

## **The integration of law and integrality of the legislation as necessary conditions for the success of law enforcement in interstate integration**

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**Subject.** The article substantiates the need for a special system of legislation for any project of international integration. Only such system, being integral, may, firstly, become the basis for the formation of an integrative law of this integration project, and secondly, have a supranational constitutionality, giving the ability to individual enforcement.

**Purpose.** The purpose of this paper is the design of the constitutional-legal mechanisms of international integration in the scope of an integrative understanding of law and law enforcement.

**Methodology.** The author uses methods of theoretical analysis, particularly the theory of integrative legal consciousness, as well as legal methods, including formal legal method and comparative law.

**Results, scope of application.** The author points out that the formation of a single legal space in the Eurasian Economic Union (EEU), as well as in Customs Union and the Eurasian Economic Community before, is a development of constitutional law of supranational level, not of international law. The integration of law and integrality of the legislation are prerequisite for the success of the interstate Eurasian integration.

Integration of law means the completeness of its internal structure, implies the indissoluble inner coherence of the law, its wholeness, unity. Coherent legal norms, embodied in legislation, can only create the phenomenon of law. The law should be understood as a meta-system, supersystem, it accumulates all socially significant systems and integrates the values of the law itself, its principles, values, other social regulators and regulated spheres of social relations. Attempts to apply the concept of "integration", but to abandon the notion of "integrality" are unreasonable, this terminological dichotomy is just a word game.

If we talk about law, it is more appropriate to talk about its integrity, but if we talk about legislation, emerging to accelerate and deepen integration processes, it is more appropriate to talk about integrality.

The author critically analyzes the features of an integrative understanding of law that are highlighted in the legal literature.

The results of the study can be applied in the design of the constitutional-legal mechanisms of interstate Eurasian integration in the framework of the legal modernization of the modern Russian state.

**Conclusions.** The author comes to the conclusion that the use of integral norms of the legislation makes the law alive and develop the integration models. Instability of legal regulation is a serious challenge to the integrity of Russian law. Emerging legislation of the Union State of Russia and Belarus and the Eurasian Economic Union are integral, but the law of these political and legal entities is not integrative today, it does not exist simply. As a consequence, law enforcement in the States participating in the interstate integration is carried out only through the implementation of national legislation.

**Keywords:** interstate integration, constitutional law, the integrity of law, the integrality of the legislation, law enforcement, Eurasian Economic Union.

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### **Introduction.**

Practical experience of law enforcement always poses new tasks to the theory of state and law. The

urgency of an adequate legal assessment of the problems being solved in the post-Soviet space, especially during the Eurasian interstate integration, has now become acute. In carrying out legal modernization of the modern Russian state [1], the construction of the constitutional and legal mechanisms of the Eurasian interstate integration should become a part of this modernization.

## 1. Importance of integrative legal understanding for interstate integration.

I'll start from the end, with the conclusion: without integrative understanding of both law and law enforcement the process of Eurasian interstate integration will not be successful. Any other existing approaches to legal thinking will not work. Integrity of law and the integration of legislation are far from sufficient, but it is a clearly necessary condition for the success of Eurasian interstate integration.

There is an illustrative example. In 1999, a decision was taken to establish a Russian-Belarusian Union State, the relevant treaty was ratified and entered into force. Some higher bodies of the Union State have been created, although there may be far from complete, the union legislation exists, but an integrative understanding of the law makes it possible to see that the law of the Union State does not exist. As, therefore, there is no Union State itself. It is proclaimed but is not created.

What is meant by Union legislation? The annually adopted budget of the Union State, the legal acts of the Supreme State Council and the Union Government, its Standing Committee, acts on the status of officials of the Union State, etc. From the standpoint of legal positivism, a natural, psychological or strong-willed theory of law, we see all the signs of law. However, there is no Russian-Belarusian Union law.

Meanwhile, the formation of a single legal space within the framework of the Eurasian Economic Union, as before in the framework of the Customs Union and the Eurasian Economic Community, is the development not of an international but of a constitutional law of a supranational level [2, p. 600]. We are talking about the formation of constitutional and legal relations in their classic form [3], and that is why the key condition is the existence of a constituent act, rather than of bilateral or multilateral treaties and agreements.

After the liquidation of the USSR and the rejection of integrative Soviet law, states participating in the post-Soviet space in the Eurasian interstate integration had to rebuild the law from scratch. On the contrary, the European integration has gone far ahead. The law of the European Communities had had supremacy over the national legal systems of the EU member states by the end of the twentieth century, it had a direct effect, and its norms were automatically integrated into the national law of all EU member states. EU law was provided with jurisdictional protection from judicial institutions of the EU and member states [4]. Over the past decade and a half, the integrativity of European Union law has become a fact.

## 2. The essence of integrative understanding of law.

Speaking about the need for an integrative understanding of law, one does not deny any of the existing definitions of law, one can use normative, sociological, value and any other approach to law. V.V. Lazarev attributes the possibility of jurisprudence to the future "in all the diversity of ideas about what exists and with a rich palette of conclusions about the need to agree on the recognition of the relativity of a single definition or even the concept of law" [5]. It should be agreed with V.V. Sorokin, that the right, being a phenomenon of the spirit, in its entire depth can not be understood at all on the basis of the application of rationalistic methods [6, p. 264].

Integration of law means the completion of its internal structure, it assumes the inseparable internal coherence of law, its integrity and unity. Linked legal norms embodied in legislation can only create a phenomenon of law. V.V. Lazarev assumes that the approaches to law and the understanding of

law should be ", because the very law is integrative " [5]. It is not because of the complexity, versatility and versatility of law as a phenomenon, but because of its integral nature, the integrity of its essence.

Attempts to apply the notion of "integrativity", but to abandon the concept of "integrality" are unreasonable, such a terminological duality is only a game of words. Let mathematicians worry that lawyers already take the integral from them. For social characteristics, both terms are important.

With regard to law, it is appropriate to speak about its integrativity, but with regard to the legislation that is being formed to accelerate and deepen the integration processes, it is more appropriate to talk about integrality. If integrativity implies a certain completeness of the internal structure of law, then integrality bears in itself the trait of only the focus of legislation on the creation of internal cohesion and unity. Opposing of the law and the positive law is extremely fruitful. There is no coincidence that K.P. Pobedonostsev described law as an ideal for the state, an ideal in which "the most precious property of society and the main basis of its internal (and, consequently, external) wealth" is contained "[8, p. 220]. And because the fetishization of the law, which characterises bourgeois revolutions, when the emerging liberal worldview posed, according to P.I. Stuchka, the law in place of God [9], is now simply counterproductive. Only the delineation of law and legislation allows us to see the essence of the problem.

And this essence is in the fact that the laws of the Union State and the Eurasian Economic Union that began to form are integral, but the law of these political and legal entities is not integrative today, it is simply not yet available. As a consequence, law enforcement in states participating in interstate integration is carried out only through the implementation of the norms of national legislation.

It is unfortunate to read categorical statements that an integrative approach to law contradicts the objective, scientific approach [11]. Unquestionably, Professor A.F. Cherdantsev has the right to any personal assessments, but admitting intolerance and incorrectness towards his opponents, making a firm conclusion that legal science does not need an integrative approach to law, he must be ready for the stern responses of Romantics who continue to believe in the freedom of creative search of the new ideas.

Inter-state integration will only then move from the level of international cooperation and international law to the level of federal government and national (supranational) constitutional law, when international legal norms will grow into a single union (Federal) law, and the law of "objective integration, the right of total-unity can not be anything other than the law formed directly from the totality in which it carries out regulatory functions "[12, c. 58] .

3. The integrative nature of law is the basis for law enforcement in the draft interstate integration.

It's time to say that only with the integrative nature of the right integration project - the Eurasian Economic Union or the Russian-Belarusian Union State will be enforceable and open to implement legal norms. The possibility of law enforcement as a form of realization of the law is the next step after the issuance of the normative legal act to create the law. The aim of the legal act to create a complete unity of the legal system (the integration of legislation) will prove fruitless if the law does not achieve the qualities of integrativity. Even the acts of law enforcement will not yield results if the integrity of the law is still missing.

Law enforcement in the narrow sense has specific features , and namely the presence of a special subject, the stage nature of the process, the individuality of the legal act of application of law, etc. But it seems appropriate and important to apply the term "law enforcement" in a broader sense,

filling it with the meaning of implementing legislation. This is necessary for a more clear constitutional design of the law of integration associations. A broad understanding of law enforcement, of course, encompasses the entire process of the implementation of law in the life of society and the state [13], the importance of this approach allows one to feel the integrative nature of law in the public legal sphere. Only by understanding the law as a means of regulating public relations, bringing order, stability, recognition and protection of the interests and rights of their participants, one can achieve the unity of law enforcement in international systems of law enforcement [14, p. 404], including such as the EEA and the Russian-Belarusian Union State.

Law enforcement includes not only the issuance of an act of the authorized body with an individual authority order, but also the very ability of the realization of law. The enforcement of the norms of integral legislation makes the law alive and fills the integration models with development. It is not by chance that in the modern understanding of law, even including both the set of legal prescriptions contained in various sources, as well as the public-law and private-law institutions connected with law (state, legal entities, etc.) are included in it [15, p. 20]. The dispute over terminology related to law enforcement issues in interstate integration can be lengthy, but at the constitutional level the resolution of such disputes is often impossible, remaining the lot of politicians, not lawyers [16, p. 1-49].

There are, however, particularities in which it is difficult to support the apologists of the integrative perception of law. For example, I can not agree with G.D. Gurvich, V.V. Lazarev and M.V. Nemytina in their conclusion about the possibility of the formation of law, and, consequently, law enforcement, in addition to the state, outside the activities of its bodies [5]. Moreover, secularization over the past centuries has largely led to the loss of the connection between law and morality [18, p. 434]. Perhaps my denial of denial is excessively conservative, but it is impossible to recognize the existence of law and law enforcement in the absence of state coercion. S.A. Muromtsev, wrote in 1879: "The legal (organized) defense is the main distinctive property of law which determines and causes other characteristic properties of law" [19, p. 353]. The law "is always backed up in its observance by the possibility of state coercion, without which it is not a law" [14, p. 36] .

V. Lazarev, following the founder of "integrative jurisprudence" Jerome Hall believes that values are indispensable attributes of the rule of law [5]. Absolutely romantic perception of law, considering any legal norm as, undoubtedly, a progressive phenomenon. The practice of concrete enforcement shows the opposite.

The perception of value as an indispensable attribute of the legal norm is as erroneous as the identification of any celebration of the common will with the triumph of justice, humanity and virtue [20, p. 66].

## Conclusions.

If the process of gaining the integrity by the law of the EAEC and the Union State will not be accelerated, deepened and successfully completed, the Eurasian integration will degenerate into a race without a finish. And in Russia it will also be possible to draw a conclusion about the bare rituality of integration and the priority of the process of deepening of the implementation of constitutional principles in sectoral legislation, as has already been done in the Republic of Belarus [21, p. 291]. The future of the Eurasian interstate integration depends on each of us, first of all, specifically on national leaders.

Eurasian interstate integration presupposes the movement of participants to a certain whole, the unification of states into a kind of unity that is gradually being transformed into a union state. By the way, the integrativity of modern Russian law is now being seriously tested. The practice of law enforcement in recent years, and indeed the dynamics of the development of the legislation of the

Russian Federation in 1994-2016 showed an increasingly lower quality of the adopted laws, which need to be clarified literally from the moment they were adopted. The instability of legal regulation, when dozens of amendments are introduced annually into individual codes, weakens and corrodes both the legal and political system of Russia. It is no accident that the report of N.V. Tkachenko on the statistical analysis of federal legislation leads to the conclusion: the growing instability of legislation prevents planning the future of the country [23].

For example, the Code of the Russian Federation on Administrative Offenses, adopted in 2001, has been amended 517 times, and the Tax Code of the Russian has been amended 459 times [23, p. 52]. The problem is not only the Russian one. Thus, G.A. Vasilevich, considering a similar situation in Belarus, had to state that "the instability of legislative acts undermines the credibility of specialists in the field of lawmaking" [2, p. 602].

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