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A brief legal history of united Europe.

Annotation: This research paper presents an overview of selected concepts and historical events that led to the establishment of modern European Union. Through ages, a variety of notorious political leaders attempted different approaches to conduct the process of continental unification – since Ancient times until present days. This idea of unity is an integral part of European legal tradition; however, other components of European legal tradition are out of scope in current research paper. Based on the formal legal, logical and comparative legal methods, the authors define key features of chosen epochs concluding this overview with "renovated" European Union.

Keywords: European integration, European Union establishment, Ancient Roman Empire, Frankish Empire, Holy Roman Empire.

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Краткая правовая история объединённой Европы.

Аннотация: В данной исследовательской статье представлен обзор избранных концепций и исторических событий, которые привели к созданию современного Европейского Союза. На протяжении веков различные известные политические лидеры пытались использовать разнообразные подходы к проведению процесса объединения континента – с древних времён до наших дней. Эта идея единства является неотъемлемой частью европейской правовой традиции; однако другие компоненты европейской правовой традиции выходят за рамки настоящей статьи. Основываясь на формально-юридическом, логическом и сравнительно-правовом методах, авторы определяют ключевые особенности избранных эпох, завершая этот обзор "обновлённым" Европейским союзом.

Ключевые слова: Европейская интеграция, создание Европейского Союза, Римская империя, Франкская империя, Священная римская империя.

Introduction

The historical knowledge has an immense symbolic potential due to an ability of history to form values on a transcendental level, which might prove to be especially useful in movement of public discourse and in solving constitutional problems through doctrine. The references to history may be taken seriously. E.g., based on historical knowledge, it became possible to construct such phenomena as "a mission of people", "an appeal to roots", an idea of "no future without the past", "a national state", etc. The history per se, which is usually taught in educational institutions, is the history of conflicts, however, one shall aspire to study it in order to value their life and avoid new conflicts.

The creation of the European Communities became possible as a consequence of the centuries-old European legal tradition development, which is mostly aimed at proclaiming unified, peaceful Europe. It allowed defining structure, goals, tasks, powers and other important aspects of the European Communities for the sake of preserving the peace even under immense pressure

of circumstances. On the other hand, today the European Union most vividly and fully transforms the European legal tradition from an ideal legal order into an existing one. Aspirations to create a united Europe as well as a single European legal order go far back to the period of Antiquity. In order to describe the continuity of united Europe concepts, Ancient Roman Empire, Frankish Empire, Holy Roman Empire and European Union are briefly analyzed in this research paper.

1. Ancient Roman Empire

Gaius Julius Caesar (100-44 BC), with relative success, sought to enclose the territories of the Roman Republic around the Mediterranean Sea. From the bibliographic writings of Plutarch, it becomes clear how Julius Caesar "*planned and prepared to make an expedition against the Parthians; and after subduing these and marching around the Euxine by way of Hyrcania, the Caspian sea, and the Caucasus, to invade Scythia; and after overrunning the countries bordering on Germany and Germany itself, to come back by way of Gaul to Italy, and so to complete this circuit of his empire, which would then be bounded on all sides by the ocean*[1]". Ius Romanum ("The Roman Right") is one of the most harmonious and developed legal systems in humankind history. The preclassical period of Ius Romanum (367-27 BC) is characterized by rapid spread of Ius Gentium ("The Right of Peoples") through activities of Peregrine praetors[2]. These Peregrine praetors applied Ius Gentium in Roman formal process. Ius Quiritium ("The Right of Roman Citizens") continued to coexist with Ius Gentium, which ensured integrity of Quirite rule of law, while allowing the conquered peoples to be effectively assimilated into the Roman Republic. Centuries passed before Caesar's legacy was split into the Eastern and Western parts of the Empire in 395 – after the death of Roman Emperor Theodosius I. The Western part soon fell into decline

[1] PLUTARCH. (1919): Plutarch's Lives, with an English translation by Bernadotte Perrin in eleven volumes, volume VII, p. 579.
[2] TUZOV, D. O. (2020): The institutions of Roman private law, p. 22-23.

– in 410, the Visigoths captured Rome, and in 476, the Barbarians overthrew the last emperor of the Western Roman Empire. The Eastern part lasted much longer – until 1453. Byzantine Empire experienced the collapse into the Latin, Nicene, Trebizond and Epirus empires due to the invasion of greedy Crusaders in 1204, then the restoration under the Nicene emperor Michael Palaeologus in 1261 and the final fall after the capture of Constantinople by Sultan Mehmed II in 1453 (the Morean Despotate and the Trebizond Empire were captured in 1460 and 1461 respectively).

2. Frankish Empire and Holy Roman Empire

Charlemagne (742/744/747–814), being the grandson of Charles Martell and the son of Pepin the Short, continued the deeds of his predecessors to strengthen and expand Kingdom of the Franks. Through his efforts, Frankish Empire was proclaimed, designed to protect Christianity in Europe. It included the territories of modern France (except Brittany), Belgium, Netherlands, Luxembourg, Germany (up to the Elbe River), Switzerland, as well as the lands south to Balkan Peninsula and the northern part of Apennine Peninsula (Lombard Kingdom). Because Charlemagne ruled over many peoples and enjoyed the favor of The Papal Throne, the word "empire" began to be assimilated in the entourage of Charlemagne even before his imperial coronation in 800[3]. The concept of Christian Empire arose during the Christianization of Ancient Roman Empire but then gradually lost its connection with it, at the same time, increasingly acquiring a spiritual, ideal meaning[4]. This concept of Christian Empire remained to be associated with "The Kingdom of God", thus, struck off any political meaning, until the guardianship of Christian Empire was entrusted to Charlemagne, i.e., until Frankish Empire was established in the West, perceived as a continuation of Ancient Roman Empire[5]. The specificities of Feudal law did not hinder

[3] BALAKIN, V. D. (2008): The idea of empire and the imperial tradition in the Early Middle Ages, p. 80.
[4] Ibid.
[5] Ibid.

Charlemagne in maintaining the integrity of Frankish Empire until his death in 814. On the contrary, it assisted him in expansion of such a global political entity. Alas, feudalism, along with the order of succession, became the catalyst for division of state between three grandsons of the Emperor of the West under the Treaty of Verdun in 843.

Holy Roman Empire (962-1806) may be considered the ideological successor of Frankish Empire with the support of The Papal Throne. In Holy Roman Empire the dawn of Ius Commune took place alongside with ecclesiastical and canon law development. Manlio Bellomo sees Ius Commune as a way to fill in the gaps in positive law and to direct judge's decision in accordance with the spirit of Ius Commune (in accordance with "the spirit of law")[6]. In 1495 the Reichskammergericht was founded – one of the two Holy Roman Empire supreme courts, consisting half of Doctores in Iure ("doctors of law") and half of German lands aristocracy[7]. The Reichskammergericht was obliged to make decisions in accordance with Ius Commune, even if Ius Commune contradicted the positive or customary law of the Empire[8]. The judges of Reichskammergericht had to know Roman private law and canon law, that is, the principle of Iura Novit Curia was observed ("the court knows the law")[9]. Despite the fact that the judges of German lands local courts were not obliged to know Roman private law and canon law, they applied only that customary law which existence was proved by parties to trial and if such customary law did not contradict the spirit of Ius Commune[10].

3. European Union

Since the middle of the XX century (after two devastating World Wars), the European political elite has started actively forming European Communities, taking advantage of European legal tradition achievements. The Paris Treaty of

[6] BELLOMO, M. – COCHRANE, L. G. (1995): The common legal past of Europe: 1000–1800, p. 217-218.
[7] Ibid, p. 217.
[8] Ibid, p. 217-218.
[9] Ibid, p. 218.
[10] Ibid.

1951 established the European Coal and Steel Community (ECSC), which became the first modern European integration association and laid the fundamental foundations of European integration itself. The countries that signed original Paris Treaty include France, West Germany, Italy, Belgium, Netherlands and Luxembourg. Article 2 of the Paris Treaty stated: "*The mission of the European Coal and Steel Community is to contribute to economic expansion, the development of employment and the improvement of the standard of living in the participating countries through the institution, in harmony with the general economy of the member States, of a common market*". Article 7 provided for the establishment of the High Authority (predecessor of the European Commission and the European Council), the Common Assembly (predecessor of the European Parliament), the Special Council (predecessor of the Council of the European Union) and the Court of Justice (predecessor of the Court of Justice of the European Union). The ECSC was abolished in 2002 due to the expiration of Paris Treaty and the breadth of European Union competence.

Two Rome Treaties of 1957 established the European Economic Community (EEC) and the European Atomic Energy Community (Euratom). Article 2 of the EEC Treaty contains the following: "*It shall be the aim of the Community, 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 increased stability, an accelerated raising of the standard of living and closer relations between its Member States*". Article 3 has significantly expanded the scope of activities for the single market formation up to the Customs Union, in comparison with the ECSC Treaty. Article 4 assigned powers to four entities: the Assembly, the Council, the Commission and the Court of Justice. The EEC, the Euratom and the ECSC had a common Court of Justice and Parliamentary Assembly (since 1962, the European Parliament). In 1965, the

executive bodies of these three associations merged into the Commission of the European Communities and the Council of the European Communities.

The Single European Act of 1986 consolidated the European monetary system and the jurisdiction of the EEC in relation to health and safety, consumer protection, environment, research and development, regional policy, as well as expanded the areas of competence of the European Communities. It made changes to their institutional structure and outlined the main contours of cooperation development between Member States in the field of foreign policy and security.

Subsequently, the "federalization" of Europe intensified. For instance, the 1992 Maastricht Treaty based on the EEC established the European Union (EU), which coexisted along with other European Communities. It defined the institution of EU citizenship and expanded cooperation on justice, internal affairs, common foreign and security policy. Furthermore, the European Economic Community was renamed the European Community.

The Amsterdam Treaty of 1997 corrected the shortcomings of the Maastricht Treaty and significantly expanded EU's competence in the field of foreign policy. The Nice Treaty of 2001 created the basis for admission of a large number of new members and expanded the competence of the EU in the field of domestic economic policy.

Finally, the Lisbon Treaty of 2007 established the "renewed" European Union, which became the legal successor of the European Community and the "former" European Union. Because of the Lisbon Treaty, the supremacy of EU law over Member States national law was proclaimed. Since then, the Court of Justice of the European Union to the present moment has diligently defended it.

Conclusion

To conclude this research paper, it is vital to underline that attempts to create a single European space have been made since Antiquity, however, only the European Union and its predecessors managed to progressively and peacefully implement a successful mechanism of European integration that has stood the test

of time. It seems all kinds of crises and upheavals in the late XX – early XXI centuries only contributed to the aspirations of European countries to cooperate. Nowadays, the European Union authorities play a primary role in the development of European legal tradition, thus, ensuring consolidation of the results achieved and reaching new heights. Be that as it may, while European states share the idea of peace and unity, their coexistence is plausibly secured.

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