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Course: *Introduction to the EU (European Union) Law*

[1] Origin, Development and Characteristics of the EC/ EU

Origin

Textbooks mention elder projects of European integration.

There is long lasting dream of writers, scientists, artists or clergymen of united peaceful Europe .

Several of projects of political union were prepared and proposed by monarchs and politicians. However no project has been not realised until the second World War. Only partial aliances were built. Unification based on coercion was successful for short period of time (Napoleon).

Little was thought about economic and social integration.

European Integration since 1945 has been based on the idea, that integration of nations (not only states) would preclude war among European states.

The first impulse for after-war integration were atrocities of the last war.

However, until today there are no *United States of Europe* (as proposed by W. Churchill in 1946 for continental Europe). The US model cannot be simply transferred to Europe.

Legal instrument for integration is international law.

Several international organisations, established by international conventions agreed and ratified by founding states are visible expression of European Integration.

Plurality of international organisations allows differentiated membership (European states can choose their level of participation).

Other European international organisations

The most important pan-European international organisations beside the EC and the EU are:

* **NATO** (1949). Defense covenant and international organisation of many European countries and USA+Canada (26 members, not all EU members are members.). Basic instrument is obligation of members for joint defense if any member attacked in NA area.

* **The Council of Europe** (1949). International Organisation (46 member states including all EU members) for administrative, social and cultural cooperation and enforcement of basic human rights (200 treaties concluded in CoE). The European Court for Human Rights attached.

* **The Organisation for Security and Cooperation in Europe** (1991, since 1975 the Conference). International organisation expected by UN Charter for regional peace and security (55 member states of northern part of northern hemisphere including all EU members).

There are or were also other European international organisations: EFTA, WEU, OEEC/OECD...

For information or reminder: integration of socialist countries incl. CS behind iron curtain: the Council of Mutual Economic Assistance and Warsaw Pact.

* **the European Communities / the European Union** The structure we will focus on.

Development and construction of the EC and the EU

* **European Community of Coal and Steel** (1951). Six original member states: France, Germany (west), Italy, the Netherlands, Belgium, Luxemburg.

Projects of paralel communities for defence and foreign policies failed soon. Two additional communities founded several years later (1957) by same member states.

* **the European Community for Atomic Energy** (2nd sectoral community) and **the European Economic Community** (since 1993 **the European Community**) for general economic integration with exception of sectors covered by specialised European communities

Joint membership in all three/two communities (ECCS expired in 2002) until today.

Enlargements of ECs (since 1993 EU too):

* Northern (70ties): the United Kingdom, Ireland and Denmark. * Southern (80ties): Greece, Spain and Portugal * „Residual“ (90ties): Austria, Sweden and Finland. * Big eastern“ (2005): Estonia, Latvia, Lithuania, Poland, Czechia, Slovakia, Hungary, Slovenia, Malta and Cyprus.

* Additional eastern enlargement (planned 2007): Romania, Bulgaria. * Negotiations opened or to be opened soon: Croatia, Turkey * Membership wished: other south-eastern and Eastern European states, Morocco. * Membership possible and welcomed by members, but rejected: Norway, Switzerland, Iceland

Biggest qualitative change in institutional structure (building)

The European Union (found 1992-3) is an international structure (without statute of international organisation) which includes 2 (earlier 3) European Communities and some other agenda (2nd and 3rd pillar: common foreign and security policy and cooperation in matters of criminal justice).

Proposed: merger of EC and EU

Characteristics

(1) Formalistic approach

ECs are international organisations (international state/government organisations if to be distinguished from NGOs).

However, special attributes which are not proper to other international organisations (we will discuss them later). Several descriptions of this reality without no comparable structure in whole words: the best is a **supranational organisation** (or organisations)

The EU (in broad sense): is therefore supranational structure

Main legal difference: EC and EU are based on international convention, not constitution

(2) Factual approach

EC/EU is more than ordinary international organisation - less than ordinary federation

Remember intl organisations: UN, WTO, NATO, OSCE, CoE, OAS, ASEAN, FAO, UPO +

Remember federations: USA, Germany, India, Brasil, , Russia, Nigeria, Malaysia +

* Quasi-federal legal order – EC law (however, it lasted 40 years to achieve it, until today disputes about the position of EC law in legal order of member states, supremacy contested, priority and direct effect used as description). EU law (2nd. and 3rd pillar) does not enjoy this position.

* Institutions and power: supreme institutions (Euro.Parliament, the Commission, the Court of Justice) comparable with federal government. However, almost no executive departments and agencies and judiciary for day-to-day operation. Provided by member states. No army, no police!

* Tasks and competences: some competences of ordinary federations belong to EC/EU, but other are missing (single foreign policy, defense).

* Base: no European nation, no Europe-wide politics.

Federalistic tendencies observed. Could „European Constitution“ be key step towards federation?

Can the EU become a federation in foreseeable future?

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Homework: Please look in EURLex (<http://europa.eu.int/eur-lex/lex/en/index.htm>) find EC Treaty, save it for Your future studies and read carefully art. 1,2,3, and 249.