THE DIALOGUE BETWEEN INTERGOVERNMENTAL COOPERATION AND SUPRANATIONAL INTEGRATION IN BUILDING THE UNITED EUROPE

Elena IFTIME

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Abstract:
It is spoken in the theory and practice of our community construction about Europeanization, a democratic process which involves the dialogue of at least two trends: that of state’s cooperation at intergovernmental level and their integration at a transnational level. This dialogue took shape and force increasingly, by translating the idea of European unity in the following fields: political, economic, social, legal, cultural, scientific, technological, etc. Due to the complexity of European Community system, this dialogue is not exactly easy to noticeable and described. What can be said for sure is the fact that if the transnational strategy was premeditated and thoroughly prepared by the founders of European integration, the intergovernmental strategy must be seen as a natural reaction of a Europe which is diverse, so united and so careful to the path is heading. A Europe as diverse as it is, and also united by the roots of its political-administrative, economic, religious and cultural identity.

The intention of this article is to point out the most significant moments of the dialogue in the title “from the building establishment of European Community to Lisbon Treaty 2007 (2009) which ends the dialogue by strengthening the “transnational” and tempering the “intergovernmental.”

Keywords:
cooperation, supranational integration, unity, institutional dimension, legal dimension.

Classification JEL: J51, J52, J53.

I. THE IDEA OF EUROPEAN UNITY.

The origins of the idea of Europe’s unity date back since the Antiquity, in the Roman conquests which according to some authors\(^2\) were motivated by such trends. The cohesion of Roman Empire “was assured by Roman law and a unitary administration”\(^3\) which imprinted a strong impression upon the conquered areas and which were held under foreign domination until 395 when the Roman state split permanently in the Western Roman Empire (which survived until 476) and the Eastern Roman Empire which continued until the death of emperor Justinian, when became the Byzantine Empire, abolished in 1453 once with the conquest of Constantinople by Mehmed the Conqueror\(^4\).

In the spirit of European unity can be seen also the attempts to restore the borders of the Roman Empire, especially if we consider the efforts of Charlemagne between 768 and 814 to complete this idea\(^5\). Being a union created with the cross and sword, it collapsed once with the death of the emperor, his successors being unable to complete their predecessor’s idea. Religious, political and economic conflicts divided Europe favoring the confrontation between two directions: that of Pontifical unity and that of imperial unity. However, the idea of European unity was reborn in other attempts to restore it which had the seeds in the European civilization based on the same way of thinking, feeling and acting\(^6\). For the eighteenth century, are representative the projects proposed by: the French abbot Saint-Pierre which in his work “Le profet de paix perpétuelle” outlines the shape of European Union, or the English economist Jeremy Bentham who suggests an eternal piece in a United Europe as a confederation of states, having a common defense system. In the same register is also the philosopher and jurist Immanuel Kant who suggests an association of states which go beyond the European continent.

It appears therefore a new political reality in Europe which “imposes slowly but surely its supremacy in this space, announcing a modern Europe: sovereignty of states\(^7\).

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\(^2\) O. Bibere, *Unieunea Europeană între real și virtual*, Publisher All Educational, 1999, p. 7.
\(^6\) Tomasso Campanella, for example, in his work Monarhia Messiae, 1605, tries to sustain the advantages of an economic union; as Emeric Cross, in his work „La nouveau Cynee” sees the unification of Europe through religious reconciliation (Catholic Church proposes a model through its supranational leadership, unified dogma, social and cultural commitment) through its own identity expressed by religious customs and to architectural style of the churches and European domes, edifying a genuine *Sacrum Imperium* (G. Fabian, op.cit., p. 14)
The idea of unity is tempered, in the idea’s advantage of dividing the continent not only political but also religiously and economic. The sovereign states appear, with borders which don’t become only geographical separation criteria but also linguistic, economic and social.

This explains the fact that in the nineteenth century Europe has the configuration of a divided continent with contradictory trends: of decline and decay of some countries (France, Austria), and re-crystallization of others (Germany, Italy). To this is added the industrial revolution, the scientific and technical progress, the nationalist ideas that emphasize the division, foretelling events of the twentieth century. The alliances formed now, formed now on contradictory interests and a precarious balance, are changing depending on political circumstances and others.

Beyond these conflicting interests, can be discerned patterns of community life, trade, scientific and cultural development favored by the means of communication, information and diffusion of knowledge. It is illustrative in this respect the model proposed by the magazine United States of Europe\(^8\) or that of the “Prussian customs union\(^9\)”. Even better is shaped the project of the United States of Europe brought in question at the Political Science Congress which took place in Paris in 1900.

The political fragmentation of Europe various attempts of political domination have not suppressed the idea of European unity and have not undermined the community based on elements of tradition, language, religion, political and cultural organization. Therefore, World War One finds a Europe in a double paradox: that which desires unity through the mentioned common elements and the one of national states.

After World War I, the revival of a new European unity is taking shape in the intentions of the Austrian Count Richard Nicolaus Coudenhove-Kalergi, made public in his work “Paneuropa” (1922)\(^{10}\), in which was expected the establishment of a European federation by abandoning the national sovereignty of states. Under the patronage of the Count was initiated and developed a movement in favor of a Pan-European Union, aiming to unify the 26\(^{th}\) Democracies of Europe (formally) in a structure inspired by the Pan American Union model. The sustainers of this movement met in Vienna (1929) in a Congress which brought together an impressive number of states which have discussed the main coordinates of a European confederation: the guarantee of equality, sovereignty and confederate security, creating a military alliance,


\(^9\) It functioned between 1834-1867.

\(^{10}\) The book develops in detail, the idea of a customs union, a united economy and the establishment of common institutional structures. For further details, please see Coudenhove-Kalergi, *Pan-Europe*, Coll. Institut universitaire d’études européennes de Geneva, Paris, PUF, 1988.
administration of a customs union, establishing a common currency, share in common the exploitation potential of Member States, respecting each state’s culture, protection of national minorities, collaboration with other countries in the League of Nations (in international relations).

Representative for that time and for the realization of the idea of European community, is also the work of the Dane Heerfordt, entitled suggestively “Europa Comunis” in which was profiled an European federal state of whose institutional system was close to the one that took shape later: a parliamentary assembly; a directorship made by heads of state with veto power; a federal ministry responsible to the assembly.

It followed then, the proposal of the politician Aristide Briand (then the French Foreign Minister and President of the League of Nations) for the purpose of constituting a federal bond between the peoples of Europe, without prejudice the sovereign rights of nations concerned. The proposal was made to the Tenth Assembly of the United Nations in a memorable lecture and was accepted by Germany through its foreign minister. Among many European countries the proposal had a positive echo but was received with caution by others and rejected by Great Britain. Finally, Aristide Briand was mandated by the representatives of 27 European Member States of the League of Nations to deepen this proposal, so that in 1930 the government of which he was, presented a “memorandum regarding the organization of a system of Federal European Union” but which overlapping the period of crisis 1929-1930 and the rise of Hitler, was never applied. A serious opposition was made by Mussolini which among others insisted upon sharing the British colonies between continental European countries. The project’s ideas, quite advanced for that time\textsuperscript{11} have later revived, providing the terminological support of the European community such as: common market, customs union, the movement of goods, capital, services and people.

But there was also another idea of European unity base on the policy promoted by Hitler during World War Two, a policy of force, violence, unilateral will. Such an orientation has counterweight the idea of Europe’s unification based on the independent European states, on the free consent of this union acceptance.

The concept of European federalization was supported by groups such as: “European Federal Movement”, founded by Altiero Spinelli and Ernesto Rossi; the “combat” movement from France (1941)\textsuperscript{12} having as founders on

Henri Frenay, Albert Camus, Edmond Michelet, etc. In some conceptions, federalization of Europe had to be carried out in several stages: an economic union, followed by political union. This last idea is not new because at the middle of nineteenth century the German economist Friedrich List said that “trade union and political one are twins, one cannot be born without being followed by another.”

In the same registry must be enrolled the anti-Nazi resistance born from countries like: Germany, Czechoslovakia, Denmark, France, Italy, Yugoslavia during the Second World War. In 1944, in Geneva took place a meeting of representatives of resistance, followed by several other meetings under the slogan “Federation instead of anarchy” to agree upon some saving solutions for the problems of an exhausted and traumatized Europe. From these meetings has been born the “first political act of European Federalists and the first call to coordinate resistance movements”. It took the shape of a draft declaration of the European resistance based mainly on the idea that “the anarchy created by 30 sovereign states in Europe must be overcome by creating a new federal order of the European states, order which had to prevent any other wars between the European states, to prevent conflicts in territories with a population of mixed ethnicity, to prevent hegemony, limit the right of sovereignty in areas such as defense, foreign relations and economic policy, make it possible to solve each people’s problems according to its ethnic and cultural characteristics”.

The movement took shape and a force so pronounced that created a permanent coordination office for issuing countries under Nazi occupation and for the construction of a “Federal Union of European Peoples”

Strongly marked by the conjuncture of the Second World War and its consequences on European level, this Union should have a government responsible to the peoples, army placed under the orders of the government and a supreme court. Very important was the statement that Germany and its allies to be forced to rebuild all the affected countries by war. To this is added the total disarmament of Germany and submission of a European federal control.

Among the initiatives of the first half of twentieth century must be retained the proposal of the British prime minister W. Churchill which after he said that Europe “must federalize or perish”, launched in 1943 the idea of a “federation of European states under the leadership of England and with the exclusion of the USSR”. The same influential British politician resumed

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13 One of Hitler’s opponents, Carl Friedrich Goerdeler went so far to propose the appropriate institutional structures, such as: the European economy ministry, a ministry of foreign affairs. For details, please see: H. Halin, op.cit., 2012, p.14
15 Quoted after F. Fabian, op.cit., 2012, p. 15.
16 O. Bibere, op.cit., p. 21.
17 G. Fabian, op.cit., p. 16.
officially his idea about the United States of Europe in 1946 in a lecture at the University of Zurich. Under the motivation of socio-political motivation, but especially economic in Europe he expressed the wish of reconstructing the European family structures “which allow to live and grow in peace, security and freedom”\(^{18}\).

At the time when these words were uttered, the “schism” between the big winners was already confirmed and division of the continent caused by this was a certainty. Therefore “only the governments and the peoples of the western continent will take part- for forty-five years until the fall of Berlin’s wall, the collapse of communism and the great “retrievals”- to the great political construction movement of Europe.\(^{19}\)

Back to Churchill’s speech, it should be noted that this was the first received with quite reservedly by the politicians or the continental press. The history proved that the first efforts to build some structures of interstate cooperation were based not only on visions but on national interests and of reconstruction of Europe through cooperation and integration.

**II. COOPERATION OR INTEGRATION IN THE RECONSTRUCTION OF EUROPE?**

In the first half of the twentieth century, the “European idea” was raised to the rank of a direct initiative of continental unity, especially through cooperation so that in the second half to enshrine its launch and the upward trend of European integration. This associative form appears as a superior historical unit in relation to the previous ones, because “based on shared norms and common values the European states have established special economic and political connections in long term”\(^{20}\).

At this point of our approach must be point out some common features but especially the distinctive notes, of the two associative forms of live.

**The cooperation** which broadly requires the collaboration of some independent economic and legal partners, it is possible between all peoples of the world in conditions they agree, leaving untouched their structures and entities. Through assumed commitments under the international law, the states are obliged to harmonize or modify the internal legal order for achieving mutual benefits.

**The integration**, which semantically suggests the incorporation into a whole of its parts, can only be achieved between neighboring states entities,

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\(^{19}\) Ch. Zorgbibe, *Construcția comunitară. Trecut, prezent, viitor*, Publisher Trei, 1998, p. 11

\(^{20}\) Elena Iftime, *Construcția comunitară europeană*, Editura Didactică și Pedagogică, București, 2003, p. 3

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regionally, in terms established between the parties, developing new common legal rules under which to represent entities and structures distinct from the original ones. If for cooperation, collaboration is achieved without creating special institutional structures, the integration is not about “a simple functional cooperation of some sovereign states, requiring the creation of central institutions with decision-making competence”\(^{21}\).

I have only sketched the legal status of the two ways of making the world circuit of material and spiritual values; to facilitate the understanding of this evolutionary process called “European integration”. It was ideological prepared to perpetuate the idea of European unity, while political and economic by the events in the range of 1945-1949.

After the terrible tests of the two world wars in which Europe has lost its economic leading position, paying a high price in people and goods, the European countries began to think more deeply about the necessity and possibility of rebuilding their unity in a peaceful way.

Seeking to get out of impasse and decided not to repeat any mistakes of the past, the European nations have opted definitive for the European integration. It is now revived the idea of European unity, a strong movement to an international policy which is able to stop another world war and which strengthens economic Europe to the U.S has begun to develop\(^{22}\).

The history has proven that the moment and the formula of European Recovery have been auspicious. And the wisdom to experience this path has driven Europe out of the deadlock, bringing it within a few decades among the largest economic powers.

The efforts of six European states\(^{23}\) (former belligerent), clairvoyance and their good faith led to the birth of the first European Community which proposed to exploit in common and to exercise joint control over coal and steel. The choice is not random, the two resources having a symbolic value for the modern warfare, sources of some unimaginable conflicts related to the productions of weapons of war and its distribution. The success gave impetus so that the same states, after seven years have negotiated and signed a treaty with higher aspirations: elimination of all obstacles to the free movement of persons, goods, services and capital, identifying opportunities in all areas of economic life. In the shown meaning, in March 1957 was signed the birth certificate of the European Economic Community, the treaty of establishing this community being “the most important through its legal basis in the economic integration process, a novelty in international law which triggered a novelty in the international


\(^{22}\) O. Bibere, op.cit., p. 32.

\(^{23}\) France. Germany, Italy, Belgium, Netherlands, Luxembourg, which in 1950 founded ECSC.
economic system. For the regulations of European integration, the Treaty which established the European Economic Community, presented a “lex generalis Community” namely a law act of which provisions could be used in the other areas, in lack of specific regulations.

Establishing a community system, with common political institutions the treaty presents some of the features of a Constitution, but also of a framework agreement which establish general objectives, powers of institutions, some common rules and procedures. Less visible are the political aims or methods used in building an integrated construction. Overall the EEC Treaty made possible the economic integration and its acceleration in a fast pace with results based on the single market, single currency (euro), protection of free competition between companies; financing funds and socio-economic cohesion; common policies in all the major area of the socio-economic life; environmental and consumers protection, help intended to the developing countries.

Since its adoption and until the Treaty of Maastricht (1992), with some changes made in its interpretation, the Treaty has made possible to overcome the initial economic frame, covering the common cooperation in the fields like justice and home affairs, external security policy. In other words, it is added beside economic integration a system of cooperation in the mentioned domains (through the Single European Act, a complementary treaty which strengthens EEC Treaty).

24 E. Iftime, op.cit., 2003, p. 5.
25 Gyula, op.cit., p. 93.
26 In summary, these goals included: the creation of a common market for industrial and agricultural products; organizing a continuous and balanced economic expansion; ensuring a united economic stability; raising living standards and life quality; the formation of a new type of interstate and interpersonal solidarity.
27 The single market was achieved through elimination between Member States of customs duties and quantitative restrictions on imports and exports of goods, as well as any other measures having equivalent of these restrictions; the establishment of common customs tariffs. For details concerning the steps in creating the common market, see G. Ferreol (coordonator), Dicționarul Uniunii Europene, Editura Polirom, Iași, 2001, p. 63.
28 The introduction of a single currency has been specified by the Maastricht Treaty since 1999 for the members of the EU(15) of which only 12 were accepted (except the UK, Denmark, Sweden).
29 It is about common policy on agriculture, transport, commercial competition. To all this is added the removal between the member states of the obstacles to the free movement of goods, persons, services and capital.
30 This treaty is characterized by the fact that provides a general review of the basic Community law, expanding the cooperation between the Member States, and officially on political life. The most significant brought changes concern: achieving of an internal market by 1992; creating a conventional basis for European political cooperation; legal consecration of the European Council; preparing the conditions for the establishment of a Court of First Instance; expansion of the integration process upon: social policy, technological research, technological development, environment, economic and monetary policy.
Of course, in a process of this magnitude and significance, complex and diverse, the reasons which determined such modifications, adjustments and additions are multiple and varied. But the main body of the Treaty has stood the test of time, having as main support its constants: the principle of free movement and the ability of the Community institutions to legislate within the Community space.

The second Treaty of Rome sets EURATOM, an associative form which presents certain features compared to other EU treaties, on the purpose it is assigned and namely the creation of a common market for: basic nuclear materials, goods and means of production related to development, peaceful use of nuclear energy and its control.

The three communities (ECSC, EEC, EURATOM) remain distinct in their functionality until 1967, when the Merger Treaty entered into force. Although legally separate, each one having its own legal personality, the Communities acquire common institutions: the European Commission, the Council of the European Communities, the European Court of Justice and the Parliamentary Assembly. The last two institutions were common since the founding of the Communities.

After setting up the Communities, the European Community was strongly influenced by the international political game, the slowdown in the east-west antagonism, on some relationships of coexistence between the superpowers. Overall, the development of community life falls in two directions: increasing the number of Member States and institutional improvement.

The heavier functionality and the complexity of the community structures in terms of widening the Community with: (1973 Great Britain, Denmark, Ireland: 1981-Greece; 1986-Spain, Portugal), showed the need of a complementary treaty which to cover the amendments to the constituent treaties and which for the first time joined political-economic cooperation by forming a European Council. This institutional structure has been built as a response to the need of relaunching the European process, in a period in which the Community institutions seemed overcome by the global political and economic realities.

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31 Signed on 8.4.1965, entered into force on 1st July 1967, having as annex a unique Protocol on the privileges and immunities (which replaced the specific protocols of each Community). It was decided, therefore that all the European officials belong to a single administration and be subjected to a single statute.

32 It emerged from the fusion between the High Authority (ECSC) and the commission EEC and EURATOM.

33 The Council of the European Communities took over the functions of the Ministerial Council of the EEC and EURATOM and the Special Ministerial Council of ECSC.

34 This Assembly has established in law as the European Parliament since 1968, when the Single European Act has given a legal basis. In fact, the European Parliament, as the European Court of Justice were common institutions of these since their occurrence.
The measures adopted in this forum provided a favorable dynamic of reforms implementation that were to allow an economic and monetary Union, and to contribute to the building of a political Union. Was necessary therefore, a double negotiation which responded to a double motivation: the Economic and Monetary Union and the Political Union. The event, considered to be one of the most important in the last half of the twentieth century, was held in Maastricht (Netherlands) on 9-11 December 1991 and marked the final construction of the European Community, paving the way for the long dreamed European Union.

The new name of “the Common European House” was inspired by the Europeans belonging to the same system of continental organization and to a common identity which allowed starting with the 90s, shaping the European political identity which was going to overlap the previously established one. The major objective of this Union was to organize the relations between the member states without representing an alternative to European integration or a synthesis of existing structures. From the six founding countries, the construction has become the Europe of 9, 10, 12, 15” making the unprecedented leap to the “Europe of 25 (2004) and then the “Europe of 27” (2007), “Europe of 28” (2013).

The building of this “unique” Community lifestyle was not an easy process, sheltered by failures, setbacks or discontinuities. There were often invoked the negative results of some referendums (Norway and the Constitutional Treaty). Equally it is discussed the slow pace of legislative processes and the European decision. There are also voices which say that this construction is equipped with a heavy bureaucracy, charged with centralizing and restrictive ambitions on the autonomy of the Member States.

There are allegations and findings which have some support, but these don’t defeat the reality deduced from a global judgment, which highlights the personality of this democratic edifice, founded on the free consent of the composing states.

Through the European Parliament, of whose members are elected from 5 to 5 years by universal suffrage, the Europeans are represented in the legislative, control and execution process, of the decision taken at the EU level. Some illustrative examples in this respect are: Council of the EU (distinct from the European Council and the Council of Europe) brings together ministers,

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35 The European Parliament called “voice of peoples of the United Europe” which has currently an enhanced role because represents the Union citizenship, otherwise said a European identity conferred by the belonging to the Common European House through a legal political bond of citizenship.

36 The European Council which until Lisbon Treaty was no Community institution, neither institution of the EU, but only for guidance, ears a well-deserved place among the EU institutions. This basic institution of the EU Council is different from the Council of the European Union. This basic institution expresses the voice of the member states and maintains its competences of main legislator and budgetary that it carries with the European Parliament.
responsible for various fields, members of national governments. The European Commission\(^{37}\) is composed of persons appointed by a complex collaboration between the European Parliament and the EU member governments. As members of the European Court of Justice and the European Central Bank\(^{38}\) are appointed by the EU governments, it highlights a direct or indirect cooperation of European citizens and their elected representatives, when is the case, to find appropriate solutions for innovation, resettlement, update rules and community structures. As shown, the Treaty of Lisbon brings significant contributions towards the enhancement of institutional competencies and increased transfer of sovereignty.

European participation in building the European construction should be seen as a right and also as a fundamental duty of each person who freely expressed an option in this regard. The transposition into plans of the European and global realities is more effective and easier if it is well known and evolved the personality of European Union, the institutional features and the mechanisms of functioning of the Union. In connection with these issues, it is worth mentioning that by Maastricht Treaty which based the construction called European Union\(^{39}\), it did not have legal personality. Nor the subsequent treaties which withdrew the architecture of the Union and prepared her to be able to cope with the enlargement that followed, have not given the legal status. But these have prepared the EU to acquire the quality of international law subject, which was going to offer it powers of external representation, in a world subjected to huge and fast changes. Like the whole world, Europe needs modernization, to have effective and coherent tools not only for the functioning of an enlarged Union from 6 to 28 states, but also to the realities of the contemporary world.

In summary, this is the main objective around which was made the institutional and law reform accomplished by the Treaty of Lisbon signed on 13 December 2007 and entered into force on 1\(^{st}\) December 2009. With more clarity and precision than the previous treaties\(^{40}\), the mentioned Treaty sets out the competences of the European Union, and also the means and mechanisms that can be used to modify or if necessary to complete the institutional structure of the EU, to make it functional in the new conditions. In this way, the democratic character and the fundamental values of the EU are strengthened, as can be seen from the changes and the innovations brought by the Lisbon Treaty.

\(^{37}\) The European Commission is the executive Community authority or “union government” called “guardian of the Treaties”

\(^{38}\) The European Central Bank has been brought to the rank of basic institution of the EU by the Lisbon Treaty. ECB together with the national central banks make up the Eurosystem (art 282 al 1 second thesis of FUE)


CONCLUSIONS

In conclusion there is an institutional dimension and a legal dimension of the EU. For the institutional dimension are illustrative the words of Jean Monnet according to which “ideas can be created only by humans and can survive only by institutions”. Therefore, the idea of European unity has survived in the two forms of European cooperation: the intergovernmental cooperation based on institutional structures build at intergovernmental level (classical formula of cooperation) and the association through European integration, a form of cooperation and a superior historical model of unity, compared to the previous ones, having a unique institutional structure, with transnational character. Based on this latter form of cooperation, the European states have established various types of economic and political ties, with purpose on long term, based on shared norms and values.

In legal language (legal dimension) the dialogue between intergovernmental and supranational is established by norms which set up a legal international order and the norms which support a legal order similar to the state ones (domestic legal system), but triggered and maintained through a legal technique of international law (the treaty) as the basis for the other norms of Community law.

So the Europe in which we live has a complex legal system, with institutions, legal norms, applicable procedures in various areas of community life. And the dialogue between intergovernmental and supranational boosts the dynamic and the improvement of the European construction. It reached the point in which some intergovernmental structures have acquired transnational meanings. The dialogue ended for the moment in Lisbon, by converting some intergovernmental structures into transnational ones.

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