Origin and development of the European Union

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The European Union is an **economic and political organisation** which is constantly evolving and which, because of its intrinsic and unique features, prompts lively doctrinal debate as to its legal nature. Because its institutional structure and decision-making procedures are so complex, it cannot be readily be assigned to any one specific category of international organisation. Combining, as it does, the methods of coordination and of sharing national powers, the Union is not comparable to a conventional organisation or a federal state, and it thus remains something which Jean Monnet called a 'new political form' or, as Jacques Delors dubbed it, an 'unidentified political object'.

The originality of the European Union derives from the special way in which its various constituent parts have evolved. The European Union came into being with the adoption of the Treaty of Maastricht in 1992, and it brought together **three organisations established in the 1950s to integrate activity in specific sectors** (the European Communities), and **two areas of intergovernmental cooperation** (common foreign and security policy and justice and home affairs). Since then, the resulting structure has been described as one with **three pillars**, the first of which is supranational, comprising the three Communities, each of which has its own legal personality. The European Union does not have legal personality, however, even though it encompasses the Community pillar and the two intergovernmental pillars within a common institutional structure.

The European Union is the first 'general-purpose' international organisation to be created not by a coordination of its members' national policies but by the pooling of some of those policies under the umbrella of the European Communities. The result of this pooling of policies was an innovative type of body — a supranational organisation — formed by the voluntary transfer of certain sovereign powers by its Member States. Member States did not surrender their powers: they decided to exercise them jointly at a higher level which had common institutions. Accordingly, 1951 saw the establishment of the **European Coal and Steel Community** (ECSC) and 1957 the **European Economic Community** (EEC) and **European Atomic Energy Community** (EAEC or Euratom).

As specialist organisations, each of the three Communities holds only those powers conferred on them by the Member States. The **principle of conferral** requires that each Community 'shall act within the limits of the powers conferred upon it […] and of the objectives assigned to it' by the treaties which established them (Treaty of Paris establishing the ECSC and the Rome Treaties establishing the EEC and Euratom). Likewise, the Community institutions — Parliament, Council, Commission, Court of Justice, Court of Auditors — assisted by an Economic and Social Committee and a Committee of the Regions, must each 'act within the limits of the powers conferred upon it' by the Treaties.

With the aim of creating an ever closer union among the peoples of Europe, integration has proceeded on a **step-by-step** basis, firstly by the pooling of policy on certain sectors of Member States' national economies, then by the creation of a common market, followed in turn by the gradual introduction of economic and monetary union. Notwithstanding its economic foundations, the objective of European Union was, from the outset, political. The **functional approach** taken by the 'founding fathers' of the Communities, Jean Monnet and Robert Schuman, implied that it was necessary to move from the economic to the political sphere. In effect, specific actions in a given sector of the economy were bound to have an impact on the way in which other sectors operated. The questions that this raised needed answers which implied political choices.

Accordingly, the completion of a common market involving free movement of goods raised the question of the movement of people, services and capital, and that required the introduction of a raft of supporting policies in the areas of competition, industry, agriculture, transport, research, etc. Ultimately — little by little — complementary policies addressing the problems of more sensitive national prerogatives were adopted. This was the case with social and fiscal policy. In addition, the organisation's internal policies had external ramifications which the organisation, as an entity under international law, had to manage in its dealings with non-member states and other international organisations. As a result, external relations were established in the areas of world trade, development aid, immigration, defence, etc.

Whilst the organisation is a constantly evolving one, the degree of integration achieved at each stage is the result of compromise which is not always easy to secure. The Member States, each with their own economic and social baggage and national susceptibilities, struggle between the benefits of solidarity and the drawbacks of having their political and budgetary autonomy curtailed, something often perceived as a surrender of national sovereignty. Meanwhile the organisation, in a way the victim of its own success, has to manage two inseparable processes at one and the same time: **widening** itself through enlargement, to include new Member States which have applied for accession, and **deepening** itself by extending its powers and institutional procedures. The imperative is to meet the legitimate expectations of applicant countries without undermining the operational efficiency of the common institutions. Consequently, the collective agreement put in place by the founding Treaties evolves pragmatically over time, reflecting the structure of the organisation, the priorities of the various players in the process of European integration, and changes in the geopolitical environment.

Major reforms to the founding Treaties were made with the adoption of the **Single European Act** in 1986, the **Treaty of Maastricht** in 1992, the **Treaty of Amsterdam** in 1997 and the **Treaty of Nice** in 2001. Of these, the Maastricht Treaty was the one which most radically altered the structure of the organisation. It established the European Union, with its pillar-based structure, and placed the EEC, now the European Community (EC), at the heart of the edifice. In 2002, the ECSC Treaty expired, after 50 years of existence. 2004 saw the signing in Rome of the Treaty establishing a Constitution for Europe, which must be ratified by all the Member States of the Union before it can come into effect. This ‘constitutional Treaty’ would repeal all the earlier treaties apart from the Euratom Treaty and would, at last, confer on the Union legal personality. The European Union established by this new Treaty would thus be the successor to the European Union established by the Maastricht Treaty and to the European Community.

The changes in the nature and operation of the organisation, brought about by successive revisions of the original treaties, reflect the degree to which compromise is possible at any given moment in history. In an increasingly enlarged and diverse Union, in the teeth of opposition from certain Member States and their obsession with sovereignty, it can sometimes seem that integration is not the way, or not yet the way, to address the new challenges which the world throws up. In such cases, the search for viable solutions acceptable to the greatest number leads to the adoption of new forms of intergovernmental cooperation (cf. Maastricht Treaty) or to enhanced cooperation by a smaller number of Member States which are keen to go further (cf. Amsterdam Treaty). That is not to say that an area initially dealt with by intergovernmental cooperation (cf., in the Amsterdam Treaty, visas, asylum, immigration) cannot subsequently be moved up to Community level or that a Member State cannot subsequently join a process of enhanced cooperation in which it was not initially involved.

Given the major enlargement of the European Union in 2004, fresh compromises would appear essential in order to ensure that institutions with 25 or more Member States can function. In response to the unsatisfactory outcome of the reform brought about by the 2001 Treaty of Nice, changes were made to the procedure for amending the original treaties by means of **intergovernmental conferences** (IGCs) in an attempt to make this procedure more flexible and more effective. Following the model of the Convention which drafted the Charter of Fundamental Rights of the Union in 2000, the European Convention met in Brussels from 2002 to 2003 with the aim of drawing up a draft treaty which would form the basis for the work of the next IGC. The European Convention consisted of representatives of the Heads of State or Government, the national parliaments, the European Parliament and the European Commission, and it introduced a new method of reforming the Union, offering greater transparency and more participation by the players concerned. Member States will still be the ‘masters of the Treaties’, but this new procedure, which is designed to be more democratic and more consensual, goes beyond the conventional method of multilateral diplomatic negotiations and further down the road towards the gradual constitutionalisation of the founding Treaties.