

EUROPEAN YEARBOOK, VOL. I. Edited by Dr. B. Landheer & Dr. A. H. Robertson. Published under the auspices of the Council of Europe. The Hague: Martinus Nijhoff, 1955. Pp. xix, 584. Guilders 28.50.

THE staggering postwar problems of Europe, cast against the background of the change in the world power structure, disclosed in full glare the inadequacy of the European nation state. To cope more adequately with these economic, political, military and social problems, several European regional organizations were established.<sup>1</sup> They range in type from traditional international organizations such as the Organization for European Economic Co-operation to such an advanced, supranational organization as the European Coal and Steel Community. "The varying character of these different institutions illustrates the complexity of the European problem and the diversity of solutions to which it has given rise."<sup>2</sup> The daily operations of these organizations foster the growth of a sense of European solidarity—a factor of immense, if not decisive, importance in the advancement of European political unity. For this reason their work has been of great and continuing interest to the United States, which established in Paris a special United States Mission to the North Atlantic Treaty Organization and European Regional Organizations (USRO) in order to maintain permanent liaison with them. And for this reason among others, the activities and achievements of these organizations, although not spectacular, deserve wider recognition and publicity.

Aside from the annual reports of particular agencies such as the OEEC or the High Authority of the European Coal and Steel Community, there was until recently no official publication comparable to the *Yearbook of the United Nations* that offered a general survey of the major activities of the European organizations. This gap is now filled by the first volume of the *European Yearbook*, published under the auspices of the Council of Europe and jointly edited by Dr. Landheer and Dr. Robertson. The present volume covers the years 1948 to 1953, which were the formative years of most of these organizations. It comprises a critical and analytical examination of the basic problems of European unification, well balanced by descriptive and narrative material on the particular organizations, and complemented by useful reference data. Within the limits of this brief review it is of course impossible to do justice to all the essays (some of which are in English, some in French) deserving attention and comment.

The introductory articles by Minister van Kleffens ("Unity and Diversity in Western Europe"<sup>3</sup>) and by M. Schuman ("L'Europe est une communauté spirituelle et culturelle"<sup>4</sup>) strike directly at the root of the problem of Euro-

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1. *E.g.*, Brussels Treaty Organization; Council of Europe; European Coal and Steel Community; European Organization for Nuclear Research; Northern Council; Organization for European Economic Co-operation (OEEC).

2. P. xiii.

3. P. 1.

4. P. 17 (with a brief English summary at 23-24).

pean unification, whose achievement ultimately hinges on the harnessing of cultural affinity, awareness of common interest, and international trade union solidarity.<sup>5</sup> Not only is broad support necessary for the realization of this goal, but attention must also be directed to the development of an intellectual elite that can assume an enlightened, never faltering leadership in overcoming parochial nationalism.<sup>6</sup> By its very nature this erosion of the rock of nationalism is a slow and arduous process full of both hope and bitter disillusion, blocked and hampered not only by the hostility and lack of understanding of special interest groups but by the retarding forces of emotion and habit as well. "[T]endencies towards integration . . . are largely the fruit of insight and reason, lacking the urge of sentiment. That is why nationalism is so tenacious, and why the will to integrate is bound to remain relatively weak as long as understanding of its necessity is not more or less general."<sup>7</sup> "Any effective plan for an international society must . . . take into account existing national loyalties . . . [S]uccessful reform is usually based, not on making men have nobler sentiments, but on re-directing, re-focusing, their existing sentiments, on activating some of their sentiments, and on quieting others."<sup>8</sup>

It is for this sort of unifying impact that the Convention for the Protection of Human Rights and Fundamental Freedoms prepared by the Council of Europe has special importance. In his "La Convention européenne des droits de l'homme,"<sup>9</sup> M. Modinos, head of the Human Rights Department of the Council of Europe, shows clearly the potentiality of this collective guarantee for becoming through the years a powerful instrument of European integration.<sup>10</sup> In addition to the traditional competence to deal with an alleged breach of the Convention submitted by any state that is a party to the Convention, the European Commission of Human Rights also has jurisdiction of individual appeals—complaints lodged by any person or nongovernmental organization claiming a violation of internationally guaranteed rights and freedoms.<sup>11</sup> In time this may loosen the tight grip of the state on the individual, and transfer some of

5. Monnet's attempt to gain the support of trade union leaders is motivated by this consideration. Under his inspiration an Action Committee for a United States of Europe was formed, including representatives of a wide range of political parties and of the labor organizations of the six member states of the European Coal and Steel Community. N.Y. Times, Oct. 14, 1955, p. 1, col. 7. See also *The Economist*, Oct. 15, 1955, p. 186.

6. See Rivero, *Introduction to a Study of the Development of Federal Societies*, 4 INT'L SOC. SCI. BULL. 5, 31-32 (UNESCO 1952).

7. P. 14.

8. BRINTON, FROM MANY ONE 77-78 (1948).

9. P. 141 (with a brief English summary at 171-72).

10. P. 170.

11. EUROPEAN HUMAN RIGHTS CONVENTION art. 25(1). Since July 1955, this facultative competence of the European Human Rights Commission has been accepted by Belgium, Denmark, the German Federal Republic, Iceland, Ireland and Sweden. Council of Europe News, Oct. 1955, p. 3. By September 13, 1955, the Human Rights Commission had received eighty such individual complaints. *Ibid.* For the conditions under which these states accepted the competence of the Human Rights Commission, see *id.*, Supp., Aug. 1955.

its power to a higher European organization. In this connection it is worth noticing that under the pressure of continuous, ever increasing co-operation within Western Europe the integrity of state powers has begun to crack and crumble away; this process has even found formal recognition in constitutional amendments of some states, permitting a limitation of their sovereignty in favor of international organizations.<sup>12</sup> For similar though less powerful reasons, one must also welcome the several other conventions prepared by the Council of Europe in the fields of culture and social welfare.<sup>13</sup>

The complex problems to be encountered in developing a European political organization and the particular pitfalls in the sector approach, which advocates the establishment of individual, supranational communities over specific segments of the European economy, is lucidly presented by Professor Cialdea's article "La communauté politique européenne: hier et demain."<sup>14</sup> His is an excellent, thought-provoking statement of the problem, realistically appraising the predominant role that political power plays in such economic schemes. It offers a healthy dose of realism to those who propose numerous parallel supranational communities without adequately exploring the complexity of the problems involved. One such problem, and a vexing one, is raised by the narrowness of the competence of sectoral supranational agencies. The European Coal and Steel Community is seriously handicapped in operation by its lack of control over large segments of the several national economies, which have a critical impact on the operation and development of the coal and steel industries. In some instances action strictly limited to these basic industries would be inadequate to attain the ends sought, and the High Authority has had to find makeshift means of broadening its jurisdiction. For instance, being aware that fixed prices binding only the coal and steel enterprises under the Community's jurisdiction might not bring the results desired, the High Authority required the coal and steel enterprises to include in their contracts with buyers a clause providing that the first buyer, when reselling the coal or steel, must observe the price levels as fixed by the Community.<sup>15</sup> Similar and less simply soluble

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12. Friedrich, *The Political Theory of the New Democratic Constitutions*, in CONSTITUTIONS AND CONSTITUTIONAL TRENDS SINCE WORLD WAR II 13, 28-30 (2d ed., Zuercher 1955). See also De Visscher, *Les tendances internationales des constitutions modernes*, 80 ACADÉMIE DE DROIT INTERNATIONAL, RECUEIL DES COURS 511, 547-54 (1952); Lowenstein, *Sovereignty and International Cooperation*, 48 AM. J. INT'L L. 222 (1954).

13. E.g., Convention on Social and Medical Assistance, EUROPEAN TREATY SERIES (hereinafter cited as ETS) No. 14; Interim Agreement on Social Security Schemes Relating to Old Age, Invalidity and Survivors, ETS No. 12; Convention of the Equivalence of Diplomas Leading to the Admission to the Universities, ETS No. 15.

14. P. 104 (with an English summary at 138-40). The editors wisely included this study despite the collapse of the EDC and the European Political Community. One may only regret the somewhat misleading title; the author discusses only contemporary problems of European unification, sparing the reader a tiresome and irrelevant historical exposition.

15. Cited in an address given by Krawielicki, Legal Advisor to the High Authority, on Nov. 1, 1953, in Dusseldorf before a conference of German and Dutch lawyers.

difficulties may face the Community in harmonizing its programs for the coal and steel industries with measures adopted by the member states regarding the large portions of the economy remaining under their control.

In partial recognition of these difficulties of the narrow sectoral approach, the recent Messina Conference made proposals for common development of communication facilities, gas and electric power and atomic energy.<sup>16</sup> And surely there is room for still further additional supranational communities—for example, to administer the transport system. But as more supranational authorities are indiscriminately created over narrowly specified sectors of national economies, the more artificial will be the dissection of the economic fabric. The formation of individual, parallel, supranational authorities will sooner or later raise the urgent need for co-ordinating their activities.<sup>17</sup> The problems now faced by the European Coal and Steel Community will be magnified and multiplied.

The sectoral approach is justified so long as it is a mere expedient of temporary duration—a provisional bridge leading toward the formation of a political community.<sup>18</sup> After the establishment of the European Coal and Steel Community, the European Defence Community was to be the next step toward the final goal of a European Political Community. But mounting political opposition, particularly in France, prompted the drafters of the EDC Treaty to deprive the proposed Defence Community of most of its supranational powers.<sup>19</sup> As a result, a clause in the EDC Treaty apparently would have allowed the Council of Ministers representing the member states to assert control over the Commissariat of the EDC, with the result of diminishing or perhaps destroying its independence.<sup>20</sup> And further, there was a complete dissociation of military and political powers. The member states would have retained their

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16. For the text of the resolution adopted at Messina by the Foreign Ministers of the member states of the European Coal and Steel Community, see 8 *CHRONIQUE DE POLITIQUE ÉTRANGÈRE* 533 (Brussels 1955). See also the memoranda submitted to the Conference by the governments of the Benelux countries, the German Federal Republic and Italy. *Id.* at 523.

17. For a general discussion of some of these problems, see MEADE, *PROBLEMS OF ECONOMIC UNION* (1953); Aron, *Problems of European Integration*, *Lloyds Bank Review*, April 1953, p. 1; Hartog, *European Economic Integration*, 71 *WELTWIRTSCHAFTLICHES ARCHIV* 165 (Germany 1953); Mikesell, *Economic Integration of Sovereign States: Some Fundamental Problems*, in J. H. WILLIAMS, *TRADE AND ECONOMIC GROWTH* 76 (1951). For a recent, excellent survey of the methods and problems of European integration, see COUNCIL OF EUROPE, *THE PRESENT STATE OF ECONOMIC INTEGRATION IN WESTERN EUROPE* (1955).

18. Pp. 115-16.

19. Pp. 116-17.

20. See Bebr, *The European Defence Community and the Western European Union: An Agonizing Dilemma*, 7 *STAN. L. REV.* 169, 212-13 (1955). There is no justification for the assumption that "the supranational character of the European Defence Community is more pronounced" than that of the European Coal and Steel Community, as maintained by Kunz, *Treaty Establishing the European Defence Community*, 47 *AM. J. INT'L L.* 275, 277 (1953).

exclusive powers over foreign affairs;<sup>21</sup> even the determination of an armed aggression and the decision to mobilize were to remain with the member states—an absurd arrangement to couple with the actual merger of national armies.<sup>22</sup> This shortcoming was generally recognized. The EDC Treaty itself, in article 38, treated the Defence Community as a provisional organization to be replaced by a “permanent organization . . . so conceived as to be able to constitute one of the elements in a subsequent federal or confederal structure. . . .” If the EDC had become a reality, the European Political Community would inevitably have been the next step, for without it the EDC itself would have been bound to fail. There is much to be said for Professor Cialdea’s contention that the French opposition to the EDC, allegedly based on fear of German rearmament, was in reality disguised opposition to the European Political Community itself.<sup>23</sup> M. Mendes-France’s vehement insistence, in his Brussels proposal, on diluting article 38<sup>24</sup> seems only to confirm this point.

The proposals for separate, parallel, supranational authorities are essentially attempts to hedge the ultimate question of supranational political authority; and yet this is a question from which, if these authorities are to function, there is in the long run no escape. In such proposals not one but several carts are placed before the well-known horse. “The problem of integration is economic in its means but political in its goals. Without corresponding political unity, economic integration cannot go beyond the level of international cooperation which remains superficial.”<sup>25</sup> And the same observation is even more cogent when applied to the relationship of political and military powers. “In view of this tension between military and economic power on the one hand, and political power on the other, both the Coal and Steel Community and the EDC became crucial in the struggle for the extension of political integration. This was the logical outcome of integration by sector, which can be visualized only as a step towards greater unification, culminating in political as well as economic integration.”<sup>26</sup>

It was cynically remarked that European unification died in Paris, with the collapse of the EDC, and was buried in the Saar at its recent referendum rejecting the proposed European status. Attempts at European unification did indeed suffer serious setbacks on these occasions. But thanks to the resilience of its staunch supporters, the impetus to unification is fortunately far from subsiding, as the recent Messina and Noordwijk conferences demonstrate. The need for something more than mere shallow co-operation is widely recognized. “[I]t is difficult to believe that any setback, however serious it may appear at

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21. See Bebr, *supra* note 20, at 236.

22. *Id.* at 181-82.

23. P. 132.

24. Draft Protocol on Application of the Treaty Instituting the European Defence Community VII(1), reproduced in NATO, Information Division, 2 NATO LETTER, Sept. 1954, p. 21.

25. Pp. 138-39.

26. P. 139.

the time, can do more than arrest this trend temporarily and deflect it into modified forms of organization."<sup>27</sup> There is essential disagreement only concerning the methods to be employed; thus the proposal of the Messina Conference conspicuously avoided making a choice as to the proper means for reaching the proposed objectives. During this uncertain period the Council of Europe should be of great assistance to the cause of European unification, for it provides a continuing forum—and the only one—in which European problems can be discussed collectively by the governmental representatives of the Committee of Ministers as well as by members of the various political parties representing European nations in the Consultative Assembly.

In addition to essays, the present volume of the *Yearbook* contains texts of the constitutive treaties of the European organizations, a general survey of their organizational structure and a valuable list of their official publications. The bibliography, with its references to books and pamphlets and a carefully selected list of articles discussing the problems of European integration, should also be of value. To cover six years in the development of European organization, the editors had to be very selective. Since in the future the *Yearbook* will report on the annual activities of these organizations, it might be feasible to include not only studies of specific problems (e.g., privileges and immunities of European organizations; status of their secretariat members), but in addition studies of problems that, though not strictly European, are pertinent to the operation of these organizations (e.g., NATO and its relation to European organizations; participation of the United States and Canada). The editors may be sure that the *Yearbook* fills a real need and that it makes an important contribution to the understanding of the objectives and work of European organizations.

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THE JUDGMENT OF JULIUS AND ETHEL ROSENBERG. By John Wexley. New York: Cameron & Kahn, 1955. Pp. xiv, 672. \$6.00

"[I]t is impossible for this writer to pretend utter neutrality. . . ."<sup>1</sup>

CHRONOLOGICALLY, in the world war of wits, the Rosenberg case followed the germ warfare propaganda binge. By now, the Communists have pretty well abandoned, at least in the Western half of the world, their charge that the American forces in Korea resorted to bacteriological warfare. But they are still enlarging on the claim that Julius and Ethel Rosenberg, executed on June 19, 1953, for conspiracy to commit espionage against their native country, were innocent victims of a prosecution frame-up and an unfair trial.

27. P. 178.

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1. P. ix.