In the context of Britain’s withdrawal from the European Union (EU), the problem of defining the meaning of the phrase “ever closer union”, which is used in the founding treaties of the EU, has become especially relevant.

The idea of “ever closer union” has its origins in the political project aimed at creating a supranational European government. This idea was seen as a way to overcome the “pathological” national state formations (such as Germany) to ensure peace in Europe and the world through the internationalization of politics. In 1946, W. Churchill noted in his famous Fulton speech: “We must create a kind of United States of Europe… And the first practical step in this direction is the creation of the Council of Europe” [1]. Therefore, the concept of “ever closer union” was originally associated with the idea of creating a federal state in Europe by analogy with the United States.

The phrase “ever closer union” was included in the preamble to the Treaty establishing the European Economic Community on 25 March 1957 (Treaty of Rome 1957), stating that the parties concluded the treaty, in particular because they were inspired to lay the foundations for “an ever closer union among the peoples of Europe” [2]. D. Dinan, referring to the Treaty of Rome, argues that it provided for the construction of an ever stronger union between the states and peoples of the European Economic Community [3], although it is obvious that only peoples are mentioned in this document, not states.

The Solemn Declaration on European Union (a non-binding document) signed in 1983 by ten heads of European states and governments (including the United Kingdom) reads that the states “… based on an awareness of a common historical destiny and desire to establish a European identity, reaffirm their commitment to gradually move towards a stronger union between the peoples and member states of the European Community” [4].

Drafting the Treaty on European Union (the Maastricht Treaty of 1992), the United Kingdom objected to any mention of the term “federal” in its text, insisting on the “ever closer union” option. However, between 2015 and 2016, the former Prime Minister of the United Kingdom D. Cameron initiated the liberation of Great Britain from the desire for “ever closer union” with the peoples of Europe [5].

In the Draft Treaty establishing a Constitution for Europe, “out of respect for Eurosceptics” [3], the phrase “ever closer union” was replaced by “the peoples of Europe are united ever more closely” [6].

In the preamble of the current Treaty on the Functioning of the European Union, the phrase is formulated in the same form as in the Treaty of Rome of 1957 [7]. The 1992 Treaty on European Union mentions “ever closer union” twice – in the preamble and in Article 1. The preamble to this treaty states that the parties have an unwavering
desire to continue the process of building a stronger union of the peoples of Europe, where decisions are taken as closely to the citizen as possible in accordance with the principle of subsidiarity. Article 1 almost duplicates the provisions of the preamble: “This Treaty marks a new stage in the process of forming an increasingly strong union of the peoples of Europe, where decisions are taken as openly and closely to the citizen as possible” [8].

It should be noted that at present experts interprete the idea of “ever closer union” in two aspects. On the one hand – as a closer understanding and cooperation between the peoples of Europe (“a union of minds”), on the other hand – as a movement to unite national governments for creating a single supranational government (“a union of governments”). The concept of “peoples of Europe” is also interpreted in different ways. These are either citizens of countries participating in the process of European integration, or all peoples living in Europe, including peoples inhabiting a historical territory, rather than a separate recognized state (eg, Basques, Welsh) and nationalities with a historical presence throughout Europe (for example, Jews, Gypsies) [1]. P. Alston and J. Weiler, referring to the idea of “ever closer union” in the study of EU human rights policy, note that “the union is really getting closer and closer. … The single market, the single currency, and the inevitable prospect of significant EU enlargement have serious consequences for human rights, which can no longer be considered haphazardly” [9].

The case law of the Court of Justice of the EU is essential for understanding the meaning of the idea of “ever closer union”. This phrase was first used by the Court of Justice in 2003. In total, it has been used about 30 times (in judgments of the Court of Justice or in the opinions of Advocates General). More than a third of the cases concerned citizens’ access to public information and public authorities (as this phrase is linked to the principle of subsidiarity and openness of the decision-making process). Other cases concerned procedural justice, police and judicial cooperation in criminal cases, free movement of goods and services, the Schengen Area, freedom of establishment and economic activity, access to education, etc. [1]. At the same time, the phrase “ever closer union” did not act as the main legal justification for the decision. It is mentioned in order to protect the rights of EU citizens, and not in the context of further integration of EU member states. A. Kula and K. van Wallendael rightly point out that the phrase “ever closer union” has a great historical significance, but its regulatory meaning is now greatly overestimated [1].

Thus, the idea of “ever closer union” in the original sense meant the desire to build a federal formation in Europe. In legal terms, since the founding of the EU it has not contained a clear commitment to political integration and has been used primarily in connection with the principle of subsidiarity and has been applied by the Court of Justice mostly in this context.

References:


