

THE RELEVANCE OF INTERNATIONAL LAW IN DEFINING EUROPE'S COMMON SECURITY

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Abstract

The central theme of this article is given by the influence that fundamental values and principles of international law have on the construction of the European security policies. These principles are not only abstract, theoretical constructions, lacking legal effects, but represent the expression of the fundamental values underlying the international legal architecture. The basis for placing these values and principles at the center of the common policies is justified by the status of the European Union as a subject of the international law system. The increasing involvement of the EU in fields such as security and defense, democracy and human rights justifies the importance of identifying and highlighting the principles governing the organization and its policies. The recognition of their authority and the *de facto* application of these principles and norms by the European institutions, in the framework of its external actions and mechanisms, ensure the legality of the organization's activity.

Key words: European Union, fundamental values, principles of international law, Common Foreign and Security Policy.

1. Introduction

In the current state of development of international law, the concept of security takes shape through the United Nations system of Collective Security. Its two central elements are represented in the UN Charter - on the one hand, by the principle of non-use of armed force and, on the other hand, by the UN Security Council institution, whose main task is to maintain international peace and security³³.

From a regional point of view, the European Community - and later the European Union - is an actor that became formally involved in the security field a few decades later, more precisely in 1992, after the Maastricht Treaty created a European Union with wider powers in the security domain. The Treaty on the European Union clearly stipulates the organization's desire to "(...) assert its identity on the international scene, in particular through the implementation of a common foreign and security policy, including the possible formation of a common defense that could lead, over time, to a common defense."³⁴

Throughout the years, international law has broadened its perception on the concept of security, and now encloses notions such as human rights, and, more recently, the development of democracy. The European Union's foreign policy has also taken on this direction of development, integrating the fundamental values promoted by international law in matters relating to peace and security, human rights and democracy.

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³³Article 2 (4) and Article 24 (1) of the Charter of the United Nations, <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> (accessed on 20 December 2017).

³⁴Article B of Treaty on European Union, Official Journal of the European Communities C 191, 29.7.1992, p. 4.

A significant impact on how European security is defined has had the external threats to the EU's borders. Rejecting these threats requires a comprehensive approach within the European law system, or, more accurate, within the instruments of the Common European Security Policy (CESP) and the Common Security and Defense Policy (CSDP).

The subject from which the construction of this article began, concerns the legal relationship between the European common security policies and the principles of international law. We will first consider identifying the fundamental values and principles of international law that govern the functioning and the practices of the European Union in the field of security, as they are based - or at least are, influenced by these principles. Therefore, a systematic strategy that will ultimately ensure a long-term peace and security in international and regional order must be grounded on respect for these international principles and fundamental values, as same, as for the rules of law derived from them.

2. Fundamental values and their expression in the field of common security

The concept of security is considerably difficult to define. Just like democracy, human rights and the rule of law, the term is associated with a set of hypotheses and ideas, of which its very existence depends. Even though international law is based on the text of a treaty³⁵, on its aims and purposes, it is possible to identify and talk about the fundamental values that international institutions and legal orders are designed to promote and protect.³⁶ From a practical point of view, the law is the result of political debates and concession. However, encapsulating these values and principles in a legal structure determines a general standard that, depending on the importance and relevance of the law, most of the times outlast the political factor that established its construction.³⁷

The foundation of the United Europe has been set on a number of fundamental ideas and values to which the Member States have acceded and that have been implemented by the operational institutions of the organization.³⁸ Among those values we find peace, unity, equality, freedom, solidarity and security. Protecting the principles of liberty, democracy and the rule of law is the declared purpose of the EU, along with protecting the fundamental human rights³⁹. These values are also the ones that have determined the developing of the European concept on collective security.

In the following section, we set to identify the fundamental values of the EU and examine the relationship between them and the principles of international law that have guided the organization's actions in developing its common security and defense policies.

³⁵ In accordance with article 31 paragraph (1) of the Vienna Convention on the Law of Treaties (1969), "a treaty must be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose."

³⁶ Bogdan Aurescu, *Drept Internațional Public*, (Bucharest: C.H. Beck, 2011), 58-59.

³⁷ Raluca Miga Beșteliu, *Drept Internațional Public*, vol. I, (Bucharest: C.H. Beck, 2010), 2-4.

³⁸ Augustin Fuerea, *Manualul Uniunii Europene*, fourth edition, (Bucharest: Universul Juridic, 2016), 13-14.

³⁹ Article no. 3 of Treaty on European Union (Consolidated version 2016) - Official Journal of the European Union C 202, 7.6.2016, p. 17.

2.1. *Pace and security*

There is no stronger motivation to invoke in the process of European construction than the desire for peace. The two world wars waged in Europe between countries that are now Member States of the European Union were the impulse that the continent needed to create a peace policy, and, at the same time to establish a supranational organization to manage effectively such a policy.

The pursuit of the European states for peace and security is visible from the preamble of the 1958 Treaty establishing the European Coal and Steel Community, according to which “world peace can only be protected by creative efforts, equal to the menaces that threaten it.” That is why the signatory states have expressed their determination to “eliminate historical rivalries by merging their essential interests” and to establish, by creating an economic community, the foundation of a broad and independent community among people that were divided for a long time by bloody conflicts”, thus putting “the foundations of institutions capable of providing an orientation to their future common destiny.”⁴⁰

Correlating the fundamental values of justice and peace, since the birth of the ECCS, the founders of the Community have aligned their efforts with the UN General Assembly initiative, which defined peace “not only as the absence of war but also the interdependence and cooperation to promote human rights, social and economic development, disarmament, the protection of the environment and ecosystems and the improvement of the quality of life for all human beings, (that are indispensable elements for the establishment of a peaceful society)”⁴¹.

The innovative idea of the six founding states of establishing an integrated and supranational defense organization under the European Defense Community Treaty in May 1952 could not come in effect because of the refusal of the French National Assembly, expressed on August 30th 1954, to ratify the Treaty.

The failure of the European Defense Community led to a special Conference held in London, in September 1954, which determined the participants to conclude that FR Germany had to be admitted to the NATO, an issue that France had previously rejected in 1950. The conclusions of the Conference were formalized by the Paris Agreement, signed on October 20th 1954, amending the Treaty on economic, social and cultural cooperation and on legitimate collective defense (also known as the “Brussels Treaty”), thus laying the foundations for the Western Europe Union (WEU). According to Article 5 of the Brussels Treaty (as amended), “if any of the High Contracting Parties would be the object of an armed attack in Europe, the other High Contracting Parties, in accordance with the provisions of Article 51 of the Charter of the United Nations will provide the Party assistance and all the military or other support they possess.”⁴²

From 1954 until 1973, the WEU played an important role in promoting consultation and cooperation in Western Europe, but its activities as an intergovernmental organization gradually diminished. Already deprived of the right to develop any kind of military structures, between 1973 and 1984, much of its economic,

⁴⁰http://www.cvce.eu/obj/treaty_establishing_the_european_coal_and_steel_community_paris_18_april_1951-en-11a21305-941e-49d7-a171-ed5be548cd58.html (accessed on 27 December 2017).

⁴¹UN General Assembly, Resolution 46/14, (October 31st 1991), <http://www.un.org/documents/ga/res/46/a46r014.htm> (accessed on 27 December 2017).

⁴² *Brussels Treaty*, (March 17th 1954), https://www.cvce.eu/en/obj/the_brussels_treaty_17_march_1948-en-3467de5e-9802-4b65-8076-778bc7d164d3.html (accessed on 27 December 2017).

social and cultural roles have been taken over by the Organization for Economic Cooperation and Development (OECD) and the Council of Europe. The development of the European Political Cooperation, which institutionalized the principle of consultation on all major aspects regarding foreign policy⁴³, has made the political activities of the WEU Council to lose a great part of their relevance.

The efforts to create a Common Foreign and Security Policy (CFSP) became successful only in 1992, after the signing of the Maastricht Treaty, which brought the three Communities under the same roof, as the European Union was created. The treaty has made it possible for EC members to address the security concerns of the Union through the CFSP.⁴⁴ However, there was still a long way to go before the establishment of a supranational defense community, as imagined in 1952.

Another document with a significant impact on the development of the fundamental value of peace within the European legal order was the European Security Strategy entitled “A Safer Europe in a Better World”, adopted by the European Council on December 12th 2003. The preamble to this document stipulated that “the progressive spread of the rule of law and democracy has made authoritarian regimes to turn into secure, stable and dynamic democracies”⁴⁵, an assertion that clearly shows the intrinsic link between peace and stability on the one hand, and democracy on the other.

If we are to make reference to the issue of fundamental values, the current treaties on which the European Union is based, place peace in a central position within the European law system. Thus, the preamble to the Treaty on the European Union (TEU) states the commitment of the signatory states “to implement a common foreign and security policy, including the progressive development of a common defense policy that could lead to a common defense in conformity with the provisions of Article 42 of the TEU, thus strengthening European identity and its independence in promoting peace, security and progress in Europe and the world.”⁴⁶

2.2. Democracy - Human Rights and Fundamental Freedoms

Given the economic objectives underlying the establishment of the European Communities, the founding treaties did not establish a catalog of fundamental rights in their provisions. Although in the first stage of the European Communities there was no clear need for regulations on respect for fundamental rights, as a result of regulatory developments at the Community level, the Court of Justice was able to establish its own jurisprudence regarding the purpose of the fundamental rights in the Community legal order⁴⁷.

⁴³ The Copenhagen Report established that Foreign Ministers would meet four times a year and whenever they considered it necessary. It underlined the role of the Political Committee as the body responsible for preparing ministerial meetings and created the “Correspondent Group” and the European Telex System (COREU). The Copenhagen Report, (July 23rd 1973), part I, https://www.cvce.eu/content/publication/1999/1/1/8b935ae1-0a38-42d4-a97e-088c63d54b6f/publishable_en.pdf (accessed on 27 December 2017).

⁴⁴ *Treaty on European Union*, (Maastricht, February 7th 1992).

⁴⁵ *A Secure Europe in a Better World. European Security Strategy*, (Bruxelles, 12 December 2003), <https://europa.eu/globalstrategy/en/european-security-strategy-secure-europe-better-world> (accessed on 28 December 2017).

⁴⁶ *Treaty on European Union (Consolidated version 2016)* - Official Journal of the European Union C 202, 7.6.2016, p. 16.

⁴⁷ Judgment of the Court of 12 November 1969, Case 29/69 - Erich Stauder v. City of Ulm - Sozialamt. Reference for a preliminary ruling: Verwaltungsgericht Stuttgart - Germany; Judgment of the Court of

Inspired by the jurisprudence of the Court of Justice of the European Communities, the signatory states of the Single European Act (SEA) have assumed in the preamble of the treaty, their determination to “work together to promote democracy based on fundamental rights recognized in the constitutions and laws of the Member States, the Convention on the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, in particular, freedom, equality and social justice”⁴⁸.

Together with the creation of the European Union, the Maastricht Treaty established that it “respects fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on November 4th 1950, and as they result from the constitutional traditions common to the Member States, as general principles of Community law”⁴⁹. Along with the other objectives of the CFSP, the Maastricht Treaty also declared “the development of democracy and the rule of law, as well as the respect for human rights and fundamental freedoms”⁵⁰.

With the creation of the Common Security Policy by the Maastricht Treaty in 1992, the EU placed the values of democracy and human rights at the core of its legal system. Thus, the Treaty on European Union (consolidated version following the adoption of the Treaty of Lisbon) confirms in the preamble the attachment of the Member States to the principles of democracy, liberty and respect for human rights, as well as fundamental freedoms, and the rule of law. Moreover, according to the provisions of the Treaty, the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law, as well as respect for human rights, including the rights of persons belonging to minorities, values common to the Member States in a society characterized by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men.⁵¹

A number of relevant documents have been adopted by both the Commission and the Council concerning human rights and democracy that have had a significant impact on the Union’s external actions. Aside from developing a foreign and security policy based on values such as democracy and human rights, one of the Union’s primary purposes is to strengthen its institutional and political legitimacy. The preamble of the Charter of Fundamental Human Rights, adopted at Nice in 2000, reinforces this assertion, stating that “the European Union, conscious of its spiritual and moral heritage, is founded on the indivisible and universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law”⁵².

As a result of some changes being made to it, in 2007, the Charter of Fundamental Rights of the European Union was reaffirmed once again. However, the solemn proclamation did not confer the Charter a legally binding nature either. It was only with

17 December 1970, Case 11/70 - Internationale Handelsgesellschaft mbH v. Einfuhr- und Vorratsstelle für Getreide und Futtermittel. Reference for a preliminary ruling: Verwaltungsgericht Frankfurt am Main - Germany; Judgment of the Court of 14 May 1974, Case 4/73 - J. Nold, Kohlen- und Baustoffgroßhandlung v. Commission of the European Communities.

⁴⁸ Official Journal of the European Union L 169, 29.6.1987.

⁴⁹ Article F of Treaty on the European Union (The Maastricht Treaty).

⁵⁰ *Idem*, Article J.1

⁵¹ Article no. 2 of Treaty on European Union (Consolidated version 2016) - Official Journal of the European Union C 202, 7.6.2016, p. 17.

⁵² Charter of Fundamental Rights of the European Union, Official Journal of the European Union C 364/1, 18.12.2000.

the signing of the Lisbon Treaty, on December 1st 2009, that the Charter acquired the legally binding status. According to the Treaty's provisions, "the Union recognizes the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union from December 7th 2000, as modified on December 12th 2007, in Strasbourg, which has the same legal value as the Treaty on European Union (TEU) that of a treaty".

The following section of this article aims to point out how the above-described fundamental values find expression in the principles of international law, which further make the link between values and the legal and institutional order in the field of common security.

3. The principles of law and common security

Defining the legal principles can be a very difficult task, if we consider that in the legal theory, principles are sometimes considered to be legal norms, sometimes are viewed as general legal norms, and other times they are considered standards upon which the legal norms must be developed.⁵³

From a linguistic point of view, the word "principle" stands for "a fundamental element, an idea, a basic law on which a political, legal system, a norm of conduct, *and so forth*; a fundamental, general truth; a fundamental proposal; a maximum; an axiom; a postulate; the collectivity of standards or moral, ethical judgments; a truth, a basic law or hypothesis; an established rule of action; a law of conduct."⁵⁴

By drawing a parallel between values and legal principles, there are some scholars who argue that the law is itself a value, and its primary purpose is to help achieve the fundamental values⁵⁵ - of peace and security in our case. This means that, in general, the law - and implicitly the principles of law - is part of a different system than values.⁵⁶ Considering this assertion, we could define the principle of international law as a normative provision with a high degree of abstraction, which gives shape to a universally agreed international value and determines the conduct of the subjects of the international law rapport.⁵⁷ Presented in a somewhat more synthetic way, the rule of law is nothing more than a practical application, which later finds expression in the norms of law, of the universally accepted value.

The principles of international law find their source in the legal thinking of the subjects of law, starting from ideas, which by the accumulation of judgments of appreciation build up the fundamental values.⁵⁸ This is the element that reveals the intrinsic link between values and legal principles. On the one hand, the law is concerned with the maintenance of peace and justice, and on the other with the task of ensuring stability and security.

At a conceptual level, the system of public international law principles can be described as being composed of general principles of law, fundamental principles of international law and principles specific to international law.⁵⁹

⁵³ Nicolae Popa, Mihail-Constantin Eremia, Simona Cristea, *Teoria Generală a Dreptului*, second edition, (Bucharest: All Beck, 2005), 99.

⁵⁴ *Dicționar explicativ al limbii române*, <https://dexonline.ro/> (accessed on 28 December 2017).

⁵⁵ Ion Ceterchi, Ion Craiovan, *Introducere în teoria generală a dreptului*, (Bucharest: All, 1993), 137.

⁵⁶ Dumitru Mazilu, *Dreptul Internațional Public*, vol. I, (Bucharest: Lumina Lex, 2008), 110-111.

⁵⁷ *Ibid*

⁵⁸ Bogdan Aurescu, *Drept internațional public*, 70.

⁵⁹ Dumitru Mazilu, *Dreptul Internațional Public*, 112.

In the following subsection, we will seek to identify the principles of international law governing the construction of the European Union's common security and defense policy.

3.1. European Union - subject of international public law

Even though the Maastricht Treaty stated that among the objectives of the EU were “affirming its identity on the international stage” or “establishing a citizenship of the Union”⁶⁰, it did not expressly stipulate the legal personality of the European Union, stating that it “is based on the European Communities and complemented by the policies and forms of cooperation established by the Treaty”⁶¹.

It was only after the adoption of the Lisbon Treaty that the legal personality of the European Union was explicitly stipulated. Thus, in accordance with the provisions of the Treaty on the European Union (TEU), the EU replaces and succeeds the European Community⁶² (thus taking over the existing legal personality of the European Community). In addition, the treaty expressly states that European Union has legal personality⁶³.

In regards to the legal personality of the European Union, the two treaties on which the EU is founded (TEU and TFEU) include a series of provisions which show the legal personality of the organization at a national level, in the law systems of the Member States, as well as the international legal personality of the European Union.

As a direct result of its capacity as a subject of international law, the EU can manifest its exercise powers in the international legal order by concluding international agreements - in order to achieve its objectives set within its policies - or with the purpose to create associations with other States or international organizations.⁶⁴

However, these prerogatives that were granted to the EU, also bound the organization to the duties and obligations imposed by the general principles and norms of international law, European law or by the provisions of the international agreements to which the EU is a signatory party. This statement is also supported by several decisions of the Court of Justice of the European Union (CJEU), which has stated that the EU has the legal obligation to comply with the general principles of international law and has also acknowledged the binding force of the international customary law as a source for the European law.

Moreover, the general principles and instruments of international law applicable to the CSDP and CFSP operations and missions could be included in the national legal framework, as well as in the international legal system, if we consider their complex nature. At the same time, the external framework governing over the principles and norms implemented in the EU's crisis management operations is founded on several specific areas of the international law (international humanitarian law, international human rights law, international refugee law and international constitutional law).⁶⁵

⁶⁰ Article B of Treaty on European Union (The Maastricht Treaty).

⁶¹ Article A of Treaty on European Union (The Maastricht Treaty).

⁶² Article 1 of Treaty on European Union (the consolidated version following the adoption of the Lisbon Treaty).

⁶³ *Idem*, Article 47.

⁶⁴ Powers granted to the Union by the provisions of Article 216 and Article 217 of TFEU.

⁶⁵ Frederik Naert, *International Law aspects of the Eu's Security and Defence Policy*, 201-202, <https://lirias.kuleuven.be/bitstream/1979/1986/1> (accessed on 3 January 2018).

In determining EU quality as a subject of international law, we have to take into consideration the multidimensional nature of the CFSP/ESDP operations and missions that are also responsible for determining the applicable legal framework. The missions and operations of the organization are highly versatile, ranging from ensuring respect for rule of law, to police action, to implementation of security reforms, to border assistance and monitoring, to peacekeeping and even, in some particular cases, peace enforcement.⁶⁶

The UN International Law Committee, through the provisions enclosed in its State Responsibility Articles, argued that, if organizations and institutions can be held accountable even for potential violations of the international law in a manner similar to that of States, it is clear that the same principles and norms of international law will be applicable to them to. In the same document, the Commission speaks about a possible international legal liability for organizations if their use of force or the imposition of their system of economic sanctions does not comply with the provisions of international law, more specifically the humanitarian principles of necessity and proportionality.⁶⁷

Therefore, according to the international legal provisions, any organization - in this case the European Union - has the obligation to comply and align its policies and actions with the fundamental principles of international law, a matter that we will be discussing in the following subsection.

3.2. Principles of the common European security policies

From the analysis of the provisions of Article 21, paragraphs (1) and (2) of the TEU, it follows that the Union complies with a number of principles in the development and implementation of its external action, among which: the principle of territorial integrity, the principle of inviolability of the borders and the principle of respect for human rights and fundamental freedoms.⁶⁸

The content of **the principle of territorial integrity** refers to the obligation imposed on States to refrain from any action incompatible with the purposes and principles of international law, since “all participating States have equal rights and obligations”⁶⁹. States also have a negative duty *not to do* anything that would harm the territorial integrity⁷⁰, independence or unity of another international law subject, in particular any action that would involve the use of force or the threat of using force. By virtue of this principle, States will mutually respect their right to define and conduct their own relations with other States, in accordance with international law.⁷¹

The principle of respect for human rights and fundamental freedoms is based on the provisions of the Charter of the United Nations, as well as on the two Human

⁶⁶Daniela Coman, *Răspunderea în dreptul internațional umanitar*, (Bucharest: Universul Juridic, 2010), 70-71.

⁶⁷ Resolution No. 1/2004, *Liability of international organizations*, (August 21st 2004), <https://ila.vettoreweb.com/> (accessed on 3 January 2018).

⁶⁸ All of these principles are part of the content of the Helsinki Final Act, Declaration on Principles Governing Relationships between Participating States, (August 1st 1975), <http://www.osce.org/helsinki-final-act?download=true> (accessed on 3 January 2018).

⁶⁹ *Ibid*

⁷⁰ However, there is a derogation from the provisions of this principle, in the sense that it is considered that the borders of the states can be changed in accordance with international law by peaceful means and by agreement - Title I, Helsinki Final Act, Declaration on Principles Governing Relationships between Participating States, (August 1st 1975).

⁷¹ *Ibid*.

Rights Covenants⁷², but it is only enshrined in the Helsinki Final Act⁷³. The content of this principle has already been discussed in the first part of the article, in the section dedicated to the Fundamental Values, so we will not go back to it. However, it should be noted that, although originally considered to be a specific, branch principle, respect for human rights has now become an essential coordinator in the elaboration of state and inter-state policies, and it is also the element that defines the interactions between the subjects of international law.

Another relevant principle is **the inviolability of the borders**, according to which States have a negative obligation *not to do* anything to interfere with the integrity of the borders, to seize or infringe all or part of the territory of any independent state.⁷⁴

The principle of non-interference in internal affairs is one of the oldest principles of international law. The content of this principle states the obligation not to interfere - any form of interference or threat directed against a state or other subject of international law - in matters that are strictly within the jurisdiction of a State.⁷⁵

The principles of not resorting to force or threat of force and peaceful settlement of international disputes are two complementary principles of international law, and are stated by several treaties and international documents.⁷⁶ Under the principle of not resorting to force or threat of force, international law subjects have the duty to refrain from exercising their international prerogatives from resorting, or even threatening with the use of force, against the independence or territorial integrity of any other state.⁷⁷ The second principle, of peaceful settlement of international disputes provides the general obligation for the subjects of law to resolve their international disputes without the use of force, through negotiations, investigations, arbitration, mediation or conciliation, according to Article 33 of the UN Charter.

Another principle emerging from the provisions of the TEU, which is also one of the foundations of the European construction - not only in the field of common security - is the principle of **loyal cooperation**, which requires States to respect and to assist each other in fulfilling their tasks arising from the treaties.⁷⁸

⁷² *Universal Declaration of Human Rights*, (December 16th 1948), www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf (accessed on 3 January 2018); *The International Covenant on Civil and Political Rights*, (December 19th 1966), <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> (accessed on 3 January 2018).

⁷³ "Participating States shall respect human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief, for all human beings without distinction as to race, sex, language or religion." - Title VII of the Helsinki Final Act (1975).

⁷⁴ Title III of the Helsinki Final Act (1975).

⁷⁵ "Participating States shall refrain from any interference, whether direct or indirect, individual or collective, in domestic or foreign affairs which fall within the national jurisdiction of another participating State, irrespective of their reciprocal relations." - Title VI of the Helsinki Final Act, (1975).

⁷⁶ In this respect can be mentioned: Briand-Kellogg Pact (1928); Charter of the United Nations (1945); Helsinki Final Act (1975); Resolution adopted by the General Assembly A/RES/29/3314 - *Definition of Aggression* (1974), etc.

⁷⁷ In international law, however, the use of force is assumed in two situations - based on a decision of the Security Council and the exercise of the right to self-defense against an armed attack.

⁷⁸ Article 1 of the Treaty on European Union (consolidated version following the adoption of the Treaty of Lisbon).

The provisions of the TEU also stipulate the general principle of law *pacta sunt servanda*, the content of which states that the subjects of law must fulfill in good faith their obligations under international law.⁷⁹

Therefore, we can assert that the European common security policies are grounded primarily on the principles of international law and on the consensus⁸⁰ of the Member States, reflected in their common political, economic, diplomatic and military actions and approaches.

4. Conclusions

The theoretical concepts from which I began the study of this article are the notions of fundamental values and principles of international law, notions that also underlie the European construction. Following the affirmation of the European Union as an international organization, the same values and principles played a primary role in defining the European common security and defense policies, helping to redefine all actions and means to respond to the threats and vulnerabilities the international society face. Any decision involving issues related to the common security and defense can only be taken by consensus, and always in reference to the requirements of the international law. Considering these aspects, I believe that, in the field where fundamental principles exercise their authority, the Union - in its capacity of subject of the international legal rapport - has no choice, if it wants its actions to be accepted by the international community, rather than obeying those general principles and the norms that derive from them. A contrary rule automatically involves the elimination of any contradictory mechanism or action.

As highlighted in the first part of this article, the European Union considers - at least on a formal, theoretical and abstract level - values such as peace and security, or democracy and human rights as compatible and even complementary, finding expression in every institutional, political, economic, social, and especially security and foreign policy structures.

Considering the activity that the European Union has had in these recent years in the field of security - especially if we are referring to its military actions that have completed its already existing system of sanctions - is undeniable the fact that the organization has officially become part of the international security scene as a regional actor, with global aspirations.

More than that, the European Union is a subject of international law and, as such, are bound by any obligations incumbent upon it under general rules of international law, under the provisions of European treaties or international agreements to which it is party. It is precisely from this capacity that results the direct obligation of the EU to align its policies with the principles and norms of international law.

In my opinion, it is as clearly as possible that the European Union can not take any step and can not carry out any action in the field of security and defense - but not only exclusively in this domain - in disagreement with the provisions of international law, nor can it ignore the fundamental international principles, as the consequences of such an attitude would lead to the destabilization of the international legal order.

⁷⁹ Dumitru Mazilu, *Drept Internațional Public*, 230.

⁸⁰ The Common Foreign and Security Policy, which includes the common security and defense policy, has an intergovernmental nature: the 28 Member States act on a unanimous agreement.

At the same time, it should be emphasized that the European Union, given its quality as a subject of international law, tends to become a major player on the international stage. For this reason, I am convinced that the European Union has the capacity to influence the dynamics of international relations and implicitly contribute in a positive way to promote international cooperation in order to ensure peace and strengthen international security.

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