THE EURASIAN MODEL OF INTERNATIONAL LABOUR LEGISLATION IN THE CONTEXT OF GLOBALIZATION

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The current article seeks to provide a comparative legal analysis of the Eurasian model of international labor legislation. It explores the multi-layered nature of contemporary international labor law in the context of globalization and regionalization, emphasizing the growing importance of cross-border legal labor standards in regional structures in the early 21st century and defines how global and regional cross-border legislation is incorporated on the basis of in favorem. The authors propose their own original concept of international labor legislation, based on the four characteristics: 1) The overall aim of legal regulation; 2) The extent of integration within those regulations; 3) Sources of labor law and their characteristics; 4) Systems of international control over labor rights. To define an original model for the legal regulation of labor, the authors investigate case studies of labour legal regulation in inter-state regional organizations including the European Union, the Council of Europe and ASEAN. The authors' theoretical model identifies the defining features of Eurasia's model of labor regulation. The research also follows the establishment and development of Eurasian labor law and attempts to give an informed judgment about its future path. In their conclusions, the authors assert that modern Eurasian labor law is a 'live law', still under development as it incorporates the non-uniform integration between the former Soviet Republics. Two primary trends leading regional co-operation in the labor market are identified: 1) A social model, implementing international labor rights across Eurasia; 2) An economic model, built on the free movement of labor in a common market. In today's environment, the Commonwealth of Independent States goes some way toward representing the first trend through its attempts to serve as an international coordinating organization. The second trend is supported by supranational organizations promoting international

integration, emphasizing the economic priorities of a common labor market (in this case, the EAEC) above social policy. The authors believe that, in the long term, Eurasian labor law at a supranational level should be developed via the EAEC to ensure a good balance between these social and economic models. This would include integration standards adopted in accordance with international labor rights, and the best practices of national labor legislation of its member states.

Keywords: Eurasian model of international labor legislation; international labor rights; Eurasian integration.

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1. Introduction

At the turn of the 21st century, international labor law became multi-faceted. Europe is now united (the European Union), and the Commonwealth of Independent States (CIS) emerged from the countries of the former Soviet Union. Other inter-regional and regional associations such as the Association of South-East Asian Nations (ASEAN) and the African Union (AU) also appeared. Today's international labor law is shaped by universal international norms as well as regional and inter-regional cross-border labor standards. International law experts have noted that modern conditions promote further cross-border legislation in many regions of the world. Some authors go still further, claiming that further global developments are impossible and that regional legislation will lead the way.[1] The bright prospects for further regional integration stem from the common interests – both social and economic – that inspired the creation of these cross-border regional organizations. It is no coincidence that the very first effective mechanisms to protect human rights were developed by the Council of Europe, a **regional** international organization. On November 4, 1950, the Council of Europe adopted the European Convention on Human Rights, ratifying the creation of the European Commission on Human Rights and the European Court of Human Rights.

However, this kind of socio-legal world view must be balanced and holistic. Clearly, international labor law cannot be defined as a simple "one size fits all" range of international norms adopted by international organizations. The regional model aims to combine universal norms with regional standards in international labor

[1] Manfred Weiss, *The Future of Workers' Participation in the EU* in *The Future of Labour Law. Liber Amicorum Bob Hepple QC* 229 (C. Barnard et al., eds., Oxford: Hart Publishing, 2004).

law, but it cannot escape the interaction and impact of international legislation on a regional level.

Thus, there are many cases where states have ratified the international treaties and conventions of the International Labor Organization while also accepting the rules of regional organizations. It is unreasonable to claim that ILO conventions carry greater legal force than, for example, those of the Council of Europe Convention on the Protection of Human Rights and Freedoms in any state that has ratified both. When there is a divergence between those conventions, the logical resolution is to apply the convention that offers greater protection for social and labor rights. In reality, though, these conflicts are sometimes resolved according to other principles, such as *lex posterior derogat prio* or *lex specialis derogat generali*.

We believe that one feature of the sources of international labor law is a specific protection against any erosion of employees' social and labor rights. For instance, the ILO Constitution endorses this very principle when combing international standards and national legislation. The ILO's international norms are regarded as minimum standards for employment rights and social security and cannot be used to erode conditions for employees and entrepreneurs. The ILO Constitution (Article 19, item 8) states that in countries with higher standards, the adoption or ratification of any convention or recommendation shall in no case "be regarded as affecting any law, court judgment, award, custom or agreement which ensures that the interested workers have more favorable conditions than those prescribed by a convention or recommendation."

This principle of prohibiting the erosion of social and labor rights already has the necessary foundations to be implemented within international legal regulation (universal, inter-regional or regional). However, the implementation of this principle remains open as different international organizations adopted these legal instruments at their own pace. Any one state could potentially be a member of several international associations, each of which has its own models for labor rights and social security.

In our opinion, these different levels of international labor regulation can be harmonized in line with a "collision principle" that explicitly prohibits the erosion of social and labor rights. Unlike national law, which has a unified hierarchy of sources, international law derives from several parallel hierarchies united on a common vertex of mandatory universal norms based on the above-mentioned "collision principle."

2. On the Concept of an International Legal Model or Labor Regulation

As noted above, international labor legislation can be adopted by global international organizations (UN, ILO and others) and international, inter-regional, and regional organizations. However, each has its own established models. We shall

outline the theoretical foundations that define the basic attributes of the legal model for international labor regulation.

We believe that the model should reflect the following:

1) the main purpose of legal regulation;

2) the degree of integration in labor regulation;

3) the nature of labor law sources;

4) international controls and systems to protect labor rights.

Using specific examples, we shall illustrate our proposed approach to defining an idealized legal model of labor regulation, since the actual models of labor regulation in today's international organizations are often mixed and transitional.

In respect of the main purpose of labor regulation, international models can be divided into either economic or social. Social models aim to establish international standards for labor rights and control compliance with those standards. The International Labor Organization's model of international regulation can be seen as the most striking example.

Economic models look to promote economic co-operation by establishing free markets for goods, services and capital. This is underpinned by a free labor market. We believe that the Eurasian Economic Union is an example of this model. In international labor regulation, economic and social purposes may be combined. Thus, while the European Union (EU) initially sought economic integration, subsequent, more coordinated policies prompted more attention to social issues. Western researchers point out that economic integration has made greater progress than social integration, while foreign policy, defense and other areas lag behind.[2] The current model combines economic aims (a free market for common labor) with social goals (a human rights model), and researchers emphasize the varied and comprehensive nature of European integration ideas.[3]

Two models of international labor regulation – coordination and integration – dominate the degree of legal integration (the second criterion above). Under the coordination model, regulatory mechanisms follow a consensus approach to decisions. This can include informal consultation, and respects the sovereignty of member states. ASEAN's members adopted this model, based on the "Asian Path" to regional co-operation[4]. In South America's Mercosur bloc,[5] international labor regulation is related to the activity of two advisory conciliatory agencies: Work Sub

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[2] *The State of the European Union. Making History: European Integration and Institutional Change at Fifty* (S. Meunier & K. McNamara, eds., Oxford: Oxford University Press, 2007).

[3] Марченко М.Н., Дерябина Е.М. Правовая система Европейского союза: Монография [Mikhail N. Marchenko & Elena M. Deryabina, *Legal System of the European Union*] (Moscow: Norma; Infra-M, 2012).

[4] Peter Malanczuk, *Regional Protection of Human Rights in Asia-Pacific Region*, 52 German Yearbook of International Law 112 (2009).

[5] Mercosur includes Argentina, Brazil, Paraguay, Chile and Bolivia as its associate members.

Group 10 and the Social and Advisory Forum, both established on principles of three-way collaboration. Their efforts led to the development and signing of the Social Labor Declaration.[6]

The integration model of international labor law relates to the formation of super-national labor legislation within an international organization, such as EU labor law.[7] Under the Treaty of Lisbon, the EU is granted shared competence with its member states in certain areas while retaining exclusive competence in others. This also covers social policy as defined in the agreement. It implies that both the whole Union and its individual member states have the right to accept legally binding acts. However, individual member states can only implement their competences in areas where the Union has not used, or ceased to use, its own competence.

This qualifying criterion for international labor legislation determines the legal status of international sources of law. Contractual sources, such as ILO Conventions, form part of a coordination model that requires each individual state to ratify the relevant legislation. This forms a significant majority of so-called "soft labor law." In an integration model, the situation is different. The overwhelming majority of EU acts on labor or social provision are accepted in the form of directives. These directives require each member state to reach certain targets, while freeing up individual countries to follow their own paths to those goals. This is distinct from EU regulations, which prescribe both the process and the desired outcome. Directives are applied according to the principle of "harmonious law making."[8] Decisions in the EU Court establish legal precedents that play a significant role in the legal regulation of labor and social matters within the EU.

Logic suggests that each model of international labor regulation should establish international standards for labor rights. The International Labor Code, with all its declarations, conventions and recommendations, is actually created by the efforts of the International Labor Organization. The principles registered in the ILO Charter and in the Declaration on fundamental principles and rights at work (1998) are binding on every member state regardless of whether or not the states have ratified the relevant conventions. Certain researchers also highlight "unforeseen consequences" of the above Declaration in terms of the implementation and promotion of international standards of labor rights that differ from those listed in the Declaration. However,

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6 *See* Lance Compra, *Labour Rights in the FTA* in *Globalization and the Future of Labour Law* 252–254 (J.D.R. Craig & S.M. Lynk, eds., Cambridge: Cambridge University Press, 2006).

7 *See also* Roger Blanpain, *European Labour Law* (12th ed., Alphen Aan Den Rijn: Wolters Kluwer Law and Business, 2010); Philippa Watson, *Social and Employment Law: Policy and Practice in an Enlarged Europe* 537 (Oxford: Oxford University Press, 2009).

8 Постовалова Т.А. Социальное право Европейского Союза: теория и практика 18 [Tatyana A. Postovalova, *Social Law of the European Union: Theory and Practice* 18] (Moscow: Prospekt, 2016).

this act is limited to the main principles and rights.[9] In certain regional organizations pursuing cross-border economic integration, these may be limited to labor standards for migrant workers only.

Any effective mechanism to control and protect international labor rights must ensure that international standards are observed. In respect of our named criterion, we wish to highlight the UN Economic and Social Council's "procedure N1503," which investigates reported violations of human rights and basic freedoms. The ILO has one of the most effective control systems for the observance of international labor legal norms. This system includes the following mechanisms: a) regular, on-going oversight; b) specific responses to claims of abuse; c) dedicated control measures. However, the International Labor Organization lacks any form of judicial protection of labor rights based on individual claims, as offered within the Council of Europe by the European Court of Human Rights. Although the Council's Convention establishes civil and political rights, the ECHR further considers that interpretations of the Convention may also cover social and economic rights – including labor rights. Cases concerning violations of social provision or labor rights come before the European Court, typically when there is a suspected violation of one or more of the following articles of the European Convention:

– Article 4, prohibiting forced labor and slavery;

– Article 8, proclaiming the right to respect for private life in general;

– Article 9, granting the right to freedom of thought, belief and religion;

– Article 11, dedicated to freedom of association;

– Article 14, prohibiting discrimination within the implementation of rights vested in the Convention[10];

– Article 1 of Protocol 1 dedicated to the protection of property.

International regional organizations often follow varying models of labor rights protection. ASEAN has a Commission on human rights where the advisory powers do not extend to the active protection of labor rights. Meanwhile, the Economic Community of West African States (ECOWAS) has a Court of Community which is significantly influenced by the EU's judicial model.[11]

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[9] Philip Alston & James Heenan, *Shrinking the International Labor Code: An Unintended Consequence of the 1998 ILO Declaration on Fundamental Principles and Right at Work?*, 36 New York University Journal of International Law and Politics 221–264 (2004).

[10] In particular, this was clearly evident in the "Markin v. Russia" case. For more detail, *see*: Nikita Lyutov, *Russian Law on Discrimination in Employment: Can it Be Compatible with International Labor Standards?*, 4(3) Russian Law Journal 36–41 (2016); Nadezhda Tarusina & Elena Isaeva, *Equalization of Legal Status with Respect to Gender*, 4(3) Russian Law Journal 87–88 (2016); Grigory Vaypan, *Acquiescence Affirmed, Its Limits Left Undefined: The Markin Judgment and the Pragmatism of the Russian Constitutional Court vis-à-vis the European Court of Human Rights*, 2(3) Russian Law Journal 130–140 (2014).

[11] Onsando Osiemo, *Lost in Translation: The Role of African Regional Courts in Regional Integration in Africa*, 41(1) Legal Issues of Economic Integration 118–119 (2014).

3. Eurasian Labor Law: Historical Development and Prospects for Eurasian Integration (a Regional Model of International Labor Regulation)

The Eurasian regional model of international labor regulation (Eurasian labor law) is a comparatively new international legal system and is still a work in progress. At present, it is more of an outline, with details still awaiting definition. Even so, we can discern some general trends for its future development.

The model emerged from the aftermath of the break-up of the USSR as the former Soviet Republics formed new international organizations. The Eurasian model derives from international agreements promoting integration across the post-Soviet space. Because these states share common roots in their shared legal heritage, the model has certain distinctive features. This offers advantages and disadvantages for the process of Eurasian integration. The impetus behind Eurasian integration does not stem solely from the nations' geographical proximity. It draws on existing and historical social, economic, cultural and humanitarian links between peoples who previously lived in a unified nation state and still share similar political and legal traditions. There are relatively few differences in the labor legislation of these states, and those which have arisen should not lead to any serious issues for closer unity within integrated international associations. However, any international integration process, including the labor market, is complex and ambiguous, with many hidden pitfalls.

The history of the Eurasian labor law's development (including the current situation) can be divided into ***three main stages***.

Stage One (1992–1999). The establishment of the Commonwealth of Independent States (CIS) and the first stages of integration agreements between its members. This phase saw the development of a coordination model of Eurasian labor law with a declarative catalogue of international regional standards for labor rights. That model was perceived as the basis for the harmonization of labor laws among CIS members. This regional cross-border cooperation included a focus on human rights, including labor rights. Cooperation on a regional labor market regulated by a framework of international economic law still lacked sufficient impetus to create a common labor market because multilateral agreements within the CIS prioritized the protection of national labor markets.

Stage Two (2000–2014). The formation of international organizations among the states of the former USSR, based on a split-level integration concept, to encourage economic integration across the CIS. These include the Customs Union (CU), the Common Free Market Zone (CFMZ) and the Eurasian Economic Community (EurAsEC).[12]

[12] Agreement on Foundation of Eurasian Economic Community, signed on October 10, 2000 in Astana, Legislation Bulletin of the Russian Federation, 2002, No. 7, Art. 632.

Because each of these is an international economic community, the establishment of a common labor market and the principle of free movement of labor comes to the fore. The Union State of Russia and Belarus holds a unique position within this system of regional cooperation. The developing integration processes in several international organizations generate opportunities to address a wide range of regional problems around international labor regulation, ranging from human rights (regional and international standards of labor rights) to economic integration in a common labor market. As Eurasian integration picks up pace, different types of new international organizations emerge and can be differentiated: coordination and supranational models can be seen, as well as transitional models that combine features of both.

Stage Three (from 2015). The Treaty on the Eurasian Economic Union, which came into force on 1 January 2015 and shows an obvious tendency towards supranational international economic integration. The EAEC presupposes the prospect of new, supranational Eurasian labor legislation.

Eurasian labor legislation is impacted by a wide range of issues, which we will consider below.

The CIS established a coordinated "soft law" mechanism for Eurasian labor with a declarative "catalogue" of international and regional standards for labor rights. The coordinated nature of Eurasian labor law within the CIS is dictated by the legislative structure of this international organization. As the CIS is an inter-state union based on a coordination model, the decisions are reached on a consensus basis among the member states. As noted in research, it was created primarily to replace the USSR, a single unified state that held many peoples together, and there was evidence of an intention to stifle any possible future reconstruction of the Soviet Union or a similar state. This is reflected in the Charter of the Commonwealth of Independent States (established by the decision of the Council of CIS heads of state in Minsk on January 22, 1993). According to Art. 1 of the Charter, "the Commonwealth is not a state and shall not possess supranational powers," whereas CIS member states "shall act as independent and equal subjects of international legislation."[13]

The labor legislation of the CIS countries is characterized by common, similar specifics, largely due to their common legislative framework of the past. The Soviet labor law served as the basis for the subsequent development of national legal systems in the post-Soviet states. This unifying factor (something which the EU, for example, lacks), did not prove sufficient to establish the CIS as an effective regional body capable of unifying social legislation among its members. This may partly explain the decision in 2007 to adopt a new concept that would form a common legal framework and mechanism to implement social legislation across

[13] Информационный вестник Совета глав государств и Совета глав правительств СНГ «Содружество», 1993, № 1. [Information Bulletin of the Council of the CIS State Heads and the Council of CIS Governments' Heads "Sodruzhestvo," 1993, No. 1].

the CIS.[14] This concept incorporates the underlying principles of social policies across the CIS members, including their unanimous recognition of fundamental international acts such as the Universal Declaration of Human Rights (UN, 1948); the International Covenant on Economic, Social and Cultural Rights (1966); the European Social Charter (1961, ed. 1996); the European Community Charter of the Fundamental Social Rights of Workers (1989); the European Code of Social Security (1990); the Charter of the Social Rights and Guarantees for the CIS Citizens (1994); and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (adopted by the ILO in 1977).

At present, there are two main international sources of law in the CIS:

1) Acts (concepts, conventions, model laws) adopted by plenary meetings of the CIS Interparliamentary Assembly;
2) Agreements adopted by the governments of the CIS member states.

Their legal force is divided into mandatory and recommendatory ("soft law"). The recommendatory laws form the main bulk of the sources of CIS labor legislation which .allows to assert that this legislation is 'soft' and even declarative in nature.

Among the mandatory acts, the CIS Convention on Human Rights and Fundamental Freedoms (concluded in Minsk on May 26, 1995) and the Regulation on the Commission on Human Rights of the CIS, adopted on September 24, 1993) are especially noteworthy. These have come into force in Russia,[15] Tajikistan, Belarus and Kyrgyzstan. In this Convention, the parties also declared their recognition of and respect for the standards defined in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the respective Optional Protocol, as well as the international human rights commitments of the OSCE (CSCE) and the Declaration of the Heads of the CIS member states on international commitments in the field of human rights and fundamental freedoms.

The Convention reinforced the following rights:

– freedom of association with others, including the right to form trade unions and join them to protect personal interests;

– the right to work and be protected against unemployment, as well as equal pay for equal work, including receipt of social benefits;

– the right to equal conditions for work of equal value and equal treatment during workplace assessment;

– the rights of working women;

– the prohibition of forced and compulsory labor.

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[14] Принята на 28-м пленарном заседании Межпарламентской Ассамблеи государств – участников СНГ (постановление от 31 мая 2007 г. № 28-6) [Adopted at the 28th Plenary meeting of the CIS member states' Interparliamentary Assembly, Resolution No. 28-6 of May 31, 2007].

[15] Собрание законодательства РФ, 1999, № 13, ст. 1489 [Legislation Bulletin of the Russian Federation, 1999, No. 13, Art. 1489].

The implementation of this Convention is monitored by the Human Rights Commission of the CIS. It investigates matters and releases conclusions at the request of CIS member states, or in response to human rights cases raised by individuals or NGOs. However, these conclusions are not binding; the Commission is not entitled to apply any measures against a state that has violated the Convention. This makes it an almost entirely ineffective mechanism to protect human rights. The ECHR, responding to a request from the Council of Europe's Committee of Ministers, advised that the CIS Commission could not be regarded as an international judicial body.[16]

The 1994 Charter of Social Rights and Guarantees for the citizens of independent states is the cornerstone of the CIS's international social legislation. Social rights and guarantees established by the Charter are recognized by CIS states as the minimum standard of such rights. It is by all means a legally binding act which does not require ratification and is directly and immediately applied. This follows naturally from its confirmation of generally accepted international social rights.

The CIS also adopted several instruments concerning labor safety, the mutual recognition of rights to compensation for harm caused to workers by injury, occupational disease, and others.[17] These agreements have been approved by the governments of the CIS member states. For instance, the CIS agreement on co-operation in labor safety asserts that the member states, while retaining full autonomy to establish and implement their own national policies on labor safety, consider it advisable to have a coordinated health and safety policy, based on internationally accepted rules and regulations, as well as recognize Occupational Safety Standards (OSS), and common labor protection norms and rules as cross-border standards.[18]

As already noted, recommendatory acts hold a special place within the system of CIS labor law sources – for example, model laws on occupational safety and health (1997); on collective agreements (1997); on State Social Insurance (1997); on the employment of the population (1999); on the basics of social services for the population (2002); social partnership (2006) and others. These could also serve as a basis to bring labor legislation closer together across the CIS countries. 2000 saw a proposal for a model

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[16] Бюллетень Европейского суда по правам человека, российское издание, 2004, № 11 [Bulletin of the European Court of Human Rights, Russian Edition, 2004, No. 11].

[17] *See* Соглашение правительств государств – участников СНГ о сотрудничестве в области миграции и социальной защиты трудящихся-мигрантов (1994 г.); соглашения государств – участников СНГ о сотрудничестве в области охраны труда (1994 г.), о взаимном признании прав на возмещение вреда (1994 г.) и др. [Agreement of CIS member states' governments on collaboration for migration and social protection of migrant workers (1994); agreements of CIS member states on collaboration for labour protection (1994), on mutual recognition of rights to compensation for harm (1994) and other].

[18] Информационный вестник Совета глав государств и совета глав правительств СНГ, 1994, No. 4(17) [Information Bulletin of the Council of CIS Heads of States and Council of Heads of Governments, 1994, No. 4(17)].

Labor Code for the CIS,[19] but this Code was never adopted. Model legislation in the CIS has yet to deliver the anticipated integration effect on Eurasian labor law.

The CIS Economic Court was established as an international control body responsible for the uniform application of agreements among all members.[20] The jurisdiction of the Economic Court includes the resolution of interstate economic disputes, but it lacks any mechanism to force states to comply with its rulings. The Economic Court is also prevented from considering any disputes concerning private international law. This renders it unable to resolve disputes between businesses, or complaints from legal entities and individuals relating to any state's failure to fulfill its responsibilities under CIS agreements. The vast majority of cases that have been considered by the Economic Court of the CIS dealt with interpretations of the CIS's international treaties. Meanwhile, the CIS Economic Court does not make a significant contribution to protecting its citizens' social rights. Obviously, this problem needs to be resolved to ensure that this international organization can carry out its human rights function. Without change, the 'catalogue' of Eurasian labor rights standards will remain declarative, lacking any international control over its implementation.

A system of Eurasian labor rights standards, which was intended to become the basis of a harmonized labor law in CIS member states, formed the core of Eurasian labor law within the CIS. The organization also announced economic integration as one of its goals – something which requires a common labor market. In this context, the CIS Convention on the legal status of migrant workers and their family members (2008) is especially significant. Six states – Belarus, Kazakhstan, Kyrgyzstan, Armenia, Azerbaijan and Ukraine – have ratified this convention. Russia did not ratify it, even though the Convention makes provision for each state to introduce limitations on migrant workers in line with its national laws and interests. These limitations can affect different types of occupation and work, as well as access to paid labor, in order to protect national labor markets and give citizens priority access to employment and freedom of occupation in their own countries. These principles of protecting national labor markets and giving priority to the countries' own citizens are also entrenched in the overwhelming majority of multilateral CIS agreements, as well as bilateral arrangements between members.

During the second phase of its development, Eurasian labor law became fragmented as several different international economic integration organizations

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[19] Концепция модельного Трудового кодекса: принята постановлением Межпарламентской Ассамблеи государств – участников СНГ от 9 декабря 2000 г. № 16-7. Документ официально не опубликован [Concept of a Model Labour Code: adopted by the Resolution of the CIS Member States Interparliamentary Assembly No. 16-7 of December 9, 2000. The document is not officially published].

[20] Соглашение стран СНГ от 6 июля 1992 г. «О статусе Экономического суда СНГ», Бюллетень международных договоров, 1994, № 9 [Agreement of CIS countries "On the Status of the CIS Economic Court"of July 6, 1992, Bulletin of International Agreements, 1994, No. 9].

emerged in the region. These included the Common Free Market Zone (2003, Belarus, Kazakhstan, Russia, Ukraine), the Customs Union (2007, Belarus, Kazakhstan, Russia), the Eurasian Economic Community (1999–2014, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan). The rise of these organizations established a starting point for a process of transforming coordinating organizations into supranational bodies. The member states of these integration groups accept limits on their sovereignty and delegate selected power to super-national authorities, forming a Uniform Integration Law. This is the point where Eurasian labor legislation acquires the necessary features for an international labor migration law that can lead to a common labor market. The model of labor migration could echo the existing one in the European Union. This is based on freedom of movement for workers within the member states of the association. On November 19, 2010, three states – Belarus, Kazakhstan and Russia – signed an agreement on the legal status of migrant workers and their family members. Article 3 of the agreement stated that within the Eurasian economic community (EAEU),[21] "activities relating to the engagement of migrant workers shall be carried out by the employers of the relevant state regardless of limitations relating to the protection of the national labor market, and migrant workers are not required to obtain work permits in the territories of the signatory states." This agreement has since expired but had a major influence on subsequent international agreements, in particular the Agreement signed in Astana of May 29, 2014 to establish the EAEU and guarantee equal labor rights for migrant workers of EAEU member states.

Despite the shift in emphasis towards economic integration in labor legislation, the EAEU was also given the powers to bring member states' legislation into line with EAEU law and CIS agreements. The key driver of this unifying process was the acceptance of model legislation. Thus, around 80 different model or standard acts of legislation were accepted by the Interparliamentary Assembly of the EAEU from 1997 to 2012. Article 7 of the Agreement on establishing the Eurasian Economic Community was acceptable by the Interparliamentary Assembly of October 10, 2000, bringing about a convergence of these legal frameworks in the EAEU. At the same time the agreement also accepted framework legislation in basic branches of law – the fundamental regulatory legal acts of the Community that established the principles of common legal regulation for member states in relevant areas of public affairs. However, since the EAEU's foundation, development has stalled at the concept stage for framework legislation, including the principles of labor legislation of the EAEU (Decree No. 8 of the Bureau of the Interparliamentary Assembly (IPA) of the Eurasian Economic Community of October 27, 2010)[22] and the Recommendations on the harmonization of the labor laws of EAEU member states (approved by Decree of the IPA EAEU of May 13, 2009).[23]

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[21] The agreement is ratified by the Russian Federation (Federal law No. 186-FZ of July 11, 2011).

[22] Available at: http://www.ipaeurasec.org/docs/?data=docs_6_16.

[23] Available at: http://www.ipaeurasec.org/docs/?data=docs_3.

Within the Eurasian legal framework, the labor law of the Union State established by Russia and the Republic of Belarus takes a very special place. The Agreement[24] that created the Union State includes the pursuit of a coordinated social policy as one of the main purposes of integration, aimed at ensuring decent living standards and freedom for personal growth. The Union State defines itself as a *de jure* international organization of super-national type. The Agreement establishes the Union State's competence in two categories: exclusive and shared. The shared competence of the Union State and its member states contains a coordinated social policy, covering issues of employment, migration, protection of working conditions, social provision and insurance; the provision of citizens with equal rights in employment and payment for labor, education, medical assistance, and other social protections. Looking ahead, we should note that the Agreement establishing the Union State offers citizens a wider range of labor rights than those under EAEU law.

Therefore, while the Eurasian model of legal labor regulation continues through its development phase, economic integration plays a key role, and international labor standards are limited by the Institute of International Labor Migration to ensure freedom for a common labor market.

On January 1, 2015 the Agreement establishing the EAEU came into force, ushering in a new era in the development of Eurasian labor law.[25] Originally, the Customs Union consisted of Belarus, Kazakhstan and the Russian Federation; later Armenia and Kyrgyzstan joined the EAEU.

The EAEU combines four main organizations: the Supreme Council, the Intergovernmental Council, the Eurasian Economic Commission and the EAEU Court.

The Supreme Eurasian Economic Council (the Supreme Council) is the EAEU's supreme body, comprising the Community's member states and authorized to consider key issues of the Community's activity. It determines the strategy, directions and prospects for further integration and makes decisions in line with the aims of the Community.

The Eurasian Intergovernmental Council (the Intergovernmental Council) brings together the heads of EAEU states. It has responsibility for implementing the agreement that established the EAEU and controlling the implementation of international agreements and decisions of the Supreme Council within the Community. It also exercises a range of other powers.

The Eurasian Economic Commission (EEC) is the EAEU's permanent super-national regulating body. The Commission provides the Community with operational and development conditions as well as prepares proposals on economic integration. The Commission consists of the Council – responsible for the general regulation

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[24] Бюллетень международных договоров, 2000, № 3 [Bulletin of International Agreements, 2000, No. 3].

[25] The official website of the Eurasian Economic Commission: http://www.eurasiancommission.org.

of integration processes within the EAEU and for the general management of the Commission's activity – and the Collegium - the Commission's executive body. Labor migration is an area of the Community's activity where powers are delegated to EEC states.

The EAEU Court is the permanent judicial body of the EAEU. The court aims to ensure that the Union's sources of law are uniformly applied by EAEU members and bodies. The court also considers disputes about the implementation of EAEU laws on the request of member states and businesses. The court can pass binding judgments on the commission, or parties to the dispute, but judgments cannot change or cancel the existing legal rules of the EAEU or the laws of member states, nor can they create new ones. The Court's most significant power is to explain the provisions of the Union's law sources. By implication this is an advisory opinion that is not prescriptive in nature and does not deprive member states of the right to joint interpretation or international agreements.

The Agreement that established the EAEU introduced a new judicial category of "the Union's right." The EAEU is invested with a special lawmaking competence to form an independent legal system. EAEU law derives from two sources: 1) primary law (the agreement establishing the EAEU, international agreements within the Union, international agreements between the Union and third parties); 2) secondary law (acts of EAEU bodies, decisions containing legislative provisions, and regulatory and administrative decrees.) EAEU law has the following features:

1) the Union's law is hierarchical and has the special constitutional status of a Constituent Agreement. The labor rights of EAEU states are defined by this act in terms of freedom of movement within a common labor agreement. Meanwhile, the Agreement establishing the EAEU offers a more favorable legal framework to workers who are citizens of Russia and Belarus compared with the workers from Kazakhstan, Armenia, or Kyrgyzstan. A national regime of working conditions (remuneration, working hours and time off work etc.) is first established within the Union State;

2) EAEU law is limited in the areas it can regulate. The nature of economic integration is determined by its main purposes: to create conditions for the stable economic development of each member state to increase living standards for their population; to form a single market for goods, capital and labor resources within the Union; and general modernization, cooperation and competitive growth of national economies compared with the wider world. At the first stage of the EAEU's existence, legal regulation is limited to economic policy: customs policy, foreign trade and protection of national industries. Of these, labor migration is classified as the Union's exclusive competence. Other economic spheres (monetary and credit, currency policy, taxation and other) fall under the shared competence of member states. Culture, social provision, and the "catalogue" of labor rights still come entirely under the competence of member state governments;

3) the Union's law is transient by nature, combining classical international conventional rules accepted by consensus at the Supreme Council and Inter-Governmental Council, and super-national norms and decisions accepted by the Eurasian Economic Commission and the EAEU Court. The Eurasian Economic Community is a super-national community at present. In compliance with Articles 3 and 5 of the Agreement, member states have delegated certain areas of the implementation of single economic policy to the Union. Acts in these areas, once accepted, are binding on the member states themselves, as well as legal entities and individuals based in the territory of the Union. These acts can also be used in the EAEU Court, including cases raised by legal entities and individuals.

As noted in research, prospective development plan for Eurasian integration depends on transformation of the Eurasian Economic Union into Eurasian Union and creation of the new institutions of the Eurasian Parliament and the Eurasian Court of Human Rights.

4. Conclusion

The contemporary Eurasian model of labor law is a living law that is still undergoing development. There is a lot of multi-level, non-uniform integration among post-Soviet countries. Within the labor market, there are two main areas of regional cooperation:

1) A social model, seeking to establish international standards for labor rights among Eurasian countries;
2) An economic model, promoting the free movement of labor within a common market.

Thus far, the CIS, as an international coordination body, has largely been responsible for the social model in the region. Its structure is not visibly supranational and CIS labor law is based on international treaties that seek to align the positions of member states, backed by recommendatory acts pertaining to social policy and labor legislation in the CIS countries. We believe this organization can and should improve its international legal mechanisms to protect labor rights, perhaps by following the examples of the Council of Europe and the European Court of Human Rights.

The economic model is the concern of various international organizations seeking supranational integration through a common labor market. Here the key priorities are economic rather than social. We believe that the EAEC's future should lie in expanding the scope of its cross-border regional labor regulation. As well as legal support for freedom of movement, there is a need for Eurasia-wide standards of labor rights. It is possible to establish a supra-national model for labor legislation across Eurasia that brings together these social and economic approaches to labor regulation. But, like the path followed by the European Union, this demands a distinctive model, integrating international labor rights with the best practices of

existing labor laws in individual member states. However, no model of integration, whether based on EU-style principles of social market economy or some alternative structure, can be borrowed wholesale. It must be adapted in line with the existing legal traditions of the post-Soviet bloc.

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