

## I- EUROPEAN INTEGRATION

### The making of Europe

- History of European integration activates after 1945.
- However, the *Idea of Europe* – of a united Europe – can be rooted since the Roman Empire, throughout the times, with political leaders like Charlemagne, the Habsburgs, Napoleon, Hitler, or intellectuals like William Penn, Rousseau, Saint-Simon, Victor Hugo, Mazzini and others.
- The end of the 19<sup>th</sup> century was signed by the rise of nationalism in Europe and an increase of competition between states that culminated in WWI
- The First War redrawn the political map of Europe, with the dismantlement of the Empires of central and Eastern Europe, and the creation of several new states, based on a national ground.
- Coudenhove-Kalergi with the book *Paneuropa*, 1923: the idea of an European Federation, aiming to maintaining peace between nations.
- Attempts by Aristide Briand, within the League of Nations, 1929.
- Economic depression, the rise of fascisms, and Hitler growing hegemony, cooled the efforts of European integration
- **After WWII** economic rebuilding took precedence over attempts for a unified Europe.
- **The Hague Congress**, 1948. Churchill thesis on the need of reconciliation between France and Germany. Britain did not have to be part on that European unity, just associated with it. The idea of an European Assembly
- Treaty of Brussels, 1948, for collective self-defense (the basis for the future Western European Union)
- Bideau Declaration, 1948: European economic and customs union and a European Assembly
- **Council of Europe**, 1949, signed by 10 states: first European organization. Based on the format of traditional cooperation between states. Cleavage between France, Italy and Benelux nations with the UK and Nordic countries, on the concept of European union.
- UK succeeded in limiting the scope of action of the Council of Europe
- **Schuman Declaration**, 1950, on the establishment of a High Authority for coal and steel:

- . fears of France regarding the ability of Germany to produce steel at a cost below what France could manage;
- . it allowed Germany to regain sovereignty over the Saar region, which still remained under French control
- **Treaty of Paris, 1951**: the High authority represented the supranational nature of the ECSC
- The ECSC *spillover* to other economic sectors
- Korea war and the rearmament of Germany. The French opposition to it
- The idea of a European army, the Pleven Plan: it followed the Schuman Plan closely.
- **The European Defense Community, 1952**. The German price: Western Allies to end occupation and to give control over foreign policy.
- EDC as a way for France to guarantee itself against eventual German aggression, as much as an anti-Soviet organization
- Need for political control of the EDC: European Political Community, 1953
- Failure on the French ratification of the EDC, 1954. It also meant the fall of the EPC
- The return to the short steps strategy advocated by Monnet
- 1955 Messina Conference and the relaunching of European integration. Two opposed perspectives: Benelux countries and the need for a global economic integration, through a common market; France preference for sectorial integration, in the area of nuclear energy
- Spaak report, 1956. The opening of the IGC
- **Treaties of Rome, 1957**: the EEC and the EURATOM

## The EEC enlargement

- **The first EC enlargement:** the reversal of UK attitude towards European integration.
- UK first applied for admission into the EEC, 1961.
- French veto by De Gaulle, 1963, doubting on the sincerity of Britain's intentions.
- A new application by the UK, 1967. A new veto by De Gaulle
- De Gaulle resignation, 1969
- Treaty of Accession, 1972, signed by four states.
- 1973, the first enlargement to nine Member States
  
- the transition to democracy and **the southern enlargement**
- Application for admission of Greece, 1975; Portugal and Spain, 1977
- Treaty of Accession with Greece, 1979
- Treaty of Accession with Portugal and Spain, 1985
  
- The enlargement to the so-called **European Economic Space** countries
- Treaty of Accession with Austria, Finland, Sweden and Norway, 1994
  
- The enlargement to the **Eastern European** countries
- The fall of the Berlin Wall and the new European geography
- The Copenhagen criteria
- The European agreements.
- The first phase of the enlargement: negotiations concluded in 2002 with 10 states, which become new member states in May 2004
- Romania and Bulgaria signed the Accession Treaty in 2005, becoming members in 2007
  
- *Turkey and Croatia* initiated negotiations to join the EU in October 2005.
- Croatia signed the Accession Treaty in December 2011
- Turkey accession remains a political issue for Europe
- The EU widening to the Balkan states
- Meanwhile, Iceland initiated negotiations in 2010; Montenegro initiated negotiations in 2012.



## **The deepening of European integration**

- The Hague Summit, 1969
- The Werner Report on the economic and monetary union, 1970
- Development of new EC competences
- European Political Cooperation, 1973
- The European Council, 1974
- Direct elections to the European Parliament, 1979
- The European Monetary System, 1979
  
- Jacques Delors, President of the Commission. The legislative roadmap for the single market: the White Paper on the completion of the Internal Market, 1985
- The European Council decided to call for an IGC, to make treaty amendments



### Single European Act, 1986

- The main goal was to achieve an European single market by the end of 1992
  - The widening of qualified majority vote, to pass the internal market program
  - The increase of the Europe Parliament's legislative role
  - The institutionalization of the Council of Europe
  - The setting-up of the Court of First Instance
  - New EC competences were added: environment; research and technological development; cohesion policy
  - Reference to European Political Cooperation
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- The *spillover* of the internal market
  - Delors Report on the economic and monetary union, 1989: the EMU as the corollary of the single market
  - The fall of the Berlin Wall, November 1989
  - The question of German reunification
  - The new European political geography
  - Franco-German agreement on German unification
  - The call for two IGC's, 1990: one the EMU and the other on the European Political Union

## The Treaty on the European Union

- The Maastricht agreement that concluded the IGC's, 1991
  - o Signed in 1992
  
- The three pillar structure
  - o Unwillingness of some member states to conduct internal security and foreign policy with supranational decision-making
  - o Supranational v. intergovernmental principles
  
- Common Foreign and Security Policy. Scope: foreign policy, security and, eventually, defense
  
- Cooperation on Justice and Home Affairs. Scope: immigration, asylum and criminal matters
  
- Treaty on the European Community
  - o Economic and monetary union. Single currency and the European Central Bank
  - o European Citizenship
  - o The principle of subsidiarity
  - o The increase of European Parliament's powers: co-decision procedure, applicable to 15 legal bases; right to approve Commission as a whole.
  - o New competences conferred to the European Community
  
- Ratification procedure. The Danish referendum, 1992
  - o It came into force by the end of 1993

## The Amsterdam Treaty

- The 1996 IGC
  - The institutional reform to prepare the Eastern enlargement
  - The legitimacy crisis in the aftermath of the Maastricht Treaty
  
- The Amsterdam agreement, 1997
  - Simplification and renumbering of the EU and EC Treaties
  - The EU political principles (freedom, democracy, rule of law and human rights)
  - A wider scope for the principle of non-discrimination
  - Closer cooperation, enabling Member States to take advantage of the concept of variable speed integration
  
  - The EU as an area of freedom, security and justice
    - The incorporation of the Schengen Agreements
  
  - Common Foreign and Security Policy
    - The High Representative for the CFSP
    - The Peterberg tasks, allowing the EU to make humanitarian and peace-making missions
  
  - EC Treaty:
    - The competences on employment policy and social fundamental rights
    - The strength of European Parliament powers: co-decision procedure to be applied to 32 legal bases; right to approve the Commission President
  
  - The failure of institutional reform. The Protocol on institutional reform

## The Treaty of Nice

- During the IGC for The Treaty of Nice, 2001, Member States restricted the agenda in order to find out the conditions for institutional reform in view of EU enlargement, namely:
  - the composition of the Commission (one national for Member State)
  - The number of votes allocated to the Member States within the Council, regarding Qualified Majority vote, had been changed with the five biggest countries of the EU states passing from 55% to 60% of the total number of votes
  - The number of seats in the European Parliament
- The setting of specialized chambers within the Court of Justice
- Final Declaration on the Future of Europe, calling for a wider debate about the EU.
  - The 2004 IGC should be preceded by a wide European debate on the future of Europe
  - This debate should involve the European Parliament, national parliaments, the European Commission and national governments
  - The debate should discuss the following issues:
    - *division of powers* between the EU and the MS;
    - legal status of the EU *Charter of Fundamental Rights*;
    - *simplification* of the EU Treaties;
    - the role of *national parliaments*



## The European Constitution

- The European Council, December 2001, decided to call an European Convention to debate the future of Europe
- European Convention initiated its work on February 2002, chaired by former French President, Valéry Giscard d'Estaing. Composed by 105 members, representing the EU Member States and the 10 new countries
- Convention had a mandate that ended on June 2003.
- June 2002, *the Convention agreed* that it should prepare a draft text of an European Constitution
- On June 2003, the Convention submitted to the European Council a *draft Treaty establishing a Constitution for Europe*
- The draft European Constitution was a major step in European integration by:
  - o simplifying the texts of the founding Treaties, and abolishing the EC
  - o ending with the structure of the Union based in 3 different pillars
  - o incorporating the Charter of Fundamental Rights into its text
  - o clarifying the division of powers between the Union and the Member States
  - o enlarging the scope of decisions taken by qualified majority voting
  - o simplifying the reach of qualified majority
  - o increasing the legislative status of the European Parliament (to 90 legal bases)
  - o allowing the national parliaments to control EU legislation on the basis of subsidiarity

- reforming the legal acts adopted by the EU
  - extending the communitarian method to the whole space of freedom, security and justice,
  - creating the position of Minister of Foreign Affairs and ending with the double EU external representation
  - the EU was given legal personality, which was instrumental for external representation
- Draft Constitution prepared by the European Convention was not binding for the IGC: Member States are the *Masters of the Treaties*
- However, the European Council considered the draft Constitution submitted by the Convention as a *good working basis* for the IGC.
- Inter-Governmental Conference (IGC), initiated its works in October 2003
- IGC led by the Heads of Government of the Member States. Leaders of the accession States participate on equal basis with the actual Member States.
  - IGC was concluded in June 2004.
- **The Constitutional Treaty**, which was very similar to the draft European Constitution, was signed in October 2004
- As for the legal nature of both the draft European Constitution and the Constitutional Treaty they were the same: a Treaty between the Member States. They were not a Constitution based on the idea of popular sovereignty. Indeed:
- Right of secession: Member States may decide to withdraw from the Union, at any time
  - Constitutional amendments need to be approved by all Member States
- Then, it went through the Ratification procedure.
- National *referenda* in France and the Netherlands, June 2005.
  - European Council called for a period of reflection on the Constitutional Treaty

## The Treaty of Lisbon

- With the European Constitution the EU was supposed to close the constitutional cycle initiated with the Maastricht Treaty, in 1992.
- Constitutional crisis originated by the 2005 *referenda*, was followed by a reflection period. At the end prevailed the idea of rescuing the so-called *constitutional acquis* through a reform treaty.
- Until the Berlin Declaration on the 50<sup>th</sup> anniversary of the Treaty of Rome, March 2007, some Member States still believed on the rescuing of the whole European Constitution. However, the content of the Declaration erased such optimism.
- The Reform Treaty was shaped during the German Presidency of the Council, 2007: Mrs. Merkel purpose to find a way out for the constitutional crisis; along with the changing of political leadership in France and UK.
- Letter sent by the German Presidency to the Member States, April 2007, launched the basis for a Reform Treaty: Member States were asked whether they would accept:
  - A *reform to the Treaties* on the EU and EC, but with the suppression of the Union's pillar structure.
  - A change on the terminology used to refer the *Constitutional* treaty, the *legal acts* of the Union, the FA *Minister*, but without any changes regarding its content.
  - The removal of the provisions regarding EU *symbols and primacy* of EU law.
  - The preservation of the so-called *institutional package*, established by the EU Constitution.
  - The incorporation of the *Charter* into the Treaty text should be replaced by a Treaty provision that would give it with full legal force.

- *Member States' answers* allowed for the idea of a Reform Treaty, which main advantage would be to *introduce only partial amendments* to the existing Treaties, with the purpose to *avoid a new series of national referenda*.
- European Council of *June 2007 called for an IGC*, to be concluded until the end of the year, and approved a *detailed mandate* to it. It was for the Portuguese Presidency to lead the IGC and conclude the final agreement.
- **Treaty of Lisbon** aimed to rescue the Constitutional *acquis*, namely, the institutional reform, the role of national parliaments, the democratization of the EU political process, the division of competences between the EU and the Member States, the end of the pillar system and the communitarization of the 3<sup>rd</sup> pillar.

#### **Formal changes:**

- Existing EU and EC Treaties were replaced, but only reformed. Indeed, changes were introduced into the existing Treaties, unlike the Constitutional Treaty.
- The European *Community was absorbed* by the Union, with the end of the pillar system.
- However, *Common Foreign and Security Policy* remained an *intergovernmental* policy.
- Removal of all elements that could have a statehood sound: the word *constitution*; the name *Minister* of foreign affairs; the reference to *European laws* and *Framework laws*; the provision on EU *primacy* law; provision on the *symbols* of the Union.

#### **- Regarding the structure of the amended Treaties (parallel with the Constitution):**

- **The EU Treaty** structure became closer to the idea of a **basic Treaty**: *General Provisions; Democratic Principles; Institutions; Enhanced Cooperation; Common Foreign and Security Policy; Final Provisions*. There is just one Title lacking, the one of the *division of competences*, which was relegated to the Treaty on the Functioning of the Union.



- **The Treaty on the Functioning of the Union** includes a Title on the Area of Freedom, Security and Justice and the Title on the External Action of the Union. It is very similar with the *structure of Part III of the EU Constitution*.

- The EU **Charter of Fundamental Rights** (Part II of the Constitution) was relegated to the end. But it is fully binding, and with the same legal force of the Treaties.

- The most important aspects of the Part IV of the EU Constitution, namely on the **revision of the Treaties**, reappear on the final provisions of the EU Treaty.

### **Substantive Changes:**

- The Lisbon Treaty rescued almost all the content of the EU Constitution.

- it includes the so-called institutional package: the *European Council* became a separated institution, with a *full time President*; the increase of *European Parliament legislative and budget powers*; the changes on the *Council voting system* and the exercise of its *Presidencies*; the role of a foreign affairs minister, named *High Representative for foreign affairs*; the *composition of the Commission*.

- The role of national parliaments on the Union political process, namely on the control of the principle of subsidiarity.

- Institutional changes strengthened the political dimension of the Union, in particular the *democratization of the political process*. The *Parliament* will have more legislative and budgetary powers and will *elect the President of the Commission*, according to the results of the European elections. It allows for a competitive choice for the citizens that could chose between different candidates, as it happens in national elections.

- There will be also a new political dimension resulting from the *personification of the institutions*: the *European Council President*, fully devoted to the Union, and not conditioned by its national facet.

- The European Union received legal personality.

- The recognition of the legal force to the EU Charter of Fundamental Rights, and the accession to the ECHR.



- the rules on the division of competences included in the EU Constitution were fully saved, with a general provision on the EU Treaty and a new Title on the categories and areas of EU competence in the Treaty on the Functioning of the Union.
- Majority voting rule applies to some 50 new areas of EU action, in order to improve the efficiency of the decision-making process.
- Lisbon Treaty kept the distinction between legislative acts and non-legislative acts, foreseen by the Constitution.
- It included the Constitution provisions on the revision procedures, with a distinction being made between *ordinary revision procedure* (that needs a Convention, an IGC and ratification) and the *simplified revision procedures* (without IGC and Convention and soft form of national approval).
- Simplified revision procedures introduced some liveness on Treaty rigidity:
  - The European Council can amend provisions from articles 26<sup>o</sup> to 197<sup>o</sup> of the TFU (half of the Treaty provisions), by unanimity, with Member State approval.
  - The European Council can determine that the Council will decide by majority voting. It needs the approval of the European Parliament and it can be no opposition from any national parliament, in six months. This simplified revision procedure also applies to the replacement of special legislative procedures by the ordinary legislative procedure.
- Therefore, the Lisbon Treaty was the device used to save the Constitutional Treaty, through deconstruction of its content.
- The Lisbon Treaty rescued almost all the Constitution: Part I (with 60 articles) was divided in 30 articles included in the EU Treaty and 27 articles on the TFU; Part II was fully saved, through a different technique; Part III, that reorganized the TEC, emerged in the structure of the TFU; the innovative provisions of Part IV were also rescued, namely those on Treaty revision.
- Regarding the 448 Constitution articles, the Lisbon Treaty did not rescue 5 provisions, only.
- Hence, the Treaty of Lisbon is the Constitutional Treaty with *new clothes*.



## II – THE EUROPEAN UNION POLITICAL SYSTEM

### European Union Institutions

- The institutional framework, article 13 TEU
  - o Seven institutions
- Representative democracy, article 10 TEU

### The European Council

- The origins of the European Council: The European Summits
- The recognition of formal status to the European Council, 1992
- The European Council as a separate institution, article 13 TEU
- Composition of the European Council, article 15 (2) TEU
- Meetings of the European Council, article 15 (3) TEU
- Powers of the European Council, article 15 (1) TEU
- President of the European Council, article 15 (5) TEU
- Decisions of the European Council, article 15 (4) TEU; article 235 TFEU
- The Treaty-making power, article 48 TEU

## The Council

- Made-up of Ministers of the Member States
- It meets in ten different configurations, depending on the agenda of the discussions
  - o EU Treaty only mentions the General Affairs Council and the Foreign Affairs Council, article 16 (6) TEU
  - o There are also the following configurations:
    - *Economic and Financial Affairs; Justice and Home Affairs (JHA); Employment, Social Policy; Health and Consumer Affairs; Competitiveness; Transport, Telecommunications and Energy; Agriculture and Fisheries; Environment; Education, Youth and Culture*
- The work of the Council is prepared by a Permanent Representatives Committee (COREPER), article 16 (7) TEU
- Council powers, article 16 (1) TEU:
  - o Legislative power
  - o Budgetary power
  - o Coordination of economic policy of the member states
  - o Implements common foreign and security policy
  - o Concludes international treaties with third states and international organizations, on behalf of the Union
- Presidency of the Council, article 16 (9) TEU
  - o Assured by each member state, in turn
  - o Permanent President for Foreign Affairs configuration (High Representative)
  - o Decision by the European Council on the Presidency's configurations, article 236 TFEU
- Voting system, article 16 (3) TEU, on qualified majority
  - o Transitional system, article 16 (4) TEU
  - o Until 2014, weighted voting system: with 27 member states, decisions are to be reached by 255 votes (on a total of 345)
  - o After November 2014, double majority of 55% of member states (15 member states), representing at least 65% of the Union population. Blocking minority must include at least 4 member states
- Treaties also define cases where unanimity and simple majority voting (article 238 (1) and 240 (3) TFEU) are applied.





## The Commission

- Supranational nature of the Commission: principles of solidarity and the idea of integration
- It represents the general interest of the Union, article 17 TEU
- Independence of the Commission, article 17 (3) TEU
- Composition, 27 commissioners, article 17 (4) e (5) TEU
- Appointment of the Commission, article 17 (7) TEU
  - o Election of the President by the EP
  - o List of Commissioners, voted by the EP, after parliamentary committee hearings
  - o Nomination by the European Council
- Five years mandate, article 17 (3) TEU
- President of the Commission leadership, article 17 (6) TEU
- College of Commissioners, portfolios
- Bureaucracy of the Commission (around 24000 people), organized in some 20 Directorate-Generals
- DG's support the work of Commissioners portfolios
- Powers of the Commission, article 17 (1) TEU:
  - o To propose draft legislation
  - o *Guardian* of the Treaties, i.e., to enforce EU Treaties and EU legislation
  - o To represent the EU in trade negotiations, and external representation in general (with the exception of common foreign and security policy)
  - o To make rules and regulations, for instance in competition policy
  - o To implement the EU budget and to manage EU policies

## European Parliament

- Initially (named, the Assembly), it was established as an institution of political control
- It represents the citizens of the Union
- It is the only directly elected EU institution (direct elections since 1979).
- Composed by 751 members (MEPs), elected for a 5 years term.
- The EP seats are fixed according to a criteria of digressively proportional, the maximum being 96 MEPs and the minimum 6 MEPs by each member state, article 14 (2) TEU
- MEPs are organized by political parties, not by nationality
- EP functioning, and headquarters:
  - o 12 plenary sittings, in Strasbourg
  - o Parliamentary committees and political groups, are based in Brussels (as well as additional plenary sittings)
  - o EP Secretariat located in Luxembourg
- EP powers:
  - o Law-making powers, under the co-decision procedure.
    - The Lisbon Treaty placed the EP on equal basis with the Council concerning the vast majority of EU laws, article 14 (1) TEU (90 legal basis)
  - o It decides on the EU budget, together with the Council, article 14 (1) TEU
  - o It gives its assent to the signing of international agreements by the Union, in areas such as international trade
  - o It exercises political control:
    - Elects the President of the Commission, on the basis of the EP elections results, articles 14 (1), and 17(6) TEU
    - It approves the College of Commissioners, article 17 (6) TEU
    - It can pass a vote of censure to the Commission, which implies its dismissal, article 17 (8) TUE, and article 234 TFEU



## **EU Decision-making power**

- Commission has the exclusive right of initiative, concerning legislative acts, article 17 (2) TEU
  
- Co-decision, with the Lisbon Treaty became the ordinary legislative procedure
  
- The phases of the ordinary legislative procedure, article 294 TFUE
  - o First reading, by EP and Council
  - o Second reading, by EP and Council
  - o Conciliation committee, common draft to the EP and Council
  - o Third reading, by EP and Council