

THE MAIN TREATIES AND CONVENTIONS ADOPTED BY THE EUROPEAN COUNCIL

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Abstract

The European Council is the organization in which all European countries that adhere to democratic ideals can find themselves to jointly examine any European matter. The more important political, economic and social events in Europe's life are the object of thorough discussions within the European Council. About these matters, the Council adopts different acts. Within this activity of drawing up and adopting by member states of the Council of numerous international conventions resides the legislative, international, function of the Council. The conventions adopted under the aegis of the Council only bring together the member states which have accepted them, through ratification or in holding by them. During its existence, the European Council has had a prodigious activity, especially in what concerns the adoption of extremely important documents. Thus, over 150 European conventions and treaties have been adopted.

These instruments, mandatory for the member states, are made whole by an ensemble of recommendations which express the will of the member state to cooperate in a fruitful manner to find solutions for the great collaboration problems with which over 400 million Europeans are confronted.

Keywords: *progressive institutional process, supranational structures, economic solidarity, common institutional system, systematic cooperation, Schengen Agreement.*

1. GENERAL PRESENTATION

The creation of the European Union was an aggressive institutional process, being the result of the concerted efforts of western democracies, in the wish of an authentic socio-economic and political integration. The idea of a united Europe was not a new desideratum; promoted by the League of Nations, a beginning in this sense was marked by the appearance, in 1949, of the **European Council**, by the common will of ten countries (Belgium, Denmark, France, Ireland, Italy, Luxemburg, Great Britain, the Netherlands, Norway and Sweden). It played a part mainly in the social and cultural field, and not in the economic one. On a military level, an important

moment was marked by the setting up of the **Western European Union** – U.E.O, through the signing, on 17 March, 1948, of The Treaty of Brussels, (modified through the Paris Accords of 23 October, 1954), which contained the provision for mutual military assistance in case of aggression by a member state.

Quite consistent was also the American intercession, through the launch of the *Marshall Plan*¹ to help the European countries which were in deep water after the war (context in which we must also refer to the founding of the **Organization for European Economic Co-operation** – O.E.C.E. on 16 April, 1948, conceived as a structure which would continue the objectives proposed by the Marshall Plan) or on a political and military level, with the establishment of the North Atlantic Treaty Organisation – N.A.T.O. after the signing of the North Atlantic Treaty on 4 April, 1949.

In response, the socialist countries in Central and Eastern Europe, under the political and economic influence of the U.S.S.R, laid the basis of similar international structures of economic cooperation – the **Council for Mutual Economic Assistance** – C.A.E.R. in January, 1949, and of military cooperation, by signing the **Warsaw Pact** on 14 May 1955. As a result of the elimination of communist regimes in member states and the fall of the Berlin Wall in 1989, the international organisations mentioned before became history, being dissolved in 1991.

One important, transient, episode in the forming process of the European Union was **the establishment of the three European Communities** within which the cooperation between member states was meant to be more efficient than the one allowed by the international organisations mentioned previously.

2. THE PARIS TREATY

Knowing the role that the coal and steel industry have played in triggering world conflicts and trying to pacify the French and German interests in the economic field, Jean Monnet (high commissioner for the modernisation and equipment of France) proposes to govern the market sector comprising coal and steel through a supranational structure.² As a consequence, on 18 April 1951, the **Paris Treaty concerning the establishment of the European Coal and Steel Community** is signed by France, West Germany, Belgium, the Netherlands, Luxemburg and Italy for a period of 50 years. It became effective on 10 August 1952.

3. THE ROME TREATY

In Rome, on 25 March 1957 is signed the Treaty concerning the establishment of the **European Atomic Energy Community -E.A.E.C./EURATOM**, whose purpose was that of creating a common atomic market, and the treaty concerning the European Economic Community, which has an even broader goal, surpassing the borders of purely sectorial economic solidarity and aspiring to European integration and the creation of a single market.

4. THE BRUSSELS MERGER TREATY

The Merger Treaty (Brussels) unified the institutions of the three European Communities, but kept the special provision that these institutions will carry out their duties and use their powers within each Community, according to the provisions of each Treaty.³

The three communities, ECSC, EEC and EURATOM functioned separately from 1958 to 1967, when the Treaty of merger of the executive bodies signed on 8 April 1965 became effective. From this moment onwards, the Communities, although remaining legally distinct (they have their own, distinctive legal personality) will also have common institutions, such as the *European Commission* (formed after the merger of the High Authority with the EEC Commission), the

European Communities Council, the *European Court of Justice* and the *Parliamentary Assembly*.⁴

Due to the fact that only the institutional system of the three Communities became common, without their complete merger, the official documents kept the name of *European Communities*, but the syntagm *European Community* and the abbreviations C.E.E. and C.E. were used.

5. THE SINGLE EUROPEAN ACT (SEA)

After the Rome Treaty, the process of deepening of the integration was comprised in the **Single European Act**, signed on 17 February 1986 and ratified on 1 July 1987.

After a preamble which expressed the intention of the member states of turning the Economic Community into a Political Union (intention which will be put into practice several years later, through the Maastricht Treaty), the following innovations were introduced:⁵

- The formal institutionalization of the European Council (which comprised heads of states or governments and the president of the European Commission) as main body responsible for choosing the lines of development of the Community;
- The introduction within the Council of a voting system of the qualified majority, for the enactment of decisions which have in view the finalisation of the internal market, of the social policy, of the economic and social cohesion and of the policy for research;
- The strengthening of the role of the European Parliament (EP), by introducing legislative procedures of cooperation and the necessity of the EP agreement for the decisions concerning the accession of new member states and the association agreements;
- The setting up of the Civil Service Tribunal, together with the European Court of Justice (ECJ);⁶
- An increase in the number of common policies, by adding policies for the environment, scientific research, economic and social cohesion;
- The setting up of a date (31/12/1992) for the finalization of the internal market (the notion

of “internal market” being stronger than that of a “common market”, implying not only the four freedoms – the free movement of goods, the free movement of services, the free movement of people and the free movement of capital – but also the implementation of new policies and of an economic and social cohesion;

- A change in the European political scenery after the fall of the communist regimes in Central and Eastern Europe has led to a rethinking of the structure of the European Community, in view of creating a political, economic and monetary union. The legal basis for the new European Union is the **Maastricht Treaty**, signed on 7 February, 1992 and ratified on 1 November 1993. The European Union (EU) means, on the one hand, the maintaining and extending of the EU 10 *acquis* and, on the other, new forms of cooperation in the field of Common Security and Defence Policy (CSDP) and Justice and Home Affairs (JHA). Thus, according to the common image on the EU, through the Maastricht Treaty, this becomes a three-pillar construction, which will be continually preserved and developed.⁷

6. THE MAASTRICHT TREATY

The first pillar covers the sectors, regulations and decision procedures referring to the EEC, the ECSC and Euratom.

The Maastricht Treaty modifies the Rome treaty of the EEC and creates the European Community, underlining this way its extended character, which surpasses the boundaries of economic integration.⁸ These changes are represented by:

- The continuing extension of the role of the EP, especially in reference to the approval of the nominations of the Commission, the introduction of the new legislative procedure of co-decision (on certain aspects, the EP shares prerogatives with the Council);
- The continuing extension of the range of common policies (education and professional development, Trans-European networks, industrial policies, the development of cooperation, consumer protection) and

strengthening of other common policies already in use (social policies, economic and social cohesion, technological research and development, environmental policies);

- The creation of the European citizenship: all citizens of the member states can move and live in other member states; the right to choose and take part in municipal elections and elections for the EP in the member states where they live, regardless of nationality; diplomatic and consular protection from the embassy of another member state on the territory of a third country in which the national member state is not represented; the right to send petitions to the EP and of addressing the European Mediator (European Ombudsman);
- The training of the economic and monetary union: the convergence of the economic and monetary policies of the member states, which led to the adoption of the common currency (Euro) and the founding of the European Central Bank (ECB).

The second pillar

With the setting up of the second pillar, the political cooperation between member states is raised to the statute of common politics, which supposes its inclusion in a specific institutional framework. Thus, through the Maastricht treaty, the EU has an extended, common policy in all the fields of foreign policy and security and a systematic cooperation among the member states is instituted. This cooperation is characterised by the unfolding of common actions, carried out by consensus¹², and it limits the member states in their foreign policy.⁹

CFSP is managed by the same institutions which operate under the first pillar, but which have different powers and decision procedures: because this field is of strategic importance for the member states and it is a difficult task to renounce national sovereignty, the decision procedure applied is the *intergovernmental method* (for the approval of decisions, the rule of consensus is in place).

The third pillar

The Maastricht treaty establishes a systematic form of cooperation between the member states, in the field of justice and internal affairs – cooperation which, until that moment, had been

done through occasional international agreements (one such agreement is the Schengen Agreement, signed in 1995 by only 5 member states).¹⁰ The decision process is similar to the CFSP one (based on the rule of unanimity). The Maastricht treaty talks about: offering political asylum, emigration, the fight against fraud and drug dependence, legal cooperation in civil and penal matters, customs and police cooperation for the prevention of terrorism and other types of international offences.¹¹

7. THE AMSTERDAM TREATY

The next key moment in the direction of deepening the European integration is the **Amsterdam treaty**, signed on 2 October 1997 and ratified on 1 May 1999. The treaty represented the final point of the work of the Intergovernmental conference (IGC), initiated in Turin in 1997 and stated in the Maastricht treaty.

The Amsterdam treaty amends both the EC treaty and the EU treaty, and the novelties are:

- The institutionalisation of enhanced cooperation, through which is combined the need of a continuous integration (existent in some member states) with the need of following the wish of other member states of not being involved in some common policies (in the field of which they want to maintain national sovereignty); this system can be applied in the fields of activity of the three pillars, with the following conditions:
 - To have in view the promotion of EU objectives and to be applied as a last solution;
 - Not to jeopardise the “community acquis” or the rights, obligations and interests of non-participating member states;
 - To refer to the majority of member states and to be open to all the other member states, at any given time.

This principle of a “two-speed” Europe has been applied even before the acquiring of a formal character through the Amsterdam treaty, upon signing it:

- 1) The Schengen Agreement (in 1985, signed only by Belgium, France, Germany Luxemburg and Holland);

- 2) The Social Charter (Great Britain refused to sign, in 1993, the commitment to harmonise social policies, but relative and mandatory rules were included for the other member states;
- 3) The economic and monetary union (to which Denmark, Sweden and Great Britain did not join);

The Amsterdam treaty, just like the Maastricht treaty, supposes its revision through a second Inter-governmental Conference, with the purpose of putting into practice the institutional reforms necessary for the enlargement of the Union. Furthermore, through this treaty, a number of reforms which have no link to the enlargement of the union have been approved.¹² The work of the IGC led to the preparation of the **Nice treaty**, signed on 26 February 2001 and becoming effective on 1 February 2003.¹³

8. THE NICE TREATY (2001)

The main aspects covered by the Nice treaty¹⁴ are:

- Institutional changes in the process of enlargement: although, for the new member states, the number of seats in the EP, the number of votes allotted in the Council and the thresholds applicable in the procedure of the qualified majority will be determined through the treaties of accession, the Nice treaty establishes new rules, which have in view a Union with 27 members;
- Two major innovations concerning decision-making:
 - The extension of the area of use of the procedure of decision by voting with a qualified majority within the Council, for problems where before, the decisions were taken by consensus (for example, the facilitation of the free movement of people, the judicial cooperation on civil matters, the signing of international agreements in the fields of commerce, services, and the commercial aspects of individual properties – with some exceptions etc.);¹⁵
 - The extension of the procedure of co-decision to new matters concerning: the creation of

- stimulants for the control of discrimination, judicial cooperation on civil matters, specific measures of industrial support, cohesion actions undertaken outside of Structural Funds, the status of political parties and aspects related to immigration, the granting of visas and asylum;
- the revision of the cooperation system, through the following modifications:
 - the minimum number of member states necessary for the proposal of a clause for enhanced cooperation is 8, which means that after the fifth extension, it will not represent the majority of member states;
 - the elimination of the right to use the veto concerning the strong cooperation in the fields which fall under the scope of the first and third pillar and the change of this with the right of the member states to take the matter to the European Council, which may decide through a qualified majority (furthermore, if the problem belongs to one of the fields for which co-decision is applied, the agreement of the EP is necessary);¹⁶
 - the introduction of the possibility of establishing a “tight cooperation” in the field of CFSP, with the purpose of implementing common actions and positions (with the exception of matters with military and security implications);
 - The introduction of an instrument of prevention within the procedure – a procedure which already allows the European Council to make public any serious and persistent breach of the fundamental rights by a member state – instrument which allows for the suspension of some of the rights of that state;
 - The development of the military capacity of the EU, by creating permanent political and military structures and by incorporating within the Union the attributions of crisis management corresponding to the Western European Union 16. The Political and Defence Committee 17 is the body which can receive authorisation from the Council to take the right decisions within the second pillar, in view of ensuring political control and the strategic management of crisis management operations.
 - The setting up of “Eurojust”, in the field of judicial cooperation on criminality issues; Eurojust represents a unit made up of magistrates which has the task of contributing to the coordination of national authorities responsible for procedures in this field;¹⁷
 - The extension of community aid in new sectors of activity, for the actions of the member states in the fields of social policies, education and professional development; it is also the fight against social exclusion and the reformation of the systems of social protection.¹⁸ Other than these, they also set up a Committee for Social Protection – consultative body whose task is that of promoting cooperation between the member states and the European Commission.
- With the Nice treaty was also drawn up a “Declaration concerning the future of the European Union” through which was launched a general debate concerning the future development of the European Union and which involved both member and candidate states. The issues this declaration had in view were: a clear assignation of responsibilities between the EU and the member states, the statute of the *Charter of fundamental rights* of the EU, the simplification of the treaties and the role of the national parliaments in the institutional framework of the EU.¹⁹
- After the passing of the **Laeken Declaration**, on 15 December 2001, the European Council decided to set up a **European Convention**, which would prepare the reformation of the EU.
- There was a debate which lasted for 16 months and to which took part representatives of governments and national parliaments of the member and candidate states, the European Parliament, the Social and Economic Committee, the Committee of the Regions, together with interested organisations (and participating ones, through an open forum)²⁰. The result of this debate is represented by the drawing up of the project of the *European Constitution*.

CONCLUSIONS

The European Council is an official institution of the European Union which defines its political agenda, being the engine for European integration. The Council has the role of implementing the foreign policy – acting as a “collective head of state” in other countries, “formally ratifying important documents” and “becoming involved in the negotiation of changes in treaties”.

Taking into account the fact that the institutions are made up of national leaders, it gathers executive power from the member states and has a tremendous influence on the political levels of the Union, such as foreign policy.

The conventions adopted under the aegis of the Council only bring together the member states which have accepted them, through ratification or in holding by them. During its existence, the European Council has had a prodigious activity, especially in what concerns the adoption of extremely important documents. Thus, over 150 European conventions and treaties have been adopted.

The present study had in view the presentation and analysis of the most important treaties and conventions adopted since the creation of the Council and up to the present days.

References

1. Bărbulescu, Iordan (2008) Gheorghe. *Procesul decizional în Uniunea Europeană*, Editura Polirom, Iași.
2. Centrul de informare al U.E. în România (2003) *Beneficiile pieței unice pentru cetățenii europeni*.
3. Cojanu, Valentin et al. (2004) *Cerințe specifice ale gestionării instrumentelor structurale și implicațiile pentru România*, I.E.R., București.
4. Constantin, Daniela et al. (2004) *Fenomenul migraționist în perspectiva aderării la U.E.*, Ed. IER, București.
5. Cotea, Felician, (2009) *Drept comunitar european*, Ed. Wolters Kluwer Romania, București.
6. Dacian, Cosmin Dragoș (2007) *Uniunea Europeană – Instituții – Mecanisme*, Ed. C. H. Beck București.
7. Diaconu, Nicoleta (2002) *Drept comunitar general*, Ed. Lumina Lex, București.
8. Dumitrașcu, Mihaela-Augustina (2012) *Dreptul Uniunii Europene și specificitatea acestuia*, Editura Universul Juridic, București.
9. Fabian, Gyula (2012) *Drept instituțional al Uniunii Europene*, Editura Hamangiu, București.
10. Filipescu, Ion, Fuerea, Augustin (2000) *Drept instituțional comunitar european*, Ed. All Beck, București.
11. Ferrol, Gilles (2001) *Dicționarul Uniunii Europene*, Ed. Polirom, Iași.
12. Fuerea, Augustin et al. (2004) *Evaluarea gradului de concordanță a legislației române cu acquis-ul comunitar, la nivelul anului 2002, pe capitolele de negociere*, Ed. IER, București.
13. Fuerea, Augustin (2004) *Manualul Uniunii Europene*, Ed. Universul Juridic, București.
14. Fuerea, Augustin (2011) *Manualul Uniunii Europene*, ediția a V-a, revăzută și adăugită după Tratatul de la Lisabona (2007/2009), Editura Universul Juridic, București.
15. Gornig, Gilbert et al. (2007) *Dreptul Uniunii Europene*, Ed. C. H. Beck, București.
16. Gyula, Fabian (2006) *Drept instituțional comunitar*, Editura Sfera Juridică, Cluj-Napoca.
17. Isaac, Guy (1998) *Droit général communautaire*, Ed. Armand Colin, Paris.
18. Jinga, Ion (2001) *Uniunea Europeană – Realități și perspective*, Ed. Lumina Lex, Iași.
19. Leicu, Corina, Leicu, Ioan (1996) *Instituțiile comunitare*, Editura Lumina Lex, Iași.
20. Manolache, Octavian (2000) *Cele patru libertăți fundamentale*, Ed. All Beck, București.
21. Manolache, Octavian (2001) *Drept comunitar*, Ed. All Beck, București.
22. Marcu, Viorel (2002) *Drept comunitar general*, Ed. Lumina Lex, Iași.
23. Munteanu, Roxana (1996) *Drept european. Evoluție. Instituții. Ordine juridică*, Ed. Oscar Print, București.
24. Muraru, Ioan et al. (2003) *Cetățenia europeană*, Editura All Beck, București.
25. Popescu, Roxana-Mariana (2011) *Introducere în dreptul Uniunii Europene*, Editura Universul Juridic, București.
26. Popescu, Roxana-Mariana, Dumitrascu, Augustina (2011) *Dreptul Uniunii Europene. Sinteze și aplicații*, Editura Universul Juridic, București.
27. Prisecaru, Petre (coordonator) (2004) *Politici comune ale U.E.*, Ed. Economică, București.
28. Ștefănescu, Brândușa (1979) *Curtea de justiție a Comunităților Europene*, Ed. Științifică și Enciclopedică, București.
29. Tudorel, Ștefan (2006) *Introducere în dreptul comunitar*, Editura CH Beck, București.
30. Voican, Mădălina, Burdescu, Ruxandra, Mocuța, Gheorghe (2000) *Curți internaționale de justiție*, Ed. All Beck, București.
31. Voicu, Marin *Curtea Europeană a Drepturilor Omului*, Editura Juri, București.

Endnotes

1. The Marshall Plan for the reconstruction of Europe with American material support was named after the

- person who initiated it, a general and U.S. State Secretary. General Marshall gave a speech in June 1947 at Harvard which became famous. In this speech, he argued that a stop must be put to the expansion of communism through the rapid reconstruction of Western Europe, which had been devastated by the war.
2. Marcu Viorel, *Drept comunitar general*, Ed. Lumina Lex, 2002, p. 26.
 3. Dumitrașcu, Mihaela-Augustina, "Dreptul Uniunii Europene și specificitatea acestuia", Editura Universul Juridic, București, 2012, p. 56.
 4. The parliamentary assembly gradually started to use the name of European Parliament, but the special establishment of this name is only done after 1986, through the Single European Act.
 5. See Guy Isaac, *Droit général communautaire*, Ed. Armand Colin, Paris, 1998, p. 23.
 6. Bărbulescu, Iordan, Gheorghe. *Procesul decizional în Uniunea Europeană*. – Iași, Editura Polirom, 2008, p. 35.
 7. Dacian Cosmin Dragoș – Uniunea Europeană – Instituții – Mecanisme, Ed.C.H.Beck București 2007, p. 64.
 8. Any citizen of a member state acquires by right European citizenship – Corina Leicu, Ioan Leicu, *Instituțiile comunitare*, Editura Lumina Lex, 1996, p.20; Ioan Muraru, Elena Simina Tănăsescu, Gheorghe Iancu, Ștefan Deaconu, Mihai Horia Cuc, *Cetățenia europeană*, Editura All Beck, 2003, p.68.
 9. The most heterogeneous reaction of the European states to the first Gulf war (12 different answers to the war announcements were adopted), to the crisis in the Balkans and the second Gulf war shows the limited efficiency of the inter-government procedures and the need to include this policy in the main pillar, the community one.
 10. Popescu, Roxana-Mariana, "Introducere în dreptul Uniunii Europene", Editura Universul Juridic, București, 2011, p. 90.
 11. *The community procedures* are characterized by decisions taken with a qualified majority, with the accentuated involvement of community institutions, while the intergovernmental procedures suppose the adopting of decisions unanimously, by full involvement of national governments and reduced involvement of community institutions.
 12. Guy Isaac, *Droit général communautaire*, Ed. Armand Colin, Paris, 1998, p. 240.
 13. Fabian, Gyula, "Drept instituțional al Uniunii Europene", Editura Hamangiu, București, 2012, p. 78.
 14. The Nice treaty was signed on 26 February 2001 and became effective on 1 February 2003; its ratification was difficult in Ireland, which rejected by referendum the treaty in 2001 and accepted it with 62% of the votes in October 2002.
 15. Bărbulescu, Iordan, Gheorghe. *Procesul decizional în Uniunea Europeană*. – Iași, Editura Polirom, 2008, p. 58.
 16. Gilbert Gornig ș.a. – Dreptul Uniunii Europene, Ed. C.H.Beck, București 2007, p.70
 17. Petre Prisecaru –coordinator – Politici comune ale U.E., Ed. Economică, București, 2004, p. 89.
 18. Manolache Octavian, *Cele patru libertăți fundamentale*, Ed. All Beck, București, 2000, p. 68.
 19. Guy Isaac, *Droit général communautaire*, Ed. Armand Colin, Paris, 1998, p. 77.
 20. Manolache Octavian, *Drept comunitar*, Ed. All Beck, București, 2001, p. 88.