

Eurasian economic commission: stages of formation

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Abstract: This article discusses problems of the formation of the executive body of the Eurasian Economic Community and the Customs Union and the Common Economic Space. Here is a comparison of the legal status of the Commission of the Eurasian Union in the various stages of its formation. Article operates characteristics of the European Commission for comparative purposes. Supranational and national traits of the Eurasian Commission are considered, judgment is expressed about the gradual strengthening of supranational features.

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Introduction

Any association of states applying for the effective implementation of its objectives should be based on controls, which provide the solution of problems faced by the association. The European Union demonstrated it. The institutional system of EU last difficult way of becoming. All similar communities that are created in the following way influenced the EU experience in creating their own bodies. The Eurasian Economic Union does not avoid it. Its institutional system is built on the same principle that the EU's system: a combination of supranational and national authorities with a different scope of authority both national and supranational bodies. Today in the Eurasian Union is very strong national origin of decision-making on a wide range of issues. We can say that the dominance of national authorities expressed strongly enough.

Appeal to experience of the functioning of the most important institutions of the European Union is due to their role and importance in the organization of the process of economic integration. In constructing similar bodies in other communities it is important to find the right balance of national and supranational origin to choose the optimal "speed" in an effort to achieve its objectives. Among the EU institutions important place belongs to the executive body (the European Commission). The researchers defined it as the central institution and the core of European integration [1, 104]. The EU Commission has long been at the heart of European integration. [2]

Its place is important in the relations of the EU members. The Commission characterized as the supranational institution of the European Union [3]. Fulfilling this role can only provide with sufficient powers and authority of decisions. Scope of competence can be compared with the terms of the rights and responsibilities of the national government

and even exceed it (the jurisdictional powers of the European Commission). Therefore, researchers rightfully say about authoritative and administrative activities of the Institute. As the executive branch, the Commission ensures the implementation of the budget, oversees the precise application of normative legal acts of the European Union and generates new ideas and proposals for the development of the European Union [4, p. 4]. The European Commission is the driving force of European integration [5, p. 103].

It should be noted that the activities of the European Commission goes beyond executive and administrative power. It has the right of legislative initiative, performs control and supervisory functions, be a mediator in disputes between Member States and EU institutions, stands representative in relations with third countries, provides rulemaking [6, p. 7-8].

Eurasian Economic Commission of the Customs Union and Common Economic Space has gone its way of becoming as an organ of an international association. Its place in the management of the Customs Union can be determined based on the totality of its characteristics (organizational, functional, of competency). For a more comprehensive picture we should see history of the appearance of the body, influence on its formation of similar bodies of other interstate organizations (communities), especially the European Union.

Since the Customs Union "grew out" of the Eurasian Economic Community (EEC), it is logical to look for predecessor in the system of management of the EEC. Similar functions under this interstate formation performed Integration Committee, which was established in accordance with the Treaty "On the establishment of the Eurasian Economic Community" on October 10, 2000 [7]. It was established along with the Interstate Council, the

Inter-Parliamentary Assembly (IPA) and the Community Court. All these bodies were obliged to ensure the continuity of previously created integration management by the Contracting Parties (Article 3 of the Treaty). In fact, the establishment of the Committee was provided by Agreement dated 26 February 1999 "On the Customs Union and the Common Economic Space" (members: Republic of Belarus, Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan) [8].

However, only The Treaty in 2000 as a founding document secured tasks, rights, organization of this body. Those powers indicate some caution of founders of the Community about rights of this body claimed as permanent. It can be attributed to the executive organs, but with a big caveat. It regards to such part of the executive body as stewardship and under this function regulation of relations on certain issues. Although the decision-making power was endowed the Integration Committee, but the value of these solutions were not decisive. This conclusion follows from an analysis of its legal status.

Agreement envisaged making decisions by IC "within the powers defined by this Agreement, and also delegated to it by the Interstate Council". As you can see, the authority to make decisions depend on the provisions of the founding document and of the will of the supreme body of the Community. The Treaty defined the number of powers of the Committee, but they were reduced to the development of recommendations, preparation of solutions, monitoring decisions of Interstate Council. The most significant is the responsibility (the right) to prepare proposals on the formation of the EEC budget and supervise its execution.

We cannot call administrative powers such rights as considering measures directed on achievement the objectives of the Community, including the conclusion of relevant agreements and conduction a common policy by the Contracting Parties on specific issues, the right (obligation) to prepare appropriate proposals; right to address recommendations to the Interstate Council, appeal with recommendations and questions to the Interparliamentary Assembly and the Governments of the States Parties, requests to the Community Court .

Provisions for the annual submission to the Interstate Council of the report on the situation in the Community and the implementation of its goals and objectives, submission a report on its activities, as well as on the budget of the EEC are formulated in documents as an obligation.

We cannot characterize Integration Committee as a supranational body. Its composition and method of formation show a close connection

with its government. In accordance with the Agreement the Integration Committee included deputy heads of governments of member states. There was no right to influence the appointment of the members of the Committee to collegial authorities of the Community, because deputy of national government appointed in accordance with the legislation of each country.

Establishment of the Commission of Permanent Representatives (the Permanent Representatives) of EEC countries, appointed by the Heads of States Parties, also indicated about national character of the permanent body. The Commission provided ongoing work between the meetings of the Integration Committee.

Practice of functioning interstate associations suggests that integration processes seriously difficult (if is really possible) without the implementation of supranational structures. Such a structure is needed even at the level of the unit (not an independent body), because it is the only way to coordinate the efforts of national authorities in the process of solving common problems.

Treaty in 2000 provided the establishment of the Secretariat of the Integration Committee. It leded organization of work and information support of the Interstate Council and the Integration Committee. While the Secretariat has been designated as the structure of the Committee, it had some organizational autonomy, as its head - Secretary General - appointed by the Interstate Council for the Integration Committee for three years.

The Secretary-General was the chief administrative officer of the Community and participated in the meetings of the Interstate Council and the Integration Committee.

Presence of an element of independence could be found in both the Secretary-General and staff of the Secretariat ban to seek or receive instructions from any whatsoever State Party or a third State authority. The Servants of the Secretariat shall be the duty to refrain from any action which might reflect on their position as international officials responsible only to the EEC.

The principle of multi-speed integration in EEC allowed three countries (Belarus, Kyrgyzstan and Russia) to move to the next stage of cooperation - creation of the Customs Union and the Common Economic Space. Deepening of integration has led to the transformation of bodies, which are designed to ensure the functioning of the new entity. The system of the Customs Union has also changed. In particular, value of the body, which in the system of power-sharing democratic state is referred to as an executive, has been enhanced. Newly created Customs Union Commission can be considered such

body. Fixing status of this body in special Agreement dated October 6, 2007 “On the Customs Union Commission” underscores its importance. It has been defined “as a single permanent regulatory body of the Customs Union” (Article 1 of the Treaty) [9]. Parties have not determined the Commission as an executive body, although in fact it was such. This can be judged from the fact that the Commission in its activities guided not only by the constituent documents and the Treaty on it, but also by the decisions of the supreme body of the Customs Union. The presence of such duties testified about laying on the Commission executive functions.

Importantly, the Treaty laid the foundations of giving to the Commission supranational features. This is evidenced by the principles of the implementation of its activities, incorporated in the Contract. Article 2 enshrined the principle of voluntary gradual transfer to the Commission powers of state bodies of the participants. Realization of this principle assumes a gradual concentration of the powers in the Commission, which have previously performed by national authorities. It indicates the emergence of supranational features in its activities. Work of the Commission on a regular basis contributes to approval it as supranational body. Another argument to it is compulsory decisions of the Commission for the States Parties adopted under its authority.

At the same time, estimating the provisions of the Treaty in 2007 as a whole, we cannot say that the Commission is a full supranational body, as its composition and formation indicate about decisive role of governments of member states in this process. The contract provided that the Commission shall be composed of one representative from each Member State, who is also the Deputy Prime Minister or a member of government, vested with the necessary powers (Article 4).

Treaty in 2007 mentions the powers of the Commission, but the document was missing a special article enshrining competence. It was given a list of the functions of the Commission (list of activities), what is not enough to form a complete set of the powers of the regulatory body (Article 6).

One of the positions of Article 6 contained the following provision: “method and conditions of the Commission's functions in specific areas of its activity determined by specific international agreements between the Parties”. As you can see, the parties are very cautious approach to empower the Commission the specific rights that may be indicative of the difficulty of defining a set of competency rights and responsibilities for this key body providing integration tasks.

The Treaty in 2007 contained a provision that the Commission adopts decisions which are binding on member states. In treaty also determined decision-making procedures (Article 7). It complements the rules of procedure of the Customs Union Commission, approved by the decision of the Interstate Council on 27 November 2009. But mentioned documents and rights were fixed by them, were clearly insufficient for a full recognition of the Commission's regulatory authority.

Care with which participating States approach to the issue of the intensity of the integration process has, as it seems, and a different cause. In his speech, April 28, 2014 President of Kazakhstan Nursultan Nazarbayev said: “Talking about the Eurasian Economic Union, some of the experts and politicians afraid world opinion by mythical “reincarnation” of the Soviet Union. I believe that the arguments in this regard are far from reality and groundless. First, today for the reintegration of Soviet-style simply there is no institutional framework. Second, the post-Soviet nations built their own statehood. Third, the current system of property, social structure and economic structure of our societies are far ahead of the Soviet archaic. And in this we concurred with the leaders of Russia and Belarus” [10].

The next stage of development of the executive body of the Customs Union was the establishment of the Eurasian Economic Commission (hereinafter - the Commission). Agreement dated November 18, 2011 year contained more detailed provisions relating to all parties of the organization and activities of the body, designated as “single permanent governing body of the Customs Union and the Common Economic Space” [11]. This document responds to the requirement of completeness and consistency of regulation mechanism of the stated goals of their implementation. First, more clearly spelled body structure. The Commission shall consist of the Council (preserving the national character) and the College, with its inherent features of a supranational authority. Second, there are secured areas in which the Commission does it activities (competences of the Commission). Third, there are defined not only function but also the authority. Fourth, there are designated certain guarantees independence of the Commission. All this allows to conclude that the Commission has become increasingly meet the requirement of executive body [12 and 13].

The Commission shall regulate significant range of issues relating to the functioning of the Customs Union. In its area of responsibility there are: customs administration; technical regulation; sanitary, veterinary and phytosanitary measures;

enrollment and distribution of import duties; establishment of trade regimes in third countries; statistics of foreign and mutual trade; macroeconomic policies; competition policy; industrial and agricultural subsidies; energy policy; natural monopolies; state and (or) municipal procurement; mutual trade in services and investment; Transport and Transportation; monetary policy; protection and enforcement of intellectual activity and means of individualization of goods, works and services; labor migration; financial markets (banking, insurance business, the foreign exchange market, the stock market); other spheres.

Mounting on a contractual level sufficiently broad range of areas which the Commission should regulate, indicates increasing its role as regulator of relations, giving it the status of a body with wider supranational powers. There is no doubt that the further development of competency basis of functioning of the Commission will strengthen its supranational principles and empowering its more substantial rights.

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