

THE FRAGILITY OF THE EUROPEAN TREATIES, BETWEEN WHAT WAS AGREED UPON AND THE CRISIS*

A FRAGILIDADE DOS TRATADOS EUROPEUS ENTRE O ACORDO E A CRISE

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ABSTRACT

With the end of World War II, European states were destroyed and then they decided to develop a new model of society. Regional integration has made great strides in Europe and has worked very well until recently, at least in appearance. With the 2008 Crisis, the social structure based on integration treaties was not strong enough to withstand the new challenges of unemployment, control of the states' accounts, from both a monetary and a fiscal point of view. Then the fragility of the treaty-based society appeared and the difference between the agreement and the crisis became very evident.

Keywords: Regional Integration; Europe; Financial Crisis; Treaties.

RESUMO

Com o fim da segunda guerra mundial, os estados europeus estavam destruídos e então decidiram desenvolver um novo modelo de sociedade. A integração regional teve grandes avanços no espaço europeu e funcionou muito bem até recentemente, pelo menos na aparência. Com a Crise de 2008, a estrutura social baseada em tratados de integração não foi suficiente forte para suportar os novos desafios de desemprego, controle das contas dos Estados, tanto do ponto de vista monetário como fiscal. Então, a fragilidade da sociedade baseada em tratados apareceu e ficou muito evidente a diferença entre o acordo e a crise.

Palavras-chave: Integração Regional; Europa; Crise Financeira; Tratados.

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INTRODUCTION

The integrationist or regionalist thought within Europe is not something new, giving rise over the centuries to the various ideals of philosophical and political content. During the seventeenth and eighteenth centuries; Jean-Jacques Rousseau, Alexis de Tocqueville and Immanuel Kant, were just some of the thinkers who have continued in the rich thought regarding the project "perpetual peace" in Europe. Mello says (1995, p.10) that "regionalism is not new in international relations. The very Classic International Law emerged as a Western European law that gradually universalized."

However, there was in the XVI century a minimal State organization which could effectively compose a solution for repeat violent conflicts that stagnated prosperity of the continent. Kissinger (2015, p.19) delineates:

The history of most civilizations is on the rise and fall of empires. The order was established by the ability they had to govern internally, not by a balance between States: strong when a central authority showed up cohesive and disorganized under weaker rulers. In imperial systems, wars used to occur at the external borders of the empire or as civil wars. Peace was identified with the reach of imperial power.

Over the centuries, the traumas of war brought an awareness that the economic need would remain and the people of Europe would not leave the shortage to the existence of cooperation between the different Nation States. At this time the labyrinthine process of integration of the European continent began, which evolved from the theoretical and philosophical plan for the reality of political debate.

The wars were driving and shaping the European integration process; coining severe wounds, who's suffering apparently could only be repaired through a balanced coalition relationship of forces that could impose mutual respect; allowing European countries to retain their independence and coexist in relative equality through interdependence of plexus. Campos (2009, p.40) says:

The rebuilding of European unity was always, over the centuries, a common desire to unusual men: some, like Napoleon and Hitler, tried on by force of arms; but the outcome of their bloody

adventures proved that Europe can be united by the power of free will.

The restructuring of international relations after World War II and during the Cold War, changing the European global importance as a result of bipolarity between the United States and the Soviet Union; strengthened the need and pragmatism in the conduct of the continent's integration process.

In penury after the Second World War and has already aroused to change of axis of international relations; it remains clear that being limited to the isolationism of its inflexible sovereignty, the European Nation States would no longer be able to tackle the numerous problems that surrounded Europe. The main one being its reconstruction.

The integrationism touched in a positive way, but premonitory voices continuously indicate the ever imminent danger of extreme nationalism; and its enduring ability to generate conflicts, especially in times of crises, whether economic, political or humanitarian. Almeida (2009, p.29) analyses:

The international balance model or international order created with the Peace of Westphalia after the 30 Years' War, and reshaped after major conflicts as the Napoleonic wars, the First and Second World Wars plus the Cold War and now the fight against international terrorism has created, defined and reinforced the institution of the national state with the fundamental characteristics such as sovereignty, social and political organization and the economic structure up to the present day. [...]

Thus began the revival of the concept of a united Europe, with domestic and diplomatic political activities in each country, led by the design of a greater continental integration. The European Union is considered the most extraordinary integration stage of an economic block in the XXI century, an event that is due not only to the economic growth contained in the block through their countries, but also the broad political authority of its member countries allied training a single supranational power.

All this uniqueness of the European block verse, finally, on the adhesion between most of the major capitalist countries of international relations. Extraordinary situation in the global context. Gilpin (2004, p.261-262) evaluates:

The task of creating a unified Europe is by far the most important regionalization movement. The success or failure of the

European Union (EU), established in 1993, will have profound consequences for the nature and functioning of the international economy. An open European Union would greatly benefit Americans and other non-European origins exporters, but a closed EU would cause serious damage. In addition, the new European currency (the Euro) could have negative consequences for the Dollar and for the Yen, and the creation of the European Union has stimulated other regional integration efforts, including those of North America and Asia Pacific.

The process of integration and enlargement of the European Union ensues, since the mid-20th century; decisive historical, economic reasons and the geographical boundary of the European Union member countries contributed to the connection between their representatives were advancing.

With time set up a territorial union of wide spectrum; although the populations of the countries always retain the unrest in safeguarding their national identities. The European tissue achieved a degree of capillarity and interdependence thus described by Balassa (1982, p.13):

[...] the full economic integration presupposes the unification of monetary, fiscal, social and countercyclical policies and requires the establishment of a supranational authority whose decisions are binding on member States.

In the early XXI century, the general aspects of the European Union are well-defined, being the main ones:

I) the free movement of goods, which since 1993 does not impose any type of barrier to the movement of products between its member countries. Therefore, every block internally made product does not have any kind of tariff barrier or collection of taxes, benefiting industry, local businesses and large multinational companies that are installed in any of the countries. Almeida (2013, p.01) ponders:

Given that the formation of economic blocks seek to reduce and even eliminate the incidence of customs tariffs on consumer goods, the harmonization of legislation imposing such taxes is of fundamental importance to achieving a strong free economic block any free of any embarrassment to trade between member countries.

II) free movement of people, by which the resident population can freely move between member countries, although this relationship has been escorted by a strong foreign immigrant control policy, that differentiates the European population of those who do not belong to the European block population.

III) adoption of a single currency among its members, the Euro, with the consistent creation of a European Central Bank – however, not all members of the European Union embraced the Euro (UK, Denmark and Sweden have not opted for this possibility causing the other countries to be referred to as belonging to the Euro zone) – and finally the creation of the European Council came, based in Strasbourg, with regular legislative functions elections, collaborates with the European Council with the aim of maintaining democracy within the European Union.

The integration of the European Union is already so associated with the reality of its citizens, who imagine that the previous relations between the blocks would be something difficult to understand for new generations. Beck (2015, p.31) points out:

Paradoxically, the success of the European Union is, at the same time, reasons for the criticism made to it. Many of its achievements have become so obvious that they probably would only be perceived by the people at the time it ceased to exist. Imagine that passport controls at borders and airports were reintroduced; that there were no more the reliable quality standards for food; no more freedom of opinion and press[...] [...] The "Europe Homeland" has become a second skin for us, and this may be a reason to lose her lightly.

There is no doubt that European citizens have already incorporated the European Union, and despite the historical difficult moment, a fragmented Europe would be very negative for Europe's citizens. Shaw notes (2010, p.966) to comment on the European Union, "This is undoubtedly the most important European organization, it is also the most sophisticated regional institution ever created"; we see the importance in keeping it cohesive, and even more so to identify the dynamics of changes of the nation-State, an important bias to the adequacy of the needs of contemporary society. Only with pragmatism and flexibility, the European Union can face the many difficulties in the context of their integration. Verhofstadt (2006, p.11) ponders:

Europe is in crisis. And it's more than a passing storm, because the project itself is the question. However, over generations, European unification was the great ideal – put an end to contiguous wars in the Old Continent, these wars that were actually European civil wars. On the ruins of two world conflagrations a lasting democracy, with great prosperity and a solid social protection was created.

The dynamics of social evolution is constant, and the model of the Nation State should be more flexible to it. Because the State exists to shape human social relations. The European effort for the development and unification of the European Union has been the largest project of international relations to achieve "perpetual peace" with global reach. Based on that the three Treaties will now be analyzed – the Treaty of Rome, Maastricht and Lisbon – to include much more than legislation with regulatory purposes or defining the institutional structure of the European Union. These turn positive the objective reality based on the mutation that the Nations State has suffered.

That said, in any of the treaties are standards that lead to Community objectives, rules establishing the organizational structure, empowering and defining responsibilities to supranational entities and member States. It includes provisions on relations between States and their international relations. It defines the discipline of the community institutions and economic agents in general, and also organizes the judicial system that protects the legal order established within the block.

1. THE TREATY OF ROME

On March 25, 1957 in Rome the treaties that formed the European Economic Community (E.E.C) and the European Atomic Energy Community (EURATOM) were formed. This historic agreement was signed by: France, the Netherlands, Belgium, Luxembourg, Italy and the then existing Federal Republic of Germany. Ratification of the Treaty of Rome by the parliaments of the "Six" took place in the following months and went into force on January 1, 1958.¹

The Treaty established the European Economic Community asserted in its preamble that signatory States were "determined to lay the foundations of a closer union

¹ http://Europa.eu/eu-law/decision-making/treaties/index_pt.htm

among European countries"². Therefore they clearly stated the political scope of the progressive integration of different countries members. A customs union was effectively created, so E.E.C. called the "Common Market".

A transitional process of 12 years remained awake for the total elimination of borders between member countries. Given the economic success brought about by greater ease of trade, a transitional period was agreed, and on July 1, 1968 all the internal borders of the member States were deleted. At the same time, a common customs tariff for all products originating from other countries was established.³

This "common market" juxtaposed only the free movement of goods. The free movement of people, capital and services suffered from profuse limitations; the full release came with the "Single European Act"⁴, which entered into force in 1987. Through it, there was a definite boost that allowed in 1992 the establishment of a single market through the Maastricht Treaty.

Another important clause agreed in the Treaty of Rome was to create a "common agricultural policy" (CAP). Basically, C.A.P established the freedom of movement of agricultural products within the E.E.C and the adoption of highly protectionist policies that guarantee European farmers a condition of regular quotas in order to avoid competition from other countries through a grant price.⁵ The Treaty of Rome also established the prohibition of monopolies, some common policies in transport and the provision of some commercial privileges to the colonial territories of member States.

The Treaty of Rome meant a great victory, because even in the face of the impossibility to promptly agree to a political union; the strategy aimed at an integration process, whose commitment to various economic sectors, happened gradually. With this, constituted by supranational institutions to which the States, gradually, were given competence in economic, administrative and political levels.

In this sense, the European Economic Commission, now contains a number of institutions; whose powers have been dilating and signing the various agreements and

² <http://eur-lex.Europa.eu/legal-content/IT/TXT/PDF/?uri=CELEX:11957E/TXT&from=PT>

³ <http://eur-lex.Europa.eu/legal-content/PT/TXT/?uri=DD:02:001:TOC:PT>

⁴ <http://eur-lex.Europa.eu/legal-content/PT/TXT/?uri=uriserv:xy0027>

⁵ <http://eur-lex.Europa.eu/legal-content/PT/TXT/?uri=uriserv:xy0027>

treaties that have changed in subsequent years, the Treaty of Rome. It began a process in which economic integration was conducted in line with political, union that was planned to gradually take place and long term. In relation to establishing the European Atomic Community (EURATOM), compared to E.E.C, it treated a lower amplitude; although, according to its terms:

[...] Euratom aims at joint development of nuclear industries of Member States. This context is applicable only to certain entities (Member States, natural persons and companies or public or private institutions) to exercise all or part of its activities in the area covered by the Treaty, namely the special fissile materials, raw materials and minerals which the raw materials are extracted from.⁶

When the creation of the European Economic Commission was analyzed, it appears that the biggest problem was political; therefore, an important country like the United Kingdom refused to join. The value of trade and political relations with its colonies, was a very important condition for the development of E.E.C for its participation.

It can be said that it was from the ECSC development that the notion of building a common market in various sectors was founded and to later bring the strengthening growing aspiration for the unification of Europe. Only with the Treaty of Rome which consolidated such unification, generating a significant transformation based on the flexibility of the sovereignty of these States in favor of a common supranational entity.

Since the beginning, the United Kingdom refused to be part of a customs union; it advocated the creation of a zone of free movement, in which customs affairs would be abolished, but argued that each country had freedom to decide their internal affairs. This situation, echoed throughout the history of the European Union. The United Kingdom had no desire to share a project that in the long term, foresaw the easing of the sovereignty of member States in favor of supranational institutions. In fact, the British did not approve and many of them still to this day, in the XXI century, to decry as a goal, the construction of European Unity.

⁶ <http://eur-lex.europa.eu/legal-content/PT/TXT/?uri=uriserv:xy0024>

Instead of taking part in negotiations for its entry into the C.E.E, the United Kingdom has raised the idea of a "European Free Trade Association" (EFTA); to which Sweden, Switzerland, Norway, Denmark, Austria and Portugal acceded. This association was not aimed at the integration policy, constituting a mere free trade zone, mainly in industrial products, not recognizing any common border. Even in the 60s, the United Kingdom soon realized its mistake, because while E.E.C prioritized economic development with growth rates higher than their US; the country continued its declining divergence from the future European Union.⁷

Finally, in 1973, the United Kingdom, Denmark and Ireland joined the European Economic Community. With the "oil crisis" of 1973 was the end of the economic growth which European countries had enjoyed for so many years. The unemployment, inflation, the crisis of traditional sectors of industry characterized the economic scenario of E.E.C at the end of the 1970s and in the early years of the 1980s. Nevertheless, the apparent stagnation of the integration process would grind to a halt, during these years there was important progress; both in the sense of a greater integration, as the enlargement of E.E.C to new members.

Chronologically, from 1975 the so-called "European Council"⁸ was institutionalized – regular meeting of Heads of State and Government, where they take major strategic decisions for the Community. In 1979 came the European Monetary System, accompanied by the creation of the European Currency Unit⁹; direct antecedent of the Euro. The currencies of the member countries remained fixed in a narrow fluctuation zone of its exchange value by 2.5%, with governments committed to coordinate their monetary policies¹⁰. It was the meaningful beginning of a monetary unit.

In 1979, there were the first elections by universal suffrage¹¹, for the European Parliament. The redemocratization in Greece, Portugal and Spain led to the union of these countries. Greece in 1981, Spain and Portugal, in 1986, became members of the European Economic Commission¹². Later, a group of European parliamentarians

⁷ <http://www.efta.int/about-efta/European-free-trade-association>

⁸ http://Europa.eu/about-eu/eu-history/1970-1979/index_pt.htm

⁹ <https://www.ecb.Europa.eu/ecb/history/emu/html/index.en.html>

¹⁰ <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1098&context=bjil>

¹¹ http://Europa.eu/about-eu/eu-history/1970-1979/1979/index_pt.htm

¹² http://Europa.eu/about-eu/eu-history/1980-1989/index_pt.htm

presented to Parliament a "Treaty on European Union Project"¹³, which proposed the adoption of a new treaty that would replace Rome and that, in principle, would advance European integration. Despite not having been approved by the government, it had the merit of relaunching the debate on the future of the Community.

In 1985, the three Benelux countries, France and Germany; signed the so-called "Schengen Agreement"¹⁴ which were later joining most European Union countries. Thus a bold initiative began that guaranteed the free movement of people and the gradual removal of borders between member States. The enlargement process received a major political boost in 1986 with the approval of the "Single European Act"¹⁵.

The Treaty of Rome was being constantly updated through other agreements, such as the Single European Act. It was the first review of the treaty and entered into force in 1987, changing the rules of relationship between the member countries and expanding the objectives and fields of activity in the community. With the Single European Act, the adoption of common policies; the creation of a common market with free movement of goods, persons, services and capital; strengthening economic and social harmony among all members; and social and economic parity were constituted.

In these terms the process of European integration was advancing, and with it a visible mutation of the Nation State. The flexibility of the model of State sovereignty shed the "Westphalian" model as a solution to Europe's integration problems; and this continued its course, now with the Treaty of Maastricht.

2. MAASTRICHT TREATY

The Maastricht Treaty was signed in February 1992, by members of the European Community. With this agreement, the European Union as we know it today was form, that is, the European Union was proclaimed from it. The basis for the creation of a single currency for its member countries was launched by this treaty, entitled: Euro. Machado (2013, p.84) teaches:

¹³ http://Europa.eu/about-eu/eu-history/1980-1989/1984/index_pt.htm

¹⁴ http://Europa.eu/about-eu/eu-history/1980-1989/1985/index_pt.htm

¹⁵ http://Europa.eu/about-eu/eu-history/1980-1989/1986/index_pt.htm

[...] signed the Treaty on European Union or Maastricht Treaty. Entered into force in 1993. This creates the *EU as known today, an economic and monetary union (ZUMUU)*. This document defines the objectives of economic nature, seeks the social union and politics; the introduction of a citizenship and the establishment of common policy.

The Maastricht Treaty established a common market; with the aim of increasing political harmony in Europe. A common market is a customs union with common product regulations and free movement of all three factors of production policies; that is people, services and capital. As defined by Balassa (2011, p.02): “[...] a higher form of economic integration is achieved in a common market, where not only trade restrictions but also restrictions on movements of factors are abolished”.¹⁶

In theory, the movement of capital, labor, goods and services between members should be as free as within the territory of each participant, and was precisely determined within the European block. The treaty was more ahead, having established a community policy framework, which was preserved until the Treaty of Lisbon. Notes Böhlke (2012, p.60):

The Maastricht Treaty established the objectives of the European Union as the three pillars of a supranational character, based on European Community Law, and two intergovernmental. These last two columns refer to the Foreign and Common Security Policy (CFSP) and Cooperation in the Fields of Justice and Interior Affairs. The great merit of the Maastricht Treaty was the direction of European integration to a more advanced stage of integration by providing for the establishment of an economic and monetary union.

One of the key points of the Maastricht Treaty, was the opening of the monetary unification process that involved all member States complying with the criteria set for entry into force of the single currency. The treaty also conferred, according to Ramos (2009, p.32), "the great innovation to the citizens of the member States of European citizenship alongside national citizenship."

The "Status of European Citizen" covered a set of rights and obligations that individualize the European citizenship. Within this legal plexus are basic principles of organization for citizenship, such as voting and participation in local elections, the system

¹⁶ “[...] a higher form of economic integration is attained in a common market, where not only trade restrictions but also restrictions on factor movements are abolished”.

of voting in the European block and the right to petition for citizens to exercise their demands.

The system established by the Maastricht Treaty led to difficulties for the continued existence of intergovernmental and supranational mechanisms for the dynamics of interaction between members of the European block. Such rules hurt consistency in deepening relations in political, economic and social sectors; generating tension and difficulty standing between them for making the most basic decisions.

This occurred because such circumstances led to the possibility of the member States to support, or not, what areas urgently attend; thereby creating difficulties in making block decisions through their governments or popular consultation of citizens of each country. These consultations are important democratic mechanisms to be strengthened; however, depending on the situation it can be used as risk stages of integration. However, the terms of the Treaty did not suddenly begin to be applied. Approaches were used which were divided into three phases for the adoption of Economic and Monetary Union (E.M.U).

In the first phase, which began on July 1, 1990, the movement of capital has been fully liberalized within the block; it sought to encourage increased cooperation and preparatory interconnection to what would be done just ahead. In the second phase, which began on January 1, 1994, the creation of the European Monetary Institute was established, forerunner of the current European Central Bank; it was the central consolidation of Monetary Policy, associated with conducting and independence of national monetary authorities. The third phase, which came into force on January 1, 1999, was the fixing of exchange rates through the introduction of the single currency and monetary policy following transfer of responsibility to a one supranational body: The European Central Bank.

The inauguration, remodeling and upgrading of common institutional entities; to formulate the direction of the European Union and consequently its member States, has consolidated and strengthened the concept of supranationality. In this context patterns of economic policy were defined to be fulfilled in order to make possible the access of new countries to the block. Such requirements of uniqueness, as Overtveldt (2011, p.32), were the following:

- Inflation rate not surpassed by more than 1.5 percentage points the average of the three lowest inflation rates among the candidates to participants.
- Long-term interest rate not exceeding by 2 percentage points to the average of the three countries with the lowest inflation.
- Member of the Exchange Rate Mechanism (ERM) of the European Monetary System (EMS) and absence of exchange rate depreciation in the two years preceding the entry in the union.
- Government budget deficit no higher than 3% of GDP; the deficit should fall continuously and substantially and approach the standard of 3%, or alternatively, the deviation from the 3% should be exceptional and temporary, remaining near the target.
- Public debt not exceeding 60% of GDP (if greater than 60%, public debt should decrease enough and approaching 60% satisfactory rate).

Even interpreting the agreement through a more convincingly critical analysis, the creation of the European Union through the Maastricht Treaty, corresponded to a formidable creation of a new international governmental organization, recognized as a subject of international law and very active in international relations. It is paradigm of sustainable political and social integration.

The Maastricht Treaty brought innovations to conceptual interpretation of rigid state sovereignty, because in their 1st and 2nd articles expressed the common goals and solidarity between the members of the European block. As Art. 1st "[...] the Union has the task of organizing a coherent and solidarity relations between member States and between their peoples." Art. 2nd, enunciated what would be the economic, social and political objectives of the European Union.

Despite the complex and sensitive decision-making system, nationalist pressures at this point in the evolution of supranational institutions, there was a fundamental restructuring in the institutional field and the valuation of a European socio-cultural identity. The importance of this initial moment of the institutional framework of the European Union, came with the creation of a framework that has sustainability integration, and might lead it on the medium and long term. The deepening of relations between the member States have drawn the formulations and reforms set out in the Maastricht Treaty.

From it, the strengthening of supranational entity set, conducted by the interaction of the dimensions of political, social and cultural rights; associated with legal

and police cooperation. These initiatives allowed the consolidation of the European Union; and fundamentally overcoming the classic Westphalian view, strongly rooted and based on the supremacy of State sovereignty.

3. LISBON TREATY

The Lisbon Treaty covers concepts organized by member countries of the European Union, whose objective was to modify and improve certain legal characteristics of the bloc. After six years of debate, the treaty was concluded in 2007, having been signed by the majority of European countries and entered into force in 2009.

The negotiations of the agreement have two essential clauses: one that modifies the Treaty of Maastricht, and the other amending the Treaty, establishing the European Community, namely the Treaty of Rome in 1957. The Union shall have their own legal personality, the word "Community" replaced by "Union" and explains that the two treaties are the basis on which the Union is established.

The constitutional concept of the Lisbon Treaty sought to cover all current treaties, to replace them in a single text. This institutional reform introduced in the treaties currently in force, innovations that considerably eased the sovereignty of the member States of the European block. The main creations resulting from the agreement were:

- 1) A President of the European Council, appointed for a period of 2 and a half years, which replaced the rotating presidency of the block.
- 2) Charter of Fundamental Rights legally binding for all member states.
- 3) With increasing block command centralization, there was an expansion of European Union competence to conclude treaties.
- 4) Legislative meetings of the EU Council shall be public.
- 5) Increased permission to the process of expanding the block, eliminating the limitation of 27 member states stipulated in the Treaty of Nice.
- 6) The requirement of "mutual solidarity" in case of a member State is the victim of terrorist attack or the victim of natural disasters or caused by human action.
- 7) Actions against climate change have become explicitly expressed as an objective of the European Union.

This treaty had a greater impact because of controversies and intensive discussions conducted around its implementation. The main motto that has received several highlights for international politics is that the same grants more power to the block

– supranational entities – over the sovereignty of Nation States members of the European block. As checks Lorentz (2008, p.28): "The extension of European integration, with the subsequent entry of countries, was one of the justifications for the drafting of the Treaty of Lisbon".

Through this relaxation of the rigid dogma of sovereignty, a command structure emerged with a strengthened European Parliament, together with national parliaments making decisions together, since unanimously resolved by the majority of members of the block. In this way, by the terms brought by the treaty, the instrumentalization of the European Council happens through the adoption of provisions upon the favorable vote of at least 55% of national parliaments with the representation of 65% of the population. As Lorentz (2008, p.38) said:

Before the Lisbon Treaty multiple questions were decided by unanimity, which often do not accelerate the decision-making process nor does it make it efficient. With the Lisbon Treaty, many of these issues have to be decided by qualified majority voting, which has simplified and accelerated the decision-making process.

Another important aspect is the increase of the political power of the citizens of the block, which from the Lisbon Treaty might interfere and promote changes of a political appointee, since that meeting in groups with a quantity greater than one million individuals with recognized citizenship.

Complicated situations, source of many discussions, were the possibility of withdrawal from the block, since this right was not granted to member countries. However, since the Treaty, the possibility of withdrawing from the European Union was adopted, requiring only the internal approval and an annual notice that does not need to explain the reasons for withdrawal to other nations. Says Lorentz (2008, p.80):

The right of withdrawal of a member State is innovation brought by the Lisbon Treaty. Before, no other European Treaty had foreseen this possibility. So with the Lisbon Treaty, any member State may decide, in accordance with their respective constitutional rules, to withdraw from the Union. A procedure for this was provided.

With the economic crisis that started in September 2008, which had as their starting point the bankruptcy of American Lehman Brothers bank; strong speculation started on the output block countries. All because of the economic crisis that had shaken

the economies of the member States. Despite the complicated situation, none of the member States, effectively used the right of withdrawal.

The adjustments made in the treaty granted permission for the delegation of greater deliberation and decision powers to supranational bloc entity. In this way, the European Parliament has acquired decision-making power on social and sovereignty issues, as well as authority regarding immigration and emigration policy; matters relating to security in terms of internal violence and terrorist attacks; integration of legal legislation; increments related to sustainable development policies.

The Lisbon Treaty established the creation of the European President position, which limits the leadership of the European Council. Its tasks are not mandatory, but in truth of direction and supervision, as well to ensure the functioning of the institutions. The Lisbon Treaty is extremely wide and includes a series of amendments regarding bureaucratic changes for block administration. Its need for modernization came with alignments relating to political and bureaucratic differences among the member countries.

A major renovation was brought to the development of any society; treating on the subject, says Beck (2011, p.276) that "[...] the renewal process, tax along with modernity as opposed to the tradition of dominance, is democratically split in the industrial society project." He keeps saying that "waves of transformation already underway, planned or that are announced, pervade and shake society."

Criticisms of the Lisbon Treaty were not absent, especially in the states with stronger nationalist ideologies, where the acceptance of easing their sovereignty is a true heresy. There is, in part, a great fear of the sharp weakening of nation-states to the detriment of the strengthening of the bloc.

An ultraconservative nationalist rancidity prevents the modernization of a cultural bias, preventing many people to simply accept being European at the expense of old conceptions of static boundaries of antiquated sovereign nation-State. This nationalist civil society hinders the sustainability of the European integration process by identifying the treaty as part of a federalist agenda that threatens national sovereignty.

In this context, the economically weak State of paradox arises, which related to a nationalist civil society, cannot be identified as an integral part of a whole. It demands

the benefits of European integration in moments of economic strength through a welfare network, and in times of crisis radically react through separatist nationalist movements, as if economic isolation were the solution to all problems.

The population of Ireland, came to disapprove the Lisbon Treaty in a referendum in 2008¹⁷, approving it the following year, when the terms of the agreement were, allegedly, best expressed by the European authorities¹⁸. The Czech Republic and Poland, likewise, showed resistance to sign the agreement with the exposed terms. A major problem not only of the treaty, but also the European Union's integration process is precisely nationalism crisis; using "crisis", because it tends to appear in times of financial crisis.

This paradox creates nationalistic civil societies in most member States of weaker economy; with ethnic groups seeking their independence and sovereignty, precisely in times of financial crisis. While the European Union runs precisely the opposite road, whose aim is the integration and abolition of several borders. Pecequillo (2014, p.82) notes:

As the Constitutional Treaty, the Lisbon Treaty has proved to be a controversial and subject to different interpretations: relaunch, reverse or forward. And, as well as predecessor, Lisbon must be understood, as a comprehensive phenomenon, and that cannot be evaluated by a single prism. All interpretations presented have truth.

Despite this, the Lisbon Treaty, even though it is a complement to the Treaty that established the European Union (Maastricht) and the Treaty establishing the European Community (Rome); shows all its importance in driving the adjustment, which gradually leads to achievement of more extensive steps in the direction of the diffusion process of European integration.

These articulations with the goal of forming a strong European State have clashed in the approved plan of a Constitution for the European Union, which would replace all earlier European treaties and start all the block formatting from the beginning, being a kind of constituent power originating in Europe.

¹⁷ <http://www.theguardian.com/world/2008/jun/13/ireland>

¹⁸ <http://electionsireland.org/results/referendum/refdetail.cfm?ref=2009R>

The statement that was published in the European Summit of Laeken, in 2001, requested the establishment of a Convention that dealt on the future of Europe with the intention to examine the simplification and reorganization of the European treaties and to identify whether the end result should be formatting of a European constitution.

The Commission's work began in February 2002 and the Constitution was signed in Rome two and a half years later, in October 2004. However, the text was becoming obsolete with time and then ended up being rejected by French and Dutch voters in 2005.

The European Union, persistently, began to work on a treaty that would replace the Constitution in the first half of 2007, under the presidency of Germany, and an agreement on the main points was reached during a summit in June of the same year. Negotiations continued during the following months, until the leaders of the then 27 member countries agreed on a final draft in October 2007.

France and the Netherlands voted against the adoption of the Constitution, if there were no significant changes in its content. The United Kingdom was also positioned for a treaty with more amendments, which could be ratified by a parliamentary vote, as the former treaties of the block. Despite these difficulties, the European Union has huge advances in the process of integration, and as Silva (2013, p. 25) said:

Throughout the process of European integration, the community organic structure has undergone several changes, with additions, reformulations and travel powers, giving it its current facies. A web of institutions, central or decentralized, political or technical, with different skills (decision-making, executive, control, consulting, support or management), was up consolidating, giving the set – which rotates around a central axis (organic triangle and the community method) – a unique and complex governance form, with a network of powers, in which a constellation of actors, formal and informal gravitates.

The current economic situation in 2016, ultimately precludes any debate on a European constitution. The moment requires contingency forces around the strengthening of the European Union, in order to avoid the block fragmentation. Everything indicates that the effort around the concept of a Constitution for Europe was temporarily abandoned. This period of crisis is being used to discuss the maintenance and future of European integration.

4. THE ECONOMIC CRISIS IN THE EURO ZONE

The world economy has faced a crisis of large dimensions that turned into a wide recession within the European block affecting the economy of the entire continent. Reports from the United Nations – UN, regarding the situation in the world and their expectations, show a negative trend caused by the deceleration of the economy since 2009.

The emergence of this economic crisis has not occurred in the European continent, but it struck strongly, and the presence of a single currency makes it more difficult to solve the economic problems within the disparate realities from the member States. Politics interferes directly in solving financial crises, this mutual influence makes up the connection between the market and the State, the economy could destabilize the politics and vice versa. The goals of an international political economy are outlined in this context, absorbing with problems of wealth, poverty and income distribution.

The crisis started at the end of the 2008 refers not only to the efficiency or asymmetries in markets, it also derives from speculative difficult to control imbalances. However, the immediate triggering factor was the breaking of a "bubble" real estate in 2007, which led one of the most important and influential banks of the United States – Lehman Brothers, to bankruptcy in September 2008. When the bubble burst it was found that the growth of speculative capital – the amount of "derivative contracts"¹⁹ – increased by more than six times the value of gross domestic product – world GDP in 2007, compared with 2001.

The credit crisis – popularly known as the crisis of subprime securities²⁰ – arising from the United States of America, occurred when low interest rates and fierce

¹⁹ Derivative is a complex contract which sets future payments, the amount of which is calculated based on the value assumed by a variable, such as the price of another asset (*e.g.* a share or commodity), inflation in the period, the exchange rate, the basic interest rate or any other variable endowed with economic significance. Derivatives are given this name because its purchase price and sales is derived from the price of another asset, called the underlying asset.

²⁰ The term is used to designate a form of mortgage credit for the real estate sector, which arose in the United States and intended for borrowers who pose a greater risk. This real estate credit has as guarantee the residence of the borrower and often is linked to the issue of credit cards or rental cars.

competition between banks led to an expansion of credit in the housing sector that promoted the rise of real estate prices creating a speculative "bubble" of terrible consequences.

The banks offered loans even though they didn't have security in relation to the due performance and it was somewhat inflated without any financial backing, the real estate values. From this juncture the occurrence of large capital losses was observed when prices declined and mortgages relating to these properties had not been paid due to the lack of conditions of debtors to honor their obligations.

The growing fear spread between investors and the possibility of public debt to be unpaid due to the increase in government debt levels has become imminent. The reasons and the spread of the crisis varied depending on the country and often have random and irrational character. As Krugman (2009, p.113) said:

[...] so, for some reason – perhaps an economic crisis on the other side of the world – investors are worried and begin to send money abroad in large quantities. Suddenly, the country is in difficulty – the stock market falls and interest rates soar. [...]

As a result of interconnection between global markets, the crisis spread across the planet and the fear of the American financial system collapse caused a wave of despair that feared contamination markets, a possible bankruptcy of the entire global financial system.

Crises come from speculative movements of capital flows, others originating from private debt due to "bubbles" of real estate speculation. In the European context, the crisis spread to the public debt, as a result of banking system redemptions associated with government investments motivated by the sharp slowdown of the economies of the post-bubble period.

In countries such as Greece, the unsustainable wage commitments of a bureaucratic public sector accompanied by the payment of pensions, boosted the increase in debt. Moreau (2005, p 179) alerts:

In Europe, since the advent of Social Security, in the mid-1930s, the three macro-problems of financing: (i) the form for the distribution of financial burden among the population; (ii) a form of State participation in funding; (iii) the solidarity between generations, were already the object of study and discussions.

This set of expenses, created a framework within the Euro Zone, while monetary union of single currency and without fiscal union, which substantially cooperated to the strong crisis in certain countries. Especially those with tendencies towards greater fiscal irresponsibility and social exuberance; Paes (2013, p.116) evaluates with precision:

The solidary economy brings, in its action, a political dimension, as being experiences that support the development of economic activities to the achievement of social objectives, contributing also to the statement of ideals of citizenship [...]

There is no doubt of the importance and necessity of the social dimension to citizenship within the economic context of a State; the big problem within the European Union was its exaggeration, that eventually restricted the ability of European leaders to find solutions to economic difficulties.

This situation was reinforced by concerns regarding the solvency of transnational corporations and banking systems of the European block; because these possess an expressive interconnection, founding situations where sovereign public debt of these States and companies have become connected and backed each other. Lightens Ehrhardt (2012, p.22) that "Companies in developed economies often find it more efficient to rely on the one or more financial institutions to raise capital services." This ultimately determines this high degree of connectivity.

The European sovereign debt crisis derived from an intricate combination of factors, among them: the globalization of financial markets; plenty of credit provided by banks in the period between 2002-2008, which encouraged high risk practices; the global financial crisis, with the bursting of the housing bubble; and the global recession that followed it from 2009-2012.

In relation to the behavior of banks and their consequences for the global crisis, which started in 2008, Krugman (2009, p.161) ponders that: "Banks are wonderful things when work. And they usually perform their duties. However, when they do not, they wide open up all the gates of hell – as occurred in the United States and in much of the world during 2007."

Deficit budget policies began to emerge, in virtue of the solutions used by countries to redeem investors in difficulties, resulting in the absorption by the public debt

of the State of part of the liabilities of such investors. The origin of the European public debt crisis still had origins in the American financial crisis that plunged the global financial system in a seizure and paved the way for the greatest economic crisis since the Great Depression.²¹

The governments of some States launched, at that moment, an operation to assist the banks, involving substantial amounts of public funds exceeding 20% of the world GDP. They managed to avoid the worsening of the situation and the consequent collapse of financial markets, but did not prevent the spread of the crisis to the rest of the global economy.

This State intervention has led to a new phase of the crisis: the public debt, which affected countries of large economies like the United States, Europe and Japan; focusing specially on European Union, and peripheral member States. As noted by Roubini (2010, p.133): "The rare crises sometimes shake perfectly healthy economies; there is usually latent vulnerabilities and weaknesses that set the stage for the collapse."

The financial markets, although fundamental, are commonly the wires of the spread of these problems. As Lund (2012, p.19) said: "Worldwide, the capital market is a way to stimulate domestic savings and provide companies an additional tool to raise funds to finance its expansion."

The case of the European Union was not different, everything started with the spread of rumors in financial markets on the level of public debt of Greece and the risk of suspension of payments by the Greek government. The difficulties with the Greek debt would started at the end of 2009 but only became public in 2010.

The problem in the Greek economy began both the global economic crisis; as internal structural factors to their own country, because of a strong debt (about 120% of GDP) and higher budget deficit to 13% of GDP - according to data from the Economic and Financial Affairs Council of the European Union. The situation was aggravated by the lack of transparency in the disclosure of the numbers of its debt and its deficit.

From march 2010, the Euro Zone and the International Monetary Fund (IMF) jointly addressed the development of a plexus of guided measures to rescue the Greek economy. This attempt was blocked due to disagreements between Germany, economy

²¹ <http://www.britannica.com/topic/Financial-Crisis-of-2008-The-1484264>

leader of the zone, and the other member countries. Ferguson (2012, p.46) evaluates: "The single biggest problem is that the proposal before the government and the German people is: do you want to take the next step towards a federalist Europe? And when the Germans consider how much it will cost them, they say no. "

During these negotiations and to the inability of the Euro Zone to reach an agreement, the suspicion grew in the financial markets, while the Euro tended to a sharp drop perspective. Finally, the European Union and the International Monetary Fund – IMF agreed a €750 billion rescue plan to prevent the crisis from spreading throughout the Euro Zone.

With this measure the creation of a collective stabilization fund for the Euro Zone was added. At the same time, all the major European countries had to adopt its own set of plans of public finances, establishing a period of austerity.

In the face of serious economic difficulties of Greece, the European Union adopted an aid plan, including loans and supervision of the European Central Bank. Widespread concern was the possible downgrade of the debt of all the countries of Europe. Speculative attacks on Greece were considered by the Greek government as attacks on the Euro Zone, through its weakest link, Greece. Meanwhile the Greek people felt bewildered and helpless, because as Moncada (2003, p.27) said, "[...] in the division of powers between the State and Civil Society this leads to the best [...]".

In early 2010, the situation continued to worsen, and a reinvigorated anxiety came over the exaggerated public debts, dragging investors to demand interest rates higher to various countries with high debt levels. Resende (2013, p. 118) evaluates:

It is precisely this exaggerated confidence in development of macroeconomic policies and well-functioning markets, which explains both the excesses of the last few decades as the inability to understand the risks involved. I believe that overconfidence also explains how it was possible that the situation worsened and spread so widely, that the world economy is threatened.

In turn, the trust had succumbed to the reality, and the situation of the markets made it difficult for governments to continue financing these debts, especially in cases where the economy slightly grew and foreign investors held a large portion of this debt,

as it happened with Greece. A crisis of confidence came with the removal of the spreads²² of government bonds and swaps²³ of non-compliance of these countries; especially when faced with the other member States of the European Union, especially Germany.

The imminence of enlargement of the crisis to other countries such as Portugal and Spain, pressed them to adopt austerity measures, such as increasing taxes and reducing costs. These measures have contributed to the increase of expressive social unrest in Greece, notably a nationalist discourse and against staying in the European block.

In 2011, it is estimated that Germany has acquired more than 9 billion Euros with the crisis; all by virtue of the leakage of investors for debt securities of the German federal government (bunds), which are much safer despite their close to zero interest rate. In July 2012, the Netherlands, Austria and Finland benefited from a zero or negative interest rates; the beneficiaries list also includes Belgium and France.

Teaches Machlup (1966, p.3) "Demand, involves preparing to offer something in exchange for the requirement. That is to say, the demand for one thing is needed to offer another; sometimes: money, goods or services."²⁴ And, in this context recessive Greece did not have anything to offer. However, the reality of these previous European countries was another, Krugman (2010, p.447) recalls:

Europe is not a great currency area. Therefore, the asymmetric economic developments within the different countries of the Euro zone – developments which may very well give rise to different rates of national interest under a system of individual national currencies – will be difficult to control through monetary policy. Yet while the launch of the Euro was being prepared in late 1998, for example, the German economy experienced negative growth rates, while the rates of Spain, Portugal and Ireland grew healthily. Since national governments

²² **Spread** is the difference between what the borrower pays to take out a loan and what it charges to grant a loan.

²³ **Swap** (in Portuguese, "exchange") is an operation in which there is an exchange of positions regarding the risk and profitability, among investors. The exchange contract can have as object currencies, commodities or financial assets.

²⁴ "Demand implies preparedness to offer something in Exchange for the thing demanded. This is to say, demand for one thing is supply of something else, usually money, sometimes goods or services."

within the EU until recently were used to having full sovereignty over national economic policies, such macroeconomic imbalances could lead to political much stronger pressure on the ECB than those that normally come into lasting political unions such as the United States.

In spite of sovereign, debt has substantially increased in a few countries in the Euro zone, and the three most affected countries: Greece, Ireland and Portugal represent only 6% of GDP in the Euro zone; countries like Germany and others profited greatly from this situation. The fear of contagion to other European countries remained a concern about the possible block fragmentation and is precisely responsible to those who most gained, to resist the maintenance of European unity.

The crisis has led to a renewed discussion on economic coordination and fiscal integration in the Euro zone, being identified as most important problems the non-existence of a treasury and a consolidated budget. Krugman (2010, p.447) evaluates:

A potential problem related is that the single currency project led economic union to a level far beyond what the EU could (or would be willing to) do in the field of political union. The European economic unification has centralized power (the ECB) and its tangible expression in the Euro. The political rivals are much weaker. Many Europeans expect the economic union leads to closer political union, but it is also possible that the discords as economic policies sabotage this goal. Moreover, the lack of a strong political center of the EU can limit the ECB's political legitimacy as a distant group and politically unassailable technocrats insensitive to the needs of the people.

These considerations were plausible, because until the end of 2012, the public debt crisis had forced most Euro zone countries to ask for help from the European Union. The European citizen, suggestible by nationalist ideology, identified themselves increasingly with the isolationist policy, wishing away, this impotent European supranationality. Brack (2011, p.254) evaluates: "Tensions between national and European institutions proceed, also the uncertainties surrounding the EU's own nature."

The crisis not only lit unfortunate implications on the economies of the block's countries, but also had a significant impact on political ideological resurgence of divisive and nationalist postures; as if these were the way to the salvation of the economic collapse. In the European Union the power of mutations arises as a result of social

upheaval; and countries like Greece, Spain, France, United Kingdom and Germany came to pervade unknowns the fate of the European block.

CONCLUSION

A historic shift is gradually taking place, due to technological changes that bring social changes as consequences. The trend of global integration of the United Nations is in need of an easing process increasing their sovereignties. The debate within the international community intensifies, its purpose is the conceptual reassessment of sovereign identity of the States where the sale of parcels of sovereignty is necessary, in favor of decision-making at supranational level.

Nationality is not increasingly based on loyalty to the sovereign power. At the same time, the rigid sovereign no longer constitutes the design of many of the Nation States. The transformation process has been going on when the State in the exercise of its full sovereignty, has proved powerless to solve pervasive problems within the international society.

The process of European Union integration has created an economic, political and social block; converging for a unity also in legal terms by Community Law, causing a relaxation of sovereignty that characterizes the evolution of international law towards the principles governed by *Jus Cogens*.

A fundamental aspect analyzed within the European Union regional integration process was the weakening of the economically weaker members States over the limits of its powers delegated to supranational entities of the European block. In legal and theoretical terms, respecting the principle of equality among member States – including national and local autonomies identities– is positivized, however it is evident that in practice this equality has been quite fragile.

The ratification of cooperation between sovereignty of member States and respect the limits of competence and performance established by member States is provided in the Lisbon Treaty itself. The law delegated to the European Union needs to be in accordance with the legal systems provided by the domestic law of the member States, under penalty of possible restrictions on the sovereignty of these. This relaxed and

shared sovereignty model cannot shake the member States, Community Law did not replace it.

The European Union is the largest model of flexibility sovereignties, supranational entities of the European block, established by mutual agreement between member States, it has a solid framework of principles and rules well defined by its founding treaties.

As explained throughout this study, the respect for national sovereignty was maintained through the principle of subsidiarity in which its rules interact in harmony with the domestic law of member States. Remaining intact the national identity and the principle of conferral of jurisdiction. The supranational entity operates adjusted to the limits of powers that member States, theoretically attach and may have full independence in their internal affairs.

The problems of this shared sovereignty supranational model bias had a strong impact with the economic crisis in the Euro zone and soon manifested a great loss in confidence in economic policy of the single currency. This economic crisis of the financial and monetary system has specially shaken the economically weaker member States generating social and political impasses.

The economic stagnation and paralysis of the development of the European block brought uncertainty about the archetype of financial integration of States. The feeling of economically weaker members States was that it lacked efficient mechanisms for protection of integrated economic development and especially the social block of welfare. With the economic crisis, the hegemony of countries like Germany and France were evident within the block. In practice, the theoretical equality of integrated States remained away when financing the debt of economically weaker States were made by the economically stronger.

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