

京都大学法科大学院・公共政策大学院

2020年度後期

EU法【担当：濱本正太郎】

2020年10月6日講義資料

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<http://www.hamamoto.law.kyoto-u.ac.jp>

第二次世界大戦後

- 仏 独の復興阻止
- 米 反共防波堤としての独
- ベネルクス3国・英
貿易相手国としての独



Congrès de l'Europe de La Haye (1948)



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Who we are





It includes 47 member states, 27 of which are members of the European Union



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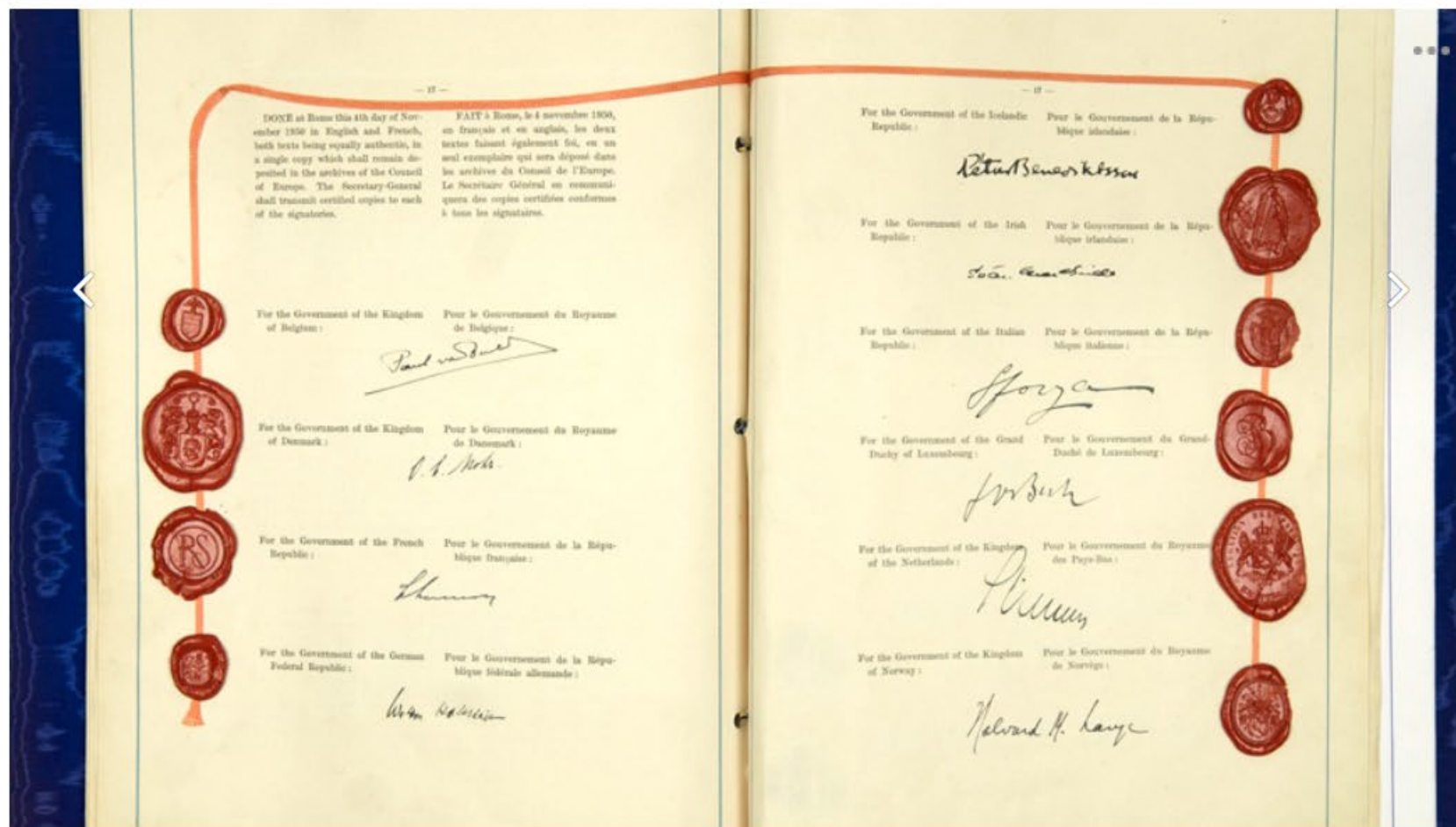
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All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law



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The European Court of Human Rights oversees the implementation of the Convention in the member states



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These builders of Europe were the people who launched the process of European construction by founding the Council of Europe in 1949



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Council of Europe



European Council



European Union (EU)

Complete list of the Council of Europe's treaties

Status as of 05/10/2020

No.	Title	Opening of the treaty	Entry into Force	<u>E.</u>	<u>N.</u>	<u>U.</u>
223	Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data	10/10/2018		<u>E.</u>	<u>N.</u>	
222	Protocol amending the Additional Protocol to the Convention on the Transfer of Sentenced Persons	22/11/2017		<u>E.</u>	<u>N.</u>	
221	Council of Europe Convention on Offences relating to Cultural Property	19/05/2017		<u>E.</u>	<u>N.</u>	
220	Council of Europe Convention on Cinematographic Co-Production (revised)	30/01/2017	01/10/2017	<u>E.</u>	<u>N.</u>	<u>U.</u>
219	Protocol amending the European Landscape Convention	01/08/2016		<u>E.</u>		
218	Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events	03/07/2016	01/11/2017	<u>E.</u>	<u>N.</u>	
217	Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism	22/10/2015	01/07/2017	<u>E.</u>	<u>N.</u>	<u>U.</u>
216	Council of Europe Convention against Trafficking in Human Organs	25/03/2015	01/03/2018	<u>E.</u>	<u>N.</u>	<u>U.</u>

平成十六年二月

サイバー犯罪に関する条約の説明書

外務省


一 概説

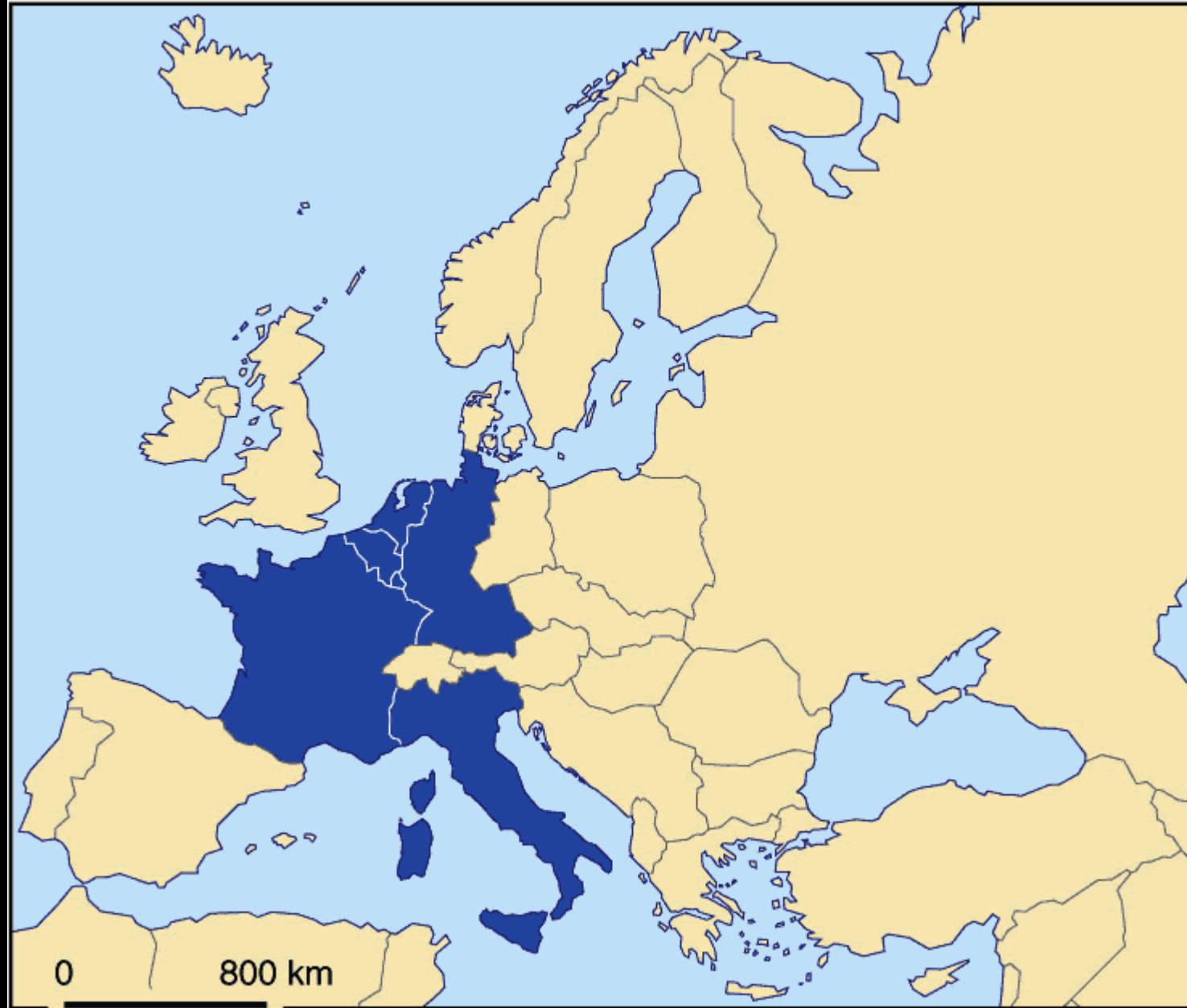
1 条約の成立経緯

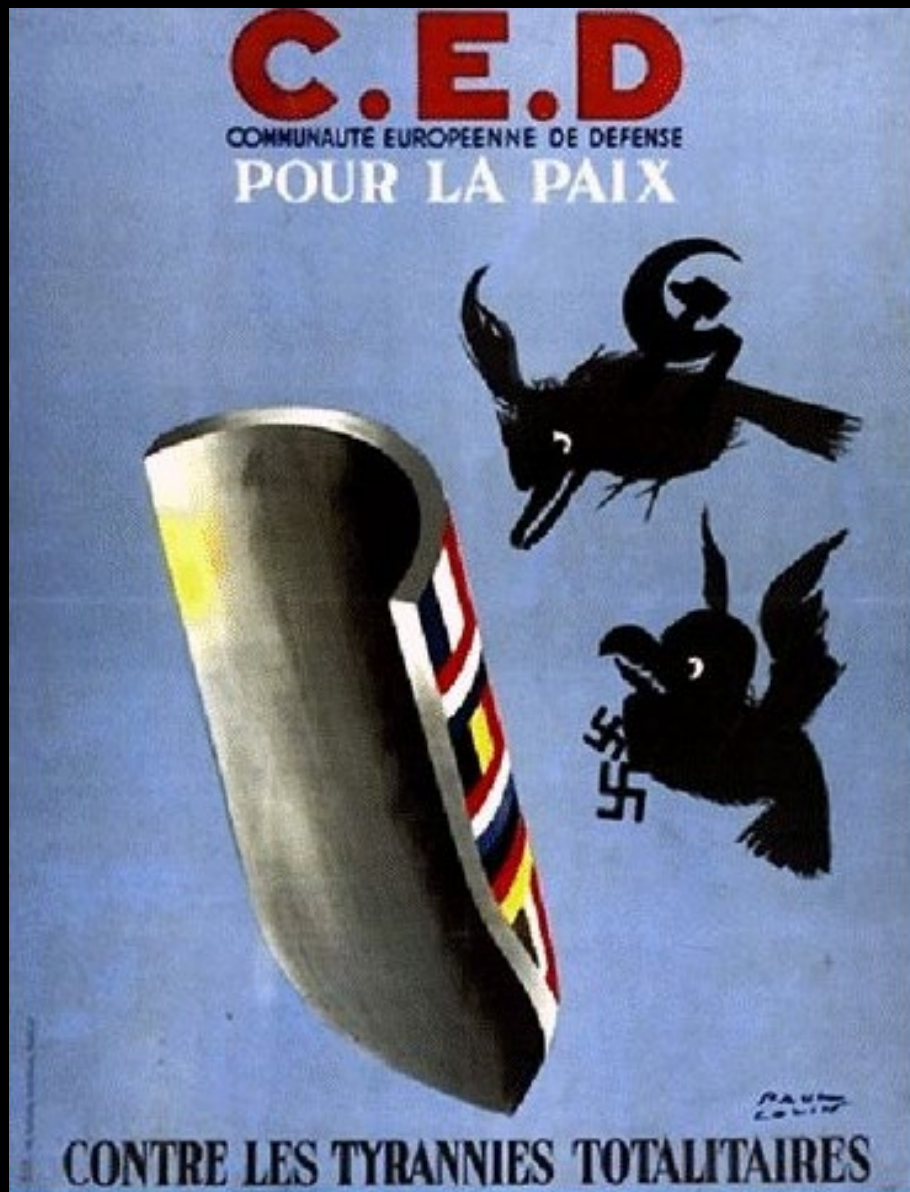
- (1) 情報技術分野の急速な発達、コンピュータ・ネットワークの発展によって、世界中で電子メールの幅広い利用、インターネットを通じて各種サイトへのアクセス、電子商取引等が可能となった。このような情報技術の発展は、社会の一層の発展のための大いなる可能性を秘めているが、一方で、コンピュータ・システムを攻撃するような犯罪及びコンピュータ・システムを利用して行われる犯罪（いわゆるサイバー犯罪）が出現するようになった。
- (2) サイバー犯罪は、犯罪行為の結果が国境を越えて広範な影響を及ぼし得るという特質を備えていることから、その防止及び抑制のために国際的に協調して有効な手段をとる必要性が高く、そのために法的拘束力のある国際文書の作成が必要であるとの認識が欧州評議会において共有されるようになった。
- (3) このような状況の下、欧州評議会において、サイバー犯罪を取り扱う専門家会合が設置され、平成九年（千九百九十七年）以降、同会合においてこの条約の作成作業が行われてきた。その結果、平成十三年（二千一年）九月に行われた欧州評議会閣僚委員会代理会合においてこの条約の案文について合意が成立し、同年十一月八日に行われた欧州評議会閣僚委員会会合において正式に採択された。
- (4) この条約の署名式典は、平成十三年（二千一年）十一月二十三日にハンガリーのブダペストにおいて開催され、我が国は、この条約に署名した。

署名／発効	基本法（一次法）をなす「条約」の名称
1951/1952	ヨーロッパ石炭鉄鋼共同体設立条約（2002年終了）
1952/----	ヨーロッパ防衛共同体設立条約
1957/1958	ローマ条約（ヨーロッパ経済共同体設立条約＋ヨーロッパ原子力共同体設立条約）
1965/1967	「合併条約」
1971/1972	イギリス・デンマーク・アイルランド（・ノルウェー）加盟協定
1976/1976	欧州議会直接選挙議定書
1979/1981	ギリシャ加盟協定
1985/1986	スペイン・ポルトガル加盟協定
1986/1987	欧州単一議定書
1991/1992	マーストリヒト条約（欧州連合に関する条約）
1994/1995	フィンランド・オーストリア・スウェーデン加盟協定
1997/1999	アムステルダム条約
2001/2003	ニース条約
2003/2004	キプロス・ハンガリー・ポーランド・チェコ・スロヴァキア・スロヴェニア・エストニア・ラトヴィア・リトアニア・マルタ加盟協定
2004/----	憲法条約
2005/2007	ブルガリア・ルーマニア加盟協定
2007/2009	リスボン条約
2012/2013	クロアチア加盟協定

La Communauté Européenne du Charbon et de l'Acier (CECA) en 1951

 Pays membres





<http://www.cndp.fr/>



<http://les-yeux-du-monde.fr/>

Jeune Européen

La Communauté Européenne...

C'est-à-dire...

SUPERFICIE	1.165.000 Km ²
NOMBRE D'HABITANTS	165 millions
PARC AUTOMOBILE	7 millions

PRODUCTION DE :	CÉRÉALES	460 millions de quintaux
	ACIER	60 millions de tonnes
	CHARBON	250 millions de tonnes
	ELECTRICITÉ	200 milliards Kwh

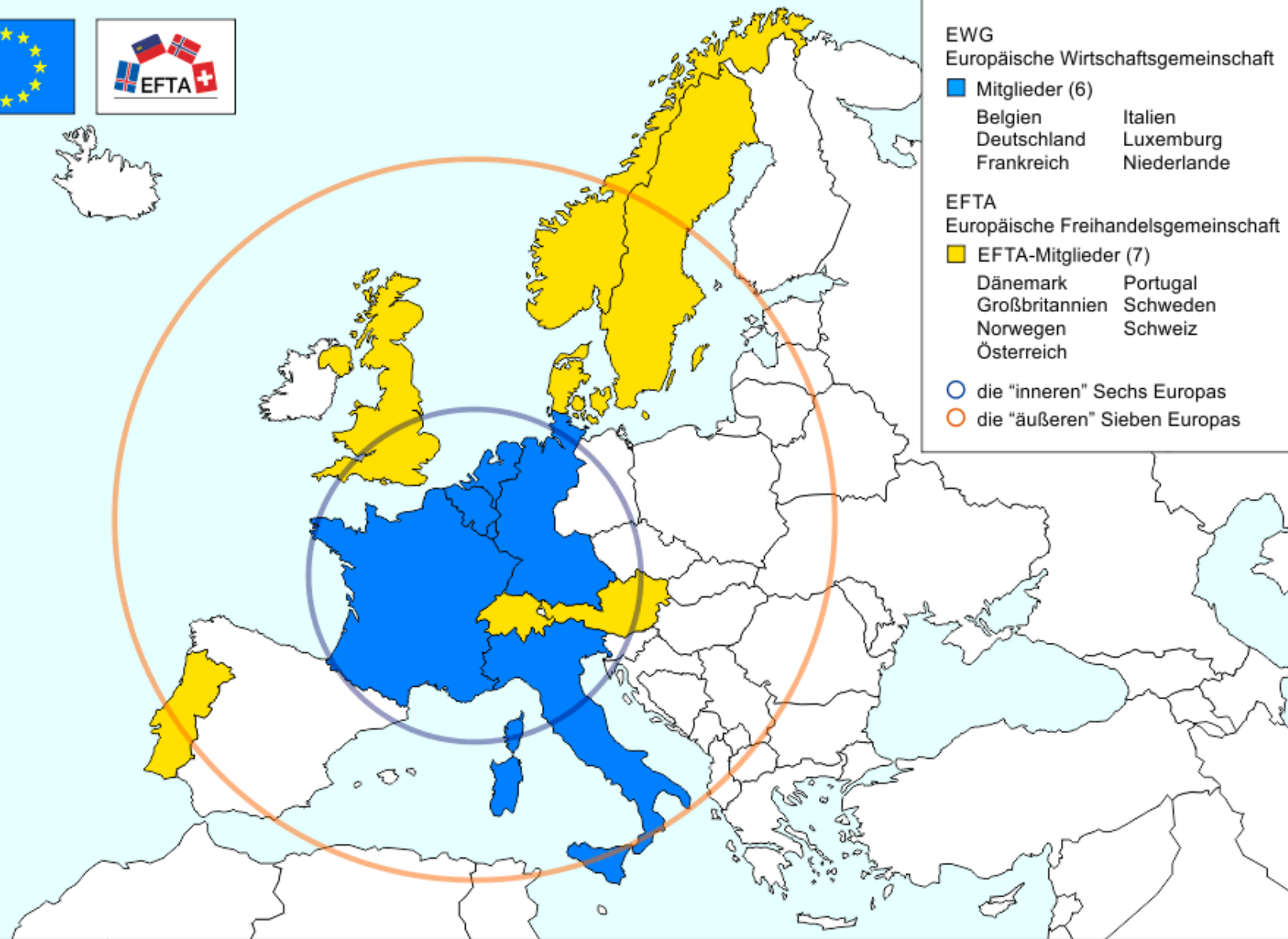
...prépare pour toi un avenir meilleur



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CRP-Infotec



EWG
Europäische Wirtschaftsgemeinschaft

■ Mitglieder (6)

Belgien	Italien
Deutschland	Luxemburg
Frankreich	Niederlande

EFTA
Europäische Freihandelsgemeinschaft

■ EFTA-Mitglieder (7)

Dänemark	Portugal
Großbritannien	Schweden
Norwegen	Schweiz
Österreich	

○ die "inneren" Sechs Europas

○ die "äußeren" Sieben Europas

Stand: 01.07.1960

EWG und EFTA im Jahr 1960

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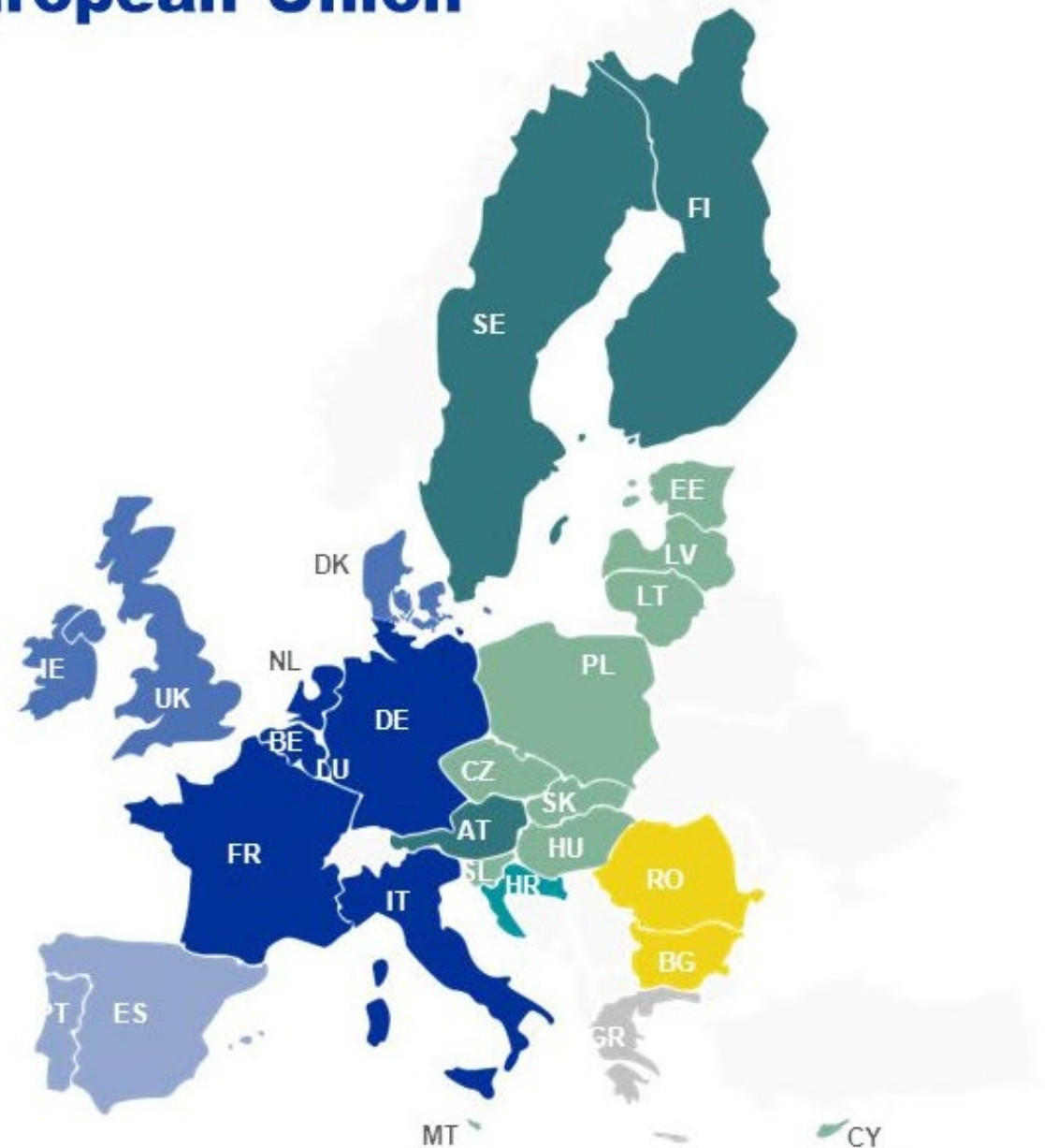
1973



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Enlargement of the European Union

1952	Belgium	2004	Czech Rep.
■	Germany	■	Estonia
	France		Cyprus
	Italy		Latvia
	Luxembourg		Lithuania
	Netherlands		Hungary
			Malta
1973	Denmark		Poland
■	Ireland		Slovenia
	United Kingdom		Slovakia
1981	Greece	2007	Bulgaria
■		■	Romania
1986	Spain	2013	Croatia
■	Portugal	■	
1995	Austria		
■	Finland		
	Sweden		



EEC設立条約



(加盟条約による修正)



欧州単一議定書による修正



マーストリヒト条約による修正

EC設立条約に改称



アムステルダム条約による修正



ニース条約による修正



リスボン条約による修正

TFEUに改称

マーストリヒト条約による**EU条約(TEU)**

創設



アムステルダム条約による修正



ニース条約による修正



リスボン条約による修正

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EU response to COVID-19



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TREATY

establishing

T H E E U R O P E A N E C O N O M I C
C O M M U N I T Y

EEC設立条約の英訳

ARTICLE 1

By this Treaty, the High Contracting Parties establish among themselves a EUROPEAN ECONOMIC COMMUNITY.

ARTICLE 2

The Community shall have as its task, by establishing a common market and progressively approximating the economic policies of Member States, to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it.

Official Journal

of the European Communities

ISSN 0378-6986

C 191

Volume 35

29 July 1992

Treaty on European Union, signed at Maastricht on 7 February 1992

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TITLE II

PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY WITH A VIEW TO ESTABLISHING THE EUROPEAN COMMUNITY

Article G

The Treaty establishing the European Economic Community shall be amended in accordance with the provisions of this Article, in order to establish a European Community.

A. Throughout the Treaty:

- 1) The term 'European Economic Community' shall be replaced by the term 'European Community'.

B. In Part One 'Principles':

- 2) Article 2 shall be replaced by the following:

'Article 2

The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing the common policies or activities referred to in Articles 3 and 3a, to promote throughout the Community a harmonious and balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic performance, a high level of employment and of social protection, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.'

TREATY OF LISBON

AMENDING THE TREATY ON EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

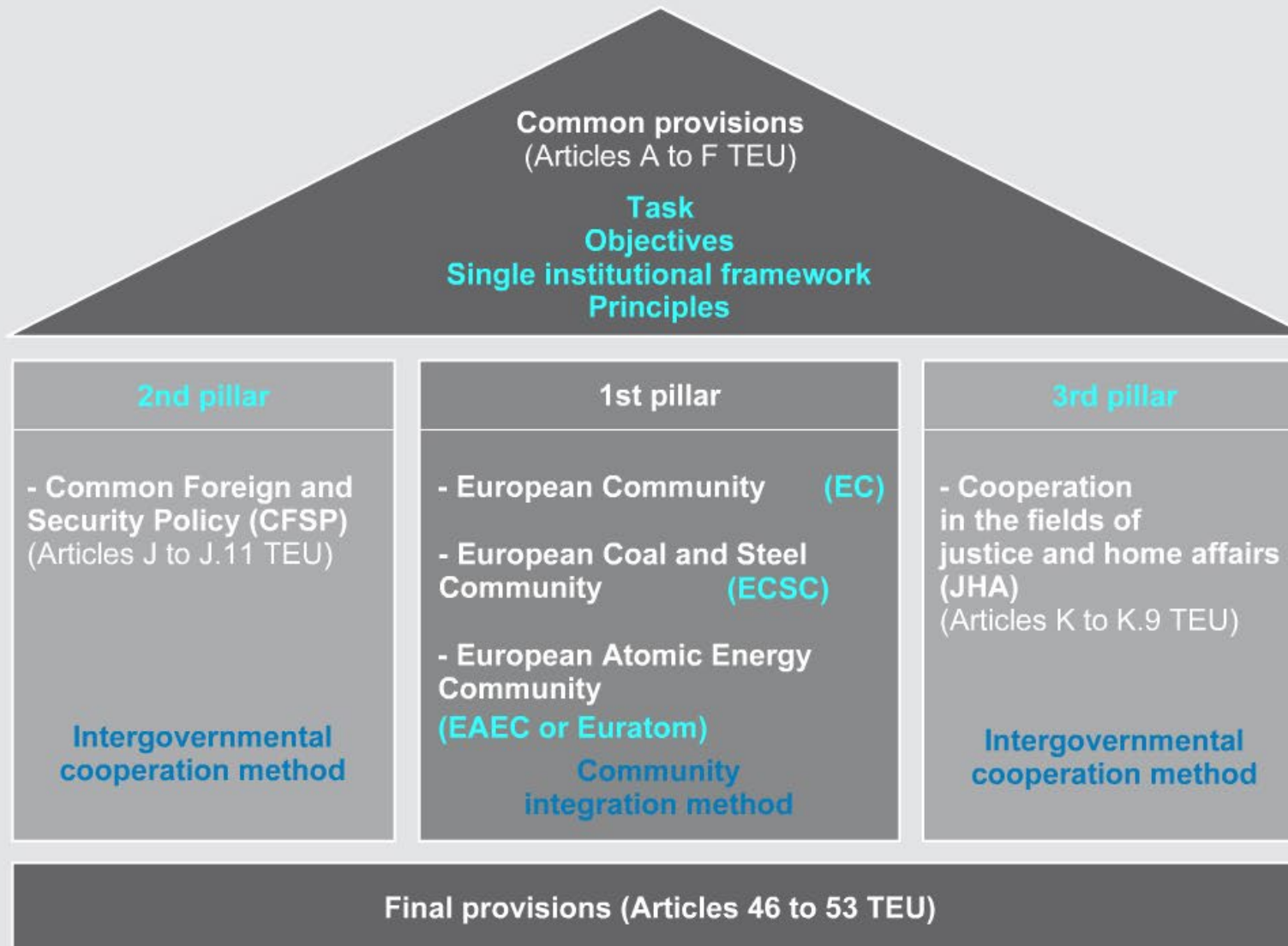
Article 2

The Treaty establishing the European Community shall be amended in accordance with the provisions of this Article.

- 1) The title of the Treaty shall be replaced by ‘Treaty on the Functioning of the European Union’.

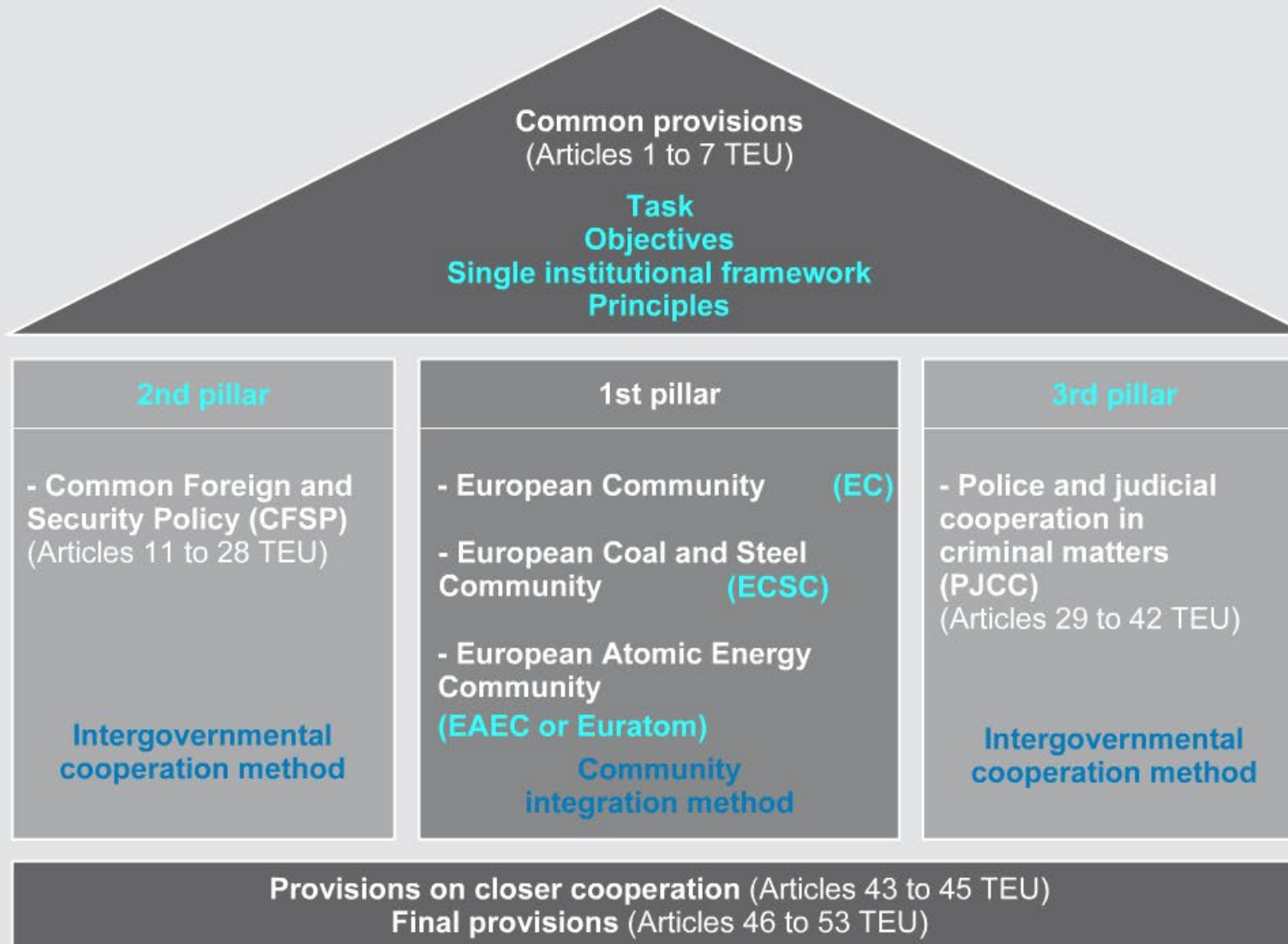
The three pillars of the European Union

Treaty on European Union (Maastricht, 7 February 1992)



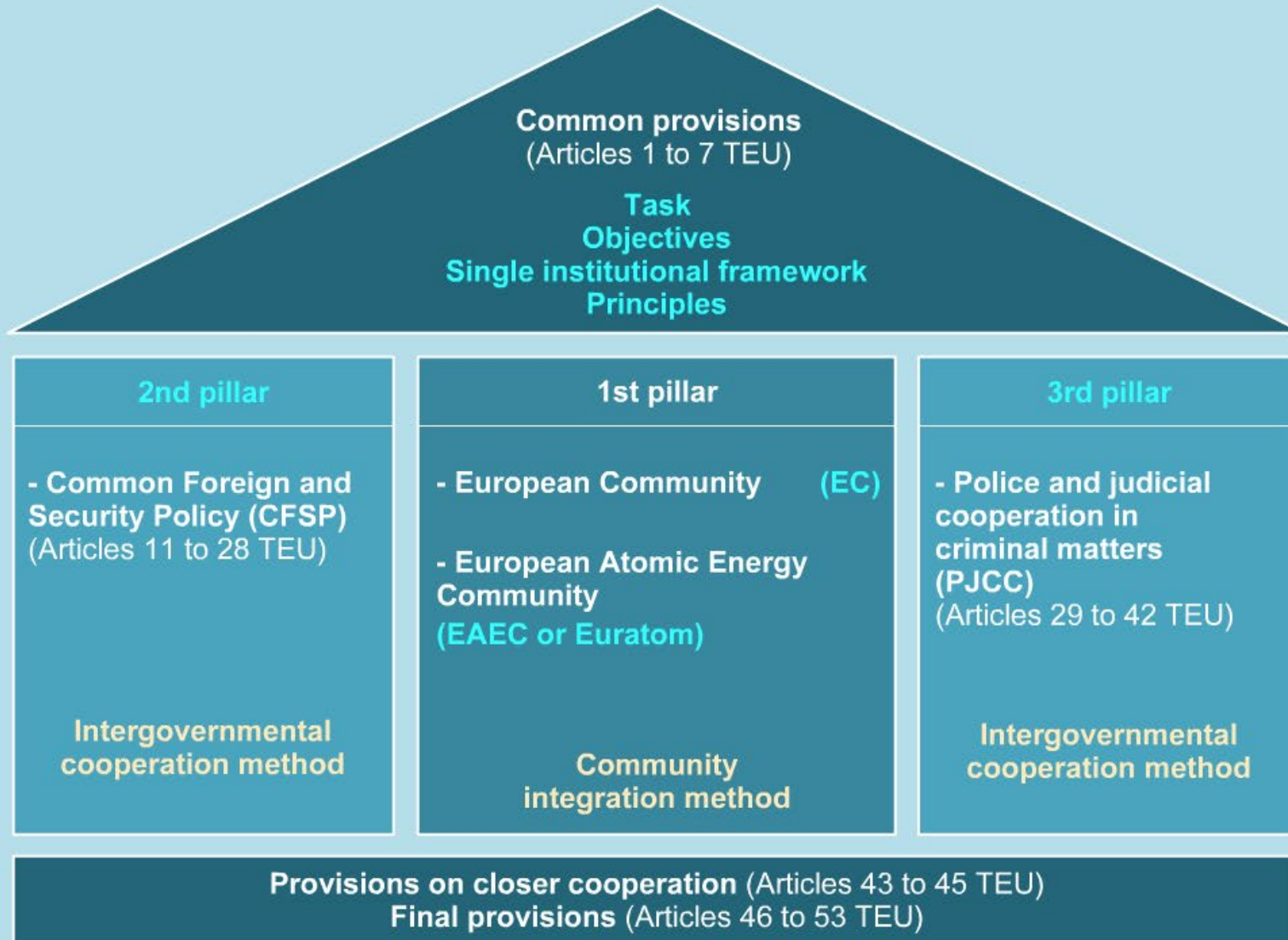
The three pillars of the European Union

Treaty on European Union (Amsterdam, 2 October 1997)



The three pillars of the European Union

Treaty on European Union (Nice, 26 February 2001)



CONSOLIDATED VERSIONS

OF THE TREATY ON EUROPEAN UNION

AND

THE TREATY ON THE FUNCTIONING

OF THE EUROPEAN UNION

CONSOLIDATED VERSION OF THE TREATY ON EUROPEAN UNION

PREAMBLE

TITLE I COMMON PROVISIONS

TITLE II PROVISIONS ON DEMOCRATIC PRINCIPLES

TITLE III PROVISIONS ON THE INSTITUTIONS

TITLE IV PROVISIONS ON ENHANCED COOPERATION

TITLE V GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION AND
SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY
POLICY

Chapter 1 General provisions on the Union's external action

Chapter 2 Specific provisions on the common foreign and security policy

Section 1 Common provisions

Section 2 Provisions on the common security and defence policy

TITLE VI FINAL PROVISIONS

Article 3

(ex Article 2 TEU)

1. The Union's aim is to promote peace, its values and the well-being of its peoples.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

It shall promote economic, social and territorial cohesion, and solidarity among Member States.

It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

4. The Union shall establish an economic and monetary union whose currency is the euro.

5. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.

6. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties.

Article 6

(ex Article 6 TEU)

1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions.

2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

Article 9

In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship.

Article 10

1. The functioning of the Union shall be founded on representative democracy.
2. Citizens are directly represented at Union level in the European Parliament.

Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.
4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

1. The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.

The Union's institutions shall be:

- the European Parliament,
- the European Council,
- the Council,
- the European Commission (hereinafter referred to as 'the Commission'),
- the Court of Justice of the European Union,
- the European Central Bank,
- the Court of Auditors.

Article 16

1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Treaties.

Article 17

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

Article 19

1. The Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the Treaties the law is observed.

CONSOLIDATED VERSION OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

PREAMBLE

PART ONE PRINCIPLES

PART TWO NON-DISCRIMINATION AND CITIZENSHIP OF THE UNION

PART THREE UNION POLICIES AND INTERNAL ACTIONS

PART FOUR ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES

PART FIVE THE UNION'S EXTERNAL ACTION

PART SIX INSTITUTIONAL AND FINANCIAL PROVISIONS

PART SEVEN GENERAL AND FINAL PROVISIONS

Article 288

(ex Article 249 TEC)

To exercise the Union's competences, the institutions shall adopt regulations, directives, decisions, recommendations and opinions.

A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

Recommendations and opinions shall have no binding force.

TFEU. これ以外の条文はTEU.