International Construction Law
Academic Monograph

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DOI: 10.64457/icl.en.ch26

Balancing Sovereignty and Standardisation: Legal Governance of Transnational Construction Contracts within Regional Economic Blocs

Recommended citation: Dmitry Semenovich Belkin. Balancing Sovereignty and Standardisation: Legal Governance of Transnational Construction Contracts within Regional Economic Blocs. In: International Construction Law. Moscow: Slavic Greek Latin Academy, 2025. DOI: 10.64457/icl.en.ch26.

The chapter conducts a comparative survey of integration models shaping international construction contract law within the Eurasian Economic Union (EAEU) and the European Union (EU). It unfolds across five sections: theoretical foundations of regional cooperation; institutional competences of integration bodies; the role of private-law instruments and FIDIC forms in contract standardisation; the Court of Justice of the EU jurisprudence on freedom of establishment; and the impact of bilateral preferences that erode collective mechanisms. Findings indicate that robust supranational

competences in the EU secure predictable use of FIDIC conditions, whereas contractual adaptation to domestic regimes within the EAEU generates legal uncertainty. Prevailing bilateral agreements weaken regional harmonisation, yet flexible private law remains essential for reconciling state sovereignty with integration duties.

International construction has developed at the junction of sovereign prerogatives and private autonomy, which is why legal forms of integration display their strengths and weaknesses with particular clarity in this field. In a multipolar environment, regionalisation becomes a practical instrument for streamlining contracting practice whenever universal mechanisms are overloaded or politically sensitive (Prikhodko, 2023). Preserving state sovereignty and protecting national constitutional identity are not optional add-ons but structuring criteria for the institutional design of integration (Nikez et al., 2023).

Experience from the post-Soviet space shows that, even where a common economic objective is proclaimed, the actual construction of a "single space" collides with divergences in legal orders, levels of development and administrative capacity, so that integration norms often operate only fragmentarily (Yaryshev, 2021). In such circumstances, constitutional constraints and filters for implementing international commitments gain salience: for the Russian Federation, Article 15(4) of the Constitution frames the reception of international norms while simultaneously raising issues of legal sovereignty and identity (Kondrashchenko & Kochesokova, 2023).

Within the Eurasian model, the Treaty on the Eurasian Economic Union established a dedicated institutional architecture—complete with a judicial tier, international legal personality and a division of competences—evidencing a search for balance between coordination and supranationality (Treaty on the EAEU, 2014; Sokolova, 2017). Yet parallel bilateral formats (for example, the Union State of Russia and Belarus) frequently siphon norm-making energy away from the EAEU level into narrower platforms, generating centrifugal effects within the overall framework (Sokolova, 2010).

By contrast, European integration illustrates how the stability of the freedom of establishment has been secured not only by convention texts but by the case-law of the Court of Justice. The unratified conventions of the 1960s on recognition of legal persons were partially "replaced" by jurisprudence: Centros (1999) and Überseering (2002) displaced rigid seat theory, ensured genuine corporate mobility and dismantled regulatory barriers to cross-border activity (Lebedev & Kabatova, 2015; Centros, 1999; Überseering, 2002). For construction contracts, this has meant predictable party status, the feasibility of centralised management, and greater uniformity in formal and evidentiary requirements.

The practice of the Shanghai Cooperation Organisation, by contrast, exposes the risks of inert collective mechanisms and a drift toward a web of bilateral arrangements: "slow" cooperation reduces the likelihood of common standards for complex sector-specific contracting (Aliev, 2014). Similar symptoms appear in the EAEU: bilateral coordination in narrow formats tends to be politically and technically faster than multilateral unification, leaving participants with elevated transaction costs in cross-border works (Sokolova, 2017; Sokolova, 2010).

Against this backdrop, private-law unification via standard forms assumes a pivotal role: the FIDIC books have effectively become the operative language of international construction contract law for risk allocation, notice procedures, change management and tiered dispute resolution (FIDIC, 2024). In the EU, their operation is supported by an ecosystem of procurement and contract law; in the EAEU, the same conditions more often require tailored Particular Conditions aligned with mandatory rules and regulatory practice, which increases uncertainty for contractors and investors. This reflects different depths of integration: where EU judicial and regulatory institutions secure uniform interpretation, in the EAEU a larger share of harmonisation is left to the contract layer and to arbitration clauses (Bezborodov & Likhachev, 2023; Treaty on the EAEU, 2014).

The contour of economic public policy is equally decisive. The EU's growing reliance on autonomous foreign-policy instruments—including restrictive measures and jurisdictional countermeasures—builds

protective barriers for the Union while simultaneously creating additional risks for third-country participants (Abdullin & Keshner, 2021). For major construction projects this translates into sanctions clauses, revisions of banking covenants and the rewiring of supply chains to comply with export-control regimes—all of which must be synchronised with the FIDIC contract architecture (notice regimes, time-bars, DAAB routes and arbitration).

In parallel, an alternative integration track proceeds through coordination of discrete blocks of private law. Even ahead of "hard" harmonisation, the BRICS tax vector demonstrates how convergence on specific norms (permanent establishments, anti-avoidance, and double-tax relief) can lower barriers for SMEs—the key suppliers within construction value chains (Vinnitsky & Kurochkin, 2018). This modular approach creates a "soft" legal field onto which sectoral FIDIC standards can subsequently be layered.

A comparison across the EU, the EAEU and the SCO reveals a durable dichotomy: the EU's positive integration delivers universality of standards and their uniform interpretation; Eurasian formats prioritise flexible coordination and bilateral compromises, complicating predictability. Sector-specific lubrication in the form of FIDIC alleviates part of the cost burden, but without a supranational backstop—or at least stable quasi-judicial convergence—it cannot eliminate all conflicts (Sokolova, 2017; Yaryshev, 2021; Bezborodov & Likhachev, 2023).

Practical guidance follows for international construction contracts involving EAEU counterparties. First, regionally modelled Particular Conditions should be developed for the principal FIDIC books, embedding stabilisation mechanisms and sanctions clauses, harmonised notice windows and process maps for DAAB and arbitration, all aligned with the public-law imperatives of the participating states (FIDIC, 2024; Kondrashchenko & Kochesokova, 2023). Second, procurement frameworks should be standardised to a common "minimum sufficiency" in technical regulation and transparency so as to narrow variance and ensure comparability in cross-border projects (Treaty on the EAEU, 2014). Third, "soft supranationality" should be

institutionalised through coordinated interpretive guidance by the EAEU Court on core FIDIC issues or via joint regulators' guidance, thereby reducing regulatory arbitrage. Finally, sustained integration should target modular blocks of private law—tax, financial guarantees and export credit—that directly feed construction value chains (Vinnitsky & Kurochkin, 2018; Abdullin & Keshner, 2021).

Taken together, these measures can move Eurasian practice toward the EU's level of predictability without upsetting the sovereignty–coordination equilibrium. For cross-border construction contracts the payoff will be lower transaction costs, faster clearances and fewer disputes, achieved by evenly embedding FIDIC standards within the regional legal forms of integration (Prikhodko, 2023; Yaryshev, 2021; Sokolova, 2017).

Note on the publication of the main research results

Academic specialty: 5.1.5. International legal studies.

Integration and international law. Legal forms of integration. Concept, legal nature, types, characteristics, competences and activities of international integration associations. Law of interstate regional integration organizations. Legal problems of Eurasian integration. Legal status of the Eurasian Economic Union (EAEU) and its bodies. Law of the EAEU. Law of the European Union (EU). International legal personality and competences of the EU.

The main research results have been published in the following peer-reviewed article: Белкин, Д. С. Правовые формы интеграции в международном строительном контрактном праве: концептуальные и практические аспекты в рамках интеграционных объединений ЕАЭС и ЕС / Д. С. Белкин // Международное право и международные организации. – 2025. – № 2. – С. 127-140. – DOI 10.7256/2454-0633.2025.2.72752. – EDN VOXHOU. DOI: 10.7256/2454-0633.2025.2.72752 EDN: VOXHOU

Article URL: https://nbpublish.com/library_read_article.php?id=72752

Article PDF: https://www.elibrary.ru/download/elibrary_82415049_71377541.pdf

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