory body that manages the process. Lastly, the third level takes institutional cooperation to an advanced stage with the establishment of a regional institution endowed with supranational powers.³¹ This is usually followed by the establishment of a (supranational) Court to oversee states' compliance to the legal acts.³²

1.4 The European Union: a form of successful regionalism

The European Union is the most significant attempt at regionalism so far, and it can be considered the forerunner of all regionalist responses to globalization. Political and economic elements go hand in hand in the process of European integration, where trade relations are sided by a political and cultural cooperation manifested in the decision-making process within the common institutions. The core tenet of this regional bloc is the readiness of Member States to pool their sovereignty and operate through strong common institutions, supporting values of solidarity and tolerance, and conducting good governance based on the respect for human rights, democracy and the rule of law.

The establishment of the original European Community (EC) occurred during the second wave of regionalism, the so-called economic regionalism, as part of the process of European reconstruction enhanced by the United States, in the aftermath of World War II. It began with the Treaty of Paris in 1950 establishing the European Coal and Steel Community (ECSC). The goal was a common market of those resources which had caused enduring tensions between France and Germany, which would be created within an “*ever closer union*” based on mutual respect of state sovereignty and territorial integrity.³³ The 1957 Treaties of Rome paved the way for the development of a Customs Union with a common external tariff and the transition of some functions to a supranational level. The formalization of the Common Economic Space (CES) ensuring the four freedoms occurred in 1986 with the Single European Act (SEA): politically, it introduced the qualified majority system in the decision-making process and the repartition of political responsibilities of the

²⁹ this is especially the case of Russia and Kazakhstan, which are rentier states

³⁰ Brou, D. & Ruta, M., 2011. Economic Integration, Political Integration or Both?, *Journal of the European Economic Association*, December, 9(6), pp. 1143-1167.

³¹ Figuière, C. & Guilhot, L., 2007. Vers Une Typologie Des « Processus » Régionaux: Le Cas De L'Asie Orientale. *Revue Tiers Monde*, Octobre-Décembre, 48(192), pp. 895-917.

³² Kritzinger-van-Niekerk, L., 2005. *Regional Integration: Concepts, Advantages, Disadvantages and Lessons of Experience*. South Africa: World Bank Country Office.

³³ Committee on Institutional Affairs, 1982. The Schuman Declaration (Paris, 9th May 1950). In: European Parliament, ed. *Selection of texts concerning institutional matters of the Community from 1950 to 1982*. Luxembourg: s.n., pp. 47-48

institutions into three pillars.³⁴ The Maastricht Treaty signed in 1992 constituted the true milestone in the integration process since it envisaged the creation of a monetary union (and the adoption of a single currency) and the acknowledgement of a European citizenship complementary to the national citizenship. The Treaty of Amsterdam in 1997 clarified the division of competences between intergovernmental and supranational. Parallel to the Treaty of Nice in 2001, which modified the institutional arrangement of the EU in view of the maxi-enlargement (2004), the non-binding Charter of Fundamental Rights of the European Union was enacted. In light of the expiration of the Rome Treaties, the Lisbon Treaty entered into effect in 2009 (two years following its ratification). It acknowledged the single legal personality of the regional bloc, together with its dual-treaty legal basis.

The distinctive feature of the EU evolution can be found in the integrational method. The EU followed the *community* (or *communitarian*, *Union*) method, according to which only the European Commission – as a supranational body – can initiate legislation on the basis of the competences states assigned to the body by giving up part of their sovereignty; the Council and the European Parliament co-decide, and qualified majority is the most employed voting system in the decision-making procedure. The method led to the draft of a body of European law, distinct and independent from international law.

The peculiarity of EU development, among other things, lies in the continuous interaction between the organization and the single states, by including them and their communities in the decision-making processes. Due to the increasing enlargement of its scope of action, the EU became a *de facto* public policy regime, promoting a series of different policies coordinating a wide range of competences. EU action is underpinned by a lesson-drawing mechanism: its intent is to spread its model of integration as both a normative and causal idea, aimed to attain peace, economic wealth and social justice.³⁵ The aim is the creation of a sort of *Pax Europaea*, so as to export the European and western “*know-how*” abroad, in the attempt to prevent the escalation of any social or political conflicts.³⁶

1.5 Approaches to Eurasian integration

Eurasian regionalism and EAEU integration can be better understood by looking at three approaches to integration put into practice in the Post-Soviet space: the *holding-together model*, *liberal intergovernmentalism* and the theory of *cooperative hegemony*, within the “ideational-institutional realism” approach.

The “*Holding-together*” integration model is a type of regional integration “initiated by a group of countries that until recently were part of a unitary state or colonial empire (namely, a single political or

³⁴ Later on, the provisions within the Amsterdam Treaty in 1997 took the main competences of the third pillar – immigration and asylum – and inserted them in the Treaty of the European community. This was an example of communitarization of intergovernmental competences

³⁵ Börzel, T. A. & Risse, T., 2009. The Rise of (Inter-) Regionalism: The EU as a Model of Regional Integration. *The Transformative Power of Europe*, September, KFG Working Paper Series(7).

³⁶ Obydenkova, A., 2006. *New Regionalism and Regional Integration: Exploring the links between “external” influences and “internal” factors*, Nicosia, Cyprus: European University Institute Florence.

economic space) and maintained a high level of economic, political or cultural ties.”³⁷ Therefore, the integrity of this region represents a continuum with the past, and it is not merely an entity constructed within long-term goals. The peculiarity of the model lies in that it takes into account the status of the countries involved as “newly independent states” (NIS), assuming the ongoing nation-building process. Furthermore, it presupposes a “U-turn” along the integration process, whereby a period of disintegration (the initial phase) is followed by one of cohesion, which is then altered with the accession of new states to then initiate a period of reintegration. The theory was specifically devised to describe the EAEU-building process.

Liberal intergovernmentalism provides for a valid theoretical explanation of Eurasian regionalism. This approach put emphasis on States as power seekers eager to pursue their own interests and preferences when bargaining with other States. Their interaction shapes the evolution of the regional building process. Multilateral institutions are deemed necessary and credible platforms of discussion, and to bring personal matters to the negotiation table. Here, supranational institutions are not considered important in the integration project. It is more likely that a regional “leader” or “hegemon” is designated to guide the process, based on its military and economic strength relative to the other states.³⁸

According to the theory of *cooperative hegemony*, Russia as a major power advances its geopolitical agenda by availing itself of non-coercive means, namely, regional integration with smaller (satellite) states, subsidization, power sharing and more. This cooperation implies a self-disciplined behaviour from the hegemon in exchange for the loyalty and support of its followers, on the basis of a sort of “binding” contract.³⁹ This approach constitutes the major tool to understand the role of Russia within the EAEU and its decision to engage in an integrational project of this entity, for it helps identify the costs and benefits of the relationship between the Federation and the other EAEU Member States.

1.5.1 *The EAEU model of integration*

The process of evolution and consolidation of the Eurasian Economic Union has been described as an “integration of integration” and it developed out of a number of failed attempts to create a common economic space that could accommodate the newly formed economic structures of Post-communist Countries. Eurasian integration is here intended both as a *regionalist attempt*, since post-communist states came together to collaborate for the establishment of an integrative organization, and as a *process of regionalization*, due to the emerging and then persistent economic interdependence between the said states. It can be classified as a form of *regionalism as trade*: most post-soviet states are landlocked, and this disadvantageous geographical position pushed them to engage in regional ventures in order to gain access to the world market and, therefore, to overcome geopolitical (besides territorial) isolation. Due to the size of Eurasia, the Eurasian regional

³⁷ Libman, A. and Vinukorov, E. (2012). *Holding-Together Regionalism: Twenty Years of Post-Soviet Integration*. Basingstoke: Palgrave Macmillan

³⁸ Hegemony implies that the state retains wider space of maneuver in the decision-making process and therefore generates asymmetrical interdependence in the region concerned (more on Chapter II).

³⁹ Pedersen, T., 2002. Cooperative Hegemony: Power, Ideas and Institutions in Regional Integration. *Review of International Studies*, October, 28(4), pp. 677 - 696.

integration is said to be “continental” in scope. This type of integration has specific features: it is Russia-centric (or Russia-led), thus considered a geopolitical expedient to confront European integration or any other foreign influence on the Eurasian territory. Also, it developed in what had been for two centuries an “empire”, a united territorial space under centralized control for over 200 years: this generated a shared cultural heritage as well as common economic and infrastructural systems.

The Eurasian Economic Union (EAEU) was formally recognized as such in 2015. Placed within the “bigger world” of regional organizations (ROs) and in terms of organization and degree of integration, the EAEU is the second example – after the European Union – of a consolidated and functioning regional economic association, and it is the most successful regionalist attempt in the Post-Soviet space. Regardless of the extent to which some regulations were implemented and how long it took for those in effect to be such, today the EAEU is a rule-based entity, owning international legal personality, a functional common market for goods and an institutional apparatus. Having defined economic integration as both a process and a state of affairs, the EAEU can be placed in-between: the disinclination of some states to comply with an already ill-defined regulatory framework represents a serious hindrance to the fulfillment of some of the economic criteria crucial for the elimination of internal discrimination. The Eurasian case differs from the European example in terms of historical legacies, institutional organization, structural-developmental contexts and the national regime-building processes occurring parallel to that of integration.⁴⁰ Unlike the EU, the EAEU developed following the *conventional* (or *intergovernmental*) method, according to which governments are key actors in making integration decisions, often by unanimity. In this case, the character of supranationalism is the outcome of interaction, underpinned by a coordinated approach, of the participating states.⁴¹

An analysis of the GDP trends of the EAEU Member States conducted by the Eurasian Development Bank (EDB) allows to identify four stages of economic integration of the regional bloc. The first corresponds to the economic collapse triggered by the demise of the Soviet Union, during which countries strived to reset their production and find a place within the global economy. The second occurred ten years later with an economic revival, especially in Kazakhstan and Russia, attributable to the energy sector. The third phase was characterized by two dramatic economic events: the 2008 global crisis and the shrink of oil prices in 2012 and again in 2014. Finally, the fourth stage began with the entry to force of the Astana Treaty (legal basis of the EAEU) and the initiation of a period of adaptation to new lower oil prices. Russian annexation of Crimea and the ensuing Western sanctions furtherly affected the economies of the Federation and also rebounded on the Union States.⁴²

The evolution of the EAEU contradicts two solid arguments defended in the literature. The first is that crises (especially economic ones) most of the times hinder the integration process: in case of close ties between

⁴⁰ Obydenkova, A., 2011. Comparative regionalism: Eurasian cooperation and European integration. The case for neofunctionalism?. *Journal of Eurasian Studies*, 2(2), pp. 87-102.

⁴¹ Coman, R., 2017. Intergovernmental Method, Community Method, and Open Method of Coordination: The Resilience, Efficiency and Legitimacy of the EU's Modes of Governance. In: A. Grimm, ed. *The Crisis of the European Union: Challenges, Analyses, Solutions*. London: Routledge, p. Chapter 12.

⁴² Vinokurov, E. et al., 2017. *Eurasian Economic Integration, Report 43*, Saint Petersburg: EDB Centre for Integration Studies.

the involved countries and a lack of alternative organizations to join, the resort to protectionist measures to defend national economies affects economic interdependence. Nevertheless, in the case of EAEU regionalism, and with reference to the “holding-together” model, advanced stages of integration were triggered by the 2008-2009 global economic recession, with the decisions to form the Customs Union and to establish the EurAsEC Anti-Crisis Fund (ACF). The second claim describes the inability of autocracies to implement any kind of economic regional project due to their realist approach to foreign policy and a centralized economy. The EAEU is a *de facto* globally recognized regional economic international organization and, yet, it is a union of primarily despotic states.

1.5.2 Why Eurasian?

The Eurasian Economic Union is an interesting case of regional integration also with regard to the geographical space where it was established: it is neither Europe nor Asia, but a sort of “mélange”. This area would soon be named “Eurasia”, echoing from the ideological movement of “Eurasianism” which was brought back to the surface in the first part of the 20th century.⁴³ Specifically, in the 1920s-1930s, Russian emigrant thinkers identified “Eurasia” not as the vast area unifying Europe with Asia, but as the fulcrum of the Old-World continent, comprising three specific territories: East European, West Siberian and Central Asian.⁴⁴ Some claim that this piece of land coincides with the old Russian empire and its perimeter. Eurasian scholars view Russia as a special *continental* power located in-between two world parts, a “unique geographic environment” which is in stark contrast with either the fractural structure of Europe or the “island states” such as the United States of America.⁴⁵ The 2012 report by the Eurasian Development Bank provided for two definitions of “Eurasia”: politically, it is the Russian “playground” and sphere of influence, while in terms of society, culture and economy, it is the geographical scenario for authoritarianism, oligarchy and archaic societies.⁴⁶

The trends of globalization characterizing the end of the 20th century and the beginning of the 21st century, sided by the dissolution of the Soviet Union, led classic Eurasianism to take a new form, distant from the original idea of reuniting the old imperial land, and more focused on the strengthening of economic ties, through a voluntary process of cooperation. This modern form of Eurasian integration is what experts called “practical Eurasianism”, as it is purely focused on undertaking an economic building process, and not pushed by ideological convergence.⁴⁷

⁴³ The earlier form of this ideological movement was devised in the early 1820s by the economist-geographer P.N. Savitskii and the philosopher N.S. Trubetskoi. The movement developed as a mediating response between the ideological clash of Westerners against the so-called Slavophiles.

⁴⁴ This is the theory supported by scholars of classic Eurasianism and would be later reaffirmed by Putin in his speech “from Lisbon to Vladivostok

⁴⁵ the political expert and philosopher Alexander Dugin is one of the most prominent.

⁴⁶ Vinokurov, E., 2012. *Eurasian Integration Yearbook*, Almaty: Eurasian Development Bank.

⁴⁷ Kofner, Y., 2015. Pragmatic Eurasianism. Four approaches for better understanding the Eurasian Economic Union. *New Eastern Europe Magazine*.

Eurasianism represented a strong political and cultural component in the EAEU-building process: the concept has been often incorporated in the foreign policy agendas of the leaders of Russia and the Post-Soviet satellites. Kazakh President Nursultan Nazarbayev has been one of its major supporters, up to the point of voicing it in important speeches, such as the one delivered at Lomonosov University in Moscow (*see* chapter II), when he was the first to speak of an “*Eurasian Union*”, underlying the importance of the shared historical destinies of the people occupying that slice of territory.

Chapter 2 Post-Soviet Eurasia from the early 1990s

The dissolution of the “Union of Soviet Socialist Republics” (USSR) was defined by Vladimir Putin as “the greatest geopolitical catastrophe of the 20th century”.⁴⁸ The collapse of this great empire at the end of the Cold War was a clear acknowledgement of the United States as global hegemon.

The Council of Mutual Economic Assistance (CMEA) founded in 1949 in the aftermath of World War II, is the first de facto economic organization in Soviet hands, whose membership extended to Eastern European satellite states. This first form of Soviet regionalism was also achieved with the aim of deterring a potential future demise of the socialist bloc. Following the refusal of the Soviet Union and its satellites to join the Organization for European Economic Cooperation (OEEC), established by the Western European Countries in 1948 as a channel to distribute Marshall aid and to initiate a European Recovery Program, the CMEA was established as its Soviet counterpart. The main objectives, as provided by the Preamble of the Charter⁴⁹, were the setting-up of socialism and communism, the acceleration of economic and technical advancements and the initiation of a process of modernization.⁵⁰ The Council can be seen as the harbinger of a series of integration projects implemented in the Post-Soviet Space, based on the coordination of long-term plans and bilateral trade agreements together, always in respect of national sovereignty. Its dismantlement came with the collapse of the Soviet Union.

The legacy of the ex-Russian empire was inherited and embodied by the new Russian Federation, with Boris Yeltsin as first incumbent. He immediately started to work on a new plan to reunite the ancient satellite States under the aegis of its Federation in the attempt of regaining the lost title as global superpower. This is because the Post-Soviet space could objectively be the only sphere of influence where Russia would have more freedom of maneuver and attempt to determine the rules of the game. In the meantime, the *shock therapy* put in place in order to incentivize the domestic economy generated devastating effects and caused chaos. Hence, Yeltsin had to set aside the desired process of transformation, as it became impossible for the national government to fund any “geo-economic project”.

2.1 First stage of integration: the CIS and Nazarbayev’s speech

The Commonwealth of Independent States (CIS) is a regional intergovernmental organization founded by the then Presidents of Russia, Belarus and Ukraine immediately after signing the agreement to end the existence of the Soviet Union in 1991. The Baltic States were the only countries of the “Near Abroad” who refused to join the Commonwealth with the intent to initiate a process of European integration. The CIS was conceived as a leverage mechanism for a “*civilized divorce*” of the newly born states from the old

⁴⁸ Osborne, A., 2005. Putin: Collapse of the Soviet Union was 'catastrophe of the century'. [Online] Available at: <https://www.independent.co.uk/news/world/europe/putin-collapse-of-the-soviet-union-was-catastrophe-of-the-century-521064.html> [Consulted on May 4th, 2020]

⁴⁹ The Charter was the official document of the CMEA. Its drafting resulted more complicated than expected: it took in fact around ten years since the establishment of the organization, as it came into effect in 1960.

⁵⁰ M.A.G. Van Meerhaeghe, 1987. The Council for Mutual Economic Assistance. In: *International Economic Institutions*. Dordrecht: Springer.

conglomerate, so as to avoid any side effect of the initiated “disintegration process”.⁵¹ Originally, the CIS had all elements to materialize in a successful economic and political project. In 1993, the Member States adopted the Charter of the Commonwealth (the main document of the CIS), in the effort to promote democratic values and to preserve the *cultural melting pot* inherited from the old USSR.⁵² They signed the “Treaty on the Establishment of the Economic Union”, which created a liberal trade area.

Another key economic initiative which influenced the evolution of the Post-Soviet space was the creation of the Central Asian Economic Union (CAU) in 1994 by five Central Asian Republics – Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan – with the aim of establishing a Common Economic Space. Following an intensive institutional development, the Union changed its name in “Organization of Central Asian Cooperation” (OCAC) in 2002.

During his first official visit to Russia in March 1994, the now ex-President of Kazakhstan Nursultan Nazarbayev delivered a speech at the “Lomonosov University of International Relations” in Moscow, presenting a new pragmatic approach to optimize the integration process initiated with the creation of the CIS.⁵³ There, he implicitly pointed at the vagueness of the cooperative bilateral agreements concluded amongst the Member States of the CIS and emphasized the practical interests which ought to be addressed: the increase in the national domestic product, the modernization of the economic system and a regional partnership which could generate mutual economic advantages. He stressed that such “economic fusion” would occur between national markets *on growth*. In particular, he urged the need for the creation of a supranational economic entity with two primary aims: the facilitation of trade relations within Eurasia and the harmonization of the various national policy systems so as to prepare the future Member States to face global economic competitiveness.⁵⁴ He said:

*“Given the differences between countries in the level of development of the market economy, the democratization of political processes, we propose the formation of an additional integration structure – the Eurasian Union, combined with the activities of the Commonwealth of Independent States. This takes into account the multi-variate integration, different rates, heterogeneity and diversity in the development of the CIS states [and] gives grounds to talk about the urgent need for the formation of a new economic order. The goal is to harmonize economic policy and adopt binding programs for participating States to implement economic reforms”.*⁵⁵

⁵¹ Vinokurov, E., 2018. *Introduction to the Eurasian Economic Union*. London and New York: Palgrave Macmillan;

⁵² Under a constructivist approach, on the basis of the contribution of Katzenstein (1996), the case of the CIS represents a tangible case of regionalism taking place parallel to identity formation and collective human action; Katzenstein, P. J., 1996. *Regionalism in Comparative Perspective. Cooperation and Conflict*, June, 31(2), pp. 123-159.

⁵³ In the previous week, he had expressed the urgency to integrate the post-soviet space at the Chatham House in London, which was the main topic brought to the attention of the students and faculty members in Russia.

⁵⁴ Many scholars have collocated the speech delivered by Kazakh President within the ideological framework of Eurasianism. They claimed that, although the primary supporter of the Eurasian Union had pragmatic economic aims. There was a latent objective: the strengthening and safeguard of the interconnection of cultural identities inherited from the Soviet Union, and even prior, from the Russian Empire.

⁵⁵ Nazarbayev, N. A., 1998. Meeting with the Staff and Students of M.V. Lomonosov Moscow State University, March 29th, 1994. In: *Kazakhstani-Russian Relations. Reports, speeches, and articles from the years 1991-1998*. Moscow: Russky Raritet, pp. 64-86.

The majority of the post-communist countries was highly skeptical about the Kazakh geopolitical initiative. Being originally part of the tsarist empire, when this was dismantled with the defeat of Russia in 1917 during World War I with the abdication (and then assassination) of tsar Nicholas II, the said states were soon “trapped” again, this time under the aegis of the “socialist empire”, the USSR. Therefore, in 1994, having finally gained the so-longed independence, they were reluctant to transfer any of the just acquired sovereignty to a central (supranational) entity. Nevertheless, the Eurasian project proposed by the Kazakh leader was positively welcomed by Putin and Lukashenko. The few years preceding the turn of the 21st century saw the signature of three important Treaties which envisioned the re-arrangement of at least part of the Post-Soviet space around a common geopolitical roof: the “Agreement on the Customs Union of Belarus, Kazakhstan and Russia” in 1995, the “Treaty on Deepening Integration”⁵⁶ in 1996, and the “Treaty on the Creation of a Union State of Russia and Belarus (USRB)” in 1999. The same year saw the concretization of the intentions expressed in the 1995 agreement, with the ratification of the “Treaty on the Customs Union and Single Economic Space”.⁵⁷

Meanwhile, in 1998, the internal political situation in Russia dramatically precipitated, following a short yet intense civil war, which caused the depreciation of the ruble, and consequently the impossibility of the country to participate in the financing of the Commonwealth. The financial crisis turned to be an enormous hurdle to the economic development of the CIS, which led some of the Parties to come up with a new integration model.⁵⁸

It is worth mentioning that all the involved post-communist countries were undergoing a period of transition that involved economic restructuring – passage from centrally planned economy to market-based economy – and political restoration, aimed at nation-building. Before their independence, none of these countries had ever experienced any sort of consolidated and independent political or economic system and that is why the possibility of pursuing a path of economic integration appealed them greatly. The issue lies in the fact that *all* these countries underwent the *nation-building* process, and through alternative approaches, with different timings and more or less democratic elements. This generated economic and political disparities. Therefore, the parallel occurrence of the process of individual regime transition with the project of regional integration hampered the successful realization of the second. This was evidence that the full realization of the CIS integrative project would have never been attained anyway, since the processes of regime transition and economic development were necessary requirements.

In a nutshell, the Commonwealth of Independent States was set up as a “multitude of legal regimes”, whose aim to appear as an inspiring model of economic association was hindered by three factors: intern political dissensions, a feeble institutional design (new states and no supranational elements) and the lack of

⁵⁶ It was signed by the Heads of State of Russia, Belarus, Kazakhstan and Kyrgyzstan.

⁵⁷ The signatories were the Presidents of Belarus, Kazakhstan, Kyrgyzstan, Russia and Tajikistan.

⁵⁸ in 2011, in one of his speeches, Kazakh President Nazarbayev pointed at both objective and subjective reasons for explaining the failure of the CIS as a “decisive” integration structure (Nazarbayev 2011)

sufficient economic resources, also due to Russia's failed promise to be the locomotive of the Community.⁵⁹ Rather than a project of economic integration, the Commonwealth was an attempt of re-integration of a collapsed and fragmented multinational federation to restore the old united imperial territory.⁶⁰

2.2 Second stage of integration: the EurAsEC and the CES

In 2000 the first political organization, the Eurasian Economic Community (EurAsEC) was founded, and its legal basis – in the form of a Treaty – became effective the following year.⁶¹ Its establishment allowed for the development of the first institutional framework, molded on that of the European Union.

This new regional entity was diversely described in the literature. Some depicted the Eurasian Community as a case of “institutional isomorphism” with the European Union; in Layman's terms, there is similarity between the processes and the institutional structures of the Unions.⁶² Others conceived the EurAsEC as the institutional springboard for the economic and political arrangements which would be agreed by 2010.⁶³ In the meantime, a sharp increase in oil prices marked the beginning of prosperous years for the economies of Russia and Kazakhstan. This allowed for the intensification of mutual trade, investments and labour migration, which constituted the financial source for the new economic project.

The first agreement aimed at the creation of a Common Economic Space (CES), formalization of the 1999 Treaty, came in 2003 (its ratification occurred a year later) following a meeting in Moscow attended by the Heads of State of Russia, Belarus, Kazakhstan and even Ukraine.⁶⁴ The 2003 Memorandum of Understanding already envisaged the creation of a supranational body, whose decisions would prevail over those of the national governments of the four Signatories. It also allowed for the possibility for new states to join as well as the creation of a single currency that would facilitate intra-trade. During the same year, the EurAsEC gained an observer status at the United Nations, an important step acknowledging the organization as a de facto international entity with decisional power. In 2004, Russia joined the Organization of Central Asian Cooperation, and updated the agenda of the organization to include security matters. In 2005, due to the overlapping membership, the OCAC and the EurAsEC were merged in a unique regional organization which would retain the name of the latter.

A further step of financial integration was achieved in 2006 with the establishment of the Eurasian Development Bank on the initiative of Kazakhstan. From that year on, the following stages of integration saw the exclusive involvement of the Troika of leaders, since the economies of Kyrgyzstan and Tajikistan were not ready to meet the fixed economic commitments yet. In October 2007, the Russian Federation and the two

⁵⁹ Vicari, M. S., 2016. The Eurasian Economic Union-Approaching the Economic Integration in the Post-Soviet Space by EU-Emulated Elements. *Revue Interventions économiques*, 29 June. Volume 55.

⁶⁰ Molchanov, M. A., 2018. New Regionalism and Eurasia. In: *Routledge Handbook of Politics in Asia*. London and New York: Routledge, pp. 506-521.

⁶¹ It was composed of five Countries: Russia, Belarus, Kazakhstan, Kyrgyzstan and Tajikistan

⁶² Kazharski, A., 2012. The “Eurasian Union”: rivaling the EU through institutional isomorphism. *IESIR Working Paper*, April, Issue 4.

⁶³ Vinokurov, E., 2017. Eurasian Economic Union: Current state and preliminary results. *Russian Journal of Economics*, Issue 3, pp. 54-70.

⁶⁴ Due to its geographical position facing Europe, Ukraine was considered economically expedient

Republics signed the “Treaty on the Establishment of the Single Customs Territory and Formation of the Customs Union”. The 2008 global economic recession severely hit all Eurasian economies: national currencies were devalued, and government interventions grew dramatically. Nevertheless, it drove the three signatories to further boost the integration process and establish a new format of cooperation that could preserve their economic situation in times of crisis.⁶⁵

Year 2009 is crucial in the development of the Customs Union, with the signature of the “Treaty on the Customs Code of the Customs Union” and the “Joint Declaration of the Formation of the Customs Union”, this time without Ukraine.⁶⁶ The two documents concretized into (i) the Common Customs Tariff (CCT), entered into effect in 2010; (ii) the establishment of a *Eurasian Customs Code*, a regulatory act defining customs relations between the bodies of the CU aimed at facilitating customs declaration procedure; (iii) the formation of the EurAsEC Anti-Crisis Fund (ACF), which provides investments and financial loans, along with special grants to fund social projects, health systems and security. Always in 2010 the Customs Union Commission was established. It is the first permanent supranational body in the Post-soviet space, charged with overlooking the implementation of the newly enacted body of law. For the first time, there existed a highly institutionalized executive body, whose regulations were legally binding on Member States and constituted an integrated part of the domestic legal regimes.

2.3 Third stage of Integration: the Declaration on the Eurasian Economic Integration

At the end of 2011 Presidents Lukashenko, Nazarbayev and Medvedev signed the “Declaration on the Eurasian Economic Integration”, which acknowledged the full operating capacity of the Customs Union (already active since the previous year). In that period, Vladimir Putin published an article on the newspaper *Izvestia* claiming that “the Future [had born that day]”.⁶⁷ Even Nazarbayev commented on the achievement: “Considering the process of regionalization of the world economy and politics in the twenty-first century, [...] we are consistently moving forward towards the establishment of a Eurasian Economic Union”.⁶⁸ As part of his electoral campaign, President Putin announced the concretization in the near future of a Eurasian Union which ought to be considered as “the most important geopolitical and integration event [...] after the breakup of the Soviet Union”.

⁶⁵ Ref. *Holding-together model*

⁶⁶ There are two political reasons behind the decision of Ukraine. The first is its refusal to forgo part of sovereignty as well as the unwillingness to alter the national constitution. The second concerns the 2005 Euromaiden protests (or Orange revolution), whose outbreak was a response to the decision of President Viktor Yanukovich to surrender to Russia’s “geopolitical offer” to create a Eurasian economic association. This, in exchange for \$15 billion in loans, which Ukraine needed since it had a national debt of \$10 billion, and a reduction in the price of natural gas. Since then, the Country has embodied a pan-European political agenda and engaged in a constructive political dialogue aimed at a new Association Agreement. More on: RadioFreeEurope/RadioLiberty, 2013. *Putin Pledges Billions, Cheaper Gas To Yanukovich*. [Online] Available at: <https://www.rferl.org/a/ukraine-protests-yanukovich-moscow/25203138.html> [Accessed 18 May 2020].

⁶⁷ Putin, V. V., 2011. Новый интеграционный проект для Евразии – будущее, которое рождается сегодня” [“A new integration project for Eurasia – the future, which is being born today”. *Izvestiya*, 3 October.

⁶⁸ Nazarbayev, N., 2011. Evraziiskii souz: ot idei k istorii budushsheva. (Eurasian Union: From Idea to Future History). *Izvestiya*.

In 2012 the Eurasian Union experienced tangible effects of the 2011 Declaration, by achieving a further and third stage of integration. The Troika officially announced the elimination of trade barriers, which paved the way for a Single Economic Space (SES). Initially based on seventeen agreements outlining the content and progress of the Customs Union insofar achieved, the SES constituted the “legal basis” of the regional bloc until the Astana Treaty was signed in 2014.⁶⁹ The Common Economic Space (CES) was created with three main objectives: the achievement of a coordinated monetary policy aimed at the adoption of a single currency; the installation of joint networks with regard to specific economic areas, namely, energy, transportation, industrial production and agriculture. Last, the guarantee of the four freedoms – goods, capital, labour and services – as fundamental market principles, which ratified the refusal to apply protectionist measures for domestic market in mutual trade.⁷⁰

This stage endowed the Union with a juridical structure, the Eurasian Economic Community Court, which became a permanent regulatory body with supranational character, commissioned with checking on the correct implementation and application of the body of law insofar codified.

The creation of the CES occurred simultaneously to the transformation of the Customs Union Commission into the Eurasian Economic Commission (EEC), whose supranational bureaucracy was endowed with additional competences and powers with regard to the implementation of the regulatory measures. Another positive feature of the CES was that it could be benefitted both by the population and the business community, as it was now possible to register the business company in one of the five territories under the jurisdiction of the Union. The ultimate effect of the transition from the Customs Union to the Common Economic Space was the passage of the insofar resource-based economy to an innovation economy. As a matter of fact, in line with Nazarbayev’s speech, the greater ambition was the achievement of a higher degree of modernization that could be deemed competitive relative to the other regional blocs and that could allow Eurasian countries to endorse a more active stance in the globalization process.

2.4 Fourth stage of integration: the signature of the Treaty of Astana

The advanced version of the CES was inaugurated with the Treaty of the Eurasian Economic Union, signed in the capital of Kazakhstan (Astana) on May 29th, 2014. This was an occasion to reaffirm the economic rationale of the project, so as to avoid any diplomatic incident or further delay in the integration process. The treaty was signed only by the Troika leaders, in presence of those of Kyrgyzstan and Armenia, who would have joined the organization the following year. The Treaty was the outcome of five rounds of negotiations during the period 2013-2014. The upgrades introduced by the Union compared to its previous versions have been of economic and political nature. Economically, they consisted of the establishment of a common external tariff on imports and the harmonization of product standards. Politically, it embodied the Union within

⁶⁹ For the full list of agreements, see: Vinokurov, E., 2018. *Introduction to the Eurasian Economic Union*.

⁷⁰ Eurasian Economic Commission, 2016. *Eurasian Economic Integration: Facts and Figures*, s.l.: s.n.

an institutional network charged with policymaking and with checking over the correct implementation of regulations.

In that same year, exactly twenty years after his first speech which displayed the Eurasian Economic Union as an absurd conjecture, President Nazarbayev went back to Lomonosov University to deliver a new speech, this time showing his satisfaction with the stage of integration achieved.⁷¹ Having remarked the initial underestimation and misunderstanding demonstrated by the CIS countries towards the initiative, he showed how twenty years later, the Eurasian Union was a de facto regional model of economic development which had gained international approval. He highlighted how the primary economic rationale behind the Union was never isolated from the commitment to ensure the respect for the political sovereignty of Belarus, Kazakhstan and Russia. In addition, he rested on the economic advantages generated by the increase in trade relations, the mutual recognition of the different titles of education irrespective of the Country where they were attained and the improved quality of inter-territorial services. On January 1st, 2015 the Treaty on the Eurasian Economic Union (TEAEU) entered into force. It formalized the creation of an economic union observant of the four freedoms and representative of the willingness of the Signatories to align their national policies towards a coordinated and single approach to both the internal and external dimensions of the decision-making. In 2016, the EAEU announced the transition of economies to a new technological wave and digital transformation, through a series of projects, for instance, the “Eurasian Network of Industrial Cooperation, Subcontracting and Technology Transfer Project” and the “Development of the EEU Digital Transport Corridors Ecosystem Concept”.⁷² On December 6, 2018, the five Presidents of Member States signed the Declaration on the Further Deepening of Integration Processes within the EAEU, to establish a brand-new agenda which leaves more space to the Sustainable Development Goals (SDGs).⁷³

2.5 Rationale behind the EAEU: economic v. political intents

Assessing the role of political and economic elements in the context of the setting-up and evolution of a regional project can be quite burdensome, either because one does not exclude the other or because the full attainment of economic factors implies the presence of political factors and vice-versa. Their degree of interdependence is indeed non-quantifiable.⁷⁴

The EAEU agenda contains two components, based on the intentions declared by the Countries at the moment of accession to the regional bloc.⁷⁵ The first is *economic*, as suggested by Nazarbayev, and corresponds to the core of the integration process, the creation of a single market. The latter will ensure the promotion of the four freedoms, the enhancement of national economic growth, the improvement of exports

⁷¹ Nazarbayev, N. A., 2014. *From The Idea Of The Eurasian Union – To New Perspectives Of The Eurasian Integration*”, *Speech of The President of Kazakhstan Nursultan Nazarbayev at the Lomonosov Moscow State University*.

⁷² Eurasian Economic Commission, 2019. *Eurasian Economic Integration: Facts and Figures*; pp. 30-31

⁷³ Ibid; p. 24

⁷⁴ Balassa, B. A., 1962. *Theory of Economic Integration: an Introduction*. In: *Theory of Economic Integration*. London: Allen & Unwin, pp. 173-185.

⁷⁵ Vinokurov, E., 2018. *Introduction to the Eurasian Economic Union*. London and New York: Palgrave Macmillan.

conditions and a general increase in remittances from migrant workers. The second component is *political* and concerns the foreign policies of Kazakhstan and Russia. Kazakhstan saw in the EAEU an opportunity to endorse an influential mediating role in Eurasia, regulating bilateral relations between the Central Asian Republics. Russia, on the other hand, saw it as a strategic card to play in the geopolitical game, with the aim of reasserting the same dominant power of the USSR at the time of the Cold War, and preventing any kind of Western integration in the Post-soviet space.

2.5.1 *Economic rationale behind the EAEU*

The idea of an Economic Union in the territory of Eurasia was first mentioned by the former Kazakh President Nazarbayev while delivering a speech in Moscow in 1994. What he proposed was an economic integrative association that could be perceived by the neighboring states as an incentive to modernize their economies vis-à-vis the global economic trends, without affecting their political system. He was well-aware of the necessity to confine the aggregative project to the economic sphere since, due to the long period of submission of Post-Soviet States to a centralized system, no state would have been eager to give up part of its sovereignty, at least in the first phase of integration. The formula "*Economy first, then politics*" was reiterated by Nazarbayev during his 2014 speech, a few months prior to the signature of the Treaty of Astana.⁷⁶

Article 1, paragraph 1 of the Treaty expressly invites the Parties to coordinate their behaviour towards common policies in the economic sector. Moving forward, Article 4 outlines the main objectives of the Eurasian Economic Union, which are (i) the creation of favorable conditions for stable economic development of Member States and the ensuing improvement of the national economic standards; (ii) the yearn for a common market which ensures the respect of the four core freedoms; (iii) the incentive for a comprehensive modernization, cooperation and competitiveness vis-à-vis the global economy.

2.5.2 *Political rationale behind the EAEU: Russia's hegemonic behaviour*

While Germany and France can be identified as the piloting duo of the European integration process, in the case of the Eurasian integration it is Russia the real locomotive. The Eurasian integration project is one of the top priorities in Putin's agenda, together with Ukraine, the consolidation of Russian energy ties with the world through the construction and development of pipelines, and the management of international crises, such as the Syrian conflict. Hence, the formation of the EAEU appears as the outcome of the "regionalist stage" of Russian Foreign Policy, an instrument of leverage to preserve its political status quo.⁷⁷

Since the beginning, Russia envisaged the Eurasian Economic Union as the Eurasian counterpart of the European Union. Therefore, its process of evolution had to be analogous to that of the EU, above all at the normative and institutional levels, while being axiologically different in terms of the values advocated. The

⁷⁶ Based on the literature, it seems like the term "Economic" within the full name of the regional organization was explicitly lobbied by the Kazakh President. In fact, although the idea of founding such economic integrative association was his, the EAEU as it turned out today has been mainly modelled on Putin's rhetoric.

⁷⁷ Molchanov, M. A., 2015. *Eurasian Regionalisms and Russian Foreign Policy*. St. Thomas University, Canada: Ashgate.

EAEU is more rooted in conservative principles, away from any hint to liberal democracy. In order to emphasize the civilizational peculiarity of the Eurasian Economic Union, Vladimir Putin himself has recurred multiple times to the narrative of creation of a “Russian World” (ру́сский мир, Russkiy Mir), that is, one occupied by people who identify with Russian language and culture.

Russia is a quasi-hegemonic regional power: it employs soft hegemonic tools to put into practice its sense of entitlement to the region. The Kremlin argues that post-communist countries became accidentally independent, and as a consequence of the renewed geopolitical asset generated by the Cold War. Hence, while *de jure* Russia accepts integration and the formation of a regional community, *de facto* it shapes the geographical area under question to its own image. This translates in the concept of *limited sovereignty*.⁷⁸ The Federation is not recognized as a leader amongst the smaller countries. Nonetheless, there are key interests at stake, related to the common historical past and to the high degree of economic interdependence. To win the support of post-communist countries, Russia proposed itself as a *regional gatekeeper*, being open to provide collective goods at the economic, social and security levels. This on the proviso that such states comply with its *modus vivendi* and pursue common goals through initiatives of “socialization”, for example the Eurasian Union.

There are three geopolitical motivations and one domestic reason inherent in Russian Foreign Policy decision to fully engage in the project of the Eurasian Union.⁷⁹ The first geopolitical reason lies in Russia’s desire to *re-sovietize* the post-Soviet space in order to increase its influence on the region and regain the lost global recognition as a “country that matters”.⁸⁰ Furthermore, based on a conception of the world as a multipolar order formed by several geo-political zones, Putin has often claimed that the EAEU should be one of these zones. This is a necessary condition since it would make out of the Post-Soviet space a hub for global development, so strong as to counterbalance the Western political and security influence in Russia’s sphere of interests. As previously mentioned, Russia’s attitude takes the status of “Great Power” and its *unique* civilizational identity as self-evident and indisputable truths.⁸¹ Acting as a great power, Russia sees the EAEU as the key to become a “powerful ideological and civilizational center”, and not a mere subject to an existing power, which would mean the loss of identity.⁸²

Second, the EAEU acts as a shield to prevent both the outbreak of new color revolutions, and the conclusion of any “Western deal” involving the *Common Neighborhood*, with particular reference to the European Eastern Partnership (EaP) and the Deep and Comprehensive Free Trade Agreements (DCFTA),

⁷⁸ This expression within the cadre of international relations owes to the legacy of the Soviet constitutional model. For more, see: Deyermund, R., 2016. The Uses of Sovereignty in Twenty-first Century Russian Foreign Policy. *Europe-Asia Studies*, 68(6), pp. 957-984.

⁷⁹ International Crisis Group (ICG), 2016. The Eurasian Economic Union: Power, Politics and Trade. *Europe and Central Asia Report N°240*, 20 July.

⁸⁰ The concept of re-sovietisation was explicitly mentioned at the 19th OSCE’s Ministerial Meeting in 2012 by the then US Secretary of State Hillary Clinton.

⁸¹ Lo, B., 2015. *Russia and the New World Disorder*. Washington, D.C.: Brookings Institution Press.

⁸² Devitt, P., 2014. *Lavrov accuses West of seeking ‘regime change’ in Russia*. [Online] Available at: <https://www.reuters.com/article/us-ukraine-crisis/lavrov-accuses-west-of-seeking-regime-change-in-russia-idUSKCN0J609G20141122> [Accessed 18 May 2020].

concluded by the European Union.⁸³ These initiatives are seen as precursors to a possible NATO intrusion, posing a big security threat to Russia. The same reasoning applies to the Chinese Belt and Road Initiative.

The third reason is related to the Crimean question, which marked a Russian detachment from the Western sphere in favor of an Eastern deal and left the Country internationally isolated with respect to trade policy. That is where the insistence to sign the Treaty exactly in 2014 stems from; the Kremlin was left with no alternatives if not to formalize its regional back-up plan. In June 2016, in occasion of the International Economic Forum in Saint Petersburg, Putin suggested a new geographical space, this time stretching from “Murmansk to Shanghai” rather than from “Lisbon to Vladivostok” as stated in 2011.

The fourth reason is linked to the need of Putin to regain domestic political confidence, lost to the dramatic economic recession in 2012 and furtherly accentuated first by the annexation of Crimea, then with the beginning of its fourth Presidency mandate. In his view, the geopolitical recognition achieved through the institution of the EAEU would encourage the Russian people to legitimize his decisions in both the domestic and foreign domains.

Whether the nature of the Eurasian Union is either economic or political is a question open to debate, both amongst the scholars and the leaders of its Member States. Experts and scholars still find it hard to understand the right angle under which this regional organization ought to be analyzed. Some of them use as reference Nazarbayev’s speech, thus focusing on his comprehensive economic initiative aimed at the intensification of trade relationships in Eurasia. Other scholars collocate the EAEU within the current geopolitical context, analyzing the implications of this new rule-based political entity on international relations and global economic competitiveness. A question one might pose is whether the Union conceived as Putin’s retaliatory instrument against the West can further dismantle the precarious equilibrium in Eastern Europe. The position of Russia within the organization and the reasons behind Putin’s strong interest in preserving and consolidating its existence deserves particular attention, especially when it comes to evaluate the future of the EAEU and whether any cooperation agreement with the European Union is envisaged, or better, feasible. So far, Russia has remained the main promoter for the formalization of an EU-EAEU dialogue, both in the economic and the political sphere.⁸⁴ Even though the organization was established with an economic purpose, it is clear to many that the sort of benefits President Putin is determined to reap from this joint venture are purely political.

⁸³ Between 1998 and 2005, political oppositions, civil society activists, ordinary citizens, and external democracy supporters used elections in six post-communist European or Eurasian countries to create democratic openings by ousting semi-authoritarian leaders. The first to fall was Slovakia’s President, followed by those of Croatia and Serbia. The 2003 Rose Revolution in Georgia was followed by the Orange Revolution in Ukraine in 2004 and the Tulip Revolution in Kyrgyzstan in 2005. Unfortunately, not all such democratic uprising succeeded: this is the case of Armenia (2003 and 2008), Azerbaijan (2003 and 2005) and Belarus (2008), where incumbents retained power and became more authoritarian.

⁸⁴ For example, the Kremlin asked for the EAEU to be involved in the peace-making talks for ending the Ukrainian crisis.

Chapter 3 Membership and Institutions of the EAEU

Unlike the legal order of the European Union, based on EU law, the Eurasian Economic Union was founded on a “classical” international agreement, in the form of a codified incorporation of previous declarations and agreements which reflects on the principles of international public law. The Eurasian Union is an integrative economic organization whose structure and values are the combined projections of the inner political and legal culture of the single Member States. Due to its institutional structure and economic elements, the EAEU looks like a complex, autonomous, emerging legal order, which nevertheless lags behind its reference model – the EU – in terms of its ability to guarantee the good functioning of the organization.⁸⁵ The normative framework of the Eurasian Union resembles the European Union *acquis* with regard to three elements: the existence of a supranational authority (and bureaucracy), the transferal of some competences to a central body and a dispute resolution mechanism which starts with the Commission, goes through the Supreme Council and terminates with a binding decision of the Eurasian Court⁸⁶.

Article 1, paragraph 2 of the Astana Treaty recognizes the Eurasian Economic Union recognizes as “*an international organization of regional economic integration that holds the international legal personality*”. Unlike the other regional blocs, the EAEU is not a new entity: it is the updated version of an Economic Community (EurAsEC) which fuses a Customs Union with the Single Economic Space. That is why the bloc inherited the specifics of their aims previously set. Contrary to the EurAsEC, which was a mere international organization, the Eurasian Economic Union is the outcome of a more careful institutionalization process which conferred a solid legal foundation to the regional organization. These specificities, along with the aim of creating an extensive trade network, confers a higher degree of durability and stability to the bloc than the previous post-Soviet integrations could have ever achieved. The international legal personality of the regional bloc is additionally confirmed by two elements: (i) the grant of privileges and immunities not only to EAEU institutions, members of the Collegium of the Commission and judges, but also to employees from national jurisdiction, (ii) the right and ability of the Union to engage, as an independent body, in international cooperation with third states on any matter described in the provisions of the EAEU Treaty.⁸⁷

The main addressees of the Astana Treaty are the Member States as political actors and the “employees”, defined by Article 2 TEAEU.⁸⁸ They must be nationals of an EAEU Member State, hired by the bodies of the organization on the basis of concluded labor agreements (contracts) and who, at the same time, work as non-officials. Employees are often referred to as “business entities”, meaning both a legal entity and an individual registered as a sole owner.⁸⁹

⁸⁵ Karliuk, M., 2015. The Eurasian Economic Union: An EU-Like Legal Order in the Post-Soviet Space?. *Working Papers, Series: Law*, 23 September.

⁸⁶ Vicari, M. S., 2016. The Eurasian Economic Union-Approaching the Economic Integration in the Post-Soviet Space by EU-Emulated Elements. *Revue Interventions économiques*, 29 June. Volume 55.

⁸⁷ Annex 32 to the Treaty on the Eurasian Economic Union

⁸⁸ Article 2 TEAEU is explicitly dedicated to definitions crucial to the understanding of the work of the EAEU: harmonization of legislation, member States, officials, single economic space, common policy, international agreements within the EAEU, agreements of the EAEU with a third party, order, decision, coordinated and agreed policies, employees, customs union, third party, unification of legislation.

⁸⁹ Vinokurov, E., 2018. *Introduction to the Eurasian Economic Union*. London and New York: Palgrave Macmillan.

3.1 EAEU membership

EAEU Countries largely differ in economic scale, population, external trade volumes and, more specifically, in their geopolitical aims. An example of the latter is their need, or not, of oil and gas supplies, a crucial factor when assessing the macroeconomic impact of an oil crisis and the degree of wealth of the different countries.⁹⁰ The EAEU budget is formed out of the contributions of the five States, according to specific shares based on their Gross Domestic Product (GDP): 85.32% by the Russian Federation, 7.11% by Kazakhstan, 4.56% by Belarus, 1.70% by Kyrgyzstan and 1.11% by Armenia.⁹¹

The accession of Armenia and Kyrgyzstan to the Eurasian Economic Union was supposed to take place much later than 2015: the two Countries acceded respectively in January and in May of that year. The process was accelerated by Russia, who contributed also economically to make it possible, as part of its geopolitical strategy to acquire ground in the international scenario and convince the other countries that *its* regional organization was attractive and enlarging.⁹² In this regard, the Eurasian Union serves only as a façade, a political forum where Russia can assert its personal foreign policy aims.⁹³ This decision was not fully welcomed by the partners, especially by Kazakhstan, on the opinion that the criteria of accession would not have been fully met at this speed. In the long run, this fast broadening of the number of EAEU members pushed by political more than economic reasons is proving detrimental to the stability of the Union.

3.1.1 Russia

Before being a Federation, the territory of Russia was first home to one of biggest and richest empires and then to a superpower in the bipolar world during the Cold War. The dissolution of the USSR, the shock economic therapy, the sharp as well as unexpected decline of oil prices in 2012 which caused the devaluation of the ruble and, lastly, the Crimean annexation represent the key factors which led to Russia's political isolation and to a volatile and unreliable economy. Within the Eurasian Union, Russia is the major force of the organization, both in territorial and economic terms, and the strongest in terms of military and economic capabilities. The Country accounts for 85% of the geographical area of the Union, representing the 80% of the total EAEU population. The establishment of the EAEU occurred simultaneously to the beginning of a long period of economic stagnation in Russia, which brought about the depreciation of the ruble and the endorsement of corrupted practices to conclude bilateral deals. Russia, like Kazakhstan, is a rentier state, and its economy is largely dependent on the commerce of few resources, which are all raw materials.⁹⁴ That is

⁹⁰ while Russia and Kazakhstan are exporters of these sources, Belarus, Armenia and Kyrgyzstan are importers.

⁹¹ Lagutina, M., 2020. Common Market of Goods, Services, Capital and Labor in the EAEU. In: Regional Integration and Future Cooperation Initiatives in the Eurasian Economic Union. s.l.:Business Science Reference, p. 110.

⁹² The Russian attitude towards Armenia went against what was solemnly declared by Putin in his 2011 article on Izvestia. He said: “[no one is going] to rush or push. This should be a state's sovereign decision, dictated by its own long-term national interests.”

⁹³ Strzelecki, J., 2016. The Eurasian Economic Union: a time of crisis. *OSW Commentary*, 1 February, Issue 195.

TASSRussianNewsAgency, 2015. *Letter on cooperation between EU, Eurasian Economic Union sent by EC chief to Putin*. [Online] Available at: <https://tass.com/economy/837900> [Accessed 18 May 2020].

⁹⁴ A rentier state is one that receives substantial amounts of oil or other types of revenues from the outside world on a regular basis (US legal dictionary)

why, at the beginning of his fourth mandate, Vladimir Putin launched the “Strategy 2020”, which emphasizes the diversification of the national economy through the development of processing industries.⁹⁵

The behaviour of Russia within the EAEU is ambivalent: on the one hand, being main contributor to the EAEU budget, Russia wants to assert its dominant position within the organization. On the other hand, the Country needs to ensure the internal equilibrium of the EAEU to gain leverage at the international level. Thus, Russia is often ready to make concessions to other countries, which is not exactly how a regional leader (as it was defined in Chapter II) would behave. It seems like Russia does not always practice what it preaches; it instead acts at its own convenience, “through the selective use of subsidies (awards) and threats”.⁹⁶

3.1.2 Kazakhstan

Kazakhstan is the second wealthiest country after Russia and that is why, besides the active role in the path of integration, it has a strong say in the policymaking of the EAEU. Also, Kazakh economy is the only one which did not contract despite the global crisis and Russia’s periods of recession. Kazakhstan is strongly determined to achieve economic cooperation with the neighboring countries. The Country is the only one to have often put emphasis on the openness of the organization, stating the possibility to leave it at any time. During an interview in 2014, a year before the establishment of the Union, President Nursultan Nazarbayev pointed out how the independence of the country is what he needs to preserve the most. Whenever the latter is under threat, national interests will prevail over that of the Union.⁹⁷

3.1.3 Belarus

Belarus accession to the EAEU was an expedient to gain facilitated access to the Russian market, since the national economy strongly relies on oil and gas imports.⁹⁸ In addition, Russia is the main sales market for Belarusian goods as well as the main source of Foreign Direct Investments (FDIs) in the Belarusian economy. At the same time, Belarus represents for Russia the gateway to Europe. By joining the Custom Union, Belarus was even able to overcome the financial crisis experienced in 2011 and to reform its domestic economy. Furthermore, the Country covers a special role in EAEU mutual trade despite the minor economic size, especially with regard to manufacturing-related and food products, where it is second to none in 60% of intra-trade.

⁹⁵ This would create value added to the processed products, which can then be used in multiple ways other than the original.

⁹⁶ Busygina, I., 2019. Russia in the Eurasian Economic Union: Lack of Trust In Russia Limits The Possible”. *PONARS Eurasia Policy Memo*, February, Issue 571.

⁹⁷ “If the rules set forth in the agreement are not followed, Kazakhstan has a right to withdraw from the Eurasian Economic Union. I have said this before, and I am saying this again. Kazakhstan will not be part of organizations that pose a threat to our independence. Our independence is our dearest treasure, which our grandfathers fought for.” First of all, we will never surrender it to someone, and secondly, we will do our best to protect it.” For the full article see: Newsru.com, 2014. *Назарбаев заявил о возможном выходе Казахстана из Евразийского союза [Nazarbayev announced Kazakhstan’s possible withdrawal from the Eurasian Union]*. [Online]

Available at: <https://www.newsru.com/world/31aug2014/nazarbaev.html> [Accessed 18 May 2020].

⁹⁸ A concrete example is provided by Mostafa and Mahmood, who highlighted the difference in the cost of gas supplies between Belarus and Ukraine: they explained how the average cost of gas per 1000 cubic meters in 2012 was \$165 to Belarus and 414\$ to the non-Member.

3.1.4 Armenia

A key feature of Armenia is the exclave nature of its geographic position, and its independence from the Post-soviet territory, since it does not share any border with the other EAEU states. Plus, it is the only country where Russian does not constitute an official language. The Country's decision was pushed by security and economic guarantees from Russia; the former especially with regard to its neighbors Turkey and Azerbaijan, the latter in the field of energy and labour, which the Country would obtain at a discounted price once member to the Union. However, those guarantees were the outcome of a custom, energetic, diplomatic and economic pressure. With regard to Armenia's accession, Kazakhstan President also pointed out his fear of the spillover effects that the frozen conflict in Nagorno-Karabakh could have had on the stability of the Union.

The decision of Armenia to join the EAEU is evidence of the influence Russia is capable to exercise to secure its national interests; in fact, the new membership to the Eurasian Union costed Armenia an Association Agreement with the European Union, which had been under negotiation for a while. However, the 2018 Velvet Revolution which ousted old élites from power and initiated a new process of embodiment of democratic values led the Country to a crossroads: the desire to a rapprochement to Europe (especially having found out a secret Russian arms' sales to Azerbaijan) and the need of Russian resources to avoid the collapse of its economy.⁹⁹

3.1.5 Kyrgyzstan

Due its geographical size, a permanent political instability, high levels of corruption and a mismanaged economy which does not provide for sufficient resources, the Country was attracted by the possibility to intensify its trade relationships with Russia and Kazakhstan (the CES entailed preferential agreements) and to better handle the question of labor migration. Moreover, since its independence, the Country has never lived a peaceful period due to ethnic conflicts and the radicalization of Islamic fundamentalism.¹⁰⁰ The Country signed the "Memorandum on Deepening cooperation" in 2013, and the last of the five to become a formal member of the EAEU. Kyrgyzstan's membership was a formalized bribe from Russia. The latter welcomes many Kyrgyz remittances and hinders the government from plundering into a permanent status of economic isolation. Furthermore, Kyrgyz main trade and transport routes pass through Kazakhstan and if it had not joined the Union, Kazakh borders would have been shut down.

3.2 Institutions of the EAEU (Article 8 TEAEU)

EAEU bodies and procedures are regulated by provisions in sections II and III of the Astana Treaty. The working language is Russian. All decisions within the Union have to be adopted *unanimously*, which confers

⁹⁹ Giragosian, R., 2019. *Paradox of Power: Russia, Armenia, and Europe after The Velvet Revolution | Policy Brief*. [Online] Available at:

https://www.ecfr.eu/publications/summary/russia_armenia_and_europe_after_the_velvet_revolution [Accessed 18 May 2020].

¹⁰⁰ Mostafa, G. & Mahmood, M., 2018. Eurasian Economic Union: Evolution, challenges and possible future directions. *Journal of Eurasian Studies*, 9(2), pp. 163-172.

symmetric power to Member States. Plus, they have veto power, an untouchable aspect according to the ex-President of Kazakhstan. Unlike EU institutions, those in the EAEU adopt their own acts separately. This is an innovative feature within the post-Soviet systems, since it goes against the general principle whereby decisions taken by lower institutions must always seek for the approval at the higher level.¹⁰¹ Nevertheless, the fairness of the EAEU decision-making process is threatened by the so-called “Belarusian elevator”.¹⁰² This mechanism was devised to secure and protect the interests of the Member States because not only it gives the possibility to institutions at the top of the hierarchy to challenge acts adopted at lower levels, but it also allows the single Member State to initiate such challenge.

EAEU bodies are interrelated and follow a precise hierarchy of functions and norms. With regard to the latter, Article 6, para. 4 of the Treaty states that in case of conflict between the decisions of the Supreme Eurasian Economic Council, the Eurasian Intergovernmental Council and the Eurasian Economic Commission (EEC), those of the Supreme Council take precedence over the decisions of the other two bodies, while decisions of the Intergovernmental Council prevail only over the measures enacted by the EEC. As will be seen below, this trait severely hinders the supranationality of the executive body of the Union. EAEU institutions can enact two types of acts: *orders* – which have organizational and administrative nature – and *decisions*, having legal nature.¹⁰³ Pursuant to the Treaty, the decisions of the Commission, which can additionally adopt *dispositions* and *recommendations* (see below), are the only ones having normative character and direct applicability on domestic legal orders.

3.2.1 *Supreme Eurasian Economic Council (Arts. 12-13 TEAEU)*

The Supreme Council is the leading authority of the Union. It is composed of either Heads of State or Heads of Government, on the proviso that there is only one representative for each State. Its main role is to set and monitor the integration process, by devising strategies and directions for facilitating integration. The meetings are scheduled by the Commission and they usually take place once a year. In addition, it regulates the accession process to the EAEU of new States and it is in charge of nominating the members of the Board of the Commission, besides determining their number, term of office and tasks to perform. It can adopt both directives and decisions by consensus, which then become legally binding on Member States. However, they are not directly applicable, as in the case of EEC’s legal acts, since they must abide by national laws, and thus require implementation measures. Together with the intergovernmental Council, they can be compared to the European Council.

¹⁰¹ See the structure of Russian national political system: McFaul, M., 2001. Explaining Party Formation and Non-formation in Russia: Actors, Institutions, and Chance. *Comparative Political Studies*, 34(10), p. 1159–1187.

¹⁰² The system is so named since it was proposed by the Belarusian side during negotiations and it was welcomed by the other parties.

¹⁰³ Article 2 TEAEU

3.2.2 Intergovernmental Council (Arts. 14-17 TEAEU)

According to the EAEU institutional hierarchy, the Intergovernmental Council stands in-between the Supreme Council and the Commission. Its members are the Heads of national governments, competent on ten different areas. Here are some of the main duties of the body: (i) at the proposal of the Commission Council, it is endowed with decisional power over any issue which did not produce consensus in the EEC; (ii) it takes on the role of the Supreme Council when the latter is not in session; (iii) it monitors the compliance with both the Treaty and the Commission's decisions; (iv) it can suspend the decisions of the two bodies of the Commission upon the request of a Member State and (v) it approves the draft Union budget. It is summoned at least twice a year in one of the capitals of Member States.

3.2.3 Eurasian Economic Commission (Article 18 TEAEU)

The Commission is the most important institution with the EAEU, whose establishment marked the transition towards a supranational Union. The EEC works similarly to the European Commission and, on the basis of the principle of equality, it acts to preserve the interests of all Member States, independently of their territorial size, their economic weight within the Union and the population. In this regard, votes are equally distributed: one member equals one votes. EEC members are obliged to act independently, which constitutes one of the supranational features of the body.

It is composed of two management bodies, which work at different levels – the Council and the Board (also referred to as the *Collegium*). The Council is the intergovernmental body of the Commission since it is composed of members of national governments of Member States; precisely, it consists of one Vice Prime Minister of each State. In the Board, the executive body of the EEC, each State is represented by two or three members. The Chairmanship of the Board lasts four years without possibility to renew it and it is chosen through alphabetical order (in 2020 it will be Belarus).¹⁰⁴ The two-tier structure of the EEC differentiates the competences and the voting procedures of the two bodies. Unanimity is the ground rule in both the Council and the Board, yet the latter may need a two-thirds qualified majority when passing legislation on a limited range of issues (e.g. when a Member State breaches a provision of the Treaty). Admittedly, the decision to opt for a consensus procedure is another element to please the political sensibilities of the Member States. The Board is charged with a) representing the interests of the Commission in courts, b) executing the decisions adopted by the Council as well as international treaties which form EAEU law and c) implementing the legal acts issued by the Supreme Council and the Intergovernmental Council.¹⁰⁵ The Council, on the other hand, provides for the legal framework on which EAEU work must be based and determines the areas of advancement of integration. The activities of the two bodies are supported by the side work of 24 departments and advisory committees, charged with drafting the three legal acts subsequently adopted by the Commission

¹⁰⁴ Since the formation of the Board's membership is increasing in importance, at the end of 2019 Armenia (at that time holding the chairmanship) set forth a rotation mechanism that would guarantee a fair distribution of functions and responsibilities in line with the principles of equality and mutual respect for each Member State's interests.

¹⁰⁵ Vicari, M. S., 2016; *supra* (33)

as well as international treaties regulating the foreign activity of the EAEU. By looking at their functions, the Council can be compared to the Council of the European Union, and only the Board to the European Commission.

Pursuant to the Treaty, the EEC was invested with legislative and executive powers, to ensure the necessary conditions to stimulate economic growth. It has competence in a wide range of areas: customs tariff and tariff-non regulation, distribution of import custom duties and many policies such as energy and transport, or anyway having macroeconomic character. Based on Article 5 TEAEU, the Commission may give instructions for coordination of the interaction between Parties in those economic areas not explicitly regulated by the EAEU Treaty, nor by international agreements concluded within the Union. Its work may be accompanied by that of an “ad hoc” subsidiary body – a working group or special committee – in the corresponding areas, in line with the decision of the Supreme Council. Furthermore, the EEC can adopt *decisions* – directly applicable on Member States and forming the EAEU law; *dispositions*, which are organizational and administrative, and *recommendations* (not legally binding), for instance, the removal from a Member State of a national law in breach of EAEU law. All the three acts are adopted by the Board.¹⁰⁶

Some scholars have labelled the Commission a *sui generis* institution. The reason behind this connotation is attributable to the limited supranationality of the body due to the composition and tasks of the Council and the nomination mechanism of the Board Members. The Commission autonomy is profoundly limited by the intergovernmental nature of the EAEU. Indeed, the decisions of the Board can be easily reversed by the “higher” Councils, which can also give orders to the Supranational body.¹⁰⁷ In addition, any decision of the Commission can be amended or repealed following a motion filed by Member States (in this case, the members forming the Council of the body).¹⁰⁸ Another limit to the supranationality of the Commission is that despite being the executive body of the Union, its competences do not include any enforcement mechanism of the Union Law. Hence, in case of lack of fulfillment of an obligation by a Member States, the EEC cannot file any motion against it in the EAEU Court. The activity of the Eurasian Economic Commission is regulated by the Protocol on the Eurasian Economic Commission (Annex 1 to the EAEU Treaty). The headquarters of the EEC are located in Moscow.

3.2.4 *The Court of Justice of the EAEU (Article 19 TEAEU)*

Like the Court of Justice of the European Union (CJEU), the EAEU Court constitutes the judicial branch of the organization, and it acts as an independent judicial authority. The present body is the updated version of the EurAsEC Court, then established to ensure uniform interpretation and implementation of all regulatory measures agreed within the Eurasian Community. Today, the body watches over the correct and homogenous application of the Law of the Union, also when concluding agreements with third parties. The

¹⁰⁶ Article 13 of the Annex 1 to the Treaty

¹⁰⁷ upon proposal of any member State of the EAEU issues on reversal or amendment of the approved decision of the Commission can be reconsidered be brought under the attention of the Supreme Council.

¹⁰⁸ Clause 30 of Appendix 1 to the EAEU Treaty

work of the Court is regulated by the Astana Treaty, the Statute of the Eurasian Court (Annex 2 to the Astana Treaty, hereinafter “the Statute”) and by the Rules of Procedure. The EAEU Court can pass two types of acts: *judgements*, which are adopted after the consideration of a case, and *orders*, adopted in the course of proceedings on procedural matters of functioning of the Court. Article 53 of the Statute outlines the principles to be observed when ruling on judicial proceedings: independence of judges; transparency of proceedings; publicity; equality of the parties to the dispute; adversarial nature of the judicial proceedings and collegiality. Along with the Commission, it is considered as the second supranational body within the EAEU, even though no hint at supranationalism is provided in the documents regulating its activity.

With regard to membership, each State is represented by two members, nominated and dismissed by the unanimous decision of the Supreme Council. Their mandate lasts 9 years, but it can be interrupted upon the request of a Member State under certain conditions.¹⁰⁹ In addition, there are two presiding judges charged with guiding the activities of the Court, elected within the body for a period of three years.

The Eurasian Court acts upon request of either a Member State or a business entity.¹¹⁰ The former’s requests concern acts of omission from the Commission as well as disputes on the compliance of an international treaty or an EEC’s decision with the Astana Treaty or on a breach of the Treaty by one or more Member States. The latter’s appeals are accepted when one of their rights or legal interests is breached by the Commission. The Court can exercise its competences on matters beyond general disputes if explicitly provided for by the Treaty.¹¹¹

There are three type of proceedings under the watch of the EAEU Court: infringements, action for annulment and failure to act.¹¹² Unlike the CJEU, the Eurasian Court was not assigned the preliminary ruling procedure.¹¹³ The body can only provide *clarifications* to provisions of the EAEU treaty, international treaties concluded within the Union and decisions of its bodies.¹¹⁴ Hence, it is an advisory procedure, only consultative, which more or less resembles that of preliminary ruling.¹¹⁵ This leaves Member States to choose whether to take it into account or not, pursuant to their right for joint interpretation of international treaties.¹¹⁶ Such mechanism renders Court’s decisions non-binding. The powers of the Court are furtherly limited by the fact that its decisions cannot neither amend nor annul EAEU and domestic laws, nor it was endowed with law-making competences.¹¹⁷ It is the Constitutional Courts of each Member state to be endowed with the powers

¹⁰⁹ Article 13 of the Court’s Statute

¹¹⁰ Article 39 of the Court’s Statute

¹¹¹ Article 40 of the Court’s Statute.

¹¹² The same procedures are shared by the European Union: see. Article 256 (TFEU)

¹¹³ Article 269 (TFEU)

¹¹⁴ Article 46 of the Court’s Statute

¹¹⁵ The lack of this mechanism not only narrows the principle of legal interpretation, but also hinders the deepening of the integration process there is no ongoing confrontation between the national and Eurasian legal systems through a dialogue between national constitutional courts and the EAEU Court.

¹¹⁶ Article 47 of the Court’s Statute

¹¹⁷ According to Article 102 of the Court’s Statute, “With regard to judgements by the Grand Chamber of the Court on a decision of the Commission, they should be observed within the 60 days from the execution of that judgement. [...] If the misconduct of the Commission protracts in time, a Member State may decide to refer the matter to the Supreme Council (para. 114), thus undermining the authority and supranationality of the Court.”

of constitutional review and compatibility of the Union Law. The headquarters of the Court are located in Minsk.

3.2.5 *Eurasian Parliament: a failed institutional attempt*

The EAEU does not have any political body of “accountability”, as it is the case of the European Union with the European Parliament, whose initially limited sphere of competence was then broadened to increase the degree of representativeness of the European citizens as well as the transparency of the legislative procedure. A possible Eurasian Parliament was envisaged in the 2012 Draft Treaty on the Eurasian Economic Union. Nonetheless, it was discarded since it was not deemed a “necessary undertaking” for its inability to create economic laws, at that time crucial for the advancement of the integration process.¹¹⁸ Drawing on the model of the EU, scholars contend that the presence of an institution of democratic accountability could facilitate the harmonization of the activities of legislative, executive and administrative bodies of the EAEU, therefore enhancing economic integration. However, the fact that decisions in the EAEU are taken by representatives of national governments, which are instead accountable to national parliaments, provides a level of answerability to the organization sufficient enough to consider the establishment of a parliamentary body a premature idea. Yet, in 2019, Armenian President Sarkissian reiterated the necessity to establish a parliamentary body of discussion and that a possible starting point could be that of increasing the number of meetings involving a greater quota of members of national parliaments.

¹¹⁸ Mukhitdinov, M., 2020. The Eurasian Economic Union and Integration Theory. In: s.l.:Palgrave, pp. 96-97.

Chapter 4 Normative framework of the Eurasian Economic Union

The Treaty on the Eurasian Economic Union (TEAEU), also called “Astana Treaty”, is a regional trade agreement which forms the legal basis of the EAEU. It was signed on July 24th, 2014, after four rounds of negotiations by the Troika Presidents Alexander Lukashenko, Nursultan Nazarbayev and Vladimir Putin, in presence of Serzh Sargsyan and Almazbek Atambayev (Presidents of Armenia and Kyrgyzstan, respectively). It formally entered into force on January 1st, 2015. Besides being based on the principles of international law, the Treaty was drafted so as to be in line with the WTO law since all EAEU Members, but Belarus, are parties to the World Trade Organization.

The Treaty is composed of 4 parts, including 28 sections for a total of 118 articles. It was additionally incorporated with 33 annexes, which provide crucial details for the correct implementation of the document (e.g. Protocol on the Eurasian Economic Commission, the Statute of the Eurasian Court, Protocol on Customs and Tariffs).

Part I (Sections 1-4) includes general provisions on the establishment of the Union, listing its operational principles and values along with the areas of jurisdiction. It sets forth the regulatory framework of both the internal and external activities of the Union, defining the procedures and powers of the four institutions.

Part II (Sections 5-12) is centred on the operation of the Customs Union. It foresees (i) the creation of an internal market, (ii) a common trade regime with relevant principles guaranteeing the free intra-territorial movement of goods, pursuant to the EAEU Customs Code; (iii) the establishment of a Common Customs Tariff vis-à-vis third states, and (iv) a consumer protection policy to ensure consumer rights. This part also regulates the coordination of foreign trade policies, since States autonomously determine their own, and it establishes the labelling requirements for internal goods.¹¹⁹ Moreover, it monitors EAEU membership to International Organizations (IOs).

Part III (Sections 13-26) constitutes the core of the Treaty: it regulates the Single Economic Space and encompasses all macroeconomic policies intended to fulfill an advanced level of integration. These includes the monetary and financial policies, the coordination of exchange rates and the mutual access to national money markets in territories other than the one concerned. It also comprises separate policy regimes with regard to energy, transport and labour migration, the latter in line with the aim to achieve a single labour market.

Part IV (sections 27 and 28) consists of concluding provisions and technical nuances with regard to admission and withdrawal procedures, the working language, as well as privileges and immunities of the members of the two supranational bodies (EEC and EAEU Court).

In comparison with the European Union, which has a dual-treaty bases – Treaty on the European Union (TEU) and Treaty on the Functioning of the European Union (TFEU) – the legal basis of the Eurasian Union can appear feeble and poorer in content. In details, the TEU comprises 55 articles and sets out the objectives and principles of the EU, while the TFEU contains 358 articles, illustrating the organizational and functional

¹¹⁹ Each good produced within the EAEU must be labelled with “Eurasian compliance”.

features of the European Union. In addition to the Treaties, there are 37 protocols and 65 annexes, plus the Charter of the Fundamental Rights of the European Union which, since its entry into force in 2009 with the Lisbon Treaty, is legally binding on EU Member States.

4.1 Principles and competences within the EAEU

Unlike the TEU and TFEU, the TEAEU does not provide for an exhaustive section with regard to common values and human rights, nor it takes them into account when considering the accession of a new state.¹²⁰ Articles 1 and 4 of the Treaty are evidence that the current EAEU normative framework does not envisage any integration with regard to non-economic elements – political, cultural, social, etc. The poor dimension of values within the EAEU cadre can be found in the Preamble and Article 3 of the Treaty. In the Preamble, the signatories formalized their desire for deepen solidarity and cooperation between nations of the Union, taking into account the different civilizations and the cultural legacy inherited from the Russian Empire. Furthermore, they pointed at the *unconditional compliance* with the principle of supremacy of constitutional rights and liberties of individuals and citizens and concluded with a reference to the principles of international law as well as those provided by the 1945 UN Charter, with no reference to the Universal Declaration of Human Rights. Besides that, the Astana Treaty does not envisage the formalization of any document protecting fundamental human rights.¹²¹ This will soon represents an element of collision between the EAEU legal practice and the international standards for the safeguarding of human rights. In fact, the jurisdictional scope of the EAEU Court only extends to the instances brought either by Member States or economic agents in case of conflicting domestic laws. Moreover, it does not include any procedure in case of breach of human rights by the EAEU institutions. The only exception applies to the nationals of those Countries which are parties to the European Convention of Human Rights (ECHR), who can seek additional protection by appealing to the European Court of Human Rights (ECtHR) in Strasbourg. Nevertheless, until today, only citizens of the Republic of Armenia and Russian Federation have access to it.¹²²

The “basic principles” to observe are provided in Article 3 of the Astana Treaty. They include: the respect of commonly recognized principles under International Law, with particular emphasis on *sovereign equality, territorial integrity* and *mutually beneficial cooperation*. Additional key values are the respect of the different political and economic structures and national interests, as well as the guarantee of the principles of market economy, non-discrimination and fair competition so as to allow for the correct functioning of the Customs Union. Today, territorial integrity is still the most debated value within the EAEU. This is because

¹²⁰ Article 2 (TEU)

¹²¹ Article 6 (TEU) legitimizes the EU Charter of Fundamental Rights and envisages the accession of the EU to the European Convention for the Protection of Human Rights and Fundamental Freedoms

¹²² The Republic of Armenia became full member of the Council of Europe on January 25th, 2001 and ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms on April 26th, 2002. Russia, on the other hand, became member on February 28th, 1996 to then accede the Convention on May 5th, 1998. With regard to Russia, its membership was resumed on June 2019 after a 5-year period of suspension following the Crimean annexation. Its return was described as “undiplomatic” and caused institutional chaos within the Council of Europe. More on: Busygina, I. & Kahn, J., 2019. Russia, the Council of Europe, and “Ruxit,” or Why Non-Democratic Illiberal Regimes Join International Organizations. *Problems of Post-Communism*, September, 67(7), pp. 1-14.

by the time the Treaty became effective in 2015, Russia had already annexed Crimea. The reference to the principle already in the Preamble serves as a reminder “to the EAEU Member States and other countries of the post-Soviet area to consider the membership in the EAEU as best guarantee of their territorial integrity and sovereignty within their post-Soviet borders”.¹²³

According to Article 5.1 TEAEU, “The EAEU shall perform the scope of functions within the limits established under the present Treaty *and* international agreements within the EAEU.” Contrary to the European Union, which acts under the provisions of the TEU and the TFEU, the law of the Eurasian Economic Union allows the Parties to additionally avail themselves of other international agreements concluded either before the Union was formed or with states which are not members to the regional bloc. Article 6 of the Treaty defines it as the “Law of the Union”, which in a way may correspond to the Law of the European Union. The article establishes the hierarchy of legal sources on which the EAEU activity is based: 1) the Treaty; 2) international agreements within the Union; 3) international agreements between the EAEU and the third party; 4) decisions and resolutions of the EAEU bodies conform to their authorities provided under the legal acts at points 1) and 2).

Moreover, Article 5 TEAEU mentions two types of competences: *coordinated* and *agreed*. A “coordinated policy” is a policy – *assuming the implementation of cooperation* among Member States on the basis of *common approaches* – approved within the bodies of the EAEU, aimed to achieve the objectives of the EAEU under the present Treaty. An “agreed policy”, on the other hand, is a policy *implemented* by Member States in various fields, *assuming harmonization* of legal regulation, on the basis of the decisions taken at the EAEU level, to the extent necessary to achieve the objectives of the EAEU Treaty.¹²⁴ The differentiation of competences is an additional element emphasizing the reluctance of Member States to cede part of their sovereignty. With regard to the European Union, in light of the recognized supranationality of the Union but respectful for state sovereignty, the TFEU was drafted as to include four categories according to the field under question (Arts. 2-6): exclusive, shared, coordinating and complementary.¹²⁵

Due to its contents, which certainly highlight the economic rationale behind the organization, the Treaty is quite state-centric: as a matter of fact, no such principles as those of *subsidiarity* and *proportionality* were envisaged. In this regard, EU law recognized in them an additional tool of coordination between national parliaments and government and the European Union in the decision-making process.¹²⁶

¹²³ Petrov, R. & Kalinichenko, P., 2016. On Similarities and Differences of the European Union and Eurasian Economic Union Legal Orders: Is There the ‘Eurasian Economic Union Acquis’?. *Legal Issues of Economic Integration*, 43(3), pp. 295-308.

¹²⁴ The two definitions are accompanied by that of “common policy” which, like the agreed policy, is implemented by the Member States, but in this case, concerns those areas provided under the Treaty and it assumes the application by Member States of uniform legal regulations, holding into account the decisions at the EAEU level.

¹²⁵ Exclusive means that in those specific fields on the EU alone can act; shared concerns residual powers and comprise those areas which require the action of both the EU and Member States. Those of coordination and support represent an innovation of the Lisbon Treaty, whereby the Union can assist Member States on the implementation of certain policies.

¹²⁶ The principles are provided in Article 5 (TEU). To enhance the participation of national parliaments in the legislative process and ensure that citizens are as close as possible to the decisions adopted at the Union Level, the Parties to the Treaties have adopted the Protocol (No 2) on The Application of The Principles of Subsidiarity and Proportionality (Lisbon, 13 December 2007)

4.2 Arts.108 & 118 TEAEU: Accession and withdrawal

Geographically speaking, the EAEU cannot be identified within a delimited geographical space, as it is the case of the European Union. For example, Armenia does not share any border with any of the other Member States; Belarus is in-between Europe and Russia, “trapped” in the common neighborhood while Kazakhstan and Kyrgyzstan are located in Central Asia. Nonetheless, as outlined in Article 108 of the Treaty, which regulates the accession to the EAEU, the geographical conformation of the Eurasian Union does not have any influence on the criteria of accession to the regional organization. The different understandings of the territorial extent of Eurasia might reflect on the enlargement of the Union and transform it into an *interregional* organization involving the *whole* Eurasian continent. In addition, the regional connotation of the organization (Article 1 TEAEU) may be at issue with the provisions outlined in Article 108, which points at the open nature of the EAEU towards any state willing to be part of it, on the proviso that it shares the aims and principles of the Union. The Supreme Council is the body charged with handling the accession process: the decision to grant the request of the candidate State will be taken consensually. The body will then institute a working group charged with the draft of the international accession agreement, with all requirements to satisfy and the extent of the rights conceded within the Union. Article 63 TEAEU establishes the “*Main Macroeconomic Indicators Determining Sustainability of Economic Development*”, which represent the three quantitative reference parameters to accede the Union. The annual deficit of Member States must not exceed 3% of the domestic GDP, the national debt must stay within the 50% of national GDP and the Consumer Price Index (CPI), measured on a yearly basis, has to be lower than 5 percentage points the inflation rate in the member State where this index is the lowest.

In the case of the European Union, the accession is preceded by a transitional phase.¹²⁷ One of the core provisos to initiate accession negotiations is to belong to the European territory.¹²⁸ With regard to political requirements, the candidate states must have stable institutions which ensure the observance of democratic values, the rule of law, human rights and respect for and protection of minorities. At the economic level, the Country must comply with the four Maastricht convergence criteria, namely, price stability (by keeping the inflation rate at 1.5%), a steady exchange rate, low interest rates in the long run and sound public finances, in terms of government deficit and public debt. Finally, the decision of accession must have the citizens’ support through a referendum.

When comparing the accession processes of European and Eurasian integrations, the latter is simpler and faster. In fact, it does not foresee any sort of democratic conditionality: the only political (and juridical) proviso is the respect for the primacy of *jus cogens*. The core element determining the accession to the EAEU is the compatibility of commercial and production standards, which hinders the candidate state to be simultaneously part of both the Eurasian and European Unions.¹²⁹

¹²⁷ During this period, candidate states must comply with transitional provisions enlisted in chapter 5, Title IV of the TFEU

¹²⁸ Article 49 TEU (extract): Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union.

¹²⁹ Angeli, A. & Di Gregorio, A., 2017. *The Eurasian Economic Union and the European Union: Moving Toward a Greater Understanding*. The Hague, The Netherland: Eleven: international publishing.

Article 118 TEAEU regulates the withdrawal from the Eurasian Economic Union, whose formalization requires the unanimous decision of the Supreme Council, without the vote of the Member State involved. The latter has the duty to settle its financial obligations incurred in connection with its participation in the Treaty: this obligation stays in place even after the termination of the Treaty, until fulfilled. In the case of the European Union, the procedure is regulated by Article 50 TEU, and it involves three institutions: the European Council, the Council of the European Union and the European Parliament (for approval).¹³⁰

4.3 Constitutional Sovereignty and primacy of EAEU Law

Being part of a regional association means complying with a regulatory framework which asks Member States to adapt their national laws to the former and to give up part of their decision-making power to a supranational entity. Theoretically, national constitutions are designed to integrate international legal sources. The *principle of direct applicability* is a major novelty within the normative framework of the EAEU as it was formally introduced with the creation of the Customs Union in 2011: since then, the application of the Treaty provisions does not require any national implementation measure. Nonetheless, direct effect can cause the law of a supranational entity (in the present case EAEU law) to come into conflict with national law. Another core tenet in this regard is the principle of supremacy, which deals with the way this conflict, once ascertained, will be solved.¹³¹ The correct observance of the principles of direct effect and supremacy within the Union is not fully ensured. On the other hand, in the case of the EU, the two principles enable any natural or legal person to challenge state actions against EU law. At the time being, the EAEU subjects are not endowed with such right, which is only reserved, besides Member States, to economic entities, as provided by paragraph 39 of the Statute of the Court.¹³² This is mainly due to the lack of any enforcement procedure by the Eurasian Court of Justice, whose role is more rhetoric than pragmatic (see below), and the absence of a preliminary ruling mechanism on the correct interpretation and application of the Union law. Furthermore, while the European Union law has developed a solid case history on direct effect of EU law and how to act in case of incompliance of the national law with the former, the EAEU is silent on the mechanisms to adopt in this regard.¹³³

In the case of the Eurasian Union, national Constitutional Courts perform a higher function than the Union Court with regard to the determination of the exact meaning of a Treaty provision as well as the circumstances where it can be applied. The prevalence of Constitutional legal orders threatens the recognition of the principles of supremacy, direct applicability and direct effect of the Union Law on domestic legal orders. This is furtherly accentuated by the tendency of EAEU States to circumvent the established (and, technically,

¹³⁰ The clause on withdrawal from the EU is the last innovation in the integration process of the EU, introduced since the entry into force of the Lisbon Treaty in 2009.

¹³¹ Waelbroeck, M., 1982. The Emergent Doctrine of Community Preemption: Consent and Redelegation. In: T. Sandalow & E. Stein, eds. *Courts and Free Markets: Perspectives from the United States and Europe*, 2 vols. s.l. Oxford University Press, pp. II, 548–80.

¹³² A partial exception concerns Armenian and Russian citizens, who can appeal to international courts for the protection of their rights thanks to the membership of their respective countries to the Council of Europe. See: Articles 61 and 81 of the Constitution of the Republic of Armenia; Article 46.2 of the Russian Constitution.

¹³³ See: *Simmenthal II*, Case 106/77 (1978); *Ministero delle Finanze v. IN. CO. GE '90*, Cases C-10- 22/97 (1998).

agreed) body of law. At present, the primacy of national constitutional law over the Astana Treaty is only regulated by explicit conditions approved by the Constitutions of Russia and Kazakhstan, which expect national law to prevail in case of sensitive matters (see below). Hence, one cannot expect the uniform observance of the Treaty throughout the Union.

To assess the extent of the influence of the EAEU law on domestic legal orders, one must acknowledge the *partial compatibility* of the constitutional orders of Member States with the EAEU legal order. An explanation can be found in the national provisions of the Member States with regard to the verification of conventionality and compliance of legal acts adopted both by a supranational organization and through international agreements. This occurs prior to its entry into effect at the request of the President or another constitutional body. The check is performed by a Constitutional Court in the case of Armenia, Belarus and Russia, by a Constitutional Council in Kazakhstan and a Constitutional Chamber in Kyrgyzstan. Each national parliament acts on the basis of the “*Law on international treaties*”, which establishes the procedures for the conclusion, execution, suspension and denouncement of international treaties.¹³⁴ With regard to membership to a supranational organization, only the Russian and Belarusian Constitutions provide for an *ad hoc* provision.¹³⁵

Russia. The supreme legal force and direct effect of the Constitution of the Russian Federation is recognized as a fundamental principle of the Constitutional system. Principles and norms of international law as well as ratified international treaties form an integral part of the national legal system.¹³⁶ Nonetheless, it is stated that when external treaties provide for norms different from the national norms, the former should apply. Plus, as in the case of Belarus, those provisions not requiring the issuance of interstate acts for their application are directly applicable.¹³⁷

Belarus. As a general principle of law, the Constitution has supremacy over any other legal act.¹³⁸ The only exception are the universally acknowledged principles of international law, which national laws must comply to (Article 8 Belarusian Constitution). With regard to international treaties, the Republic voluntarily join or withdraw any interstate formation. Once party to a Treaty, the new rules are incorporated into national legislation and usually have direct applicability.¹³⁹ Belarus is the only EAEU Country to provide for a specific mechanism called “conventionality control”.¹⁴⁰

Kazakhstan. Kazakh constitutional law, which has the highest juridical force and direct effect on the national territory, defines international agreements (and commitments) as “functioning law” of the Republic. By ratifying an international treaty on membership to an interstate association or international organization,

¹³⁴ In case of Armenia, it is a parliamentary decree by the National Assembly (Article 81.2 Constitution); in case of Russia, the ratification procedure involves a second stage since the act must be also approved by the Upper House, as provided by Article 106 of the Russian Constitution

¹³⁵ Article 79 Russian Constitution; Article 8.2 Belarusian Constitution

¹³⁶ Section I, Article 15 Russian constitution

¹³⁷ Article 5 Federal law no. 101-fz of July 15, 1995 on the International Treaties of the Russian Federation

¹³⁸ Article 7 Belarusian Constitution

¹³⁹ Article 27, On International Treaties of the Republic of Belarus – Law of the Republic of Belarus., October 23, 1991 No. 1188-XII

¹⁴⁰ Article 106 of Belarusian Constitution

the Republic of Kazakhstan agrees to the partial transfer of exercise of its sovereign rights to them and to the legal binding character of decisions of their institutions.¹⁴¹ The ratification recognizes the primacy of such agreements over national law. Conditions of operation of international agreements on the national territory will be set by national law.¹⁴²

Armenia. In matter of norms and laws, the Constitution has supreme legal force, followed by general laws and secondary regulatory legal acts. In case of conflict between the norms of international treaties ratified by the Republic of Armenia and those of laws, the norms of international treaties shall apply.¹⁴³ Article 205 of the Constitution stipulates that accession to supranational organizations shall be regulated through referenda.

Kyrgyzstan. The Constitution shall have supreme legal force and direct application in the Kyrgyz Republic. Universally recognized principles of international law and ratified international treaties are a constituent part of the national legal system. In particular, clauses on human rights have primacy over other international provisions and are directly applicable.¹⁴⁴ With regard to the cession of part of sovereignty, the law of Kyrgyzstan explicitly mentions the “*transfer of the exercise of a part of the Republic’s power*”.¹⁴⁵

As far as the principle of supremacy is concerned, the general rule is that none of the Constitutions of EAEU Member State allows for primacy of the Eurasian Union Law on national legal orders. This occurs only in case of conflicting national legislation, and even in this regard, the history of disputed cases has often highlighted the resistance of Member States against any international agreement overriding their national decisions. EAEU law supremacy is guaranteed with regard to international agreements as well as with decisions and directives approved within the EAEU institutions.¹⁴⁶

With regard to the recognition of the European Union as a supreme and independent legal order, the primacy of EU law over national law was acknowledged in the *Costa v. ENEL* case.¹⁴⁷ Nonetheless, the original *absolute* supremacy was made *relative* with regard to the safeguard of fundamental rights, as confirmed in the *Solange I* and *Solange II cases* (“Solange” is the German word for “as long as”). It was established that as long as the European law did not develop provisions with regard to fundamental rights deemed equivalent to those provided by in national constitutional courts, the latter would prevail, so as not to not infringe supreme rights. Thus, it would be EU law to be disapplied, and not national law.¹⁴⁸

¹⁴¹ Article 11 of the Law of Kazakhstan

¹⁴² Article 4 Kazakh Constitution

¹⁴³ Article 5 Armenian Constitution

¹⁴⁴ Article 6 Kyrgyz Constitution

¹⁴⁵ Article 11 of the Law of Kyrgyzstan of April 24, 2014 No. 64 about international treaties

¹⁴⁶ According to Article 6 TEAEU, “In case of conflict between international agreements within the EAEU and the present Treaty, the present Treaty shall have a priority.”

¹⁴⁷ Judgment of the Court of 15 July 1964. *Flaminio Costa v E.N.E.L.* Reference for a preliminary ruling: Giudice conciliatore di Milano - Italy. Case 6-64., 1964:66

¹⁴⁸ *Solange I* - Internationale Handelsgesellschaft von Einfuhr- und Vorratsstelle für Getreide und Futtermittel, decision of 29 May 1974, 1974; *Wunsche Handelsgesellschaft (Solange II)*, 1987.

The Eurasian counterpart was the 2015 *Avangard-Agro-Orel* judgement by the Russian Constitutional Court.¹⁴⁹ The issue concerned the refusal of the Court to recognize the direct applicability of a decision of the Eurasian Commission and of the subsequent judgement of the then EurAsEC Court, complaining they both had violated the constitutional foundations of the Russian Federation along with national standards of human rights protection.¹⁵⁰ During the case, that of “legal certainty” was recognized as a core constitutional principle. The judgement constitutes evidence of the fact that a *back-door approximation* of the EU law was taking place in the EAEU. By that, it is meant “the approximation that is achieved indirectly – that is why it was defined “back-door” – whether intentionally or not, via the means of other legal systems that already incorporate approximated legal norms or envisage such approximation.”¹⁵¹

Such indirect alignment with the European Union *Acquis Communautaire* was always envisaged by the promoters of the EAEU project, as they have often reiterated the importance to draw from the best western legal practices to improve especially those areas not optimally regulated under the Astana Treaty. In addition, the reference to the EU model with regard to legal acts and judicial decisions enhances the credibility of the Eurasian body of law, probably hinting at and pushing in favor of a mutual beneficial cooperation between the two regional organizations. It follows that, bearing in mind the incidence of this mechanism of law-approximation along with the evolutionary integrational path of the organization, one might consider the presence of a sort of “EAEU acquis”.¹⁵²

¹⁴⁹ Judgment of the Constitutional Court of the Russian Federation, *Avangard-Agro-Orel Ltd*, No. 417-O, 3 Mar. 2015

¹⁵⁰ This case was crucial in the functional development of Eurasian Court. The fact that current body has less judicial power than the previous Court is due to the decision of Russia to limit the supranational judicial influence on national constitutional orders.

¹⁵¹ Karliuk, M., 2014. Legislative approximation and Application of EU Law in Belarus: "Backdoor Approximation". In: P. V. Elsuwege & R. Petrov, eds. *The Application of EU Law in the Eastern Neighbourhood of the European Union: Towards a Common Regulatory Space?*. London: Routledge.

¹⁵² Petrov, R. & Kalinichenko, P., 2016; *supra* (123)

Chapter 5 EAEU shortcomings

5.1 The Eurasian integration process

The Eurasian Economic Union has thus far been characterized by a multi-level and multi-speed process of integration. By multi-level it is meant the engagement of certain states to keep up with the developmental path pursuing specific aims while leaving other states the possibility to hold back if against some of the mechanism involved throughout the process. Multi-speed, on the other hand, is the expression used to indicate the non-uniformity character of the said process, due to the varying degree of readiness of states to handle its intensity. As a matter of fact, the original signatories of the Astana Treaty, and of the previous agreements leading to regional convergence, were only Belarus, Kazakhstan and Russia. Furthermore, there is not one single regulation which was simultaneously implemented in all five Member States since the establishment of the Union in 2015. Another explanatory reason to the multi-speed nature of the Eurasian integration is the fact that the economic fragility of the old Soviet system was incorporated within the new arrangement, carrying along distorted prices, market irrationality and “customized” mutually beneficial trade agreements. A similar argument was made with regard to the European Union, by talking about a “*Europe à la carte*”. This is a differentiated integration method through which all states engaged in the European project select the number and order of policies to implement in their territories, as if they were choosing from a menu, when able and willing to advance. This process paved the way for a multi-level and multi-speed Europe. It is linked to the readiness of some Member States to give up part of their sovereign powers.¹⁵³

An integration organization should not expand for the sake of expansion.¹⁵⁴ Besides the multi-speed connotation, another key issue was the pace at which the integration occurred. That of the Eurasian Union has been an “all and at once” evolution.¹⁵⁵ If we are to take the evolutionary path of the European Union as yardstick, the regional integration process of the EAEU has been unfolding much faster. The reasons behind the pressure over the institutionalization of the Union reside in circumstances external to the Union. The first is attributable to the global economic recession in 2008-2009 while the second was one of the many unintended effects of the Russian annexation of Crimea, which was a sort of “stab in the back” to the other Member States. To make a comparison, the pattern of the EAEU evolution goes against what Robert Schuman affirmed in his 1950 Declaration: “*Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity.*”¹⁵⁶

However, the accelerated pace of Eurasian development was an idle boast to the Troika Presidents, who seemed only to care about how much faster and more efficiently their Union consolidated relative to the European counterpart. In 2011, when the “Declaration on the Eurasian Economic Integration” was signed, President Vladimir Putin claimed that he and his fellow Presidents Lukashenko and Nazarbayev had learned

¹⁵³ An example can be Denmark, which is part to the Schengen agreement but called itself out of the communitarian method at the third stage of integration, namely, the adoption of the euro currency.

¹⁵⁴ Vinokurov, E., 2018. *Introduction to the Eurasian Economic Union*. London and New York: Palgrave Macmillan.

¹⁵⁵ Yesdauletova, A. & Yesdauletov, A., 2014. The Eurasian union: Dynamics and difficulties of the post-soviet integration. *Trames, Journal of the Humanities and Social Sciences*.

¹⁵⁶ Fondation Robert Schuman, 2011. Declaration of 9th May 1950 delivered by Robert Schuman. European Issue no.204, 10 May.

from the strengths and weaknesses of other initiatives of regional associations. He went on saying that, contrary to the EAEU, “It took Europe 40 years to move from the European Coal and Steel Community to the full European Union.”¹⁵⁷

Likewise, in 2014, during his speech at Lomonosov University, the Kazakh President explicitly emphasized the “tardiness” of the European integration process, by stressing on the number of years which each different step took to be achieved:

*“For reference, the process of integration in Europe took 11 years to create a customs union, 34 years to form a common market and 40 years to form an economic and monetary union [...] Now, Eurasian integration does not have such a wealth of time.”*¹⁵⁸

Nevertheless, by looking at the dates marking the different steps of the EAEU, the timespan between the signing of a commitment to achieve a further level of consolidation and the actual implementation of that goal does not seem to match the arguments supported by the two Presidents with regard to the velocity of integration. The Astana Treaty was signed in 2014, exactly twenty years after the speech at Lomonosov University, pointing to the fact that the integration, setting aside the whole “economic versus political discourse”, was primarily rhetorical. Being a relatively new regional bloc, the differentiated integration method, the variable geometry and the accelerated pace of the whole integrative process made it hard for experts to quantify the results hitherto achieved. This excessive speed left key issues unsolved, which are now hindering the new foreseen stages of integration.

5.2 Supranationalism v. intergovernmentalism

Supranationalism presupposes the transcendence of national boundaries in favor of collective decisions which affects a certain Union or Community as a whole. Technically, supranationalism can be seen as an advanced stage of intergovernmentalism, where the concerted action of member states within an organization does not stop at cooperation but enters a new process, that of integration. As it was already emphasized, integration (let it be economic or political) demands to the participant states to transfer part of their powers and competences to a central supranational authority, whose regulations are legally binding on domestic legal orders. To be classified as “supranational”, a political body must have six core features: 1) the decisions adopted at the organizational level are legally binding; 2) the possibility for the entity’s institutions to act independently of the cooperation of Member States; 3) the regulations of the said institutions should have direct effect; 4) the supranational body is endowed with an enforcement mechanism of Union law; 5) the organization should be financially independent; 6) the withdrawal of one Member State must be regulated by the supranational entity and it cannot occur unilaterally.¹⁵⁹

¹⁵⁷ Putin, V. V., 2011. Новый интеграционный проект для Евразии – будущее, которое рождается сегодня” [“A new integration project for Eurasia – the future, which is being born today”]. *Izvestiya*, 3 October.

¹⁵⁸ Nazarbayev, N. A., 2014. *From The Idea Of The Eurasian Union – To New Perspectives Of The Eurasian Integration*”, *Speech of The President of Kazakhstan Nursultan Nazarbayev at the Lomonosov Moscow State University*.

¹⁵⁹ Schermers, H. G. & Brokker, N. M., 2003. *International Institutional Law: Unity within Diversity*. 5 ed. Leiden: Martinus Nijhoff Publishers.

The political discourse between intergovernmentalism and supranationalism within the Eurasian Economic Union still presents a lot of unanswered questions. Some answers can be found by analyzing the role and organizational structure of the Eurasian Economic Commission, but even its functions present contradictions.

The adjective “supranational” was mentioned by Vladimir Putin in 2011, describing their regional project as a “powerful supranational association”.¹⁶⁰ Besides this occasion, the word is only explicitly used twice in Treaty, and in neither case with reference to the Commission, limiting to the institutional apparatus in general. It occurs in Article 38 TEAEU on Foreign trade in Services, stating how the implementation of coordinated policy between Member States and third states attributed to the EAEU cannot be considered a supranational competence. The second case involves Article 103 TEAEU, which provides for the measures to achieve the objectives set out in Article 70 TEAEU concerning the principles of coordination and regulations of financial markets by 2025. It is written that the harmonization of such measures will be carried out by a supranational body charged with specific powers and functions.

Practically, the dichotomy between supranationalism and intergovernmentalism manifests in the priority given by Member States to their national interests. This is accentuated by the fear of Armenia, Belarus, Kazakhstan and Kyrgyzstan that pooling sovereignty simply means ceding it to Russia and strengthen its already predominant position within the Union.

5.3 Economic asymmetries

The Gross Domestic Product is the primary index of economic health of a country, to then be compared to that of other countries. According to the GDP monitoring by the Eurasian Development Bank (EDB), the difference in production levels between the wealthiest EAEU countries, Russia and Kazakhstan, and the poorest (Kyrgyzstan) is over sevenfold. This represents a major hurdle to the development of the Union. All five national economies are poorly differentiated and not sufficiently strong to survive on their own resources, since they lack objective economic and technical capabilities. This translates in a strong economic interdependence of the states. Hence, there are high chances that a slowdown in one economy will spill over on the others. The mutual economic over-reliance was noted through the detrimental consequences of the sharp decline of world market prices of many raw materials (especially of oil) and Western sanctions.

The economic interdependence is furtherly accentuated by the telluric geography of EAEU Member States. Most of the Post-Soviet states are landlocked, which makes them heavily reliant on their immediate neighboring countries for demand of resources and access to the world market.¹⁶¹ According to the World Bank (WB), continentality lowers the average growth rate by 1.5% compared to coastal states; also, the trade turnover of a bloc of landlocked countries compared to one that includes the employment of sea for resources

¹⁶⁰ Putin, V. V., 2011; *supra* (157)

¹⁶¹ Belarus is the largest landlocked country in Europe, Kazakhstan is the analogue in Asia. Kyrgyzstan is amongst the countries in the world much elevated over the sea level.

and reduced transportation costs is 30% lower.¹⁶² In addition, mutual trade is hindered by two factors: long distances between a country and another, which imply huge transportation costs and Armenia. Trade with the latter occurs almost exclusively through Georgia, archenemy of Russia and territory to frozen conflicts in the regions of Abkhazia and South Ossetia.¹⁶³

The economic asymmetry amongst Member States of the Eurasian Union was exhaustively illustrated by Vercueil through data downloaded from the *United Nations Comtrade*; although the economic analysis concerns the period from 2010 to 2014, the general picture has today remained almost equivalent.¹⁶⁴ In its current shape, the asymmetric intra-trade structure of the EAEU can be depicted like a star, reflecting a center-periphery trade model with three levels of integration. The same model applies to the decision-making at the political level. Since the Russian Federation constitutes the main funder of the organization, both its economic situation and trade policies influence the Union equilibria. Drawing on data of that specific time-span, which by the way coincides with the period during which most of the regulatory framework was designed, Vercueil showed how Russia's exports represented around 63 percent of regional trade while its imports around 34 percent, which signified that 97 percent of the EAEU intra-trade saw the Federation involved. An additional element which secures the utmost vacancy of this hierarchical economic structure to Russia is that hydrocarbons constitute the primary element of foreign trade, and the Country happens to be its primary supplier. This advantageous position was achieved not only thanks to the hydrocarbon transport networks inherited by the USSR but also, and above all, thanks to the geographical position. Furthermore, with the exception of trade relationships between Kazakhstan and Kyrgyzstan, all EAEU countries unilaterally trade with Russia but not with one another. The fragile national economic structures do not allow the Union to have an economic weight in the global context, thus contradicting Putin's aspiration to turn the organization into an economic axis linking the West to the East.

5.3.1 *A limited Customs Union*

Customs unions imply the elimination of barriers amongst Parties to them, thus favoring intra-bloc trade. This because member states will find more convenient to import and export their products within the Union rather than appealing to third parties. Although ten years have passed since the idea of creating a Single Economic Space, the Customs Union conceived by the three countries cannot be considered fully achieved, because Member States keep posing limitations on many regulations in any circumstance where they feel their membership to the Eurasian Union is threatening the fulfillment of their national agendas. It is, thus, a *limited*

¹⁶² Arvis, J.-F., Raballand, G. & Marteau, J.-F., 2007. *The Cost of Being Landlocked: Logistics Costs and Supply Chain Reliability*, Washington, DC: World Bank.

¹⁶³ In 2008, Russia and Georgia fought a five-day conflict after tensions escalated in the "breakaway provinces" of Abkhazia and South Ossetia, which self-declared autonomous and are backed by Russia, but are not recognized by the international community. The war showed the world the readiness of Russia to recur to its strong military might to accomplish its foreign policy agenda. Also, the sovereignty of the regions of Abkhazia and South Ossetia following the Georgian War in 2008 is still today not recognized neither by Belarus nor Kazakhstan.

¹⁶⁴ Vercueil, J., 2017. L'Union Économique Eurasiatique. Au-Delà de L'intégration Formelle. *Revue d'études comparatives Est-Ouest*, 48(3), pp. 277-302.

Customs Union, which, in figures, means that only around 60% of the tariffs are harmonized.¹⁶⁵ Intra-trade figures have not increased as expected, mainly due to the protectionist measures in place at the Russian border.

Since the creation of the SES, integration has been more likely to occur in traditional economic sectors (industrial, agricultural, chemical, etc) which have a waning respond to global demand. *Energy* is the emblem of incompleteness of the common institutions within the cadre of the CU: despite being at the core of bilateral relations between Russia and the other States, it was never put in writing at the time of the draft of the official document, which makes it impossible today for energy agreements to be rule-based and equal.¹⁶⁶

The issue of tariffs and taxation deserves a little bit more of attention. The dedicated set of rules is safeguarded by the *principle of non-discrimination*, devised to avoid any sort of unfair competition within intra-trade. Yet, the two “Ts” represent the main threat to the to the already delicate equilibrium and integrative development of the Union. External tariffs, in particular, have been set on the basis of Russia’s standards, forcing the Central Asian Republics to raise their owns. A side effect of such rise in tariffs is the impossibility for those states to open up to alternative markets, which limits competition with foreign investors and hinders the diversification of intra-traded products. In this regard, the hardest losses were suffered from the energy sectors of the countries, considered the economic engine of the Union.¹⁶⁷ These provisions not only make it harder and more expensive for the Republics to import from major third partners like the EU or China, but also lead them to act in violation of their WTO commitments, causing the other WTO members to adopt retaliatory measures against the said States.¹⁶⁸ Liberalizers interpreted this Russian move as a way to lock other Member States into its grasp, so as to delay their accession process to the WTO. In order to keep its allies on its side, Russia has tried to compensate for these losses recurring to subsidization, that is, it ordered *Gazprom* (major gas company) and *Rosatom* (major nuclear power company) to invest on the industries of the territories.¹⁶⁹ Nevertheless, today, all EAEU States but Belarus have succeeded in gaining their membership card. Belarus accession to WTO is expected to occur at the next WTO Ministerial Conference in June 2020, after 27 years of negotiations (since 1993).

A differentiating element in the course of economic development of the Unions concerns the starting number of fields subject to harmonization. While the then European Community pointed at exclusively regulating the market for coal and iron, to then extend such measures to other economic sectors, the original version of the Customs Code of the Eurasian association already contemplated a regulatory framework on multiple tariffs imposed on goods and services. Negotiations concerning the Eurasian Customs Code, which was supposed to be effective in January 2016, are revealing more complicated than expected and its adoption continues to be delayed. Until today, economic agents of all Member States have done business without

¹⁶⁵ This percentage has not always been this low; at the time of the creation of the Custom Union in 2010, the harmonization amounted to about 90% of tariffs. The number changed following the accession of Kazakhstan to the World Trade Organization, when the Country agreed to reduce its imports’ tariffs.

¹⁶⁶ With this regard, the slogan “do not step on the gas” was widely embraced by Russia (Yuri Solozobov, 2011)

¹⁶⁷ This is also due to the absence of an energy regulatory framework at the Union level (see below)

¹⁶⁸ Popescu, N., 2014. Eurasian Union: the real, the imaginary and the likely. *Chaillot Paper*, September, Issue 132.

¹⁶⁹ The additional issue is that the volatility of Russian economy cannot guarantee such compensation in the long run.

following the EAEU regulatory framework, only relying on national laws and previously ratified international treaties.

The Ukrainian crisis triggered a new set of protectionist measures by Eurasian States against certain Russian products, in order to defend themselves from the reverberances of Russian economic recession. Protectionism was mainly implemented through Non-Tariff Barriers (NTBs) in the attempt to bypass the common market legislation.¹⁷⁰ Though they can have temporary beneficial effects on intra-trade from the perspective of some Member states, non-tariff measures can severely affect foreign trade flows by making the market in question less attractive to foreign investors. As a result, new products cannot circulate into the new market, decreasing the level of product differentiation, and hindering the viability of technical and technological innovations. As of 2015, Kazakhstan applied them on food products, on the pretext they did not meet certain sanitary requirements, which represents an exceptional situation to the application of NTBs since it is aimed at protecting life and health.¹⁷¹

Aware of the negative reverberations of the existing barriers in the EAEU internal markets, in 2018 the “Action Plan (“Road Map”) to Eliminate Exemptions and Restrictions” was approved, so as to systemically carry out their removal.

5.3.2 *Monetary policy*

The harmonization of the monetary policies within a regional organization represents one of the immediate consequences of regional integration.¹⁷² Within the EAEU, this stage is regulated by Article 64 TEAEU, which recognizes the need for this process to occur gradually. Furthermore, the text encourages Member States to create the necessary organizational and legal conditions at national and intergovernmental levels, to trust each other’s national currencies also within the international market and to avoid any monetary action which can hamper the process of integration.¹⁷³ However, the plan to coordinate national economies around a single currency, the Russian ruble, so as to create a common payment system is far from being accomplished. The ruble has proved to be quite an unstable currency, as demonstrated both by the financial crises of 1998 and 2012, and the effects of western sanctions, strongly devaluating against both the Belarusian ruble and the Kazakh Tenge. Currency depreciation is proving detrimental to other Member States’ economies due to the high level of interdependence. States are not only being forced to dip into their own foreign reserves to slow down the devaluation rate of the national currencies, but to pay a higher price for essential goods

¹⁷⁰ Non-tariff barriers (NTBs) are seen as an alternative expedient to tariffs. EAEU member States mainly recurred to quotas, consisting of limitations on the amount of goods and services imported, and embargoes (official bans on trade). They are usually employed as either political or economic strategies. NTBs can be of two types: natural, including protective barriers in the form of sanitary measures, quotas ban and other quantitative restrictions, or artificial, in the form of price controls and other financial measures which negatively affect competition.

¹⁷¹ Other exceptional cases concern the protection of public morals and the rule of law, of the environment and cultures; the guarantee of defence and security and for the purpose of fulfilling international obligations.

¹⁷² Vercueil, J., 2017; *supra* (164)

¹⁷³ Section XIV of the EAEU Treaty, Purposes and Principles of Coordinated Monetary Policy

imported from the West.¹⁷⁴ Moreover, the sharp decline in the price of hydrocarbon (one of main sources of Member States foreign trade) which was recorded in the year 2014-2015 confirmed the volatility of the other currencies. This parade of economic downturns was denominated “parade of devaluations”.¹⁷⁵ Hence, the regional price convergence looks like a vicious circle caused by a fragile national economic system and the unpredictability of the related currency.

5.4 Political asymmetries

Despite the reaffirmed commitment towards market liberalization and modernization, the political systems of EAEU Member States still suffer the normative legacy inherited from the time of the Soviet Union. Like all Post-Soviet countries, the five members of the EAEU inherited an extensive and well-consolidated clientelist network based on corrupted practices, an autocratic regime with a state-managed economy and lack of democratic elements in times of elections. The majority of laws still into effect in the national territories were conceived within the framework of a centralized economy. The heavy bureaucracy which still characterizes market operations hinders the States from modernizing at the same pace as the rest of the world, missing on being innovative and competitive. The fact that the Treaty itself does not pose any binding commitment to the Member States, if not that of achieving a constructive dialogue towards common policies, leaves them freedom of maneuver across all fields to the like of each Head of State, deviating from the EAEU agenda. The low degree of representativeness and transparency inherent in the national political systems of EAEU Member States poses a serious threat to the principles of mutual respect and cooperation between the states, since each of them would in turn act to use the additional decision-making powers of the EAEU to satisfy personal interests.

It is widely recognized that it is the quality of the institutional system of a certain territory that determines the effectiveness of the implemented measures. The unreliable structure of checks and balances within national political systems and the absence of rule of law result in a low-quality governance across the Eurasian Union. There is a well-founded risk of reproducing the domestic approach to politics in international relations, resulting in the conclusion of beneficial agreements through the signature of Memoranda of Understanding, rather than a formal treaty, so as not to be legally bound to it. In addition, any pro-Western or pro-democratic elements within these regimes are offset by the political benefits generated by the political alliance with Russia, which grants immediate financial support and the military means to break up any internal social tension.¹⁷⁶

The three founding Members of the EAEU openly claim that their project was modelled on that of the European Union and recognize the international legal personality of the Eurasian Union by putting it on written in the Astana Treaty. Nevertheless, while the 27 countries of the EU accepted to give up part of their

¹⁷⁴ De Micco, P., 2015. *When choosing means losing. The Eastern partners, the EU and the Eurasian Economic Union*. Brussels: European Parliament.

¹⁷⁵ Vinokurov, E., 2017. Eurasian Economic Union: Current state and preliminary results. *Russian Journal of Economics*, Issue 3, p. 70.

¹⁷⁶ Strzelecki, J., 2016. The Eurasian Economic Union: a time of crisis. *OSW Commentary*, 1 February, Issue 195.

sovereignty to the new legal order they were acceding, the EAEU Countries appear reluctant to act alike, although it has been already five years since the formalization of the Union. The reason behind this state-centred and individual approach is found in the political system of the single States, which can be generally defined as electoral authoritarian regimes.¹⁷⁷ Such regimes will never be able to fully accept a system that limits their decision-making power concerning domestic policymaking, a serious slowdown to the whole integrative process. Many scholars emphasized the interplay between regionalism and democracy, as well the importance of pluralism, an absent feature in post-Soviet States whose political system is paternalistic, corrupted and does not allow for any bottom-up intervention. A core feature of these regimes is the “personalization of policies”, whereby the personalities of the political élite prevail over the institutions.¹⁷⁸ Even though, since the dissolution of the Soviet Union, Russia and post-communist countries have exerted themselves to attain a decent level of modernization compared to the Western world, the Soviet political and economic legacy is still today well-entrenched within their systems.

5.5 Cultural asymmetries

Since the demise of the USSR, the new countries have been striving to conduct a new life trying to eliminate any aspect that would remind them of the centralized control of the Soviet Union. Among cultural elements inherited from the past, language remains one of the most sensitive, and still represents an element of friction among Member States. Russian language is generally accepted in the Post-Soviet space: with the exception of Armenia, it is one of the official idioms in all three Central Asian Republics, and a significant portion of the population of these States have Russian relatives or anyway family members living in the Federation.¹⁷⁹ Article 110 TEAEU establishes Russian as the working language of the EAEU Bodies, of the international agreements signed within the Union and of the Commission decisions binding on Member States. Also, in case of doubts in interpretation of official documents, those written in Russian should be taken as reference. Hence, language is another sphere of Russia’s dominance. That is why Member States have been seeking to reduce the employment of Russian language at the EAEU level. A concrete example is the so-called policy of “*Soft Belarusization*”, in place since 2014, consisting in a *de-Russification* of public life and in the redrafting of historical events in order to delight the West and local Russophobes.¹⁸⁰ At the institutional level, it manifest in the delivery of some of the official speeches at the EAEU bodies in Belorussian.¹⁸¹ Other

¹⁷⁷ According to the Democracy Index provided by Freedom House (the oldest American Organization and monitor of the observance of democratic values and rights since 1941), Armenia occupies the 53rd place (partially free); Belarus the 19th place (not free), Kazakhstan the 23rd place (not free), Kyrgyzstan the 39th place (partially free) and, lastly, the Russian Federation occupies the 20th place (not free). These rating involve 210 countries and territories.

¹⁷⁸ Haas, E. & Schmitter, P., 1964. Economics and Differential Patterns of Political Integration: Projections About Unity in Latin America. *International Organization*, 18(4), pp. 705-737.

¹⁷⁹ Article 17 of the Constitution of Belarus; Article 7.2 of the Constitution of Kazakhstan; Article 10.2 of the Constitution of Kyrgyzstan.

¹⁸⁰ The original practice goes back to the 1920s, intended as a policy of protection and advancement of Belarusian ethnic culture within the Belarusian government and communist party. For more see: Posokhin, I., 2019. Soft Belarusization: (Re)building of Identity or “Border Reinforcement”. *Colloquia Humanistica*, pp. 57-78.

¹⁸¹ Busygina, I., 2019. Russia in the Eurasian Economic Union: Lack of Trust In Russia Limits The Possible”. *PONARS Eurasia Policy Memo*, February, Issue 571.

strategies of cultural containment have been devised to counterbalance Russian influence within the EAEU; for instance, Kazakhstan's commitment to do whatever it takes to confine the nature of the organization to the economic sphere while “*de-russifying*” his Country, as it occurred in Belarus. The process will be probably be completed by 2025.

5.6 Strategies of containment of Russia

The willingness, especially of Belarus and Kazakhstan, to keep the integration project within the economic field and not to influence the political spectrum was *inter alia* an indirect move to limit Russia's influence in the Post-Soviet space. Russia's behaviour is generating an increasing disillusionment amongst EAEU Member States with how much it actually costs to be part of the Union. The overarching presence of Russia in the decision-making process (legitimized by the country by the fact that it is the major funder of the EAEU), and the tendency to act unilaterally pursuant to its Foreign Policy Concept, have encouraged the other Member States to devise several strategies of “Russian containment”, which go beyond those in place at the socio-cultural level. Many times, since the launch of the economic initiative, Russia's partners have demonstrated their aversion for Russia's foreign policy decisions, especially those adopted to contain Western influence. That is why Presidents Lukashenko and Nazarbayev have been trying to come up with an attitude that can hedge against this risk, as demonstrated by their resistance to some of Russian trade measures against Ukraine in the aftermath of the annexation. Hence, they opposed the introduction of trade restrictions by the Union towards Ukraine (as proposed by Russia) as well as the retaliatory sanctions on the EU and the USA following those imposed by the former in response of the Ukrainian invasion.

There is widespread fear of future Russian reprisals: the Crimean annexation is evidence of the readiness of the Kremlin to recur to its military might against neighboring states in order to realize its foreign policy aims. Hence, Member States now hope there will be no recurrence of a similar predicament in their territories. This is especially true for Kazakhstan, since the northern region of the Country was in the past ceded from the Soviet Union and it is mainly populated by Russians. In the event of either the deterioration of Russo-Kazakh relations or an internal crisis, the territorial integrity of Kazakhstan could be menaced.¹⁸² This opponent attitude filled Russia with indignation. As a consequence, the Federation decreased its imports from the said Countries and began to wage a series of trade wars against them, with the accusation of having failed to comply with Russian regulations.¹⁸³ Their national economies were profoundly affected. Hence, Belarusian manufacturers and trade companies started to export again sanctioned European goods, in the effort to minimize the national losses from the decrease in exports. In order to conceal their origins, these products were re-labelled so as to certify the Belarusian provenance, and then re-export them to Eurasian Countries. Thus, these goods would be imported onto the Russian region, on the alleged reason that the former was only

¹⁸² Popescu, N., 2014; *supra* (168)

¹⁸³ Russia imposed 23 bans on imports of food products of Belarusian provenance as well on those in transit to Kazakhstan. This measure came as a consequence to the refusal of Belarus in 2014 to support Russia's ban on EU agricultural goods. More on: Ioffe, G., 2014. New Trade War Erupts Between Russia and Belarus. *Eurasia Daily Monitor*, 11(215).

a transitory territory, and that, for instance, Kazakhstan was the actual final destination. Even though the issue was then solved by demanding more stringent labelling requirement and applying harsher measures in case of non-compliance, the Belarusian case confirmed the lack of a transparent dialogue and behaviour among the EAEU Member States.

The above considerations and concerns highlight the presence of a crucial political element within the Union: the membership is above all a political necessity for the countries in order to then reap the benefits from Russia in terms of security and trade.

5.7 Influence of external actors: the case of Ukraine

Russia has always portrayed the envisaged Union as a political expedient to forge political and security alliances with the key Countries of the ex-USSR, namely Ukraine, Belarus and Kazakhstan, so as to subtract them from foreign influences. A brief analysis of Ukraine is of particular relevance to the evolutionary path of the Eurasian Economic Union even though the Country is not a Member of the organization (although it was supposed to be one according to the original plan).

Politically and economically Ukraine, with a population of around 41 million inhabitants, its industrial and agricultural potential and its geographical proximity with the European Union, has always been the main reason underlying the Russia-led economic initiative. Without Ukraine, the EAEU scarcely represents an additional 10% of Russia's own industrial potential.¹⁸⁴ That is why, the Ukrainian question represents just the hardest hit on the EAEU evolution. Ukraine's initial reaction to the annexation of Crimea was to quit the Commonwealth of Independent States, but it refrained from completing the dissociation since it would have implied the annulment of 223 collective treaties with the CIS and the ensuing deterioration of trade relationships. Therefore, Ukraine is still part of the Community, yet it does not participate in the decision-making process.

The Ukrainian crisis revealed the contrasting nature of the aims each EAEU Member State intends to pursue through its membership. Also, the unilateral action by Russia to reply to the West through countersanctions violated one of the core principles of the Customs Union, the pursuance of a cohesive commercial policy.¹⁸⁵ This occurred following the rejection by both Members of the Troika of the Russian proposal to exclude Ukraine from the tariff liberalization regime in force within the CIS internal free trade agreement.¹⁸⁶ In this regard, the position of Belarus and Kazakhstan has revealed contradictory. Although they welcomed the *de facto* incorporation of the annexed territory within the jurisdiction of the EAEU, they resented the lack of observance by Russia of two founding principles of the Union, namely, territoriality and equality.

Ukraine was to Russia the “country of last resort” to ensure the success of the Eurasian project as center of power on former Soviet territory, following the failed attempt of the Federation to become “partly Western”.

¹⁸⁴ Vercueil, J., 2014. L'Union économique eurasiatique : une intégration au prisme de la Russie. *Géoéconomie*, 71(4), pp. 167-184.

¹⁸⁵ Vercueil, J., 2017; *supra* (164)

¹⁸⁶ This occurred during a meeting of the Eurasian Economic Commission in July 2014, thus prior to the formalization of the Union, which demonstrates how Russian attempts to override other countries' decisions have been a constant feature of the Eurasian integration process.

The annexation costed Russia the membership of Ukraine in any future integrationist projects. In June 2014, Ukraine signed the Deep and Comprehensive Free Trade Agreement (DCFTA) with the EU, which implies the discard of any future deals offered by the EAEU.¹⁸⁷ Kiev is now adamant that any sort of dialogue with Russia will be resumed, despite the 2014 and 2015 Minsk Agreements (until today not fully implemented). The Crimean seizure and the punitive measures against Ukraine rebounded on the Eurasian region, and especially on the EAEU. The political and security crises which followed have caused higher distrust towards both the Union and Russia, despite the ratified Treaty.

¹⁸⁷ The DCFTA represents is an updated and more strict partnership agreement devised by the European Union to gain leverage in Eastern European Countries. Contrary to the prior Association Agreements (AA), signed at the time of the creation of the Commonwealth of Independent States, the provisions of the DCFTA explicitly contain obligations which clash with those established within the Eurasian Custom Union.

Chapter 6 Interregional cooperation: EU-EAEU dialogue

The intensification of interactions between political actors in a way that inspires other subjects to come together and form a regional entity triggers a new trend, that of inter-regionalism, which concretizes in the form of cyclical international summits between the regional organizations involved. Inter-state regionalism is seen as a phenomenon further advancing the economic and political profile of those states willing to seek for additional advantages in security and trade. The implementation of a free-trade area between the European Union and the Eurasian Economic Union would constitute the first interregional attempt involving the Post-Soviet space. That between the EAEU and the EU is a relationship that must be analyzed based on mutual perceptions and the interests at stake which push one to keep an eye on the other. The possibility of a constructive dialogue between the two regional blocs ought to be considered in light of major geopolitical crises, namely the invasion of Ukraine and the ensuing regime of sanctions, as well as the proportion of economic and political elements within the two institutional structures.

The integration logics of the European Union and Eurasian Economic Union have followed two completely different paths. The EU integration was driven by the desire to put an end to political tensions, mainly between France and Germany, and to uphold democratic and liberal values. Eurasian integration, on the other hand, was propelled by geopolitical interests of a single country (Russia) that happened to be in line with the ambitions of Belarus and Kazakhstan to play a major role in the global economy. In the present public political discourse, a lot of emphasis is placed on the fact that the concept of a “Greater Eurasia” is gaining more and more ground over that of “Greater Europe”, meaning the loss of influence of the West to the East over the geographical area under question. The idea of a “Greater Europe” was originally strongly advocated by President Putin (deviser of the so-called “*United Europe Development*”), whose intentions were not to undermine the position of the European Union at the global level, but rather to create a cohesive economic regional organization that could take a spot in the global scene.¹⁸⁸ In fact, he openly declared not to stand in opposition to those post-communist countries who had in the meantime developed a pan-European stance (although at the time of the creation of the CES they were strongly encouraged by Russia itself to join it). His intentions, outlined in the Country's 2008 Foreign Policy Concept, were aimed at the creation of an economic and humanitarian space that would stretch from Lisbon – the most western point in Europe – to Vladivostok, the eastern counterpart.¹⁸⁹

6.1 Origins of the “inter-Union” dialogue

The idea of a constructive dialogue between the EAEU and the EU dates back to the 1980s. Prior to the speech of President Nursultan Nazarbayev, some effort was put in the attempt to achieve closer integration of

¹⁸⁸ “The Eurasian Union will be founded on universal integrative principles as an inalienable part of greater Europe, United by integrated values of freedom, democracy and market laws.” (Izvestiya, 3 October 2011)

¹⁸⁹ “In the development of this idea we offered Europeans to think together about creating a harmonious community of economies from Lisbon to Vladivostok, about a zone of free trade and even more advanced forms of integration on the formation of coordinated policy in the field of industry, technology, energy, education and science. And, finally, the removal of visa barriers. These proposals do not hang in the air.” (Izvestiya, 3 October 2011)

the ex-Soviet Union and Eastern Countries with the Western “globalized” economic part of the globe. The first move was made in 1988, by signing the Declaration formalizing relations between the representatives of the then European Community (EC) and the Council for Mutual Economic Assistance (CMEA).¹⁹⁰ The aim was to strengthen cooperation in areas of common interests and falling within the scope of relevant fields of competences.¹⁹¹ In 1989 USSR President Mikhail Gorbachev, eager to narrow the East-West economic and political gaps, addressed to his fellow colleagues at the Council of Europe by inviting them to think of a “Common European House”. This assumed the creation of a free trade area, as a way to dismantle the bipolar international order which had characterized the world since the outbreak of the Cold War. This idea came as a consequence of a pan-western wave which was hitting the USSR at that time. Gorbachev envisioned an undivided continent – from the Atlantic to the Urals – complete with liberal economic reforms and a valuable political dialogue. Yet, he warmly reminded all eastern States that this “unification” was not intended to put an end to socialism, since it was at their discretion to opt for the political order which better fit their societies. Furthermore, he also acknowledged the fundamental geopolitical role played by Europe, by declaring that: *“For centuries Europe [had] been making an indispensable contribution to world politics, economy, culture and to the development of the entire civilization. Its world historic role [was] recognized and respected everywhere.”*¹⁹²

In 2011 President Putin explicitly wrote in his article on Izvestia that their budding regional association would have been “capable of becoming one of the poles of the modern world and play the role of effective “binding” between Europe and the dynamic Asia-Pacific region.” He went on saying that: *“In addition, an economically logical and balanced system of partnership of the Eurasian Union and the EU is able to create real conditions to change the geopolitical and geo-economic configuration of the entire continent and would have an undoubted positive global impact.”*¹⁹³ Three years later, a second hint was made by President Nazarbayev at the Lomonosov University, where he said: *“Why do not they talk about the great prospects for rapprochement between the European and Eurasian economic unions? After all, the benefits are obvious to everyone.”*¹⁹⁴

The inter-Union dialogue was not constructed between the two said parties since day one. The EAEU became party to the negotiations as a substitute of Russia, which had until that time conducted it as part of its Foreign Policy Concepts (2008, 2013 & 2016). Formal interaction between the two regional economic blocs only began in 2012, when the Russian Federation finally acceded the World Trade Organization after twenty years of negotiations. This represented a positive reason for European States to consider new alliances with Russia and its “political creature”. The WTO membership was necessary in order to establish concrete measure to

¹⁹⁰ Lysen, G., 1989. The Joint Declaration by the EEC and the CMEA. *North Carolina Journal of International Law and Commercial Regulation*, 14(3).

¹⁹¹ Grzybowski, K., 1990. The Council for Mutual Economic Assistance and the European Community. *The American Journal of International Law*, 84(1), pp. 284-292.

¹⁹² Gorbachev, M., 1989. *“Europe as a Common Home”*. Strasbourg, Council of Europe: s.n.

¹⁹³ Putin V.V. (2011); *supra* (157)

¹⁹⁴ Nazarbayev, N. A., 2014; *supra* (158)

liberalize trade. As discussed in Chapter II, by 2012 the EurAsEC was a de facto international organization, endowed with a supranational institutional structure (the EEC). It was thus capable of “conducting business”.

In 2013 the then President of the European Commission José Manuel Durão Barroso met both with Kazakh President Nazarbayev and Russian Prime Minister Medvedev. In the two occasions he underlined the European intentions towards the Common Economic Space described by Putin, whose implementation was framed within a “long-term vision”. However, he noted that this commitment did not have to be a constraint, rather a desired partnership which would honor the trade relationship and the shared cultural heritage. The European Union, in quality of regional organization, would have certainly supported the establishment of its Eurasian counterpart. To this purpose, he said: “*It is however important that these integration projects are constructed in a manner that enhances our bilateral relations instead of hampering them.*”¹⁹⁵ Hence, Barroso let slip that the future of an economic partnership between the EU and Russian-led Customs Union depended on the future relationship between the EU and Russia.

Another European supporter for closer ties is Štefan Füle, amongst the Commissioners for the European Enlargement Policy in the Eastern Neighborhood. During the 2014 EU-Russia Summit in Vilnius, he claimed that Russian participation was crucial to solve the tensions in the shared area of influence, and that the only way to gain the Federation trust was to set up a dialogue with its Union.¹⁹⁶ At the end of the year, at the time of the signature of the Treaty of Astana, the European Parliament passed a resolution on considering closer ties with the EAEU. During the 2015 World Economic Forum in Davos, German Chancellor Angela Merkel alluded again to new possibilities of cooperation between the two Unions, on the proviso of first creating stability on the basis of the Minsk Agreement. In late November 2015, European Commission President Jean-Claude Juncker sent a letter to the Russian government in which he wrote to have asked Commission officials to draft new proposals on cooperation between the EU and the EAEU.¹⁹⁷ The letter was addressed to the Kremlin as representative of the EAEU. Juncker underlined the importance of the acquiescence of all EU Member States for closer ties between the two Unions.

Nonetheless, this move caused tensions within the EU, triggered by the reluctance of Poland and the Baltic countries to trust any deal which involved Russia, and their fear that this sort of agreement could lead Europe to overlook sanctions in favor of new opportunities in Central Asia. In their view, EU-EAEU cooperation was a form of legitimization of Russia’s hegemonic role within the bloc. Even though the dialogue between the two Commissions officially began in 2017, thus far no deal has been drafted. The stalemate is linked to the European emphasis on the significance of the synchronization of the implementation of the Minsk agreements, which Russia however deems irrelevant within the cadre of *interregional* cooperation.

¹⁹⁵ Barroso, J., 2013. *President Barroso at the Russia-European Union – Potential for Partnership conference: “Moving into a Partnership of Choice”, “Russia-European Union – Potential for Partnership.* Moscow: s.n.

¹⁹⁶ Globsec, 2015. *Štefan Füle Supports Talks between the European Union and the Eurasian Economic Union.* [Online] Available at: <https://www.globsec.org/news/stefan-fule-supports-talks-european-union-eurasian-economic-union/> [Accessed 18 May 2020].

¹⁹⁷ TASS Russian News Agency, 2015. *Letter on cooperation between EU, Eurasian Economic Union sent by EC chief to Putin.* [Online] Available at: <https://tass.com/economy/837900> [Accessed 18 May 2020].

6.2 Hindrances to formalization of relations

Following the meeting in 2013, Barroso had noted several negative aspects of a possible interregional cooperation, later confirmed by the Eastern Europe and Central Asia (COEST) working party of the Council of the European Union. In this regard, the EU criticizes the institutional weaknesses and limited political structure of the EAEU. The decision-making process is affected by the asymmetrical economic contribution to the Union budget. Small states do not equally matter, as showed by the unequal respect for the principle of “*one state, one vote*” in the institutions. Furthermore, domestic policies of Member States represent another hurdle, as they are supportive of serious breaches of human rights and of the freedom of the press. The EU has additionally accused the EAEU (the indirect guilty is actually Russia) of having interfered in conflict zones, for example by supporting for Assad government or by signing a new agreement with Erdogan on the Rojava safe zone. The feasibility of cooperation is highly dependent on the fact that until today the European Union has not formally recognized the Eurasian Economic Union as an independent international body regulated under international law and having legal personality. This follows from the blurred nature of the organization (*see* Chapter II) and the lack of a principle of institutional balance, cornerstone of the EU.¹⁹⁸ Another issue concerns the guarantee of an open regionalism and trade liberalization, linked to the membership to the World Trade Organization and its dispute-settlement rules, crucial to the European Union. There are still ongoing negotiations for Belarus to join the Convention, an element which is hindering the process of market opening to Eurasia.¹⁹⁹ At the economic level, intra-trade is still underdeveloped. A free-trade area with the EU is at present inconvenient to EAEU countries due to low diversification and competitiveness of their goods and high technological discrepancies.

The presence of two independent international regional organizations in the Eurasian region is creating territorial division and political tensions. The EAEU, by establishing itself as a regional economic organization conform to the body of international law, poses serious challenges to the EU since it provides an appealing alternative to those countries geographically located in-between the two Unions. Countries not belonging to any of the said blocs, such Georgia or Ukraine, are trapped in a sandwiched geographical position, assessing pros and cons on which is the best option: an FTA with the EU or membership to the EAEU. The immediate and more convenient option in the short-term would be the EAEU. This stems from the common historical and cultural ties and the similar economic structures of the countries, which increases domestic competition. There are no liberal principles or democratic conditionalities to observe, and the costs associated to administrative and legal adjustments are lower than in the case of the EU. This last observation is linked to the level of technological advancement of the Union, much higher and modernized in the West. Nevertheless, in the long-run, trade benefits of a European integration outnumber those from Eurasia. What is certain is that simultaneous membership is not an option.²⁰⁰

¹⁹⁸ Article 13.2 TEU: “Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them. The institutions shall practice mutual sincere cooperation.”

¹⁹⁹ Russell, M., 2017. *Eurasian Economic Union: the rocky road to integration*, European Union, s.l.: European Parliament Think Thank.

²⁰⁰ Vasileva, A., 2017. Engage! Why the European Union Should Talk with the Eurasian Economic Union.

The current exchange of sanctions between the West and Russia is consuming the already feeble degree of economic cooperation between the two parties, hampering its consolidation. The punitive measures are imposed on key goods affecting EU-EAEU trade, for example Russian ban on European agricultural and food products. In addition, due to asymmetrical security and economic dependence of Member States on Russia, the former could be swayed to impose protectionist measures on the EU or certain Western countries, if that implied not losing Russian guarantees. This attitude corresponds to the so-called “fortress effect”.²⁰¹

Since decisions on trade arrangements are still taken at member-state level, it is faster and more beneficial to them to conclude bilateral deals at the intergovernmental level rather than placing the matter supranationally and involving the Eurasian Economic Commission. Furthermore, the EU as a body continues to strengthen trade relationships with single EEU members. For example, it lifted sanctions against Belarus in 2016, and signed two Comprehensive and Enhanced Partnership Agreements (CEPAs) with Kazakhstan (2015) and Armenia (2018).

EU Association Agreements with the Post-Soviet states represent an additional threat, since they provide the same democratic conditionalities as if they were candidate members.²⁰²

In matter of negotiations, since the transition from the Customs Union to the first Eurasian Community and then Eurasian Union, it is the Eurasian Economic Commission to be charged with the authority to decide on technical regulations in the EU-EAEU perspective economic relations. Such legal proof irritated Russia, since what was until then a bilateral dialogue was just brought at a multilateral level. Even in this context, Russia’s behaviour has been volatile, passing from delegating some matters to the Union to act unilaterally as if the former did not exist.²⁰³ At the same time, this could transform into an advantage, since it would be the two Commissions to engage in talks in the name of two multilateral economic organizations; it could further depoliticize the dialogue, conferring to it a more neutral connotation. Nonetheless, based on the available documents, no negotiation has ever gone beyond the heads of the COEST, confining the EU-EAEU relations to technical meetings.

6.3 Rivalry of integrations: PCA – ENP – EAP – DCFTA

Before starting talks on an inter-Union cooperation, the countries of the two regional blocs signed several bilateral agreements, despite the inner contradictions of the political structure of the ex-USSR. In 1994, the EU made a concrete step to institutionalize this feeble cooperation through Partnership and Cooperation Agreements (PCAs). The PCA is an EU foreign policy instrument devised to establish new relations between the members of the European Communities at that time and the fifteen countries emerging from the collapse

²⁰¹ By fortress effect, it is intended the possibility of regional integration agreements to lead to more protectionist attitudes by member countries towards non-members | Walter, G., October 2007. “Dictionary of Trade Policy Terms”.

²⁰² This is an advantage to the EU since the EAEU legal framework does not envisage the possibility to conclude Association Agreements with States who are either unprepared or unwilling to become formal member of the Union.

²⁰³ Popescu, N., 2014; *supra* (168)

of the Soviet Union, including Russia.²⁰⁴ Yet, the Country ratified the agreement only in 1997 due to the outbreak of the Chechen war.

The core phase of development of the Eurasian project occurred parallel with the European Union policy of expansion in the post-Soviet space. In 2004, the European Union launched the European Neighborhood Policy (ENP), then perceived by Russia as a threat to its secured area of influence. The ENP is an initiative encouraging post-communist states sharing borders with Europe to adopt the *acquis Communautaire* of the EU, in order to ensure the mutual respect of the four freedoms and mutual access to each other's markets. The additional aim is the promotion of stability in the common region and a boost to the ongoing modernization process in the countries. The ENP was soon followed by the string of Eastern Partnership Association Agreements (EaP) concluded in 2009, the same year of the creation of the Customs Union between Belarus, Kazakhstan and Russia. The EaP initiative, aimed at improving relations between the EU and its six Eastern neighbors, was negatively welcomed by Moscow, since *it was not consulted* on the decision, nor was it included within the "European circle". This move furtherly galvanized Russia against the EU, since Belarus and Ukraine – Russia's major economic and political partners – were amongst those six states. Again, it was made clear that the eastern neighbourhood was not common. That is why the Country put its major partners in front of a final choice: with or against Russia. The EaP represented a turning point in the context of "United Europe Development", considered by Russia a violation of its engagement with the EU not to exercise an excessive influence over its strategic area. Nevertheless, the European regional bloc went on with improving its diplomacy tools, by signing the Deep and Comprehensive Free Trade Agreements (DCFTAs) with Georgia, Moldova and Ukraine starting from 2016.²⁰⁵ This foreign policy tool is a true vehicle to export the EU rules and standards: by *deep and comprehensive* it is meant that this new trade regime goes beyond the mere tariff abolition to include legislative and normative harmonization, so as to ensure the four freedoms.

6.4 Serbia's deal with the EAEU (2019)

Since 2007, the Republic of Serbia is co-founder and member of the Central European Free Trade Agreement (CEFTA), a trade agreement concluded between the countries of the Southeastern Europe and not parts of the EU. Serbia initiated accession talks with the European Union in 2014, with the then Prime Minister Aleksandar Vucic (now President of the Republic since 2017). From then on, the Country has been committed to harmonize its policy regime with that of the EU, starting from trade and foreign policies. The signature of a Free Trade Agreement with the EAEU came on October 25th, 2019, as part of Armenia's EAEU chairmanship's commitment to diversify foreign economic relations and expand free trade agreements' geographical coverage.²⁰⁶ The FTA was conceived as a tool of harmonization of the trade deals previously signed by the Country with Russia in 2000, Belarus in 2008 and Kazakhstan the following year, so as to leave

²⁰⁴ The only exception was the country of Tajikistan, with whom a PCA was then signed in 2004. It entered into force in 2010.

²⁰⁵ The relevance of Moldova in the present context is due to its status of observer state in the EAEU

²⁰⁶ It was supposed to be signed on January 2019 during Putin's visit to Serbia, but the harmonization of tariffs required by the agreements has not been fully realized.

space to a sole agreement that would additionally include Armenia and Kyrgyzstan. In an interview released by the Serbian Prime Minister, Ana Brnabić, she disclosed that were she to decline this deal, the three said agreements would be annulled.

This geopolitical move towards the EAEU is not well seen by the international community, which perceives confusion in the political stance of Serbia. The country signed the deal in defy of EU warnings on its incomppliance with the access conditionalities to the Union. Serbia openly claimed that it took no order from an organization to which was not a member yet.

Were Serbia to step down and join the EU again, all free trade deals signed with the other countries would become void, since the European deals would prevail. The deal is seen as supportive to the EU accession process, since it gives Serbia the chance to grow economically. Prime Minister Brnabić reiterated the pro-European stance of its politics and its interest in continuing along the EU path.²⁰⁷ Anyway, the EU Commission made clear that a possible accession of the Country to the Union will not take place before 2025.

In line with the conception of the EAEU as a Kremlin-led regional bloc, the conclusion of an FTA with Serbia is part of the bigger Russian priority of exercising geopolitical influence on the Western Balkans. By signing the FTA, Serbia's territorial integrity and sovereignty in Kosovo is acknowledged and preserved, since Russia refused to recognize its independence when it was formally granted by the United Nations in 2008.²⁰⁸ Moreover, despite being an EU candidate country, Serbia refused to follow suit with the EU-imposed sanctions. This deal is also intended to strengthen military cooperation with Russia, a goal which calls into question the trading nature of the agreement, pointing to the political and security dimension, coherent with Putin's vision of the EAEU.

6.5 Advantages of an EU-EAEU cooperation

Economic cooperation and trade constitute the core of the Unions' partnership due to the prevalently economic nature of the Eurasian organization and the status of the EU as the largest investment partner of the EAEU. The European Union is the largest trading partner of both Russia and Kazakhstan, while the EAEU is to the EU the third largest after the US and China. Furthermore, the EU has a substantial trade deficit with Russia, that is, it depends more on the country than the latter does on the European bloc. The strategic compatibility of the production factors represents another boost to trade. It manifests in a complementary specialization structure, which encourages the differentiation of the EAEU economy and its internal trade. In the long run, this diversification could induce Russia and the other States to update their economic model in favor of a new one convergent to the West. This would additionally contribute to reform the rent-dependent and clientelist economy which characterizes the Eurasian states.

²⁰⁷ Milica, S., 2019. *Serbia Signs Trade Deal with Russia's Eurasian Union*. [Online] Available at: <https://balkaninsight.com/2019/10/25/serbia-signs-trade-deal-with-russias-eurasian-union/> [Accessed 18 May 2020].

²⁰⁸ Simić, J., 2019. *Medvedev confirms support for Serbia as it readies free trade deals with Eurasia*. [Online] Available at: <https://www.euractiv.com/section/eastern-europe/news/medvedev-confirms-support-for-serbia-as-it-readies-free-trade-deal-with-eurasia/> [Accessed 18 May 2020].

In 2016 the IFO Institute, on behalf of the Bertelsmann Foundation, carried out a comprehensive study based on an equilibrium model of international trade. The experiment aimed at analyzing trade flows, sectoral production structures and real income, in case of a free trade agreement between the European Union and the Eurasian Economic Union. The results showed that such an FTA would positively contribute to economic stabilization in the Eurasian region, with particular benefits to EAEU Member States.²⁰⁹

Linked to the economic field, another influential element of a shared FTA is geographical proximity, which could push the EAEU to actually put in place a common transportation network which lower barriers vis-à-vis the European countries, thus facilitating trade. A concrete example is represented by the “Transport Corridor Europe-Caucasus-Asia” (TRACECA), a long-term project materialized in the institution of an international organization of economic cooperation.²¹⁰

Energy is another factor pushing for closer ties. The regional bloc largely relies on raw materials which are much appreciated by the EU market (especially hydrocarbons). In fact, according to economic experts of the Valdai Discussion Club, Russia in particular has enough of these resources to meet EU gas demand at least until the year 2040. The EAEU is a reliable and cheap supplier of raw materials and fossil fuel to European industries, which import around 74% of gas and oil from the region. Plus, there are the energy pipelines connecting some of the European Countries to Russia. The most recent example is the Southern Gas corridor Project, a 3500km pipeline expecting to transport gas from the Caspian sea to Europe, which is not subject to US sanctions. The excessive EU-dependence on this market was highlighted during the Ukrainian crisis, when Russia not only agreed to build the South Stream pipeline with Turkey so as not to allow the transit of its supplies through Ukraine, but also implemented protectionist measures in the form of countersanctions to those declared by the EU.

Closer ties would benefit also the technological and innovation fields. All EAEU Member States are still undergoing a process of modernization, and their backward third sector hinders the countries to keep up to date with the latest technologies. That is why foreign direct investments in European Countries are the most suitable option to the development of national economies, and thus, for the economic advancement of the EAEU as a body. Modernization could spill over other fields, to involve the lift of protectionist measures in favor of an alignment to European tariffs and standards. The real interest at stake which could find agreement thanks to an inter-Union dialogue is the common neighborhood, whose states have often times expressed their willingness to engage in trade relations with both regional blocs. Key countries in this regard are Armenia and Moldova. The first is a formal EAEU member but has signed a CEPA with the EU; the second is bound by a DCFTA, and it has recently gained the observer status within the EAEU. The EU-EAEU FTA could prove crucial in relaunching trade and appeasing political relations with Russia, especially as far as Ukraine is

²⁰⁹ In detail, Russia could increase its real income by 3.1%, Belarusian income could respond even better (+ 4.9%), Armenia and Kyrgyzstan would improve by 2.3% and lastly Kazakhstan by 1.7%. European exports would also considerably increase, but the effects on national economies would be minimal.²⁰⁹ In 2018, the European Commission established a working group on transition to the ruble and the euro in mutual payments: it was estimated that an initial enlargement of the FTA between the two blocs would increase trade by 19%.

²¹⁰ The project was steered by Brussels in 1998 and counts today's fourteen Member States.

concerned. Last, but not the least, there would also be advantages in security matters. A trade deal with the Eurasian Union actually represents an expedient to get to closer ties with Russia, also in light of the threat of Islamic fundamentalism, acknowledged in the Paris attacks occurred in the same year as well as in the ongoing Syrian conflict.

Because of its geopolitical weight, that between the European Union and the Eurasian Economic Union is seen as a “*mega deal*”.²¹¹ This is also because there has not been any attempt of institutionalization of an inter-bloc arrangement thus far. An EU-EAEU partnership is desirable to the extent it could stem part of the ongoing tensions between the EU and Russia and relieve the common neighborhood countries of their status of contested territory. It would set up additional mechanisms of peacebuilding and peacekeeping not only in Ukraine, but also for example in Georgia or Armenia, where frozen conflicts are in place. The partnership would constitute a tool of implementation of part of the OSCE Astana Declaration of 2010, aimed at creating a security community involving the Euro-Atlantic and the Eurasian region, without any diving borders or “personal” spheres of influence.²¹² In light of the Ukrainian crisis, a peaceful dialogue can occur only by going beyond the argument that cooperation can occur only in the absence of political conflict.

Russia has its own list of grievances against the West, from NATO’s enlargement to the East to the development of anti-ballistic missile systems in Europe, from the Western military intervention in Kosovo, followed by the recognition of its independence by most EU Member States, to the sanctions received following the illegal annexation of Crimea. This resentment led the Country to adopt a “neo-isolationist” course of action which profoundly affects a conceivable economic and political convergence regionally. Russia will hardly change his Foreign Policy Concept to give space to more liberal, western values and conditionalities, and that is why a new approach that does not undermine its status of “regional power in the post-soviet space” must be devised. The cooperation between the two will need to be backed up by an economic rationale due to the inevitable clash of ideologies and political structure of the Member States of each organization: liberal and democratic on one hand (though with some recent shifts) and authoritarian and protectionist on the other. Another issue concerns the way to concretize such partnership: the EU, and especially its companies, would prefer a binding treaty while the EAEU is more inclined towards a non-preferential trade agreement, or a memorandum of understanding. The latter would set discussion of potential cooperation without posing any formal obligations, which better reflect the patter of politics of Eurasian States.

²¹¹ Vinokurov, E., 2014. Mega Deal between the European Union and the Eurasian Economic Union. *Russia in Global Affairs*, No. 4, 18 December, Issue 4.

²¹² OSCE Chairperson-in-Office, 1 December 2010. “*Astana Commemorative Declaration: Towards a Security Community*” - *Seventh OSCE Summit of Heads of State or Government, Astana, 1-2 December 2010*, Astana: OSCE.

CONCLUSION

How can we thus define the EAEU? The Eurasian alternative to the EU? Putin's tool of power? A means to create a wide free market area as to appease Russia with the EU following the annexation of Crimea? Can it be seen as an independent IO to favor the observance of the four core freedoms in Eurasia? Perhaps, the most precise answer to all these questions is that the Eurasian Economic Union embodies all the above definitions. An updated, perhaps diversified, conception of this regional organization will mature starting from 2025, when a new level of policy-harmonization that includes financial markets as well as both the pharmaceutical and energy sectors will supposed to be in place.

Admittedly, although the Project was conceived by President Nazarbayev, the Eurasian Economic Union strongly relies on Russian foreign policy agenda. That is why the future of the EAEU is highly unpredictable, especially now that the Kremlin appears to have new deals at stake with Turkey and Syria, whose role in current geopolitics is certainly more on the spotlight than that of the EAEU. New strategic geopolitical gambles for Russia are now present eastward and concern the infrastructure project launched by China back in 2013, the Belt and Road initiative, along with new Energy cooperation agreements.

The analysis of the different motivations driving the five Member States to join the EAEU acknowledges the key importance of Russia within the Eurasian Economic Union and the influence it exerts on foreign policy decision-making of the four Countries. The accession to the EAEU appears to be nothing more than a deal (with informal nuances) which secures Putin both geopolitical and geo-economic advantages over the Eurasian region.

As reiterated by Vinokurov, the EAEU is there to stay. It is certainly sure that the stabilization of an organization, let it be regional or not, occurs with time and the Union is only officially five years old. The deep analysis carried out on the institutions and procedures within the EAEU has showed how there are good grounds for advancement of the integration project: the Eurasian Economic Union has legal personality, it has de jure two supranational organizations – the Eurasian Economic Commission and the Eurasian Court of Justice; part of the decisions at the institutional level are binding on Member States and at least those adopted by the Commission are directly applicable.

Nevertheless, the implementation of the agreed commitments was not fully successful, especially in Putin's opinion: this is because the original plan as advocated in 2010 expected the Eurasian project to become a full-fledged Union at all levels of integration, while the 2015 Union had achieved a certain degree of development only economically. A true fact is that this stability is attainable only insofar as the single national economies composing the regional bloc do not present sign of volatility. It is, again, a question of interdependence. The Union growth depends on national growth and vice-versa. The EAEU institutions need to be transparent and accountable, to let the organization reach the level of other Regional Organizations (ROs) at the global level. This appears far from being attained, since internationally democratic principles such as rule of law, separation of powers and non-discrimination are not contemplated within the Eurasian normative and institutional framework. It seems like Member States have insofar adopted decisions in a way that actually

bypasses the supranational character of the Union, confining it to the intergovernmental practice, and all to preserve their national interests. Hence, supranational mechanisms must be enforced. Progress can be achieved on the proviso that Member States are eager to pool part of their sovereignties together. We can perhaps conclude that the real hindrance to the economic integration of the Eurasian Union, in contrast with now almost 30 years of support for the economic rationale, is purely political.

Concerning the number of States involved in this economic project, no enlargement of EAEU membership is currently expected in the near future. The organization is now committed to increase its economic network through trade partnerships; the 2019 free-trade agreement signed with Serbia is an example. Nonetheless, none of the countries advanced any request to be included within the Union. New Memoranda of Understanding are now being drafted to achieve a further level of harmonization of macroeconomic policies both in the pharmaceutical and in the financial sectors.

The Eurasian Union appears to have been designed not with the aim of fostering real economic integration within the post-Soviet space, but rather with the primary objective of preventing the westward regional integration of its satellites in fear of losing influence and leadership over these territories. This form of negative integration is well illustrated by Russia's retaliation against States not wishing to tow the Kremlin line. Conversely, Russia's apparent refusal to treat the other EEU members as equal partners has caused numerous frictions within the Eurasian Union and made the other states wary of the Kremlin's intentions. Lastly, the success of an EU-EAEU deal will depend on the correct implementation of the Minsk agreements and a more accommodating attitude of Russia towards foreign relations. Furthermore, when considering an economic deal involving so many countries and such a vast territory, negotiations become more complex and longer, and new issues arise: will all tariffs be eliminated? Will a new common regulatory framework of norms and standard be implemented, and if so, will it substitute the current ones in effect in each Union? How mobility will be managed, both for labour and education? This will sure take some time, also by virtue of the structural contradictions still present within the EAEU countries.

ABBREVIATIONS

Anti-Crisis Fund (ACF)
Central Asian Economic Union (CAU)
Central European Free Trade Agreement (CEFTA)
Common Customs Tariff (CCT)
Common Economic Space (CES)
Community of Independent States (CIS)
Comprehensive and Enhanced Partnership Agreements (CEPAs)
Consumer Price Index (CPI)
Council of Mutual Economic Assistance (CMEA)
Court of Justice of the Eurasian Economic Union (CJEAEU)
Court of Justice of the European Union (CJEU)
Customs Union (CU)
Deep and Comprehensive Free Trade Agreements (DCFTAs)
Eastern Europe and Central Asia Working Party (COEST)
Eastern Partnership Association Agreements (EaP)
Economic and Monetary Union (EMU)
Eurasian Development Bank (EDB)
Eurasian Economic Commission (EEC)
Eurasian Economic Community (EurAsEC)
Eurasian Economic Union (EAEU)
European Community (EC)
European Convention of Human Rights (ECHR)
European Court of Human Rights (ECtHR)
European Neighborhood Policy (ENP)
European Union (EU)
Foreign Direct Investments (FDIs)
Free-Trade Area (FTA)
Gross Domestic Product (GDP)
International Organizations (IOs)
Non-Tariff Barriers (NTBs)
Organization for European Economic Cooperation (OEEC)
Organization of Central Asian Cooperation (OCAC)
Partnership and Cooperation Agreements (PCAs)
Regional International Agreement (RIA)
Regional Organizations (ROs)

Regional Trade Agreement (RTA)
Single Economic Space (SES)
Sustainable Development Goals (SDGs)
Transport Corridor Europe-Caucasus-Asia” (TRACECA)
Treaty on the Eurasian Economic Union (TEAEU)
Treaty on the European Union (TEU)
Treaty on the Functioning of the European Union (TFEU)
Union of Soviet Socialist Republics (USSR)
United Nations (UN)
World Bank (WB)
World Trade Organization (WTO)

Legal acts

- Consolidated version of the Treaty on European Union (TEU).
- Consolidated version of the Treaty on the Functioning of the European Union (TFEU).
- Consolidated version of the Treaty on the Eurasian Economic Union (TEAEU).
- Statute of the Court of the Eurasian Economic Union.
- Constitution of the Republic of Armenia (rev. 2015)
- Constitution of the Republic of Belarus (rev. 2004).
- Constitution of the Republic of Kazakhstan (rev.2017).
- Constitution of the Republic of Kyrgyzstan (rev. 2016)
- Constitution of the Russian Federation (rev. 2014)9
- Federal Law of the Russian Federation of July 15, 1995 No. 101-FZ About international treaties of the Russian Federation (as amended on 12-03-2014)
- Law On International Treaties of the Republic of Belarus, October 23, 1991 No. 1188-XII, In edition of Law of the Republic of Belarus No.331-Z of November 15, 2004
- Law of the Kyrgyz Republic of April 24, 2014 No. 64 About international treaties of the Kyrgyz Republic (as amended on 27-03-2017)
- *Judgment of the Constitutional Court of the Russian Federation, Avangard-Agro-Orel Ltd* (No. 417-O, 3 Mar. 2015).
- *Judgment of the Court of 15 July 1964. Flaminio Costa v E.N.E.L. Reference for a preliminary ruling: Giudice conciliatore di Milano - Italy. Case 6-64.* (1964:66).
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RIASSUNTO IN ITALIANO

L'Unione Economica Eurasiatica: Attori, Motivazioni e Discrepanze del Progetto di Integrazione Post-Sovietica in Eurasia

L'integrazione regionale è considerata una delle principali tendenze dello sviluppo globale nei secoli ventesimo e ventunesimo, che, indipendentemente dalla portata e dalle finalità, ha coinvolto tutte le aree geografiche del mondo. L'Unione Economica Eurasiatica (UEE) rappresenta il tentativo di regionalismo maggiormente riuscito nei territori degli Stati dell'Eurasia post-sovietica, una porzione di territorio che non è né Europa né l'Asia, ma che tuttavia introita ed esprime gli echi di questi due continenti. L'organizzazione regionale postula un policentrismo economico globale, il quale sostiene l'esistenza di molteplici centri di potere; inoltre, nella fattispecie, l'UEE si propone come ponte geo-economico che collega l'Unione Europea alla Cina. La presente tesi si propone di analizzare il processo di integrazione economica regionale in Eurasia, avviatosi alcuni anni dopo la disgregazione dell'Unione Sovietica e tuttora in atto.

Dopo aver approfondito tecnicamente i significati di *regionalismo*, *regionalizzazione* e *integrazione economica regionale*, si passerà ad una breve sintesi panoramica delle fasi di sviluppo dell'Unione Europea in quanto modello di riferimento, per poi concludere con gli approcci di integrazione attuati nell'Eurasia post-sovietica. Ciò implica l'analisi delle motivazioni che hanno spinto gli stati della Troika (Bielorussia, Kazakhstan e Russia) a fondare l'Unione Economica Eurasiatica (UEE), per poi analizzare la natura controversa – politica o economica – di tale entità regionale. L'attuale assetto normativo e istituzionale dell'UEE verrà illustrato criticamente, attraverso un'analisi comparata con il modello UE. Quanto sopra consentirà di cogliere alcune incongruenze, lacune e asimmetrie interne a livello economico, politico e culturale. In ultimo, vi sarà una breve digressione su un'auspicabile collaborazione economica tra l'Unione Economica Eurasiatica e l'Unione Europea, che tuttavia appare ancora lontana considerando le frizioni tuttora in essere nei rapporti diplomatici tra le due organizzazioni regionali.

Il *regionalismo* è il fenomeno di integrazione di stati confinanti, a fini politici, economici, culturali e di sicurezza, che conduce alla *regionalizzazione*, definita da Josephy Nye nel 1986 come formazione di associazioni interstatali su base regionale. Questo processo si realizza empiricamente attraverso l'armonizzazione delle attività e delle pratiche degli operatori economici all'interno di un regime regolamentare gestito da un'entità sovranazionale.

A partire dai primi accordi commerciali siglati nel primo dopoguerra, la corrente regionalista si è via via espansa, mutando carattere e diffondendosi in aree diverse da quella strettamente economica. Proprio per questo, gli esperti parlano oggi di tre (o quattro a seconda della suddivisione temporale) “onde regionaliste”. Nel presente studio, ci si è concentrati sul cosiddetto “*nuovo regionalismo*”, innescato dai nuovi assetti geopolitici conseguenti prima alla dissoluzione sovietica, poi al declino dell'egemonia americana e la parallela affermazione della Cina come superpotenza economica. Questa nuova onda tiene conto dell'erosione delle potenze nazionali di fronte alla consolidata interdipendenza economica dovuta alla globalizzazione, fondendo inevitabilmente le dimensioni locale, regionale e internazionale. Per questo motivo, il concetto di “*regione*”,

intesa comunemente come insieme di stati confinanti, risente di un'ulteriore de-territorializzazione, per via dell'accresciuta e necessaria cooperazione transnazionale. Il nuovo panorama geopolitico ha portato il nuovo regionalismo ad assumere connotazioni non-economiche, incoraggiando gli Stati ad unirsi non solo per ottenere mutui vantaggi commerciali, ma anche per costituire un forum politico per adottare decisioni collettive, per ottenere una maggiore sicurezza in caso di minacce territoriali o, specialmente in caso di comuni lasciti storici e culturali, per preservare e accrescere il senso di comunità. L'appartenenza ad un blocco regionale risulta quindi vantaggiosa. Questo anche perché il numero degli Stati coinvolti non è elevato: ciò favorisce e accelera i processi di negoziazione, snellendo i meccanismi decisionali e conferendo ai membri maggiore potere contrattuale.

Il processo di integrazione regionale si sviluppa all'interno del regionalismo, e differisce dalla semplice collaborazione interstatale perché mirato a creare un quadro istituzionale e normativo comune e di riferimento. Il suddetto processo si avvia soprattutto per incoraggiare e migliorare le relazioni commerciali tra più Stati, ed è per questo che si parla comunemente di integrazione regionale economica, dal 1947 regolata dall'Articolo XXIV dell'Accordo Generale sulle Tariffe doganali e sul Commercio (GATT). Nell'ambito del presente studio, è mandatario esaminare le cinque fasi cardine del processo, per come postulate dall'economista ungherese Bela Balassa: (1) la creazione di un'area di libero scambio; (2) la creazione di un'unione doganale, seguita da (3) un mercato comune; (4) la formazione di un'unione economica e monetaria e, infine, (5) la totale integrazione economica.

Ad oggi, l'Unione Europea rappresenta il tentativo di regionalismo più significativo e di vasta portata a livello globale. L'istituzione della Comunità Europea (oggi UE) è avvenuta durante la seconda ondata di regionalismo, per effetto dell'intervento americano volto a ricostruire l'Europa dopo la Seconda guerra mondiale (*piano Marshall*). A partire dai Trattati di Roma nel 1957, passando per l'Atto Unico Europeo (1986), il trattato di Maastricht che ha sancito l'unione monetaria (1992), seguito da quelli di Amsterdam (1997), Nizza (2001) e Lisbona (2009), l'Unione Europea costituisce oggi un ordinamento giuridico autonomo, con il proprio corpo di legge e una personalità giuridica indipendente.

L'Unione Economica Eurasiatica differisce dalla controparte europea non solo per il quadro geopolitico in cui si è evoluta, ma anche per le diverse ragioni che hanno portato alla realizzazione di un progetto economico di integrazione in Eurasia e per l'attuale *modus operandi* (metodi di implementazione delle regolamentazioni per creare il singolo mercato e meccanismi del processo decisionale). In primo luogo, la necessità di istituzionalizzare il "nuovo" spazio post-sovietico creando un'unione doganale che generasse vantaggi economici ai suoi membri. In secondo luogo, la volontà di accedere alla concorrenza economica globale organizzando una rete industriale "sui generis", il cui processo produttivo sarebbe stato trainato dall'utilizzo di risorse locali (non occidentali). In terzo luogo, il blocco economico regionale doveva originariamente diventare una piattaforma commerciale privilegiata tra Europa e Asia per lasciare spazio ad una zona di libero scambio che avrebbe inglobato entrambi i continenti, "da Lisbona a Vladivostok" (in seguito all'annessione della Crimea, da Murmansk a Shanghai, pertanto abbandonando l'idea di un'*Europa allargata*).

Infine, l'UEE è stata istituita anche per controbilanciare la crescente presenza invasiva della Cina in Eurasia, soprattutto dopo il lancio della Belt and Road Initiative (BRI) nel 2013.

Inoltre, a differenza del progetto europeo, quello eurasiatico si è sviluppato in quello che era stato per due secoli un "impero": accanto al lascito storico-culturale e un sistema di infrastrutture comune, i cosiddetti *Stati neo-indipendenti* hanno ereditato anche alcune discrepanze economiche strutturali. Pertanto, nell'ottica di analisi di un'organizzazione regionale come l'UEE, è opportuno considerare come il processo di integrazione eurasiatica si sia svolto in modo simultaneo e parallelo al processo di "*nation-building*" in atto nei suddetti Stati, concretizzato in una serie di riforme in atto a livello economico, politico e sociale.

La prima forma di regionalismo eurasiatico si manifesta nel 1947 con la creazione del Consiglio di Mutua Assistenza Economica (CMAE), controparte sovietica dell'occidentale Organizzazione per la Cooperazione Economica Europea (OECE); tentativo che però fallisce nel 1991. In quell'anno, l'Unione Sovietica si dissolve, un evento, questo, che Vladimir Putin ha definito come la "più grande catastrofe del ventesimo secolo". Alla fine della CMAE fa tuttavia seguito una serie di iniziative di integrazione economica, basate sul coordinamento di piani a lungo termine (frutto di accordi commerciali per lo più bilaterali) e nel rispetto della sovranità nazionale appena conquistata. Sempre nel 1991, nasce infatti la Comunità degli Stati Indipendenti (CSI), concepita come un meccanismo di leva per un "divorzio civile" dei neo-Stati dal vecchio conglomerato. Nel Marzo 1994, durante la sua prima visita ufficiale in Russia, l'ex Presidente del Kazakistan, Nursultan Nazarbayev, tiene un discorso presso l'*Università Lomonosov di Relazioni Internazionali* a Mosca, presentando un nuovo approccio pragmatico per ottimizzare il processo di integrazione avviato dalla CSI, che già mostrava delle crepe. Nazarbayev sollecitava la necessità di creare un'entità economica sovranazionale con due obiettivi principali: armonizzare i diversi sistemi nazionali di *governance* e facilitare i rapporti commerciali in Eurasia, in modo da preparare i futuri Stati membri ad affrontare la competitività economica globale. Nel 1997 i Presidenti di Bielorussia, Kazakhstan e Russia firmano il "Trattato per la Creazione di uno Spazio Economico Comune", i cui effetti saranno tangibili solo nel 2010, anno della creazione della Commissione Economica Eurasiatica, organo sovranazionale. Intanto, nel 2000 viene fondata la prima organizzazione politica, la Comunità Economica Eurasiatica (CEEA), il cui trattato istitutivo entrerà in vigore l'anno seguente. La sua nascita ha consentito lo sviluppo del primo quadro istituzionale, modellato su quello dell'Unione Europea. L'UEE è ufficializzata con il Trattato di Astana (TUEE) nel Luglio 2014, firmato solo dai Rappresentanti della Troika, in presenza di quelli di Kirghizistan e Armenia, i quali aderiscono l'anno successivo. Il 1° Gennaio 2015 l'Unione è formalmente riconosciuta a livello globale come organizzazione economica regionale, avente personalità giuridica indipendente.

Un'analisi critica, sui piani normativo e sostantivo, dell'organizzazione regionale in questione costituisce il fulcro del presente studio. La prima è, inoltre arricchita da un confronto parallelo con alcuni aspetti dell'*acquis communautaire* dell'Unione Europea, modello integrativo di riferimento. La rete istituzionale dell'UEE si compone di quattro Organi: il Consiglio Supremo, il Consiglio Intergovernativo, la

Commissione Economica Eurasiatica (composta da Consiglio e Collegio) e la Corte di Giustizia. Un possibile Parlamento Eurasiatico era stato previsto nel progetto di Trattato del 2012, ma successivamente scartato perché inadatto a creare leggi economiche, a quel tempo cruciali per l'avanzamento del processo di integrazione. Gli Organi e le procedure dell'UEE sono regolati dalle disposizioni delle sezioni II e III del TUEE. L'articolo 110 del Trattato stabilisce il russo quale lingua di lavoro, degli accordi internazionali firmati all'interno dell'Unione e delle decisioni della Commissione vincolanti per gli Stati membri. Per valutare quanto la legge UEE influisca sugli ordinamenti giuridici nazionali, occorre riconoscere la parziale compatibilità degli ordinamenti costituzionali degli Stati membri con l'ordine giuridico eurasiatico. La corretta osservanza dei principi di *applicabilità* e *supremazia* della legge all'interno dell'Unione Eurasiatica non è ad oggi pienamente garantita. Il principio di applicabilità diretta è una grande novità nel quadro normativo dell'Unione, in quanto è stato formalmente introdotto con la creazione dell'Unione doganale nel 2011. Per quanto riguarda il principio di supremazia, la regola generale è che nessuna delle Costituzioni dello Stato membro dell'UEE consente il primato della legge dell'Unione eurasiatica sugli ordinamenti giuridici nazionali. La supremazia della stessa è garantita in caso di accordi internazionali, nonché di decisioni e direttive approvate all'interno delle istituzioni UEE. Ciò è dovuto sia alla mancanza di procedure di esecuzione da parte della Corte di Giustizia Eurasiatica, il cui ruolo è più retorico che pragmatico, sia all'assenza di un meccanismo di sentenza preliminare sulla corretta interpretazione e applicazione del diritto dell'Unione. Il controllo della convenzionalità e della conformità degli atti giuridici adottati a livello sovranazionale è infatti affidato ad una Corte Costituzionale nel caso di Armenia, Bielorussia e Russia, ad un Consiglio Costituzionale in Kazakistan e ad una Camera Costituzionale in Kirghizistan.

Passando ora all'analisi sostantiva, l'integrazione eurasiatica presenta ancora molte contraddizioni e problemi strutturali. Le incongruenze si trovano già all'origine del progetto. Se da un lato i Capi di Stato della Troika fossero d'accordo sull'importanza e la necessità di modernizzare le economie dei neo-Stati e alimentare i flussi commerciali nella regione, dall'altro avevano opinioni divergenti sui vantaggi che ciascuno di loro poteva trarre dal progetto. Tale aspetto è ormai radicato nel processo decisionale all'interno dell'organizzazione e può essere sintetizzato nell'approccio dicotomico geo-economico – geo-politico. Ad oggi persistono numerose contraddizioni circa la natura del blocco regionale. Sebbene sia stato in più occasioni ripetuto come il progetto dovesse essere confinato all'area economica, in modo da aumentare il volume del commercio e avviare un processo di modernizzazione in Eurasia, il tratto politico è indubbiamente presente e rilevante. Questo è ampiamente riscontrato nella soverchiante politica estera della Russia, promotore dell'integrazione eurasiatica e principale contributore del budget dell'organizzazione, nonché abile stratega geopolitico. Sin dalla caduta dell'impero sovietico, la Russia ha adottato diverse politiche volte a riconquistare il titolo di superpotenza mondiale, presentandosi come leader regionale e ricorrendo "sia al bastone che alla carota". Sembra, quindi, che l'Unione Eurasiatica non sia più solo *economica*, ma anche politica, nonostante l'apparato normativo dell'organizzazione non preveda alcuna regolamentazione dei campi cosiddetti "non economici" (punto debole dell'UEE). L'agenda dell'Unione va quindi oltre la creazione e lo sviluppo del singolo mercato

mirato all'armonizzazione delle politiche monetarie e commerciali, venendo spesso rimodellata a immagine delle strategie geopolitiche del suo finanziatore principale, la Russia.

Quella dell'Unione economica eurasiatica è stata un'evoluzione basata sul principio del "*tutto e subito*". Essendo un blocco regionale relativamente nuovo, il metodo di integrazione differenziata, la geometria variabile e il ritmo accelerato dell'intero processo integrativo hanno reso difficile per gli esperti quantificare i risultati finora raggiunti. Quanto sopra è dovuto principalmente all'inevitabile lascito sovietico, un sistema arretrato caratterizzato da prezzi distorti, irrazionalità del mercato e accordi commerciali "personalizzati" reciprocamente vantaggiosi. Le fragili strutture economiche nazionali non consentono all'Unione di avere un peso rilevante nel contesto globale.

Le ragioni alla base della spinta di Mosca ad accelerare il processo di integrazione istituzionale dell'UEE risiedono in circostanze esterne all'Unione: da un lato, la recessione economica globale del 2008-2009, dall'altro, l'insieme di effetti indesiderati dell'annessione della Crimea da parte della Russia. Tutte e cinque le economie nazionali sono scarsamente differenziate e non sufficientemente forti per sopravvivere con le proprie risorse, poiché mancano di capacità economiche e tecniche oggettive. Ciò si traduce in una forte interdipendenza economica degli Stati, nonché del rischio che un rallentamento di un'economia si possa ripercuotere sulle altre. La svalutazione delle valute dei Paesi dell'Asia centrale dovuta della volatilità del rublo di fronte alle crisi finanziarie nazionali del 1998 e del 2012 e alle sanzioni occidentali a partire dal 2014 ne è la prova lampante.

Un aspetto politico importante riguarda la "coabitazione" di elementi intergovernativi e soprannazionali all'interno dell'Unione. Di *soprannazionalità* si è parlato più nei discorsi e meno negli atti. Le funzioni della Commissione e della Corte, gli organi esecutivo e giudiziario dell'Unione e definiti sopranazionali, sono alquanto limitate. Qualsiasi decisione della Commissione può essere modificata o abrogata a seguito di una mozione presentata dagli Stati membri (non consentito nell'UE), e le sue competenze non comprendono alcun meccanismo di applicazione del diritto dell'Unione. La sentenza della Corte ha carattere puramente consultivo, il che lascia agli Stati membri la facoltà di scegliere se tenerne conto o meno; inoltre, le sue decisioni non possono né modificare né annullare sia il diritto dell'Unione che quello nazionale. Inoltre, gli Stati membri si sono rivelati riluttanti a cedere parte della loro sovranità ad un organo centrale, tendendo ad agire sempre nella difesa degli interessi nazionali. Le ragioni di questo approccio statale e individuale sono da ricercarsi non solo nel sistema politico dei singoli Stati, regimi elettorali autoritari, ma anche nel timore che ciò potesse ricondurre al ripristino dello *status quo* ante-disgregazione.

A livello geopolitico, una breve analisi dell'Ucraina è emblematico per il percorso evolutivo dell'Unione Economica Eurasiatica, nonostante il Paese non sia membro dell'organizzazione (doveva esserlo secondo il piano del 2003, poi emendato nel 2009 a seguito della "rivoluzione arancione"). L'azione unilaterale della Russia in Crimea ha violato due principi cardine dell'UEE, presenti già nel Preambolo del Trattato: il rispetto dell'indipendenza territoriale e il perseguimento di una politica commerciale coesiva. Le crisi politiche e di sicurezza che ne sono seguite hanno causato una maggiore sfiducia dai parte degli Stati Membri nei

confronti sia dell'Unione sia della Russia, incoraggiandoli ad elaborare diverse “strategie di contenimento” dell’azione di Mosca. La “*Questione Ucraina*” ha evidenziato come il Cremlino sia disposto a ricorrere alla forza militare per realizzare i propri scopi.

La forte influenza del modello dell’Unione Europea sul processo di evoluzione eurasiatico ha spinto i Paesi UEE, così come numerosi accademici, a ipotizzare una cooperazione concreta tra le due organizzazioni regionali. La realizzazione di una zona di libero scambio tra UEE e UE costituirebbe il primo tentativo di inter-regionalismo che coinvolga lo spazio Post-Sovietico. Tale rapporto commerciale va analizzato sulla base delle reciproche “percezioni”, degli interessi in gioco e delle strategie geopolitiche in atto. Le logiche di integrazione dell’Unione Europea e dell’Unione Economica Eurasiatica hanno seguito due strade inizialmente parallele, poi dirottate dalla politica estera della Russia. L’integrazione europea è stata guidata dalla volontà sia di porre fine alle tensioni politiche ed economiche tra Francia e Germania, sia di ricostruire l’Europa nel secondo dopoguerra. L’integrazione eurasiatica, inizialmente avviata su suggerimento kazako per ricostruire l’ex territorio sovietico sfruttando il patrimonio storico e culturale condiviso, lasciando fuori la politica, è diventata poi uno strumento strategico geopolitico “personale”.

L’idea di un dialogo costruttivo tra l’Unione Economica Eurasiatica e l’Unione Europea risale agli anni Ottanta, con una Dichiarazione di intenti tra l’allora Comunità Europea e il Consiglio per la Mutua Assistenza Economica (1988); l’anno dopo, il Presidente Mikhail Gorbachev si è rivolto ai colleghi del Consiglio d’Europa invitandoli a pensare a una “Casa comune europea”. Nel 2011 Vladimir Putin scrive su *Izvestia*, famoso quotidiano russo, che un partenariato economicamente logico ed equilibrato tra le due Unioni avrebbe avuto un indubbio impatto continentale e globale positivo. Nel 2013 l’allora Presidente della Commissione Europea José Manuel Durão Barroso sottolinea che tale impegno non doveva essere un vincolo, ma piuttosto un accordo di partenariato che onorasse il rapporto commerciale e il patrimonio culturale condiviso. Effetti tangibili arrivano alla fine del 2015 quando Jean-Claude Juncker, successore di Barroso, invia una lettera al governo russo in cui si afferma di aver chiesto ai funzionari della Commissione di elaborare nuove proposte sulla cooperazione economica tra UE e UEE. Gli incentivi alla cooperazione sono i seguenti: una compatibilità strategica dei fattori di produzione, la prossimità geografica, i settori energetico, tecnologico e dell’innovazione (gli Stati membri dell’UEE sono ancora in fase di modernizzazione) e ultimo, non meno importante, il vicinato comune. Per il suo peso geopolitico, quello tra l’Unione Europea e l’Unione Eurasiatica è visto come un “mega affare”.

Il dialogo tra la Commissione Europea e la Commissione Eurasiatica, sebbene iniziato ufficialmente nel 2017, non ha prodotto ad oggi alcun accordo ed è per ora gestito a livello “tecnico” dal Gruppo “Europa orientale e Asia centrale” (COEST) del Consiglio dell’UE. Questo perché ci sono molti ostacoli, soprattutto geopolitici. La Polonia e i Paesi Baltici temono un ritorno al passato “centralizzato” sovietico; Paesi come Georgia, Moldavia e Ucraina, sono ancora incastrati in una posizione geografica scomoda, valutando i pro e i contro su quale sia l’opzione migliore: un’area di libero scambio con l’UE (vedi la Politica europea di vicinato,

il Partenariato orientale o l'Accordo di Libero Scambio Globale e Approfondito) o l'adesione all'Unione Eurasiatica. A questo proposito, l'UEE potrebbe rivelarsi un'opzione più vantaggiosa nel lungo periodo rispetto all'UE, per la ridotta eterogeneità dei Paesi membri e per il loro percorso storico ed economico condiviso. Inoltre, come già menzionato, l'attuale scambio di sanzioni tra l'Occidente e la Russia sta consumando il già debole grado di cooperazione economica tra le due parti, ostacolandone il consolidamento. Un altro Stato non membro di nessuna delle Unioni ma rilevante nell'analisi di cooperazione tra le due è la Repubblica di Serbia la quale, nonostante il processo di accesso all'Unione Europea avviato nel 2014, è stato inaspettatamente firmatario nell'Ottobre 2019 di un accordo di libero scambio con l'UEE. Un'iniziativa questa, da parte della Presidenza armena, mirata a diversificare le relazioni economiche estere del blocco eurasiatico e ad ampliare la copertura geografica dell'area di libero scambio.

È troppo presto per prevedere cosa accadrà con l'UEE. È chiaro che sebbene il Progetto economico sia stato concepito dal Presidente Nazarbayev, il futuro dell'Unione Economica Eurasiatica è soggetto indissolubilmente alla politica estera del Cremlino. All'attuale stadio di integrazione, lo scenario più sostenuto raffigura un ulteriore declino dell'organizzazione, a causa della più volte menzionata riluttanza degli Stati membri ad assumere seriamente impegni politici nei confronti di un'entità sovranazionale. Ciò costituisce un'ulteriore prova di come un processo di integrazione guidato da un singolo Stato possa effettivamente portare alla sua disintegrazione. Si può inoltre prospettare, ma appare ancora prematuro, un effettivo riavvicinamento all'UE che vada oltre quello normativo (appurato con la sentenza "Avangard-Agro-Orel" del 2015 della Corte Costituzionale russa), come già evidenziato dai precedenti Presidenti della Commissione Europea, José Manuel Barroso e Jean-Claude Juncker.

La cosa certa è che l'Unione Economica Eurasiatica c'è, e va considerata nel quadro geopolitico mondiale. Nonostante esista ufficialmente solo da cinque anni, l'UEE ha raggiunto traguardi importanti in tempi relativamente brevi: ha personalità giuridica riconosciuta a livello internazionale, l'apparato istituzionale comprende *de iure* due organizzazioni sovranazionali – la Commissione Economica Eurasiatica e la Corte di Giustizia Eurasiatica; parte delle decisioni a livello istituzionale sono vincolanti per gli Stati membri e almeno quelle adottate dalla Commissione hanno applicabilità diretta. Se si migliorassero i meccanismi legislativi rendendoli trasparenti e responsabili, l'intero processo decisionale sarebbe più accurato e i negoziati più rapidi. Per quanto concerne un accordo eurasiatico-europeo, ci sono ancora molti elementi da discutere, alcune pratiche di politica estera da rivedere e rimostranze da gestire. Una cosa è certa: fino a quando gli Accordi di Minsk, risolutivi della "Questione Ucraina", non verranno implementati *in toto*, nessuna delle due parti compirà un nuovo passo.