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Treaty on the Establishment of the Union State of Belarus and Russia

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In mid-December 2018, Russian Prime Minister Dmitry Medvedev spoke about possible, in his opinion, scenarios for the development of Belarusian-Russian integration. In particular, he said: “The project of the Union State can be implemented completely differently if we make efforts to implement the agreement signed in December 1999, including the creation of structures that have not yet been created, but which are stipulated by that agreement.”

Those statements actually opened a new chapter in the discussion on the relations between Minsk and Moscow. And the Treaty on the Establishment of the Union State of Belarus and Russia, which Medvedev mentioned, quickly became a common reference in numerous media publications. Various Belarusian and foreign media referred to the agreement as to the document that allegedly establishes the mechanisms for incorporating Belarus into Russia.

Today on the table is not the implementation of all the provisions of the existing treaty, but rather its revision and possible update. This is due to the evolution of the bilateral relations since the signing of the treaty, and the fact that there are other integration projects, which Belarus and Russia are parties to. First of all, the Eurasian Economic Union and the treaty regulating its activities. Nevertheless, given the constant media references to the 1999 treaty and for a better understanding of the current negotiating context, it is important to recap the main provisions of the document.

Parity-Based Integration

The Treaty on the Establishment of the Union State of Belarus and Russia was signed on December 8, 1999 and became a kind of pinnacle in the series of bilateral documents signed in the second half of the 1990s. These include:

- Treaty on the Formation of the Community of Russia and Belarus (concluded on April 2, 1996);
- Treaty on the Union of Belarus and Russia (April 2, 1997);
- Charter of the Union of Belarus and Russia (May 23, 1997);
- Declaration on the Further Unification of Russia and Belarus (December 25, 1998).

The 1999 treaty consists of 7 sections and 71 articles. It proclaims “a new stage in the process of the unification of the peoples of the two countries.” At the same time, the document is based on the principle of parity, since the stipulated mechanisms preclude the possibility of the adoption by the bodies of the Union State (UnS) of any decisions without the consent of the Republic of Belarus.

According to Article 6 of the treaty, the member states, while voluntarily vesting some powers into the UnS, shall retain sovereignty, independence, territorial integrity, state structure, the Constitution, state flags, coats of arms, and other attributes of statehood. They also retain membership in the UN and other international organizations. The possibility of joint membership in international organizations and associations should be determined by mutual agreement.

The official languages of the UnS are the state languages of the participating States, that is, Russian and Belarusian (Article 11). But Russian is used as the working language in the UnS bodies.

Decision-Making by the Bodies of the Union State

The Union State is based on the principles of the sovereign equality of the member states, the voluntary nature of membership, and the faithful fulfillment of mutual obligations (Article 3). The UnS is based on the division of competences and powers between the UnS and the participating states. Articles 17 and 18 divide the affairs of the UnS into those of sole and joint responsibility.

Sole responsibility

· Creation of a single economic space and a common market that ensures the free movement of goods, services, capital, labor, equal conditions and guarantees for economic entities;

· Common monetary, currency, tax and pricing policies;

· Uniform rules of competition and consumer protection;

· Integrated transport and energy systems;

· Development and placement of joint defense contracts, ensuring the supply and sale of armaments and military equipment, a unified system of technical support for the armed forces;

· Common trade and customs tariff policy in relation to third countries, international organizations and associations;

· Uniform legislation on foreign investment;

· Development, approval and execution of the UnS budget;

· UnS property management;

· International activities and international treaties of the UnS on issues of sole responsibility of the UnS;

· Operating the regional group of troops;

· UnS border policy;

· Standards, references, hydrometeorological service, metric system and time calculus, geodesy and cartography;

· Statistics and accounting, single data banks;

· Deciding on the system of UnS bodies, the procedure of their establishment and operation, setting up bodies of the UnS.

Joint responsibility

· Admission of other states to the UnS;

· Coordination and cooperation in the field of foreign policy related to the implementation of the Treaty;

· Coordinated strengthening of the CIS;

· Joint defense policy, coordination of activities in the field of military development, upgrade of the armed forces of the participating states, sharing of the military infrastructure and other measures to maintain the defense capacity of the UnS;

· Collaboration in international cooperation on military and border issues, including the implementation of international treaties concluded by the member states on the reduction of armed forces and arms limitation;

· Cooperation in the implementation of democratic transformation, implementation and protection of the fundamental rights and freedoms of citizens of the UnS;

· Harmonization and unification of the laws of the member states;

· Implementation of investment policies in the interest of rational division of labor;

· Environmental protection;

· Joint actions in the field of environmental safety, natural and man-made disasters prevention and relief, including Chernobyl nuclear power plant accident damage control;

· Development of science, education, culture, creation of equal conditions for the preservation and development of the ethnic, cultural and linguistic identity of peoples;

· Formation of a common scientific, technological and information space;

· Coordinated social policy;

· Ensuring equal rights of citizens in employment and remuneration, in access to education, medical care, and other safety nets;

· Fight against terrorism, corruption, drug trafficking and other types of crime.

The supreme body of the UnS is the Supreme State Council, which includes the heads of state, heads of government and heads of the chambers of parliament (Article 34). The acts of the Supreme State Council shall be adopted on the basis of the unanimity of the member states. The act is not adopted if one of member state expressed its opposition to its adoption (Article 37).

The Legislature (Article 39) of the UnS consists of the Chamber of the Union (36 representatives from each of the two states from among the deputies of both chambers of their national parliaments) and the House of Representatives (75 deputies from the Russian Federation and 28 deputies from Belarus who are elected on the basis of universal suffrage under secret ballot). A decision of the House of Representatives is not adopted if more than one-quarter of the total number of deputies voted against it. That is, 26 votes are enough to block a decision. Moreover, if the law is adopted in the union parliament, but one of the heads of the member states opposes this law, then it is eventually rejected.

The executive body of the UnS is the Council of Ministers. It includes the Chairman, the heads of national governments, the Secretary of State (as deputy chairman), the ministers of foreign affairs, economy and finance of the member states, and the heads of the main sectoral and functional government bodies of the UnS (Article 44). A decision of the Council of Ministers can be suspended or canceled by the Supreme State Council (Article 46).

A uniform interpretation and application of the Treaty and the UnS legal acts is ensured by the UnS Court. It consists of 9 judges (Article 51), no more than 5 may be citizens of the same state (Article 52). Court decisions are made by two-thirds. That is, at least one vote from each member state is required. In the event of a conflict between the norms of the law or the decree of the UnS and the norms contained in the constitutions and constitutional acts of the member states, the latter prevail (Article 60).

Foreign Policy and Economy

The goals of the UnS (Article 2) include:

- Conducting a coherent foreign and defense policy;
- Strengthening peace, security and mutually beneficial cooperation in Europe and around the world;
- Creating a single economic space to ensure socio-economic development based on (...) the use of market mechanisms for the functioning of the economy.

The treaty provides for a single currency in the UnS, which is to be printed exclusively by a single emission center (Article 13). The introduction of a single currency and the formation of a single emission center should take place on the basis of a separate agreement between the member states (Article 22). And in order to create a single economic space, states need to take coordinated measures to gradually bring together the main social and macroeconomic indicators of development and conduct a common structural policy (Article 21).

At the same time, citizens of the UnS enjoy equal rights and bear equal duties on the territory of another member state, unless provided otherwise by the legislative acts of the member states or treaties between them (article 14).

The text of the treaty provides for the phased achievement of the stated goals of the UnS, with respect to the priority of solving economic and social problems (Article 2). Specific activities and deadlines for their implementation are to be determined by decisions of the bodies of the UnS or treaties of the member states. As the UnS comes to

fruition, the issue of adopting its Constitution will need to be considered. Amendments to the treaty may be drawn up in separate treaties that are subject to ratification by the member states (Article 66).

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