



WP 320  
EUR

European University Institute  
EUROPEAN POLICY UNIT

In Collaboration With The  
UNIVERSITY OF STRASBOURG and  
TEPSA

E.U.I. WORKING PAPER No. 85/145

THE JUDICIAL SYSTEM ENVISAGED

IN THE DRAFT TREATY

by

Thijmen Koopmans

Badia Fiesolana, San Domenico di Fiesole (FI)

January 1985

This paper may be cited as forthcoming in:

Bieber, Jacqué, and Weiler(eds.), An Ever-Closer Union:  
A Critical Analysis of the Draft Treaty Establishing the  
European Union, in European Perspectives, Luxembourg. All rights  
reserved. No part of this paper may be reproduced in any form  
without permission of the author.

(c) European Policy Unit

Printed in Italy in January 1985

European University Institute

Badia Fiesolana

50016 S. Domenico di Fiesole (FI)

Italy



### The European Policy Unit

The European Policy Unit, at the European University Institute, was created to further three main goals. First, to continue the development of the European University Institute as a forum for critical discussion of key items on the Community agenda. Second, to enhance the documentation available to scholars of European affairs. Third, to sponsor individual research projects on topics of current interest to the European Communities. Both as in-depth background studies and as policy analyses in their own right, these projects should prove valuable to Community policy-making.

In October 1984, the EPU, in collaboration with the University of Strasbourg and TEPSA, organised a conference to examine in detail the Draft Treaty Establishing the European Union. This Working Paper, presented at the conference and revised in light of the discussion, will appear in book form later in 1985 along with other studies of the Draft Treaty.

Further information about the work of the European Policy Unit can be obtained from the Director, at the European University Institute in Florence.





## I Introduction

The European Parliament's Draft Treaty aims, as the preamble states, at "continuing and reviving" the European Communities as well as the European Monetary System and European Political Cooperation. Among these three forms of organization, only the European Communities are relevant, it seems, as far as the judicial system is concerned. Thus, the draft seeks to "continue and revive" the existing European Communities. The obvious approach to a discussion of the draft's meaning for the judicial system would consist, therefore, in outlining the major problems the actual functioning of the Communities has given rise to in this field.

However, that approach does not look very promising. It may be true that the draft intends to overcome a certain number of difficulties that tend to characterize the Communities' decision-making practices; the draft itself does not say so explicitly, but the explanatory statement starts by expressing Parliament's "dissatisfaction with the Community's institutional system" and its criticism of "the inadequate nature of the powers conferred on the Communities by the Treaties".<sup>1)</sup> But it is also true that this



dissatisfaction and these criticisms do not touch in any way the judicial system framed by the treaties establishing the European Communities. More particularly, they do not concern the Court of Justice and its activities. Signore Spinelli, who was perhaps more than any other member of the European Parliament actively involved in initiating and elaborating the draft, enumerated in a recent article six considerations and experiences that caused the Parliament to take the initiative, and none of these six motives had anything to do with the Court.<sup>2)</sup> Some other authors go one step further: they consider that only the Court actually operates as an integrative force in Europe and that it is the failure of the other institutions to play such a role which induced Parliament to act.<sup>3)</sup>

In these circumstances, it is not astonishing that the planned transition from European Communities to European Union does not, at first sight, imply major changes in the rules on the Court of Justice, or in the judicial system in general. On the contrary, many planned provisions have a familiar ring for those who have been working on the basis of the existing treaties. Such is, for example, the case of Article 4 of the draft on the protection of fundamental rights: in defining these rights as those "derived in particular from the common principles of the constitutions of



the Member States and from the European Convention for the Protection of Human Rights and Fundamental Freedoms", it adopts the formula developed by the Court's case law and later confirmed by a "common declaration" on human rights issued by the three other institutions.4)

There are novelties, nonetheless. Jurisdiction of the Court is extended (Article 43); a system of sanctions is devised (Article 44); and the prospect of an "homogeneous judicial area" is held out (Article 46). Each of these three innovations merits our attention, but before trying to analyse them, we should like to put them immediately in their proper perspective. The scope of judicial scrutiny depends not so much on matters of jurisdiction, nor on the system of sanctions, but rather on standards applied by the courts in exercising judicial review. These standards have normally been developed over the years; this is also true in the case of the European Communities, where the Court of Justice gradually constructed a body of case law with regard to the margins of judicial control on the basis of the legal principles that govern, in the treaties and in the administrative law of the Member States, the division of tasks between the judiciary, on the one hand, and the political and administrative bodies on the other. It would be a dangerous misconception to think that an extension of



jurisdiction could have a bearing on the standards applied for determining the scope of judicial review 5); in that regard, the new Article 43 might remain without any effect. It is worth adding one other observation: whatever the extension of the Union's powers, economic matters will still form the core of the Union's activities, as in the days of the Communities. Institutional changes alone will not solve the problems, well known in many legal systems, of combining the conduct of modern economic policies with the requirements of judicial review of administrative action.6) Things tend to develop very slowly, as judicial attitudes in this respect seem to depend on deep-rooted conceptions with regard to the role of courts in general.

Those who like change may, however, derive some comfort from the idea that the draft, apart from making minor changes in the judicial system, is based on a Union with objectives that are much more ambitious than those of the existing Communities. It is well known that the Court of Justice, in interpreting the law of the Communities, was often inclined to look at what legal provisions were meant to achieve, and that it thereby took account of the general aims of the European Communities. Its case law on social security was, for example, entirely based on this approach 7); the same method has been applied to more complicated issues, like



those concerning the definition of obstacles to intra-Community trade. The mere fact that the Draft Treaty fixes new and much wider objectives may thus, in the long run, provide fresh inspiration to the judges. The differences are not unimportant: whereas the EEC-treaty sets out to establish a common market and to promote a harmonious development of economic activities (Article 2), the Draft Treaty seeks to attain "a common harmonious development of society" and to promote peace and even the exercise of full political, economic and social rights by "all the peoples of the world" (Article 9).

More immediate consequences for the scope of judicial action may flow from the inclusion of the protection of fundamental rights. Comparative legal studies abundantly show how much the powers of judicial review are strengthened by the courts' willingness to consider themselves the ultimate guardians of human rights; American constitutional law, in particular, has undergone a complete change, especially as far as the scope of review is concerned, since the Supreme Court started to reappraise the American Bill of Rights in the late forties.<sup>8)</sup> The American example is by no means isolated: the French Conseil constitutionnel only started to play an effective role in French political life after it took the courage of interpreting the 1958



Constitution in such a way that its preamble embodies protection of human rights.9)

In the light of these experiences, an analysis of the judicial system can hardly be accomplished when the wider issues raised by the Draft Treaty are not discussed. We shall, therefore, first embark upon a rapid journey through the forests of jurisdiction and then steer our course to problems of substance, hoping thus finally to be able to give an overall assessment of the position of the judiciary under the Draft Treaty.

## II Problems of Jurisdiction

### a. General

Article 43 of the Draft Treaty adopts the Community rules governing judicial review, but it states that these rules shall be supplemented on the basis of seven "principles". These principles amount to seven roughly defined extensions of jurisdiction; detailed rules are to be given later in Union legislation. The draft has no provisions on the transition from the old to the new regime; one must suppose that the old rules continue to apply as long



as the legislative bodies have not yet specified the new remedies.

The seven extensions are all related to lacunae in the actual rules on jurisdiction and to difficulties in their application that have been largely discussed at conferences and in legal literature.<sup>10</sup> Their importance is, however, very unequal: some of them involve matters of principle, others are of a sheerly technical nature. Anyhow, it would not appear that the seven clauses of Article 43 form Parliament's response to the Seven Deadly Sins of the Community; even pride and anger, although common elements of most political activities, are presumably far removed from the quiet world of judicial life.

b. Technical problems

In the technical category, I would first range the extension of the right of action of individuals against acts of the Union that adversely affect them (Article 43-1). Under the present rules, access of individuals to the Court is excessively restricted. If private individuals, including businesses, corporations, and other "undertakings", are not themselves the addressees of a decision, their rights of action are very limited indeed; according to Article 173 of



the EEC-treaty, they have to show that the provisions of a regulation or a decision are "of direct and individual concern" to them. Even a most liberal interpretation of these terms cannot bring the Community system into line with most national systems of administrative law, which simply require an "interest". Both the Court and the Commission recommended this extension in their opinions on the European Union given in 1975 at the request of the Council.11)

Does the change also mean that private persons can attack general rules as well as individual decisions? The answer must be affirmative; the existing provisions give already such a remedy to the Council, the Commission and the Member States. The proposed change brings the system of remedies closer to French administrative law, which always recognized appeals against regulations (though not against statutes); German and Dutch law have traditionally been more cautious. The result is then that, for example, any enterprise can ask annulment of a Commission regulation on group exemptions of a certain class of agreements from the prohibitions of Article 85 (e.g. exclusive licensing of patents), if it feels adversely affected. In other words: the door is henceforth wide open. The wider access to the Court may be conducive to a heavier case-load for that institution. But it may also have important implications



from a legal point of view: direct actions against general rules issued by Union institutions can also be used to bring the European Parliament's exercise of its legislative function under judicial control. The Court of Justice would thus have the power to review legislation in a way constitutional courts usually have. The Court itself proposed as much in its opinion on the European Union.<sup>12)</sup>

Second item in the "technical" category: equal treatment for all the institutions before the Court (Article 43-2). This seems to imply two things. First, Parliament cannot, under the existing rules, bring an action for annulment under Article 173 EEC-treaty, although it can bring an action for failure to act under Article 175; Article 173 limits the right of action expressly, as far as Community institutions are concerned, to the Council and the Commission. This is slightly illogical, and it could perhaps be helped by a somewhat imaginative interpretation, based on the unity of the system of remedies rather than on the precise wording of the relevant provisions; it is not completely impossible that the Court of Justice might be willing to take that route.<sup>13)</sup>

Secondly, equal treatment of institutions before the Court probably implies that the European Parliament and the Council will be entitled to submit written observations to



the Court, and to argue their case orally, in procedures concerning preliminary rulings. At present, the parties to the main action, the governments of the Member States and the Commission have these rights, and the Council only if the validity or the interpretation of one of its acts is at stake.<sup>14)</sup> In practice, the Council is only represented if the dispute involves the validity of one of its regulations; probably, therefore, Parliament will be the only institution to benefit from the principle of equal treatment. Or will perhaps the fifth institution that the Draft Treaty adds to the existing four, viz. the "European Council", develop the desire to make its views on legal matters known to the Court? It looks unlikely, but it cannot be excluded (in particular if the "European Council" will be endowed with a separate secretariat).

The third technical item is jurisdiction of the Court to annul an action within the context of an application for a preliminary ruling or of a plea of illegality. This extension of jurisdiction raises a highly technical point. It is probably based on the Commission's recommendation to restore the balance between the wide powers the Court has under Article 173 on actions for annulment and the very limited possibilities opened by Article 177 regarding preliminary rulings on "the validity ... of acts of the



institutions".15) The implications of the Commission's idea are not very clear. First, it may mean that provisions on the effects of annulment, like Articles 174 and 176, also apply when a regulation is declared invalid in a judgment under Article 177. The Court of Justice sometimes applied these provisions already by analogy in cases on preliminary rulings,16) but it has been severely criticized for doing so, and some of these judgments even roused the indignation of well-known French legal scholars.17) Second, the Commission's proposal may, however, involve a much wider problem: if direct actions for annulment under Article 173 are well-founded, the Court declares the act in question to be "void", which has always been taken to mean that the act has never lawfully existed; on the contrary, a declaration of invalidity under Article 177 presently implies no more than that the act is not operative in the case at hand; the judgment does not work "erga omnes".18)

The Draft Treaty obviously takes up this latter idea by expressly granting a power of annulment in the framework of a preliminary ruling. In practical terms, this may not be a very impressive step; the Court has already held that national courts are not obliged to ask for preliminary rulings on the validity of an act whose invalidity has already been pronounced by the Court in a different case



under Article 177; the Court went out of its way to stress that national courts remained free to reintroduce the question, but that they should normally do so only if they felt doubts as to the extent of the invalidity already pronounced, or as to its consequences.<sup>19)</sup> However, the proposed change has considerable importance for the theory of invalidity; it has often been said that the existing rules, in opening possibilities for annulment only to certain parties and within certain time limits, and in accepting then a plea of illegality in pending litigation, with different consequences, aim at striking a balance between the requirements of legality of administrative action and legal certainty.<sup>20)</sup> The proposed reform could be seen as sacrificing the latter for the benefit of the former.

Will the reform increase the jurisdiction of national courts? Article 184, which embodies the plea of illegality, is usually considered as the expression of a general principle; the Court of Justice said so in one of its Simmenthal judgments.<sup>21)</sup> If that view is the correct one, it is possible to see the inclusion of questions of validity in Article 177 as the expression of the idea that any national court can, by way of a plea of illegality, be faced with a problem of validity, and that it was therefore necessary to extend the scope of preliminary rulings to these matters.



However, if that is true, the proposal to grant a power of annulment within the context of a plea of illegality implies that national courts will be able to pronounce such an annulment, only supreme courts being bound to interrogate the Court of Justice before doing so. The monopoly of annulment, actually in the hands of the Court of Justice by virtue of Article 173, would be broken. Such a development would do great harm to the uniform application of Union law; it would also raise the delicate question whether annulment by a court of one Member State would have effect in a different Member State. For these reasons, it would seem wise not to introduce the proposed change without some accompanying measure; personally, I would be in favour of extrapolating slightly the line of the existing case law, by providing that national courts cannot pronounce the invalidity of acts of Union institutions without first having interrogated the Court of Justice.<sup>22)</sup> Such an amendment would amount to an increase of the number of cases in which reference to the Court is compulsory. The step appears greater than it actually is, as national courts will in practice always refer matters of validity of Community acts to the Court of Justice under Article 177. The German Finanzgerichte, very inventive in discovering validity problems, gradually developed a practice of never pronouncing on invalidity without having questioned the Court of Justice. But national courts should



be obliged to follow this road if their appreciation of the validity of common rules can entail the annulment of such rules.

c. Declarations of principle

Under this heading, I bring first the clause on compulsory jurisdiction of the Court to rule on any disputes between Member States in connection with the objectives of the Union (Article 43-7). These objectives being framed in wide terms, almost any litigation between Member States will belong in this category. The proposal thus broadens the provision of Article 182 EEC-treaty. Its result is an increase of jurisdiction of the Court of Justice at the expense of that of bodies like the International Court of Justice. This is interesting enough for those who like to theorize on the legal character of the proposed Union; but its practical bearing is slight, as litigation between Member States is extremely rare.

The proposal has no relation to a recent declaration of the Heads of State and Government (European Council) to the effect that international agreements between Member States will, as far as appropriate, provide for jurisdiction of the Court of Justice in interpreting these agreements.<sup>23)</sup> This



declaration - which concerns the relations between national courts and the Court of Justice, and not those between Member States - has a completely theoretical nature; it is the agreements between Member States themselves which are to provide for the Court's jurisdiction, and the negotiating practice of the Member States' diplomats does not show an excessive zeal in that direction. The record of the Interim Committee on the Community Patent is a case in point: it first devised a "common patent appeals court" in order to be sure that matters of validity of Community patents would be looked into by real experts, and it then came gradually round to the idea that patent law could perhaps better do without any interference of the Court of Justice. It must be admitted, though, that the Court of Justice did not increase its popularity among patent experts by holding that, under certain conditions, the principle of free movement of goods precludes patent holders from relying on rights national legislation normally attaches to patents.24)

Second declaration of principle: the clause on jurisdiction of the Court to impose sanctions on a Member State failing to fulfill its obligations under the law of the Union (Article 43-6). As long as implementing legislation is missing, it is hard to see what kind of sanctions the drafters had in mind. These sanctions do not encompass



suspension of rights deriving from the application of the proposed treaty, or non-participation in certain Union institutions, for that is the kind of sanction only the European Council can impose under Article 44 and under Article 4, par. 4 of the draft, in case of "persistent violation" by a Member State of democratic principles or fundamental rights or of other important provisions of the treaty. If that is so, it is difficult to see what kind of sanction the Court should impose in case of a "normal" failure by a Member State to fulfill its obligations. Fines seem even less appropriate as a sanction for Member States than they were for great steel producers who chose to disregard the Commission's production quotas: they will not act as a deterrent. If the Member State's failure to fulfill its obligations consists of maintaining legislation not compatible with Union law, one might think of nullity of such legislation; the Court of Justice gave a little push in that direction by holding that citizens cannot be subjected to penal sanctions if the prohibitions upheld by these sanctions are incompatible with Community law according to a judgment rendered by the Court under Article 169.25) However, such an approach is not very helpful if the Member State's failure consists of not having enacted certain measures.



The problem is not of the greatest importance. First, although at present the judgment that finds that a Member State failed to fulfill its obligations can only give a declaration to that effect, experience shows that the Member State concerned will comply, at least in the long run. Secondly, it is far from sure that the introduction of sanctions would help to accelerate the process: more often than not, failures to act stem not so much from conscious decisions to be slow, but from somewhat untidy tactical moves by governments or government agencies, aimed at staving off peasant rebellions or trade-union pressure or at ushering a certain amount of legislation through Parliament without major accidents.

d. Protection of fundamental rights

Jurisdiction of the Court of Justice for the protection of fundamental rights vis-à-vis the Union (Article 43-3) has already been extolled for a number of years.<sup>26)</sup> It is unproblematic, and at the same time it is the thin end of the wedge. It is unproblematic because everybody wants it, because it is in the line of the general evolution of the European Communities, because it would strengthen the "Europe of the citizen" and because it would ease some existing tensions between national courts and the Court of Justice.



And it is the thin end of the wedge because it may have a considerable impact on the scope of judicial review throughout the proposed Union. We shall deal with that particular topic when discussing matters of substance and stick, for the moment, to problems of jurisdiction in the strict sense of the word.

The Commission strongly recommended this extension of the Court's jurisdiction in its 1975 opinion on the European Union. It based its suggestions on the idea of the rule of law ("Rechtsstaat"), which it also found expressed in the Court's opinion, and it concluded that a Union treaty should provide for uniform binding rules protecting the rights of individuals. Therefore, it said, individuals should have comprehensive possibilities of access to the Court if they allege breaches of human rights and fundamental freedoms, so as to enable the Court to play a key role in safeguarding these rights and freedoms.<sup>27)</sup> These suggestions, which probably form the background of the proposed reform, may in their turn have drawn their inspiration from the German legal system, and especially from the particular form of action called "Verfassungsbeschwerde" (constitutional complaint). It is a general form of appeal to the federal constitutional court available to any person alleging that his fundamental rights as guaranteed by the federal constitution have been



denied by any statute, judicial decision or administrative act.28)

If a right of action of such a general nature should be given to the citizens of the future European Union, its exercise will no doubt have to be qualified in order to keep the judicial system workable. In German law, for example, the rule is - subject to some exceptions - that ordinary remedies should be exhausted; without such a rule, the "Verfassungsbeschwerde" would, in a way, criss-cross through the normal remedies and appeals and so disrupt the ordinary working of the judicial system. The effect of the rule of exhaustion of remedies is that the constitutional complaint more or less functions as a kind of super-appeal, albeit with a limited scope, namely to enable the constitutional court to check whether the earlier judicial decisions in the case assessed the plaintiff's fundamental rights correctly. With some exaggeration, one might summarize the situation as one in which a citizen first fights his way through local court, appeals court and supreme court and then asks the federal constitutional court to test whether these judges have duly respected his fundamental rights. There are two obvious consequences: the system makes litigation long and costly, and it tends to enhance the controlling function of the constitutional court.



Introduction of a remedy similar to the German constitutional complaint would, then, provide the Court of Justice with powers to control the national courts. It might therefore provoke some hard feelings among the superior courts. It is difficult to see, however, how fundamental rights could be protected by the Court of Justice without implying a certain form of control of national courts. As it is, citizens will always be able to bring an action before a national court if they feel aggrieved in one way or another, be it by violation of their fundamental rights or otherwise. Community law, or Union law, will not diminish possibilities of access to courts existing at the national level, and a right of action before the Court of Justice will thus necessarily involve some element of scrutiny of the national courts' performance.

These considerations raise a somewhat different problem. The proposed remedy will, according to the Draft Treaty, be available in all cases where "the protection of fundamental rights vis-à-vis the Union" is at stake. That expression seems to embrace violation of such rights by national bodies acting on the basis of Union law; the mechanism of the common agricultural policy is constructed in such a way that practically all individual decisions are taken by national authorities. In such a case, the aggrieved person will



always first seize the national court as he would not like to lose his right to rely on other grievances than those concerned with fundamental rights. Is it open to the plaintiff, in such a case, to raise also the incompatibility of the national decision with the national constitution? Under the present treaties, this is a matter of national constitutional law, which has given rise to well-known differences of opinion. The German constitutional court will probably consider that protection of fundamental rights at the Union level dispenses national courts from controlling compatibility with the national constitution on that particular point 29); such would, at any rate, seem the situation if, and as far as, national bodies merely act as agents of the Union. The latter condition gives, however, rise to new problems: do, for example, tax inspectors act as agents of the Union when they levy value-added tax on certain transactions? Probably not; but in many instances, national legislation on VAT will raise exactly the same problems on human rights as the Community directives. Some national courts, like the Dutch Hoge Raad, always start from the assumption that national VAT legislation cannot be applied in a way diverging from the prevailing interpretation of the VAT directives.



Double protection of fundamental rights, on the basis of the national constitution and on the basis of the Union treaty, therefore, cannot be excluded. To make matters worse, there may even be a treble protection, as the European Convention of Human Rights will continue to apply. The rule on the exhaustion of national remedies in that Convention 30) implies, in my view, that an individual complaint to the European Commission of Human Rights would not be admissible before the Court of Justice has rendered its judgment under Article 43 of the proposed Union treaty. Chronologically, the Strasbourg institutions would therefore come last. This situation necessarily implies that the European Court of Human Rights will exercise a certain controlling function with regard to the decisions of the Court of Justice in this respect. Such would even be the case before the Union adheres to the European Convention in conformity with Article 4(3) of the Draft Treaty. The right of action proposed in Article 43 for the protection of human rights will thus be conducive to a kind of "escalation" of remedies. These consequences make it urgent to take a fresh look at the question of how to reconcile the two great systems of legal integration in Europe, that of the Communities and that based on the European Convention of Human Rights - a problem we shall return to. The same consequences also show something else: the price to be paid by European citizens for



protection of their fundamental rights at the Union level is the risk of having to wait quite a while for their claim to be ultimately settled.

e. Supervision of national courts

Article 43-5 intends to create a right of appeal to the Court of Justice against decisions of national courts of last instance where reference to the Court for a preliminary ruling is refused or where a preliminary ruling of the Court has been disregarded. The French text of the draft reads "pourvoi en cassation" for right of appeal.

The proposed introduction of this remedy rests on the assumption that national courts, and supreme courts in particular, presently fail to do what they should do, and that a direct appeal to the Court of Justice will help them mend their ways. Practitioners - and your reporter is among them - will have great difficulty in accepting these two basic premisses. As a general proposition, it is just not true that supreme courts fail to refer matters to the Court which they ought to have referred. Most statements to the contrary rely on considerations of a purely theoretical nature, or on isolated decisions which, without any further proof, are considered as indicative of national courts'



general attitudes towards Community law, and in particular towards references to the Court of Justice.<sup>31</sup>) Such hostile behaviour on the part of national courts is very rare indeed. The duty to refer to the Court of Justice as embodied in Article 177, par. 3, EEC-treaty, requires national courts, and especially supreme courts, to meet two contradictory demands: on the one hand, they are to be aware that a persistent failure to refer will lead to lack of uniform application of Community law and so, ultimately, to disintegration of the Community as a legal entity; on the other hand, they should refrain from having recourse automatically to the Court of Justice in all cases having something to do with Community law (for example: in all cases on VAT), even in cases where every lawyer can guess the answer the Court will give. It has never been established or, indeed, been posited, that, as a rule, supreme courts have not been able to strike a reasonable balance between these two requirements.

There is more to it. The Court's case law assumes that Article 177 EEC-treaty is the expression of a general idea inherent in the Treaty's approach to the judiciary: the idea of collaboration between national courts and the Court of Justice. It is for that reason that the Court of Justice leaves a certain margin of discretion to national courts



faced with the question whether or not they are obliged to refer.<sup>32)</sup> In such a situation, granting a power of review of national decisions to the Court of Justice might amount to a change of approach, to the substitution of hierarchy to collaboration.

This does not end the debate: would it be a good thing to have hierarchical relations between national courts and the Court of Justice? I wonder. First, it is not at all clear whether the system of preliminary rulings will effectively work better after such a change. Second, we may make tacitly a choice on the organisation of the judiciary in the European Union of the future, and we could very well have reasons to regret that choice later. In the long run, it is probably better for the European Union to have a "Union judiciary" alongside the national judicial hierarchy, just as the United States have a dual system of courts (federal courts and state courts).<sup>33)</sup> If that is the ultimate choice, it does not seem very obvious to begin by creating appeals from state courts to the Union court, the Court of Justice. Many observers will think (and some do think already) that the Court of Justice is to be the ordinary appeal court for any question involving Union law.<sup>34)</sup> If the drafters of the Union treaty were really contemplating a central position of the Court of Justice in the judicial system of the future



European Union, they would have done better to create union courts of first instance for appeals exclusively implying Union matters and turning on points of fact more than on points of law, like courts of first instance in competition matters or an administrative tribunal for staff cases. Creation of such an administrative tribunal has already been proposed by the Commission; but the Council, in its own mysterious way, discovered first a certain number of difficulties and then found a new problem to every solution. However that may be, the time seems to have come to stop bickering about the lack of enthusiasm of one or two national courts in their dealings with Community law, and to start thinking seriously about the future outlook of the judicial system in a European Union. In that respect, the Draft Treaty is a lost opportunity.

### III Matters of Substance

#### a. The objectives of the Union

We saw earlier that the objectives of the Union are couched in wide terms: the preamble alludes to the notions of democracy, human rights and rule of law; the objectives of the Union mentioned in Article 9 range from a harmonious



society to peace in the world; and the provisions on the policies of the Union enable the European Council, in Article 68, to include defence policy and disarmament among matters to be submitted to cooperation and, eventually, to common action. There is some political cunning in the framing of the Draft Treaty's structure: it embraces many fields of action, but it does so in such a way as to permit considering the urgency of one form of action rather than another, and to elaborate gradually, subject by subject, the global policy of the Union. This evolving model of policy-making has definite advantages for the Union's decision-making practice; but that does not mean that it facilitates the work of judges who are to put a certain activity of one of the institutions in the general framework of the activities of the European Union. In other terms: the question is whether these wider objectives of the Union can still be made operational by the courts.

There is one easy answer to this: the Union takes over the Community patrimony, the famous "acquis communautaire" (Article 7), and encompasses thereby the aims of the EEC-treaty; hence, courts can continue to base their interpretations on these aims as they did before. This answer is, however, not completely satisfactory, for the real problem is, of course, how the old EEC aims relate to the



Union objectives. These objectives are new only in part: they also partially restate some of the EEC aims - but not all. For example: Article 9 of the Draft Treaty restates the aim of progressive elimination of imbalances between regions, but it is silent about fair competition; it recapitulates the prospect of free movement of persons, without mentioning free movement of goods. There might, therefore, in the view of the drafters of the Union Treaty, be a kind of order of priority between different aims and objectives. One would hope not; for it is the very notions of fair competition and free movement of goods that have been crucial, in the Court's case law, for elaborating step by step the legal concept of a common market. Most of the "grands arrêts" have been built on the idea that a common market implies abolition of discriminatory situations and of obstacles to intra-Community traffic.

There may be an element in the Draft Treaty to counterbalance the possible loss of workable general concepts: its institutional provisions are manifestly intended to reactivate the legislative process. This is a very important point. Everyday experience shows that in many fields of Community action, harmonization of national legislation is long overdue. Whether courts can continue to assume that Community legislation, though lacking for the



moment, will be brought about in the near future and that in the meantime case law can fill the gap is an ever more urgent question. Things get even worse when, as happens sometimes, politicians populating legislative bodies show their disdain of the Communities' objectives: can courts have resort to these same objectives when acting because nobody else does?<sup>35)</sup> If legislative machinery remains stuck for years and years, it is no longer up to the courts to put the situation right: they are not equipped for that type of work in the long run, and they cannot go beyond the inherent limits of the judicial office.<sup>36)</sup> The Draft Treaty aims at unlocking the wheels of the legislative machinery by giving a new shape to legislative power, which will be shared between Council and Parliament. There is no certainty that mere changes in institutional provisions will accomplish this feat, and it is beyond the scope of this paper to venture predictions.<sup>37)</sup> But it would surely be bad for the future development of European law if judicial decisions could neither rely on clear and workable concepts on long-term aims, nor on any real upsurge of rule-making activities.

The Union's takeover of the Community patrimony implies that fundamental market freedoms, as embodied in the EEC-treaty and as elaborated by the Commission's practice and by the case law of the Court of Justice and some national



courts, will continue to be in force. These market freedoms are individual freedoms derived from the concept of a common market.<sup>38)</sup> They have something in common with human rights; in German literature, their legal position has sometimes been characterized as "grundrechtähnlich", as not-so-dissimilar.<sup>39)</sup> It may be true that classical human rights, those, for example, embodied in the European Convention, find their basis in the freedom and dignity of the individual person; but some typical market freedoms, like the right to move freely or not to be discriminated against, are not far removed from this same sphere of thought. The question arises, then, how the relationship between these two categories of rights and freedoms must be seen and, in particular, which one is to prevail in case of contradictory implications.

The first thing one discovers when thinking about this problem is that most of the time the rights in these two categories reinforce each other rather than conflicting. Non-discrimination in the common market fortifies equal protection before the law, and the free development of the individual is helped by the freedom to move without being subjected to arbitrary interference by immigration police, custom officers or tax authorities. The freedom to choose one's profession as it appears in some national constitutions



could hardly be effective without protection against abuse of a dominant position in the market.40) And the gradual inclusion of aliens in the national regimes of rights and freedoms can hardly be imagined without the Community's efforts to obtain free movement of persons, and, in particular, without the limits that have thus been put on the national authorities' previously unfettered discretion to expel aliens.41)

The remaining difficulty is what to do when there is a clash, and efforts to reconcile the effects of different freedoms fail. I would personally prefer not to take the general view that rights belonging to the classical human-rights catalogue should always and automatically override social and economic freedoms. Much depends on the persons who claim protection of their rights and freedoms, human rights being primarily concerned with protecting the weak against the mighty; on the situation in which protection is claimed, those involved against their will being better suited to having their claims upheld than those who willingly accepted that situation; on the intensity of the alleged breach, freedom of expression being more liable to be violated by forbidding demonstrations than by dissolving book cartels. When nothing helps, and when, finally, the chips are down, we should probably realize that the European Union



will be based on a clear political ideology, described in the opening words of the Draft Treaty as "commitment to the principles of pluralist democracy, respect for human rights and the rule of law", but that it is not based on any choice between competing economic philosophies.<sup>42)</sup> Wide-ranging objectives have thus their use, after all.

b. The judicial area

The "homogeneous judicial area" will be created, according to Article 46 of the draft, by cooperation between Member States, i.e. without the exercise of specific powers by Union institutions; Commission and Parliament "may", however, submit appropriate recommendations. The degree of homogeneity of the judicial area may thus become quite relative.

The Draft Treaty does not tell us what it means by "judicial area", but it gives two examples of measures apt to promote it. The first example is "measures designed to reinforce the feeling of individual citizens that they are citizens of the Union". As a good fishery policy will certainly reinforce (or even create) the fisherman's feeling that he is a citizen of the Union, a clause like this may mean anything or nothing. The most likely explanation is



that the drafters have been toying with ideas like European passports, exchange of students and duty-free hand luggage. Anyway, the relation with the judicial system looks tenuous. That is certainly not so for the second example: the fight against "international forms of crime, including terrorism". In the past, suggestions have now and then been made to create such a crime-fighting area; for a certain time, President Giscard d'Estaing seemed to pursue the idea ("espace judiciaire"). It is an interesting idea from a general point of view, as its implementation would extend the Union's business into the field of criminal law. Politically, there are some pitfalls in this path: experience has shown that some governments do not like to get involved in other governments' dealings with terrorist movements. Even the mere coordination of extradition practices can, as the Basque problem has shown these last years, implicate nations in other nations' problems, or even in the accompanying violence.

Consequently, the two examples are not very helpful for finding out what the homogeneous judicial area can be taken to mean. The Union institutions could make a virtue out of necessity by inventing a legal program that can do justice to the ambitious wording of Article 46. Why not start a real effort to unify commercial law? Lawyers have had guilt



feelings ever since Pascal's jeering observations on the "trois degrés d'élévation du pôle" that turn a whole body of case law upside down and on the "plaisante justice qu'une rivière borne".<sup>43)</sup> Modern conditions make many disparities even more difficult to understand and to accept. There is one snag: the institutions should first eliminate disparities that directly affect the establishment and functioning of the common market. And they can already do so now, on the basis of Article 100 EEC-treaty, a provision which has given rise to many studies but whose potential is not nearly exhausted: remarkably little has been actually done so far.

Meanwhile, the judicial area could as well wait for better times. Scant comfort is offered by one of the European Parliament's working papers on the Draft Treaty, seemingly content with the following considerations: "The creation of a judicial area will help to bring to fruition the concept of European citizenship, the main component of which is the common enjoyment of fundamental rights".<sup>44)</sup>

c. The impact of human rights protection

Only a few examples suffice to show that human-rights protection may conduce to quite important innovations of the law and to results that nobody had imagined before. American



criminal procedure has been profoundly influenced by the U.S. Supreme Court's stand on human rights, and the prison system of many European countries had to be reformed because of the implications of the European Convention on Human Rights. To push the matter somewhat further; for a moment it looked as if capital punishment in the U.S. would be abolished by the Court as contrary to the American Bill of Rights, as were state laws forbidding abortion.<sup>45</sup>) I admit that these latter decisions came at a time which must by hindsight be described as one of the great epochs of judicial activism in America, a wave of activism that culminated about 180 years after the entry into force of the Bill of Rights, and one century after the introduction of the XIVth Amendment to the Constitution, which turned out to be such a great help to the Supreme Court. But I submit that comparative studies show how difficult it is to foresee changes in judicial attitudes in this respect; the French Conseil constitutionnel took everybody by surprise when it adopted its new approach in 1971.<sup>46</sup>) In these matters, prophecies are even less reliable than weather forecasts in Great Britain.

Nobody knows, therefore, whether the Court of Justice will be tempted to spread its wings in a comparable way. At all events, the Court's position under the Draft Treaty will be inevitably reinforced. First, with regard to national



courts: under the existing arrangements, the Court and the national constitutional courts are, in a way, competing powers in the field of human rights; but the combined effect of Articles 4 and 43 of the Draft Treaty will be to confer certain controlling powers on the Court of Justice. Second, the delicate balance of power between the Court and the political institutions of the Union is tipped in favour of the former: not the legislative but the judicial power of the Union will have a final say on the meaning of fundamental freedoms, and thereby on the implications of these freedoms for all rule-giving and administrative activities. Third, the Court's stature in the eyes of the general public will increase, as it will be easier for the citizens of the Union to see the Court really as "their" court when they have more possibilities of entering into the passions of the litigants.

Other circumstances suggest that changes of judicial attitudes, if forthcoming, will be slow. It will, in the most optimistic forecast, take years and years before Union law will touch on matters of disarmament; it might very well even take years before Union policy will cover subjects like protection of the environment, coordination of urbanization schemes or prison reform. Many areas likely to give rise to human-rights problems will thus, for the moment, be excluded from the Court's jurisdiction. The first years of the Union



will probably be characterized by efforts aimed at consolidating and expanding common economic policies and at extending the common market to fisheries and to transportation. The technicians of economic law will, for the moment, hold their ground.

Some further thinking gives, however, reason to foresee that unexpected developments may nevertheless occur. The Union scheme implies, according to the Draft Treaty, jurisdiction on human rights on the part of national courts, the Court of Justice and the European Court of Human Rights; each of these categories of judges has its own contribution to make. The Strasbourg court may be more sensitive to human-rights issues, just as its Luxembourg sister institution is more liable to respond to problems regarding discrimination, or division of powers among Union and Member States. Some mutual adjusting will be necessary. Even now, there are some areas in which Community law does not seem completely attuned to the evolutions that have taken place under the Human Rights Convention. The very liberal interpretation the Human Rights Court gives to "civil rights" covered by the fair trial clause of Article 6 of the Convention 47) may have important consequences for certain practices usually followed in the economic law of the Community, as, for example, in competition law.



This brings us, finally, to the future existence of two areas of legal integration in Europe: the European Union and the Council of Europe, under whose auspices the European Convention on Human Rights functions. If the Union takes shape in the way indicated by the Draft Treaty, judicial relations between these two areas will be strengthened. The Union may, therefore, more and more become the real heart of the Council of Europe. Some political developments work in the same direction. In the near future, Spain and Portugal will accede to the Communities; Turkey will, if it does not begin to take return to democracy seriously, become only a nominal member of the Council of Europe. What remains then, are chiefly the Member States of the Community and the countries bound to it by free trade arrangements, like Sweden, Norway, Switzerland and Austria. In other words: the factual situation in the Council of Europe could be much the same as the one that is gradually evolving in the field of economic integration, where the Community takes the lead but works in close collaboration with the countries of the free trade area. This collaboration could be intensified, also at the judicial level. At the moment, the free trade agreements are interpreted by the Court of Justice as well as by the supreme courts of countries like Austria and Switzerland; there is a certain risk of diverging interpretations.<sup>48)</sup> If forms could be found for instituting



a judicial collaboration between the Community and these countries, the future Union might inherit a judicial structure which, if gradually extended to other Union matters, would in real terms be at the same time the judicial structure within the Council of Europe. After some time, the rift between the two organizations would vanish. Such a perspective might help to overcome certain fears among Community lawyers about a human-rights court partially composed of judges from third countries that would impose its legal views on Union institutions.

d. The authority of Union law

"A genuine rule of law in the European context", said the Court of Justice in its opinion on the European Union, "implies binding rules which apply uniformly and which protect individual rights". It also warned that the Union should not be given a looser legal structure than the existing Communities, as otherwise the value of Community law would be diminished.<sup>49</sup>) It looks as if the drafters of the Union Treaty took this warning to heart. Article 42 of the draft confirms the main principles actually underlying the significance of Community law: direct applicability, precedence over national law, joint responsibility of the Commission and Member State authorities for implementation of



Union law, and possibilities of invoking that law before national courts. Wider access of individuals to the Court of Justice, and continuation of the system of preliminary rulings, will do the rest.

First problem: the fact that legal rules on the authority of Union law are uniform does not necessarily mean that this authority will be perceived and endured in the same way by all the citizens of the Union. The experience with the Communities has, so far, been very eloquent on this point. Different attitudes on the authority of Community law in, say, Italy and England result not only from different assessments of the European Community and its law, but also from different ideas about what authority is like. More uniformity depends on the evolution of ideas that are rooted in century-old traditions and in the way people behave towards their family, the Church, the burgomaster and the tax collector. Complete uniformity seems hardly desirable, but some progress in that direction can be made. As law evasion is nowadays rapidly spreading from South to North, and insolence with regard to public authorities from North to South, we should not despair too quickly.

Second problem: is there any effective stimulus for public authorities to comply with the Union law and to take



their share in its implementation? There is, of course, the mechanism of sanctions provided for by Article 44 of the Draft Treaty. It may help, but it is unwieldy: it requires a request of Parliament or Commission, a finding of a persistent violation by the Court, a hearing of the Member State concerned, a draft decision of the European Council, approval by Parliament, and a definitive decision by the European Council. That will probably mean that it can only be used in cases of exceptional gravity. What remains is the possibility for private citizens or undertakings to appeal to the direct effect of the Union law over the head of national rules of implementation; experience shows that such a way is sometimes very effective.<sup>50</sup>) This attractive method is not always open: it cannot be used, for example, if the Union rules deny a right to somebody (e.g. to replant an old vineyard), or if they cannot be effective without collaboration of the national administration (e.g. premiums for stocking table wines for a certain period). Citizens always run the risk of drawing a blank when they rely too much on the self-propelling qualities of Union law. Compliance with Union law by the Member States will therefore probably be secured in much the same way as the one that actually ensures the observance of Community law: it is a combination of political pressure by the Commission and by interest groups, of legal means, through the threat of legal



action by the Commission or by citizens, and of feelings of solidarity; even the most unwilling administration sees after some time that the common interest ought to prevail. No statesman, whatever his (or her) brinkmanship, will easily take the risk of disrupting the European construction.

Third problem: will the system of sanctions contribute to the birth of a European Union that has all the characteristics of a federal state? Without engaging in battles on labels, one might nevertheless be realistic enough to see the difference between the proposed Union and the federal states that the world has witnessed these last two centuries. No expedition of the Union troops will call the defiant Member State to order. And it is perhaps better so: Robert Schuman's famous speech of May 9, 1950, that triggered off the integration process, sought exactly to displace movement of troops by more peaceful ways of coming to grips with each other.

I do not rule out, nevertheless, that the proposed system of sanctions has a certain bearing on the legal nature of the Union. 51) For me, it is especially Article 4 par. 4, on penalties against the Member State that persistently violates democratic principles, which gives the Draft Treaty its particular flavour. The Union makes itself, thereby,



responsible for the Member States' carrying on their democratic traditions. Such a situation might have far-reaching effects on the international relations of the Union; but it may be too early to speculate.

#### IV The Place of the Judiciary

Under the Draft Treaty, the position of the judiciary will be reinforced. This increase of judicial power is in particular due to two general ideas which seem to belong to the mainstream of the views expressed in the draft: the generalization of judicial review and the judicial protection of human rights. It is pretty obvious that these ideas have been influenced by experience gained in countries with constitutional courts. It is also clear that the drafters of the Treaty focused their attention exclusively on the more general aspects of the jurisdiction of constitutional courts. It is curious to observe, in this connection, that the draft is silent on control of regularity of the elections of Members of the European Parliament - a more technical subject but one that could, even in the present situation, very well be committed to the care of the courts, and even perhaps to the care of the Court of Justice. In France, the Conseil constitutionnel has jurisdiction over "le contentieux électoral" 52); a similar arrangement would neatly fit in the



proposed Union and, perhaps, be a first little step on the way to uniform electoral procedures. 53)

The powers of the Court of Justice are strengthened by the Draft Treaty. This does not result from a reinforcement of the Court's position vis-à-vis the national courts, but from the place the Court has in the Union's judiciary: its powers increase primarily at the expense of the powers of the other Union institutions. Is that an advantage? Personally, I am far from sure that general theories about the correct frontier between "the" judicial and "the" political area or between work of "the" courts and "the" legislative bodies can be of any great help.<sup>54)</sup> So much depends on the situation in which the dividing line is to be traced. It may be true, as Professor Cappelletti puts it in one of his recent books, that there is a general tendency towards an increase of judicial creativity nowadays<sup>55)</sup>; but such a general trend does not give us a recipe for every single occasion. On the whole, however, I would not regret a certain growth of judicial power in the actual situation of European integration. There are certain things the proposed Union will probably have in common with the existing Communities; and these have been continuously troubled by their weak political structure. The Draft Treaty seeks to overcome this weakness; but it is, at the very least, questionable



whether the proposed institutional changes can achieve such a result. A Union that combines an ambitious program and far-reaching powers with a weak political structure may need a strong judiciary.

There is a second reason not to be too cautious in this respect: it is commonly acknowledged that, thus far, the Court of Justice has done its work well. The general layout of European law owes more to the patient needlework of the Court than to the defective legislative machinery or to the solemn declarations of these last years. It was the Court's case law that developed the legal principles which support Community law - principles many of which can now be found in the Draft Treaty, like the priority of Community law, the direct effect of Community provisions and the protection of human rights. The very idea of legal principle as part of the law to be observed in the application of the treaties has been introduced and worked out by the Court. Its judgments have consistently, and from the very beginning in the early days of the Coal and Steel Treaty, tried to dig up the general principles of law that were gradually to form the backbone of the common law for Europe.<sup>56</sup>) As to further evolutions, there is no need to lack confidence.



Will, then, the Court's position in the famous "équilibre institutionnel" be substantially changed? Parliament seems to think so, for the Draft Treaty modifies the method of appointing the members of the Court (judges and advocates general): under the Union Treaty, half of them will be appointed by Parliament, the other half by the Council (Article 30 par. 2). The only explanation I have been able to find in the parliamentary documents is that such a solution is "fair and realistic".<sup>57</sup>) It is fair to add, however, that similar solutions exist in some countries for the appointment of members of the constitutional court.<sup>58</sup>) The proposal to follow these solutions in the framework of the Union may underestimate the difference between a national and a Community context. Experience shows that politicians usually assume - for reasons I personally fail to understand - that the nationality of members of the Court is very important. The proposed method might thus lead to a situation where the Council would insist on the appointment of ten or twelve judges on its part, every government represented in the Council wanting, so to say, "his" judge; Parliament would then probably have to add as many, and the Court would become completely unmanageable. If parliamentary influence on the appointment of members of the Court is sought, I should prefer the American system of "advice and consent": judges of the U.S. Supreme Court are appointed by



the President, but the Senate has to give the green light.<sup>59</sup>) In fact, the American Senate developed a policy of exercising a certain control on the quality and the morality of the President's appointees in order to prevent, in particular, that a none-too-scrupulous administration could monopolize the Court for its own friends. There is no reason why the European Parliament could not play a comparable role.

One final word about the place of the judiciary in the Draft Treaty's scheme. The drafters rely heavily on the courts and on judicial activities for many things they have in mind in order to get European integration again on the move; that confidence is not misplaced. They also propose specific ways in which the judiciary would get more involved in aspects of the integration process, as the proposed extensions of the Court's jurisdiction show; some of these proposals are important and interesting, although some others may disappoint. But all this should not make us forget that the real problem does not lie here: it is just feasible to make treaty provisions on jurisdiction, and that is perhaps easier than to frame a common policy on nuclear energy, or on road transport, or on river pollution. It is these policies, however, that Europe is waiting for, alongside of a great many other common policies.



European law cannot be made by lawyers alone. That may be a sobering thought for those who like to reflect on the relation between law and politics.



Notes

1. Report on behalf of the Committee on Institutional Affairs on the preliminary Draft Treaty establishing the European Union, part B, Explanatory Statement (doc. E.P. 1-1200/83/B), no. 1.
2. Altiero Spinelli, Das Verfassungsprojekt des Europäischen Parlaments, in; Schwarze-Bieber (ed.), Eine Verfassung für Europa, Von der Europäischen Gemeinschaft zur Europäischen Union (Baden-Baden 1984) p. 231.
3. Example: Ingolf Pernice, Verfassungsentwurf für eine Europäische Union, EuR 1984/2 p. 126.
4. O.J. 1977, C 103/1. The Court's case law is summarized in Case 44/79, Hauer (1979) E.C.R. 3727.
5. See Case 191/82, FEDIOL (1983) E.C.R. 2913.
6. See J. Megret, Le contrôle par le juge administratif de l'intervention économique dans les Etats membres de la C.E.E., in: Miscellanea Ganshof van der Meersch, II (Brussels 1972) p. 579.



7. See Case 24/75, Petroni (1975) E.C.R. 1149.
8. Examples: Shelley v. Kramer, 334 U.S. 1 (1948); Mapp v. Ohio, 367 U.S. 643 (1961).
9. See Cappelletti and Cohen, Comparative constitutional law (Indianapolis 1979) ch. 3-c (particularly p. 50-72).
10. See, generally, Claus Dieter Ehlermann, Vergleich des Verfassungsprojekts des Europäischen Parlaments mit früheren Verfassungs- und Reformprojekten, in: Schwarze-Bieber, Eine Verfassung für Europa (as quoted note 2), p. 269, at p. 281-282.
11. Report of the Commission on European Union, Bulletin of the European Communities, Supplement 5/75, no. 129; Suggestions of the Court of Justice on European Union, Bulletin of the European Communities, Supplement 7/75, p. 18.
12. Suggestions of the Court (as quoted note 11), p. 18.
13. See Case 230/81, Grand-Duchy of Luxembourg v. European Parliament (1983) E.C.R. 255.



14. Article 20 Statute of the Court of Justice of the E.E.C.
15. Report of the Commission (as quoted note 11), no. 128.
16. Example: Case 4/79, Providence agricole de la Champagne (1980) E.C.R. 2823.
17. See Jean Boulouis, Dalloz 1982 p. 10-13.
18. See Henry Schermers, Judicial protection in the European Communities (2nd ed., Deventer 1979), par. 379 a and 379 b; J. Mertens de Wilmars, Annulation et appréciation de validité dans le traité CEE: convergence ou divergence? in: Grewe-Rupp-Schneider (ed.), Europäische Gerichtsbarkeit und nationale Verfassungsgerichtsbarkeit (Festschrift-Kutscher, Baden-Baden 1981) p. 283.
19. Case 66/80, International Chemical Corporation (1981) E.C.R. 1191.
20. See T.P.J.N. van Rijn, Exceptie van onwettigheid en prejudiciële procedure inzake geldigheid van gemeenschapshandelingen (Deventer 1978) no. 249-252.
21. Case 92/78, Simmenthal (1979) E.C.R. 777.

22. This might in fact seem a logical consequence of the I.C.C. judgment, as quoted note 19.
23. Solemn Declaration on the European Union of 20 June 1983 (Stuttgart Declaration), Bulletin of the European Communities no. 6/1983, point 2.5.
24. In particular: Case 119/75, Terrapin Overseas (1976) E.C.R. 1039.
25. Case 88/77, Schonenberg (1978) E.C.R. 473.
26. Example: Report to the European Council on the European Union of 29 December 1975 (Tindemans report), Bulletin of the European Communities, Supplement 1/76, chapter IV-A-1; also in Working document 481/75 of European Parliament, p. 39-40.
27. Report of the Commission (as quoted note 11), no. 124 and no. 84.
28. Art. 93 Grundgesetz; Art. 90 Bundesverfassungsgerichtsgesetz.
29. BVerfGE 37 no. 18, Solange Beschluss, 1974.



30. Article 26 European Convention for the protection of human rights and fundamental freedoms.
31. Example: G. Pfennig, Möglichkeiten der materiellen Weiterentwicklung des Gemeinschaftsrechts, in: Carstens and others, Der Beitrag des Rechts zum europäischen Einigungsprozess (Melle 1984) p. 73, at p. 77.
32. Case 283/81, CILFIT (1982) E.C.R. 3415.
33. Art. III section II (1) U.S. Constitution.
34. Paul de Saint-Mihiel, Le projet de traité instituant l'Union Européenne, RMC, no. 276 (1984) p. 149.
35. President Hans Kutscher said as much in his farewell speech to the Court: see the Court's publication on its ceremonial sittings in 1980-1981 (Luxembourg 1982, p. 25).
36. See T. Koopmans, De polsstok van de rechter, in: Regelen en praktijk (Opstellen-van Wijnbergen, Zwolle 1979) p. 101.

37. See Peter Gilsdorf, Die Rolle der Kommission bei der gemeinschaftlichen Rechtssetzung, in: Der Beitrag des Rechts (as quoted note 31) p. 91.
38. See, for a list of these freedoms, Eberhard Grabitz, Implementation of human rights in Community law, in: In Memoriam J.D.B. Mitchell (London 1983) p. 194.
39. Albert Bleckmann, Die Freiheiten des gemeinsamen Marktes als Grundrechte, in: Bieber and others (ed.), Das Europa der zweiten Generation, Gedächtnisschrift für Christoph Sasse, II (Kehl 1981) p. 665.
40. See also M. Waelbroeck, La constitution européenne et les interventions des Etats membres en matière économique, in: In orde (Liber amicorum VerLoren van Themaat, Deventer 1982) p. 331.
41. Example: article 3 directive 64/221 for the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health (O.J. no. 56 p. 850, English special edition 1963-1964, p. 117).



42. The situation is similar in the Federal Republic of Germany: the Constitutional Court refers to "wirtschaftspolitische Neutralität" (already in BVerfGE 4 no. 2).
43. Pascal, *Pensées*, ed. Brunschvicg (Paris 1950) no. 294.
44. Report on behalf of the Committee on Institutional Affairs on the substance of the preliminary draft Treaty establishing the European Union, part C, Preparatory documents (doc. E.P. 1 - 575/83/c, working document on the law of the Union (K. de Gucht reporting)no. 71.
45. *Furman v. Georgia*, 408 U.S. 288 (1972); *Roe v. Wade*, 410 U.S. 113 (1973).
46. Conseil constitutionnel 16-7-1971, loi d'associations, Rec. 29.
47. *Ringeisen v, Austria*, ECHR Series A (13), 1971; *Sporrong and Lönnroth v. Sweden*, ECHR Series A (52), 1982.
48. See Case 270/80, *Polydor* (1982) E.C.R. 329; Case 104/81, *Kupferberg* (1982) E.C.R. 3641.

49. Suggestions of the Court (as quoted note 11), p. 17.
50. See, in particular: Case 2/74, *Reyners* (1974) E.C.R. 631; Case 8/81, *Ursula Becker* (1982) E.C.R. 53.
51. See *Pernice*, *Verfassungsentwurf* (as quoted note 3).
52. Art. 59 French Constitution.
53. Art. 14 of the Draft Treaty seems to acquiesce in the existing lack of uniformity.
54. See, however, my article on Legislature and judiciary present trends, in: Mauro Cappelletti (ed.), *New perspectives for a common law of Europe* (Leyden-London 1978) p. 309.
55. Mauro Cappelletti, *Giudici legislatori?* (Milan 1984) p. 19-59.
56. Case 8/55, *Fédéchar* (1954-1956) E.C.R. 299 is an example (principle of proportionality).
57. Report quoted note 44, part B, Explanatory Statement, p. 33 (O. Zecchino reporting).



58. Art. 5 Bundesverfassungsgerichtsgesetz.

59. At. II section II(2) U.S. Constitution.





PUBLICATIONS OF THE EUROPEAN POLICY UNIT

EUI Working Papers:

- No. 139: Ørstrom Møller      Financing European Integration:  
The European Communities and the  
Proposed European Union.
- No. 140: John Pinder      Economic and Social Powers of  
the European Union and the  
Member States: Subordinate or  
Coordinate Relationship?
- No. 141: Vlad Constantinesco      La Repartition des Competences  
Entre l'Union et les Etats  
Membres dans le Projet de Traité  
Instituant l'Union Européenne.
- No. 142: Peter Bruckner      Foreign Affairs Powers and  
Policy in the Draft Treaty  
Establishing the European Union.
- No. 143: Jan De Meyer      Belgium and the Draft Treaty  
Establishing the European Union.
- No. 144: Per Lachmann      The Draft Treaty Establishing  
the European Union:  
Constitutional and Political  
Implications in Denmark.
- No. 145: Thijmen Koopmans      The Judicial System Envisaged in  
the Draft Treaty.

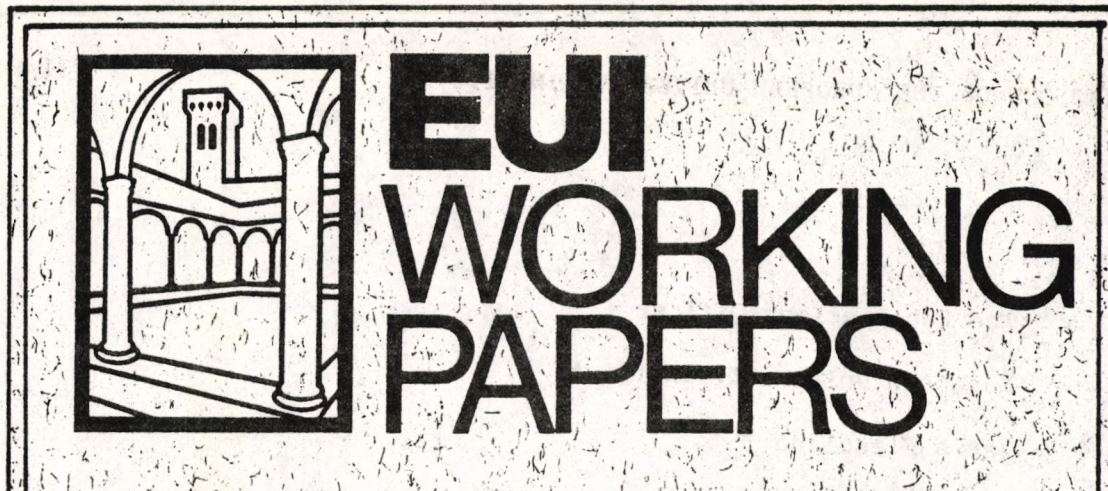
- No. 146: John Temple-Lang      The Draft Treaty Establishing  
the European Union and the  
Member States: Ireland.
- No. 147: Carl Otto Lenz      The Draft Treaty Establishing  
the European Union: Report on  
the Federal Republic of Germany.
- No. 148: David Edward, Richard  
          McAllister, Robert  
          Lane      The Draft Treaty Establishing  
the European Union: Report on  
the United Kingdom.
- No. 151: Jacques Genton      Problèmes Constitutionnels et  
Politiques Posés en France par  
une Eventuelle Ratification et  
Mise en Oeuvre du Projet de  
Traité d'Union Européenne
- Forthcoming:
- No.     : Gianfranco Pasquino      The Institutions and the Process  
          and Luciano Bardi      of Decision-Making in the Draft  
  Treaty.
- No.     : Joseph Weiler and      The Creation of the Union and  
          James Modrall      Its Relation to the EC Treaties.
- No.     : E.M.H. Hirsch Ballin      The Netherlands and the Draft  
          Treaty
- No.     : Jean Dondelinger      Luxembourg and the Draft Treaty
- No.     : Georgios Mavros      Greece and the Draft Treaty
- No.     : Gustavo Zagrebelsky      Italy and the Draft Treaty



- No. : Susan Senior-Nello EEC-East European Economic  
Relations: Industrial  
Cooperation Agreements.
- No. : Elfriede Regelsberger, European Political Cooperation:  
Philippe C. de Past, Present and Future.  
Schoutheete, Simon  
Nuttall

Handwritten text, likely bleed-through from the reverse side of the page. The text is faint and difficult to decipher but appears to be organized into several lines or paragraphs.





EUI Working Papers are published and distributed by the European University Institute, Florence.

Copies can be obtained free of charge -- depending on the availability of stocks -- from:

The Publications Officer  
European University Institute  
Badia Fiesolana  
I-50016 San Domenico di Fiesole(FI)  
Italy

Please use order form overleaf.



To :The Publications Officer  
European University Institute  
Badia Fiesolana  
I-50016 San Domenico di Fiesole(FI)  
Italy

From : Name.....  
Address.....  
.....  
.....  
.....  
.....

Please send me the following EUI Working Paper(s):

No.:.....  
Author, title:.....  
.....  
.....  
.....  
.....

Date:.....

Signature:  
.....





PUBLICATIONS OF THE EUROPEAN UNIVERSITY INSTITUTE

EUI WORKING PAPERS

- 1: Jacques PELKMANS                      The European Community and the Newly Industrialized Countries
- 2: Joseph H.H. WEILER                    Supranationalism Revisited - Retrospective and Prospective. The European Communities After Thirty Years
- 3: Aldo RUSTICHINI                      Seasonality in Eurodollar Interest Rates
- 4: Mauro CAPPELLETTI/  
David GOLAY                              Judicial Review, Transnational and Federal: Impact on Integration
- 5: Leonard GLESKE                        The European Monetary System: Present Situation and Future Prospects
- 6: Manfred HINZ                         Massenkult und Todessymbolik in der national-sozialistischen Architektur
- 7: Wilhelm BURKLIN                      The "Greens" and the "New Politics": Goodbye to the Three-Party System?
- 8: Athanasios MOULAKIS                Unilateralism or the Shadow of Confusion
- 9: Manfred E. STREIT                    Information Processing in Futures Markets. An Essay on the Adequacy of an Abstraction
- 10: Kumaraswamy VELUPILLAI            When Workers Save and Invest: Some Kaldorian Dynamics
- 11: Kumaraswamy VELUPILLAI            A Neo-Cambridge Model of Income Distribution and Unemployment
- 12: Kumaraswamy VELUPILLAI/  
Guglielmo CHIODI                      On Lindahl's Theory of Distribution
- 13: Gunther TEUBNER                    Reflexive Rationalitaet des Rechts
- 14: Gunther TEUBNER                    Substantive and Reflexive Elements in Modern Law
- 15: Jens ALBER                            Some Causes and Consequences of Social Security Expenditure Development in Western Europe, 1949-1977



- 16:Ian BUDGE Democratic Party Government: Formation and Functioning in Twenty-One Countries
- 17:Hans DAALDER Parties and Political Mobilization: An Initial Mapping
- 18:Giuseppe DI PALMA Party Government and Democratic Reproducibility: The Dilemma of New Democracies
- 19:Richard S. KATZ Party Government: A Rationalistic Conception
- 20:Juerg STEINER Decision Process and Policy Outcome: An Attempt to Conceptualize the Problem at the Cross-National Level
- 21:Jens ALBER The Emergence of Welfare Classes in West Germany: Theoretical Perspectives and Empirical Evidence
- 22:Don PATINKIN Paul A. Samuelson and Monetary Theory
- 23:Marcello DE CECCO Inflation and Structural Change in the Euro-Dollar Market
- 24:Marcello DE CECCO The Vicious/Virtuous Circle Debate in the '20s and the '70s
- 25:Manfred E. STREIT Modelling, Managing and Monitoring Futures Trading: Frontiers of Analytical Inquiry
- 26:Domenico Mario NUTI Economic Crisis in Eastern Europe - Prospects and Repercussions
- 27:Terence C. DAINTITH Legal Analysis of Economic Policy
- 28:Frank C. CASTLES/  
Peter MAIR Left-Right Political Scales: Some Expert Judgements
- 29:Karl HOHMANN The Ability of German Political Parties to Resolve the Given Problems: the Situation in 1982
- 30:Max KAASE The Concept of Political Culture: Its Meaning for Comparative Political Research



- 31:Klaus TOEPFER  
Possibilities and Limitations of a  
Regional Economic Development Policy  
in the Federal Republic of Germany
- 32:Ronald INGLEHART  
The Changing Structure of Political  
Cleavages Among West European Elites  
and Publics
- 33:Moshe LISSAK  
Boundaries and Institutional Linkages  
Between Elites: Some Illustrations  
from Civil-Military Elites in Israel
- 34:Jean-Paul FITOUSSI  
Modern Macroeconomic Theory: An  
Overview
- 35:Richard M. GOODWIN/  
Kumaraswamy VELUPILLAI  
Economic Systems and their Regulation
- 36:Maria MAGUIRE  
The Growth of Income Maintenance  
Expenditure in Ireland, 1951-1979
- 37:G. LOWELL FIELD/  
John HIGLEY  
The States of National Elites and the  
Stability of Political Institutions in  
81 Nations, 1950-1982
- 38:Dietrich HERZOG  
New Protest Elites in the Political  
System of West Berlin: The Eclipse of  
Consensus?
- 39:Edward O. LAUMANN/  
David KNOKE  
A Framework for Concatenated Event  
Analysis
- 40:Gwen MOOR/  
Richard D. ALBA  
Class and Prestige Origins in the  
American Elite
- 41:Peter MAIR  
Issue-Dimensions and Party Strategies  
in the Irish republic, 1948-1981: The  
Evidence of Manifestos
- 42:Joseph H.H. WEILER  
Israel and the Creation of a Palestine  
State. The Art of the Impossible and  
the Possible
- 43:Franz Urban PAPPI  
Boundary Specification and Structural  
Models of Elite Systems: Social  
Circles Revisited



- 45:Alexis PAULY/  
René DIEDERICH Migrant Workers and Civil Liberties
- 46:Alessandra VENTURINI Is the Bargaining Theory Still an Effective Framework of Analysis for Strike Patterns in Europe?
- 47:Richard A. GOODWIN Schumpeter: The Man I Knew
- 48:J.P. FITOUSSI/  
Daniel SZPIRO Politique de l'Emploi et Réduction de la Durée du Travail
- 49:Bruno DE WITTE Retour à Costa. La Primauté du Droit Communautaire à la Lumière du Droit International
- 50:Massimo A. BENEDETTELLI Eguaglianza e Libera Circolazione dei Lavoratori: Principio di Eguaglianza e Divieti di Discriminazione nella Giurisprudenza Comunitaria in Materia di Diritti di Mobilità Territoriale e Professionale dei Lavoratori
- 51:Gunther TEUBNER Corporate Responsibility as a Problem of Company Constitution
- 52:Erich SCHANZE Potentials and Limits of Economic Analysis: The Constitution of the Firm
- 53:Maurizio COTTA Career and Recruitment Patterns of Italian Legislators. A Contribution of the Understanding of a Polarized System
- 54:Mattei DOGAN How to become a Cabinet Minister in Italy: Unwritten Rules of the Political Game
- 55:Mariano BAENA DEL ALCAZAR/  
Narciso PIZARRO The Structure of the Spanish Power Elite 1939-1979
- 56:Berc RUSTEM/  
Kumaraswamy VELUPILLAI Preferences in Policy Optimization and Optimal Economic Policy
- 57:Giorgio FREDDI Bureaucratic Rationalities and the Prospect for Party Government
- 59:Christopher Hill/  
James MAYALL The Sanctions Problem: International and European Perspectives



- 60:Jean-Paul FITOUSSI                    Adjusting to Competitive Depression.  
The Case of the Reduction in Working  
Time
- 61:Philippe LEFORT                    Idéologie et Morale Bourgeoise de la  
Famille dans le Ménager de Paris et le  
Second Libro di Famiglia, de L.B.  
Alberti
- 62:Peter BROCKMEIER                   Die Dichter und das Kritisieren
- 63:Hans-Martin PAWLOWSKI            Law and Social Conflict
- 64:Marcello DE CECCO                Italian Monetary Policy in the 1980s
- 65:Gianpaolo ROSSINI                Intraindustry Trade in Two Areas: Some  
Aspects of Trade Within and Outside a  
Custom Union
- 66:Wolfgang GEBAUER                Euromarkets and Monetary Control: The  
Deutschemark Case
- 67:Gerd WEINRICH                    On the Theory of Effective Demand  
under Stochastic Rationing
- 68:Saul ESTRIN/  
Derek C. JONES                    The Effects of Worker Participation  
upon Productivity in French Producer  
Cooperatives
- 69:Berc RUSTEM  
Kumaraswamy VELUPILLAI            On the Formalization of Political  
Preferences: A Contribution to the  
Frischian Scheme
- 70:Werner MAIHOFER                  Politique et Morale
- 71:Samuel COHN                      Five Centuries of Dying in Siena:  
Comparison with Southern France
- 72:Wolfgang GEBAUER                Inflation and Interest: the Fisher  
Theorem Revisited
- 73:Patrick NERHOT                    Rationalism and the Modern State
- 74:Philippe SCHMITTER                Democratic Theory and Neo-Corporatist  
Practice
- 75:Sheila A. CHAPMAN                Eastern Hard Currency Debt 1970-83. An  
Overview



- 76:Richard GRIFFITHS Economic Reconstruction Policy in the Netherlands and its International Consequences, May 1945 - March 1951
- 77:Scott NEWTON The 1949 Sterling Crisis and British Policy towards European Integration
- 78:Giorgio FODOR Why did Europe need a Marshall Plan in 1947?
- 79:Philippe MIOCHE The Origins of the Monnet Plan: How a Transitory Experiment answered to Deep-Rooted Needs
- 80:Werner ABELSHAUSER The Economic Policy of Ludwig Erhard
- 81:Helge PHARO The Domestic and International Implications of Norwegian Reconstruction
- 82:Heiner R. ADAMSEN Investitionspolitik in der Bundesrepublik Deutschland 1949-1951
- 83:Jean BOUVIER Le Plan Monnet et l'Economie Française 1947-1952
- 84:Mariuccia SALVATI Industrial and Economic Policy in the Italian Reconstruction
- 85:William DIEBOLD, Jr. Trade and Payments in Western Europe in Historical Perspective: A Personal View By an Interested Party
- 86:Frances LYNCH French Reconstruction in a European Context
- 87:Gunther TEUBNER Verrechtlichung. Begriffe, Merkmale, Grenzen, Auswege
- 88:Maria SPINEDI Les Crimes Internationaux de l'Etat dans les Travaux de Codification de la Responsabilité des Etats Entrepris par les Nations Unies
- 89:Jelle VISSER Dimensions of Union Growth in Postwar Western Europe
- 90:Will BARTLETT Unemployment, Migration and Industrialization in Yugoslavia, 1958-1977



- 91:Wolfgang GEBAUER  
Kondratieff's Long Waves
- 92:Elisabeth DE GHELLINCK/  
Paul A. GEROSKI/  
Alexis JACQUEMIN  
Inter-Industry and Inter-Temporal  
Variations in the Effect of Trade on  
Industry Performance
- 93:Gunther TEUBNER/  
Helmut WILLKE  
Kontext und Autonomie.  
Gesellschaftliche Selbststeuerung  
durch Reflexives Recht
- 94:Wolfgang STRECK/  
Philippe C. SCHMITTER  
Community, Market, State- and  
Associations. The Prospective  
Contribution of Interest Governance  
to Social Order
- 95:Nigel GRIFFIN  
"Virtue Versus Letters": The Society  
of Jesus 1550-1580 and the Export of  
an Idea
- 96:Andreas KUNZ  
Arbeitsbeziehungen und  
Arbeitskonflikte im oeffentlichen  
Sektor. Deutschland und  
Grossbritannien im Vergleich 1914-1924
- 97:Wolfgang STRECK  
Neo-Corporatist Industrial Relations  
and the Economic Crisis in West  
Germany
- 98:Simon A. HORNER  
The Isle of Man and the Channel  
Islands - A Study of their Status  
under Constitutional, International  
and European Law
- 99:Daniel ROCHE  
Le Monde des Ombres
- 84/100:Gunther TEUBNER  
After Legal Instrumentalism?
- 84/101:Patrick NERHOT  
Contribution aux Débats sur le Droit  
Subjectif et le Droit Objectif comme  
Sources du Droit
- 84/102:Jelle VISSER  
The Position of Central Confederations  
in the National Union Movements
- 84/103:Marcello DE CECCO  
The International Debt Problem in the  
Inter-War Period
- 84/104:M. Rainer LEPSIUS  
Sociology in Germany and Austria 1918-  
1945. The Emigration of the Social  
Sciences and its Consequences. The



- 84/105:Derek JONES      Development of Sociology in Germany after the Second World War, 1945-1967
- 84/106:Philippe C. SCHMITTER      The Economic Performances of Producer Cooperations within Command Economies: Evidence for the Case of Poland
- 84/107:Marcos BUSER      Neo-Corporatism and the State
- 84/108:Frans van WAARDEN      Der Einfluss der Wirtschaftsverbände auf Gesetzgebungsprozesse und das Vollzugswesen im Bereich des Umweltschutzes
- 84/109:Ruggero RANIERI      Bureaucracy around the State: Varieties of Collective Self-Regulation in the Dutch Dairy Industry
- 84/110:Peter FARAGO      The Italian Iron and Steel Industry and European Integration
- 84/111:Jean-Paul FITOUSSI/  
Kumuraswamy VELUPILLAI      Nachfragemacht und die kollektiven Reaktionen der Nahrungsmittelindustrie
- 84/112:Anna Elisabetta GALEOTTI      A Non-Linear Model of Fluctuations in Output in a Mixed Economy
- 84/113:Domenico Mario NUTI      Individualism and Political Theory
- 84/114:Saul ESTRIN/Jan SVEJNAR      Mergers and Disequilibrium in Labour-Managed Economies
- 84/115:Alan CAWSON/John BALLARD      Explanations of Earnings in Yugoslavia: The Capital and Labor Schools Compared
- 84/116:Reinhard JOHN      A Bibliography of Corporatism
- 84/117:Richard T.GRIFFITHS/Frances M.B. LYNCH      On the Weak Axiom of Revealed Preference Without Demand Continuity Assumptions
- 84/118:Richard T.GRIFFITHS/Frances M.B. LYNCH      The FRITALUX/FINEBEL Negotiations 1949/1950
- 84/118:Richard T.GRIFFITHS/Frances M.B. LYNCH      Monopolistic Equilibrium and Involuntary Unemployment
- 84/119:Domenico Mario NUTI      Economic and Financial Evaluation of Investment Projects; General Principles and E.C. Procedures



- 84/120:Marcello DE CECCO                    Monetary Theory and Roman History
- 84/121:Marcello DE CECCO                    International and Transnational  
Financial Relations
- 84/122:Marcello DE CECCO                    Modes of Financial Development:  
American Banking Dynamics and World  
Financial Crises
- 84/123:Lionello F. PUNZO/  
Kumuraswamy VELUPILLAI                    Multisectoral Models and Joint  
Production
- 84/124:John FARQUHARSON                    The Management of Agriculture and  
Food Supplies in Germany, 1944-47
- 84/125:Ian HARDEN/Norman LEWIS            De-Legalisation in Britain in the  
1980s
- 84/126:John CABLE                            Employee Participation and Firm  
Performance. A Prisoners' Dilemma  
Framework
- 84/127:Jesper JESPERSEN                    Financial Model Building and  
Financial Multipliers of the  
Danish Economy
- 84/128:Ugo PAGANO                            Welfare, Productivity and Self-  
Management
- 84/129:Maureen CAIN                           Beyond Informal Justice
- 85/130:Otfried HOEFFE                       Political Justice - Outline of a  
Philosophical Theory
- 85/131:Stuart J. WOOLF                       Charity and Family Subsistence:  
Florence in the Early Nineteenth  
Century
- 85/132:Massimo MARCOLIN                    The Casa d'Industria in Bologna during  
the Napoleonic Period: Public Relief  
and Subsistence Strategies
- 85/133:Osvaldo RAGGIO                       Strutture di parentela e controllo  
delle risorse in un'area di transito:  
la Val Fontanabuona tra Cinque e  
Seicento
- 85/134:Renzo SABBATINI                      Work and Family in a Lucchese Paper-  
Making Village at the Beginning of the  
Nineteenth Century



- 85/135: Sabine JURATIC  
Solitude féminine et travail des femmes à Paris à la fin du XVIIIème siècle
- 85/136: Laurence FONTAINE  
Les effets déséquilibrants du colportage sur les structures de famille et les pratiques économiques dans la vallée de l'Oisans, 18e-19e siècles
- 85/137: Christopher JOHNSON  
Artisans vs. Fabricants: Urban Protoindustrialisation and the Evolution of Work Culture in Lodève and Bédarieux, 1740-1830
- 85/138: Daniela LOMBARDI  
La demande d'assistance et les réponses des autorités urbaines face à une crise conjoncturelle: Florence 1619-1622
- 85/139: Orstrom MOLLER  
Financing European Integration: The European Communities and the Proposed European Union.
- 85/140: John PINDER  
Economic and Social Powers of the European Union and the Member States: Subordinate or Coordinate Relationship
- 85/141: Vlad CONSTANTINESCO  
La Repartition des Competences Entre l'Union et les Etats Membres dans le Projet de Traite' Instituant l'Union Europeenne.
- 85/142: Peter BRUECKNER  
Foreign Affairs Power and Policy in the Draft Treaty Establishing the European Union.
- 85/143: Jan DE MEYER  
Belgium and the Draft Treaty Establishing the European Union.
- 85/144: Per LACHMANN  
The Draft Treaty Establishing the European Union: Constitutional and Political Implications in Denmark.
- 85/145: Thijmen KOOPMANS  
The Judicial System Envisaged in the Draft Treaty.
- 85/146: John TEMPLE-LANG  
The Draft Treaty Establishing the European Union and the Member



- 85/147:Carl Otto LENZ
- 85/148:David EDWARD/  
Richard MCALLISTER/  
Robert LANE
- 85/149:Joseph J. M. VAN DER VEN
- 85/150:Ralf ROGOWSKI
- States: Ireland
- The Draft Treaty Establishing the European Union: Report on the Federal Republic of Germany
- The Draft Treaty establishing the European Union: Report on the United Kingdom
- Les droits de l'Homme: leur universalite' en face de la diversite' des civilisations.
- Meso-Corporatism and Labour Conflict Resolution

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is essential for ensuring transparency and accountability in the organization's operations.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It highlights the need for a systematic and consistent approach to data collection, as well as the importance of using appropriate statistical methods to analyze the results.

3. The third part of the document focuses on the interpretation and presentation of the data. It discusses the importance of clearly communicating the findings of the study to the relevant stakeholders, and provides guidance on how to effectively present the data in a way that is easy to understand and interpret.

4. The final part of the document concludes with a summary of the key findings and recommendations. It emphasizes the need for ongoing monitoring and evaluation of the organization's performance, and provides suggestions for how to improve the data collection and analysis process in the future.







