ISSN: 1841-6195 (print); e-ISSN: 2067-8509 (electronic)

Jurnalul de Studii Juridice
Year XI, No. 1-2, June 2016, pp. 39-49

EVOLUTION OF EU INSTITUTIONS IN THE CONTEMPORARY POLITICAL AND LEGAL

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CEEOL, Index Copernicus, Ideas RePeC,
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How to cite: **Diaconu, N. (2016). Evolution of EU Institutions in the Contemporary Political and Legal.** ***Jurnalul de Studii Juridice*****, Year XI, No. 1-2, June 2016, 39-49.**

EVOLUTION OF EU INSTITUTIONS IN THE CONTEMPORARY POLITICAL AND LEGAL

Nicoleta DIACONU[1]

Abstract:

The EU institutions fulfil their duties within an institutional system between them realizing connections and correlations both vertically and horizontally. According to Article 13 TEU, the Union has an institutional framework to promote its values, advance its objectives, serve its interests, its citizens and its Member States and ensure the consistency, effectiveness and continuity of its policies and actions.

The EU institutions are created and organized in a systemic manner. Each of the institutions pursue the interest that defends, working together with other institutions. The enforcement system of the European Union belong to another level and other organs that may be considered subsidiaries, which are meant to give an integration work carried out by institutions in an advisory.

Keywords*:*

institutional system; European union; institutional development; prerogatives; Union Treaty.

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1. Evolution of the European Union's institutional system

The European Union is an international organization with an original structure different from that of other international organizations, which has an institutional system unique in which each institution shall exercise the powers which have been conferred by the Treaties, in collaboration with other institutions, the purpose of the Union's competences.

At home, the Communities were three international organizations with a separate legal personality, which, by the Merger Treaty of 1967 were included in the phrase "European Communities". Each of them has kept the specific business activity, although the institutional system became unique. Subsequently, the initial goals of the Communities has added intergovernment cooperation in which an important role was given to the European Council, an institution made up of the heads of states and governments who can decide on the directions of cooperation.

Communities have an upward trend, which is unique on the international stage:

➲*The "Convention on some EU institutions" were constituted on 25 March 1957* a single Assembly and a single Court of Justice. Though they had certain common institutions after the adoption of the Rome Treaties (Assembly and Court), the Communities preserved and some distinct institutions, namely the "executive" (High Authority and the Commission) and the Council and their budgets, which they keep autonomy. They also retain its specific treaties, the EEC Treaty of Rome. (art.232) stating that its provisions do not modify the provisions of the ECSC and EAEC Treaties.

➲By adopting the merger of *the Brussels Treaty (8 April 1965*), which entered into force on 1 July 1967 were created in a single Commission and a Single Council of the "European Communities". It also created the Court of Auditors joint body of the three Communities. Commission and Council have taken over the functions specific to each Community institutions, which they replaced.

By the same treaty established a budget of the European Communities which included income and expenses of the three communities, according to the treaties. It also constituted a single body of officials of the Communities, subject to a unique status.

By way of a protocol annexed to set a uniform privileges and immunities to the community. It created entity 'European Communities', which absorbed three original communities. The result of this is revealed in the fact that its officials are common, but may claim to belong to one of them and the missions of representation to other countries accredited to the

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Communities, these appearing as holder of rights and obligations, then as a legal entity. (Philippe Manin, (1993) :44)

But maintained a separation between the European Communities and political cooperation, it is not institutionalized, leaving a distinct intergovernmental activity.

➲*AUE* adopted in 1985 marked a new step in the evolution of European construction, it has helped reform the institutions and to expand their skills in new areas, while representing an important prerequisite to achieve the European Union. The Single European Act has institutionalized the European Council created the Court of First Instance.

➲*Maastricht Treaty* set up a "European Union" founded on the European Communities, supplemented by the policies and forms of cooperation established by this Treaty. The adoption of the Maastricht Treaty has brought some significant changes regarding the organizational structure and the means of action. Although the institute words "European Union" comprising the three communities, they continue to exist as separate entities.

The European Union appears as an entity heterogeneous, encompassing the first three Communities that keeps every legal personality (EEC becomes EC), on the other hand Common Security and Defence Policy (CFSP) and cooperation on justice and Home Affairs (JHA), and thus constitute the three pillars of the future European construction.

Viewed from a legal perspective, only three communities have their own legal personality, this lack both the European Union as a whole and the more superior the CFSP and JHA, the latter two are pillars representing more than Community objectives for future action.

Besides these, according to art. J.4 European Union will include the Western European Union, which although is currently an independent intergovernmental organization, is considered as an integral part of the development of European Union defense. This cooperation is only programmatic for the practical imposing joint actions and measures taken by the European Council and the competent institutions of the WEU.

Transforming the European Economic Community "European Community" - ie unskilled community - is considered as a step towards incorporating other two specialized in this community (Philippe Manin, (1993) :44). Keeping them by the Treaty of Maastricht and operation only changes likely to bring the provisions of the three treaties on key issues, is regarded as a tactic by which on the one hand marginalize the two treaties (ECSC and EAEC) and on the Furthermore it is envisaged expiry of the ECSC Treaty in 2002 and perhaps take over all the tasks of the European Community by institutions that have become common.

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Communities remain common institutional framework, as stated above, and according to art. C of the Maastricht Treaty, is intended to ensure consistency and continuity of action designed to achieve objectives by respecting community achievements. Cooperation in the fields of foreign policy organs used but distinct from those of the Communities.

European Council, institutionalized by the AUE (1985) is confirmed by art. D of the Maastricht Treaty as a body that "provide the Union with the necessary impetus for its development and define general political guidelines", he must report annually to Parliament.

Article B of the Maastricht Treaty defines common objectives and principles of the Union: promoting a balanced economic and social progress and sustainable; affirmation of the international scale, strengthening the protection of rights and interests of nationals of Member States, to develop close cooperation on justice and home affairs. Each community are maintained and reaffirm goals and respect for fundamental principles defined by art. F of the Treaty: respect for national identity of the Member States and fundamental rights guaranteed by the European Convention on Human Rights.

➲*Amsterdam Treaty* contains a number of regulations leading to European Union developments both in the institutional aspect and on policies and areas of competence.

Treaty provisions simplifies previous treaties. This refers both to the constituent treaties and the Treaty of Maastricht, its annexes and protocols. It should be noted that a number of new protocols and an agreement annexed to this Treaty shall be expressly repealed. Also, to simplify the numbering of articles of the Maastricht Treaty and the EC Treaty are contained in an annex tables of equivalence provided for in Article 12 of the Treaty of Amsterdam. The complicated numbering of Articles letters combined with figures is simplified with a numbering digits only. As specified in Part Two of the Treaty entitled "simplification" in order to remove obsolete provisions and to adapt the wording of certain provisions, is either a substitution of terms, phrases, formulations etc. others or repeal of articles or parts of them (Victor Duculescu (2002):10)

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➲*Nice Treaty* contains important agreements on institutional improvement of the European Union to extend it. This does not change the institutional structure, but any changes in the voting system in the Council, change in the membership of the Commission, Parliament and thus the Court of Justice, Court of First Instance and the Court of Auditors.

➲*Lisbon Treaty* contains important provisions on EU institutional improvement, such as:

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- Creates the Presidency of the European Union;
- Redistributing the votes of Member States in the Council in the period 2014-2017;
- Adopt a new voting system in the Council, meaning that a Community measure will be adopted if 55% of Member States (15 of 27) are in favour of it or if states voting in favour of adopting of the act that formed 65% EU population;
- In 2014 the number of European Commissioners will be reduced to two thirds of the Member States;
- European redistribute seats in parliament, according to a proportional formula. None of Member States will not take more than 96 seats or less than six. The maximum number of MEPs will be 750;
- National parliaments will have a greater role in the adoption of Community rules;
- The European Union is vested with legal personality.

By investing the European Union with legal, institutional system unique ceases to be a feature of the international structures, in the sense that, from this point of view resembles international organizations classic in which systems operate Specific institutional .

2. Prospects development institutions in the context of EU enlargement

1) The need to determine the legal nature of the European Union

Determining the legal nature of the European Union has been a problem that has always been considered in the literature, since the creation of the first community.

Up to now, it has not yet expressed a unanimous view on this issue, which caused so complex process of integration, and the permanent changes occurring in the structure of the Community institutions.

The literature specialists appreciated the Communities that establish the legal nature takes not only a legal but par excellence, and political (Roxana Munteanu (1996) :63)

➲ Initially, the Court described the Odin Community law as a new legal order of international law, on which both Member States and their nationals have (in some areas), limited their sovereign rights (for Member), or other (for others) (CJCE, Hot.Van Gend end Loos, 5 febr. 1963)

➲ Subsequently, the Court abandoned this concept, establishing a certain detachment between the international legal order and the new order specific legal within the European Communities. Thus, the Court pointed

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out that instituting a community on a permanent basis to which entrusting own personality and legal capacity in ties between the international and especially the real powers that stemmed from a limitation of jurisdiction Member, or a transfer of powers from the state to communities (although in limited areas), was created in this way, a system of law applicable to both the Community and nationals (CJCE, Hot.*Costa c. Enel*, 15 iul. 1964)

The specific nature of the Community legal order causes the newly created several opinions in literature, aimed at trying to explain the legal nature of the European Communities.

➲ Most authors expressed tendency of placing the European Communities between an international legal order (as the starting point of this construction) and a federal legal order of nature (as the final community building) (Roxana Munteanu (1996):63), (Boulouis Jean (1995): 56).

Although theoretically have been classified as international organizations, the European Communities cannot be discounted and included in any of the traditional categories of international organizations formed by States and reviewed by international law. Reviews of the literature have insisted more on what is not European communities, showing that they cannot be classified as traditional categories provided for by international law. In this regard, they have outlined several tips:

EU its own legal nature of analysis this distinction between, on the one hand and categories and confederation, on the other hand.

The Federal State, which reflect original founders option for "United States of Europe" at the European level would imply the formation of a state apparatus, political, administrative, and even military budget, which seems unrealistic today. As regards, however, the confederation of states, the EU is lagging behind the advanced stages of integration at the latter arrived.

The European Union has moved beyond a confederation classic characteristics: has an instituțional own a qualified majority voting procedure, an assembly elected by universal and direct legal relationship with the citizens of the Member States.

Although communities have borrowed some federal state specific attributes (eg internal powers, its own legal hierarchy), however, the Union has not reached the level of integration of a federation. The origin constitute Communities consists of a treaty is an act of international law and not an act of law; Member States retain international legal ability, unlike states who establish a federation; communities are unable to determine the allocation of powers between them and the Member States.

➲ International vision Some authors show that the European Union is exceeded, meaning that it cannot be equated with classic international

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organizations, based on a simple intergovernmental cooperation. (Jacque J.P. (1991):259-260)

The doctrine considers that these European communities are distinguished by classic international organizations: the independence of the Community institutions towards the Member States, the creation and application of Community law at the institutional, community-maintained direct relations with citizens of the Member States.

What gives the European Union a specific character, is that relations between Member States no longer governed by the rules of public international law but of all the rules of its own that, however, are determined by international treaties, although they have a specific character.

According to supporters of the thesis between the European Union and international organizations classic there is a difference in nature, meaning that international organizations aimed cooperation in various fields, while the Union is based on integration, appreciated as a supranational organization. Supranational concept suggests that the international process of evolution can occur new types of groups of states that tend international player to leave the area without going in the state, based on the idea of removing the traditional conception of the indivisibility of sovereignty.

➲ In another opinion (P. Pescatore (1972):31) it was argued that the European Communities / European Union may be regarded as self-contained organizations, through the eyes of the multitude and diversity of existing international organizations currently makes it difficult their classification into distinct categories.

In the spirit of this concept, it is estimated that international organizations could be grouped into two broad categories:

- Organizations based on a simple intergovernmental cooperation and benefiting from its own autonomy;
- Organizations in which the question of integration and giving up some of the attributes of sovereignty in this category included the European Union.

The features that distinguish the European Union of classic international organizations can not lead to the conclusion that the entity could be qualified as a federal organization.

The doctrine expressed the idea that the legal nature of the communities will be classified in the spirit of the founders, showing that only institutional formula used by the Court of Justice for communities qualification was that of "common public power". The idea that the European Communities is a joint public power highlights the originality of the institutional system that is based on community construction.

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Limitations of competence of the Member States should be analysed in light of mutations that occur in the exercise of the powers, closely related to the common institutionalized decision.

It was revealed that "joint exercise" of sovereignty legitimizes and makes it bearable the inevitable limitations of sovereignty inherent in the establishment of the Community scheme (Isaac Guy (1990):304-305).

2). Strengthening the role of the European Parliament in legislative functions

Strengthening the role of the European Parliament in legislative functions the generalization of the ordinary legislative procedure. The European Parliament is the EU institution with the broadest representation in the Member States, representing the democratic voice of the peoples brought together in the Union. The upward trend in terms of Parliament's powers exercised at various stages of construction of the European Community prove recognition of its importance relative to other institutions of the Union.

The Maastricht Treaty was only a step on extending co-decision procedure and thereby extend the role of the European Parliament, the Treaty of Amsterdam is a proof of this.

The Amsterdam Treaty extends the co-decision procedure to new areas, but not in the areas of freedom of movement, social security for immigrant labour, structural funds (though these areas had originally been envisaged during preparatory work of the treaty).

The Lisbon Treaty marks an important moment in the European Parliament's involvement in exercising normative. Co-decision procedure becomes the ordinary legislative procedure, through which are adopted most legislative acts of the European Union.

3) The regulation of a uniform procedure for electing members of Parliament

If initially, MEPs were appointed by each national parliament, after the adoption of the Act of 20 September 1976 concerning the election of the European Parliament by direct universal suffrage since 1979, Parliament has become democratic emanation of peoples united in common.

Yet the elections of 1979, 1984, 1989, 1994, 1999 and 2004 failed to adopt uniform rules for electing members of Parliament.

European Parliament elections are conducted in accordance with the provisions of the 1976 Act supplemented by internal regulations of the Member States. These national rules are different from country to country causes uneven nature of the procedure to elect the European Parliament.

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The superposition of two sets of regulations (EU and national) have led to problems of validity of choices. The Maastricht Treaty made a step forward on the issue, establishing a right to elect and be elected to all persons who have EU citizenship. These provisions are removed some national rules, but the problem is not fully solved, other national regulations still remain in force.

4) The legal determination of the legal nature of the European Council

The legal nature of the European Council was assessed differently in the literature. Source different appreciation of the legal nature of the European Council was the fact that this organ has long benefited from a legal settlement, exercising both Community competence and expertise in intergovernmental political cooperation. Legal Consecration of the European Council conferred by the provisions of art.2 - Single European Act.

The Maastricht Treaty emphasizes the important role of the European Council, but do not solve the legal nature of this body.

The Maastricht Treaty established in chapter "Common provisions" - three articles highlighting the general institutional system of the Community (Art. C, D, E).

The European Council stated in a separate regulation (art. D) from other EU institutions (art. E), which means that the body is not part of the EU's main institutions.

By inference, interpreting the Treaty of Maastricht, that unique institutional system was made up of the EU institutions and the European Council. So the European Council was seen as an EU institution in the sense given by the Community regulations.

According to the theories expressed in literature (Marcu V.(2001): 45), the European Council was described differently:

- Intergovernmental cooperation body, starting from the idea that it is not regulated organic link with other institutions, its role is to give the necessary impetus Union development and define general political guidelines;

- A new institutional form of presentation of the Union Council, given the fact that this body can fulfil the duties of the regulatory specifics, incumbent Council;

- Organ by itself, sui generis, original institutional structure and legally complex.

The Lisbon Treaty establishes the European Council in concrete tasks, and includes this structure in the EU institutions (Article 13 TEU). It

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can be appreciated that the place is at the top of the European Council of EU institutional structure and in view of future developments, will act as a genuine "President" to the other institutions.

5) Increasing the accountability of members of the Commission in the management and administration of EU interests

Starting from the legitimacy of the EU Commission, it is the institution that represents the common interests within the institutional system, Commission members must work in the service of this goal. In this respect, Commissioners must show responsibility in exercising the mandate that has been invested. In order to avoid situations like the one that led to the resignation of the Commission headed by Jacques Santer (embezzlement, satisfying personal interests exerting improper function of the Community) is necessary to adopt regulations to give expression to rules of professional conduct Commissioners.

Given the fact that the European Commission coordinates the entire administrative activity of the EU, setting a legal framework that could be applied to certain penalties that breach professional ethics commissioners.

6). Establishing the legal framework to allow the EU institutions to create subsidiary bodies in the acts which they adopt

Solutions of this case handed down by the Court of Justice where these bodies subsidiary character should have its basis in the treaties, not be equipped with its own powers of decision and their existence does not alter the principle of institutional balance - could be a point starting to establish the legal framework for setting up these bodies.

These subsidiary bodies created by acts of the institutions of the European Union should be equipped only with strictly controlled executive functions of the institution they set up.

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