

The European organisations

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In the aftermath of the Second World War, against a background of division and shortages, the political leaders of European countries perceived a need to cement peaceful relationships with their neighbours, with a view to laying the foundations for lasting security and prosperity.

The early forms of cooperation between the countries of Western Europe included those promoted by the United States of America in an international situation characterised by the first signs of the Cold War. They gave rise to the **Euro-Atlantic cooperation organisations**. The Organisation for European Economic Cooperation (OEEC) was created in 1948 in order to administer the financial assistance offered under the Marshall Plan in a European recovery programme. The North Atlantic Treaty Organisation (NATO) was founded in 1949 as a military defence alliance under the aegis of the United States vis-à-vis the Communist bloc. These two organisations were replicated in Eastern Europe with the creation, under the auspices of the Soviet Union, of the Council for Mutual Economic Assistance (COMECON) in 1949 and the Warsaw Pact in 1955. From 1989 onwards, with the collapse of Communist regimes, the Euro-Atlantic organisations were to have an opportunity to develop their intercontinental mission further by integrating countries that were leaving Eastern-bloc organisations.

The **European cooperation organisations** began with the signing in Brussels on 17 March 1948, by Belgium, France, the Netherlands, Luxembourg and the United Kingdom, of the *Treaty for collaboration in economic, social and cultural matters and for collective self-defence*. Under the auspices of the organisation founded by the Brussels Treaty — **Western Union** — the five signatories also responded to a call from the *International Committee of the Movements for European Unity* and decided to create, in 1949, a second cooperation organisation, the **Council of Europe**. In 1955, Western Union became **Western European Union** (WEU). It was joined by the Federal Republic of Germany (FRG) and Italy, the former adversaries, and supported the FRG's gradual rearmament, subject to strict monitoring.

Despite its initial momentum, **WEU** was, however, to play only a minor part in comparison with other European organisations. In 1959, this organisation's powers in the field of social and cultural affairs were transferred to the Council of Europe. As for its economic powers, they suffered, firstly, as a result of the establishment by the Six (Belgium, FRG, France, Italy, Luxembourg and the Netherlands) of the **European Communities** (particularly that of the European Economic Community in 1957), and, subsequently, as a result of the establishment — as a UK alternative to the EEC — of the **European Free Trade Association** (EFTA) in 1960. WEU's economic powers finally lost their remaining *raison d'être* when the United Kingdom acceded to the European Communities in 1973. Until that point, WEU was at least able to offer a structured framework for negotiations between the United Kingdom and the Community Member States. The position of WEU as a strictly military alliance, whose main objective was the collective self-defence of its members (Article V of the Treaty), was eclipsed by that of NATO, the organisation to which it was to be largely answerable. Nevertheless, from the 1980s onwards, it experienced something of a revival, with the birth of a European defence dimension intended to be independent of the Atlantic Alliance.

It was to be the politically oriented organisations — the Council of Europe as from 1949 and the European Communities as from 1951/1957, in their journey towards European union — that were to bring about the most profound changes in the continent of Europe by effecting a gradual convergence of legal systems. Their creation represented a response, in many ways, to the demands of European movements supporting unification of the continent. As Europe's geopolitical landscape evolved, they reflected the degree of compromise achievable between separatist trends, which advocated intergovernmental cooperation between independent nations, and federalist trends, which advocated the transfer of certain sovereign powers to a supranational body.

Accordingly, the **European Communities**, driven by France and Germany, came into being as **integration organisations**. Unlike cooperation organisations, within which sovereign states merely harmonise their points of view, integration organisations collectively exercise the powers attributed to them by the relevant Member States. This meant that the countries that acceded to the European Communities were prepared to transfer some of their sovereignty to a supranational body. In contrast, the **Council of Europe**, under

pressure from the United Kingdom, was established as an intergovernmental cooperation organisation. Indeed, it was the fact that some members of the older organisation, the Council of Europe, wished to go further that led to the creation of the 'restricted Communities'.

Within the Council of Europe, the desire of a small number of countries for integration made possible the adoption, in May 1951, of a text of a statutory nature providing for the creation of 'European specialised authorities', each of which would be equipped with its own powers in the economic, social, cultural, legal and administrative fields and other related areas and which each member state would be free to decide whether or not to join. The text was based on a 1949 initiative by the organisation's Consultative Assembly, which envisaged the creation of specialised authorities as an interim stage in the establishment of European union.

This 'indirect method' of seeking a European political authority, 'sector by sector', was proposed by French Foreign Minister Robert Schuman in a speech that he made in Paris in May 1950. Inspired by Jean Monnet, he envisaged placing 'Franco-German production of coal and steel as a whole under a common High Authority, within the framework of an organisation open to the participation of the other countries of Europe'. This 'concrete achievement' would begin by creating 'de facto solidarity', which would lead over time to a European federation.

Despite the efforts by the Council of Europe's Consultative Assembly to find a European authority acceptable to all the organisation's member states, the Six and the 'Anglo-Scandinavian' countries remained aloof from each other. The first 'restricted Community', the **European Coal and Steel Community** (ECSC), was established as early as April 1951 outside the Council of Europe. Projects involving the creation of other restricted Communities were also developed outside the latter and culminated in the establishment, in 1957, of the **European Economic Community** (EEC) and the **European Atomic Energy Community** (EAEC or Euratom). In order to minimise the consequences of the division, the UK Government proposed in the 'Eden Plan' that organic links be established between the Council of Europe and the Communities of the Six. However, the differences between the two organisations in terms of structures and objectives prevented the Communities from being integrated into the structure of the Council of Europe. Flexible formulas for collaboration between the 'small' and the 'large' Europe, based on the exchange of information and joint meetings, were, nevertheless, adopted and developed over the years. With the collapse of the Communist bloc, the Council of Europe opened its doors to the countries of Central and Eastern Europe, thereby playing a major role in the transition of these countries to democracy.

The division between the separatist or neutral countries and the countries of the Communities was again confirmed with the establishment, in response to a UK initiative, of EFTA as an alternative to the EEC's planned common market. In 1959, Denmark, Austria, Portugal, Norway, Switzerland, Sweden and the United Kingdom signed a treaty establishing a free-trade area between them, without a common customs tariff. However, when the United Kingdom withdrew from EFTA so that it might accede to the Communities in 1973, it was followed by other countries within its sphere of influence, and the organisation became ever smaller. Over time, EFTA came to serve as an antechamber of the Communities, in respect of trade and commerce, as did the Council of Europe, vis-à-vis democracy and respect for human rights, for states that would, one day, move from simple cooperation to integration. There was close cooperation between the EEC and EFTA, originally through the conclusion of bilateral agreements and then, from 1994 onwards, through the establishment of a European Economic Area (EEA).

The year 1992 marked a key date for European economic and political unification with the signing in Maastricht by the Community Member States of the *Treaty on **European Union*** (TEU). This Treaty, which provided for progressive realisation of economic and monetary union, added two areas of intergovernmental cooperation to the European Communities, namely a common foreign and security policy, and justice and home affairs. The various supranational or intergovernmental policies of the EU were able to develop within a single institutional framework which guaranteed consistency. Furthermore, from this point onwards, WEU was called upon to be progressively integrated into the EU as an operational component of its security and defence policy.

Institutional reform of the EU continued with the entry into force of the Treaties of Amsterdam and Nice, and later with the launch of a constitutional process by means of the Laeken Declaration of 15 December 2001 and the opening of a European Convention on the Future of Europe. Led by Valéry Giscard d'Estaing, on 18 July 2003 the Convention submitted to the Italian Presidency of the European Council a *draft Treaty establishing a Constitution for Europe*. This draft served as a basis for the *Treaty establishing a Constitution for Europe*, signed on 29 October 2004 in Rome by the Member States of the EU. However, this Treaty never entered into force following the abandonment of the ratification process (the consequence of the failure of the referendums organised in France and the Netherlands in spring 2005).

Meanwhile, ten new Member States acceded to the European Union in 2004, eight of them from the former Communist bloc, thereby consolidating the process of European reconciliation. Bulgaria and Romania joined them in January 2007, thus forming a European Union of 27 Member States.

Another key date was 13 December 2007. On that day the Member States signed a new Treaty that largely repeated the substance of the 2004 Constitutional Treaty: the *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community*, which it renamed the 'Treaty on the Functioning of the European Union'. Entering into force on 1 December 2009, the Lisbon Treaty enabled the EU to make its way out of the institutional impasse in which it had found itself. In particular, it merged the three pillars (Community and intergovernmental), granted the EU a legal personality, made the Charter of Fundamental Rights legally binding and contributed numerous institutional reforms: a strengthening of the legislative and budgetary powers of the European Parliament; a new definition and extension of qualified majority voting within the Council; a stable Presidency of the European Council; a redefinition of the post of High Representative of the Union for Foreign Affairs and Security Policy; a strengthening of the role of the national Parliaments; a new citizens' initiative right. In addition, the mutual assistance clause between the EU Member States, provided for by the Lisbon Treaty, contributed to a decision being taken on 31 March 2010 by the WEU Member States to put an end to the Brussels Treaty and to close down WEU in June 2011.

The Conference on Security and Cooperation in Europe (CSCE), launched in Helsinki in 1973, was intended to open up paths for East-West dialogue between European countries from the two blocs involved in the Cold War. However, only with the dissolution of the Eastern European bloc was East-West cooperation finally able to take effect. This new period, marked by the adoption in 1990 of the *Charter for a New Europe*, involved institutionalising the CSCE and, in 1995, converting it into an international organisation. As a pan-European security organisation, the **Organisation for Security and Cooperation in Europe** (OSCE) was charged in particular with coordinating operations involving preventive diplomacy and crisis management. From now on, the various European organisations, enlarged by the accession of new countries from Central and Eastern Europe, needed to coordinate their activities and increase the forms of mutual cooperation in order to avoid duplication of effort and increase their efficiency. To this end, in 1995, the OSCE member states adopted, on the initiative of the EU and with the participation of the Council of Europe, the *Pact on Stability in Europe*.

Ultimately, the European integration process begun in the post-war period has been characterised by the establishment of **forms of institutionalised cooperation** between the countries concerned. In all cases, such cooperation took place on the basis of stable cooperation structures equipped with permanent bodies entrusted with their own powers. These structures were created by means of a multilateral treaty setting out their objectives and their financial and legal resources, including mechanisms for shaping the collective will. As a result, cooperation went beyond the system of international conferences. The countries concerned, being subjects of international law, instituted common organisations (international organisations), most of them endowed with their own legal personality and establishing themselves as subjects of international law. The high level of collective commitment and, consequently, of its effectiveness was indicated by the decision-making procedures of their institutions and the legal value accorded to the latter's decisions.

As regards intergovernmental cooperation organisations, complete unanimity of their members is generally required within the decision-making body which consists of Ministers. In addition to the goodwill demonstrated by member state authorities, implementation at national level of binding decisions is largely dependent on the establishment of monitoring procedures. Deliberative bodies, with a parliamentary

component, may adopt majority decisions, but these serve only as a recommendation or opinion. The main institutions may also be assisted by consultative bodies of a technical nature.

As regards integration organisations, in the field of shared powers, the acts adopted by their decision-making bodies serve as internal laws directly applicable within the national legal system and incorporated into it. The decision-making procedures, which are comparable with national legislative procedures, involve a number of bodies representing the interests of all the players concerned (in particular, the interests of the member states, of individual citizens and of the organisation as such, as well as those of the economic and social players and of the territorial authorities). Majority decision-making procedures are provided for, except for decisions on sensitive issues, which must be adopted unanimously by the organisation's member states within its intergovernmental institution. Following every reform of the organisation's constitutional treaties, the number of issues subject to unanimous or majority decision-making indicates the level of integration achieved. The compliance of individuals and the public authorities with the common rules is monitored by both national courts and an international court of justice. Lastly, provision is made for more than one decision-making body, as well as monitoring bodies, not forgetting consultative bodies, in a system involving a balance of powers.

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