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Systematization of the EAEU legal sources in the field of regulation of the service market in science

KEYWORDS

EAEU law;
Eurasian Economic Union;
integration;
science service market;
scientific cooperation;
sources of law;
systematization



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ABSTRACT

Introduction. The law of the Eurasian Economic Union (hereinafter – the EAEU) contains provisions aimed at organizing scientific cooperation (and cooperation in the field of innovation) of its member states. The subject of this research is the totality of sources of the Eurasian Economic Union law in the field of regulation of the services market in science. The purpose of the research is to systematize the legal sources, containing norms governing relations in the services market in the field of scientific activity.

Materials and methods. The methodology of scientific research includes the dialectical method, General scientific logical operations (deductions and inductions, analysis and synthesis) and specific scientific methods (legalistic, comparative legal).

Results. As a result of the research, the author presents a system of sources of the EAEU law, norms in the field of legal regulation of scientific activities and scientific cooperation within the framework of the Eurasian economic integration: the Treaty on the EAEU, international multilateral and unilateral agreements implemented in the EAEU legal framework, normative acts adopted by the Supreme Economic Council and the EAEU Economic Commission.

Conclusion. The research results are applicable in further theoretical studies of the Eurasian economic integration and the EAEU law and have practical significance for the systematization of the legislation of the Eurasian Economic Union, development of legal techniques, EAEU lawmaking.

Berg, L. N. (2020). Systematization of the EAEU legal sources in the field of regulation of the service market in science. *Economic consultant*, 32 (4), 83–93. doi: 10.46224/ecoc.2020.4.8

FOR CITATION

INTRODUCTION

Within the framework of the Eurasian Economic Integration, cooperation in the field of science and technology development is one of the fundamental directions that determine the further development of integration processes in the EAEU [14]. The level of competitiveness in the world market and the retooling of certain sectors of the economy of each state depends on the effectiveness of interaction between the member states of the Union. This is particularly relevant in the context of the transition to the fifth and sixth tenors of technology with global changes in the manufacturing sector of the economy.

The research of the EAEU legal sources in the field of regulation of the services market in science makes it possible to study the basics of such cooperation within the framework of integration. This research analyzes the totality of sources of the EAEU law in the field of regulation of the services market in science. The purpose of the research is to conduct and justify the systematization of the EAEU legal sources, containing the legal norms governing legal relations in the field of scientific cooperation of the EAEU countries.

RESEARCH MATERIALS AND METHODS

The research is of a general theoretical nature, carried out on the basis of a combination of methods application that ensured the possibility of understanding the internal structure of legal phenomena, analysis of the main sources of the EAEU law, and their systematization.

The applied dialectical method made it possible to focus on the dynamic, procedural component of being, to consider legal phenomena in dynamics, to identify cause-and-effect relationships in connection with the studied legal phenomena. The formal legal method is used to analyze the studied normative material, to understand the essence and significance of the normative act, based on its own content. The comparative legal method was applied in order to identify both the general, and special, individual in the study of legal phenomena. In the conducted study, such general scientific logical operations as deduction and induction, analysis and synthesis were applied.

LITERATURE REVIEW

In the analysis of scientific research in the field of the EAEU law, scientific and technological cooperation of the member states of the union, it was possible to emphasize a number of domestic and foreign scientists' works. In their works, the influence of certain institutional entities on the development of the EAEU law in the field of scientific and technological integration is studied. Thus, I. V. Shugurova conducts a study on identifying and systematizing

the powers of the Eurasian Economic Commission in the field of scientific and technological integration of the EAEU member States [15].

A. S. Chanyshv studied certain legal provisions of national and EAEU legislation for the legal regulation of labor relations, including research scientists in the framework of integration interaction [2]. I. V. Shugurova studies the issues of training highly qualified personnel and problems of the educational process in the EAEU [18].

There is a comprehensive research of the scientific team of the Ural State Law University "Liberalization of the services sector for research and implementation in the field of social Sciences and Humanities in the Eurasian Economic Union" [6]. The study determined the list of normative legal acts regulating the activities within the framework of the services sector, an analysis was conducted for the presence of administrative and other barriers in these acts, restricting the research work, mechanisms were developed to identify and overcome such barriers [6].

In general, most of the studies on the EAEU regulatory basis in the field of scientific activity are focused on certain areas of activity [10], institutions or law branches. Research in this area is mainly practice-oriented and solves specific problems of applying the EAEU legal norms and national legislations within the framework of regional integration [1]. The lack of conceptual theoretical studies that would make it possible to systematize the EAEU legal sources in the field of regulation of the services market in science once again emphasizes the relevance and scientific novelty of this research.

RESEARCH RESULTS AND DISCUSSION

Analysis of the EAEU legal sources in the field of regulation of the service market in science made it possible to identify the main directions of cooperation in the field of science and innovation of the Russian Federation and the EAEU countries (fig. 1).

Let us consider the directions of cooperation in the field of science and innovation of the Russian Federation and the EAEU countries in the context of their reflection in the EAEU legal sources.

First of all, we should focus on the main normative legal act – the Treaty on the EAEU, which contains many provisions aimed at organizing scientific cooperation (and cooperation in the field of innovation) of the Union states in certain sectors (types) of activity.

The most important area of cooperation in the framework of regional integration is the support of scientific and innovative development [3]. For the effective development of high-tech industries, the member states of the Union conduct joint research and development projects. Research activities within the EAEU are subject to indirect taxation. Indirect taxation rules of research activities are prescribed by the Treaty on the EAEU, according to which indirect taxes are collected in the territory of the works and services realization. It is determined that the place of works and services realization is the territory of the state-participant of integration, in

the case when research, development and experimental-technological (technological) works are acquired by taxpayers of this state. It is stipulated that research works for tax purposes are the organization and conduct of scientific research in accordance with customers' project requirements.

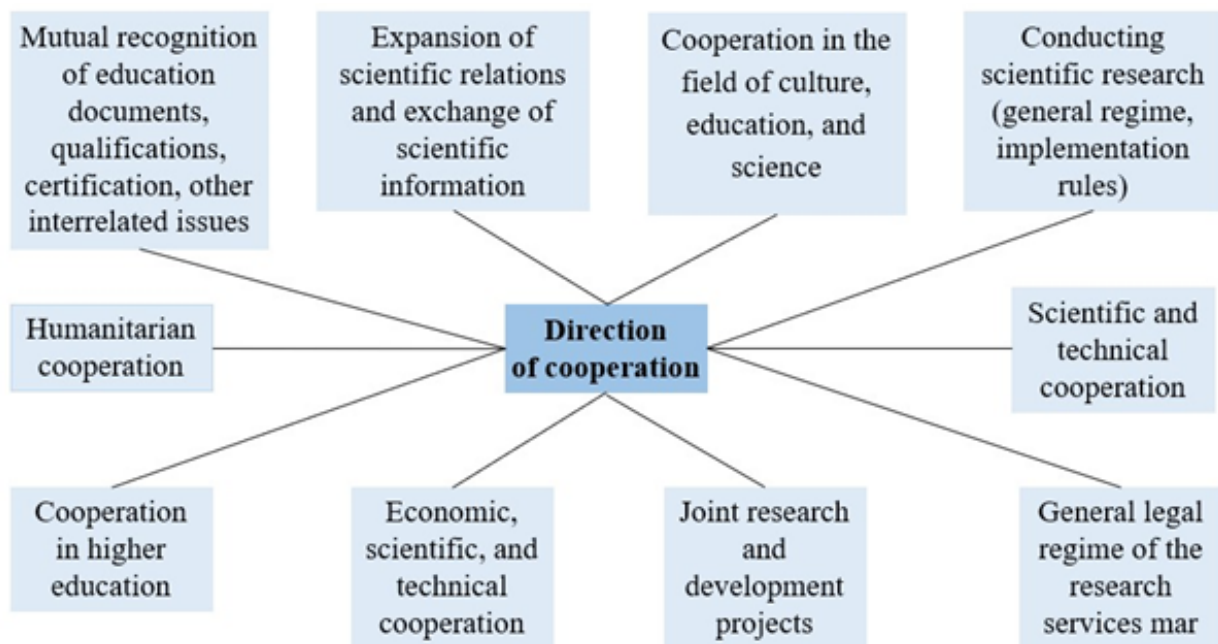


Figure 1 Directions of cooperation in science and innovation of the Russian Federation and the EAEU countries

The Treaty on the EAEU specifically regulates the issue of obtaining special compensatory measures in cases of receiving subsidies in the form of assistance for research activities. Compensatory measures cannot be taken with such a specific subsidy as assistance for research activities carried out by economic entities, as well as higher educational institutions and scientific institutions on a contractual basis with economic entities, provided that such assistance covers no more than 75 % of the cost of industrial research or 50 % of the cost of developments at the pre-competitive stage. However, it is provided solely to cover the costs of personnel, tools, equipment, land and structures used constantly and only for research purposes; consultations and similar services used solely for research purposes; additional overhead costs incurred directly as a result of the research and other current expenses (for materials, supplies, etc.) incurred directly as a result of the research. It should be noted that this does not apply to basic research conducted by universities or research institutions independently. Basic research must necessarily ensure the expansion of scientific and technical knowledge, the goals of which should not be aimed at implementing new ideas in specific industrial production and making a profit [4]. On the contrary, industrial research should provide an increase in new knowledge that will be useful in the creation of new goods or services, the development of technological processes, as well as for their significant improvement.

The general legal regime of the services market in the research sector is determined by the Protocol on Trade in Services, Incorporation, Activities, and Investments (Annex No. 16

to the EAEU Treaty). According to this Protocol, the service market in certain sectors should comply with all characteristics of the single market. Member States of integration benefit from extending the single market of services to the maximum number of service sectors, ensured by gradually reducing barriers and restrictions provided for in national legislation.

The EAEU member States, together with the EAEU Commission, develop services for certain market sectors, such as hotel services, franchising services, engineering services, and liberalization plans. Thus, the liberalization plans of certain sectors of the service market include stages of the formation of a single market, while the terms for the participating states are different. Member states can start creating a single market for services on the basis of reciprocity through bilateral cooperation.

As for scientific activities in the EAEU, the liberalization plans have been approved for the following service sectors: conducting research and their implementation in the field of social and humanities, conducting research and creating experimental developments in the field of natural sciences [12].

The implementation of these plans is assigned to the relevant working group. The launch of the single market for these sectors of research services is planned for 2020. Until that time, subsections 1–4 of Section VI of the Protocol apply in these service sectors [5; 6; 7].

Let us consider the international contractual framework implemented in the legal framework of the EAEU. The international contractual framework of the EAEU includes many multilateral and bilateral agreements concluded between the EAEU states that determine the basis for scientific research in general and in certain economic sectors [8]. It should be noted that agreements can be concluded even before the signing of the Treaty on the EAEU, but subsequently be integrated into the already formed contractual legal framework of the EAEU. They are applicable, as a rule, in the part that does not contradict the Treaty on the EAEU, supplementing the regulation of those issues, that are not directly or indirectly covered by the EAEU contractual legal framework.

The main aim of integration is to create equal opportunities for education and access to scientific and cultural achievements. International agreements are of interest in this regard. In order to ensure equal access to education and scientific and cultural achievements, each member state should take measures to eliminate barriers to this activity in the research market of regional integration.

It should be noted that the legislation of the countries of the Commonwealth of Independent States (hereinafter-the CIS) on scientific activities is included in the legal framework of the EAEU, regulating the regime of scientific research in the territory of the EAEU, since the EAEU states are also members of the CIS. The Agreement "On Mutual Recognition and Equivalence of Education Documents, Academic Degrees and Titles", adopted before the establishment of the Eurasian Economic Union, should be particularly mentioned here. Although not all participating countries have joined this Agreement, for example, Armenia has not ratified the agreement, nevertheless, it is subject to application in the part that does not contradict the Treaty on the EAEU.

It should be noted that the provisions of the Treaty on the EAEU contain only some aspects of recognizing the equivalence of educational documents, academic degrees and titles, while the provisions of the Agreement make additions and allow it to be applied subsidiary. The provisions of the Treaty on the EAEU regarding the recognition of educational documents, academic degrees and titles are aimed at the legal regulation of relationships only in terms of formalizing labor relations or civil law relations. At the same time, research work may be carried out on the basis of other agreements, for example, state (municipal) contracts, agreements concluded on the basis of procurement results. The agreement fills the indicated gaps, since it is not limited only to the sphere of labor and civil law relations [5; 11; 13; 19].

An integral part of the EAEU law in the field of legal regulation of scientific activity are bilateral agreements that fill the gaps in legal regulation (unless otherwise provided by the Treaty on the EAEU, multilateral agreements of the EAEU member states). They also contain some exceptions to the general regime of regulation of the research market in the Eurasian space in specific areas of cooperation.

Let us consider specific bilateral agreements between the EAEU member States. Thus, the Agreement on Scientific and Technical Cooperation (concluded on November 25, 1996, Moscow) between the Russian Federation and the Republic of Kazakhstan provides for some general forms of cooperation in the field of research work between the Government of the Russian Federation and the Government of the Republic of Kazakhstan. However, most of the bilateral agreements between the Russian Federation and the Republic of Kazakhstan in the field of science are agreements on scientific cooperation in certain sectors (branches) of economy and scientific and technical cooperation: nuclear energy sector, industrial and scientific-technical cooperation of defense industry enterprises, military-technical field, field of geological study and subsurface use. They usually contain more specific rules on the legal regime of joint scientific research.

Treaties on mutual recognition of education documents, qualifications, certification, and other interrelated issues constitute a special category of agreements. We highlight specific provisions: recognition of the equivalence of issued educational documents, development of provisions on the recognition of new documents that can be approved after the reforms [16]; recognition of qualification documents on academic degrees and titles issued by the relevant national authority of the other Party, as well as recognition of the comparability of these documents is established in the process of re-certification of their holders [17].

Agreements between the Russian Federation and the Republic of Belarus provide for certain branches of bilateral cooperation enshrined in bilateral agreements: scientific and technical cooperation; military cooperation; mutual recognition of the equivalence of educational documents, academic degrees and titles; cooperation in the field of culture, education and science. These agreements contain a number of standard norms, obliging states to ensure compliance with certain general guarantees in the implementation of scientific research in certain sectors of the economy.

A specific block of bilateral agreements is made up of documents of the Union state, which are mostly planning documents, where research service providers are already

directly identified, or which contain a report on the implementation of any planned research work.

The main bilateral agreements between the Russian Federation and the Republic of Armenia establish General rules for the implementation of scientific research by the subjects of these EAEU States in such areas as certification of highly qualified scientific and scientific-pedagogical personnel; industrial and scientific-technical cooperation of defense industry enterprises; scientific and technical cooperation; mutual recognition of educational documents, academic degrees and titles. These agreements establish a general regime for scientific research, which does not differ from the regime established by similar agreements concluded between other EAEU states. Meanwhile, the Agreement on the expansion of scientific relations and exchange of scientific information between the Russian Academy of Sciences and the National Academy of Sciences of the Republic of Armenia (concluded on 11.06.1994, Moscow) contains special rules for the organization of scientific research and the mode of stay of researchers of these scientific institutions. We also mention the Agreement between the Government of the Russian Federation and the Government of the Republic of Armenia on cooperation in the field of higher education (concluded on 11.01.1993, Moscow). In article 9, the Parties allow their bodies of state attestation of scientific and pedagogical personnel to conduct attestation work on the affairs of citizens of the other Party's state on a reimbursable basis, however, the procedure and terms of this attestation work have not been identified.

Some general forms of cooperation in the field of research are provided for by Agreements between the Russian Federation and the Kyrgyz Republic. These include the Agreement on the expansion of economic, scientific and technical cooperation between the Kyrgyz Republic and St. Petersburg (concluded 30.05.1993, Saint-Petersburg), the Agreement between the Government of the Russian Federation and the Government of the Kyrgyz Republic on cooperation in the humanitarian sphere (concluded 05.04.2012, Bishkek), the Agreement between the Government of the Russian Federation and the Government of the Kyrgyz Republic on cooperation in the field of higher education (concluded 29.03.1996, Moscow). These agreements contain a number of standard norms obliging States to ensure compliance with certain general guarantees for the implementation of scientific research.

The study made it possible to systematize the EAEU legal sources in the field of regulation of the service market in science in the directions of cooperation in the field of science and innovation of the Russian Federation and the countries of the Eurasian Economic Union (Table 1).

The implementation of the EAEU states obligations in the field of forming a single market for research and the elimination of all possible legal barriers is impossible without flexible regulation by the EAEU bodies. In this regard, we should talk about other sources related to the EAEU legal framework. Thus, the Supreme Eurasian Economic Council approved all liberalization plans, including for the sector of services in the field of scientific research [12], as well as other documents on the implementation of scientific research in certain sectors of the economy. The Eurasian Economic Commission also approves a number of planning documents in the field of scientific research, as a rule, in certain sectors of the economy.

Table 1

Directions of cooperation in science and innovation of the Russian Federation and the countries of the Eurasian Economic Union, their reflection in the EAEU legal sources

Direction of cooperation	EAEU legal sources	Enshrined positions
Joint research and development projects	The Treaty on the EAEU	Indirect tax collection; place of works and services implementation. Organization and conduct of scientific research in accordance with customers' project requirements. Procedure for obtaining special compensatory measures in cases of receiving subsidies in the form of assistance for research activities
General legal regime of the research services market	Protocol on Trade in Services, Incorporation, Activities, and Investments (Annex No. 16 to the EAEU Treaty)	Create a service market according to the characteristics of the single market. Reducing barriers and restrictions in national legislation. Liberalization by service sector: conducting research, implementing it in the field of Social Sciences and Humanities, creating experimental developments in the field of natural sciences
EAEU International Contractual Basis		
Scientific and technical cooperation	Agreement between the Government of the Russian Federation and the Government of the Republic of Kazakhstan on sci-tech cooperation (Moscow, 25.11.1996)	General forms of cooperation in research and development. Scientific cooperation in certain sectors (branches) of economy, scientific and technical cooperation: nuclear energy sector, industrial and scientific-technical cooperation of defense industry enterprises, military-technical field, field of geological study and subsurface use
Mutual recognition of education documents, qualifications, certification, other interrelated issues	Agreements between the Russian Federation and the Republic of Belarus	Mutual recognition and equivalence of education documents, academic degrees, and titles
Mutual recognition of education documents, qualifications, certification, other interrelated issues	Agreement between the Russian Federation and the Republic of Armenia	Mutual recognition and equivalence of education documents, academic degrees, and titles
Cooperation in the field of culture, education, and science	Agreements between the Russian Federation and the Republic of Belarus	Scientific and technical cooperation. Military cooperation. Ensuring compliance with general guarantees in the implementation of scientific research in certain economic sectors
Conducting scientific research (general regime, implementation rules)	Agreement between the Russian Federation and the Republic of Armenia	Procedure for certification of highly qualified scientific and scientific-pedagogical personnel; industrial and scientific-technical cooperation of defense industry enterprises; scientific and technical cooperation; humanitarian cooperation

Expansion of scientific relations and exchange of scientific information	Agreement between the Russian Academy of Sciences and the National Academy of Sciences of the Republic of Armenia (Moscow, 11.06.1994)	Special rules for the organization of scientific research and the mode of stay of researchers of these scientific institutions
Cooperation in higher education	Agreement between the Government of the Russian Federation and the Government of the Republic of Armenia (Moscow, 11.01.1993)	Permission for state certification bodies of scientific and pedagogical personnel to conduct attestation work on a reimbursable basis
Economic, scientific, and technical cooperation	Agreement between the Kyrgyz Republic and St. Petersburg (St. Petersburg, 30.05.1993)	Expansion of economic, scientific, and technical cooperation. Standards and compliance with guarantees during research
Humanitarian cooperation	Agreement between the Government of the Russian Federation and the Government of the Kyrgyz Republic (Bishkek, 05.04.2012)	Expansion of economic, scientific, and technical cooperation. Standards and compliance with guarantees during research
Cooperation in higher education	Agreement between the Government of the Russian Federation and the Government of the Kyrgyz Republic (Moscow, 29.03.1996)	Expansion of economic, scientific, and technical cooperation. Standards and compliance with guarantees during research

CONCLUSION

Thus, the system of the EAEU legal sources in the field of regulation of the service market in science can be presented as follows: The Treaty on the EAEU; other international contractual framework implemented in the legal framework of the EAEU, to which we refer multilateral and bilateral agreements; other sources related to the legal framework of the EAEU, including normative acts adopted by the Supreme Eurasian Economic Council, normative acts adopted by the Eurasian Economic Commission.

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Available: <https://statecounsellor.wordpress.com/2020/12/01/berg/>

Received: Sep 23, 2020 | **Accepted:** Nov 25, 2020 | **Published:** Dec 1, 2020

Editor: Valeriy P. Belyaev, Professor, Doctor of Law. Southwest State University, RUSSIA

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Competing interests: The authors have declared that no competing interests exist.