

State and Supranational order: The European Framework



JEAN MONNET MODULE "EUCOLAW"

THE EUROPEANIZATION OF CONSTITUTIONAL LAW. THE IMPACT OF EU LAW ON NATIONAL SOURCES OF LAW, FORM OF GOVERNMENT, RIGHTS AND FREEDOMS.

PUBLIC LAW, 26-10-2016 PROF. TANIA GROPPI

Definition of International Global Organizations

- International global organisations are entities established by formal political agreements between their members that have the status of international treaties
- Their existence is recognised by law in their member countries
- Every State can (eventually) participate in this kind of organization, notwithstanding the geographical collocation

The United Nations (UN)

- The UN is the most important international global organization
- It was established on 24 October 1945 to promote peace and cooperation among the States
- At first, the UN had 51 member States; nowadays it counts 193 member States (all the States except Vatican City and the Palestine)



The United Nations (UN)

- The General Assembly is the main deliberative assembly of the UN
- It represents all the member states
- It approves recommendations that usually are not binding for member states, but that are politically important because they represent the international community's position about a certain issue

The United Nations (UN)

- The Security Council is the executive body of the UN
- The Security Council is made up of 15 member states: 5 permanent (China, France, Russia, the United Kingdom, and the United States) and 10 non-permanent members for 2 years term
- It has the power to make binding decisions
- The 5 permanent members hold veto power over UN resolutions

The United Nations (UN)

- The International Court of Justice is the primary judicial organ of the UN
- It is composed of 15 judges who serve 9-year terms and are elected by the General Assembly and the Security Council
- Its main function is to adjudicate disputes among states

The United Nations (UN)

- Others bodies of the UN are the Secretariat (the administrative body of the organization) and the Economic and Social Council (that promote economic and social co-operation among the States)
- The UN can establish specialized agencies to fulfill specific duties (the most important are the UNICEF, the FAO, the UNESCO, the UNHCR, the IMF, the WTO, the ILO...).

Definition of International Regional Organizations

- International regional organisations are entities established by formal political agreements between their members that have the status of international treaties
- Their existence is recognised by law in their member countries
- They include states with common goals and belonging to the same geographical area

Goals of International Regional Organizations

- These international organizations include states with common goals, which can be of various nature and extent
- The most important goals of these kind of international organization are the economic and political integration and the protection of human rights

The main International Regional Organizations

- For economic/political integration
 - European Union (Europe)
 - Mercosur, Caribbean Community, Andean Community (Latin America)
 - Nafta (North America)
 - Asean (Asia)
- For the protection of human rights
 - Council of Europe (Europe)
 - Interamerican Court of Human Rights (America)
 - African Court of Human and Peoples' Rights (Africa)

Two different organizations in Europe

- In the European continent there are 2 different organizations!!!!
- The EU and the CoE differ each others for the goals, for the extension and for the kind of organization
- As for the goals, the main aim of the EU is to promote political and economic integration, while the CoE deals with the protection of human rights
- As for the extension, the EU includes 28 States, while the CoE includes 47 States
- As for the kind of organization, the UE is a supranational organization, while the CoE is an international organization

Two different organizations

Council of Europe



European Union



The Council of Europe: historical development

- 1949: Ten States (Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden and the United Kingdom) sign the Treaty of London establishing the Council of Europe
- 1950: the ten States sign the European Convention on Human Rights (ECHR) (formally the Convention for the Protection of Human Rights and Fundamental Freedoms)
- In these decades, many States have joined (now 47) and other treaties and protocols to the ECHR have been signed

The Council of Europe: organization

- The Parliamentary Assembly includes national parliamentarians from all member states and elects its President for a year; it is a representative body
- The Committee of Ministers, includes the Ministers of Foreign Affairs of the member states; it is the decision making body
- The Secretary General is elected for a five years terms by the Assembly on the recommendation of the Committee; he is responsible for the activities of the Council.
- The Congress of Local and Regional Authorities comprises political representatives from local and regional authorities in all member states

The Council of Europe: the European Court of Human Rights



The Council of Europe: the European Court of Human Rights

- The most important body is the European Court of Human Rights
- It includes 47 judges (one for each State) elected for a non-renewable nine-year term by majority vote in the Parliamentary Assembly from the three candidates nominated by each member State
- It can work in Committees (3 judges), Chambers (7 judges) or Grand Chamber (17 judges); the plenary court has no judicial, but electoral and administrative functions

The Council of Europe: the European Court of Human Rights

- Its main function is to hear applications by individuals, non-governmental organisations, groups of individuals or a State against a member State, alleging a violation of the rights recognized by the European Convention on Human Rights
- The Court decides cases by majority (separate opinions are admitted)
- It may order the member state to redress violations or to pay material and/or moral damages and the legal expenses
- It can also deliver advisory opinions on the interpretation of the European Convention on Human Rights