EU and Russian Federation Cooperation within the “Northern Dimension” Partnership in the Framework of Transport and Logistics: International Legal Analysis

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Abstract. This article focuses on the interaction of a major integration association of the European Union and the Russian Federation. The article analyzes the existing forms of cooperation, primarily in the framework of the Northern Dimension Partnership in the field of transport and logistics. The charter document of the Memorandum of Understanding 2009 is considered in more detail. First of all, attention is focused on the compliance of the established international legal norms in the Memorandum with the practical actions undertaken by the participants of the Partnership. The current situation regarding relations between the European Union and the Russian Federation is analyzed through the prism of the political tendencies of our time. The article emphasizes the importance of the research, especially in the field of transport and logistics, as transport is a strategic arsenal of any state. The future economy of the country depends on the development of transport relations with partners. At the beginning of the article, an important issue is studied – cooperation, as a form of interaction between the subjects of international public law. The specificity of cooperation is noted, which consists in the fact that as a form of interaction, it is fixed in several international legal acts and is considered as a generally accepted principle of public international law, and, accordingly, as jus cogens norms. The article also presents an excursion into the history of the origin and further development of relations on the issue of transport and logistics between the European Union and the Russian Federation. The purpose of the research is to identify specific prospects for the future interaction of the Partnership participants, and also, on the basis of the existing information, to suggest areas in which there is need to work with great effort.

1. Introduction
Since its inception in 1951 to the present, the European Union (hereinafter the EU) continues to be a kind of integration Association of 28 European States. Despite the fact that the EU carries out the functions of a subject of public international law, we can not say that this Association belongs to such – is neither a state nor an international organization. How does the EU implement the functions of a subject of public international law? Responding to a question, it is necessary, first, to note the ability of the EU through its bodies and institutions to create norms, the implementation of which is mandatory for member States of the EU. Secondly, representatives of the EU take part in various summits, major economic forums, participate in the activities of other international intergovernmental organizations. One striking example is the paper submitted by the inland transport Committee of the economic Commission for Europe, which examines the activities of the EU as well as its transport policies [8]. Among the examples confirming the active participation of the EU in cooperation with
other international intergovernmental organizations is the Memorandum of understanding between the EU and the COE of 2007[14].

As this article is devoted to one of the main aspects of public international law such as the interaction of key actors, namely as States, international organizations and integration associations, it is important to highlight the object, the subject and the aim of the study.

The **object** of the study is the cooperation of States in the field of transport.

The **subject** of the study is the forms of cooperation between the EU and the Russian Federation in the field of transport.

The **aim** of the study is to identify all existing means and methods of interaction between the EU and the Russian Federation at the present stage. In the process of the study of the topic of the article the following **research methods** were used: General scientific (dialectical, formal-logical, structural-functional, analysis, synthesis, deduction, induction) and special (historical-legal, comparative-legal) methods of cognition. The degree of development of the study: issues related to the study of the EU activities in various fields, including transport, as well as features of EU cooperation with States that are not part of this integration Association are somehow set out in the works of both domestic international lawyers and foreign ones. Among the Russian experts is necessary to allocate the work: A. Ya. Kapustin [9]; I. I. Lukashuk [12]; Yu. M. Kolosov [11]. Among foreign experts in the field of public international law and the law of the European Union should be identified: Christopher Hodge [27]; Vincent Lamand[28]; Mustafa Turkis[29].

2. EU cooperation – a way of interaction

Now it is necessary to comment on perhaps one of the most important options for the implementation of EU legal personality – cooperation with States that are not part of the EU. The author of the article raises the following questions: in fact, where does the cooperation originate as a way of communication between subjects of public international law; whether specific forms of cooperation between the EU and non-EU States have been developed to date; how is cooperation between the EU and the Russian Federation implemented in a concrete way: bilateral or within the framework of partnerships and, finally, whether the actions of representatives from the EU and the Russian Federation correspond to the stated objectives of cooperation?

If we talk about cooperation as a way of so-called communication between subjects of public international law, we need to turn to its fundamental sources. According to article 38 of the Statute of the International court of Justice of the United Nations (hereinafter referred to as the ICJ), the court applies to a particular dispute under international law: "(a) international conventions, both General and special, establishing rules expressly recognized by the disputing States; (b)international custom as evidence of General practice recognized as a rule of law; (c)the General principles of law recognized by civilized Nations; (d)with the reservation referred to in article 59, judicial decisions and the doctrines of the most qualified public law specialists of various Nations as an aid to the determination of legal norms"[22]. If we consider in more detail the existing list of sources of international law, it becomes clear that among this list of sources such as "cooperation" is not specified. The question arises how it is possible to find out where the "cooperation" originates from. To date, neither conventions nor international legal customs, which would justify from a legal point of view the concept and forms of cooperation, as a fundamental way of establishing relations between subjects of public international law does not exist. In this regard, we refer to such a concept as "principles of international law". At the same time, we should not forget that article 38 of the ICJ Statute refers only to General principles of law.

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So, what are the principles in public international law? According to prof. M. Yu. Kolosov, a number of norms of international law are called principles, although these are the same norms of international law, but some of them have long been called principles, and others have become so called because of their importance and role in international legal regulation. On the basis of this statement, we can conclude that any principle is in one way or another a rule of international law, with the only difference being whether it is a peremptory norm or not. If we say that there is a certain
category of principles that have the character of peremptory norms – norms of jus cogens[11], it means that States are obliged to comply with them, and in case of their violation international legal responsibility comes. Moreover, in the doctrine of international law it is customary to classify the principles into General, generally recognized and sectoral (special) ones. This classification is presented in the works of a large number of specialists in public law: prof. A. Ya. Kapustin[10]; prof. A. H. Abashidze[1]; prof. I. I. Lukashuk[13]. For us, the generally recognized principles of international law are relevant for the study. The question arises, which of these principles characterizes how the subjects of international law can interact with each other?

Thus, we return to the task set at the very beginning of the article, entitled as cooperation. Among the universally recognized principles of international law is the principle of cooperation, which, in our view, reveals the very necessary methods and means of cooperation to achieve specific goals. In our case, it is the EU's cooperation with neighbouring States. First of all, it should be mentioned that this principle is contained in three main international legal documents: the UN Charter of 1945; the Declaration on principles of international law of 1970 and the Helsinki final act of the CSCE of 1975. It should be noted that the principle of cooperation has undergone a certain evolution in its formation.

Now more details about each of these documents. The Charter of the United Nations in 1945 in article 2 lists the generally recognized principles of international law, as for the principle of cooperation there. That is, initially at the beginning of the functioning of the UN, such a principle was not discussed. But if we turn to article 1 of the UN Charter, our attention will be drawn to the following situation: "to Achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion..."[26]. As you know, article 1 of the UN Charter is devoted to the purposes of this organization. Thus, the question concerning the international cooperation in various fields represents only the goal, not the principle. Follow on. In 1970, the Declaration on principles of international law concerning friendly relations and cooperation among States in accordance with the UN Charter was adopted. This international legal instrument for the first time concretized the essence of the principle of cooperation as follows: "States are obliged, regardless of differences in their political, economic and social systems, to cooperate with each other in various fields of international relations with a view to maintaining international peace and security and promoting international economic stability and progress, the General welfare of peoples and international cooperation free from discrimination based on such differences" [7]. In our view, it should be noted that the 1970 Declaration although she revealed the content of the principle of cooperation of States, she did not answer the main question, which forms of cooperation can be used by States in interaction with each other. At the same time, another important aspect is the fact that it is the obligation of States to cooperate with each other.

Then, from 1973 to 1975, a Meeting on security and cooperation in Europe conducts, the outcome of which is the now famous Helsinki final act of the CSCE 1975. This international legal document further concretized the principle of cooperation. The message is: "They will strive to develop their cooperation as equals, to promote mutual understanding and trust, friendly and good-neighbourly relations among themselves, international peace, security and justice. They will equally seek, through their cooperation, to improve the well-being of peoples and to contribute to the realization of their aspirations, taking advantage, inter alia, of the benefits arising from increased mutual knowledge and their progress and achievements in the economic, scientific, technical, social, cultural and humanitarian fields. They will take steps to promote an environment conducive to making these benefits available to all; they will take into account the interests of all in reducing differences in levels of economic development and, in particular, the interests of developing countries around the world" [24].

Thus, according to the Helsinki final act, in our view, States, first of all, really attach importance to the areas of cooperation. In addition, the key point is the inability to consider the principle of cooperation independently and abstractly from the principle of the sovereign equality of States. This is due to the fact that the principle of cooperation by its content determines the need to interact. The
principle of sovereignty, which it considers together, allows States to freely choose the forms of interaction among themselves. Thus, on this basis, as well as returning to the basics of international law, the question arises – what actually allows States to cooperate with each other, to support each other in specific areas? The answer is public international law. And the norms themselves are contained in international treaties, which are created by the fundamental subjects of international law: States and international intergovernmental organizations. In this regard, we can conclude the following: to date, the main form of cooperation between States is international treaties of various kinds.

3. Modern forms of EU cooperation with the Russian Federation

Next, we turn to the question of how the EU cooperates with the Russian Federation in today's conditions. First of all, it should be noted that these relations were formed taking into account specific historical events that took place in a particular period. In this regard, we can conditionally build the following chronology of events that contributed to the formation of the partnership "Northern Dimension" (hereinafter SI). It all started in 1997 – Finland initiated the creation of a Political Declaration on ND policy; during Finland's presidency of the EU, the first meeting of representatives of the Ministries of foreign Affairs on the work of the SI partnership is held in 1999; in 2000, the European Council approved the adoption of the "action Plan for the Northern dimension in EU foreign and cross-border policy" [18]; three years later, the adoption of the second action Plan for the Northern dimension[5]. The next important stage in the development of the SI partnership is 2006, since, according to the majority of foreign and domestic experts in public law[3], this year the so-called renewal of the policy of this partnership took place, the following important international legal documents were developed and adopted: the Political Declaration of the Northern dimension[19]; the Framework document on the Northern dimension policy[21].

If we talk about the goals that were put at the forefront by the four equal partners (the EU, the Russian Federation, Norway and Iceland) as a whole are as follows: "support for stability, well-being and sustainable development in the region through practical cooperation. MI covers a wide range of areas: environment, nuclear safety, health, energy, transport, logistics, trade and investment development, research, education and culture, etc." [18].

We are also interested in the reason for the so-called renewal of this partnership. Why can the development of Northern Demention (ND) be divided into two stages: from 1997 to 2006 and from 2006 to the present? According to a number of domestic experts in the field of public international law, the relationship between the four members of the partnership in the first period can be called quite strained and unfair. Prof. M. L. Entin points to the Russian side's disregard for the development of action plans for the ND partnership: "the Fate of the second action Plan for 2004 – 2006 was somewhat different. The plan was developed in Brussels on the basis of the recommendations of the third Ministerial meeting. The European Council adopted it on 12 December 2003. It entered into force on 1 January 2004. However, the amendments and comments submitted by Moscow were not taken into account when it was adopted. In this regard, the Russian authorities stated that they do not consider themselves bound by the provisions of the Plan" [18]. Moreover, in his work on the role of the Russian Federation in the partnership, ND D. A. Polyansky pointed out the following: when adopting the second action Plan in response to the proposals of the Russian side, it was said: "You can Express any position, but the "Northern dimension” is the Northern direction of the EU's foreign policy, and only the EU takes decisions on this policy" [20, p. 310]. Thus, the first stage of cooperation between the Russian Federation and the EU in the framework of ND partnership should not be considered successful and effective. As for the second stage, in our opinion, we can talk not only about efficiency and future prospects, but also about a real turning point in relations. This turning point lies in the active participation of the Russian Federation in ND partnership, namely in influencing its further development. The ND policy Framework document States: first, "the Implementation of the Northern dimension policy will focus primarily on the North-West of the Russian Federation»; second, "within the framework of the ND policy, priority areas will be the Baltic
sea, the Kaliningrad region, as well as vast Arctic and subarctic spaces”; third, "XI will be the regional expression of the Russia-EU common spaces" [21].

It is important to note that to date, ND operates through four partnerships: the partnership of the Northern dimension in public health and social welfare (NDPHS), Environmental partnership Northern dimension (NDEP), partnership of the Northern Dimension in the field of transport and logistics (NDPTL) and the partnership "Northern Dimension" in the sphere of culture (NDPC). Moreover, there is an internal organizational structure: it is possible to note the activities of the Institute of ND – the so-called academic partner engaged in the preparation of studies and reports directly related to the SI, as well as the coordination of financing of research projects [18]. In its turn, the business Council of the ND CONTRIBUTES to the creation of close ties between companies, as well as the establishment of a close dialogue between business structures and representatives of state bodies. Practical activities are carried out within the framework of sectoral and thematic working groups. The ND parliamentary Forum contributes to cooperation and serves as a platform for the public to be informed about the ND policy.

All the areas mentioned above, which are the subject of the study of the ND, are certainly important, necessary and, we can say, are the key areas of cooperation between States. But, nevertheless, in our opinion, the strategic direction of cooperation, to date, is the transport sector. It is the establishment of close, strong and promising trade and economic relations between the States that is the key to the best growth of the economy of the States. We will not be able to talk about any trade and economic ties until we have a clear idea of the state of not only the transport used in relations between States, but also the transport infrastructure that contributes to the development of these relations and, of course, the legal regulation of this issue. In this regard, the issue of cooperation between the EU and the Russian Federation in the framework of the "Northern dimension" partnership in the field of transport and logistics will be discussed in more detail [17].

As part of the implementation of the ND policy, the transport and logistics partnership was established in October 2009 and is currently one of the four si partnerships already mentioned. If we look at the historical events, we should focus on three of them, which really had an impact on the emergence of the partnership on transport and logistics.

It all began in 2005, when it was in fact established transport dialogue EU-Russia within the framework of the common spaces EU / Russia. Five technical working groups were established: on transport strategies, infrastructure, and public-private partnerships; on road and rail; on transport security; on water transport; and on aviation.

The second key date is 2006. It was in this year that the ad hoc group on transport logistics was established as a subgroup on transport strategies, infrastructure and public-private partnerships to examine in more detail the existing problems on the borders of the European Union and Russia. The mandate of the group was to examine the situation, identify the causes and make recommendations to address these problems. The group submitted its final report in the summer of 2007 and made a number of recommendations.

The third important date, 2007, marked the beginning of a new partnership. At the meeting held in St. Petersburg on November 21, 2007, senior officials decided to create a Working group that will study all the prerequisites for the creation of a new partnership focused on the development of transport and logistics. The working group submitted its report on June, 20, 2008. The view of this group was that the establishment of a Northern dimension Partnership in transport and logistics was highly desirable and timely.

Geographically, this partnership is focused on the North-West of the Russian Federation, Kaliningrad, the Baltic and Barents seas, as well as on the Arctic and subarctic spaces. Members of the NDPTL partnership to date are: Belarus, Denmark, Estonia, Latvia, Lithuania, Finland, Germany, Norway, Russian Federation, Sweden and the European Commission. It is envisaged that NDPTL will accelerate the implementation of major infrastructure projects that assist in the project preparation phase, which will stimulate investment in the ND region. The partnership also serves as a regional forum on transport and logistics and complements existing cooperation structures. The main objective
of the NDPTL is to improve, in line with the environmental needs of the region, the basic transport links and logistics in the ND region, in order to stimulate sustainable economic growth at the local, regional and global levels, focusing on a limited number of priorities that reflect both regional and national priorities in a balanced manner. Thus, the activities of the NDPTL cover a fairly wide range of areas that, thanks to the activities of this partnership, interact closely with each other; moreover, international legal regulation is carried out more intensively and efficiently.

It is now necessary to elaborate on the internal organization of the partnership, are there bodies or institutions that are given the opportunity to solve specific problems? According to the data provided on the official website of the NDPTL partnership, there is a separate section devoted to the issue of structure and management. NDPTL is internally organized, managed by a three-tier institutional system. The most important institutional link is the "Summit". At these meetings, strategic decisions on future development and partnership priorities are made. They are held at the level of Ministers of transport of the States parties. The last summit was held on 8 December 2017 in Moscow, under the chairmanship of the Russian Federation. According to the results of its implementation, adopted a communiqué[4].

The second important link in the partnership is the steering Committee. It consists of senior officials appointed by the partnership. The steering Committee monitors the progress of the implementation of accepted norms of partnership and ensures the achievement of the goals and the agreed projects and measures are carried out in accordance with the planned. The steering Committee decides on expert-level working groups or task forces in which all or some of the partners participate.

The third link in the organizational structure is the "working groups". The working groups are composed of their expert representatives. As part of their activities, they deal primarily with technical issues, as well as prepare proposals to address specific problems, which are transmitted to the steering Committee. A working group on infrastructure is currently in operation.

The last link in the partnership structure is the Secretariat. As is known, in any international organization or in any other form of cooperation, the secretariats are always administrative and technical bodies. Here, too, the Secretariat provides administrative and technical support to the work of the Partnership and acts as a focal point for cooperation among partnership members, international financial institutions (IFIs) and any other relevant stakeholders. The Secretariat is working to create an arena for cooperation and exchange of information with organizations and forums of interest to the partnership. In addition, aware of the need for research and analysis, particularly with regard to economic viability, technical characteristics and environmental impact, before projects can be considered for further implementation, the Secretariat assists partners in the preparation of these projects.

Now it is necessary to analyze the question, in our opinion, perhaps the most important – what international legal documents, to date, are the legal basis of the partnership "Northern dimension" in the field of transport and logistics and how much in reality the activities carried out by this partnership corresponds to the established norms?

Among the fundamental international legal documents regulating the activities of the NDPTL partnership are:

1. Memorandum of understanding signed in Naples in 2009;
2. Agreement on the activities of the Northern dimension partnership Secretariat in the field of transport and logistics 2010;
3. Political Declaration of the Northern dimension partnership in transport and logistics 2006;
4. Joint Declaration aimed at close cooperation in the field of transport and logistics.

If we talk about the legal force of these international legal documents, the first two documents will be statutory, as for the last two, they, in our opinion, should be considered as auxiliary sources, outlining certain nuances about the work of the partnership.

According to the Memorandum, the NDPTL partnership, in its activities clearly establishes a common goal, which is to improve the existing transport communications and logistics links in the region. The options that can be applied to achieve this goal are discussed in more detail below. In our
opinion, one of the most important options for achieving this goal is the development and gradual implementation of priority projects by the participants of this partnership, which, in turn, are of mutual interest. The question arises whether this rule is confirmed directly by the activities of the partnership participants. The answer is clear - this cooperation was established for the implementation of serious projects promoting transport integration between the EU and neighboring countries. More detailed development of the regional transport network is a strategic direction of cooperation between the States. This transport network is a set of motorways of the sea, road and rail links connecting the capitals of the States, large developed areas with key ports, airports, located both in the EU and in the territory of the States that are not part of this integration Association.

Another important activity of States is the development of the so-called "Northern axis". The "Northern axis" is one of the five TRANS-European transport axes identified by the high-level Group in 2005 and presented in the relevant report. The Northern axis connects the North of the EU with Norway in the North and with Belarus and Russia and beyond in the East and consists of the following road and rail corridors that are directly connected to TEN-T Networks:

1. Narvik-Haparanda / Tornio-St Petersburg
2. Helsinki-St. Petersburg-Moscow
3. Tallinn-St. Petersburg
4. Ventspils-Riga-Moscow
5. Klaipeda-Vilnius-Minsk
6. Kaliningrad-Vilnius
7. Berlin-Warsaw-Minsk-Moscow
8. Oslo-Swedish border (direction Gothenburg)
9. Oslo-Swedish border (direction Stockholm)

In our view, the close interaction of partnership with other subjects of international transport relations, which is expressed in the following: 1) the establishment of a dialogue between the Partnership and international organizations aimed at preventing duplication of functions; 2) the development of projects that contribute to the development of transport corridors; 3) the provision of an invitation to interested regional organizations to participate as observers on a temporary basis in the meetings and work of the Partnership.

4. Conclusion

As a result of the study, in our opinion, it is necessary to focus on the following key aspects:
- Despite serious, protracted political disagreements to date, however, the interaction between the European Union and the Russian Federation continues;
- Transport remains a strategic element in the so-called "chain reaction" of the development of the state as an independent, sovereign subject of public international law;
- Cooperation between the EU and the Russian Federation, as well as other interested States in various fields, including transport, has a long history since 1999;
- The meeting of the official representatives of the NDPTL member States with the participation of representatives of the railway companies, which was held on March 12, 2019, is a confirmation of the further serious prospects of cooperation, within the framework of which it was decided to move to the East, to build new routes to Asia[15].

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