

SOME EXAMPLE ORGANIZATIONS AND COMMERCIAL LAW STUDIES IN THE COMMON ECONOMIC AREA STRATEGY OF THE ORGANIZATION OF TURKIC STATES*

Türk Devletleri Teşkilatı'nın Ortak Ekonomik Alan Stratejisinde Bazı Örnek Teşkilatlar ve Ticaret Hukuku Çalışmaları

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ABSTRACT

The Organization of Turkic States is a global and regional organization formed after the Cold War. The Organization, which took on an institutional structure in Nakhchivan in 2009, started to be called the Organization of Turkic States with the decision taken at the summit in Istanbul on November 12, 2021. This Organization has important strategies in education, culture, science, economy and law. The Organization of Turkic States announced the 2040 Turkic World Vision Document in 2021. With this document, the Organization has set targets in order to complete its institutional structure. Cooperation within the Turkic States in terms of the economy is one of the most important goals in this aspect. In order for the economy to have an institutional structure, studies have been started in the fields of commercial law and other law. It will be useful to examine the structure of the Eurasian Economic Community and the Shanghai Cooperation Organization in this institutionalization process of the Organization, which also aims for a Common Economic Area. In this article, within the framework of the institutionalization goals of the Organization of Turkic States, the Eurasian Economic Community, depending on the economy-based structure of the Shanghai Cooperation Organization, especially the studies on commercial law and the decisions on the goals of establishing a legal union in the Organization of Turkic States have been tried to be examined.

Key Words: Organization of Turkic States, Commercial Law, Eurasian Economic Community, Shanghai Cooperation Organization, Customs Union, Common Economic Area.

There is no requirement of Ethics Committee Approval for this study.

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ÖZET

Türk Devletleri Teşkilatı, Soğuk Savaş sonrası oluşan küresel ve bölgesel bir örgüttür. 2009 yılında Nahçıvan'da kurumsal bir yapıya bürünen örgüt, 12 Kasım 2021 tarihinde İstanbul'daki zirvede alınan kararlarla Türk Devletleri Teşkilatı olarak anılmaya başlanmıştır. Bu teşkilatın eğitim, kültür, bilim, ekonomi, hukuk alanında önemli stratejileri bulunmaktadır. Türk Devletleri Teşkilatı, 2021 yılında 2040 Türk Dünyası Vizyon Belgesini ilan etmiştir. Bu belge ile kurumsal yapısını tamamlayabilmek için hedefler belirlenmiştir. Bu hedefler içerisinde ekonomi önemli yer tutmaktadır. Ekonominin kurumsal bir yapıya kavuşması için de ticaret hukuku ve diğer hukuk alanlarında çalışmalar başlatılmıştır. Ortak Ekonomik Alan hedefi de olan teşkilatın bu kurumsallaşma sürecinde Avrasya Ekonomik Birliği ve Şanghay İşbirliği Teşkilatı yapısının incelenmesi faydalı olacaktır. Bu makalemizde Türk Devletleri Teşkilatı'nın kurumsallaşma hedefleri çerçevesinde Avrasya Ekonomik Birliği, Şanghay İşbirliği Örgütünün ekonomi temelli yapısına bağlı olarak Türk Devletleri Teşkilatı'nda özellikle ticaret hukukuna dair çalışmalar, hukuk birliği kurma hedeflerine yönelik kararlar incelenmeye çalışılmıştır.

Anahtar Kelimeler: Türk Devletleri Teşkilatı, ticaret hukuku, Avrasya Ekonomik Birliği, Şanghay İşbirliği Teşkilatı, Gümrük Birliği, Ortak Ekonomik Alan.

INTRODUCTION

Today, the acceleration of global trade and the fact that political borders are gradually replaced by the borders determined by economic unions cause the establishment of regional unions and organizations. Countries such as the United States of America (USA), China, Russia and Türkiye, especially Europe, support the commercial integration that they started in their own regions with free trade agreements and customs unions over time.

The fact that Türkiye's European Union (EU) membership process has not come to a conclusion allows Türkiye to seek alternatives or to establish new associations. Competition outside the EU is now concentrated in Central Asia. The Eurasian Economic Community was formed under the leadership of Russia, the Shanghai Cooperation Organization under the leadership of China, and the Organization of Turkic States under the leadership of Türkiye, and these organizations are still trying to complete their institutional structures. Apart from these countries, the USA is also involved in the power race in Central Asia. Factors such as the fossil fuels of Central Asia, geographical location, and being on logistics lines increase the competition between countries. China is trying to strengthen its influence by transferring financial resources to the countries in the region through the Silk Road Project. With its historical and bureaucratic influence, Russia creates opportunities for itself in post-Soviet countries. The USA, on the other hand, is trying to gain the trust of these countries through the fight against terrorism and the China-Russia pressure. The Organization of Turkic States, including Türkiye, has a more advantageous position compared to these countries because ethnic, historical

and cultural unity gives Türkiye more opportunities than other countries do. Another advantage of Türkiye is that it tries to establish a system of equal partnership with Central Asian countries.

The loss of confidence in the European Union after the Ukraine conflict and the economic difficulties due to the closure of logistics lines encouraged many countries to establish new unions. In these new unions, economic integration takes priority. It is known that economic integration includes concepts such as cooperation, political and economic unification, integration, liberalization and opening trade to circulation.¹ In this integration, the fact that countries are border neighbours is also effective for success. The principles of regional-global integration that started in trade can be explained as follows:

- Trade integration occurs when trade barriers are removed.
- Factor integration occurs with the liberalization of factor movements.
- Political integration occurs with the harmonization of the economic policies implemented by the countries.
- Full integration is created by realizing all of these policies at once.²

Globalization not only increases the circulation of information but also supports the removal or facilitation of borders. The biggest reason EU countries provide visa-free transit among themselves is the easy circulation of labour and information. The circulation of factors such as labour, capital, labour and knowledge and the removal of barriers to the circulation of goods and services increase economic cohesion.³

Today, globalization and regionalization processes are experienced simultaneously. The global approaches pioneered by the World Trade Organization (WTO) are no longer sufficient. The European Union is a good example in terms of both globalization and regional cohesion. Although the Turkic Republics, which gained their independence after the collapse of the Union of Soviet Socialist Republics(USSR), are trying to harmonize with the West in terms of trade, they cannot establish the link between law and trade; in this sense, there are difficulties in terms of trade with other EU countries, especially Türkiye. Law in Türkiye, and especially commercial law, has generally developed on the axis of Continental Europe. For this reason, there

¹ Aydın Sarı, 'Bölgelerarası Ekonomik Entegrasyonlar ve Türkiye'nin Ödemeler Bilançosuna Etkileri' (2005) 10(1) Süleyman Demirel University Economic and Administrative Sciences Faculty, 117,130

² Ahmet Can Bakkalcı, 'Avrupa Birliği İle Türkiye Arasında Gerçekleştirilen Gümrük Birliği'nin Kaynak Dağılımı Üzerine Etkileri' (2002) Dokuz Eylül University EASF Journal, 17(2) 39,53

³ Hasan Alp Özel, 'Küreselleşme Sürecinde Ticari ve Finansal Açıklığın Ekonomik Büyüme Üzerine Etkisi: Türkiye Örneği' (Administrative Sciences Journal, (2012) 10(19), 21,43



are problems in legal legislation between post-Soviet countries and Türkiye. Although commercial law is one of the oldest branches of law in Russia, which affected the Central Asian Turkic Republics, the socialist regime established in Soviet Russia after the October 1917 Revolution did not leave any place for commercial law in the planned economic system while removing commercial relations from private law. In Russian law, commercial relations have been regulated for a long time by various contracts, commercial charters, statutes and regulations. The law-codex distinction, maintained during the Soviet period, is also continued in the legal legislation of post-Soviet countries. For example, in Kyrgyz Language it is called as Criminal Codex, in Kazakh Language is called as Commercial Codex, in Azerbaijani Language it is called as Civil Mecelle etc. While the basic laws of important branches of law are prepared in the form of codices, this is not the case in terms of commercial law. However, there is no naming that expresses the commercial law itself and is accepted by everyone.⁴ Under the influence of the USSR, restructuring as a commercial code in Russia and other Turkic republics created problems in trade and legal compliance with Türkiye in general. While significant emphasis was placed on commercial relations in the liberal economic system that developed with the disintegration of the Soviet Union, there were also discussions about creating a separate commercial code. However, the discussions that have been going on for thirty years have not been resolved. Russia's inability to fully align with Western economies or the frequent arbitration problems stem from the lack of general harmonization with commercial law. Russia's inclusion of some Central Asian countries in the Eurasian Economic Community and the adoption of its legal system in those countries are one of the main reasons for the harmonization problems with the Turkic states today.

In this article, within the framework of organizations such as the Eurasian Economic Union and Shanghai Cooperation Organization, which the Organization of Turkic States can take as an example in the strategy of establishing a common economic space, developments in the field of commercial law and studies in other areas of law that will support integration within the framework of the general structure of the Organization of Turkic States and its 2040 vision are discussed.

I. THE STRUCTURE OF THE ORGANIZATION OF TURKIC STATES AND ITS VISION OF THE COMMON ECONOMIC AREA

With the disintegration of the USSR in the 1990s, the phenomenon of the Turkic World came to the fore in Türkiye, especially in Central Asia. In the process of adaptation to the new world after the declaration of independence of the Turkic Republics, Türkiye has undertaken important tasks in this

⁴ V. N. Kovalenko, Торговый кодекс России - основа коммерческого права (Zakon i Pravo, № 12, 2008,.110).

regard.⁵The Turkic States first gathered in Ankara on 30-31 October 1992, hosted by President Turgut Özal.⁶The strong cooperation that started in the period of Turkish President Turgut Özal has been effective in the formation of the institutional structure of the Organization of Turkic States today.⁷With the Nakhchivan Agreement signed by Türkiye, Azerbaijan, Kazakhstan and Kyrgyzstan on October 3 2009, institutionalization steps were taken, and the Turkic Council was established.⁸ At the Turkic Speaking Countries Summit held in İstanbul on 15-16 September 2010, the Turkic Council officially started to work.⁹Turkmenistan and Uzbekistan are not parties to this agreement. Turkmenistan did not ratify the agreement due to its neutrality status.¹⁰This Organization, which started to be known as Turkic Speaking Countries at the 2001 İstanbul meeting, was renamed as the Organization of Turkic States after the 2021 Istanbul Summit.

Relations and cooperation between Turkic states have developed based on the principles of independence, sovereignty, respect for territorial integrity, non-interference in internal affairs and equality. The Organization of Turkic States, with its new name, which was established with the aim of the Turkic World to act together around common goals, declared that it is loyal to the purposes and principles of the United Nations (UN) Charter and that it has adopted the universally recognized principles of international law. This organisation's main purpose was to deepen comprehensive cooperation among Turkic speaking states and contribute to regional and global peace and stability.¹¹The Organization of Turkic States is an international actor that performs very important functions in international politics and supports member states on the one hand and as a braking mechanism on the other. It has a permanent

⁵ Halil Akıncı 'Türk Cumhuriyetleri Arasındaki Siyasi İlişkiler: Değerlendirme, Sorular ve Öneriler Bağımsızlıklarının 20. Yılında Türk Cumhuriyetleri' Murat Yılmaz (ed), (Ankara, Ahmet Yesevi University Publications, 2012) 191,192

⁶ "Ankara Summit Declaration" (31 October 1992) < www.turkkon.org/Assets/dokuman/11_AnkaraBildirisi_1992_1_DevletBaskanlariZirvesi_20140418_104048.pdf>, Date of Access 18.09.2020

⁷ Bilal Şimşir 'Turkey's Relations with Central Asian Turkic Republics' (1992) 6 Turkish Review Quarterly Digest, 14,16

⁸ "Nakhchivan Summit Declarationı" (2-3 October 2009) <www.turkkon.org/tr-TR/naahcivan_bildirisi/4/56/56/290>, Date of Access 15.11.2017

⁹ "İstanbul Summit Declaration" (16 September 2010) < www.turkkon.org/Assets/dokuman/01_a_IstanbulBildirisi_16Eylul_2010_Turkce_20140418_102924.pdf>, Date of Access 13.11.2017; Şükrü Haluk Akalın, Geleceğe Atılan İmza: Türk Dili Konuşan Ülkeler İşbirliği Konseyi Anlaşması Türk Dili, 98(696) (2009), 675,679

¹⁰ Süleyman Sırrı Terzioğlu, 'Uluslararası Hukuk Açısından Türkmenistan'ın Daimi Tarafsızlık Statüsü' (2012) 14 (2) Dokuz Eylül Universtiy Law Faculty Journal, 39

¹¹ Salih Yılmaz, SaadetinYağmur Gömeç and Victoria Bilge Yılmaz, Çağdaş Türk Dünyası Tarihi El Kitabı (Ankara Nobel Publications, 2022), 472,475



mechanism operating in a closed, geographically regional and general scope in terms of recruiting members.¹²

The Organization of Turkic States has given importance to economic cooperation since its establishment. At the meeting held in Almaty on October 20-21, 2011, with the theme of Economic and Commercial Cooperation, agreements and regulations regarding the institutionalization of the Organization were finalized. In addition, the Turkic Business Council was established to bring together the business circles of the member countries.¹³ The Organization of Turkic States has tried to support economic integration by making important collaborations on education, culture, history and language. At the summit held in Bishkek on 22-23 August 2012 with the theme of Education, Science and Cultural Cooperation, the Turkic Academy in Astana and the Turkic Culture and Heritage Foundation in Baku were established.¹⁴

The efforts of the Organization of Turkic States to create cooperation in the common economic area and trade have come a long way in the last experiment. Uzbekistan joined the Turkic Council as a full member at the 7th summit that was held on October 15 2019, with the theme of Supporting SMEs in Baku. It was decided to accelerate the process by conducting feasibility studies on the establishment of the Joint Investment Fund among the member states.¹⁵ The Turkic World 2040 Vision, which includes establishing the Turkic Investment Fund and the organisation's medium and long-term goals and program, was approved at the 8th Turkic Council Summit that was held online in Istanbul on November 12 2020.¹⁶

The Organization of Turkic States also acts as an umbrella organization for existing cooperation mechanisms such as the Turkic States Parliamentary Assembly (TURKPA), the Turkic Business Council, the Turkic Academy and the International Turkic Culture Organization (TÜRKSÖY), the Union of Turkic World Common Chambers and Commodity Exchanges. TÜRKSÖY's cultural

¹² Çiğdem Şahin, 'Uluslararası Örgüt İşlevleri Açısından Türk Konseyi (Türk Keneşi)' A. Vecdi Can, Köksal Şahin ve Muhammed Kürşad Uçar (eds), 13. Uluslararası Türk Dünyası Sosyal Bilimler Kongresi Bildiriler Kitabı, (Türk Dünyası Araştırmaları Vakfı, 2016), 1165,1174

¹³ Muhittin Kaplan and others, 'One Nation, Many Voices? External Cohesion of the Turkic Council States in the United Nations General Assembly 1993-2011' Bilig Dergisi, [Summer 2015] 131,132

¹⁴ 'Türk Konseyi II. Zirvesi Bişkek'te düzenlendi' (22 August 2012) <www.mfa.gov.tr/turk-konseyi-II-zirvesi-biskekte-duzenlendi.tr.mfa> Date of Access 14.07.2022

¹⁵ Cengiz Tomar, 'Türk dili konuşan ülkelerden Türk devletlerine' (15 November 2021) <www.aa.com.tr/tr/analiz/turk-dili-konusan-ulkelerden-turk-devletlerine/2421214> Date of Access 15.06.2022.

¹⁶ 'Türk Dünyası 2040 Vizyonu' (13 November 2021) <www.turkkon.org/tr/haberler/turk-dunyasi-2040-vizyonu_2396> Date of Access 12.06.2022

diplomacy activities strengthen the regional influence of the Organization.¹⁷ The activities of this Organization in the field of cultural diplomacy set an example in the Organization of economic activities. We can say that the Organization focused on economic integration in the process that started with the 2008 Georgian crisis and the 2014 Ukraine crisis.

The Organization of Turkic States brings together the entrepreneurs operating in the member countries with the studies of the Turkic Business Council established within the Organization for economic integration and presents joint investment opportunities. “Memorandum of Understanding on Sharing Information and Experience Between Various Economic Zones” was signed at the 10th Meeting of Ministers in Charge of the Economy held in Baku on September 10, 2021. At this meeting, the “Feasibility Study” and “Establishment Agreement” of the Turkic Investment Fund, the legal status and other activities of the Turkic Chamber of Commerce and Industry (TCCI), additional mechanisms for further liberalization of trade and investment regimes in the Turkic Council region, and the Turkish Trade House in member states were discussed. Agenda items such as the establishment of the Completion of the trade facilitation document, preparation of the free trade agreement and e-commerce protocol in the field of investments and services were discussed among the members of the Organization. A Memorandum of Understanding on Sharing Knowledge and Experience between Various Economic Zones was signed at this meeting.¹⁸

The Organization of Turkic States, with a population of 160 million and an economical size of 1.1 trillion dollars, has the power to influence the global economy. These countries have become the focus of attention in the new period with their rich natural resources, agricultural and industrial infrastructure and geographical location. The Preferential Trade Agreement between Türkiye and Azerbaijan, which entered into force in 2021, sets an example for economic integration in general. Türkiye signed a Preferential Trade Agreement with Uzbekistan in 2022. The Turkic Council’s 8th Summit, which convened in Istanbul on November 12, 2021, where the Organization of Turkic States accepted the 2040 Turkic World Vision, also gives important clues about the common economic area regarding the decisions taken.

The 2040 Turkic World Vision document’s primary purpose is to create prosperous communities in Turkic States. Emphasis was placed on different areas of good governance, such as supporting economic and social reforms

¹⁷ Fırat Purtaş ‘Cultural Diplomacy Initiatives of Turkic Republics’ Perceptions: Journal of International Affairs’ (April 2017), 22(1), 91,114

¹⁸ ‘Anadolu Agency:Türk Konseyi ekonomiden sorumlu bakanları Bakü’de bir araya geldi.’ (10 September 2021) < www.aa.com.tr/tr/dunya/turk-konseyi-ekonomiden-sorumlu-bakanlari-bakude-bir-araya-geldi/2361060> Date of Access 15.08.2022



on the path to democracy, the rule of law, inclusive institutions, transparency, efficiency, gender equality, accountability and fighting corruption. Economic integration constituted the most weighty part of the vision document. The 2040 Turkic World Vision document adopted by the Organization of Turkic States at the summit in Istanbul on November 12, 2021, has generally set goals in terms of establishing a common economic zone in terms of economy. This Organization has determined the free movement of capital, common energy policies, transportation corridors and common agricultural policy as targets within the scope of the common economic area project. Among these targets, institutional provisions such as free movement of goods and trade policy, agricultural products, customs provisions, and harmonization of laws have been determined. Free movement of goods and necessary institutionalization must be functional in the strategy of establishing a common economic space.¹⁹

The fact that the member countries of the Organization of Turkic States have the opportunity to reach the high seas through Türkiye is an important advantage for the realization of free trade in a short time. Developments in the field of trade among the Organization of Turkic States members will naturally lead to the development of commercial law and the creation of a common law system. By establishing their own economic space in Central Asia, China and Russia are trying to limit other countries' movement in the region. The Organization of Turkic States can take the lead in removing these obstacles by institutionalizing them. For Central Asia, regional cooperation is not an option but a necessity.²⁰

Russia established the Eurasian Economic Community by taking the functioning of the European Union as an example. Today, although the Organization of Turkic States has accepted the Turkish World-2040 Vision Document, there is also a 2025 Strategy by the Eurasian Economic Community. The 2025 Strategy was discussed at the meeting of the Eurasian Economic Community countries on May 19, 2020, and a protocol was signed on the establishment of the staff of the Eurasian Economic Commission.²¹In the Eurasian Economic Community, Russia wants to focus on political integration, while Kazakhstan advocates economic integration.²²It will be useful to examine

¹⁹ Cihan Dura, Hayriye Atik and Cüneyt Dumrul, *Avrupa Birliği, Gümrük Birliği ve Türkiye*, ("Nobel Akademik Yayıncılık Ankara, 2015) 9; Fukuchi, Takao and Akio Hosono, *The Economic Integration Effects of the Andean Common Market* (1973), 11, (2), *The Developing Economies*, 11, (2), 184, 195

²⁰ Starr, S. F. 'Central Asia in the Global Economy' *Foreign Policy*, (September/October, 2004), 6

²¹ Aleksandr Prihotko, 'Евразийская интеграция за неделю: главные события' (*Eurasia Expert*, 24.05.2020) <eurasia.expert/evraziyskaya-integratsiya-za-nedelyu-glavnyye-sobytiya-25-may-2020> accessed 21.02.2021

²² Glenn Diesen, *Russia's Geoeconomic Strategy for a Greater Eurasia*, (Oxford: Taylor & Francis 2017), 206

the institutional structure and economic policies of organizations such as the Eurasian Economic Community (EurAsEC) and Shanghai Cooperation Organization (SCO) in the common economic space and integration strategy of the Organization of Turkic States.

A. Eurasian Economic Community(EurAsEC)

The Eurasian Economic Community (EurAsEC) establishment process started with the Customs Union Agreement signed between Russia and Belarus on January 6, 1995. Today, it is argued that the Organization of the Eurasian Economic Community can set an example for the common economic area and customs union to be created by the Organization of Turkic States. The Eurasian Economic Community, which was established in 1996 with the aim of developing economic cooperation, became official with the signatures of the Presidents of Russia, Belarus, Kazakhstan, Kyrgyzstan and Tajikistan on October 10, 2000, in Astana.²³In 2010, a customs union was established between Russia, Kazakhstan and Belarus. The leaders of these three countries signed the agreement on the establishment of the Eurasian Economic Community at the summit held in Minsk, the capital of Belarus, on October 10, 2014. Armenia also became a member of the Eurasian Economic Community at this summit. The agreement on establishing the Eurasian Economic Community entered into force on January 1, 2015.²⁴

In the post-USSR period, the Central Asian Republics came together in 1991 to solve especially the economic cooperation and common security problems between them. In 1994, Kazakhstan, Kyrgyzstan and Uzbekistan came together with common policies on credit, prices, customs and money, and the free movement of goods, capital and persons. The Central Asian Union (CAU) was established, aiming at the common economic area, including the issues related to the economy.²⁵On the other hand, Turkmenistan did not accept the invitation to join the CAU because it is a neutral state.²⁶Tajikistan joined the Central Asian Union (CAU) in 1998. After Tajikistan joined the union, the name of the Organization was changed to Central Asian Economic Union

²³ Kozymenko, V., and Sagindikov R. "Tomojenniy Soyuz Rossii, Kazakhstana i Belarusi –Osnova ih Ekonomicheskoy Bezopasnosti" Vestnik RUDH, Seriya Mejdunarodniye Otnoshenii, (4), 2014, 87,94

²⁴ S.A. Avcu, 'Avrasya Gümrük Birliği ve Kırgızistan Avantajları ve Dezavantajları' (2014) 45(1) Republic of Turkey Turkicand Coordination Agency Department, Eurasian Studies, 269,297

²⁵ Ushakova, N. Central Asian Cooperation: Toward Transformation. Central Asia And he Caucasus, (2003) 3 (21), < www.ca-c.org/journal/2003/journal_eng/cac-03/16_usaeng.shtm>

²⁶ A. Bohr, 'Regionalism in Central Asia: New Geopolitics, Old Regional Order' (2004) International Affairs, 80(3), 485,502

(CAEU). In 2001, the name of the Organization was changed to the Central Asian Cooperation Organization (CACO). The Central Asian Cooperation Organization aims to contribute to the development of economic integration in the region and encourage all kinds of political, social, scientific-technical, cultural and educational cooperation. Russia became a member of the Central Asian Cooperation Organization (CACO) in 2004, causing this Organization to turn into the Eurasian Economic Union. In 2005, the Central Asian Cooperation Organization united with the Eurasian Economic Community.²⁷

After the collapse of the USSR, the post-Soviet countries wanted to become stronger militarily and economically by establishing unions among themselves. New initiatives such as Georgia, Ukraine, Azerbaijan and Moldova (GUAM) and the Central Asian Cooperation Organization (OCAC) acted independently of Russia.²⁸ While the Eurasian Economic Union was established under the leadership of Russia, there were discussions that this union would also have political aims. However, the general objectives of this union are listed as follows:

- Implementation of a full free trade regime,
- The mutual application of tariffs and restrictions in trade,
- Elimination of administrative, financial and other restrictions that prevent the free movement of commercial goods,
- Establishment of a single customs zone between member countries,
- Determination of common customs tariff between member countries,
- Abolition of customs control at internal borders between member states,
- Building a Customs Union that brings together economic and commercial mechanisms among member states,

The establishment of the Single Economic Area ensures the implementation of a common economic policy and the creation of a common market among the member states.²⁹

While establishing the Eurasian Economic Community, Russia tried to determine a common trade policy for third countries with a single customs area. In 2009, the Customs Law Agreement, which determines the legal framework of relations between the countries included in the Customs Union, was signed

²⁷ Nazım Çatalbaş, 'Uluslararası Ticaretin Serbestleştirilmesi Sürecinde Orta Asya Ülkelerinin Yaklaşımları' (2014) 14(1) Anadolu University Social Sciences Journal, 151

²⁸ Lapenko, M. EAES: Prostranstvo Ekonomicheskoy İntegratsiyi, Moskova, Rossiyskiy Sovet po Mejdunarodnim Delam (2018), 16

²⁹ N. Vorontsova, Evraziyskoe Ekonomicheskoe Soobshestvo kak Mejdunarodnoe Regionalnoye Obyedineniye (Vestnik Tomskogo Gosudarstvennogo Universiteta, 2004), 283

in Minsk.³⁰With this agreement, the period of filing declarations at the borders between the member states since 2010 has ended. Russia wanted to create a common economic area with the legal introduction of the customs union agreement. At this meeting, the structure of the Eurasian Economic Union Court was also approved.³¹

In 2003, at the Yalta Summit, Russia, Ukraine, Belarus, and Kazakhstan signed an agreement of intent on the creation of the Common Economic Area.³²However, Ukraine's relations with the EU and military cooperation with the United States have jeopardized Russia's common economic space strategy. Perhaps, in the attack of Russia on Ukraine in 2022, the strategy of seizing the logistics lines within the borders of Ukraine was also effective for the operation of this common economic area. The common economic space strategy is not only applicable between Russia and Belarus. Russia's main goal was to control foreign trade policies, free trade agreements, and cooperation with international organizations. Although the economy is a priority in the customs union created with the initiative of Russia, it is also aimed for these countries to reintegrate with Russia.³³ This process was considered a plan for Russia to unite the member states economically and to gather other post-Soviet states under the same roof in the long run.

Russia's Eurasian Economic Union project was envisaged to strengthen the economic ties in Central Asia. Although Türkiye's participation in the union has been discussed, we can say that the agreements between Türkiye and the EU will not allow this process legally because the Ankara Agreement and the Additional Protocol record that Türkiye cannot be in two different customs unions at the same time. A customs union model to be established between Türkiye and the member states of the Organization of Turkic States will also negatively affect the Eurasian Economic Community. Customs union agreements between the Eurasian Economic Union (Russia, Kazakhstan, Belarus, Armenia, Kyrgyzstan) countries will cause conflicts, especially between Customs and Transport Laws. As such, the customs union among

³⁰ S., Ovsyannikov, *Tamozhennyi Soyuz Rossii, Belorussii i Kazakhstana: Problemi Stanovleniya i Perspektivi Razvitiya, Materialy Mejdunarodnoy Nauchno-Prakticheskoy Konferentsyi, Saratov, (Poligrafiya Povoljiya, 2011) 5*

³¹ 'Eurasian Economic Union Charter, Eurasian Economic Commission' (29 May 2014), <www.eurasiancommission.org/ru/act/trade/dotp/commonSytem/Documents/pdf>, accessed 18.07.2022

³² Lagun, D. Edinoye 'Ekonomicheskoe Prostranstvo: Stanovleniye i Razvitiye, Aktualeniye Voprosi Sovershenstvovaniya Pravovoy Sistemi na Sovremennom Etape' *Materialy Mejdunarodnoy Nauchno -Prakticheskoy Konferentsyi 90-letiyu Professora S. Drobyazko, (Minsk, 2012), 2*

³³ Ksenia Kirkham, 'The Formation of the Eurasian Economic Union: How Successful is the Russia Regional Hegemony?.' (2016) 7(2) *Journal of Eurasian Studies*, 28,111

the Eurasian Economic Community member states works to the detriment of Türkiye. Due to the article, only the member of the Eurasian Economic Community can carry out transport within the Eurasian Economic Community, Türkiye has had problems with transportation for a long time. This clause was later removed with the new regulation in 2018. However, in the new laws, it is stipulated that third-country carriers must obtain appropriate CEMT or transit documents for transportation within the Eurasian Economic Union. In accordance with the Decision number 293 of the Eurasian Economic Community Commission dated December 25, 2012, the forms of certificates to be applied in the Customs Union have been legalized within the framework of technical regulations. EAC Customs Union Certificate EAC Certificate has started to be requested. This practice came into effect on February 15, 2013. Today, this application is valid for the Eurasian Customs Union countries, the Russian Federation, Kazakhstan, Belarus and Kyrgyzstan. As such, it has become obligatory to obtain a permit or transit document in outbound logistics from Türkiye. Since the receipt of these documents is determined by a quota, the Eurasian Customs Union creates important problems in Türkiye's trade with Central Asian countries. The common economic area project that Russia is trying to establish with the Eurasian Economic Union negatively affects the current economic institutionalization of the Organization of Turkic States.

While establishing the customs union, the Russian Federation also planned to cooperate with the union countries against possible embargoes. Conditions have been established for the safe trade of oil and natural gas without being affected by embargoes. In 2022, the customs union between the Eurasian Economic Community countries in Russia's attack on Ukraine gave Russia advantages in this respect. Thanks to the customs union, Russia can sell fossil fuels, which it cannot sell through the West, through Central Asian countries. While creating the customs union, Russia also aimed to prevent Central Asian countries from entering the economic sphere of China. The entry of Chinese goods into the member states has been prevented to a certain extent.³⁴ The Ukraine crisis makes the Eurasian Economic Community project more valuable for Russia. Russia's plan to unite the post-Soviet countries primarily economically by 2050 has been discussed for a long time. After the Ukraine crisis in Russia's Eurasian Economic Union project, the importance of Iran and Türkiye has also increased. Although Russia has prioritised Iran, Türkiye is the gateway to the West, which may cause these plans to change again. Russia plans to eliminate the imbalance caused by the customs union by expanding the free trade agreement with Türkiye and the trade in national currencies. Sanctions on Russian business people and companies after the Ukraine crisis

³⁴ M. Krotov and V. Muntiyani, 'Evraziyskiy Ekonomicheskiy Soyuz: İstoriya, Osebennosti' Perspektivi, (2015) 11(83) Upravlencheskoe Konsultirovaniye, 33

led many Russian entrepreneurs to Türkiye. On the other hand, Russia can make suggestions to support a free trade agreement with Türkiye and trade in national currencies to make these initiatives more profitable. Establishing Free Trade Zones is one of the first priorities of Russia in commercial cooperation with the region's countries. Among the reasons for Russia's support to Azerbaijan in the Karabakh War is the opening of logistics lines that will connect the North Caucasus to Türkiye via Azerbaijan and the removal of obstacles to the establishment of free trade zones. The EU, NAFTA (USMCA), and ASEAN are among the organizations Russia takes as an example in the common economic area project.

Within the scope of the common economic area project, Russia created a Free Trade Zone on August 12, 2015, which removed the mutual trade restrictions between 5 member countries.³⁵ The establishment of the same process with Türkiye and Iran is currently being discussed as a priority. Within the framework of the common economic area's development strategy, the union members signed an agreement with Vietnam on creating a free trade zone on May 29, 2015.³⁶ In 2018, an interim agreement was signed at the Astana Economic Forum to establish a free trade zone with Iran. Free trade agreements were also authorized with India, Egypt, Singapore, Serbia and Israel. On May 17, 2018, a trade and economic cooperation agreement was signed with China. Free trade agreements were signed with Singapore and Serbia in 2019.³⁷ Russia's efforts to create a common economic space with Ukraine, Moldova and Georgia failed. The strategy announced in 2017 within the scope of Russia's project to establish a common economic space in Eurasia has a significant impact. The Customs Law, which was put into effect by the Eurasian Economic Union on January 1, 2018, was arranged according to this strategy. With the strategy announced by Russia, the institutional structure of the Supreme Council, Intergovernmental Council, Eurasian Commission and Eurasian Court has been defined in the customs union to be established in the Eurasian region. In 2015, the Eurasian Economic Union Court, headquartered in Minsk, started to work.³⁸ This court plays an important role in implementing the Union Treaty and in resolving disputes that may arise.

In terms of the ideas about customs union, Eurasian Economic Union has taken the European Union as an example trade in local currencies and common market. It has achieved developments as the first economic integration

³⁵ V. Holodkov, 'Evraziyskiy Ekonomicheskiy Soyuz: Problemi Razvitiya i Otnosheniye k EAES v Chentralnoy Aziyi' Problemi Natsionalnoy Strategiyi, (2019) 1(52), 9

³⁶ V. Shakmatov, 'EAЭС и региональное сотрудничество в Евразии' (2019) <ru.valdaiclub.com/a/highlights/eaes-i-regionalnoe-sotrudnichestvo/>, accessed 17.07.2020

³⁷ Holodkov, (n 35), 9

³⁸ V. Shakmatov, 'EAЭС и региональное сотрудничество в Евразии' (2019), <ru.valdaiclub.com/a/highlights/eaes-i-regionalnoe-sotrudnichestvo/> accessed 17.07.2020



models of the European Union. It would be beneficial for the Organization of Turkic States to take the European Union model and the Eurasian Economic Community model as an example in trade and law. Because the European Union started integrating with the customs union and the common market, it became politically institutionalized. While Germany is the leading actor in the European Union, Russia has assumed this role in the Eurasian Economic Union. In the Organization of Turkic States, Türkiye should take a leading role and expand its activities. While the European Union has been able to form a systematic bureaucracy by completing its establishment, for now, the Eurasian Economic Union and the Organization of Turkic States are still in the process of building their institutional identity. Considering that both the Eurasian Economic Community and the European Union member countries have signed a Customs Union Agreement among themselves, it would be beneficial for the Organization of Turkic States members to produce a formula on the customs union. The Eurasian Economic Community and Türkiye continue their negotiations on free trade. Türkiye's free trade agreements with the Eurasian Economic Community will naturally accelerate the customs union work between the Organization of Turkic States members. For Türkiye, the war in Ukraine will cause an increase in trade with this region. Türkiye's positive relations with the Eurasian Economic Community will also positively affect the resolution of crises with Armenia. The start of trade in national currencies between Türkiye and Russia will naturally positively affect the trade of Central Asian countries with Türkiye. Due to the sanctions imposed on Russia due to the war in Ukraine, Türkiye can take advantage of Russia's and Central Asian countries' access to the south and being the only gateway to the Mediterranean.

The fact that Russia is the dominant actor in the Eurasian Economic Union prevents some countries, which are also members of the Organization of Turkic States, from establishing close economic relations with Türkiye. For example, with the influence of Russia, the Eurasian Economic Union granted Türkiye the status of a developing country at the end of 2021. Thus, Türkiye has become one of the countries that cannot benefit from the preferential regime (GTS).³⁹ The 25% discount application for various products originating in Türkiye has been terminated in the Russian Federation and other EEU countries. Since the customs union studies and free trade agreements of the Eurasian Economic Union are mainly carried out with the Central Asian republics, it would be beneficial to take a similar model as an example by the Organization of Turkic States.

³⁹ Republic of Türkiye Ministry of Trade, Custom General Directory 12.10.2021 dated 68110039 numbered declaration, <agm.org.tr/wp-content/uploads/2021/11/FormA-AvrasyaEkonomikBirligi-1.pdf>, accessed 14.07.2022

B. Shanghai Cooperation Organization (SCO)

With the coming together of five countries under the leadership of Russia and China, a new regional union was formed under the name of “Shanghai Five” with the participation of Russia, China, Tajikistan, Kyrgyzstan and Kazakhstan in 1996. At the summit held in Kazakhstan in 1998, it was decided to cooperate not only on regional issues but also on economic issues. In 2001, with the participation of Uzbekistan, the Organization has renamed the Shanghai Cooperation Organization (SCO). Shanghai Cooperation Organization has 9 members (Russia, China, Tajikistan, Kyrgyzstan, Kazakhstan, Uzbekistan, India, Pakistan, Iran), 2 observer countries (Afghanistan, Mongolia) and 5 dialogue countries (Türkiye, Sri Lanka, Belarus, Egypt, Qatar). Shanghai Cooperation Organization is an organization established with the supremacy of China, and this Organization aims at China’s border security, regional security and economic interests. China aims to control the energy resources of Central Asia and Russia on the platform of the Shanghai Cooperation Organization and to make it its market.⁴⁰ By joining this Organization, Russia also aimed to put an end to China’s expansionist policies towards Russia. It has also strategically determined to take advantage of China’s economic infrastructure and workforce. Although the main purpose of this organisation’s establishment was economical, China’s desire for easy access to natural gas and oil in Russia and Central Asia was also effective. This Organization is the symbol of cooperation between Russia and China. Although the economy’s strength was based on the establishment of this Organization, the inclusion of agreements on protecting border security and terrorism over time transformed the Organization from an economic structure to a political one.⁴¹

The Shanghai Cooperation Organization’s goal of establishing free trade zones also brought up the goal of a common economic area of this union. On September 23, 2004, a 100-item plan was signed and economic targets were determined. Interbank was established to finance joint projects.⁴² Objectives to develop the economy, such as establishing the Interbank, Shanghai Business Board and the Shanghai Development Fund, and creating the “Central Asia Common Market”, have not yet been achieved.⁴³ For this reason, it will not

⁴⁰ Marcel De Haas, ‘Relations of Central Asia with the Shanghai Cooperation Organization and the Collective Security Treaty Organization’ (2017) 30(1) *The Journal of Slavic Military Studies* 1,16

⁴¹ Mustafa Gökçe, ‘Sovyet Sonrası Dönemde Hazar Çevresinde Yaşanan Rekabet’, 2008 1(3) *Uluslararası Sosyal Araştırmalar Dergisi* 177, 209

⁴² Niklas Swanström and Nicklas Norling, ‘The Shanghai Cooperation Organization Trade and The Roles Of Iran, India and Pakistan’ (2007) *Central Asian Survey* 432

⁴³ Burak Kartal and Çiğdem Sofyalıoğlu, ‘Türkiye’deki Gençliğin Şanghay İşbirliği Örgütüne Yönelik Tutumuna Pazarlama Perspektifiyle Bakış’(2011) *International Conference On Eurasian, Oturum 1B: Uluslararası İlişkiler* 24

be successful for the Organization of Turkic States to take the structure of this Organization as an economic example.

Shanghai Cooperation Organization members form economic zones (China-Russia, China-Kazakhstan, China-Uzbekistan) among themselves in order to increase economic cooperation. Establishing free trade zones with this goal also caused China to plan the Silk Road Project through this Organization.⁴⁴ Eight bilateral free trade agreements have been signed between Central Asian countries, but only two (Kyrgyzstan-Kazakhstan and Kyrgyzstan-Uzbekistan) are in force.⁴⁵ Before the Organization of Turkic States institutionalizes and establishes free trade agreements and customs union legislation, Russia and China strive to complete their agreements, especially with Azerbaijan, Turkmenistan and Uzbekistan.

One of the most important goals of the Shanghai Cooperation Organization is to complete the Silk Road Project safely. It can be said that China's Silk Road Project is an international and even intercontinental infrastructure, trade and finance project.⁴⁶ The Silk Road, which was initiated by China in 2013, consists of a highway, railway, oil pipelines, power transmission lines, ports and other infrastructure projects that will connect China to the world.⁴⁷ This project aims to revitalize the historical silk road that reaches Europe from China by crossing the Yellow Sea, Indian Ocean, Red Sea, Suez Canal and the Mediterranean Sea, starting from China and reaching Europe from the ports of Piraeus in Greece and Venice in Italy. It aims to establish a maritime network.⁴⁸ The Asian Infrastructure Investment Bank was also designed as the financial institution to finance projects.⁴⁹ Although Russia stands out as one of the main partners of the Silk Road Project, it is afraid of the long-term geopolitical consequences of the project.⁵⁰ For this purpose, it aimed to make

⁴⁴ Chien-Peng Chung, 'Phases in the Development of the Shanghai Cooperation Organization' in Mark Beeson and Richard Stubbs (eds), *Routledge Handbook of Asian Regionalism*, (Routledge 2012) 93, 384

⁴⁵ Çatalbaş 143,158

⁴⁶ D. Cameron, 'Can OBOR Bring Together the EU and China Closer?' (Eu-asia Centre, 17 April 2017) www.eu-asiacentre.eu/pub_details.php?id=209 accessed 18 Temmuz 2022

⁴⁷ Clarke Michael, 'The Belt and Road Initiative: China's New Grand Strategy?' (2017) 21(1) *Asia Policy* 9, 9-71; Ersan Bocuotoğlu 'Çin'in Bir Kuşak-Bir Yol Projesinin Ekonomik ve Jeopolitik Sonuçları Üzerine Düşünceler' *International Conference on Eurasian Economies* (Bishkek, 2017) 265

⁴⁸ Andrew Sheng, 'OBOR and EuroAsia's New Great Game' (2017) 53(2) *China Report* 52,232

⁴⁹ Mike Callaghan and Paul Hubbard 'The Asian Infrastructure Investment Bank: Multilateralism on the Silk Road (2016) 9(2) *China Economic Journal* 39,116

⁵⁰ Samue Charap, John Drennan and Pierre Noël, 'Russia and China: A New Model of Great Power Relation' (2017) 59 (1) *Survival* 25,42

the Eurasian Economic Union Project functions quickly.⁵¹ Türkiye, on the one hand, tries to make the Organization of Turkic States more functional on the other hand, Türkiye became a founding partner of the Asian Infrastructure Investment Bank, which will finance the Silk Road Project. It is interested in this project by establishing close relations with China.⁵² Türkiye's distrust of the Western alliance causes it to invest in the creation of a new economic and logistics line through China-Central Asia-Caspian Sea-Azerbaijan-Georgia-Türkiye. The increasing influence of China in Central Asia also pushes Türkiye and Russia to cooperate.⁵³ The Turkic States in Central Asia, which is a buffer zone between Russia and China, will be able to secure themselves both economically, politically and militarily once the Organization of Turkic States established under the leadership of Türkiye becomes more functional.

China's economic space strategy covers three continents, namely Asia, Africa and Europe. For this reason, it may not be expected to establish a common economic market such as the Eurasian Economic Community, the European Union or the Organization of Turkic States because China mostly aims to sell its goods and get rid of the US influence.⁵⁴ In this sense, it will be very difficult to establish a common legal infrastructure in this project. China's mixed economic and geopolitical goals also reduce confidence in this project. Knowing the importance of China, Iran and Pakistan for the Silk Road Project, it invests in these two countries. Russia also increases its economic and military support to these two countries. In this sense, we can say that Russia and China are competing with Iran and Pakistan. In fact, Russia is increasing its cooperation with India in order to maintain a balance.⁵⁵

Central Asian countries still see Russia and China as hegemonic powers.⁵⁶ The strengthening of the Organization of Turkic States will also cause this thought to change. Türkiye applied for membership to the Shanghai Cooperation Organization in 2005. However, due to the opposition of China, it was not accepted to membership. Türkiye applied again in 2011 for the second time,

⁵¹ J.L Wilson, 'As China Rises, Russia Tries to Make the Best of a Tough ituation' (2017) www.russianmatters.org accessed 12 July 2022

⁵² Selim Kuru and Timur Kaymaz, 'Türkiye: Perspectives on Eurasian Integration' (European Council on Foreign Relations (ECFR), 2016)

⁵³ Michael Clarke, 'China's Strategy in "Greater Central Asia: Is Afghanistan the Missing Link?" (2013) 40(1) Asian Affairs: An American Review 1, 19

⁵⁴ Katherine Koleski, 'The Thirteenth Five-Year Plan, US-China Economic and Security Review Commission: Staff Research Report' (2017) <www.uscc.gov/sites/default/files/Research/The%2013th%20Five-Year%20Plan.pdf> accessed 11 June 2022

⁵⁵ Andrew F. Cooper and Asif B. Farooq, 'The Role of India and China in the G20 and BRICS: Commonalities or Competitive Behaviour?' (2016) 45(3) Journal of Current Chinese Affairs 73, 106

⁵⁶ Christian Dargnat, 'China's Shifting Geo-economic Strategy' (2016) 58(3) Survival 63,76



but was given the status of dialogue partner in 2021. After the 2022 Ukraine crisis, both Russia and China have started to act more willingly about Türkiye's membership in the unions, which they lead, due to Türkiye's geopolitical position. However, Türkiye has taken important steps towards establishing its own regional unity by focusing on the Organization of Turkic States.

The fact that Iran will become a member of the Shanghai Cooperation Organization has weakened Türkiye's membership process in this Organization. Because Türkiye as a NATO member, taking part in the same Organization with Iran, Russia and China, which NATO sees as enemies, brings important drawbacks. However, Türkiye has gained more importance in the transfer of energy resources between Central Asian and European countries.⁵⁷ The Organization of Turkic States can participate in China's projects on the economic common area, but this organisation's institutional structure has not yet been established in terms of legislation.

II. COMMERCIAL LAW STUDIES AND LAW UNION IN THE ORGANIZATION OF TURKIC STATES

The Organization of Turkic States, including Türkiye, declared the 2040 Turkic World Vision Document with the 2021 Istanbul Summit and set goals for itself not only in the economic field but also in the field of law. Within the scope of the Organization of Turkic States, the following plans were made in the field of law⁵⁸:

- Establishment of the Council of Ministers of Justice of the Organization of Turkic States,
- To hold a meeting at the level of Ministers of Justice at least once a year in order to consult on the work of the Council of Ministers of Justice of the Organization of Turkic States,
- Establishment of the "justice working group" and sub-working committees affiliated with this group as a basis for the work to be done between the parties,
- Organizing seminars, conferences and workshops on the subjects to be determined in order to increase the function of the working groups and ensure cooperation,
- Organizing mutual training, internship, course and exchange programs for judges, prosecutors and other justice personnel,

⁵⁷ Linda Dieke and Mirja Schroder, 'Türkiye as an Energy Hub? Introduction to Türkiye's Role in Energy Supply' (Nomos Verlagsgesellschaft 2017) 15, 26

⁵⁸ 'The Organization of Turkic States 8. Summit İstanbul Declaration, 12 November', [2021] < tcgb.gov.tr/assets/dosya/2021-11-12-turkkonseyi-bildiri.pdf > accessed 14 July 2022

- Carrying out joint legislative studies in order to identify and mutually share good practices,
- Working together to develop digital applications needed by the parties for more effective judicial cooperation on issues such as international organized crime and terrorism,
- Establishment of the Turkic judicial network for more effective judicial cooperation on issues such as international organized crime and terrorism,
- Ensuring the development of judicial cooperation by signing multilateral agreements on extradition, transfer of convicts and legal assistance,
- Sharing institution experiences by establishing relations between judge and prosecutor training centers,
- Exchange of experiences in the fight against transnational organized crime, including human trafficking, crime prevention, reforms in prisons and probation, notification and document security.

2040 Turkic World Vision Document is an individual and joint action plan for member states to develop their administrative capacities further to serve the needs and wishes of their people. At the Organization of Turkic States summit in Istanbul, certain main principles were determined to guide the next phase of its priorities, development and course in the next 20 years. Among these principles, we can list those in the field of law as follows⁵⁹:

- *Appreciate and encourage the continuation of cooperation in justice sphere and urge launching collaboration among the Justice Ministries and other relevant authorities of the Member States (Article 21)*
- *Instruct the relevant authorities of Member States to accelerate their work towards finalization of the “Trade Facilitation Strategy Paper” through a “Working Group “ to be established, agree to work for the establishment of the Turkic Trade Houses (TTH) to increase intra-trade, export potential and investments of Member and Observer States, and instruct the relevant government bodies to elaborate new initiatives to increase trade complementarities and eliminate quantitative restrictions and non-tariff measures among the Member States (Article 26).*
- *Urge the implementation of facilitative measures to the agreed essential goods with a view to signing the “Protocol on Establishment of Simplified Customs Corridor among the Governments of the Member States of the Organization of Turkic States” (Article 46).*
- *Agree to ease customs and administrative procedures to exploit the full*

⁵⁹ The Organization of Turkic States 8. Summit İstanbul Declaration, 12 November (n 58)



potential of the Trans-Caspian International East-West Middle Corridor and revitalize Silk Road through customs cooperation within the framework of the Caravanserai Project that will contribute to harmonization and simplification of border crossing procedures (Article 47) (Organization of Turkic States 8th Summit Istanbul Declaration, November 12).

Although the 2021 Istanbul Summit is generally based on language, culture, history and economy, the cooperation of the member states of the Organization of Turkic States in the jurisdiction field will also positively affect the economy in general. Legislative unity in common and international law will also lead to the creation of common legislation in the trade between these countries. The member and observer states of the Organization of Turkic States have an economical size of 1.1 trillion dollars, a foreign trade volume of 560 billion dollars and a population of 160 million. This power brought this organisation's necessity to start the harmonization process in commercial law as well. Turkic states established the Turkic Chamber of Commerce and Industry with the agreement they signed in Astana in 2019 to strengthen their cooperation in the field of trade. Turkic Chamber of Commerce and Industry Business Forum was held in Türkiye on November 10, 2021, within the scope of the 3rd General Assembly of the Turkic Chamber of Commerce and Industry, which was established to support the development of mutual trade and investment relations between Türkiye, Azerbaijan, Kazakhstan, Kyrgyzstan, Uzbekistan and Hungary. Türkiye aims to make trade between Turkic states more liberal through preferential trade agreements. A preferential trade agreement was signed between Türkiye and Azerbaijan. The Preferential Trade Agreement entered into force on March 1, 2021. In 2022, an agreement was signed with Uzbekistan. Türkiye is working towards establishing an international standard arbitration system so that investors can invest in Turkic states. It is necessary to standardize the customs processes of the Organization of Turkic States and speed up the transitions. Determining common standards in customs procedures and making processes simple and fast will only be possible with common law legislation. For the middle corridor to come to the fore in the trade on the China-Europe line, legal arrangements must be made as soon as possible. In this context, it would be beneficial for the member states of the Organization of Turkic States to remove the transition quotas for each other.

By making commercial law common among the member states of the Organization of Turkic States, more trade, more entrepreneurs, and a stronger private sector will be created. In this respect, it is important to establish a strong and common chamber of commerce system under the leadership of Türkiye. Türkiye can ensure the establishment of a common system by sharing its achievements and experiences in this field with other member states. Thanks to the joint chambers of commerce, it is possible to start implementing new



projects in the field of informatics and software. In order to achieve a free trade regime among the member states of the Organization of Turkic States, legal arrangements must be made in a short time. The preferential agreements system in trade is expected to be completed by the end of 2022. Secondly, a free trade agreement in services and investments is considered. Efforts are also being made to establish Turkic Trade Houses in the Organization's member states. It is planned that Turkic Trade Houses will help member states increase their trade volumes, facilitate their export processes and strengthen their positions in other markets. Azerbaijan Export and Investment Development Agency (AZPROMO) is currently working on establishing the first Turkic Trade House as a pilot project in Baku.⁶⁰

The legal documents on which the Organization of Turkic States is based are an international structure with the personality of international law, the highest decision-making mechanism, how the decision-making mechanism is known, and permanent organs. In the previous meetings of this Organization, although not directly, some references were made to the commercial law for trade development. Employees of the Organization of Turkic States benefit from the privileges accorded to similar-level officials of international organizations regarding foreign exchange transactions.⁶¹ From this point of view, international commercial law legislation is generally taken into account in operation.

At the summits of the Organization of Turkic States, some decisions focused on the development of trade and regulations on commercial law. At the 1992 Summit, the President of Türkiye, Turgut Özal, harmonized the customs legislation between the Turkic republics to establish a free trade order that allows the free movement of persons, goods and services, to establish a joint investment and development bank, to develop railway, road and air connections and telecommunication opportunities. It focused on the transfer of the natural resources of the republics to Europe via Türkiye and the development of coordination and cooperation opportunities in economic matters in order to be integrated into the world economy.⁶² At the summit, hosted by Karimov who is President of Uzbekistan on October 21, 1996, in Tashkent, the capital of Uzbekistan, the heads of state decided for the first time to facilitate economic cooperation between real and legal persons in order to create a common market for goods, services, capital and labour. They stated that they favour establishing a suitable legal environment.⁶³ In the 17th Article of the Fourth

⁶⁰ 'Turkic Trade Houses' (7 November 2021) <www.turkkon.org/tr/isbirligi-alanlari/ekonomik-isbirligi_2/turk-ticaret-evleri_41> accessed 5 April 2022

⁶¹ Mustafa Bıyıklı, 25 Yıllık Tecrübenin Ardından Türk Keneşi Bünyesindeki Ülkelerde Ortak Kuruluşlar İlişkiler ve İş Birlikleri (Türkiye Manas Üniversitesi Yayınları 2018) 19

⁶² 'Ankara Zirve Bildirisi' (1992) <www.turkkon.org/Assets/dokuman/11_AnkaraBildirisi1992_1.DevletBaskanlariZirvesi_20140418_104048.pdf> accessed 18 September 2020

⁶³ 'Tashkent Zirve Bildirisi' (1996) <www.turkkon.org/Assets/dokuman/08_

Summit Declaration dated June 5, 2014, in Bodrum-Türkiye, the importance of the Meetings of Heads of Customs Administrations was underlined in order to intensify efforts to facilitate freight and passenger transport by encouraging the use of mechanisms to simplify import-export procedures and increase transit potential.⁶⁴ The Istanbul Declaration, published at the 8th Summit of the Organization of Turkic States, organized by the Turkic States in 2021, is important in terms of the trade union and the creation of common structures in commercial law and judicial regulation.

The works of the Organization of Turkic States on commercial law within the framework of the common economic area strategy also lead to developments in other legal regulations and the formation of new institutions together. The fact that the Turkic World should have a common commercial law has become more understandable with recent disagreements in trade. On the occasion of the thirtieth anniversary of the independence of the Turkic States, in order to facilitate the transition of the Turkic States to the common commercial law and to develop trade, Economy and Trade in Türkiye-Turkic Republics Conference, hosted by the Ministry of Commerce and the Organization of the Foreign Economic Relations Board (DEİK), was held on November 11, 2021, in Istanbul. In this conference, especially the issue of joint institutional arbitration came to the fore. The Organization of Turkic States needs to resolve the arbitration issue in the near future. Trade between the Turkic states is faced with many problems in general. Different legal rules and tax systems reduce the cooperation of countries. For this reason, arbitration can be a transitional process in this regard. Arbitration is the resolution of a possible dispute by the arbitrator or arbitrators. This arbitration system will be a special judicial activity supervised by the state, whose decisions are final and can be enforced like court decisions.⁶⁵ The Organization of Turkic States needs an institutional arbitration system. There are different examples in the world of how this functions.⁶⁶ The Organization of Turkic States can take as an example the Iberoamerican Arbitration Center (CIAR), which entered into force on

TaskentBildirisi1996_4.DevletBaskanlarıZirveBildirisi_20140418_103822.pdf> accessed 11 September 2017

⁶⁴ ‘Türk Dili Konuşan Ülkeler İşbirliği Konseyi Dördüncü Zirve Bildirisi’ (2014) < www.mfa.gov.tr/turk-dili-konusan-ulkeler-isbirligi-konseyi-dorduncu-zirvesi-taslak-bildirisi_-5-haziran-2014_-bodrum_-turkiye.tr.mfa> accessed 17 June 2022

⁶⁵ Ejder Yılmaz, *Hukuk Sözlüğü* (Yenilenmiş 4. Baskı, Yetkin Yayınları, 2012) 715-716 ; İzzet Karataş *Ulusal (İç) Tahkim* (Adalet Yayınları 2013) 21 ; Burak Huysal *Milletlerarası Ticari Tahkimde Tahkime Elverişlilik* (Vedat Kitapçılık, 2010) 7 ; Cemal Şanlı *Milletlerarası Ticari Tahkimde Esasa Uygulanacak Hukuk* (Banka ve Ticaret Hukuku Araştırma Enstitüsü Yayınları 1986) 96

⁶⁶ M. Tevfik Birsnel, ‘Milletlerarası Ticari Tahkim ve Türkiye’ (1980) 1 (1) Ege Üniversitesi Hukuk Fakültesi Dergisi 101

March 19, 2015, on institutional arbitration⁶⁷ because besides legal persons, chambers and commercial organizations, trade and industry or other similar bodies and individual federated, provincial, state, regional bar associations or lawyer associations can become members of this arbitration system. This arbitration system was created by countries with a common language, culture and history, just like the Organization of Turkic States. The establishment of the Organization of Turkic States Arbitration Center as soon as possible and the preparation of its statute will both facilitate and accelerate the trade volume between countries. In this sense, establishing the arbitration centre in Istanbul will also provide significant advantages in the trade network with Europe.

The meeting of the Judiciary Boards of Turkic Speaking Countries on the creation of common law legislation in the Organization of Turkic States was held on 22-23 December 2015 in Istanbul, hosted by the HSYK.⁶⁸ This cooperation has strengthened the sharing of experience among the judicial boards. Within the scope of the experience-sharing plan where judges and prosecutors come together, the first meeting of the chief prosecutors of the member states of the Organization of Turkic States was held in Baku, the capital of Azerbaijan, on 31 October-3 November 2021. After the meeting, the founding document of the Council of Attorneys General within the Organization of Turkic States was signed. With the signing of this document, a joint judicial leg was established between the Turkic states. The founding document, signed after the first meeting of the chief prosecutors of the member states of the Organization of Turkic States, provided the establishment of a permanent consultation and working mechanism in order to develop and strengthen the cooperation between the chief prosecutors of the Turkic states. It was decided to start an exchange and training program for members of the judiciary within the framework of the necessity of establishing the Union of Turkic Judicial Academies under the umbrella of the Organization of Turkic States and establishing a common judicial culture.⁶⁹ Within the scope of the 2040 Turkic World Vision of the Organization of Turkic States, important steps have been taken within the framework of the Union of Turkic Judicial Academies (TYEA), which was initiated among judicial institutions in order to create a legal union.

⁶⁷ İbrahim Özbay, Murat Erdem, 'Bir Kurumsal Tahkim Merkezi Örneği: İberoamerikan Tahkim Merkezi' (2020) 11 (42) Türkiye Adalet Akademisi Dergisi 449-470

⁶⁸ 'Türk Dili Konuşan Ülkeler Yargı Eğitim Kurumları, Türk Konseyi ve Türkiye Adalet Akademisi Temsilcilerinin Kurulumuzu Ziyareti' (October 2021) <www.hsk.gov.tr/turk-dili-konusan-ulkeler-yargi-egitim-kurumlari-turk-konseyi-ve-turkiye-adalet-akademisi-temsilcil> accessed 13 July 2022

⁶⁹ 'Yargıtay Cumhuriyet Başsavcısı Sayın Bekir ŞAHİN'in Türk Dili Konuşan Devletler Başsavcılar Şurasının İlk Toplantısına Katılımları' (4 November 2021) <www.yargitaycb.gov.tr/kategori/14/ziyaret-haberleri?page=2> accessed 12 June 2022



The Turkic Justice Academy carries out important studies within the scope of establishing common law legislation in the Organization of Turkic States. It is planned to develop mechanisms that will ensure the rule of law by establishing the Turkic Judicial Education Network (TYEA) together with the countries included in the Turkic world, by sharing the best practice examples and research in the field of education of the members of the judiciary, by establishing cooperation between the institutions. A draft memorandum of understanding regarding the establishment of TYEA has been prepared. TYEA's cooperation with the Turkic World countries will develop and contribute to the stability of the region in the long run, and it will provide beneficial results. It is thought that it would be beneficial to include judicial law enforcement units and their superiors within this project's scope. Türkiye supported the establishment of judicial education institutions in Azerbaijan, Kazakhstan, Kyrgyzstan, Mongolia, Uzbekistan, Tajikistan and Turkmenistan. A program was organized in Ankara between October 4-8, 2021, in cooperation with the General Secretariat of the Organization of Turkic States, in order to share the intention of establishing TYEA under the umbrella of the Organization of Turkic States with its counterpart judicial training academies. Representatives from Azerbaijan, Uzbekistan, Kazakhstan and Kyrgyzstan judicial education institutions attended the aforementioned meeting. Although a consensus was reached in principle regarding establishing TYEA at the meeting, the participants expressed some reservations and suggestions for amendments regarding the draft memorandum of understanding. The Turkish Justice Academy made amendments to the draft memorandum of understanding, taking into account the reservations and proposals for amendments, and it was conveyed to the judicial training institutions in the member countries of the Organization through the General Secretariat of the Organization of Turkic States in order to receive their opinions and suggestions about the draft. These views were finalized in the memorandum of understanding by organizing an online meeting in September 2022 with the participation of judicial training institutions in member and observer member countries of the Organization of Turkic States. It was decided to cooperate in the field of justice according to the 21st article of the 121-item joint declaration of the Cooperation Council of Turkic Speaking Countries' (Turkic Council) 8th Summit of the Heads of State that convened on November 12, 2021. The founding objectives of TYEA have been determined as follows⁷⁰:

⁷⁰ 'Türk Devletleri Teşkilatı İş Birliğiyle Türk Yargı Eğitim Ağı (TYEA) Kurulmasına Dair Mutabakat Zaptı İmzalandı' <taa.gov.tr/haber/turk-devletleri-teskilati-is-birligiyle-turk-yargi-egitim-agi-tyea-kurulmasina-dair-mutabakat-zapti-imzalandi> accessed 17 December 2022

- One of the purposes of establishing TYEA is to create a common dictionary among the countries included in the Turkic World.
- Another target is to organize a Turkic Legal History Symposium and, as a result, to publish a joint Turkic Legal History book.
- With the establishment of TYEA, it is aimed to take a step towards harmonization of legal systems by holding the International Turkic Law Congress.
- The analysis of electronic justice practices in member and observer member countries of the Organization of Turkic States and sharing good examples through education are also among the objectives.
- With TYEA, it is also aimed to organize exchange programs between countries for judges and deputy prosecutors and candidates and for judges and prosecutors.

CONCLUSION

The Organization of Turkic States has been viewed with suspicion for a long time both Russia, China and Iran since it is an international intergovernmental organization established by states with an international treaty within the framework of international law. However, the recent Russian-Turkish cooperation strengthens the comments that this Organization also has advantages for Russia. Türkiye's vision of cooperation in economic and cultural fields with the member states of the Organization expands the areas of economic cooperation with the Turkic World due to Russia's problems with the West. The establishment of a common market and legal union by the Organization of Turkic States is perceived as Russia's finding a partner in its competition with both China and the West. Unlike the European Union, the Organization of Turkic States is an organization that aims for cooperation, not integration. Perhaps for this reason, it is considered one of the most prominent international organizations to cooperate with Russia. When we look at it from the point of view of international law, we see that some international organizations accept federated states, regions that form a part of the state, and affiliated countries such as protectorates and colonies, apart from states. By changing its name to the Organization of Turkic States, the Organization has eliminated for now the worries that the Turkic nations, which is actually Russia's biggest fear, might be accepted as members. The Organization of Turkic States is concerned with the development of cooperation between member states. For now, the Organization does not have a plan for other Turkic communities or autonomous republics other than the independent Turkic states.

The Organization of Turkic States needs to harmonize indirect taxes in order to accelerate the establishment of a common economic area. Differences in tax rates between countries also bring price differences. A common economic



area has been created by harmonizing VAT rates in EU countries. Türkiye's cooperation with the Organization of Turkic States members on industry and production will accelerate the formation of a common economic area. In this way, joint investment and joint industrial zones will be created. Free trade circulation will lead to joint production and a common economic and legal regulation. The biggest advantage of the Organization of Turkic States members is that they have common ethnic, historical, cultural, linguistic and religious similarities. Using its Soviet period past, Russia primarily cooperates economically and militarily with Central Asian countries. Türkiye can also turn this situation into an advantage by using its cultural and linguistic proximity. For the Organization of Turkic States to succeed in integration, they need to bring their economic structures closer to each other. Türkiye and Central Asian countries have economically complementary characteristics. If they had a competing economic order or industry, there would have been difficulties with integration. The fact that countries such as Russia and China are competitors in production also complicates integration with each other. It can be said that the customs union formed by complementary economies will provide more profit in terms of trade creation than a customs union established by rival economies. The establishment of financial institutions and the establishment of a common law infrastructure among the countries of the Organization of Turkic States are among the tasks that should be done as a priority. It is seen as a successful policy that Türkiye prepares itself for the new process by establishing a balance between the West and the East. The understanding of the rising East and the declining West also causes the competition to turn into wars in the new period.

The extreme pragmatist policies of Russia and China may adversely affect the Organization of Turkic States. Russia, China, India, Türkiye, Kazakhstan and Iran come to the fore with their economic and military powers in Eurasia. In this sense, geography, where the Organization of Turkic States, the Eurasian Economic Community and the Shanghai Cooperation Organization Project do not see each other as rivals, can only compete with the West. Combining energy and underground resources, production potential, and investment opportunities of Eurasian countries with Türkiye's trained human and entrepreneurial power can lead to the formation of a new global economic structure.

The cooperation of countries in the field of trade has also brought legal cooperation to the agenda. Türkiye supports studies in the field of commercial law in order to create a common free trade market and to make regulations regarding the customs union. The increase in trade among the member states of the Organization of Turkic States makes it necessary to make legal arrangements.

Organization of Turkic States 2021 Istanbul Summit is a summit that draws the strategy of cooperation in both economic and legal fields. With the

announcement of the 2040 Turkic World Vision document at this summit, the road map was determined in which conditions the Turkic World will take place in the new world order in general. While the Eurasian Economic Community and the European Union can be taken as an example of the institutionalization strategy of the Organization of Turkic States, the Shanghai Cooperation Organization may not be included in this equation because it has not completed its institutionalization.

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