

Introduction to Italian Law

Origin and development of European (Community) Union

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Europe and European Union

- *Prof. Angelo Venchiarutti*
- Program of Introduction to Italian Law
 - 1. EEC-UE Origins and Historical Development;
 - 2. EU Structure and Institutions;
 - 3. European Sources of Law;
 - 4. The Relationship between European Law and Domestic Law;
 - 5. Law cases
- EU official website: *http://europa.eu/index_it.htm*

Western Europe - Intergovernmental cooperation

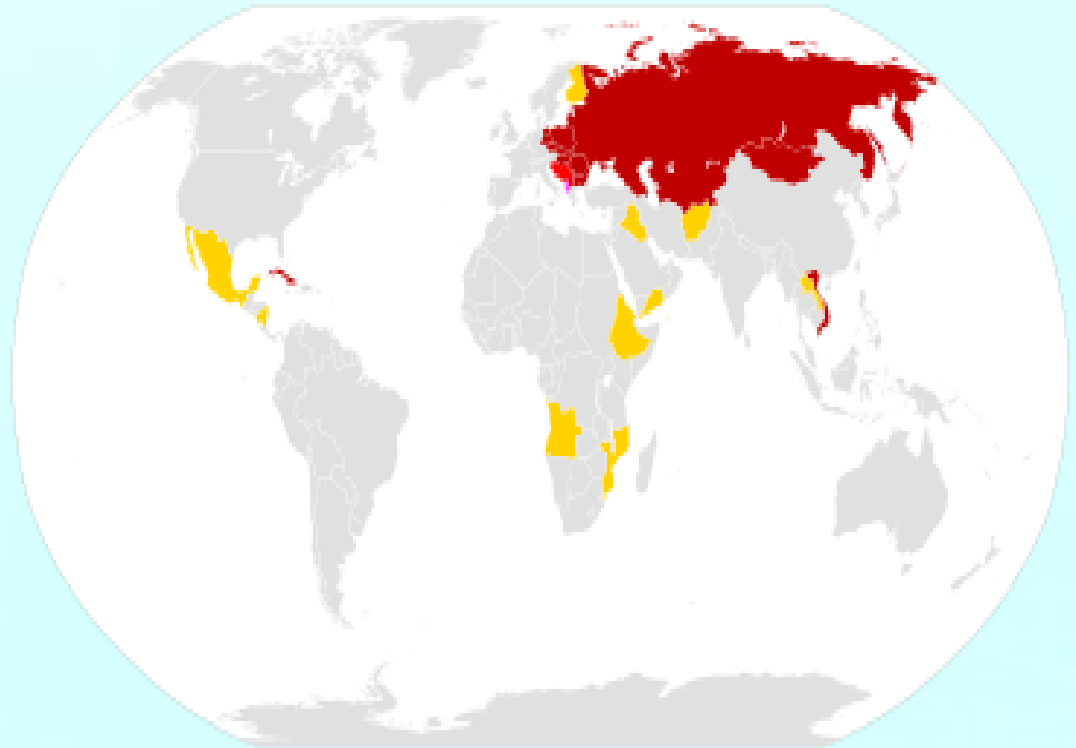
- At the end of World War 2
- Main aims of the European Cooperation
 - ending the frequent and bloody wars between neighbours;
 - promoting a supranational cooperation between the European States;
- First examples of European cooperation
- *Economic activities*
 - ERP (*European Recovery Program*) (1948-51)
 - OEEC (*Organisation for European Economic Co-operation*) (1948);
- *Military alliance*
 - NATO (is based on *North Atlantic Treaty* which was signed on 4 April 1949): military defence;

- *Political social cultural cooperation*
- *Council of Europe (1948) (<http://www.coe.int>)*
 - *European Convention on Human Rights and Fundamental Freedoms (1950):*
<http://conventions.coe.int/treaty/en/>
 - (Video)
<http://www.youtube.com/watch?v=MOcmUQTgjCw>
 - *European Court of Human Rights (Strasbourg – France)*

Cooperation in Eastern Europe

- The Council for Mutual Economic Assistance (*COMECON*) 1949–1991, was an economic organisation under the of Soviet Union comprising the countries of the Eastern Bloc along with a number of communist states elsewhere in the world;
- The Comecon was the Eastern Bloc's reply to the formation of the Organization for European Economic Co-operation in non-communist Europe
- Primary factors in Comecon's formation appear to have been the Soviet Union leader's desire to cooperate and strengthen the international socialist relationship at an economic level with the lesser states of Central Eastern Europe;
- The Comecon was founded in 1949 by the Soviet Union, Bulgaria, Czechoslovakia, Hungary, Poland and Romania:

- Flag of Comecom



Military cooperation in Eastern Europe

- *Warsaw Pact* - Warsaw Treaty Organization of Friendship, Cooperation, and Mutual Assistance (1955–1991) - was a mutual defence treaty between eight communist States of Eastern Europe in existence during the period of “*Cold War*”;
 - People's Republic of Albania, People's Republic of Bulgaria, Czechoslovak Republic German Democratic Republic, People's Republic of Hungary, People's Republic of Poland; People's Republic of Romania and Soviet Union;
- The founding treaty was established under the initiative of the Soviet Union (signed on 14 May 1955 in Warsaw);
- The Warsaw Pact was the military complement to the Council for Mutual Economic Assistance (CoMEcon), the regional economic organisation for the communist states of Eastern Europe.
- For some aspects the Warsaw Pact was a Soviet military response to the integration of West Germany into NATO in 1955;



European Coal and Steel Community

- The origin of the current EU: crisis provoked by the establishment of the *French-German* relations :
 - In 1949 the Ruhr (under the administration of the international High Commission by the end of the II World War) was due to be back to the Federal Republic, along with the Saar;
 - French fears of emerging German industrial might were compounded by Germany's increasing share of European steel production;
 - French response: a plan, which was known as the Schuman Plan (the French Finance Minister);

European Coal and Steel Community

- The plan formed the basis of the Treaty of Paris (1951) European Coal and Steel Community (ECSC);
- The Treaty was the first step towards a supranational Europe:
 - Six States (Belgium, France, Germany, Italy, Luxembourg and the Netherlands) relinquished part of their sovereignty in favour of the Community;
 - Between these States the ECSC would create a Common Market for coal and steel.
 - The ECSC was governed by a High Authority - a body independent from the States and composed by international civil servants, which had considerable powers to determine the conditions of production and prices for coal and steel;
 - The High Authority was supervised by a Council (Member State representatives)
 - Finally, a Court of Justice was established:
 - to monitor compliance with the Treaty
 - and to interpreting the EC Law;

Treaties of Rome

- In March 1957 the "**Treaties of Rome**" were signed.
 - 1st: European Economic Community (EEC)
 - 2nd : European Atomic Energy Community (Euratom).
- These two Treaties entered into force on 1st January 1958.
- The establishment of the EEC and the creation of the *Common Market* had two main objectives.
 - The first objective was to transform the conditions of trade and manufacture on the territory of the Community.
 - For the second objective: EEC as a contribution towards the functional construction of a political Europe and as step towards the closer unification of Europe.

EEC Treaty - preamble

- In the preamble, the signatories of the EEC Treaty declare that:
 - *"determined to lay the foundations of an ever closer Union among the peoples of Europe;*
 - *resolved to ensure the economic and social progress of their countries by common action to eliminate the barriers which divide Europe, affirming as the essential objective of their efforts the constant improvements of the living and working conditions of their peoples,*
 - *recognising that the removal of existing obstacles calls for concerted action in order to guarantee steady expansion, balanced trade and fair competition;*
 - *anxious to strengthen the unity of their economies and to ensure their harmonious development by reducing the differences existing between the various regions and the backwardness of the less-favoured regions;*

EEC Treaty - preamble

- *desiring to contribute, by means of a common commercial policy, to the progressive abolition of restrictions on international trade;*
- *intending to confirm the solidarity which binds Europe and the overseas countries and desiring to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations;*
- *resolved by thus pooling their resources to preserve and strengthen peace and liberty, and calling upon the other peoples of Europe who share their ideal to join in their efforts...".*

EEC Treaty

- Mainly the EEC Treaty provided for the establishment of a
 - common market,
 - a customs union and
 - common policies
- Articles 2 and 3 of the EEC Treaty directly address these three issues.
- Art. 2:
- *“The Community shall have as its task, by establishing a common market and progressively approximating the economic policies of member states, to promote throughout the community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the states belonging to it”*

ECC Treaty

- Art. 3:
- *“For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein*
 - *(a) the elimination, as between Member States, of customs duties and of quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect;*
 - *(b) the establishment of a common customs tariff and of a common commercial policy towards third countries;*
 - *(c) the abolition, as between Member States, of obstacles to freedom of movement for persons, services and capital;*
 - *(d) the adoption of a common policy in the sphere of agriculture;*
 - *(e) the adoption of a common policy in the sphere of transport;*

ECC Treaty – art. 3

- *f) the institution of a system ensuring that competition in the common market is not distorted*
- *(g) the application of procedures by which the economic policies of Member States can be co-ordinated and disequilibria in their balances of payments remedied;*
- *(h) the approximation of the laws of Member States to the extent required for the proper functioning of the common market;*
- *(i) the creation of a **European Social Fund** in order to improve employment opportunities for workers and to contribute to the raising of their standard of living;*
- *(j) the establishment of a **European Investment Bank** to facilitate the economic expansion of the Community by opening up fresh resources;*
- *(k) the association of the overseas countries and territories in order to increase trade and to promote jointly economic and social development”*

4 fundamental freedoms

- This common market is founded on the famous "*four freedoms*" - namely the free movement
 - of persons,
 - services,
 - goods,
 - and capital.
- The common market being based on the principle of *free competition*;

Common policies

- Certain policies are formally protected in the Treaty, such as the
 - common agricultural policy,
 - common trade policy,
 - transport policy,
 - (etc. various modification and integration of ECT during the time)
- Others may be launched depending on needs, as specified in art. 235 EEC Treaty, which stipulates that:
 - *"If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the Assembly, take the appropriate measures."*

Enlargements

- Treaty of Accession of the United Kingdom, Denmark and Ireland (1972), which increased the number of Member States of the European Economic Community from 6 to 9;
- Treaty of Accession of Greece (1979);
- Treaty of Accession of Spain and Portugal (1985), which increased the number of M. States of the EE Community from 10 to 12;
- Treaty of Accession of Austria, Finland and Sweden (1994), which increased the number of M. States of the European Community to 15;
- Treaty of Accession of Cyprus, Estonia, Hungary, Latvia, Lithuania, Poland, the Czech Republic, Slovakia and Slovenia (2004): this Treaty increases the number of M. States of the E. Community from 15 to 25;
- Treaty of Accession of Bulgaria and Romania (2005): EC Members from 25 to 27;
- 2013: Croatia becomes the 28th EU member;

Principals amendments to EEC Treaty

- This Treaty was amended by the following treaties:
- **Treaty of Brussels - "*Merger Treaty*" (1965):** this Treaty replaced the three Councils of Ministers (EEC, ECSC and Euratom) and the two Commissions (EEC, Euratom) and the High Authority (ECSC) with a single Council and a single Commission.
- **Treaty amending Certain Budgetary Provisions (1970):** this Treaty replaced the system whereby the Communities were funded by contributions from Member States with that of own resources.
- **Single European Act (1986):**
 - it extended the areas of qualified majority voting in the Council, increased the role of the European Parliament (cooperation procedure) and widened Community powers;
 - it set the objective of achieving the internal market by 1992.

Principals amendments to EEC Treaty

- **Treaty on European Union, "*Maastricht Treaty*" (1992)**
 - The Maastricht Treaty brought the three Communities (Euratom, ECSC, EEC) and institutionalised cooperation in the fields of foreign policy, defence, police and justice together under one umbrella, the European Union. The EEC was renamed, becoming the EC.
 - Furthermore, this Treaty created economic and monetary union, put in place new Community policies (education, culture) and increased the powers of the European Parliament (codecision procedure).
 - Program realisation of EMU: 3 stages:
 - 1st: 1 July 1990 to 31 December 1993
 - 2nd: 1 January 1994 to 31 December 1998
 - 3rd: 1 January 1999 and continuing ...

Principals amendments to EEC Treaty

- **Treaty of Amsterdam (1997)** The Treaty of Amsterdam increased the powers of the Union by creating a Community employment policy, transferring to the Communities some of the areas which were previously subject to intergovernmental cooperation in the fields of justice and home affairs, introducing measures aimed at bringing the Union closer to its citizens and enabling closer cooperation between certain Member States (enhanced cooperation). It also extended the codecision procedure and qualified majority voting and simplified and renumbered the articles of the Treaties.
- **Treaty of Nice (2001)** The Treaty of Nice was essentially devoted to the "*excess*" of Amsterdam, i.e. the institutional problems linked to enlargement which were not resolved in 1997. It dealt with the make-up of the Commission, the weighting of votes in the Council and the extension of the areas of qualified majority voting. It simplified the rules on use of the enhanced cooperation procedure and made the judicial system more effective.
- The *Treaty establishing a Constitution for Europe* was signed in Rome on October 2004. It was designed to repeal and replace by a single text all the existing treaties (with the exception of the Euratom Treaty), and consolidates 50 years of European treaties. To enter into force, the Treaty establishing the Constitution had to be ratified by all the Member States in accordance with each one's constitutional rules, (parliamentary ratification or referendum). Following the difficulties in ratifying the Treaty in some Member States, the Heads of State and Government decided, at the European Council meeting on 16 and 17 June 2005, to launch a "*period of reflection*" on the future of Europe.

Principals amendments to ECC Treaty

- At the European Council meeting on 21 and 22 June 2007, European leaders reached a compromise and agreed to convene an IGC to finalise and adopt, not a Constitution, but a "*reform treaty*";
- The Treaty of Lisbon (initially known as the *Reform Treaty*) was signed on 13 December 2007, and entered into force on 1 December 2009:
 - It amends the *Treaty on European Union* (TEU, Maastricht -1992) and the *Treaty of the European Community* (TEC, Rome; 1957);
 - In this process, the TEC was renamed to *Treaty on the Functioning of the European Union* (TFEU).

Treaty of Lisbon

- Two Treaties have equal value:
- Treaty on European Union (TEU):
 - 6 titles:
 - I - Common provisions;
 - II - Provisions on democratic principles;
 - III - Provisions on institutions;
 - IV - General provisions on enhanced cooperation;
 - V - External action provisions specific foreign policy and security policy;
 - VI - Final Provisions.

Treaty of Lisbon

- TUE becomes a treaty basis (treaty law)
- TFEU becomes treatment applied, establishes rules for the functioning of institutions, etc..;
- The two Treaties have the same legal force;
- EU Charter of Fundamental Rights has the same legal force of the Treaties (art. 6 TEU)
- With this reform has been dropped the distinction between the Community and the European Union;
 - Art 1, § 3 TUE: *“European Union shall replace and succeed the European Community and is given a single legal personality”*

Principals amendments

- **Prominent changes included**
 - more **qualified majority voting** in the Council,
 - increased involvement of the **European Parliament** in the legislative process through extended codecision with the Council;
 - the elimination of the pillar system;
 - the creation of a long-term **President of the European Council** and a **High Representative of the Union for Foreign Affairs and Security Policy** to present a united position on EU policies;
 - The Treaty also made the **Union's Human Rights Charter** legally binding;

EU - Objectives

- EU now has several different characteristics from those originally presented;
 - When it was created, the EEC had a mercantilist orientation;
 - In the current text of the Treaty of EU , are drawn some general principles that help define the ideology of the EU;
 - In particular:
 - Art. 1;
 - Art. 2;
 - Art. 3;
 - Art. 4;
 - Art. 6;