

## The Treaties establishing the European Communities

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## The Treaties establishing the European Communities

### The Treaty of Paris

Robert Schuman's Declaration of 9 May 1950 was designed to pool Franco-German production and consumption of coal and steel, under the auspices of a supranational organisation membership of which would be open to the other countries in Europe. According to the founding fathers, that shared objective should make it possible to avert further conflict in Europe and lay the foundations for a broader and deeper community among the peoples of Europe. On 20 June 1950, an Intergovernmental Conference was convened in Paris. France and the Federal Republic of Germany were joined by Belgium, the Netherlands, Luxembourg and Italy. The Conference concluded in Paris, on 18 April 1951, with the signing of the **Treaty establishing the European Coal and Steel Community (ECSC)**.

This was the very first Community Treaty. Its aim, objective and institutional architecture would provide the model for the establishment of the European Economic Community (EEC) and the European Atomic Energy Community (EAEC or Euratom).

The ECSC Treaty was drafted in French; it was concluded for a period of 50 years and consisted of 100 articles. Once the instruments of ratification had been deposited with the French Government, it entered into force on 23 July 1952 and expired on 23 July 2002.

#### Structure of the ECSC Treaty

The ECSC Treaty was structured as follows:

Title I — The European Coal and Steel Community

Title II — The institutions of the Community

Title III — Economic and social provisions

Title IV — General provisions

Protocols

Exchange of letters between the Government of the Federal Republic of Germany and the Government of the French Republic concerning the Saar

Convention on the transitional provisions

#### Institutional framework of the ECSC

The common institutions of the ECSC were the **High Authority**, the **Common Assembly**, the **Special Council of Ministers** and the **Court of Justice**. There was also a subsidiary body, the **Consultative Committee**, which was set up alongside the High Authority.

The **High Authority** was made up of nine members. The Member State governments appointed eight members, by common accord, from among their nationals. Those members then nominated a ninth member, who was appointed provided that the nominee received at least five votes. Germany, France and Italy each had two members and the Benelux countries one member each. The members of the High Authority did not represent the interests of their own countries but took an oath to defend the general interest of the Member States. That guaranteed the supranational character of the High Authority — its principal innovative feature. The fact that the High Authority's members were prohibited from engaging in any other occupation and from having interests involving the Community guaranteed their independence.

The High Authority, the executive body, had broad powers and responsibilities. It was responsible for

ensuring the attainment of the objectives laid down in the Treaty. It was responsible for establishing and ensuring the smooth functioning of the common market in coal and steel. In addition, the High Authority was required generally to ensure that the Community operated properly in compliance with the Treaty.

The **Assembly** consisted of 78 representatives of the peoples of the Member States, delegated by the national parliaments or elected by direct universal suffrage. The ECSC Treaty used the expression *representatives of the peoples* to underscore its authors' determination to make a distinction between this Common Assembly and the assembly of a traditional international organisation, made up of representatives of the national governments. The Assembly exercised the supervisory powers conferred upon it by the Treaty.

The **Special Council of Ministers** consisted of representatives of the Member States. Each State delegated a member of its government to serve on the Council. The Presidency of the Council was held in turn by each member of the Council for a three-month period, in alphabetical order by Member State. The Council exercised its responsibilities in the cases provided for and in the manner indicated by the Treaty, in particular, in order to harmonise the action of the High Authority and that of the governments, which were responsible for the general economic policies of their countries. The Special Council of Ministers was required to participate in certain decisions taken by the High Authority by issuing opinions.

The **Court of Justice** ensured that the law was observed in the interpretation and application of the Treaty and the appropriate implementing regulations. It consisted of seven judges appointed by common accord for six years by the governments of the Member States from persons whose independence was beyond doubt and who possessed the qualifications required for appointment to the highest judicial offices in their own countries. There was no requirement that the judges should be nationals of the Member States. Under the Statute of the Court of Justice, which was set out in a Protocol annexed to the Treaty, the Court was assisted by two Advocates-General.

The **Consultative Committee** consisted of a minimum of 30 and a maximum of 50 members. It included equal numbers of producers, workers, consumers and dealers in the coal and steel sector, who were appointed for a two-year term. They were not bound by any kind of mandate or instruction from the organisations which had nominated them. The Consultative Committee had a Plenary Assembly, a Bureau and a President. The ECSC Treaty provided for both obligatory and optional consultation of the ECSC Consultative Committee. The High Authority was able to consult the Consultative Committee in all instances where it deemed this appropriate. But it was, of course, under an obligation to consult the Consultative Committee whenever such consultation was required under the Treaty. The High Authority also submitted the general objectives and programmes to the Consultative Committee and kept it informed of the thrust of its activity.

## Legal acts of the ECSC

The High Authority had three legal instruments available to it for it to carry out its tasks:

- Decisions, which were binding in their entirety;
- Recommendations, which were binding as to the aims to be pursued but left open the choice of the appropriate methods for achieving those aims;
- Opinions, which had no binding force.

The legal acts of the ECSC were published in its Official Journal as from 30 December 1952.

The legal personality of the ECSC

In international relations, the ECSC had the legal personality that it needed to exercise its responsibilities and achieve its aims. It maintained appropriate relations with the United Nations and the Organisation for European Economic Cooperation and kept them regularly informed of the Community's activities. In addition, a Protocol annexed to the Treaty laid down the conditions governing relations between the ECSC and the Council of Europe.

### Policies of the ECSC

The role of the ECSC was to contribute to economic expansion, growth of employment and a rising standard of living in the Member States by establishing a common market in coal and steel. The ECSC was progressively to bring about conditions which would ensure the most rational distribution of production at the highest possible level of productivity, while safeguarding continuity of employment and taking care not to provoke fundamental and persistent disturbances in the economies of the Member States. The common market was set in place very rapidly: the common market in coal was opened on 10 February 1953, and the common market in steel on 1 May 1953.

### Financial framework of the ECSC

The ECSC had its **own resources**, which derived from levies on undertakings. It could also contract loans or receive gifts. The ECSC drew up the general budget, the draft administrative budget and the operating budgets. The ECSC budget was adopted by the Committee of Presidents of the ECSC institutions, with the Assembly having only limited powers with regard to the budget. The Assembly reviewed the general estimate of administrative expenditure which was drawn up by the individual institutions — and included in the High Authority's General Report — but could only discuss and not reject or amend it.

### Territorial scope of the ECSC Treaty

The Treaty applied to the European territories of the Member States. It also applied to European territories for whose external relations a signatory State was responsible. As regards the Saar, a zone which was the subject of dispute between France and the Federal Republic of Germany and, at the time, represented by France, the Treaty was concluded without prejudice to the existing situation. However, following a referendum in the region and the Treaty on the Settlement of the Saar Question, signed in Luxembourg on 27 October 1956, the Saar rejoined the Federal Republic of Germany as of 1 January 1957. Each Member State undertook to extend to the other Member States the preferential treatment that it enjoyed with respect to coal and steel in the non-European territories under its jurisdiction.

### The Rome Treaties

Following the failure of the European Defence Community (EDC) in 1954, it was not easy to revive the process of European integration. However, at the Messina Conference, which took place from 1 to 3 June 1955, the representatives of the six ECSC Member States decided to instruct a committee, consisting of representatives of the interested governments and experts from the High Authority and chaired by Paul-Henri Spaak, to draft a report on the possibility of extending Community integration, with a view both to sectoral integration of certain aspects of the economy (transport and energy, in particular) and to the gradual preparation of a common market. In Venice, on 29 May 1956, the Ministers instructed a diplomatic conference, chaired by Paul-Henri Spaak, to draw up two draft treaties. The work of the conference concluded in February, and Paul-Henri Spaak proposed that the treaties should be signed in Rome. On 25 March 1957, the representatives of the Federal Republic of Germany, Belgium, France, Italy, Luxembourg and the Netherlands signed the **Treaty establishing the European Economic Community (EEC)** and the **Treaty establishing the European Atomic Energy Community (EAEC or Euratom)**.

### The EEC Treaty

Concluded for an indefinite period, the Treaty consisted of 248 articles and was drafted in the four official languages of the six Member States. Following the deposit of the instruments of ratification with the Italian Government, the Treaty entered into force on 1 January 1958.

## Structure of the EEC Treaty

The EEC Treaty was structured as follows:

Part One — Principles

Part Two — Foundations of the Community

Part Three — Policy of the Community

Part Four — Association of the Overseas Countries and Territories

Part Five — Institutions of the Community

Part Six — General and final provisions

Annexes

Protocols

Implementing Convention on the Association of the Overseas Countries and Territories with the Community

Final Act

Declarations

## Institutional framework of the EEC

It was for the **Assembly**, the **Council**, the **Commission** and the **Court of Justice** to ensure that the tasks entrusted to the Community were successfully carried out. The Council and Commission were to be assisted by an **Economic and Social Committee**, acting in an advisory capacity. In addition, a financial body, the **European Investment Bank**, was set up.

The **Assembly** consisted of 142 Members. They were delegated by their national parliaments, but the Treaty provided for the possibility of their being elected by direct universal suffrage. Compared with the ECSC Treaty, the Assembly enjoyed greater powers, including the power to dismiss the Commission if a motion of censure were carried by a two-thirds majority. It also had deliberative and supervisory powers.

The **Council**, consisting of representatives of the Member States, was to ensure coordination of the general economic policies of the Member States and had the power to take decisions. It was to take its decisions unanimously or by a majority of its members. The Presidency of the Council was to be exercised in turn by each member of the Council for a period of six months, in alphabetical order by Member State. As progress was made towards the completion of the common market, the Treaty provided for a gradual increase in the number of decisions to be taken on a majority basis.

The **Commission** consisted of nine members. Germany, France and Italy each provided two members and the Benelux countries one member each. The guarantees designed to ensure that members were independent were the same as those laid down with regard to the members of the ECSC High Authority. The Commission was to ensure that the provisions of the Treaty and the measures taken by the institutions pursuant thereto were applied; to formulate recommendations or deliver opinions on matters dealt with in the Treaty, if the Treaty expressly so provided or if the Commission itself deemed this necessary; and to exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter. The Commission also had its own power of decision and participated in the shaping of measures taken by the Council and the Assembly in the manner provided for in the Treaty. By virtue of this right to propose legislation, the Commission was accorded a very important role; nonetheless, its role was less important

than that of the ECSC High Authority.

The **Court of Justice** was to ensure that the law was observed in the interpretation and application of the Treaty and of the rules implementing regulation. It consisted of seven Judges appointed by common accord of the governments of the Member States for a six-year term from among persons whose independence and competence were beyond doubt. The Judges were to be assisted by two Advocates-General. There was no requirement that the Judges should be nationals of the Member States.

The **Economic and Social Committee** consisted of 101 members, representatives of the various categories of economic and social activity, in particular producers, farmers, carriers, workers, dealers, craftsmen, professional occupations and representatives of the general public. The aim was to give economic and social players an opportunity to have their say in the Community's decision-making process. The Committee was to meet only at the request of the Council or the Commission and had to be consulted under the Treaties in just a limited number of areas (agriculture, free movement of persons and services, transport and social policy).

In addition, a **European Investment Bank** was established with the task of facilitating the Community's financial growth through the creation of new resources. It had legal personality. The Bank's members were the Member States. Its task was to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the common market in the interest of the Community.

#### Legal acts of the EEC

To carry out their task, the Council and the Commission could use the following instruments, in accordance with the provisions of the Treaty:

- Regulations, which were of general application, binding in their entirety and directly applicable in all Member States;
- Directives, which were binding, as to the result to be achieved, upon each Member State to which they were addressed but left to the national authorities the choice of form and methods;
- Decisions, which were binding in their entirety upon those to whom they were addressed;
- Recommendations and opinions, which had no binding force.

Legal acts were published in the Official Journal of the European Communities, a publication common to all three Communities.

#### Legal personality of the EEC

The EEC had legal personality. The Community was to liaise with the organs of the United Nations, its specialised agencies and the General Agreement on Tariffs and Trade, as well as with all international organisations. Furthermore, it was to cooperate with the Council of Europe and the Organisation for European Economic Cooperation. The EEC Treaty did not affect the provisions of the ECSC Treaty or provide for derogation from those of the Treaty establishing the European Atomic Energy Community. It did not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of those regional unions were not attained by the Treaty itself.

#### Policies of the EEC

The Community had 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.

The Community was based on a customs union which covered all trade in goods, the free movement of workers, freedom of establishment, freedom to provide services and the free movement of capital. The EEC also pursued common policies in the field of transport. The scope for action among EEC policies varied greatly, embracing provisions on competition, fiscal provisions, the harmonisation of legislation, economic policy, commercial policy and social policy.

The common market was to be achieved gradually, and the Treaty provided for a twelve-year transitional period, subdivided into three four-year stages.

#### Financial framework of the EEC

The budget of the EEC was funded by contributions from the Member States, but the Treaty provided for the possibility of own resources being created.

All items of revenue and expenditure of the Community had to be included in estimates to be drawn up for each financial year and entered in the budget. The budget consisted of financial contributions from the Member States, but the Treaty also provided for the possibility of own resources being created. The Commission had to place the preliminary draft budget before the Council not later than 30 September of the year preceding that in which the budget was to be implemented. The Assembly had the right to propose amendments to the draft budget, and, thus amended, the draft budget was forwarded to the Council for discussion with the Commission and, where appropriate, the other institutions concerned. The Council finally adopted the budget, generally acting by a qualified majority.

#### Territorial scope of the EEC Treaty

The EEC Treaty applied to the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands. It was to apply progressively to Algeria and the French Overseas Departments. The Treaty also applied to the European territories for whose external relations a Member State was responsible.

#### **The EAEC or Euratom Treaty**

The EAEC Treaty, commonly called the Euratom Treaty, as Jean Monnet had suggested, was concluded for an indefinite period and consisted of 225 articles. It was drawn up in the four official languages of the six Member States. Once the instruments of ratification had been deposited with the Italian Government, the Treaty entered into force on 1 January 1958.

#### Structure of the EAEC or Euratom Treaty

The Euratom Treaty was structured as follows:

Title One — The tasks of the Community

Title Two — Provisions for the encouragement of progress in the field of nuclear energy

Title Three — Provisions governing the Institutions

Title Four — Financial provisions

Title Five — General provisions

## Title Six — Provisions relating to the initial period

Final provisions

Annexes

Protocols

The Treaty was based on an approach similar to that used for the ECSC Treaty, one encouraging sectoral integration.

### Institutional framework of the EAEC or Euratom

The institutional framework was practically the same as that of the European Economic Community. The Assembly and Court of Justice were institutions common to all three Communities (ECSC, EEC and EAEC), while the Economic and Social Committee was a body common to the EEC and Euratom.

The Euratom Commission consisted of just five members, one per Member State, with the exception of Luxembourg.

An **Agency**, placed under the supervision of the Commission, was to ensure that all users in the Community enjoyed a regular and equitable supply of ores, source materials and special fissile materials, and to regulate the market in those materials, as part of a common supply policy.

In addition, undertakings which were of fundamental importance to the development of the nuclear industry in the Community could be established as **Joint Undertakings**.

### Legal acts of the EAEC or Euratom

In order to carry out their tasks, the Council and the Commission could use the following instruments, in accordance with the provisions of the Treaty:

- Regulations, which had general application, were binding in their entirety and directly applicable in all Member States;
- Directives, which were binding, as to the result to be achieved, upon each Member State to which they were addressed but left to the national authorities the choice of form and methods;
- Decisions, which were binding in their entirety upon those to whom they were addressed;
- Recommendations and opinions, which were without binding force.

Legal acts were published in the Official Journal of the European Communities, which was common to the three Communities.

### Legal personality of the EAEC or Euratom

In each of the Member States, the EAEC enjoyed the most extensive level of legal personality accorded to legal persons under national legislation. The Commission was given the responsibility, among other things, of liaising with the organs of the United Nations, of its specialised agencies and of the General Agreement on Tariffs and Trade, as well as with all international organisations. There was specific provision for forms of cooperation with the Council of Europe and the Organisation for European Economic Cooperation. The provisions of the Euratom Treaty did not preclude the existence or completion of regional unions between

Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of those regional unions were not attained by the application of the Treaty itself.

#### Policies of the EAEC or Euratom

The EAEC was given the task of contributing to the raising of the standard of living in the Member States and the development of relations with the other countries by creating the conditions necessary for the speedy establishment and growth of nuclear industries.

In order to perform its tasks, it was to promote research and ensure the dissemination of technical information and the protection of health. It was also given the task of facilitating investment, establishing joint undertakings, guaranteeing supply and monitoring safety, creating a common market in the nuclear sector and guaranteeing Euratom's external relations. A system concerning the ownership of special fissile materials was set in place.

#### Financial framework of the EAEC or Euratom

The budget of the EAEC consisted of contributions from the Member States, but the Treaty provided for the possibility of own resources being created.

Estimates were to be drawn up for each financial year of all revenue and expenditure of the EAEC, other than those of the Agency and the Joint Undertakings and entered either in the operating budget or in the research and investment budget. The budget consisted of contributions from the Member States, but the Treaty also provided for the possibility of own resources being created. The Commission was to place the preliminary draft budgets before the Council not later than 30 September of the year preceding that in which those budgets were to be implemented.

The Council, acting by a qualified majority, was to establish the draft budgets and forward them to the Assembly. The latter had the right to propose amendments to the draft budgets; however, the Council was then to discuss them with the Commission and, where appropriate, with the other institutions concerned. The Council finally adopted the budget, generally acting by a qualified majority.

#### Territorial scope of the EAEC or Euratom Treaty

The provisions of the Euratom Treaty applied to the European territories of the Member States and to the non-European territories under their jurisdiction. They also applied to the European territories for whose external relations a Member State was responsible.