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Editor's Note

The Eurasian Economic Union (EEU) was officially launched half a year ago. From the economic perspective, those six months were quite challenging: the performance of the Russian economy slowed, and the economic situation in the other EEU member states pegged to the Russian market for commodities and services became markedly more complicated. Nevertheless, Eurasian integration continues to evolve according to its internal laws.

The **Main Feature** of Eurasian Review No.5 is the operation of the Court of the Eurasian Economic Union. Andrei Yeliseyeu analyzes how and why the EEU member states narrowed the jurisdiction of the EEU Court compared to the powers of its predecessor —the EurAsEC Court. The Main Feature also addresses the rulings that have been issued by the Court so far, including the only EurAsEC Court's lawsuit initiated by the Belarusian company.

The **Highlights** section focuses on the hypothetic introduction of a single currency in the Eurasian Economic Union. In March 2015, Russia's President Vladimir Putin said: "The time has come to consider the possibility of establishing, in the long view, a currency union." Alexei Pikulik explores the shapes that the idea of a single currency has taken in the Former Soviet Union since the disintegration of the USSR and analyzes the economic feasibility and political likelihood of the introduction of a single currency within the EEU in the coming years.

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MAIN FEATURE

EEU Court: Limited Jurisdiction, Harsh on Applicants, Marginally Popular

Andrei Yeliseyeu

The Court of the Eurasian Economic Union is one of the four EEU bodies, alongside the Supreme Eurasian Economic Council (Supreme Council, SEEC), Intergovernmental Council and the Eurasian Economic Commission (EEC). The Court is designed to ensure that the EEU member states implement the decisions of the Eurasian Economic Commission and international agreements within the framework of the EEU in a consistent and reliable fashion.

The EEU Court was established to settle disputes based upon applications filed by economic entities of the EEU member states and address the questions that the EEU member states may have concerning the implementation of the EEU Treaty. Because half a year has passed since the launch of the EEU and commencement of full-scale operation of its judicial authority, intermediate conclusions can be drawn about the activity of the EEU Court.

So far, the EEU Court has given only five rulings, and only one claim by a claimant company was accepted for examination on its merits; however, even that claim was withdrawn by the applicant. It seems the limited appeal of the Eurasian judicial authority stems not only from the intricacy of its procedures, but also the fact that EEU economic entities remain unaware of its operations and have little trust in the work of the Eurasian court. The article also analyzes the only case examined on the merits by the predecessor of the EEU Court, the EurAsEC Court, which was initiated by a Belarusian business entity. The EEU member states significantly narrowed the jurisdiction of the EEU Court compared to the powers that the EurAsEC Court used to have.

Types of applications to the EEU Court. Narrowed jurisdiction of the Court.

Business entities of the EEU member states are entitled to file a lawsuit with the EEU Court if their rights and legal interests associated with business and economic activities have been directly affected by resolutions of the Eurasian Economic Commission.[1] An eligible business entity is a corporate entity or an individual registered as an entrepreneur. It follows from the interpretation of the EEU Court in the case of the corporate applicant ZAO Kompaniya avtopritsepov (CJSC Trailer Company, see below) that the notion of "directly affected" is determined by the EEU Court based upon two criteria: the corporate applicant must operate in the sector, which falls within the jurisdiction of the challenged EEC act, and the applicant must incur real and proved damage resulting from the implementation of such an act. Business entities registered in foreign countries can also file a claim with the EEU Court, provided that their interests have been affected by an adopted international agreement signed within the framework of the EEU.

The EEU member states or authorities, as well as officials or functionaries of the EEU are entitled to apply for clarifications of provisions of the EEU Treaty, international agreements within the framework of the EEU and decisions of the EEU authorities. The EEU Treaty establishes that if the EEU member states are unable to settle a dispute associated with the interpretation and/or implementation of provisions of the EEU Treaty within three months of the day an official request of consultations and negotiations is lodged, their dispute can be referred to the EEU Court (Article 112 of the EEU Treaty).

The absence of two essential procedures that were available within the framework of the EurAsEC Court, the predecessor of the EEU Court, indicates that the capability of the EEU Court to effectively perform its

1 See precise wording of the EEU Court's competencies in the respective section of the EEU website at http://courteurasian.org/main.aspx?guid=22571

functions and achieve its objectives of providing consistent interpretations of EEU law has been restrained. Firstly, there is no possibility for the EEC to refer to the EEU Court to determine the enforcement of EEU law by a member state. Only the member states themselves appear to have this right now. Many years of judicial experience of the European Union show that one country rarely sues another country in a court, but prefers settling disputes using political instruments. Secondly, the EEU Court does not work with requests for preliminary rulings by national courts and tribunals. In the EU, whenever a national court in a member state is faced with an issue of law interpretation — and this is practiced on a broad scale — such a court can suspend proceedings and file a respective request with the Court of Justice of the European Union for a valid interpretation. Based upon the decision of the CJEU, the respective national court passes a judgment on the case in point.[2]

Furthermore, the jurisdiction of the EEU Court has been narrowed because decisions made by specialized expert teams comprising representatives of the member states that are established to consider certain types of disputes have become binding for the EEU Court. It appears that such a dramatic narrowing in the powers of the EEU Court became a response of the member states to the untimely judicial activism of the EurAsEC Court. In its categorical judgment on the case of OJSC Southern Kuzbass the EurAsEC Court judges not only criticized the EEC for delays in the enactment of a new law and instructed the national courts to upgrade the law enforcement practice concerning similar cases to the ruling issued by the EurAsEC Court, but also made it clear for the member states that they had lost their monopoly right to establish legal norms within the framework of the EurAsEC.[3] The renowned Russian expert Alexey Ispolinov accounts for the limitations on the EEU Court's jurisdiction in the following way:

> *"As long as the Court took the path of judicial activism, it should have realized that it established itself as a political player that, in this context, can and must have its own vision of the Eurasian integration process. However, in politics you cannot be at war against everyone, even if you refer to the jus cogens norms. Furthermore, the Court took a testily bossy attitude and pushed away even its natural allies, namely, the EEC and the national courts."*[4]

Therefore, although business entities are still entitled to challenge decisions by the EEC, in many aspects, the jurisdiction of the EEU Court has been limited in comparison to its predecessor, the EurAsEC Court.

Legal instruments governing the operation of the EEU Court

Article 19 of the EEU Treaty identifies the EEU Court as a permanent judicial authority of the Union. Annex 2 to the Treaty includes the Statute of the EEU Court, which identifies the status, composition, competence, and procedures for the operation and organization of the Court. The EEU Court is headquartered in Minsk.

The operation of the EEU Court is governed by both the EEU Treaty and decisions of the Supreme Council. In October 2014, the Supreme Council issued the decision[5] that determined the number of Court officials (two representing each member state). The Supreme Council also established monthly salaries for the judges, officials, and personnel of the EEU Court.[6] The monthly salary of an EEU Court judge was set at RUB 390,000 (approximately EUR 6,350). The salaries of other officials and personnel of the Court are determined as a percentage of the monthly salary of a judge. For example, the monthly salary paid to heads of the EEU Court Secretariat amounts to 53% of a judge's salary, whereas advisors to judges are paid 37% and consultants 21% of the monthly salary of a judge. Another decision by the Supreme Council sets the amount of the duty paid by a business entity applying to the EEU Court at RUB 37,000 (approximately EUR

2 M. Karliuk. Challenges of the Judicial System of the Eurasian Economic Union. Conference "Lomonosov 2015." Access: http://lomonosov-msu.ru/archive/Lomonosov_2015/data/7158/uid73204_report.pdf
3 A. Ispolinov. Eurasian Union Treaty as an Instrument of Defeated Rights of the EurAsEC Court (part 1). Zakon.ru, 11.06.2014. Access: http://zakon.ru/blog/2014/6/11/dogovor_o_evrazijskom_soyuze_kak_instrument_porazheniya_v_pravax_suda_evrazes_chast_1
4 Ibid.
5 Decision of the Supreme Eurasian Economic Council No.81 of 10 October 2014 "Concerning the approval of the overall personnel size and structure of the Court of the Eurasian Economic Union", https://docs.eaeunion.org/sites/storage1/Lists/Documents/0184d18d-467d-4fa2-a0bb-4768fdbb081b/ce4cf61e-5587-4e17-96d6-60c61784dba6_635488068453244261.pdf
6 Decision of the Supreme Eurasian Economic Council No.82 of 10 October 2014 "Concerning the compensation of labor of the judges, officials and personnel of the Court of the Eurasian Economic Union", https://docs.eaeunion.org/sites/storage0/Lists/Documents/27557670-aab6-441f-aabe-ff50e7a64594/bb892dbb-03cd-41e0-855b-ba3a8a6269ee_635488069219389906.pdf

600). If a claim is satisfied, the duty is refunded following a Court decision within ten business days of the making of the relevant decision.[7]

The next package of decisions concerning the EEU Court was adopted on 23 December 2014. The Regulations of the EEU Court[8] became the fundamental document governing the procedure and conditions for the organization of the operation of the Court. Previously, the Court approved its Regulations independently. The Regulations comprise 88 articles and essentially represent an extended version of the EEU Court Statute approved by the EEU Treaty. The Regulations identify the procedure for electing the president of the court and their deputy, and approves the types of claims, procedures for making cases, determining the composition of the Court for cases, principles of proceedings and other aspects for the operation of the Court.

On the same day, the Supreme Council issued the decision concerning payments for the services of specialized groups established by the EEU Court for the examination of disputes associated with the use of special safeguard, antitrust and countervailing measures.[9] It was established that an expert would be paid remuneration amounting to RUB 250,000 (approximately EUR 4,100) for preparing a report on a specific dispute. Furthermore, at the end of December 2014, the Supreme Council appointed six EEU Court judges[10] upon the recommendations of Belarus, Kazakhstan and Russia and approved the candidacy of Aliaksandr Fiedarcoŭ, a Belarusian representative, as President of the EEU Court, and Zholymbet Baishev as Deputy President of the EEU Court. EurAsEC judges used to be elected by the Interparliamentary Assembly, not appointed by the heads of the respective member states.

Finally, after Armenia became a full member of the EEU on 2 January 2015, the Supreme Council issued two additional decisions concerning changes in the size of personnel and structure of the EEU Court (the staff expanded to 58 from 52)[11] and appointment of two judges representing Armenia.[12]

Rulings by the Board of the EEU Court

So far, the EEU Court has only issued five rulings, all of them being associated with claims by three corporate applicants. Out of them only one complaint was accepted for examination on the merits, but was later withdrawn by the claimant. This insignificant number of lawsuits can be partially attributed to the mandatory pre-trial dispute settlement procedure. Under Article 43 of the Statute of the EEU Court, a dispute cannot be accepted for examination by the Court without a preliminary appeal of the applicant to a member state or the Commission for settlement on a pre-trial basis through consultations, negotiations, or any other way provided for by the EEU Treaty and international agreements within the framework of the Union. If a member state or the Commission fails to take steps to settle the dispute on a pre-trial basis within three months of the application by a claimant, a request for the examination of the claim can be addressed to the Court (Article 44).

However, even including the three-year experience of the EurAsEC Court, the predecessor of the EEU Court,

7 Decision of the Supreme Eurasian Economic Council No.85 of 10 October 2014 “Concerning the identification of the amount, currency, and procedures for payment, use, and refund of the duty paid by business entities applying to the Court of the Eurasian Economic Union”, https://docs.eaeunion.org/sites/storage1/Lists/Documents/fcc91ce8-0e45-4145-b169-6922d8c9cdc0/55840f13-b774-4ab2-98ad-f539f91e4ff6_635488071956308770.pdf
8 Decision of the Supreme Eurasian Economic Council No.101 of 23 December 2014 “Concerning the approval of the Regulations of the Court of the Eurasian Economic Union”, https://docs.eaeunion.org/sites/storage1/Lists/Documents/ca7d9c8d-c44d-4104-8033-c705508a9df4/8e6efa18-5c38-40b3-b9ca-d4b6c7600670_101%20%D0%BA%D0%BE%D0%BF.pdf
9 Decision of the Supreme Eurasian Economic Council No.102 of 23 December 2014 “Concerning payments for services of experts of specialized groups established by the EEU Court for the examination of disputes associated with the use of special safeguard, antitrust and countervailing measures”, https://docs.eaeunion.org/sites/storage1/Lists/Documents/a8274566-e459-4ce4-a9c1-0d0559d40b65/a43f11b3-e287-48b3-b55f-00e48fd75bfd_102%20%D0%BA%D0%BE%D0%BF.pdf
10 Decision of the Supreme Eurasian Economic Council No.103 of 23 December 2014 “Concerning the appointment of judges of the Court of the Eurasian Economic Union”, https://docs.eaeunion.org/sites/storage1/Lists/Documents/ea24b53f-e9fd-4704-9522-852b0a56c226/7abcebc1-e892-4e56-bf44-22d9c83ee968_103%20%D0%BA%D0%BE%D0%BF.pdf
11 Decision of the Supreme Eurasian Economic Council No.2 of 2 January 2015 “Concerning amendments to the size of personnel and structure of the EEU Court”, https://docs.eaeunion.org/sites/storage1/Lists/Documents/a68de7b0-ec74-46fd-9fa2-b4ef710c7cfc/52e09a1c-4051-4e0c-a513-172616db4ba6_%D1%80%D0%B5%D1%88%202%20%D0%BA%D0%BE%D0%BF.pdf
12 https://docs.eaeunion.org/sites/storage1/Lists/Documents/ac9f0faf-4366-4ad2-9d4f-f5d319ba63fd/cb0686c5-6d54-455d-adad-858036d82fdc_%D1%80%D0%B5%D1%88%203%20%D0%BA%D0%BE%D0%BF.pdf

the number of processed claims slightly exceeded 30, and conclusive rulings were handed down for about a dozen of them (by the Appeals Chamber of the Court). Anyway, the number of cases considered by the Court of Justice of the European Communities — the predecessor of the Court of Justice of the European Union — during the first few years of its operation remained quite insignificant as well. By the start of 1955, the court, established in 1952, has considered only seven cases, and by 1960, only 79 cases.[13] By 1985 the Court of Justice of the European Union would here about 400 cases annually.

Table 1. Rulings by the Board of the EEU Court[14]

Claimant	Date of the EEU Court decision	Essence of the claim	Ruling by the EEU Court
Limited Liability Partnership (TOO) Gamma (Kazakhstan)	10 March 2015	The claimant challenged the negligence of the EEC	Court refused to accept the case for proceeding for procedural reasons
Closed Joint-Stock Company (ZAO) Unitrade (Russia)	25 March 2015	The claimant challenged the Decision of the EEC Board No.117 of 18 July 2014 "Concerning the classification of the 'chiller' refrigerating machine according to a single Commodity Classifier for Foreign Economic Activities of the Customs Union" citing its failure to comply with international agreements signed within the framework of the EEU	Case was left without action for procedural reasons (no copy of the certificate of state registration was attached, and there was no electronic copy of the claim)
Closed Joint-Stock Company (ZAO) Trailer Company (Russia)	1 April 2015	The claimant challenged the Decision of the EEC No.294 of 25 December 2012 "Concerning the Provision on the procedure for importing in the customs area of the Customs Union products (goods) subject to mandatory requirements within the framework of the Customs Union"	Court refused to accept the case, as there was no evidence that the rights and interests of the company were directly affected, as well as because the pre-trial settlement procedure had not been completed
Closed Joint-Stock Company (ZAO) Unitrade (Russia)	15 April 2015	The claimant challenged a decision of the EEC	Accepted for proceeding following the rectification of previous drawbacks
Closed Joint-Stock Company (ZAO) Unitrade (Russia)	19 May 2015	The claim seeking to challenge a decision of the EEC was withdrawn by the claimant	Case proceeding stopped

TOO Gamma (Kazakhstan)

The coal exported by the company from Kazakhstan to Russia was subject to a rent export tax. The company believed the practice ran counter to the Eurasian agreements and complained against the inactivity of the Eurasian Economic Commission, which did not urge Kazakhstan to abolish the respective norm. The EEU Court did not accept the claim for procedural reasons, saying that it was not entitled to consider activities by the EEC performed in 2014, i.e. prior to the coming into effect of the EEU Treaty.

TOO Gamma also requested the Court to confirm the lawfulness of its conclusions and obligate the EEC to make a ruling and subsequently address it to the Government of Kazakhstan for it to comply with international treaties. In response, the EEU Court said that in strict conformity with the competencies outlined in

13 Based upon the author's search in the database of the Court of Justice of the European Union, http://curia.europa.eu
14 Compiled by the author based upon data available from the EEU Court.

the EEU Treaty it was going to recognize actions by the EEC as either corresponding or not corresponding to the Treaty, and nothing else.[15] The ruling reads that the powers to "confirm conclusions by business entities and consider disputes associated with the obligating of the EEU authorities to take legally significant acts" do not fall within the jurisdiction of the EEU Court.

ZAO Trailer Company (Russia)

The Russian producer of tank trucks for oil products challenged the lawfulness of one of the resolutions by the EEC, according to which no approval of the vehicle type was required for foreign-made used trailers of the same type. However, such an approval was mandatory for domestic producers, which constitutes grounds for discrimination, the claimant said. The EEU Court dismissed the complaint, because the company failed to provide sufficient evidence that the decision by the EEC directly affected its rights and legal interests, did not produce evidence of its losses resulting from that decision, and did not complete the pre-trial settlement procedure. [16]

The examination of the case suggests that the notion "directly affected" is determined by the EEU Court based upon two criteria: the corporate applicant must operate in the sector, which falls within the jurisdiction of the challenged EEC act, and the applicant must incur real and proved damage resulting from the implementation of such an act. There is another important factor in the "trailer case": as part of its campaign to settle the dispute, the claimant requested the EEC to make respective amendments to relevant regulatory acts. The EEC addressed ZAO Trailer Company's letter to the Ministry of Industry and Trade of the Russian Federation, which had developed the challenged technical regulations of the Customs Union. The Ministry's response is not attached to the application submitted to the EEU Court, which is why the conclusion can be drawn that it had failed to provide the reply within the given timeframe. The EEU Court interpreted the situation in favor of the EEC, not the claimant, though, and ruled that the absence of any response "does not suggest that the pre-trial settlement procedure has been completed in accordance with the established procedure." [17]

ZAO Unitrade (Russia)

ZAO Unitrade challenged the decision by the Board of the Eurasian Economic Commission No.117 of 18 July 2014 "Concerning the classification of the 'chiller' refrigerating machine according to a single Commodity Classifier for Foreign Economic Activities of the Customs Union" as failing to comply with international agreements signed within the framework of the Customs Union. According to the claimant, "chillers" are multiuse devices that have a much broader sphere of application than refrigerators, freezers and other refrigerating or freezing machines, and can be included in a commodity heading that is different from the one identified by the decision of the EEC. The EEU Court pointed to several procedural drawbacks in the application filed by the company: the copy of the state registration certificate included the previous name of the company (ZAO Unitrade-Export), the application and accompanying documents were only provided on paper, with no electronic copies. Furthermore, the EEU Court believed that the company's claim did not specify how the decision by the EEC affected or infringed on its rights and legal business interests. As a result, the EEU Court left the case without action and ruled that as soon as the said drawbacks were rectified, the claim could be accepted for proceeding. [18]

In response to the ruling, Unitrade managed to correct the drawbacks that became reason for leaving the case without action and applied again — this time the case was accepted for proceeding on 15 Aril 2015.[19] The court session had been scheduled for 14 May and was supposed to become the first session of the EEU Court considering the case on its merits. However, the legal case never developed, because for some reason the claimant decided to partially withdraw its claim to the EEC. Because representatives of the EEC did not have objections, the EEU Court ruled to discontinue proceedings on that case. [20]

15 Ruling by the EEU Court, 10 March 2015. Access: courteurasian.org/sm.aspx?guid=12843
16 Ruling by the EEU Court, 1 April 2015. Access: courteurasian.org/sm.aspx?guid=12913
17 A. Ispolinov. EEU Court: first rulings, first challenges. Zakon.ru, 21.05.2015. Access: http://zakon.ru/blog/2015/5/21/sud_eaes_pervye_resheniya_pervye_voprosy
18 Ruling by the EEU Court, 25 March 2015. Access: courteurasian.org/sm.aspx?guid=12873
19 Ruling by the EEU Court, 15 April 2015. Access: courteurasian.org/sm.aspx?guid=12983
20 Ruling by the EEU Court, 19 May 2015. Access: courteurasian.org/sm.aspx?guid=13123

Case of a Belarusian company in the EurAsEC Court

The EurAsEC Court, the predecessor of the EEU Court, began its operations pursuant to the decision of the Supreme Eurasian Economic Council of 19 December 2011. [21] The Court considered more than 30 claims filed by business entities from Russia, Kazakhstan, Belarus, and Ukraine, India and China. Over the three years of its operation, the EurAsEC Court issued 11 rulings with conclusive decisions (i.e. by the Court's Appeals Chamber), and only one of them was based upon a Belarusian claim).

On 27 October 2014, the Board of the EurAsEC Court issued the ruling[22] concerning the case of the trade and production unitary company FLEX-N-ROLL. The company imported self-adhesive paper with a heat-sensitive layer for the production of labels. Decision of the Commission of the Customs Union No.750 of 16 August 2011 classified the commodity into a different subheading — the decision was challenged by the company as failing to comply with international agreements signed within the framework of the Customs Union. Because of the amended classification, the Minsk Region Customs House initiated in 2013 a review of the customs declaration of the commodities imported by the company in the period from 5 October 2011 to 15 February 2013, which caused FLEX-N-ROLL to pay an additional BYR 557 million in the value-added tax, import customs duty, VAT penalty, and customs duty penalty.

As part of the consideration of the case, the EurAsEC Court addressed the arguments of the parties and opinions of relevant research facilities and analyzed the approach of the Court of Justice of the European Union to commodity classification for customs purposes. The Board of the EurAsEC Court eventually ruled that the Commission of the Customs Union violated some of the norms of the customs legislation, which affected the rights and legal business interests of the claimant, and FLEX-N-ROLL's claims were satisfied. However, the ruling was appealed by the EEC at the Appeals Chamber. A new investigation resulted in the EurAsEC Court's recognizing the legal arguments of the EEC as valid and reversed its previous ruling.[23]

Conclusion

So far, the EEU Court has issued only five rulings, and not a single case has been considered on its merits for various reasons. Of all the cases considered by the EEU Court not a single one had been initiated by a Belarusian business entity. There is only one case with the final judgment passed by the EurAsEC Court that is associated with a Belarusian company (FLEX-N-ROLL). The Appeals Chamber of the EurAsEC Court eventually reversed its original ruling, which satisfied the claim filed by FLEX-N-ROLL.

The statistics concerning the claims submitted by business entities from the EEU member states that challenge some of the EEC's decisions suggest that so far the reference to the Eurasian judicial authority has not become a popular instrument to settle economic disputes. It turns out that there are numerous reasons for this. Firstly, there are procedural limitations — a dispute cannot be accepted for examination by the EEU Court without a preliminary appeal of the applicant to a member state or the Commission for settlement on a pre-trial basis through consultations, negotiations, or any other way. A member state and the Commission have three months to respond. Secondly, many business entities from the EEU member states remain unaware of the procedures and operations of the Eurasian judicial authority. Thirdly, it would be safe to say that business entities from the EEU member states lack trust in the EEU Court and have doubts about possibilities of effective settlements of economic disputes via the Eurasian judicial authority. A separate study could be initiated to test these hypotheses, for instance, by questioning business entities from the EEU member states.

21 Decision of the Supreme Eurasian Economic Council No.10 of 19 December 2011 "Concerning the establishment and organization of the operation of the Court of the Eurasian Economic Community", https://docs.eaeunion.org/sites/storage0/Lists/Documents/747fe407-d5e8-4d32-bdff-3c3738fbe13c/0b2e4d4b-4cb6-47f0-b781-a121d96818b4_V_%D1%80%D0%B5%D1%88%D0%B5%D0%BD%D0%B8%D0%B5%20%E2%84%9610.pdf

22 Decision of the Court of the Eurasian Economic Community, 27 October 2014. Access: courteurasian.org/sm.aspx?guid=12283

23 Decision of the Court of the Eurasian Economic Community, 29 December 2014, http://www.pravo.by/main.aspx?guid=3871&p0=F91400299

HIGHLIGHTS

Single Currency: Politics, Economics, or Just Let Experts Talk?

Alexei Pikulik

Speculation has been underway for more than twenty years over the feasibility of a single currency within the framework of Eurasian integration processes. The most recent episode took place on 20 March 2015, when Russian President Vladimir Putin once again raised the issue of a single currency within the EEU. Eleven days later, President Aliaksandr Lukashenka commented on Putin's initiative in the following way in his interview to Bloomberg: *"But this is not something that is going to happen today. Putin has been talking about it; that was Putin's pondering: would you mind if experts talked about this? Fine, we have been talking about it long enough, let experts talk."*[24]

Following the president's instructions, this text seeks to answer the question: why is the rhetoric about a single currency is so full of daydreaming and political speculation and why is there so little rational economic reasoning in it?

Background

The FSU single currency discourse dates from 1991, when virtually all of the post-Soviet republics were using the Soviet and then the Russian ruble as the only legal tender. The situation was often characterized as "15 straws in a single cocktail": the lack of effective mechanisms to coordinate money printing alongside the creation of independent substitutes (such as Ukrainian karbovanetz) resulted in a 'social competition' in the capacity of money-printing machines essentially for the right to print maximum rents. The price to pay was hyperinflation and inability to put in place macroeconomic stabilization measures in order to create their own financial systems by all of the 15 participants. Whereas Russia incurred losses in that financial context, Belarus and Ukraine managed to reap benefits by issuing cashless rubles as economic anesthesia, which mitigated the effects of the crisis and enabled them to postpone the introduction of structural reforms.

Immediately after the ruble zone was "buried" Belarus and Russia began negotiating a single currency: as early as 1994, Kiebič and Chernomyrdin signed an agreement on the introduction of a single ruble as the only legal tender in Belarus and Russia. The agreement was never implemented, though, because of Article 145 of the Constitution of the Republic of Belarus (of 15 March 1994), which indicated that the National Bank of the Republic of Belarus has the exclusive money issuance right, which was used as an argument against the immediate unification of the two currencies. Kiebič's attempt to change to a single currency with Russia as a life buoy for the national economy cost him his political career, considerably reducing his chances at the 1994 presidential election.

Also in 1994, Kazakhstan's President Nazarbayev suggested introducing the 'altyn' as the single FSU currency, backed by the potential of the integration union, while preserving the national currencies.

The Union State Treaty of 8 December 1999 also provides for the creation of a unified currency system (Article 22) envisaging a single currency and single money-printing center for the two countries. Belarus and Russia were supposed to launch a single currency starting 2005; however, nothing happened, because the leaders of Belarus and Russia did not have sufficient political will to expedite integration.

24 http://president.gov.by/ru/news_ru/view/intervjju-mediaxoldingu-blumberg-11120/

The last attempt to reanimate the single currency project was made more than three months ago, despite the fact that the EEU Treaty of 2014 does not envisage the creation of a single currency. The Treaty (Article 103) only provides for the finalization of the harmonization of legislations in the financial sector by 2025. On 10 March, Vladimir Putin instructed the Central Bank of Russia and the Cabinet of Ministers to identify mechanisms for the integration of the financial systems of the EEU: to explore the feasibility and prospects of establishing a currency union, elaborate mechanisms of coordination with the Eurasian Economic Commission, and, where necessary, prepare draft amendments to regulatory acts of the Russian Federation. Elvira Nabiullina and Dmitry Medvedev will have to report on their progress by 1 September 2015. [25]

On 20 March, Putin raised the issue of a single EEU currency again during his meeting with the presidents of Belarus and Kazakhstan. However, his vague suggestion *"to speak about the possibility of establishing a currency union in the long view"* must indicate that the trilateral meeting was more of a ritual and there is no definite solution on the single currency issue.

It remains unclear which single currency option is being discussed: either the preservation of the national currencies and introduction of a new supranational currency for interstate payments, or the replacement of the national currencies with a new unit. The former scenario is neither beneficial nor harmful — its only result will be a return of rent and arbitration schemes of the early 1990s, which will make it possible to make money on the weakness of institutions and imperfect rules. Politicians will be able to boast an important achievement, and artists will compete for the best design of future banknotes. In our further analysis we assume that the second scenario will prevail.

Why is a single currency needed?

As a rule, currency unions produce certain advantages and have a positive impact on trade and investments. Involved economies tend to cut transaction costs: a single currency enables them to save on conversion deals for both corporate entities and individuals and reduces the need to hedge currency risks of export and import transactions. A strong single currency in integration blocs can also become an effective instrument to mitigate external shocks. In the context of the EEU, the said advantaged are reinforced by the valiant and innocently romantic idea to create a currency that, unlike the uncovered dollar in an imperfect post-Bretton Woods world (sic!), will ultimately be backed by the export of hydrocarbons… when the prices of the latter fall. The main drawback of a single currency is the loss of the capacity to mitigate external shock by the devaluation/appreciation of the national currency or substantial change in a certain country's monetary policy. In other words, countries will lose their right to unilaterally adjust the volume of money issue, thus avoiding macroeconomic equilibrium adjustments with the use of workforce, employment, and wages.

Why is it improbable in the EEU?

The theory of the "optimum currency area" (OCA) that netted its creator Robert Mundell a Nobel Prize postulates that currency unions can be effective if certain criteria are met. Firstly, labor, goods and capital mobility must be high to trigger the mechanism of redeployment of resources. Secondly, fiscal centralization and autonomous market mechanism must be available to compensate for the losses incurred by the economies affected by the redistribution of resources. Thirdly, the similar structure of the economies, including the similarity of their business cycles, would enable all players to provide similar responses to stimuli sent by the central bank.

Of all the classical prerequisites, the EEU seems to have only one — the absence of barriers to labor, which applies almost exclusively to the flows of labor migrants from the EEU to Russia, but not between the member states.

When it comes to the structural similarity as a precondition (where export and import flows appear to be the most important criteria), the economies of Armenia and Belarus are importers of energy, and Belarusian

25 http://www.finanz.ru/novosti/valyuty/putin-poruchil-gotovit-eaes-k-perekhodu-na-edinuyu-valyutu-1000530968

export deliveries to the EU are for the most part derivatives of the country's imports from Russia. Kazakhstan and Russia are energy exporters, and Kazakhstan's economy is more advanced and modernized in terms of its institutional structure compared to that of Russia. It is in fact so advanced that the unification of its rules with those effective in Russia would be a step back for Kazakhstan rather than any progress.

Some of the insuperable differences between the EEU economies at the current phase are also associated with the access to money liquidity, level of doing business, and orientation of internal migration flows. This makes it clear that the rhetoric concerning a single currency is premature and irrelevant.

There are several more prerequisites for successful currency integration. On the one hand, the unification of currencies calls for a high degree of solidarity between partners, their willingness to build joint supranational institutions, which will become truly operational, and superb quality of law enforcement.

Finally, the most important factor should not be left out — the political determinant: in conditions of the authoritarian regimes in Kazakhstan and Belarus, the possibility of conducting independent monetary policies, setting budget deficits, regulating the amount of money in the economy, availability of credit, interest rates and exchange rates are not so much economic as political issues. To delegate these powers to a single Central Bank, whenever it is headquartered, would mean to lose control, render the situation of survival in power unpredictable, and narrow the room for political maneuver. Both Armenia and Belarus would be more than happy to return to the situation of multiple money-printing centers because of their historical propensity for the policy of macroeconomic populism.

Why does Putin need this?

On the one hand, the "single currency" project appears to be a good political product that can be sold to Russian society as a specific Eurasian integration move, a much more tangible and understandable product than, say, the unification of technical regulations for manufacturers of PET packaging.

On the other hand, the "single currency" move is a handy tool to put the EEU partners under pressure and keep them alert: in response to Putin's vague statement in Astana in March 2015, a series of responses by Belarus and Kazakhstan followed, explaining why the single currency initiative is a matter of distant future.

Therefore, one can assume quite safely that the documents that the Cabinet and the Central Bank will prepare by 1 September will provide justification why single currency discussions should be postponed for some time, but not withdrawn from the agenda altogether, if experts have already been instructed to talk about them.