HIERARCHY OF DERIVED LEGAL RULES OF EU

Elena IFTIME

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Stefan cel Mare University from Suceava, Faculty of Economics and Public Administration, Department of Law and Public Administration
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Abstract
Among the concepts that explain the preparation of this article, two are priority: a) very special place occupied by Community law derived sources in the hierarchy of legal norms of the European Union and b) reform efforts made by the Lisbon Treaty 2007 (2009) and related to them.

Analysis of derived sources, in all its depth and extension of presented issues, requires some conceptual and historical clarification, after we capture their peculiarities against the main sources (especially institution treaties) which have given momentum and concreteness.

Defining note of derivatives sources is peculiar physiognomy of these legal acts adopted by the Community institutions, which were equipped even by institutive treaties with skills of this kind.

To this is added the legal force of such documents which vary considerably between them, some are compulsory (regulations, directives, decisions) and others being left at the latitude of the legal issuers involved in building the European Community construction (recommendations, proposals, resolutions, opinions).

Keywords:

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1 Professor PhD, „Stefan cel Mare” University, Suceava, Romania, elenai@seap.usv.ro.
1. GENERAL CONSIDERATIONS

Generally analysed, Community law sources consist of a set of legal rules, hierarchically organized, in whose peak is constitutive treaties\(^2\) of the European Communities, which have started the process of European integration. There followed, then, the reforming\(^3\) treaties on which has been strengthened and refined the European Community construction.

In this hierarchy must be identified, first, the primary sources (basic) and secondary sources (derivatives) of Community law\(^4\). An intermediate position occupies those documents that capture the external liabilities of the Communities with third countries, which do not qualify neither as primary law, nor as the secondary law.

In the light of the objectives proposed in this article, we will focus extensively on derived legal norms as outlined and evolved over time, with particular reference to the hierarchy of those rules by the Lisbon Treaty.

2. DERIVED LEGAL RULES OF EU: CONCEPTUAL CLARIFICATION AND HISTORY

European treaties to which we referred above could not fully cover the needs of regulations, consecration and defense of relations in the sphere of community life. Therefore, their provisions were, in time, supplemented and clarified by legal acts adopted by the Community institutions, which were equipped even through constitutive treaties with competences in this regard.

Being elaborated on the basis and in order to transpose into concrete Community Life, the dispositions of European Community treaties, these acts vary considerably between them, some with binding (regulations, directives, decisions) and others with non-binding character (opinions, recommendations, proposals, resolutions). Under the conceptual aspect, it should be underlined that the doctrine and practice of community life operates with the notion of community act in a broad sense and in a narrow sense. In broad sense, the notion covers any action arising from Community institutions in the exercise.

\(^2\) It is about the Treaty from Paris, 1951 (1952) which establishes European Coal and Steel Community (ECSC) and the Treaties from Rome, 1957 (1958) which was founded the European Economic Community (EEC) nicknamed Market Policy and the European Atomic Energy Community (EURATOM).

\(^3\) Of these, the most important were: Merger Treaty of executives – 1965; Single European Act (1986); The Treaty of Maastricht 1992 (1993); The Treaty of Amsterdam - 1997 (1999); Nice Treaty 2001 (2003); Treaty of Lisbon - 2007 (2009). This latter structure is treated TEU and TFEU.

\(^4\) Viorescu R., Drept constituțional și instituții politice. Editura Universității, Universitatea „Ștefan cel Mare” Suceava, 2006, p. 22.
Narrow, the acts of the EU institutions\(^5\) appear as expressions of the will expressed in order to create, modify, transmit or extinguish the legal effects in the Community\(^6\). By these acts, acquire and exercise rights, and fulfill the obligations it assumes (regulations, directives, etc.).

Over time, acts adopted by Community institutions have different forms depending on the nature of the issuing body. ECSC Treaty, for example, gave its institutions the power to issue three types of unilateral acts: decisions, recommendations and opinions\(^7\). Treaties from Rome 1957 (1958) have covered five categories of acts\(^8\) (representing derivative right of EEC and EURATOM): regulations, directives, decisions, recommendations and opinions.

In summary it can be retained as compulsory derived sources of Community law: Regulations (EC and EURATOM) equivalent in the ECSC recommendations; Decisions (EEC and EURATOM) equivalent to the ECSC decisions with special character.

As soft sources, were practiced EEC and EURATOM recommendations and opinions equivalent to the opinions of the ECSC. The provisions on the five categories of derived sources reappear in art. 288 TFEU, which states that “by exercising the Union competencies, the institutions adopt regulations, directives, decisions, recommendations and opinions”. As a novelty, the Lisbon Treaty establishes a certain hierarchy of rules of secondary law, to which we refer in details below.

All these derived sources are inferior legally, because subordinates as primary sources of EU law and principles governing relations in the sphere of community life. The effectiveness of secondary legal act depends not by the name under which it is adopted as the content, object and extent of its effects. Usually, constitutive treaties of community life forms specify the type of act that will show the legislature so that freedom of choice of the Community institution is more limited. However, if treaties do not specify the type of legal act that can be adopted by an institutional structure or another, it is possible the option for a Community legal act to be considered best suited to the Community objective to be achieved.\(^9\)

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\(^6\) As appear in regulating of the Lisbon Treaty, the basic EU institutions are: the European Council, the EU Council, EU Parliament, EU Commission, the Court of Justice of the EU Court of Auditors and the European Central Bank.

\(^7\) Art. 14 of the ECSC Treaty.

\(^8\) Art. 249 of the EC Treaty and art. 161 of the EURATOM Treaty, taken from art. 288 TFEU

\(^9\) Art. 253 of the EC Treaty, taken from art. 296 TFEU expressly provides that when the Treaties do not specify the type of act to be adopted, the institutions choose, on a case by case basis, in compliance with the applicable procedures and the principle of proportionality, the action that it considers appropriate and adequate.
The legal basis of the derived legal acts represent provisions from institutive treaties of the European Communities, which were resumed with modifications, additions and adjustments by reforming subsequent treaties (the latest being the Lisbon Reform Treaty).

Whatever the type of derived legal act and the institution from which it emanates, any source of law of this kind must be justified to clarify its content and for better transparency and support of its necessity and opportunity. Lack of motivation, but even its failure can be considered formal defects, with legal consequences arising from this.

To make them enforceable against those whom it is addressed, derived legal acts are published in the EU Official Journal, and enter into force on the date specified in the text and in the absence of explicit mention in the 20th day of their publication. They are subject to this form of advertising: regulations, directives and decisions adopted by co-decision procedure, also the Council and Commission regulations plus their directives addressed to all Member States. Other directives, decisions are not taken by co-recipients to be notified so that takes effect from the date of notification, although the information is published also in the Official Journal of the EU.

Applying these Community Law sources in time is subject to the principle of non-retroactivity of the community law, retroactivity being usually prohibited on grounds of stability and legal certainty of the community life. Exceptionally, such norm can have retroactive nature, if it contains an express mention, in this regard, and if the legitimate interests of those interested are not being harmed.

Temporal application of Community law these sources is subject to the principle of non-Community law, retroactivity is generally prohibited on grounds of stability and legal certainty of community life. Exceptionally such a rule may be applied retroactively if it contains an express mention in this regard, and if not harmed the legitimate interests of those concerned.

In addition to the derived sources mentioned above, at Community level are adopted other categories of acts, representing expressions of the will of the community structures, but devoid of legal effect. Communications, statements, general programs, “deliberations”, conclusions and resolutions adopted by the representatives of the Governments of the Member States, EU institutions or by the heads of state and government, are placed in a special category of “sui generis” documents. Their importance is unquestionable because they are the fruit of discussions, negotiations, agreements on particular aspects or rules and principles on which Community acts must be based.

Moreover, their content can be absorbed in compulsory derived sources (regulations, directives, and decisions) or influence recommendations or opinions.
a) General considerations

As we show, in what has preceded, the Lisbon Treaty 2007 (2009) arranges legal acts of the Union, with derivative character in an original way. Thus, after the art. 288 TFEU announced five categories of derived sources by the following items (289, 290, 291) in a well-supported logic, grouping acts, listed in three categories, namely legislative acts, delegated acts and implementing acts. Th legal acts have a legislative character adopted by an ordinary or special legislative procedure. The ordinary procedure is described in Article 289 TFEU, with reference to art. 296 of that Treaty. The procedure itself consists in the joint adoption by the European Parliament and Council of a regulation, directive or decision, on a Commission proposal. The followed procedure is presented in detail in art. 294 TFEU and begins with the Commission's proposal to the European Parliament and Council. Each of the institution are referred to state its own position after reviewing the proposal, on first or second reading. At need, is notified the Conciliation Committee within the period prescribed in the Treaty, that can approve or reject the joint project of the two institutions. If the joint project is approved, the European Parliament and the Council have a period of six weeks to adopt the act.

In specific cases provided by the Treaties, the adoption of a regulation, directive or decision by the European Parliament with the participation of Council or by the Council with the Parliament participation, is subject to a special legislative procedure.

Whatever the procedure followed, the legal acts have characters of legislative acts. In specific cases provided for in the Treaties, may be adopted legislative acts by a group of States or the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.

- **Delegated acts** are non-legislative acts, instead have general application, being adopted by the Commission, on the base of competence delegation, in order to supplement or amend certain non-essential elements of the legislative act. In the case shown, the legislation expressly defines the objectives, content, scope and duration of the delegation. TFEU provides that “the essential elements of an area shall be reserved for the legislative act and cannot therefore be subject of delegation”\(^\text{11}\). Also, are set conditions for the implementation of the delegation, namely: the possibility of revoking the

\(^10\) Regulation, directive, decision, recommendation, opinion.
\(^11\) Art. 290 of the TFEU.
delegation and the formulation of an objection by the European Parliament or Council.

To avoid any confusion with the rest of Union acts, the title of delegated acts must contain the adjective “delegated”.

- **Implementing acts** are adopted usually by the Commission, which is empowered to legally implement binding acts of the Union. Art. 291 of the TFEU states that “Member States shall take all necessary national measures to implement legally binding acts of the Union”. The same article, in paragraph 2, adds that “Where are required uniform conditions for implementing legally the binding acts of the Union, those acts shall confer to the Commission implementing powers or, in special and justified cases, and in the cases provided for in Articles 24\(^{12}\) and 26\(^{13}\) of the Treaty on European Union, Council.

Regarding the jurisdiction of the Commission in the field, the article 291 para 2 makes express mention that “The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall determine in advance the rules and general principles concerning mechanisms for control by Member States to exercise the implementing powers of the Commission”. If a draft of implementing act exceeds its powers established by the Commission “The European Parliament or the Council may alert the Commission to review the project. To avoid any confusion with other Union legal acts, title documents under consideration must contain the word “implementation”.

**b) Mandatory derived sources**

- The **regulation** is considered the most important of derivative Community acts, with general application, binding in its entirety and directly applicable in all Member States. Unlike other legal acts of the Community institutions, binding rules “addresses to an abstract category of people being laws by definition”\(^{14}\) (near the low from the domestic legal order). Defining characters are: broad applicability, its mandatory provisions and direct applicability (in all Member States).

\(^{12}\) Art. 24 TFEU relates to the Union’s competence in matters of common foreign and security policy, which include, according to the treaty, all questions relating to the Union’s security, including the progressive framing of a common defence policy that might lead to a common defence. This policy is subject to specific rules and procedures, as defined and implemented by the European Council and the Council. Decisions shall be taken as a unanimously rule and adoption of legislation is excluded. To implement this policy at Union level, the government established the High Representative of the Union for Foreign Affairs and Security Policy, who together with Member States transpose this policy alive.

\(^{13}\) For the purposes described above, art. 26 TEU reaffirms the competence of the foreign policy and security policy, under which it adopts decisions necessary for defining and implementing it on the basis of general guidelines and strategic lines defined by the European Council. Common foreign and security policy is implemented by the High Representative and Member States using national and Union means.

\(^{14}\) C. Lefter, *op. cit.* , p. 37.
• **The generality of regulations** is not contradicted by the fact that the Regulation “contains rules applicable to different situations with different specific effects or the fact that this act is limited to territorial application”\(^\text{15}\).

• **Regulations mandating** result from the clear content of Community treaties and assumes that at the date of entry into force, they will apply the same legal force in all EU states.

• **Direct applicability** (in all Member States) is a feature which keeps separate legal physiognomy of this derived source and not supposed to be incorporated into national legislation by a national law to produce the expected results. Therefore, EU states “could not suppress or modify the contents of regulation and to adapt it to specific needs”.\(^\text{16}\) It follows that the regulation is operated in areas of exclusive EU competence. As integration tool seeks uniform legal rules applicable in the Member States, automatically substituting national regulations concerning this issue. Have the power to adopt regulations: EU Council together with the European Parliament (in co-decision procedure); EU Council; EU Commission (under its jurisdiction or by delegation of power by the Council or the European Central Bank).

Regulation shall enter into force on the date specified in it, in the absence of provisions in this regard, 20 days after publication in the OJEU.

**Directive**

The presence of the directive among the sources of European Community law is justified by the need to standardize legal instrument based on the allocation of tasks and cooperation between national and EU level. It is a more flexible and easily adaptable instrument to the national peculiarities and fas as first function to harmonize national laws. The directive is adopted by a method of lawmaking, very special, held on two levels. At Community, level is established the regulatory framework of the various objectives related to the Community institutions. Nationally, the legislative procedures of each Member State, the legislative content of the directive is transposed by virtue of the obligations imposed on the recipient state.

As individual act and indirect legislation instrument, the Directive emanating from community structures empowered to do so: the EU Council; Council of the EU with the European Parliament; Commission (under its

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jurisdiction or as a result of the delegation from the Council). The adoption procedure can be one ordinary\textsuperscript{17} or special\textsuperscript{18}.

Of those summarized above, may be discerned the fundamental features of the directive, some characters approach the regulation.

- **Mandating the directive** is quite clear from the content of the Community Treaties, the most recent of them (the Lisbon Treaty) by art.288 specifying that “the directive is binding on each Member State of the result to be achieved ..”. The wording of this article results that the general has no binding force because the Directive has as standard “result to be achieved”, so that this result is far its obligation. Achieving the aim of the directive is likely to limit the powers of the Community institutions and Member States to increase responsibilities to Community objectives.

The freedom to choose forms and methods needed to achieve the result prescribed by the directive, are assigned to national authorities. It is a feature drawn directly from the Treaties, constantly validated by the Community legal practice. In practice, the EU Court of Justice ruled that “the form and methods of implementation of the result prescribed must be chosen in a manner that ensures effective operation of the directive”.\textsuperscript{19}

- **The immediate application of the Directive** is a specific feature of the entire community system, but if it has some specific nuances. Usually, the immediate application of rules of Community law requires its integration into national law of the Member States, by the simple effect of its adoption at Community level. If the directive adopted at Community level is only the first phase of its application, which is generating concrete rights and obligations for those to whom it is addressed. The indirect effect\textsuperscript{20} occurs after the transposition into national law (including the deadline of 1-3 years). By transposing the directive, the receiving State is obliged to refrain from any action likely to compromise the purpose of the Directive.

- **Irrevocability of the directive** is expressed in the fact that even without direct effect against internal rules may be invoked in domestic courts, the national court is obliged to ensure the application of the effectiveness of Community provisions. Irrevocability can look: conform interpretation, State

\textsuperscript{17} Ordinary legislative procedure consists in the joint adoption by the European Parliament and Council of a Directive, at the Commission’s proposal (art.294, para 1 TFEU).

\textsuperscript{18} Special legislative procedure is applied in specific cases provided for in the Treaties.


\textsuperscript{20} The applicability of indirect rule of the Directive, certain exceptions are allowed where one can see the direct effect of the Community legal act consisting of the power conferred by the Directive to create, by itself, directly on individuals’ rights and obligations of Member States and to impose specific measures. The effects of targeting both the relations between people and their relationships with the state to which it belongs.
liability for failure or improper transposition of the Directive (irrevocability of repair) and the impossibility of exclusion of European rules to apply it in domestic regulation (irrevocability of exclusion).

- **Intangibility of directive** stems from the rationale for which was adopted and the functions it performs. Therefore, no changes can be made in the content of the directive after its adoption. Intangible directive is absolute, so that only competent court could bring some corrective adjustments.

Entry into force of the Directive also raises some particular issues. As we looked, the directive can emanate only from the Community institutions and can address all states (frequent situation) or may address only certain states.

If the directives adopted by the EU Council and the European Parliament and of the adoption by the Council and Commission and which are addressed to all Member, entry into force occurs 20 days after publication in the OJ, unless expressly provided in the text of the Directive. Well-grounded reasons, effective date may coincide with the date of publication or date of adoption, if the conditions of advertising. Directives addressed only certain states, even a single state, are notified to their addressees, producing specific effects at this time, without justifying a general advertising. Each has its reasons for its specific directive, imposed by the need for collaboration between national and EU level, expressed above all in harmonizing Community and national regulations. Therefore, it requires a clear and precise motivation in fact and in law of each individual directive.

- **The decision** is, also, a mandatory secondary source of Community law, not to be confused with the decision of the ECJ decision or framework decision or simple decision adopted at the former pillar II (CFSP) and III (JHA) of the EU. In defining and characterizing the decision, specialized authors start from regulations that have succeeded over time\(^2\). The last of these has its headquarters in art. 288 TFEU, which took over the art. 249 TEC in formulating the “decision is binding in its entirety. If the recipients indicated, the decision is binding only on them.” The texts of treaties, including from Lisbon, speak about decision taken without specifying what they were. By comparison with other binding derived sources, legal doctrine considers that recipients are one or more states, one or more individuals (natural or legal). It follows that through these legal means, the Community institutions adopted individual administrative acts applying Community law to specific cases. Under this aspect, decision differs from regulation, as shown, effect “erga omnes”. Equally differs from the directive, which is a measure of its obligation “result to be achieved” and directly creates rights and obligations in the person of whom it is addressed.

\(^2\) They have relevance to the matter in question art. 4th 189 EEC, art. 16 of the EURATOM and ECSC 4 article 14 al.2. Then came the art. 249 TEC, taken from art. 288 TFEU.
Sources of decision must be sought in the competences of authorized Community institutions in this regard, the European Council\textsuperscript{22} and the European Parliament\textsuperscript{23}, Commission\textsuperscript{24} (under its jurisdiction or because delegation from the Council) and the European Central Bank\textsuperscript{25} in its area of competence.

The characters highlight the legal nature of the decision to close it in some respects from other binding legal acts, distant from others.

- The particular note of the decision is that it addresses a limited number of recipients (even mentioned in the decision) and which are identified or identifiable. It has so individual character through this feature differing from regulation and a directive.

- Decision obligation is expressed in the direct decisions that impact on the recipients so that they can invoke (direct) before the national courts. As required by art. 288 TFEU, the decision is binding in its entirety, resembling and differing rules of the Directive. The decision obligation excludes the freedom of addressees to choose the means that can be brought to fruition. In other words, it is not permissible their completion by implementing measures adopted at the state, national level. On the other hand, a person may assert their rights granted by a decision addressed to a Member State only, if the latter has adopted an implementing act. Under this approach the directive is close to decision.

- Decisions have not a general character, because produce “inter partes” effects. They have legal physiognomy of “individual administrative acts by directly applicable rules of Community law”.

- The immediacy and direct applicability of the decision, requires some clarifications and distinctions. Unlike the Directive, the decision fits into the national law of its recipients since the adoption of the Community. It is not therefore necessary means and national forms of intercepting it. The immediate application is coupled with direct application in the person of whom it is addressed and that “leaves to recipients no discretion no discretion regarding its application”\textsuperscript{26}.

\textsuperscript{22} In principle, the European Council has no legislative functions, but in problems configurations of the Council is empowered to issue a decision establishing their list (with the exception of formations: General Affairs and Foreign Affairs - par.6 Article 16 TEU). Everything is determined by a decision of the presidency of the Council configurations (with the exception of formations: General Affairs and Foreign Affairs - al. 9 Article 16 TEU). Qualified majority takes both decisions.

\textsuperscript{23} Since the Treaty of Maastricht - 192 (1993), the Parliament and the Council may adopt common decisions

\textsuperscript{24} For a long time the main source was the Commission decision to which was added the EU Council and the EU Maastricht Council added together with the European Parliament, and then the European Council (241, 135 TFEU)

\textsuperscript{25} With the entry into force of the Treaty of Maastricht, the European Central Bank is empowered to take decisions, being abroad and on their release.

\textsuperscript{26} Gy. Fabian, \textit{op. cit.}, 2012, p. 128.
Given the wide range of issues covered, decisions know a great variety; can be grouped according to certain criteria such as: the nature of the conduct prescribed, subject to regulation, their recipients.

Motivation and advertising aspects influencing the decision are the effects and strength. A decision is presumed to be lawful but normative force depends on whether her clear reasons, precise, relevant, especially when their frequency is rare.

If decisions have developed a common practice, constant is admissible also a summary motivation that can be completed with some arguments outlined in the previous practice.

Concerning advertising, must distinguish between decisions that have a date fixed in them, and those lacking such a landmark. In the first case, the decision shall enter into force on the date recorded, provided if is notified to the recipients. If such indication is missing, observe the general rule established, namely entry into force of the decision in 20 days after publication in the OJEU. In addition, in this case decisions require notification of recipients, making them inapplicable, without touching the substance of such looming regulatory rule that the decision shall enter into force on the date of communication, even if it was published.

c) Derived non-binding sources

_Community non-binding acts_ (opinions, recommendations, proposals, and resolutions) are considered also secondary sources.

Their legal route starts right from the primary treaties, namely: ECSC Treaty that provide opinions; EEC and Euratom Treaties which provided recommendations; EC Treaty (Article 189 al. 1 TEC, as amended by Article 60 TEU). Lisbon Treaty (TFEU) mentions these sources in art. 288, which in the final paragraph states that “The recommendations and opinions are not binding”, but with a political and moral significance.

As stated in art. 189 of the, 1, 5 of the EC Treaty (amended by Article 60 TEU G) “for carrying out their duties and under the Treaty”, Community structures empowered recommendations and opinions are not binding.

Lacking the “binding force”, they cannot be considered as major sources of Community law. Such evidence cannot, however, completely ignored because they have value as “very useful tools to guide behaviors and laws”\(^27\), especially if we consider their moral force, provided by the authority and prestige enjoyed by the community structures from which it emanates.

Addressed by the Commission or other Community institutions and bodies, actions or states, the opinions\(^28\) expressed a fact, an opinion when the


\(^28\) We mention as an example the Irish Government notice to the Commission, which concerned the harmonization of certain regulations on road transport (September 1978).
Commission or Council recommendations appear as suggestions, invitations for states to adopt certain rules of conduct. So viewed, opinions and recommendations appear as a nearby indirect sources of national laws and “no directive differs only by the absence of its binding force” (Gyala 129). Being soft, recommendations and opinions do not follow the usual procedure of adoption, representing the views of the institution from which it emanates. Only exceptionally recommendations of ECSC system, they were binding (being assimilated directives) and the adoption procedure were established for them.

• **Recommendations**

As defined by article 249, the TCF, recommendations are non-binding Community acts, not for their author nor the recipient thereof. The Recommendation aims to achieve a certain behavior or action by the addressees voluntarily and not forced.

They are used in areas where the Community has no legislative power or “when adopting binding decisions is subject to a transitional period, in which they intended to prepare countries to meet future obligations”\(^29\).

The recommendations bear the imprint of beliefs and visions of the whole community institutions, so political significance is added and a moral component.

Not being binding, the recommendations are not generating legal rights and obligations, which can be invoked before national courts. And they will acquire binding provisions in that respect. But it can indirectly generate some legal effects\(^30\). Moreover, national courts are obliged to take them into account when their subject is the interpretation of provisions of Community law. The CJEU has consistently held that national courts must use the recommendation as a tool for the interpretation of national measures taken to implement them. The recommendation also can join other binding Community measures.

The **opinion** can be issued by all Community institutions and bodies.\(^31\)

As we looked in those that preceded, the expression of their beliefs or terms by the Community institutions can take the form of an opinion, where such recommendation is not legally binding.

In concrete cases, a Community institution can express their opinion through an opinion, both ex officio and at the request of the concerned natural or legal person. The opinion can be asked by a Member State or the Community institution concerned to find a point of view of the issuing institution.

From case to case, requesting an opinion may be compulsory or optional. In turn, the request of binding opinions are divided into: *advisory opinions and...*
Although there is no request obligation, once obtained, the advisory opinions are respected or not, depending on the attitude of those who were forced to request them. On the contrary, opinions in accordance become mandatory for those who were forced to request them.\(^{32}\)

Certain features present the opinions of ECJ or community bodies (other than institutions). CJ, for example, issues such notices to ensure compliance with Community law in the interpretation and application of treaties. Such opinions can be positive or negative. On joining C.E. to the European Convention on Human Rights, for example in 1996, the Court ruled a negative opinion, 10 years later the same Court issued a positive opinion prepared, inter alia, EU accession to the ECHR.

As community opinions, given the technical advisory character, they have a substantial contribution to the Community decision. Most often, they are mandatory on request, but once obtained have an advisory nature.

**4. CONCLUSIONS**

A careful and painstaking analysis of the sources of Community law points out that in the hierarchy of legal norms of the EU treaties peak is the fruit of negotiations states were engaged in building a united Europe towards integration. We consider both institutive treaties of the European Communities, which have started the process of European integration and reform treaties adopted within 1950-2007, which ensured the consolidation and improvement of building the European community.

Given the scale and, especially, the complexity of the original forms of cooperation between European nations, treaties have often remained at the stage of general formulations to meet the needs of regulation, consecration and defense relations in the sphere of community life. Matters of detail, additions and embodiments to Community objectives had legal regulations source the derived source of Community law, binding some others left to Member Community. Analyzing Community acts adopted on the basis of the concrete in order to transpose into Community Life the European Community treaties, we have considered the double sense that they come under concrete and enforceable.\(^{33}\)

Broad sense refers to any action coming from the Community institutions in the exercise of specific, while its narrow, concrete, appropriate, aimed acts of the

\(^{32}\) In many areas, the EU Treaties oblige the Council to seek the opinion of the EP, Economic and Social Committee and the Committee of the Regions, it needs to adopt a certain type of legislation. Also, when the Parliament in a timely and justified give an opinion worth assent, EU Council must take into account when adopting specific legislation.


Community institutions, as expressions of the will of their expressed purpose of giving birth, modify, transmit, off legal effects in the Community. Documents that are acquired and exercised rights shall assume and fulfill obligations (regulations, directives, decisions, opinions, recommendations, etc.).

Equally, we outlined the specific legal physiognomy of these sources, taking into account the different forms they dressed, depending on the nature of the issuing body.

Although an incontestable legal value, their strength is lower to primary sources and principles governing the relations of community life. This relationship of subordination is expressed in the fact that, usually, the Treaties establishing the Community life forms indicate the type of act, which expresses the legislature. Therefore, freedom of choice of the Community institutions is more restricted. Exceptionally, in the absence of express mention in the content of the treaties, institutional structures can choose the type of legal act that can be adopted, depending on the nature of the objective to be achieved.

In conclusion, the legal basis of acts of Community institutions (as derived sources) is the institutive provisions of the Treaties of the European Communities, which was resumed with modifications, additions, adaptations by reforming subsequent treaties (the latter being the Lisbon Reform Treaty in 2007 (2009)). This latter ordered the Union acts derived character in a novel manner, grouping them into three categories: legislative acts, delegated acts and implementing acts. Each of the categories of mentioned acts have their own distinctive meaning and notes. Legislative acts are adopted by ordinary or special legislative procedure, whereas delegated acts, although not legislative, those components have general application of the legislative act, which have supplemented or amended. Implementing acts pertaining to the rule for the Commission are designed to enforce binding acts legally. For each species of act of secondary Community Lisbon Treaty brings numerous clarifications, additions designed to adapt to the characteristics and needs of this stage and further strengthen the structures of the European Community.

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