

## SELF-DETERMINATION OF THE EUROPEAN UNION\*

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### **ABSTRACT**

*The European Union is not just an international organization. It is a unique political and legal system based primarily on the fundamental principles of democracy and the rule of law. As such the European Union has a right of self-determination, namely that its own political mechanisms “freely determine its political status and freely pursue its economic, social and cultural development. While it is undisputable that Members of the European Union have the right of “national” self-determination within the European Union, the self-determination of the European Union, as such, is a concept still almost unknown in political and legal theory and practice. However, the Treaty on the European Union and the Treaty on the Functioning of the European Union already provide enough elements for the identification and conceptualization of the self-determination of the European Union as understood in international law (and politics).*

*Self-determination of the Member States and self-determination of the European Union can exist as separate and interconnected concepts that might provide an adequate legal and political framework for further development of the European Union, its identity, key values and ends of its internal and foreign policy. Recognition and conceptualization of the right of self-determination, not only in political and legal theory but also in the political practice of the European Union might be a further step in the development of the European Union, as “a new stage in the process of creation an ever-closer union among the peoples of Europe”.*

*While the concept of self-determination of the European Union might be developed in the existing legal framework, namely in accordance with the founding treaties, it seems that it should have a proper place in its forthcoming revision. The recognition of the self-determination of the European Union certainly improves the very concept of the identity of the European Union and the perception of its role in international affairs.*

**Keywords:** *European Union, Identity of the European Union, People, Self-Determination*

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## 1. INTRODUCTION

The right of self-determination belongs to the European Union, or to the people of the EU. The concept of self-determination of the European Union is still unknown (or avoided) both in theory and practice of the European Union. The Treaty on the European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), as well as the Charter of Fundamental Rights of the European Union<sup>1</sup> do not contain any direct reference to the “self-determination”.<sup>2</sup> While there are a lot of discussions on the self-determination within the Member States of the European Union, the European Union as such, nor the “people” of the European Union, were not identified as a holder of the right of self-determination, even though the competencies of the European Union, its political aims, values on which it is based, exercise of the said competencies are completely in line with the proper exercise of the right of self-determination.

The right of self-determination of people played a significant role in the process of decolonisation<sup>3</sup> and are frequently discussed in relation to secessionist claims.<sup>4</sup> Exercise of this right in creation of the union of states and association of states was largely avoided even though it is without any doubt that the right to self-determination is clearly recognized also outside the colonial context and particularly in Europe.<sup>5</sup> As it was desirable in the process of decolonisation, it is not only desirable but also necessary and legally binding in the process of creation and development of an “union of states.” The most complex right of “peoples”, may play a prominent role in the current and further political processes in creation of the new stage of development of the European Union, diminishing its “democratic deficit” and creating an “ever closer union”.

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<sup>1</sup> Consolidated version of the Treaty on the European Union, (2016) OJ C202/1, Consolidated version of the Treaty on the Functioning of the European Union (2012) OJ C 326/47, Charter on Fundamental Rights of the European Union (2020) C 364/1.

<sup>2</sup> It is worth noting that European Convention on Human Rights and Fundamental Freedoms does not contain any reference to the right of people to self-determination. The author briefly expressed idea of the self-determination of the European Union in: Gajić, A., *Facing Reality: A Need to Change the Legal Framework of the EU Public Health Policy and the Influence of the Pandemic of COVID-19 on the Perception of Identity and the Role of the EU*, EU and Comparative Law Issues Challenges Series (ECLIC), Issue 6, 2022, pp. 353-374.

<sup>3</sup> Emerson, R., *Self Determination*, The American Journal of International Law, Vol. 65, 1971, pp. 459-475.

<sup>4</sup> See for example Christakis, T., *Self-Determination and Fait Accompli in the case of Krimera*, ZAOR, Haidelberg Journal of International Law. Vol 75, No1, 2015.; Nicolas, L., *The Right to National Self-determination within the EU: A Legal Investigation*, EUROBORDERS Sovereignty and Self-Determination, Working Paper 8, September 2017.

<sup>5</sup> See Article VIII of the Conference on Security and Co-operation in Europe Final Act, Helsinki 1975.

In this article we will first briefly outline the essence of the right of self-determination, then the nature of this (legal) right particularly in the context of the European Union, and the (particularly legal) nature of the European Union as a beneficiary or a holder of the right of self-determination and provide certain notes on the identity of the European Union. Finally at the end we will clarify our position concerning further revision of the founding treaties. This article does not cover all aspects of the exercise of the right of self-determination in relation to the European Union and its main aim is primarily to emphasise the very existence of the right of self-determination of the European Union.

## 2. SELF-DETERMINATION

The right of self-determination is “one of the essential principles of contemporary international law”,<sup>6</sup> “a fundamental right, without which other rights cannot be fully enjoyed... Enjoyment of this right is a prerequisite for the exercise of all individual rights and freedoms.”<sup>7</sup> Discussions concerning “historical origins” of the right of self-determination is outside the scope of this study, however, its contemporary legal meaning has been developed through series of international legal instruments.<sup>8</sup>

The Charter of the United Nations proclaims that one of the purposes of the United Nations is “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.”<sup>9</sup> Dealing with the international economic and social cooperation, Article 55 of the Charter of the United Nations states that: “With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall

<sup>6</sup> *Case Concerning East Timor (Portugal v Australia)* Merits, Judgment, ICJ Reports 1995 p. 102, para 29.; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory opinion of 9 July 2004, ICJ reports 2024, p. 39-40, para. 88. This principle is also recognized by the United Nations International Law Commission as a *ius cogens* of contemporary international law. International Law Commission, *Draft conclusions on identification and legal consequences of peremptory norms of general international law (ius cogens), with commentaries 2022*, UN Doc. A/77/10, Yearbook of the International Law Commission, 2022, Vol. II, Part Two.

<sup>7</sup> *The right to self-determination-Historical and current development on the basis of United nations Instruments*, study prepared by Aureliu Cristescu, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, United Nations, New York, 1981. Un Doc. E/CN.4/Sub.2/404/Rev. 1, para 228.

<sup>8</sup> However, there is a need to say that issues concerning the very substance of self-determination are of very complex nature, and the right of self-determination was primarily discussed in the context of decolonization or various secessionist claims. See: Shaw, M., *Peoples, Territory and Boundaries*, European Journal of International Law, 1997, pp. 478-507.

<sup>9</sup> Article 1, paragraph 2 of the Charter of the United Nations.

promote: (a) higher standards of living, full employment, and conditions of economic and social progress and development; (b) solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; and (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”<sup>10</sup>

The content of the right of people of self-determination is not defined by the United Nations Charter, but in the common Article 1 of the International Covenant on Civil and Political Rights (1966) and International Covenant on Economic, Social and Cultural Rights (1966) it is stated that “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”<sup>11</sup> This content of the peoples’ right of self-determination is confirmed and further elaborated in the United Nations General Assembly Declaration on principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (1970):<sup>12</sup> “By virtue of principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter... Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter. The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by people constitute modes of implementing the right of self-determination by that people.”<sup>13</sup>

The principle of equal rights and self-determination of peoples are also confirmed by, inter alia, Helsinki Final Act (1975)<sup>14</sup> stating that: “By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external

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<sup>10</sup> The aims proclaimed in Article 55 of the Charter are completely in line with, for example with express wordings of Articles 2, 3, 10 of the Treaty on the European Union.

<sup>11</sup> In paragraph 2 it is stated that “All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.”

<sup>12</sup> UN Doc. A/Res/2625 of 24 October 1970.

<sup>13</sup> This Declaration is perceived as “very substantial contribution to clarification of the key concepts of international law” Rosenstock, R., *The Declaration of Principles of International Law concerning Friendly Relations: A Survey*, American Journal of International Law, Vol. 65, 1971, p. 713.

<sup>14</sup> Conference on Security and Co-operation in Europe Final Act, Helsinki 1975.

political status, without external interference, and to pursue as they wish their political, economic, social and cultural development... The participating States reaffirm the universal significance of respect for and effective exercise of equal rights and self-determination of peoples for the development of friendly relations among themselves as among all States; they also recall the importance of the elimination of any form of violation of this principle.”

It seems that the (political) process of European integration is a clear example of the exercise of the right of self-determination, however, as stated above, it was not recognized as such. In another words, it was not explained by a clear reference to the right of self-determination. Even the mentioning of this term is largely avoided. The process of European integration whose main achievement is creation and further development of the European Union that started after the Second World War with the creation of the European Coal and Steel Community is the integration process “produced the most extensive example of inter-state co-operation”<sup>15</sup> covering almost every aspect of legal, economic, social and political life in the political process that was completely in line with the aims and principles of the Charter of the United Nations. However, the EU is not the result of an inter-state cooperation process, it is also a process in which a unique political and legal order was established. The subjects of the legal (and also political) system of the European Union are not just states, but also their citizens, with the clearly recognized citizenship of the European Union for every person who holds the nationality any of the state member of the European Union. Therefore, subjects of this legal order are all states (currently 27 Member States),<sup>16</sup> peoples,<sup>17</sup> nations and citizens<sup>18</sup> of the European Union.

<sup>15</sup> As Fligstein et al summarized: “European political, legal and economic integration has proceeded from the Treaty of Rome in 1957 to the Treaty of Lisbon in 2007. During this period, EU membership has expanded from six to 27, and EU authority has extended to almost every domain of modern economic and social life. That this has occurred peacefully and without threats of violence or coercion makes the EU project one of the most fascinating in world politics. From the beginning, the architects of the EU thought that once the process of economic integration was established, political integration would follow. One of the early leading scholars of European integration, Ernst Haas, formulated this idea into a theory of regional integration (Haas, 1961).” Fligstein, N.; Polyakova A.; Sandholtz W., *European Integration, nationalism and European Identity*, *Journal of Common Market Studies*, Vol. 50, 2012, pp. 106-122.

<sup>16</sup> Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.

<sup>17</sup> “The peoples of Europe, in creating an ever-closer union among them, are resolved to share a peaceful future based on common values.” Preamble of the Charter of Fundamental Rights of the European Union.

<sup>18</sup> See, *inter alia*, Articles 1, 10 and 13 of the TEU. Article 10 (3) of the TEU provides that “every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and closely as possible to citizens.”

### 3. THE NATURE OF THE SELF-DETERMINATION RIGHT AND THE EUROPEAN UNION

Self-determination is a right that can be established and exercised only in the continuing political process. It could be understood as a legal right, as well as a political aim or as a mode of social development. The right of self-determination is not a judiciable category *per se*, it might be recognized but it cannot be established and exercised solely by legally binding decision of some international court or some international legal or political authority, it needs to be achieved in the political process.

Crawford argued that “we have the paradox that the international law of self-determination both exists and is obscure.”<sup>19</sup> It seems to be the common and for some actors desirable blurred understanding. However, it is not so obscure as argued by Crawford if understood in the political process, where at least some measure of divergent views and interests are involved.<sup>20</sup> Speaking on the self-determination Crawford pointed that “no one is very clear as to what it means, at least outside the colonial context. There are major uncertainties about its interpretation and application, uncertainties which seems to go to the heart of the notion of self-determination itself”.<sup>21</sup> However, it seems that it is not the right of self-determination that is obscure, rather the concrete political process in which the right of self-determination might be achieved could be described as obscure. Outside the colonial context the concept clearly exists, but it was discussed and recalled mainly in the colonial context and when dealing with separatist claims,<sup>22</sup> and blurred the very idea of the right of self-determination, blurred with strong political influence in the realm of power politics.

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<sup>19</sup> Crawford, J., *The Right of Self-Determination in International Law: Its Development and Future*, in: Alston, P. (ed.) *Peoples's Rights*, Collected courses of the Academy of European Law, 2001, p. 10.

<sup>20</sup> For example, as noted by Christakis “The choice between self-determination and territorial integrity is one of the oldest false dilemmas of International Law. It sets the problem of secession under two contradictory and mutually exclusive options, neither of which is true as such under positive International Law: either a specific group within a State constitutes a “people” and has a right to “external” self-determination; or the territorial integrity of the parent State must be respected and prohibits secession by such a group. This dilemma is very convenient from a political point of view. It provides States with the opportunity to “ride two horses at the same time”. States could thus embrace ‘self-determination’ of some groups and encourage in one way or another separatist claims compatible with their interests, while proclaiming that the principle of territorial integrity prevails at home or in the territory of friends and allies.” Cristakis, T., *op. cit.*, note 5, p. 1.

<sup>21</sup> Crawford J., *op. cit.*, note 20, p. 10.

<sup>22</sup> See for example Shaw, M., *Peoples, Territory and Boundaries*, *European Journal of International Law*, 1997, pp. 478-507.

The right of self-determination must be understood and implemented in harmony with other core principles of the international law (particularly those clearly expressed in the UN Charter).<sup>23</sup> It is not a self-contained principle that exist in “clinical” isolation from other principles and rules of the international law. Its application is determined also by other rules of international law and particular by the aim of its establishment – to strengthen universal peace. In that context it is worth mentioning that dividing the right of self-determination on “external” and “internal” seems to represent the great misunderstanding of this right.<sup>24</sup> The right of self-determination is a unique right that must be perceived and applied together with other principles and rules of international law. Understandings of the external and internal right of self-determination confuses the very existence of the right with the consequences of its exercise. It is very hard to quote some “scholarly examples” because divergent political interests are always involved and particular cases might be a subject to great discussions about the exercise of the right of self-determination and legality of certain acts. Exercise of the right of self-determination in some cases might produce creation of a new legal and political entity (state or some level of autonomy); in some cases it might result in improvements of internal legal and political system, and finally it can result in voluntary creation of an union of political entities (such as states) with wide and strong competencies.

The right of self-determination was established as a legal right by the UN Charter, along with the principles of prohibition of use of force, territorial integrity of States and political independence.<sup>25</sup> Political process is aimed “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace”<sup>26</sup> Disrespect of those rights or principles is inevitably a source of conflicts, however its full respect among states that have some common interests

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<sup>23</sup> See articles 1 and 2 of the United Nations Charter.

<sup>24</sup> In that context Christakis rightly argues that “the choice between self-determination and territorial integrity is one of the oldest false dilemmas in International Law. “ Cristakis, T., *op. cit.*, note 5, p. 2.

<sup>25</sup> In classic international law that existed before the Charter, *ius ad bellum* was a basic right of state, and resort to war or military intervention was “a normal” state of affairs. In this context the right of self-determination cannot be considered as a right, but as a political aspiration, and particularly in creating unions (unification of Germany, Italy, Slavic peoples...etc). In line with this argument See Crawford, J., *op. cit.*, note 20, p. 12. The right of existence of states was a matter of their ability to survive. After the Second WW the situation changed dramatically, and this change was introduced in order to achieve the peace (as written in the preamble of the UN Charter “to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind”) the principle of self-determination emerged as a natural consequence, not only as a lead to a process of decolonisation, but also in relations between states that soon entered into the Cold War.

<sup>26</sup> Article 1 (2) of the United Nations Charter.

might have as a result creation of an union of states, a new subject that also holds the right of self-determination.

The right of self-determination is established by the Charter of the United Nations, as a legal rights in order to achieve universal political aim (to strengthen universal peace).<sup>27</sup> Creation of the European Union implemented this principle in relation to its Member States respecting both equal rights and self-determination of the peoples of the European Union, but went beyond that, creating an entity that is a holder (a subject) of the right of self-determination.

#### 4. THE NATURE OF THE EUROPEAN UNION AS A BENEFICIARY OR A HOLDER OF THE RIGHT OF SELF-DETERMINATION

The nature of the European Union is subject to extensive discussions. The European Union is a unique and unprecedented “union of States” with its own legal system and common policies not similar to those created by other (classical) international organizations. As noted by Crawford: “The fundamental principle in the context of political union, no less than in the context of status, is that the incidents of a particular arrangement are to be determined only by an examination of that arrangement, and not by deductions from some a priori category or construction.”<sup>28</sup>

As argued by Bogdany and Smrkolj, “one of the core issues was to emancipate the law of the /European Union/ from international law”.<sup>29</sup> Even in 1963, the European Court of Justice in celebrated *Van Gend and Loos* case reasoned that the

<sup>27</sup> This right was unknown in classical international law where resort to force was legal equally as resort to negotiations or arbitration. In contemporary international law, legal framework clearly exists in order to achieve political aim (universal peace), and reaffirmation of the right of self-determination particularly in the International Covenants on Human Rights, the UN “has helped to create the necessary conditions for the establishment of peaceful relations among nations and thus to strengthen international cooperation.” *The right to self-determination-Historical and current development on the basis of United Nations Instruments, op. cit.*, note 8, para. 21.

<sup>28</sup> Crawford, J., *The Creation of States in International Law*, Oxford Scholarship Online, Oxford 2007., p. 379. As stated by Crawford “Nevertheless, machinery for an unprecedented degree of functional unification exists under the Treaties, and this has been developed, if not to the fullest extent possible, then certainly to an extent greater than has been seen under other unions of States”, *Ibid.*, p. 499.

<sup>29</sup> Von Bogdandy A; Smrkolj M., *European Community and Union Law and International Law*, Max Planck Encyclopedia of Public International Law, (section 1) “Von Bogdandy A.; Smrkolj M., *European Community and Union Law and International Law*, Max Planck Encyclopedia of Public International Law, Von Bogdandy A.; Smrkolj M., *European Community and Union Law and International Law*, Max Planck Encyclopedia of Public International Law, [http://www.mpil.de], Accessed June 2020.



objective of the 1957 Treaty Establishing the European Economic Community was to establish a common market “implies that this treaty is more than an agreement which merely creates mutual obligations between the contracting states” and that “the Community constitutes a new legal order of international law.”<sup>30</sup> Today, more than a 60 years after the celebrated judgment, it seems undisputable that the legal system of the European Union is “an autonomous legal order” with unique characteristics similar to those of an internal/municipal law character and with “federal features”.<sup>31</sup>

The European Union can neither be considered as a State, nor as a classic international organization.<sup>32</sup> It emancipated from international law in the sense that new legal order or legal system was created, in the (political) process of European integration, in accordance with international law, as a law of the “ever closer union of member states.”<sup>33</sup> Even the principle is that “the limits of Union competencies are governed by principle of conferral”, and that the use of competencies “is governed by the principles of subsidiarity and proportionality”<sup>34</sup> the competencies are very wide and affect almost all aspects of the life of its citizens.<sup>35</sup>

Three main type of competencies<sup>36</sup>, “exclusive competencies” (covering customs union, establishing competition rules necessary for the functioning of the internal market, monetary policy for euro-zone countries, conservation of marine biological resources under the common fisheries policy, common commercial policy – i.e. the Article 3 of the TFEU), “shared competencies” (covering internal market,

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<sup>30</sup> *Ibid.*

<sup>31</sup> Compare with: Bogdany and Smirkolj, *op. cit.*, note 30, para. 2 and 3.

<sup>32</sup> Von Bogdandy, A., *Neither an International Organization Nor A Nation State*, The EU as a Supranational Federation, in Jones E.; Menon, A.; Weatherill S. (eds), *The Oxford Handbook of the European Law*, 2012, pp. 761-772.

<sup>33</sup> See Article 5 of the TEU. Declaration in relation to the delimitation of competences (attached to the TEU) states that “When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence. The latter situation arises when the relevant EU institutions decide to repeal a legislative act, in particular better to ensure constant respect for the principles of subsidiarity and proportionality.”

<sup>34</sup> Article V of the TEU.

<sup>35</sup> See, for example, Konstadinides, T., *The Competences of the European Union*, Oxford Principles of European Union Law: The European Union Legal Order: Volume I, (eds.) Schutze and Tridimas), Oxford University Press, 2018. It goes to underline that: “there is hardly today an area of regulation in which the EU does not play an active part—from trade and energy to sport and fundamental rights protection.”

<sup>36</sup> *Division of competences within the European Union*, [<https://eur-lex.europa.eu/EN/legal-content/summary/division-of-competences-within-the-european-union.html>], Accessed 2 March 2024. See also Dashwood, A. *et al.*, Wyatt and Dashwood’s European Union Law, Oxford and Portland, Oregon 2011, pp. 97-131.

social policy (but only for aspects specifically defined in the treaty) economic, social and territorial cohesion (regional policy) agriculture and fisheries (except conservation of marine biological resources), environment, consumer protection, transport, trans-European networks, energy, area of freedom, security and justice, common safety concerns in public health matters (limited to the aspects defined in the TFEU), research, technological development and space development cooperation and humanitarian aid – i.e. the Article 4 of the TFEU) and “supporting competences” (covering areas of protection and improvement of human health, industry, culture, tourism, education, vocational training, youth and sport, civil protection and administrative cooperation – i.e. the Article 6 TFEU) as well as “special competencies” that ensure ability of the EU to “take measures to ensure that Member States coordinate their economic, social and employment policies at EU level”, determined the legal and political order and status of the European Union. Competencies of the European Union, together with the established procedures or modes of “cooperation” (even in the area of shared and supporting competencies) are of such a nature that that they not only have a significant influence, but they also determine political, economic social and cultural development of all the peoples or citizens in the European Union.

The European Union, as a separate and quite unique subject of international law and as a legal and political entity, is not only obliged to respect equal rights and self-determination of its peoples, but is also a holder of the right of self-determination. The European Union is bound by the international obligation, in order to preserve international peace and security to have a well-developed institutional and political “processes which in practice allow the exercise” of the right of self-determination.<sup>37</sup>

Member States of the European Union, in accordance with its constitutional requirements, and by conferring powers to the European Union and establishing the rules of political process of cooperation in variety of fields of economic, social and cultural life, created a union of unprecedented nature that cannot be devoted of the right of self-determination. Unlike in other some other cases that provoked international attention, the right of self-determination in the case of the European Union was exercised in a peaceful manner without putting the issue of, for example, territorial integrity and political independence. Article 4 of the Treaty on the European Union provides that “the Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fun-

<sup>37</sup> In that sense, the European Union, having in mind “CCPR General Comment No. 12: Article 1 (Right to Self-determination) The Right to Self-determination of Peoples” need to describe and to have well developed “the constitutional and political processes which in practice allow the exercise of” the right of self-determination.”

damental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.”<sup>38</sup>

Creation of a union, as described in the TEU as “a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizens” is in fact the implementation of the right of self-determination of the peoples of the European Union, in a peaceful manner and completely in line with all relevant international instruments dealing with the self-determination. While the right of self-determination is discussed in connection with the States and state authority, the new form of organization of states, the European Union, with broad categories of competencies, need to include the right of self-determination of its peoples as a fundamental right of the European Union.

## **5. THE PEOPLE OF THE EUROPEAN UNION, OR EUROPEAN UNION AS A HOLDER OF THE RIGHT OF SELF-DETERMINATION**

There is no accepted definition of the term “people” under international law. As noted in the United Nations study on the right of self-determination, “it is difficult to arrive at a precise definition of the term ‘people’, because identification of people to whom the principle would apply may present very complex problems.”<sup>39</sup>

However, it goes without saying that international legal terminology is not always precise, particularly when dealing with the key elements of political process. Just for example, even though it primarily regulates relations between states, it was originally called the Law of Nations, and the “constitution” of the contemporary international community gathering exclusively states is called the Charter of the

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<sup>38</sup> However, with the creation of the Common Foreign and Security Policy of the European Union, national security become also the issue of the European Union. Common Foreign and Security Policy is aimed to “preserve peace, strengthening international security, promoting international cooperation and developing and consolidating democracy, the rule of law and respect for human rights and fundamental freedoms”. See: *Common foreign and security policy*, [[https://fpi.ec.europa.eu/what-we-do/common-foreign-and-security-policy\\_en](https://fpi.ec.europa.eu/what-we-do/common-foreign-and-security-policy_en)], Accessed 3 March 2024.

<sup>39</sup> *The right to self-determination-Historical and current development on the basis of United nations Instruments, op. cit.*, note 8, para. 275. See also: United Nations Educational, Scientific and Cultural Organization, International Meeting of Experts on further study on the concept of the rights of peoples, Unesco Paris 27-30 November 1989 (SHS-89/Conf.602/7, Paris 22 February 1990).

United Nations (not United States). Many terms were used in key international instruments not as a precise legal category but intentionally in a broader sense, under influence of the strong historical heritage and in order to encompass different situations.<sup>40</sup> At the time when the principle of the right of self-determination was formulated there was a need to cover all instances of the application, particularly having in mind the process of decolonization. The existence of various political entities created a need that the principle of equality of rights extends “to states, nations and peoples” in the Charter. The meaning of the term “nations, states and peoples” remains intentionally imprecisely defined. Linguistic determination of those terms is of little help, because those terms have been used in their contextual meaning, having in mind variety of situations, political aspirations and historical development.

In the preparation of the UN Charter, the Secretary of the United Nations Conference in San Francisco prepared a Memorandum entitled “List of certain repetitive words and phrases in the Charter,<sup>41</sup>” and the central position was given to the words “nations”, “States” and “peoples.” As explained, the word “State” is used “to indicate a definite political entity”, the word “nation” is used several times “for the most part in board and non-political sense, via. “friendly relations between nations” ... and it would seem preferable to “state” since the word “nation” is broader with a more general sense enough to include colonies, mandates, protectorates, and quasi-states as well as states. It has also a poetical flavour that is lacking in the word ‘state’.”

Concerning the term people, the said Memorandum “explained” as follows: “No difficulty appears to arise from the use of the word ‘peoples’ which is included in the Technical Committee texts whenever the of ‘all mankind’ or ‘all human beings’ is to be emphasized. The word ‘peoples’ thus occurs only in the Preamble, in Article 1, paragraph 2, and in the old Article 58 /latter article 55/, outlining the

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<sup>40</sup> It is necessary to note that there is “an obvious relationship between equal rights and self-determination of peoples, on the one hand, and respect for human rights and fundamental freedoms, on the other. This relationship is stated explicitly in Article 55 of the Charter of the United Nations, which provides that “With a view to the creation of conditions of stability and wellbeing which are necessary for peaceful and friendly relations among *nations* based on respect for the principle of equal rights and self-determination of *peoples*, the United Nations shall promote [...] universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” Now it is common to say that “The right of peoples to self-determination is a fundamental right, without which other rights cannot be fully enjoyed... enjoyment of this right is a prerequisite for the exercise of all individual rights and freedoms.” (*Ibidem*, para. 228.).

<sup>41</sup> *Documents of the United Nations Conference on International Organization San Francisco 1945*, Volume XVIII: Documents of the Coordination Committee including Document of the Advisory Committee of Jurists, Part 2, United Nations, New York, 1954, p. 654 (Memorandum prepared by the Secretary on the subject: List of Certain Repetitive Words and Phrases in the Charter, pp. 654-666.

purposes of the Economic and Social Council. In both Articles 2 and 58/latter 55/, the word 'peoples' is used in connexion with the phrase 'self-determination of peoples'. This phrase is in such common usage that no other word seems appropriate. The question was raised at the Co-ordination Committee as to whether the juxtaposition of 'friendly relations among nations' and 'self-determination of peoples' is proper. There appears to be no difficulty in this juxtaposition since 'nations' is used in the sense of all political entities, states and non-states, whereas 'peoples' refers to groups of human beings who may, or may not, comprise states or nations."<sup>42</sup> In that sense, the term people might be freely used in the sense of the people of the European Union, since the European Union, as a territorial entity is composed of its States and citizens, belonging to nations that created the European Union.

While the term used might produce a certain level of confusion, it shall be clear that the term "people" denotes a social entity "possessing a clear identity and its own characteristics" and implies a relationship with a territory. The entities such as the European Union were not even in the "vision field" at the time of creation of the United Nations. However, the term "people" is broad enough to encompass the people of the "Union", not only the people of only one State or a nation.

Exercise of the right of self-determination is not reserved for the Member States of the European Union. Determination of the political status in order to pursue economic, social and cultural development (the basic content of the right of self-determination) is closely connected with the competencies. If transferred to the level of the Union there is a need to create conditions for proper exercise of the right of self-determination. Having in mind competencies of the European Union, and their actual exercise, political, economic and social development becomes the responsibility of the European Union.

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<sup>42</sup> These considerations are of particular importance in order to determine the bearer of the rights to self-determination in non-colonial context. Poetical flavor and the need to encompass all categories determines the use of particular terms in the charter such as nations and peoples. As stated in the quoted UN study "In fact, in drafting this principle, the authors of the Charter sought to take into account the aspirations of all peoples, including those of Non-Self-Governing and Trust Territories, and the connexion between the principle of self-determination of peoples and the need to encourage respect for, and universal application of, human rights and fundamental freedoms for all." And it seems indisputable that "The "principle of self-determination applies to sovereign States, for Articles 1 and 55 lay upon States the obligation to base their relations on " respect for the principle of equal rights and self-determination of peoples". *The right to self-determination-Historical and current development on the basis of United Nations Instruments, op. cit.*, note 8, para. 265.

## 6. ON THE IDENTITY OF THE EUROPEAN UNION

The European Union is a single entity, 27 Member States also appears in international fora as a sovereign subject of international law and politics. Something about 448 million people, within defined territory, are citizens of the European Union. International law and international political system are state centric but recognize the role of the European Union. Theoretical approaches might be influenced by preferences and particular interests, however in practice it seems to be recognized as a subject of international law and one of the key international actors. This is a great opportunity for the EU, as well as theoretical and political galimatias, since they cannot be explained simply using “standard” legal and political categories. That underline the issue of the identity of the European Union.

Today it is beyond dispute that European Union identity exists alongside identities of Member States<sup>43</sup>. It seems also undisputable that Member States of the European Union has its membership status in the European Union as one of its common detriments,<sup>44</sup> much more than membership in any other international organization. In another words, identity of each of Member State of the European Union is necessarily determined by the membership in the European Union.. Member States internal law and politics are largely determined by the European Union Law and policies, they are major participant in policy and law-making process of the European Union, and also “from outside” they are represented<sup>45</sup> and perceived as members of the European Union.

<sup>43</sup> Prutsch 2017, *Research for CULT Committee – European Identity*, European Parliament, Policy Department for Structural and Cohesion Policies, Brussels, Available at : [[https://www.europarl.europa.eu/RegData/etudes/STUD/2017/585921/IPOL\\_STU\(2017\)585921\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/585921/IPOL_STU(2017)585921_EN.pdf)], Accessed 1 May 2024.

<sup>44</sup> Official and more than symbolic act is flag display at diplomatic missions of the Member States of the European Union, disposing national flag and/or other official symbols and also very frequently the flag of the European Union. This is interpreted as in accordance with the Vienna Convention on Diplomatic Relations (1961). See for example: *Flags display at diplomatic missions (Provisions governing flag displays at diplomatic missions in Germany and the official German buildings abroad)* Domestic Protocol Office of the Federal Government *Flags display at diplomatic missions (Provisions governing flag displays at diplomatic missions in Germany and the official German buildings abroad)* Domestic Protocol Office of the Federal Government, [<https://www.protokoll-inland.de/Webs/PI/EN/flag-displays/special-situations/diplomatic-missions/diplomatic-missions-node.html>], Accessed 1 May 2024. It goes without saying that any trade or arrangement which is *ratione materiae* affected by the EU law and policy with any Member State of the EU or company or individual established in the EU Member State cannot ignore competencies of the EU.

<sup>45</sup> There is also the more fundamental problem that ‘identity’ per se is ambiguous: there is no one single meaning, nor even a set of equally valuable multiple meanings which one could agree on; rather, what ‘identity’ is supposed to mean and describe depends on the specific context in which it is used and the disciplinary background from which the use is derived.” *Research for CULT Committee – European Identity, op. cit.*, note 44.

However, when two identities exist side by side (real identities represented by institutions with its own competencies) they cannot have identical powers (they exercise different but complementary competencies) and growing competencies of the European Union institutions, by nature of things, diminish competencies of the member states.<sup>46</sup> Stronger (or more precisely growing) competencies of the European Union make identity of the European Union and its role, at least, more prominent.

States sovereignty is in unprecedented degree transferred to the European Union, together with the restrictions of the treaty making powers of the State Members of the European Union. All external affairs of the Member States must be in accordance with the founding treaties and common policies.<sup>47</sup>

Identity of the European Union is heavily enforced by its unique legal framework,<sup>48</sup> that is a consequence of the long-lasting political process. More than 40 years ago, in 1973, when the European Communities was composed of only nine States, in the Document on the European Identity it is stated that the Union is even more dependent on the rule of law than an established nation state. “The outstanding importance of a common law as a bond that embraces all Union citizens is, in view of the dearth of other integrating factors such as language or history, hardly contestable.”<sup>49</sup> However, as noted by Fligstein et al, “the growth of the EU’s in-

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<sup>46</sup> Broadly speaking, the expansion of EU governance has increased the salience of identity issues, at least for some citizens of Europe. As EU influences have spread into new domains of economic, social and political life, some citizens have embraced a European identity. See: Fligstein, N. *et al.*, *op. cit.*, note. 16, p. 108.

<sup>47</sup> As a part of identity of the European Union and limitation of the States are contained in provisions of the Treaty on the Functioning of the European Union addressing effects of the international treaties concluded before they become the EU Members, and obliges Member States to take all appropriate measures to eliminate possible conflicts between its international treaty obligations and obligations and the EU law. In particular, in accordance with Article 351 (3) of the TFEU dealing with the application of agreements concluded before they become members of the EU “Member States shall take into account the fact that the advantages accorded under the Treaties by each Member State form an integral part of the establishment of the Union and are thereby inseparably linked with the creation of common institutions, the conferring of powers upon them and the granting of the same advantages by all the other Member States.”

<sup>48</sup> “Perhaps the Union is even more dependent on the rule of law than an established nation state. The outstanding importance of a common law as a bond that embraces all Union citizens is, in view of the dearth of other integrating factors such as language or history, hardly contestable. Moreover, as already pointed out by de Tocqueville, the bigger and freer a polity is, the more it must rely on the law to achieve integration. So far, then, the notion of a community of law aptly reflects the particular importance of the rule of law in creating a cohesive Union.” von Bogdany, A.; Smrkolj, M., *op. cit.*, note 30. p. 763.

<sup>49</sup> Bulletin of the European Communities. December 1973, No 12. Luxembourg: Office for official publications of the European Communities. “*Declaration on European Identity*”, pp. 118-122. As noted by Bogdany, as already pointed out by de Tocqueville, the bigger and freer a polity is, the more it must

stitutions and competencies has led some citizens to view that growth as a threat to national identity and autonomy.”<sup>50</sup> However, if the European Union recognize on official basis and exercise the right of self-determination in accordance with the international legal requirements, it will make the process of its grow more democratic, and certain political interests tending to preserve what is already guaranteed by article 4 of the Treaty of the European Union<sup>51</sup> will find its proper place in the political order of the European Union. National identity and autonomy (self-government) in the European Union are not the same as in the States that are not part of the “union.” Transmission of competencies to the institutions of the European Union must be followed by a proper way of its exercise, that respects national identities and rights of citizens to pursue their political ideas in democratic process at the level of the union. Further development of the European Union, its competencies and the way of its exercise must be based on the principles of self-determination of the peoples of the European Union in order to preserve “the area of freedom, security and justice.” Ideals and objectives of the European Union<sup>52</sup> must be reconsidered and determined by way of exercise of the right of self-determination. In its internal order the European Union must reconsider its procedures enabling full effectiveness of the already established “rights of the European Union”, and also to create an effective mechanism for decision making in the area of foreign policy.

While internal relations (within the European Union) are matters of the ongoing political process (matters essentially within the domestic jurisdiction of the European Union)<sup>53</sup>, in the field of foreign policy the European Union it need to further develop its identity and authority. As stated in the 1973 in the Document on European Identity, “Although in the past the European countries were individually able to play a major role on the international scene present international problems are difficult for any of the Nine to solve alone. International developments and the growing concentration of power and responsibility in the hands of a very small

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rely on the law to achieve integration. So far, then, the notion of a community of law aptly reflects the particular importance of the rule of law in creating a cohesive Union.” von Bogdany, A.; Smrkolj, M., *op. cit.*, note 29., p. 763.

<sup>50</sup> Fligstein, N. *et al.*, *op. cit.*, note 16, p. 108.

<sup>51</sup> “The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.”

<sup>52</sup> Declaration on European Identity stated in para. 3 that “The construction of a United Europe, which the Nine Member Countries of the Community are undertaking, is open to other European nations who share the same ideals and objectives.”

<sup>53</sup> Compare with Article 2 para 7 of the United Nations Charter.



number of great powers mean that Europe must unite and speak increasingly with one voice if it wants to make itself heard and play its proper rôle in the world.”<sup>54</sup>

This wording is of much importance today, when the European Union is composed of 27 Member States. Speaking in one voice is not an easy task and the position of the European Union is rather difficult, and unlike in other areas, provisions on the Common Foreign and Security Policy covering “all areas of foreign policy and all questions relating to the Union’s security”<sup>55</sup> remains insufficiently clear.

As stated in Article 24 of the TEU: “The common foreign and security policy is subject to specific rules and procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded.” This is the most problematic area of the European Union competencies. However, in relation to the question of identity of the European Union Article 26 (3) provides that “the common foreign and security policy shall be put into effect by the High Representative and by the Member States, using national and Union resources.” In another words, in implementation of the common foreign and security policy of the EU, the Member States are obliged to act “as agents” of the European Union.

One of the main indicators in the perception of the European identity is the position of the European Union in certain international organizations. The European Union is recognized as an entity with specified status in key international organizations. At the United Nations the European Union cannot be described only as an “enhanced observer” with the right to submit proposals and right to speak at the General Assembly of the United Nations, it is a party of about 50 international UN agreements as the only “non-state participant”, alongside with the full membership of its all 27 Member States. The European Union has a full membership in the World Trade Organization<sup>56</sup>.

However, the role of the European Union in international affairs need to be further specified, particularly in the founding treaties. As noted by Ramses Wessell “despite an active role of the EU in international organizations in practice, one will look in vain for an explicit legal competence in the treaties. The absence of a clear and explicit competence means that the participation in (and the membership of) international organizations is based on implied powers only, which

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<sup>54</sup> *Ibid.*, para 5.

<sup>55</sup> Article 24 of the TFEU.

<sup>56</sup> “The European Commission – the EU’s executive arm- speaks for all EU member States at almost all WTO meetings and in almost all WTO affairs.” The European Union and the WTO, [[https://www.wto.org/english/thewto\\_e/countries\\_e/european\\_communities\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/european_communities_e.htm)], Accessed 1 May 2024.

find their source in the general competencies of the Union enjoys in the different policy fields”<sup>57</sup> However, regardless of the status, as a full member or having some observer status, the practice shows that the European Union is more than an active participant. The main question is not whether the EU is a separate subject of international law, it certainly is, but whether it have or need to have a joint approach with the 27 Member States.<sup>58</sup>

While the competence problem arises, its involvement as a full member or as just an observer, make its prominent role, besides 27 member states, it has a right to raise a voice, making the European Union unavoidable actor in multilateral diplomacy.”<sup>59</sup>

## 7. CONCLUDING REMARKS

It seems beyond dispute that the European Union has a right of self-determination. Even not expressly recognized as such. In the further process of creation “an ever-closer union among the peoples of Europe” proclamation and respect of the right of self-determination of the European Union can significantly influence economic, social, cultural and political development. In the further efforts in creation of an “ever closer union among the peoples of Europe.”<sup>60</sup>, the right of self-determination of its people must be recognized as such, and the European Union political procedures and policies must be developed in full compliance with the right of self-determination. TEU and TFEU already contain a number of provisions, including fundamental principles on which the Union is based, that enable proper exercise of the right of self-determination.

However, while the concept of the self-determination of the European Union might be developed in the existing legal framework, namely in accordance with the founding treaties, it seems that it should have a proper place in its forthcoming revision. The very recognition of the self-determination of the European Union

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<sup>57</sup> Jorgensend, K. E.; Wessel, R. A., *The position of the European Union in (other) international orgnaizations: confronting legal and political approaches*, European Foreign Policy 2013, p. 265.

<sup>58</sup> The position of the EU in certain international organizations (FAO, WTO) “in cases where the EU is entitled to vote, tis vote equals the number of votes of the Member States” Ramses Wessel, p. 271.

<sup>59</sup> “The participation of the EU in international organizations relexts the flexibility of the EU’s external regime. As legal competences are divided between the Union and its Member States the actual use of those competences to a large extends depends on the possibilities offered by the organization. Jorgensend, K.E.; Wessel, R. A., *op. cit.*, note 57, p. 272.

<sup>60</sup> Article 1 of the TEU. See: Miller, “*Ever Closer Union*” in the *EU Treaties and Court of Justice case law*”, Briefing Paper Number 07230 of 16 November 2015, House of Commons, [www.parliament.uk/commons-library|intranet.parliament.uk/commons-library], Accessed 1 May 2024.

certainly improves the very concept of the identity of the European Union and the perception of its role in international affairs. Also, the European Union is not just a union of States, but union of its people(s) and citizens that must have a recognized identity and the role in the political process of creation of an ever-closer union. All individuals' citizens of Member States are citizens of the European Union, and as such has a rights and obligations towards the European Union, and also the right of self-determination as the "people" or "citizens" of the European Union. Transfer of a part of sovereign powers of member states to the European Union makes the European Union a vehicle for further development. The peoples of the European Union can freely determine the political status and chose to create a union, and in that political status freely to "freely pursue their economic, social and cultural development." If it is beyond dispute, beyond dispute is also that the European Union has a right to self-determination and need to act in accordance with the nature of that right.

## REFERENCES

### BOOKS AND ARTICLES

1. Christakis, T., *Self-Determination and Fait Accompli in the case of Krimera*, ZAOR, Heidelberg Journal of International Law, Vol 75, No. 1, 2015
2. Crawford, J., *The Creation of States in International Law*, Oxford Scholarship Online, Oxford 2007
3. Crawford, J., *The Right of Self-Determination in International Law: Its Development and Future*, in: Alston, P. (ed.), *Peoples's Rights*, Collected courses of the Academy of European Law, 2015.
4. Cristescu, A., *The right to self-determination-Historical and current development on the basis of United nations Instruments*, study prepared, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, United Nations, New York, 1981. Un Doc. E/CN.4/Sub.2/404/Rev
5. Dashwood *et al.*, *Wyatt and Dashwood's European Union Law*, Oxford and Portland, Oregon 2011
6. Emerson, R., *Self Determination*, *The American Journal of International Law*, Vol. 65, 1971, pp. 459-475
7. Fligstein, N.; Polyakova A.; Sandholtz W., *European Integration, nationalism and European Identity*, *Journal of Common Market Studies*, Vol. 50, 2012, pp. 106-122
8. Gajić, A., *Facing Reality: A Need to Change the Legal Framework of the EU Public Health Policy and the Influence of the Pandemic of COVID-19 on the Perception of Identity and the Role of the EU*, *EU and Comparative Law Issues Challenges Series (ECLIC)*, Issue 6, 2022, pp. 353-374
9. Jorgensend, K. E.; Wessel, R. A., *The position of the European Union in (other) international orgnaizations: confronting legal and political approaches*, *European Foreign Policy* 2013

10. Konstadinides, T., *The Competences of the European Union*, Oxford Principles of European Union Law: The European Union Legal Order: Volume I, (eds.) Schutze and Tridimas), Oxford University Press, 2018
11. Miller, “*Ever Closer Union*” in the EU Treaties and Court of Justice case law”, Briefing Paper Number 07230 of 16 November 2015, House of Commons, [www.parliament.uk/commons-library|intranet.parliament.uk/commons-library], Accessed 1 May 2024
12. Nicolas, L., *The Right to National Self-determination within the EU: A Legal Investigation*, EUROBORDERS Sovereignty and Self-Determination, Working Paper 8, September 2017
13. Rosenstock, R., *The Declaration of Principles of International Law concerning Friendly Relations: A Survey*, American Journal of International Law, Vol. 65, 1971
14. Shaw, M., *Peoples, Territory and Boundaries*, European Journal of International Law, 1997, pp. 478-507
15. Von Bogdandy A.; Smrkolj M., *European Community and Union Law and International Law*, Max Planck Encyclopedia of Public International Law, [http://www.mpil.de], Accessed June 2020
16. Von Bogdandy, A., *Neither an International Organization Nor A Nation State*, The EU as a Supranational Federation, in: Jones E.; Menon, A.; Weatherill S. (eds.), The Oxford Handbook of the European Law, 2012, pp. 761-772

## **ECHR**

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5

## **LIST OF INTERNATIONAL REGULATIONS AND STUDIES**

1. Charter of the United Nations (1945)
2. International Covenant on Civil and Political Rights
3. International Covenant on Economic, Social and Cultural Rights
4. Declaration on principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, UN Doc. A/ Res/2625 of 24 October 1970
5. Conference on Security and Co-operation in Europe Final Act, Helsinki 1975
6. CCPR General Comment No. 12: Article 1 (Right to Self-determination) The Right to Self-determination of Peoples the Conference on Security and Co-operation in Europe Final Act, Helsinki 1975
7. Documents of the United Nations Conference on International Organization San Francisco 1945, Volume XVIII: Documents of the Coordination Committee including Document of the Advisory Committee of Jurists, Part 2, United Nations, New York, 1954, str. 654 (Memorandum prepared by the Secretary on the subject: List of Certain Repetitive Words and Phrases in the Charter, pp. 654-666)

8. United Nations Educational, Scientific and Cultural Organization, International Meeting of Experts on further study on the concept of the rights of peoples, Unesco Paris 27-30 November 1989 (SHS-89/Conf.602/7, Paris 22 February 1990).
9. International Law Commission, Draft conclusions on identification and legal consequences of peremptory norms of general international law (jus cogens), with commentaries 2022, UN Doc. A/77/10, Yearbook of the International Law Commission, 2022, Vol. II, Part Two

## **EU LAW**

1. European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome 1950)
2. Consolidated version of the Treaty on the European Union, (2016) OJ C202/1,
3. Consolidated version of the Treaty on the Functioning of the European Union (2012) OJ C 326/47
4. Charter on Fundamental Rights of the European Union (2020) C 364/1

## **WEBSITE REFERENCES**

1. Prutsch 2017, Research for CULT Committee – European Identity, European Parliament, Policy Department for Structural and Cohesion Policies, Brussels. Available at: [[https://www.europarl.europa.eu/RegData/etudes/STUD/2017/585921/IPOL\\_STU\(2017\)585921\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/585921/IPOL_STU(2017)585921_EN.pdf)], Accessed 1 May 2024
2. Domestic Protocol Office of the Federal Government, [<https://www.protokoll-inland.de/Webs/PI/EN/flag-displays/special-situations/diplomatic-missions/diplomatic-missions-node.html>], Accessed 1 May 2024