

## FIRST SESSIONS OF THE CONVENTION OF EUROPEAN STUDENTS

### Contribution of Working Group III “Legal Personality”

- The consequences of explicit recognition the Union’s legal personality;
- The consequences of the merger of the Union’s legal personality with that of the Community;
- The impacts on the simplification of the Treaties;

Our group agrees with the recommendations submitted by the Convention’s Working Group on Legal Personality and it pronounces itself in favour of an explicit conferral of legal personality on the Union. It is however necessary to go further than the proposal of the Convention’s Working Group:

#### Argumentation:

1. It is necessary to heighten the Union’s profile at international level, for obvious reasons of effectiveness, legal certainty and transparency, with the aim of increasing the identification of citizens to the Union. From now on, the Union must be a subject of international law with rights and duties in the international legal order.
2. In order to simplify the issue, a single legal personality should substitute for the existing legal personalities (EC and Euratom). This makes the merger of the Treaties and their reorganization into a constitutional treaty possible. It also leads to the elimination of the current design of the “pillar” structure that would then become useless, anachronistic, and a source of complication.
3. The conferral of a legal personality on the Union has impacts on the organization, the exercise and the control of its external representation. It is necessary to set up a single organ of external representation of the Union, and to increase the participation of the European Parliament to the external action of the Union.
4. The European Union as a subject of international law is now able to be a party to an international treaty, replacing the Member States. In consequence, the procedure for internal ratification by the Member States is not necessary anymore. The simplification of the procedure is in accordance with the need to put an end to the coexistence of two different procedures by thus establishing a single procedure for concluding international agreements.
5. The Union being based on the respect of the rule of law, as a natural consequence, the Court of Justice of the European Union shall have the possibility of judicial review in every domain of the European Union, including the Common Foreign European Policy.

#### Amendment proposal:

*The European Union has legal personality.*

*The Union is a subject of international law that has, in particular, the right to conclude treaties, the right of legation, the right to submit claims or to act before an international court or judge, the right to become a member of an international organization or become party to international conventions. The Union engages its international responsibility with its acts.*

*In each of the Member States, the Union enjoys the most extensive legal capacity accorded to legal persons under their laws, being able, in particular, to acquire or dispose of movable and or immovable property and to be a party to legal proceedings. To that end, it is represented by all the institutions mentioned in Part V of the Treaty on European Community.*

*The Union's legal personality replaces the legal personalities of the European Community and of the Euratom and it takes over all the obligations assumed by them.*

*The Court of Justice of the European Union has jurisdiction on the whole treaty.*

This conferral of legal personality has several technical implications, e.g. concerning the:

Procedure of Negotiation and Conclusion of International Treaties (merger of article 24 TEU and 300 TEC)

The Council mandates the EU External Representative for negotiations and sets guidelines.

The Council decides upon the signature of the treaty proposed by the EU External Representative at a qualified majority voting. The draft treaty is then presented to the European Parliament, which votes by simple majority. The treaty is agreed on by the European Parliament and the Council using, in both cases, the following procedure: once negotiated by the EU External Representative, the treaty shall only be susceptible of being either accepted or rejected without any amendments. The President of the European Union signs the treaty. The Council, the Commission, or any Member State can ask for the review from the European Court whether the international treaty is in accordance with the provisions of the present treaty.

International treaties concluded in accordance with the present procedure are binding for the institutions of the Union and its Member States.