

THE EUROPEAN UNION AND RUSSIA: HISTORY OF THE RELATIONSHIP AND COOPERATION PROSPECTS

MARINA LAZAREVA*

1. History of the relationship – key documents on EU–Russia cooperation

As it is well known, the roots of the European Communities (EC) can be traced back to the 1950s. At that time, Russia was a part of the Soviet Union. The USSR did not have direct trade relations with the Communities because it was exclusively oriented towards the Council for Mutual Economic Assistance – an international economic organization of the socialist bloc. The situation only changed when Mikhail Gorbachev came to power in the Soviet Union and started “perestroika”.¹

The very first Act of the Communities with regards to our country was the Regulation of the EU Commission in July 1968, concerning the rules of delivery of milk and milk products into the USSR.

In 1987 (before any official relations between the USSR and the EU were established) the EU Court heard a claim from the Soviet association called „Tekhnointorg” against decisions of the European Commission and the Council, which imposed antidumping limitations on the import of Soviet fridges into the EC territory. It is very symbolic that during the „cold war” there was a hearing of the claim on Soviet fridges. The Court overruled the claim because among other things, the Soviet could not provide full details about the production conditions of the fridges as they were made at military factories.

Legally, the history of the relations between the USSR and the European Communities began in 1988 when the Parties made a Statement on establishing an official relationship between the Council for Mutual Economic Assistance and the European Economic Community. The Statement expressed the Parties’ mutual desire to develop cooperation in areas of their competence and common interests. Unfortunately, these two organizations failed to take any serious joint actions because of the collapse of the USSR and the above-mentioned Council.

Next year (in 1989), the USSR and the European Communities signed an Agreement on Trade, Commercial and Economic Cooperation. In fact, it was the first treaty between the Soviet Union as a state and the European Communities.

The Soviet Union collapsed in 1991. Then, the Communities published a Statement on the future status of Russia and other former Soviet Republics. The Statement acknowledged Russia as a successor of the Soviet Union. The Communities made a decision to conclude

* CSc., Candidate of Legal Sciences (Moscow State Law Academy, Vologda Institute). Email: lazareva-mn@yandex.ru. This article is based on a lecture given by the author at the Winter Seminar "EU Impacts on Central and Eastern European States: Law, Politics, Economy and Society Effects", 4-8 March 2013 – Győr, Hungary.

¹ Cf. *Право Европейского Союза* [The European Union Law] (ed. Kashkin, S.U.). Moscow, 2009. p.985.



an agreement on partnership and cooperation with each of the former Soviet Republics. The first Agreement on Partnership and Cooperation was an Agreement with Russia.

From the start, the policy of the Communities towards former Soviet Republics differed from the policy towards the countries of Eastern and Central Europe due to their possible membership in the European Communities. To help Central European countries (especially Poland and Hungary), the Communities set up a PHARE program, to help the USSR and Mongolia – a TACIS program.

One of the reasons for making the Partnership and Cooperation Agreement was the signing of the so-called *European agreements* of Hungary, Poland and Czechoslovakia with the European Communities in December 1991. These were agreements of association aimed at preparing these countries to join the European integration as full-fledged members. As the Russian experts took these agreements of association as its basis, the Partnership and Cooperation Agreement took over many features from them. Thus, Russians tried as much as possible to go along with the processes happening in the Communities and countries nominated for joining the organization. However, the Partnership and Cooperation Agreement did not intend to make Russia a member of the Communities, but it included a provision on the creation of a future free market zone between Russia and the EC, and later among countries which agreed on the participation of Russia in the common European area.

This Agreement on Partnership and Cooperation was adopted in 1994 and came into force in 1997. One of the reasons for such a long ratification time was a chapter on Political Dialogue included in the Agreement. That is why all member-countries had to ratify the Agreement together with the European Parliament and the Russian Parliament (Duma). The point is that this Agreement belongs to the so-called mixed international agreements concluded jointly by the Communities and the member-countries.

This Agreement was concluded for ten years and it is still effective, because it has been automatically prolonged every year. The Agreement is quite large containing over one hundred articles, several protocols, etc. The texts of all the Agreements on Cooperation with former Soviet Republics are almost completely identical, which means that they are „standard”. Despite of that, they had a great significance in the development of relations with the European Communities.²

In the Agreement the priority is given to the establishment of close economic relations. In fact, this Agreement resembles the Rome Treaty of the European Community. It also regulates the movement of goods, people, services, capitals and some kind of common policies. But of course, the extent of integration between the EU and Russia is lesser than it is between the member states of the EU. Russia and the EU granted the status of the highest preferential treatment to each other.

It is necessary to say that until recently Russia considered the EU exclusively as an economic partner and not as a political partner, because in the foreign policy EU makes decisions via complex procedures, and powers of European institutions are rather limited. But, the EU underwent a certain evolution and now Russia is interested in making relations with the EU in all areas. Actually, in 2003, at the summit in St. Petersburg the Parties agreed to build 4 common areas with each other: 1) economic area; 2) foreign policy and security; 3) domestic security, justice, democracy and human rights; 4) science, culture, technology

² *Россия и Европейский Союз: документы и материалы* [Russia and the European Union: Documents and Materials] (ed. Kashkin, S.U.). Moscow, 2003. p.22.

and education. Within each area, there are dozens of projects, thus, the cooperation is expanding. Now, the cooperation is developing even beyond the framework of this document. Nowadays, there are 63 bilateral and multilateral agreements between the EU and Russia (based on the Agreement of 1994 and beyond it). There is also near-border cooperation (Northern dimension and co-operation in the Baltic Sea area including Kaliningrad region, co-operation in the area of the Black Sea). But there is still much to do.

The most famous Russian case of the EU Court was the case of Igor Simutenkov, a football player from the Russian Federation who played for the Spanish Club „Deportivo”. The Court prejudicially interpreted the provisions of the 1994 Agreement on request of the Spanish court. The Court drew a conclusion on a direct action of the Agreement norms in the EU law order. This had a great impact on the defense of rights of Russian citizens and legal entities at the territory of the EU.

1.1. Stages of the EU–Russia Relations

The study would like to make some *general comments* in relation to Russia and the EU. First of all, it is worth highlighting that relations of Russia and the EU have developed and are still developing with ups and downs. It is possible to distinguish several stages:

1. *Romantic Stage*. It can be dated back to the first term of the Presidency of Boris Eltsin (1991-1996). It was the time of great expectations from both Parties and big words about prospects for cooperation. Unfortunately, these words were not put into practice. The West expected that the Soviet Union, later Russia would manage relatively fast to build a market economy and democratic western-type institutes. Russia, in turn, expected to get a massive assistance from the West compared to the post-war American „Marshal Program”. The Russian Government even expressed a desire to join the EC, later EU. Andrey Kozyrev, a young politician was appointed as head of the Foreign Affairs Ministry. They adopted a policy aimed at a close relationship with western democratic countries. It was 1994 when the Partnership and Cooperation Agreement was concluded.

2. *Critical Stage*. But rather soon it became clear that the Parties overestimated the potential of their relations. The second stage can be called critical and can be dated back to the second term of President Boris Eltsin (1996-1999). The West was shocked by the extremely slow and conflicting development of Russian reforms, by a contrast of proclaimed values and actual actions of the Russian government. The West reacted especially negatively to the armed operations in Chechnya, associated with numerous violations of human rights. Russia, in turn, saw the difference between the profusion of words the West said to support the new Russia and the scope of actual help. Russia was enraged that the EU and the NATO treated the post-communist countries located in Central and Eastern Europe and the former Soviet Republics differently. Russia was also displeased with a highly discriminatory trade and economic policy of the EU towards Russian goods. Andrey Kozyrev, Minister of Foreign Affairs, was replaced by an ex-leader of the Foreign Intelligence Service, called Evgeny Primakov. The concept that Russia lost the Cold War against the West became popular. Prerogative was given not to close relations with the West, but to create a multi-pole world order. National interests of Russia and an idea of „a strong state” became more important than democratic values.

In this period it can be seen that some positive actions of the West in relation to Russia had been taken, for example, a more significant role of Russia in G-7 and the admission of

Russia to the Council of Europe. At this time, Russia received a considerable credit from the International Monetary Fund (IMF). But actually, the EU was motivated by tactical considerations. The West wanted to support Eltsin and his group at the parliamentary and presidential elections in 1995-1996 against the Communist Party, which was very popular.

3. *Pragmatic Stage.* The third, current stage can be called pragmatic. It began with election of Vladimir Putin as President of the Russian Federation in 2000. This period is characterized by a political and economic stabilization and we can say by considerable degree of continuity in the foreign policy, mild nationalism and pragmatism.

1.2. *Common EU–Russia Interests*

Under the Agreement of 1994, the new relations of Russia and the EU are called ‘partnership’. It was intended that the term „partnership” would mean a closer relationship than traditional cooperation. Otherwise, the words „Partnership and Cooperation” in the name of the Agreement seemed illogical. The Agreement does not give any definition of partnership but names its most important elements. These are political and economic freedoms; democratic principles and human rights. But Russian leaders interpret the word „partnership” in a narrower, more pragmatic way, leaving it to Russia to solve the issue of values. As you know, 80% of the Russian territory lies in Asia, where European values are less popular. There are the following trends in the Russian public opinion:

„A European trend” is supported by people who consider Russia mainly as a European country and share western liberal and democratic values. This group mostly consists of young, highly educated people.

„A Eurasian trend” is supported by people who believe that Russia must have its own individual way of development and they share original Russian cultural values, which are different from Western European values. The second trend became more popular during the long and difficult market reforms, especially, among elderly people.

„A Slavic trend” unites those who believe in a union of the peoples of Russia, Ukraine and Belarus. They lived together within the Soviet Union.

Some European experts recommend the EU to concentrate on common interests with Russia and not on common values. Instead of pretending that Russia shares its values and hopes, the EU should openly admit that there are deep differences between them.

Nevertheless, despite all the problems in the Russian – European relations, there are some uniting aspects (common interests). These are the followings.

Economic co-operation. Economic relations are truly needed for the parties. For Russia, the EU is the main trading partner dominating in Russian foreign trade (52%), the main foreign investor of the Russian economy (75%). For the EU, after the USA and China, Russia is one of the key partners in trade (8%), dominating in the area of raw materials and power supply to the EU (77% of total imports are from Russia).

Stability and safety in the region. Human rights situation, threat of economic crises, terrorism, migration, crime, and environment are common threats for the region. It is underlined by long borders.

Long historical and cultural ties.

2. Problems and Prospects

2.1. *New Basic Agreement*

The Partnership and Cooperation Agreement is outdated now, for example, it does not include the membership of Russia in the European Council, participation in the European convention on human rights and basic freedoms. In 2002, Russia was granted the status of a market economy country. In 2012, Russia joined the World Trade Organization (WTO). Now, there is a discussion of not just partnership but a strategic partnership between the EU and Russia.

Talks on the new agreement are going very slowly. They started them in 2008. The new agreement shall keep the experience accumulated by the Partnership and Cooperation Agreement and shall shift the relations to a new level. Some Russian scientists believe that the parties made haste starting talks on the new agreement. Maybe it is better to choose the „Swiss” variant and develop sector integration (within the same common areas).³

2.2. *Visa-Free Regime*

One of the most important issues in the dialogue between our country and the EU is establishing a visa-free regime for crossing shared borders. After the expansion of the EU in 2004, the length of the shared border became over 2000 kilometres. This issue is discussed at each summit of Russia and the EU.

In 2006, Russia and the EU signed an Agreement (it entered into force in 2007) to simplify visa regime and an Agreement on re-admission (re-admission is a consent of the government to accept back to its territory those citizens who are liable for deportation from another country). The Re-admission agreement has been one of the obligatory conditions putting forward by the EU for a long time. Getting visa for certain categories of citizens was made easier (government officials, businessmen, science and culture experts, reporters, sportsmen, teachers, students and close relatives of people who live in Russia or in the EU countries).

Nowadays, Russia is offering to cancel visas with the EU countries altogether. The first step as Russia sees it is to cancel visas for holders of duty passports, that is, government officials. The EU refuses it as in Russia duty passports are not always issued in strict compliance with the law, while government officials are most often the main violators of human rights. The EU believes that the main part in strengthening ties between nations is played by students, scientists, reporters, non-profit organizations and businessmen, and not government officials and deputies. That is why the EU declares that it is important to grant advantages to common people, while the government officials are not the priority category to make their visa regime simpler and easier.

Cancellation of the visa regime suggests close interaction of special services and law-enforcement agencies, and constant sharing of information databases on citizens and criminals. Such actions require a high level of trust between the parties, but the EU is not ready to share its information of this kind with Russia, yet.

³ Cf. further Kalinichenko, Paul: *Европейский Союз: право и отношения с Россией* [European Union: Law and relations with Russia]. Moscow, 2012. p.100.

The principle fear of the EU is uncontrolled migration leading to dumping and lower quality of services, meanwhile, the fear of the „Russian mafia” is ungrounded – because visas have never been problems for organized crime. Some Russian experts think that the aim of the EU is to get economic and trade concessions from Russia, and the „technical” problems identified by the Europeans are actually political ones. The EU primarily wants to give visa-free entry to the „Eastern partnership” countries.

The approximate date for the introduction of a visa-free regime is fixed by Moscow and Brussels for 2014 – the time of the Winter Olympics in Russia. Now, the EU is ready to sign an improved agreement on a simpler visa regime.

2.3. Power Supply Industry

The focus of the power supply talks is the same as many years before. The acceleration of these talks can be traced back to the *third energy package* of the EU. This document was approved in the EU in 2009. It includes acts aimed at limiting rights of ownership and management of power supply, and transportation by vertically integrated companies. Separating transport nets from the power generation, the European Commission hopes to enhance competition, create conditions for new players to enter the market and cut prices for power. This is disapproved by Russia, as well as the fact that the energy package bills have retroactive force.

The Russian Federation wants to have exceptions for Gazprom with regards to requirements stated in the third energy package. Gazprom is the largest power supply company in Russia. It is engaged in development, processing and sales of gas, oil and heat power. It has the richest reserves of natural gas. It has the world’s largest gas transportation system. The company supplies gas to 30 foreign countries. It is one of the largest oil manufacturers. Over the course of last year, Gazprom took the first place among all other companies in the world regarding the size of net profit.

Now, the European Commission carries out an anti-monopoly investigation against Gazprom connected with the application of the third energy package provisions to the contracts with a number of West European countries. A formal pretext to start the investigation was a claim of Lithuania to the EU regarding that Gazprom „abuses its dominating power at the market”.

Russian leaders believe that current EU rules violate Article 34 of the Partnership and Cooperation Agreement, which provides that the parties „shall not make economic activity worse in each other’s territory”. Moreover, Moscow thinks that some provisions of the third energy package are in conflict with WTO rules. Moscow tries to explain that it carries out activity to diversify power supplies to the West. For this purpose, there are two routes of „Northern flow” and the „Southern flow” project. It is expected that the „road map” Russia – the European Union in the area of power supply will be agreed upon by March 2013.

2.4. Human Rights

Human Rights Watch called the year 2012 the worst year in line of human rights in Russia. Human rights are traditionally acute issues in the talks between the Russian Federation and the EU. The EU is sure that the Russian power applies pressure on its citizens. The human rights organization, the Human Rights Watch made an official request to the EU to discuss this issue at the last summit. This is a non-government organization, which monitors how human rights are observed in over 70 countries around the globe. Its headquarters are located in the USA, but it declares that it takes no financial support from any government

organization and exists from private donations. It speaks up about attempts of the Russian authorities to suppress freedom of speech and association, activity of non-governmental organizations.

Russia, in turn, also started to launch claims about human rights in the West. Thus, in December, the Russian Ministry of Internal Affairs published a report on human rights of national and religious minorities in the EU countries. It is about violation of Russian-speaking people in the Baltic States, the so-called non-citizens, about cases of racism and xenophobia, CIA secret prisons and tortures carried out in them, as well as about hardships of Gypsies and some other categories of refugees in the EU.

2.5. Commonwealth of Independent States (CIS)

Finally, a big role is played by the so-called „a Great Power Syndrome”, typically for Russia as a very large state. Here, one Russian politician can be quoted, who said „Great Powers do not dissolve in integration unions, but they create them around themselves”.⁴ That is the factor of CIS. Almost immediately after the USSR collapsed in December 1991, all the former Soviet Republics (except the Baltic States) formed a new interstate union, international organization, the CIS. One of the main goals of CIS was to preserve business ties that were left from the Soviet period. But for a long time such cooperation did not have any results, as all the member-countries experienced hard economic crisis. And to add, the national economies did not complement each other, but competed with each other. Thus, many agreements remained mostly just on paper as ‘paper law’.

From the very start, the Baltic States did not join the CIS. Ukraine and Turkmenistan did not sign the CIS Regulations, thus, legally they are not CIS members. Later Turkmenistan declared that it would take part in the CIS as „an associated member”. Georgia joined the CIS in 1993, but in August 2008 after an armed conflict with Russia, Georgia declared to leave the Commonwealth.

The Partnership and Cooperation Agreement says that Parties want to encourage the process of regional cooperation between the former Soviet Republics. But Russia watches the development of relations between other CIS countries and the EU closely because it considers them a sphere of its own interests. In each annual speech, the Russian President declares that Russia has priority relations with the CIS members, but in reality, CIS is very ineffective. For a long time, the policy of Gazprom was a uniting factor because it supplied gas and other fuels to CIS members at considerably lower prices. However, over the last years Russia has significantly increased the prices and CIS countries lost some of their interest.

Some time ago, the USA was active in this area. With their support a political association called GUUAM was set up and it consisted of Georgia, Ukraine, Uzbekistan and Moldova (their main goal was to make life harder for Russia). But for now, this group has lost its strength.

⁴ Ivan. D. Ivanov on Russia in Europe: „our country is not in need of affiliation with the EU. This would entail loss of its unique Euro-Asian specifics, the role of the center of attraction of the re-integration of the CIS, independence in foreign economic and defense policies, and complete restructuring (once more) of all Russian statehood based on the requirements of the European Union. Finally, great powers (and it is too soon to abandon calling ourselves such) do not dissolve in integration unions – they create them around themselves.” See *Covremennaya Evropa*, Institut Ebropi, 2001.

2.6. „Eastern Partnership”

Now, the EU is active in this area through the „good neighborhood policy”. This project of the EU is aimed at bringing the EU closer to these 6 former USSR countries (Armenia, Azerbaijan, Belorussia, Georgia, Moldova and Ukraine), while Russia refused to participate in this project. In 2010, Armenia, Georgia, Moldova and Ukraine signed a Memorandum with the EU on an agreement of association. Belorussia does not share the European policy of good neighborhood; moreover, the standard agreement on partnership and co-operation with Belorussia has not come in force at all. Perhaps, it is better for Belorussia to develop traditional commercial relations with the EU.

The persistent reluctance to „let” Russia in Europe led to the creation of the Eurasia integration zone. The Union state of Russia and Belorussia was established. Customs Union started to operate in 2010 between Russia, Belorussia and Kazakhstan. Kyrgyzstan prepares to join it. The common economic area began its activity in 2012, again among Russia, Belorussia and Kazakhstan.

The same countries started to create the Eurasia economic union. In 2011, President Putin specified the idea to set up the Eurasia economic union on the basis of the Customs Union and the Common economic area of Russia, Belorussia and Kazakhstan in detail, noting that it will neither be a new USSR, nor will replace the Commonwealth of Independent States. He returned to this idea in 2012 declaring that this project has more grounds for success than the EU because the potential participants have the common language environment, infrastructure and similar economic pattern. The Agreement on the set up of the Eurasia economic union is expected to come in force by 2015. Anyway, the most important role in these relations for the Russian and its neighbors’ political and defense aspects is played by economic ties.