

## The Maastricht Treaty

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The Treaty on European Union which was signed at Maastricht on 7 February 1992 marks a new stage in the process of European integration. This new stage responds to a threefold objective need:

- a need to deepen the solidarity of the peoples of Europe, while respecting their history, their culture and their traditions so that past divisions and antagonisms between the peoples and nations never appear again on European soil;
- a need to reflect the internal solidarity of the twelve in a reinforced external European Identity on the international scene to face the new realities derived from the instability in Eastern Europe and the economic and political uncertainties of the turbulent world of today at large;
- and finally a need to enhance further the democratic and efficient functioning of the institutions of the European Communities to enable them better to carry out the tasks entrusted to them as closely as possible to the citizen.

The peoples of Europe represented by their freely elected leaders decided that the challenges ahead had to be met by establishing "*among themselves a European Union*".

New objectives are attributed to the Union by the Treaty, the most significant of which are the promotion of economic convergence coupled with the strengthening of economic and social cohesion in particular to the benefit of the less developed regions of the Community; the establishment of an economic and monetary union ultimately including a single currency; the assertion of the Union's identity on the international scene; and the establishment of a citizenship of the Union for the protection of the rights and interests of the nationals of its Member States.

The Union is to operate democratically; decisions are taken as closely as possible to the citizen by means of the operation of the principle of subsidiarity. What does this principle mean? It

means on the one hand, that the Union will never be a centralized entity and that in areas which do not fall within an exclusive competence, action is to be taken only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved at Union level; on the other hand, the principle of subsidiarity also means that any action shall not go beyond what is necessary to achieve the objectives of the Treaty. The democratic legitimacy of the Union is further strengthened by an important increase of the powers of control and of participation in the decision-making process by the European Parliament, and by the protection of the citizens of the Union as well as by their association in the efficient operation of the Union. It is thus a foregone conclusion that the Union will respect the national identities of its Member States and the fundamental rights as guaranteed by the European Convention for the Protection of Human Rights.

One of the weaknesses of the new Treaty, however, is that it does not attribute legal personality to the Union distinct from that of its Member States. As a consequence the Union has no powers to enter into international agreements (treaty-making power).

What is the fate that the new Treaty gives to past achievements? The Treaty guarantees their consolidation, and even further development: the Union has to maintain in full and further to develop the *acquis communautaire* and is served by the single institutional framework which was provided in the EEC Treaty. In particular the Council and the Commission shall be responsible for ensuring the consistency of activities of the Union.

A Union so envisaged shall be composed of three pillars namely the European Communities (first pillar) supplemented by the forms of cooperation (mostly intergovernmental) established in the Treaty with regard to the common foreign and security policy (second pillar) and in relation to the fields of justice and home affairs (third pillar).

With regard to the first pillar the Treaty provides *inter alia* for a considerable increase in competence for the European Economic Community (which is

re-named European Community). To the new provisions dealing with the economic and monetary union, new competences have been added in the fields of trans-European networks, industry, economic and social cohesion, social policy (vocational training and the Protocol on social policy which includes the Agreement on social policy concluded between eleven Member States) and consumer protection.

Readers are first and foremost citizens and they should know that among the new non-economic competences of the European Community, the Treaty provides for the establishment of the citizenship of the Union: every person holding the nationality of a Member State shall be a citizen of the Union and have the right to move and reside freely within the territory of the Community, regardless of his economic status; the right to vote and stand as a candidate at municipal elections and at elections of the European Parliament in the Member State in which he resides; the right to petition the European Parliament and to apply to the Ombudsman established by the Treaty; the right to protection by the diplomatic or consular authorities of any Member State in the territory of a third country in which the Member State of which he is a national is not represented.

The Treaty *grants the Union* large undefined powers with regard to the common *foreign policy* (the second pillar in the Treaty). The objectives are wide: to safeguard the common values, fundamental interests and independence of the Union; to strengthen the security of the Union and its Member States; to preserve peace and strengthen international security; to promote international cooperation and to develop and consolidate democracy and the rule of law and respect for human rights and fundamental freedom. The competences are not, however, specified; in principle cooperation shall take place on any matter of foreign and security policy of general interest and joint actions will be implemented in the areas in which Member States have important interests in common, once the European Council provides general guidelines related to matters which should be subject of joint action, and such joint action is adopted by the Council. In contrast, the Treaty provides very precisely that the common security policy "*shall include all questions related to the security of the Union, including the eventual framing of a common defence policy which might in time lead to a common defence*". Although this part of the Treaty is not as precise as the one related to proper Community competences, and although the decision-making process in that new field could

have been devised with a view to a better efficiency, the twelve Governments have thus achieved a major result on the road towards the emergence of a new entity on the world political scene.

Finally the third pillar of the Union relates to cooperation in the fields of justice and home affairs and covers measures to be taken in matters of common interest concerning asylum policy, the crossing by persons of the external borders, immigration policy, combat of drug addiction, judicial cooperation in civil and criminal matters and the like. The measures may be adopted by means of simple cooperation between Member States, by adopting common positions or actions, or by means of international conventions concluded between the Member States.

Last but not least I should like to draw your attention to the institutional reform made by the Maastricht Treaty to the EC Treaty. With regard to the European Parliament, there are increased powers of control over the other institutions by the power to set up committees of inquiry, and by enhancing the existing powers of control over the budget. In addition the European Parliament may exercise an indirect right of initiative by requesting, by a majority of its members, the Commission to submit any appropriate proposal on matters on which it considers that a Community act is required. Finally the European Parliament received increased legislative power through expansion of the fields covered by the cooperation procedure and by setting up of a new procedure of codecision which includes a procedural phase during which Council and Parliament will try to reconcile their positions in a direct face-to-face dialogue.

The Treaty of Maastricht has also hinted at the establishment, in the long run, of a Community decision making process inspired by the parliamentary system of government, especially if account is taken of the fact that, on the one hand, the duration of the Commission's current mandate is extended to five years to make it coincide with that of the European Parliament and, that, on the other hand, in order for the President to be appointed by the Council, Parliament must be consulted and under any circumstances Parliament must approve the appointment of the other members of the Commission.

The application of the provisions of the Maastricht Treaty concerning the first pillar (the European Communities) is subject to the control of the Court of Justice. The Court is given express new competences to control the legality of acts by the

European Parliament and its failure to act, while in the cases where it finds that a Member State has not complied with a judgement declaring that the Member State has not fulfilled its obligations under the Treaty, the Court may impose a lump sum or a penalty payment on it. But the Court will not be able to exercise control with respect to most of the provisions relating to the other two pillars.

In order to cater for regional sensitivities a Committee of the Regions is set up by the Treaty. Such a Committee has to be consulted on areas such as education, culture, public health and structural funds.

Let me further recall that the Treaty on European Union marks "*a new stage in the process of European Integration*" and that in 1996 a new inter-governmental conference will be convened to examine those provisions of the Treaty in respect of which closer action is provided, in particular in the fields of foreign policy and defence. The way ahead therefore remains open with a lot of work still to be done, notwithstanding the necessary institutional reforms which are due to be decided with a view to possible future enlargement of the Union.

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