Moldavian Journal for Education and Social Psychology
ISSN: 2559-7620
Covered in: CrossRef; RePEc; CEEOL; KVK; WorldCat; Google Scholar

2022, Volume 6, Issue 1, pages: 45-53 | https://doi.org/10.18662/mjesp/6.1/37

Aspects Regarding Cooperation within the European Union – Learning Integration through Art 87 of the TFEU

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Abstract: The origins of the idea of an United Europe are lost in the mists of time; the Roman conquests in the Antiquity reflect a series of trends of European unity, but in the Middle Ages, religious conflicts divided Europe: on the one hand we talk about pontifical unity, and on the other hand about imperial unity (Pascariu, 2020). The European Union is presented as more than an international organization with many specifications, but it is less than a state. The European Union, as an area, has been built over several decades and is constantly strengthening its institutions. Thus, after the end of the Second World War, after the atrocities of the Holocaust that resulted in the death of millions of people, the decision was made to create a space of peace and stability. In order to have an overall picture of what the Holocaust represented, it is necessary to emphasize the fact that the human species was divided into two categories: the Aryan race and the others (this category included Jews, Roma, people with physical or mental disabilities, etc.).

Keywords: *police cooperation; Treaty on the Functioning of the European Union; art 87 TFEU.*

How to cite: Terec-Vlad, L. (2022). Aspects Regarding Cooperation within the European Union – Learning Integration through Art 87 of the TFEU. *Moldavian Journal for Education and Social Psychology, 6*(1), 45-53. https://doi.org/10.18662/mjesp/6.1/37

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1. Introduction

The etymology of the term "Europe" determined intense interdisciplinary searches that revealed several theories (Ciucă, 2012). On the one hand, the term derives from the Greek *eurus*, meaning vast/extended and opposite, i.e., face or face. Incidentally, the term Europe means "broad contemplation" or "vast aspect" (Gentimir, 2021, p. 9).

At the Tehran (1943), Yalta (1945) and Potsdam (1945) meetings, the three major wartime powers, i.e. the United States of America, the Soviet Union and the United Kingdom, "agreed" on the punishments to be imposed to those who would be found guilty of war crimes and crimes against humanity during World War II. With the establishment of the Nuremberg Tribunal, those found guilty of crimes at the time were held accountable (Arendt, 2008).

The European Union was born as a "need to stop another world war", but at the same time to strengthen Europe economically against the United States of America. However, for ideological reasons, the war divided the European continent into two spheres of influence: the east under communist influence, and the west under the influence of liberal democracy; for 45 years, that is, until the fall of the Berlin wall, only the peoples of Western Europe could take part in the movement to rebuild Europe.

In this context, we can say that the pioneers of the European Union were a group of people whose objective was the creation of a peaceful, united and prosperous Europe, therefore, they deserve to be mentioned: Alcide de Gasperi, Altiero Spinelli, Ana Lindh, Helmut Kohl, Francois Mitterand, Jean Monet, Johan Willem Beyen, Joseph Bech, Konrad Adenauer, Louise Weiss, Marga Klompé, Melina Mercouri, Nicole Fontaine, Nilde Iotti, Paul-Henri Spaak, Robert Schuman, Sicco Mansholt, Simone Veil, Ursula Hirschmann, Walter Hallstein, Winston Churchill (European Union, n.d.c).

The construction of the European Union is based on the rule of law, and the agreements and treaties that have been signed over time are proof that it was achieved democratically and voluntarily. Under these conditions, we highlight the main treaties of the European Union: Treaty of Lisbon, Treaty of Nice, Treaty of Amsterdam, Treaty of Maastricht, Single European Act, Treaty of Brussels, Treaties of Rome, that is, EEC and EURATOM ş The Treaty Establishing the European Coal and Steel Community (European Union, n.d.b).

The Treaty on the European Union of 1992 confirms the "attachment" of the member countries to democratic values, to the need to

create a strong economic community, a space specific to European countries where democratic values and human rights are respected. The Maastricht Treaty marks an essential stage in the creation of the European Union, being considered the "founding act of the European Union". Signed in February 1992, it entered into force in November 1993, as its ratification by some member states was more difficult (Manolache, 2021, pp. 5-6).

Article 87 of the TFEU (European Union, 2016) presents the need for collaboration between states in order to prevent and combat crimes committed in the European space. Thus, in paragraph 1 it is emphasized: "The Union establishes a police cooperation involving all the competent authorities of the Member States, including the police services, customs services and other specialized law enforcement services, in the field of crime prevention or detection and investigation" (Barbu, 2016). From these it can be deduced that all the police, customs, etc. services are called, within the European Union, to contribute to law enforcement and justice (Apostu, 2018; Damian et al., 2019; Damian et al., 2021) through close collaboration between member states (Barbu & Pană, 2021; Huidu, 2019). The second paragraph highlights the following: "(2) Within the meaning of paragraph (1), the European Parliament and the Council, deciding in accordance with the ordinary legislative procedure, may establish measures relating to: (a) the collection, storage, processing and analysis of information in the field, as well as the exchange of information; (b) supporting professional training of staff as well as cooperation on the exchange of personnel, equipment and forensic investigation; (c) common investigative techniques for detecting serious forms of organized crime".

The European Parliament and, implicitly, the Council can establish a series of measures that can be taken with the aim of bringing to court those persons who have committed crimes and holding them accountable. Because we are speaking of an European space where political, social and moral values prevail, the idea of supranationality must also be brought to the forefront. In these conditions, international cooperation will play a particularly important role, lato sensu "through the intense and intensive development of reciprocal relations between states or other subjects of public international law, with the full maintenance of the sovereignty of the cooperating subjects" (Călinoiu, 2011) .

As regards the third paragraph, that is: „(3) The Council, deciding in accordance with a special legislative procedure, may establish measures regarding operative cooperation between the authorities provided for in this article. The Council decides unanimously, after consulting the European Parliament. If there is no unanimity, a group composed of at least nine

member states may request that the draft measures be sent to the European Council for examination. In this case, the procedure within the Council is suspended. After debates, in case of consensus, the European Council, within four months of the suspension, resubmits the project to the Council for adoption. In the same term, in the event of a disagreement and in the event that at least nine Member States wish to establish a form of consolidated cooperation based on the respective draft measures, they shall inform the European Parliament, the Council and the Commission accordingly. In this case, the authorization to establish a consolidated form of cooperation, referred to in Article 20(2) of the Treaty on the European Union and in Article 329(1) of this Treaty, shall be considered granted and the provisions on forms of cooperation shall apply consolidated. The specific procedure provided for in the second and third paragraphs does not apply to acts that constitute a development of the Schengen acquis".

In order to carry out a relevant analysis regarding this paragraph, we believe that we need to look at the European institutions as a whole, so that we can understand what their purpose is in terms of police cooperation. All institutions play an important role in terms of criminality, so the importance of collaboration and consolidation emerges from the previous paragraph.

2. The need to develop article 87 of TFEU at the European level

2.1. The content and meaning of Article 87 of TFEU

Before bringing to the forefront the need for police collaboration, it is necessary to emphasize the fact that through the mechanisms of cooperation and collaboration between the institutions of the member states, the European Union watches over the respect of the values inherent to the human being, but also over the democratic values. In addition to these, the European Union wants to be a single space, with a strong economy, a space without borders, etc. In order to support these statements, we bring to the forefront the EU values common to all member states, which are the following (European Union, n.d.a.):

- respect for human dignity;
- freedom;
- democracy;
- equality;
- the rule of law;
- respecting the human rights.

Following the establishment of totalitarian systems, EU member countries considered that such an alliance can only be based on democratic

principles, the functioning of the European Union being based on representative democracy. The status of being an "European citizen" also implies the exercise of political rights. States' willingness to unify regulations have been reflected in the laborious work to ensure that at least one group of crimes is punished as such in all states, with effective, proportionate and dissuasive penalties. It is also about guaranteeing the punishment of all forms of execution or participation, as well as establishing a basic definition of the category of crimes, which is accepted by all states (Segura Rodrigo, 1926, p. 5).

Failure to comply with the obligation to transpose the framework decisions is not without consequences, as it generates the initiation of an internal process at the institutional level. In any case, and especially in relation to those framework decisions in which each state has taken a particularly active position, be it initiative or impulse, the special obligation of transposition into practice is evident, which is not measured only in economic sanctions, but also in national prestige and credibility in front of the other states of the Union.

2.2. Legal significance

The European Union is built on solid principles and values (Predescu, 2017, p. 10). As regards the fight against crime, the Maastricht Treaty provides for a number of matters of common interest regarding police and judicial cooperation. In legal doctrine, judicial assistance is defined as "a complex of activities through which the competent authority in the requested state responds to the authority in the requesting state to the steps taken by the latter for the administration of justice. The need for cooperation at the European level was established from the beginning in the European Union Treaty in order to create an area of freedom, security and justice" (Donțu, 2015).

Thus, European Union law is based on the fundamental premise that each member state shares a series of common values with all other member states, on which the Union is based, as specified in Article 87 of TFEU. "This premise implies and justifies the existence of the mutual trust between member states in compliance with the European Union law, which implements them" (Suceveanu, 2020, p. 11).

Through the Treaty of Lisbon, consolidation was desired. The international impact of the Treaty was that the provisions of the European Union treaties regarding police cooperation support the involvement of all states, in order to combat crimes such as human trafficking, drug trafficking, terrorism, organ trafficking, etc. As previously mentioned, each member

state "promotes its common values, assumed through the acts of accession" (Safta, 2020). The impact of the Treaty at the national level is evident in recognizing that, in the European Union, citizens, values and institutions made possible the reconstruction of the continent after the Second World War, therefore we acknowledge the need to create an European space with values and beliefs specific to this space.

Romania has followed a difficult itinerary of a gradual assimilation of European principles, "whose consistency and durability are based on a considerable symbolic potential", represented by the democratic values promoted by the West (Safta, 2020, pp. 115-116). There is a belief in contemporary Romanian society, that European integration was "the most important project that Romanian society proposed after the fall of communism" (Safta, 2020, p. 116).

3. Education regarding the optimal legal functioning of the EU

The concept of Europeanization refers to how European integration influences the changes produced at the national level. That is, to what extent this influence of the European Union becomes really embodied in the policies and institutions manifested in the country, involved in the process of Europeanization and how this process is perceived.

The content of the Europeanization process resides in the legislative and institutional adoption of the European Union directives, in accordance with the political, economic and social activity, with the criteria of the functionality of the European community. "The major objectives of Europeanization aim at institutional change, that consists in the adoption of the community acquis and in the compatibility of institutions and the act of building the common European culture and the European identity" (Safta, 2020, p. 117).

Institutional transformations at the European level can be achieved through decisions and actions, generated by the government, but "the modernization of society leads to Europeanization only to the extent that it is appropriated as a way of daily life for each individual and social group. Therefore, it takes time for the values and experiences of freedom and democracy to achieve the desired degree of sedimentation within the changing society" (Safta, 2020, pp. 117-119).

Prof. PhD Ovidiu Predescu, in his work, brings arguments for the establishment of an European Constitution: "... the Union should take a wise political decision, namely resuming with more firmness, conviction and seriousness the process of drafting and adopting an European Constitution" (2017). However, Professor Constantin Manolache (2021) highlights, in his

course, the fact that, in this case, the "Constitution" is the sum of the provisions and fundamental values that citizens must respect. These legal norms appear in the European treaties or in the legal documents of the institutions of the European Union, which are translated, in part, into customs.

4. Conclusions

The importance of the European Union is given not only by the fact that it is considered a space of cooperation, multiculturalism, etc., but also by the fact that, through its mechanisms, it ensures the smooth functioning of the member states, solving the differences and divergences that could arise in an optimal time. At the beginning of this paper, we highlighted the fact that the European Union was born as a result of the Second World War and the atrocities that occurred, precisely to avoid future world conflagrations. Nowadays, through the mechanisms made available, not only is the aim of aligning the states to a series of unanimously accepted principles and values, but also a close collaboration in order to reduce criminality. In this paper we highlighted the importance of art. 87 TFEU, highlighting the importance of cooperation between states within the European Union.

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