

**Five years of European Union law in Latvia - experiences and observations
- Treaties and legislation -**

I. Primary law

Treaty on European Union

Article 6

- (1) The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.
- (2) The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.
- (3) The Union shall respect the national identities of its Member States.
- (4) ...

Treaty Establishing the European Community

Article 10

Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks.

They shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty.

Article 12

Within the scope of application of this Treaty, and without prejudice to any special provisions contained therein, any *discrimination on grounds of nationality* shall be *prohibited*.

The Council, acting in accordance with the procedure referred to in Article 251, may adopt rules designed to prohibit such discrimination.

Article 13

(1) Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to *combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation*.

(2) By way of derogation from paragraph 1, when the Council adopts Community incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, it shall act in accordance with the procedure referred to in Article 251.

Article 21 sub-section 3

Every citizen of the Union may write to any of the institutions or bodies referred to in this Article or in Article 7 in one of the *languages* mentioned in Article 314 and have an answer in the same language.

Article 39

- (1) *Freedom of movement for workers* shall be secured within the Community.
- (2) Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.
- (3) It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
 - (a) to accept offers of employment actually made;
 - (b) to move freely within the territory of Member States for this purpose;
 - (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
 - (d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in implementing regulations to be drawn up by the Commission.
- (4) The provisions of this Article shall not apply to employment in the public service.

Article 104

- (1.) Member States shall *avoid excessive government deficits*.
- (2) The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the Member States with a view to identifying gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following two criteria:
 - (a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, unless:
 - either the ratio has declined substantially and continuously and reached a level that comes close to the reference value,
 - or, alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value;
 - (b) whether the ratio of government debt to gross domestic product exceeds a reference value, unless the ratio is sufficiently diminishing and approaching the reference value at a satisfactory pace.

The reference values are specified in the Protocol on the excessive deficit procedure annexed to this Treaty.

...

Protocol (No. 20) on the excessive deficit procedure

Article 1

The reference values referred to in Article 104(2) of this Treaty are:

- 3% for the ratio of the planned or actual government deficit to gross domestic product at market prices;
- 60% for the ratio of government debt to gross domestic product at market prices.

Article 105 section 1

The primary objective of the ESCB shall be to maintain *price stability*. Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 4.

Article 111 section 3

[Monetary agreements with third countries]

By way of derogation from Article 300, where agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Community with one or more States or international organisations, the Council, acting by a qualified majority on a recommendation from the Commission and after consulting the ECB, shall decide the arrangements for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.

Agreements concluded in accordance with this paragraph shall be binding on the institutions of the Community, on the ECB and on Member States.

Article 121 section 1

... examine the achievement of a *high degree of sustainable convergence* by reference to the fulfilment by each Member State of the following criteria:

- the achievement of a high degree of price stability; this will be apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability,
- the sustainability of the government financial position; this will be apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article 104(6),
- the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European Monetary System, for at least two years, without devaluing against the currency of any other Member State,
- the durability of convergence achieved by the Member State and of its participation in the exchange-rate mechanism of the European Monetary System being reflected in the long-term interest-rate levels.

The four criteria mentioned in this paragraph and the relevant periods over which they are to be respected are developed further in a Protocol annexed to this Treaty. ...

Treaty of Lisbon

Article 2, no. 102

... paragraph 1 thereof shall take over the wording of Article 121(1), with the following amendments:

- (i) throughout the paragraph, the words 'the EMI' shall be replaced by 'the European Central Bank';
- (ii) at the beginning of the first subparagraph, the following shall be inserted: 'At least once every two years, or at the request of a Member State with a derogation,';
- (iii) in the first subparagraph, first sentence, the words 'the progress made in the fulfilment by the Member States of their obligations' shall be replaced by 'the progress made by the Member States with a derogation in fulfilling their obligations';
- (iv) in the first subparagraph, second sentence, the words 'each Member State's national legislation' shall be replaced by 'the national legislation of each of these Member States' and the words 'of this Treaty' shall be deleted;
- (v) in the third indent of the first subparagraph, the words 'against the currency of any other Member State' shall be replaced by 'against the euro,';
- (vi) in the fourth indent of the first subparagraph, the words 'the Member State' shall be replaced by 'the Member State with a derogation' and the words 'of the European Monetary System' shall be deleted;
- (vii) in the second subparagraph, the words 'the development of the ecu' shall be deleted;

(b) paragraph 2 thereof shall take over the wording of the second sentence of Article 122(2), with the following amendments:

- (i) at the end of the text, the words 'set out in Article 121(1)' shall be replaced by 'set out in paragraph 1';
- (ii) the following new second and third subparagraphs shall be added:
'The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.'

The qualified majority of the said members, as referred to in the second subparagraph, shall be defined in accordance with Article 205(3)(a).'

Protocol (No. 21) on the convergence criteria referred to in Article 121 of the Treaty establishing the European Community

Article 1

The *criterion on price stability* referred to in the first indent of Article 121(1) of this Treaty shall mean that a Member State has a price performance that is sustainable and an average rate of inflation, observed over a period of one year before the examination, that does not exceed by more than 1 ½ percentage points that of, at most, the three best performing Member States in terms of price stability. Inflation shall be measured by means of the consumer price index on a comparable basis, taking into account differences in national definitions.

Article 2

The *criterion on the government budgetary position* referred to in the second indent of Article 121(1) of this Treaty shall mean that at the time of the examination the Member State is not the subject of a Council decision under Article 104(6) of this Treaty that an excessive deficit exists.

Article 3

The *criterion on participation in the exchange-rate mechanism* of the European Monetary System referred to in the third indent of Article 121(1) of this Treaty shall mean that a Member State has respected the normal fluctuation margins provided for by the exchange-rate mechanism on the European Monetary System without severe tensions for at least the last two years before the examination. In particular, the Member State shall not have devalued its currency's bilateral central rate against any other Member State's currency on its own initiative for the same period.

Article 4

The *criterion on the convergence of interest rates* referred to in the fourth indent of Article 121(1) of this Treaty shall mean that, observed over a period of one year before the examination, a Member State has had an average nominal long-term interest rate that does not exceed by more than 2 percentage points that of, at most, the three best performing Member States in terms of price stability. Interest rates shall be measured on the basis of long-term government bonds or comparable securities, taking into account differences in national definitions.

Article 6

The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the EMI or the ECB as the case may be, and the Committee referred to in Article 114, adopt appropriate provisions to lay down the details of the convergence criteria referred to in Article 121 of this Treaty, which shall then replace this Protocol.

Article 122 section 2

[Decision on abrogation of a derogation]

At least once every two years, or at the request of a Member State with a derogation, the Commission and the ECB shall report to the Council in accordance with the procedure laid down in Article 121(1). After consulting the European Parliament and after discussion in the Council, meeting in the composition of the Heads of State or Government, *the Council shall, acting by a qualified majority on a proposal from the Commission, decide which Member States with a derogation fulfil the necessary conditions on the basis of the criteria set out in Article 121(1), and abrogate the derogations of the Member States concerned.*

Article 123

[Decision on conversion rates and other measures necessary for the introduction of the euro]

...

(4) At the starting date of the third stage, the Council shall, acting with the unanimity of the Member States without a derogation, on a proposal from the Commission and after consulting the ECB, adopt *the conversion rates at which their currencies shall be irrevocably fixed and at which irrevocably fixed rate*

the ecu shall be substituted for these currencies, and the ecu will become a currency in its own right. This measure shall by itself not modify the external value of the ecu.

The Council, acting by a qualified majority of the said Member States, on a proposal from the Commission and after consulting the ECB, shall take the other measures necessary for the rapid introduction of the ecu as the single currency of those Member States. The second sentence of Article 122(5) shall apply.

(5) If it is decided, according to the procedure set out in Article 122(2), to abrogate a derogation, the Council shall, acting with the unanimity of the Member States without a derogation and the Member State concerned, on a proposal from the Commission and after consulting the ECB, adopt the rate at which the ecu shall be substituted for the currency of the Member State concerned, and take the other measures necessary for the introduction of the ecu as the single currency in the Member State concerned.

Article 230

The Court of Justice shall review the legality of acts adopted jointly by the European Parliament and the Council, of acts of the Council, of the Commission and of the ECB, other than recommendations and opinions, and of acts of the European Parliament intended to produce legal effects vis-à-vis third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, *infringement of an essential procedural requirement*, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

French Version: À cet effet, la Cour est compétente pour se prononcer sur les recours pour incompétence, *violation des formes substantielles*, violation du présent traité ou de toute règle de droit relative à son application, ou détournement de pouvoir, formés par un État membre, le Parlement européen, le Conseil ou la Commission.

German Version: Zu diesem Zweck ist der Gerichtshof für Klagen zuständig, die ein Mitgliedstaat, das Europäische Parlament, der Rat oder die Kommission wegen Unzuständigkeit, *Verletzung wesentlicher Formvorschriften*, Verletzung dieses Vertrags oder einer bei seiner Durchführung anzuwendenden Rechtsnorm oder wegen Ermessensmissbrauchs erhebt.

Latvian Version according to the Treaty of Lisbon: Šajā nolūkā Tiesas jurisdikcijā ir kādas dalībvalsts, Eiropas Parlamenta, Padomes vai Komisijas celtas prasības sakarā ar kompetences trūkumu, *būtisku procedūras noteikumu pārkāpumiem*, Līgumu vai jebkuru ar to piemērošanu saistītu tiesību normu pārkāpumiem, kā arī sakarā ar pilnvaru nepareizu izmantošanu.

...

Article 249

In order to carry out their task and in accordance with the provisions of this Treaty, the European Parliament acting jointly with the Council, the Council and the Commission shall make regulations and issue directives, take decisions, make recommendations or deliver 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 upon those to whom it is addressed.

...

Article 250

(1) Where, in pursuance of this Treaty, the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal, subject to Article 251(4) and (5).

(2) As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Community act.

Article 290

The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the Statute of the Court of Justice, be determined by the Council, acting unanimously.

Article 314

This Treaty, drawn up in a single original in the Dutch, French, German, and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which shall transmit a certified copy to each of the Governments of the other signatory States.

Pursuant to the Accession Treaties, the Bulgarian, Czech, Danish, English, Estonian, Finnish, Greek, Hungarian, Irish, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish versions of this Treaty shall also be authentic.

II. Secondary law

Regulation No. 1 determining the languages to be used by the European Economic Community

Article 1

The official languages and the working languages of the institutions of the Union shall be Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish.

Article 4

Regulations and other documents of general application shall be drafted in the official languages.

Regulation 974/98 on the introduction of the euro

Preamble, consideration 2

... whereas the name given to the European currency shall be the 'euro'; ... whereas the European Council furthermore considered that the name of the single currency must be the same in all the official languages of the European Union, taking into account the existence of different alphabets;

Today's Latvian wording: ... tā kā Eiropas valūtas nosaukumam ir jābūt "euro"; ... tā kā Eiropadome ir atzinusi arī to, ka vienotās valūtas nosaukumam ir jābūt vienādam visās Eiropas Savienības oficiālajās valodās, ņemot vērā atšķirīgu alfabētu pastāvēšanu;

Article 2

With effect from the respective euro adoption dates, the currency of the participating Member States shall be the euro. The currency unit shall be one euro. One euro shall be divided into one hundred cent.

Today's Latvian wording: No attiecīgās euro pieņemšanas dienas iesaistīto dalībvalstu valūta ir euro. Valūtas vienība ir viens euro. Viens euro ir simts centi.

III. Charter of Fundamental Rights of the European Union

Article 21

Non-discrimination

(1) Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

(2) Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited.

Article 22

Cultural, religious and linguistic diversity

The Union shall respect cultural, religious and linguistic diversity.

Article 23

Equality between women and men

Equality between women and men must be ensured in all areas, including employment, work and pay.

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.