

Characteristics of the Treaty on European Union

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Characteristics of the Treaty on European Union

The Treaty is called 'Treaty on European Union' and not 'Treaty establishing the European Union'. It is not a definitive constitution but merely one stage in the evolutionary process of European integration. Further stages will have to be completed. It also includes a provision for a review of the Treaty by a new intergovernmental conference after 1996. This clause was requested by the States that deemed some provisions of the Treaty inadequate: Germany and France with regard to the common foreign policy, Germany with regard to the codecision procedure with the European Parliament, and Belgium with regard to the allocation of issues among the pillars, etc.

The established objective is 'an ever closer union among the peoples of Europe', a vague expression used as long ago as 1949 in the Statute of the Council of Europe, an intergovernmental organisation. The expression, 'Union with a federal purpose', sought by the majority of delegations, could not be adopted because of opposition from the United Kingdom, even though several of the Union's declared goals had federal overtones (single currency, an area without internal frontiers, citizenship, common foreign and security policy). The Treaty states that the 'Union shall respect the national identities of its Member States.'

The institutional structure of the Union is made up of three distinct pillars: the European Community (a term that has replaced European Economic Community, since its powers now cover other areas such as education, culture, health, environment, etc.), common foreign and security policy and justice and home affairs. The cohesion of these pillars, which were different in nature (the first being a Community structure and the other two intergovernmental structures), had to be ensured by a single institutional framework comprising the European Council of Heads of State or Government, the role of which is to provide the Union with guidelines and impetus, the Council of Ministers, the Commission, the European Parliament and the Court of Justice. The Council plays the primary role, since its powers cover all three pillars, whereas the Commission, although linked to all the activities of the Council, has the exclusive right to propose legislation only with regard to Community affairs. The European Parliament plays a consultative role only for the second and third pillars, and the Court of Justice is virtually excluded from them. The Treaty defines the structures and objectives of each of the pillars, with a timetable of provisions to be adopted in the next few years.

The first pillar of the European Union consists of the 'European Community'. The adjective 'economic' was omitted as a result of its powers being extended to other areas. The notion of a 'trade-only Europe' had to be eliminated, but the balanced development of a single European whole in all areas had to be ensured. However, the Community may not intervene in all situations. The Treaty formulates the principle of subsidiarity, whereby the Community may intervene only when the objectives of the Union cannot be attained by a Member State acting on its own. That principle may be applied only to areas where powers are shared with the Member States and not to areas where the Community has exclusive competence, which the United Kingdom would have wanted in order to regain powers at national level.

European citizenship is established, which does not replace national citizenship but supplements it by granting new rights to citizens in order to heighten their awareness of European identity. Those rights included: the right to vote and to stand as a candidate in European and municipal elections in the State in which he or she resides and no longer solely in his or her country of origin, the right to petition the European Parliament and to submit a complaint to the Ombudsman, the right of recourse in a third country to diplomatic representation of another Member State, if the country of origin is not represented there.

The most important powers of the Community remain unchanged, i.e. the common agricultural policy, customs union, transport policy and competition policy. The common commercial policy has only been slightly amended. On the other hand, the policies established by the Single Act have been developed further. The aim of the economic and social cohesion policy is to reduce the disparities between the development levels of the various regions. The structural funds are to be reformed. A Cohesion Fund designed to assist the countries where per capita GNP is lower than 90 % of the European average (Spain, Greece, Ireland and Portugal), became operational from 1 April 1993. The research and technological development policy is to combine all activities in these areas on the basis of a multiannual framework programme, which the Council

must approve unanimously. The Commission did not succeed in securing greater implementing powers through the Treaty of Maastricht, hence the slow progress and comparative inefficiency. On the other hand, the environment policy is strongly reinforced by the Council's moving to qualified majority voting, apart from exceptions requested by the southern European countries because of the financial cost of the proposed measures. Those countries want to be able to oppose the policy. However, when a Member State requests a derogation from a Community programme on the environment, it must accept supervision of temporary national measures.

In order to promote the opening of the single market, the Treaty on European Union includes new chapters on education and culture, public health, consumer protection and the development of trans-European networks. However, although a chapter on industry is included, it provides (as a result of disagreement between supporters of the planned economy and free marketeers) solely for consultations and possible measures to be adopted unanimously, this in response to a request from Germany. No new chapter is included on energy policy, since the United Kingdom and the Netherlands wish to maintain control over their oil and natural gas resources.

As for social policy, the Treaty on European Union takes over the chapter from the Treaty of Rome, slightly reinforced by the Single Act, which seeks primarily to promote closer cooperation between the Member States in social affairs. European directives have been adopted on health and safety at work and on approximation of national laws. However, the achievements remained limited because of the disparities in social rights between the Member States. The Charter of Fundamental Social Rights was adopted on 9 December 1989 by eleven Member States — the United Kingdom opting out — with the aim of ensuring that those rights were respected when the single internal market was introduced and of giving the Community a social dimension. However, success was minimal. It was therefore necessary to take further measures during negotiations on the Treaty. The United Kingdom remains hostile to a part of social policy being subject to Community legislation. However, the British Prime Minister, John Major, proving more flexible than Margaret Thatcher, agreed not to block the adoption of new provisions, provided that the United Kingdom was exempt from them. Hence the adoption of Protocol No 14 annexed to the Treaty which sets out an agreement among the Eleven on social policy, with minimum requirements adopted by means of directives. It was not until Tony Blair's Labour Party came to power that the United Kingdom allowed the social policy to be included in the Treaty when it was amended by the Treaty of Amsterdam on 18 June 1997.

The institutions of the Community pillar were strengthened so as to achieve greater efficiency and increase democracy.

Qualified majority voting in the Council of Ministers, the decision-making institution, having already been extended to the completion of the single market by the Single Act, is extended to several sectors of the Community's new policies (education, health, vocational training, consumer protection and social policy, etc.), but its scope is reduced when the simple adoption of recommendations is involved. Unanimity is maintained with regard to constitutional provisions (revision of the Treaty, admission of new Member States, own resources of the Community budget, etc.) and also certain policies (economic and social cohesion, tax, framework programme of research, industry, culture, the environment, etc.). Here, again, the British expressed their staunch opposition, and the French and Germans adopted a cautious approach.

The very practice of majority voting at the Council strengthens the Commission's role, since its proposals, in respect of which it has a monopoly, are more likely to be adopted. Furthermore, its democratic legitimacy is increased, since the European Parliament, elected by universal suffrage, has the right of scrutiny on its appointment by the governments and of approval of a new College of Commissioners, which appears before it and submits its programme to Parliament. However, the Commission's request to extend its implementing powers with regard to the regulations adopted by the Council has not been granted. The Council insisted on being able to intervene in specific cases. Moreover, with regard to the definition of the implementing procedures, the Commission must still secure the approval of several committees on which national representatives serve.

The European Parliament benefits the most from the institutional reforms brought about by the Treaty on European Union. Apart from the enhancement of its role in the appointment of the Commission, it benefits from the extension of the 'assent procedure', which is the right to approve or reject decisions taken by the Council in some important areas. It already possessed this right with regard to the accession of new Member States and the association of non-member countries, but it has now been extended to new areas: the provisions on the right of European citizens to move and reside in another Member State, the creation of the Cohesion Fund, the implementation of the Structural Funds, the amendment of some provisions of the Statute of the European System of Central Banks, the adoption of a uniform procedure in all Member States for the election of Members of the European Parliament and the application of the procedures to be followed in some international agreements. On the other hand, it did not secure the power of assent with regard to the revision of the Treaty, although, since its election by universal suffrage, it has been claiming a constituent role, nor for the provisions on the Community's own resources.

In the legislative field, the European Parliament had been claiming joint decision-making powers with the Council of Ministers since its election by universal suffrage but had never actually secured them. The 1986 Single Act had appeased the Parliament by establishing the 'cooperation procedure', whereby Members of the European Parliament had the right to reject or amend a decision taken by the Council. However, in the event of disagreement, the Council had the final say. This procedure was restricted to decisions taken by the Council under the majority voting procedure in order to establish the single market. The Treaty on European Union extends the 'cooperation procedure' to other areas where the Community has acquired new powers but not to those where the Council takes a decision by qualified majority voting. At all events, it does not apply to common policies, such as the agricultural policy and commercial policy.

The establishment of an additional procedure, namely the 'legislative codecision procedure', introduced in the Treaty of Maastricht, is of even greater importance. The aim of this complex process is to strengthen Parliament's right to propose amendments, with the intervention of the Commission and, where necessary, of a joint conciliation committee, with proposals being 'shuttled' back and forth between Parliament and Council in order to reach an agreement. This agreement had to be approved by a qualified majority in the Council and by an absolute majority in Parliament. Failing this, the proposal is not adopted. Parliament, therefore, has the final say. However, the scope of the procedure is strictly limited to certain measures: those pertaining to the single market, which was already covered by the 'cooperation procedure', and those which had virtually come into force, i.e. freedom of movement and establishment and approximation of laws, etc. Other measures include those on research, the environment, education, culture and health, which directly affect European citizens but where Community action most often supplements actions taken at national level. It is, however, an important step, since the 'codecision procedure' might be extended upon revision of the Treaty.

Progress made in the democratisation of the Community institutions also brings with it a growing complexity and a lack of clarity for the man in the street, since four Parliament procedures are juxtaposed: the consultation, cooperation, codecision and assent procedures.

A Committee of the Regions, consisting of representatives of local and regional authorities, established by the Treaty of Maastricht at the request of the Federal Republic of Germany, supplements the Community system. The Economic and Social Committee established by the Rome Treaties includes representatives from various categories in the economic and social spheres. Both committees must be consulted by the Council in certain circumstances and may decide to issue opinions, should they deem it necessary.