

# ***The European Union's Procedure for Concluding International Agreements after the Treaty of Lisbon***

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## ***Abstract***

*Due to the Treaty of Lisbon, the European Union (EU) could be more unified and more determined actor in the international area. The present paper examines the procedure for concluding of the EU, mainly based on provisions of the Treaty of Lisbon. The EU, as the legal person of international law, possesses rights and obligations, which is also manifested in the conclusion of international agreements. So it is important to put emphasis on the examination of those provisions which provide legal basis for concluding various international treaties by the EU, and in given circumstances establish the EU's competence. In this respect it would be analysed what kind of external competences belong to the EU. Furthermore, this paper gives some significant phase of the constructing procedure of the EU.*

**Keywords:** *EU's procedure for concluding agreements, EU's external competences, EU's legal personality*

## **1. INTRODUCTION**

The Treaty of Lisbon serves as a significant milestone regarding the European integration, especially in connection with the European Union's more determined performance and representation on international area. The Treaty of Lisbon vests legal personality to the European Union<sup>1</sup> so thus the EU is undoubtedly the legal person of international law. Due to the explicit granting of legal personality of the EU, it possesses rights and obligations, which is also manifested in the conclusion of international agreements.

Concerning the Communities, the founding Treaties have previously contained provisions on the procedure for concluding agreements of the European Communities (EC) as well, and during the progress of integration, almost all modifying treaties (Maastricht, Amsterdam, Nice) amended provisions connected

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<sup>1</sup> Article 47. The Treaty on European Union (Lisbon, 2007), hereafter "TEU".

to this topic, just like the currently operative Treaty of Lisbon.<sup>2</sup> However, as regards the gradually stronger international appearance of the EU, it is worth analyzing what kind of changes the Treaty of Lisbon has brought about in the EU's previous procedure for concluding agreements. It is especially important to examine how the new position—the High Representative of the Union for Foreign Affairs and Security Policy—established by the Treaty of Lisbon joins and what role it plays in the EU's process to conclude international agreements. Furthermore, the reinforcing role of the European Parliament (hereafter “EP”) in this procedural order should be emphasized.

An important fact must be mentioned that modifications of the EU's procedure for concluding agreements have inseparable connection with the gradual widening of the EC/EU's competences. One of the EU's competences is a sensitive, problematic area itself, not even mentioning the conclusion of international treaties. Hence, it is an unavoidable question that in which cases the European Communities, and then with the deepening of the integration of the European Union, has had the sphere of competence to enter into international agreements. In aware of the fact, the EU does not have competences covering the wide-scale area, it can only proceed according to authorizing provisions of treaties (that is the conferral of powers). So it is important to put emphasis on the examination of those provisions which provide legal basis for concluding various international treaties by the EU, and in given circumstances establish the EU's competence. Based on all these, the EU's external competences (explicit and implied) are also worth analyzing.

## **2. LEGAL PERSONALITY OF THE EU AND POWER TO CONCLUDE AGREEMENTS**

Due to the Treaty of Lisbon the EU has more determined competences to act on the international area. First of all, Article 47 of the Treaty on European Union explicitly recognizes that *“the Union shall have legal personality”*. Thus, as its Member States, the EU has ability to exercise rights in international legal affairs and enter into obligations of its objectives.<sup>3</sup> According to that the EU can enter into agreements with third countries and international organizations, and it can be held accountable under international law if it contravenes its obligations and take action where its rights are infringed. *“If a Union institution concludes an agreement, it will be binding on the Union and it will be liable for its performance. So international capacities of the EU are governed by the rules of international law, however, the division of powers between the EU and its Member States is a matter*

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<sup>2</sup> Articles 216 and 218. The Treaty on the Functioning of the European Union (Lisbon, 2007), hereafter “TFEU”.

<sup>3</sup> Judgement of the Court of Justice of 31 March 1971. The Commission vs. The Council. Case C-22/70. Furthermore Judgement of the Court of Justice of 14 July 1976. Kramer en Bais. Case C-3/76, Joined Cases C-4/76, C-6/76.

of Union law.”<sup>4</sup>

After the Treaty of Lisbon entered into force, Article 1 of TEU provides that the EU replaces and succeeds the European Community. Whereas before the founding Treaties did not expressly endow the EU as whole with legal personality, only expressly conferred legal personality on the European Community and the European Atomic Energy Community.<sup>5 6</sup> In 1992, the European Union was set up by the Maastricht Treaty; however, this Treaty was silent on its legal personality, no provision on the legal personality of the Union was inserted. Aside from Article 281 of TEC (consolidated version amended by the Treaty of Amsterdam), which declared the legal capacity of the Community, there were no such provisions in TEU in connection with the Union. Nor were any provisions regarding the conclusion of international agreements by the Union, whereas capacity to conclude treaties is clearly one of the defining features of international legal personality. It seemed to be directed towards establishing whether there is some type of constitutional/international law barrier to EU action under international law in second and third pillar matters. All these shortcomings of the Maastricht Treaty created opportunity for great legal debates on this topic.<sup>7</sup> However, defining the EU's legal capacity became more and more important, its international sphere of action continuously widened and increased, its international performance became more significant. (For example it opened its delegations in third countries, sent deputies and observant to areas of various conflicts.)

The question of the EU's legal personality was not obviously solved by the Treaty of Amsterdam in 1999, although, Article 24 of TEU was inserted by the Treaty of Amsterdam, which is itself one development in a long debate about the EU' international legal personality. As time goes by, after the Treaty of Amsterdam, the debate seems ever more irrelevant, in the light of its Article 24: „*When it is necessary to conclude an agreement with one or more States or international organizations in implementation of this Title, the Council, acting unanimously, may authorize the Presidency, assisted by the Commission as appropriate, to open negotiations to that effect. Such agreements shall be concluded by the Council acting unanimously on a recommendation from the Presidency. No agreement shall be binding on a Member State whose representative in the Council states that it has to comply with the requirements of its own constitutional procedure; the other members of the Council may agree that the agreement shall apply provisionally to them.*” Thanks to this above mentioned provision of the Treaty of Amsterdam the Council has the competence to conclude agreements with third countries and international organizations. So, before the Treaty of Lisbon the Council has already

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<sup>4</sup> LENAERT, KOEN – NUFFEL, PIET VAN (ed.): *European Union Law*, 2011, Sweet and Maxwell, London, 952.

<sup>5</sup> Article 281. Treaty on the European Community; Article 184. Treaty establishing the European Atomic Energy Community (EURATOM).

<sup>6</sup> MCGOLDRICK, DOMINIC. The International Legal Personality of the EC and the EU, in DOUGAN, MICHAEL – CURRIE, SAMANTHA (ed.): *50 Years of the European Treaties. Looking Back and Thinking Forward*, 2009, Hart Publishing, Oxford, 187-188.

<sup>7</sup> *Ibid.* 195-203.

concluded agreements on behalf of the Union, which means the EU had already been displayed as a participating party bound by the agreements.

After entry into force of the Treaty of Lisbon the question about the legal personality of the EU was definitely answered. On the one hand, Article 1 of TFEU rules that the Union replaces and succeeds the European Community. *“Therefore, the EU will exercise all rights and assume all the obligations of the European Community, including its status in international organisations, whilst continuing to exercise existing rights and assume obligations of the EU. In particular, the EU will succeed to all agreements concluded and all commitments made by the European Community with other organisations and to all agreements and commitments adopted within organisations and that are binding upon the European Community.”*<sup>8</sup>

### **3. THE EXTERNAL POWERS OF THE UNION – IN THE NET OF COMPETENCES**

The above written overview was necessary to see that the ability to conclude agreements is the one of the indispensable and recognized manifestations of the international legal personality. However, the EU's ability to act, just like entering into international treaties, does not directly come from having a legal personality. Exactly norms of competences are needed in order to act on international area, which on the one hand, determine competencies, on the other hand, mark their limits. The area of the EU's spheres of competences is a sensitive, problematic area in itself, not to mention cases of entering into international treaties. Regarding the subject of present study it is really important to analyze in what cases the EU has competences to enter into international treaties.

In respect that the EU does not have competence covering every area, it can only proceed according to treaties' certain authorizing provisions (the principle of conferral). Hence, the Treaty of Lisbon has further elaborated the principle of conferral, as stated in Article 4 (1) and Article 5 (1) and (2) of TEU. Based on these, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.” Furthermore, the Treaty of Lisbon details taxatively the competences which can be found in Articles 2-6 of TFEU and due to these provisions, it can be read/determined whether the EU's given external competence belongs to the exclusive or to the shared group.

There are two possible aspects to assortment the EU's external competences. On the one hand, we can differentiate these competences according to that they either belong to the exclusive or to the shared/complementary competence of the given external competence of the EU. On the other hand, the other grouping of external competences is done according to whether Treaties expressly provides on

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<sup>8</sup> EMERSON, MICHAEL – BALFOUR, ROSA – CORTHAUT, TIM (et al.): *Upgrading the EU's Role as Global Actor. Institutions, Law and the Restructuring of European Diplomacy*, 2011, Centre for European Policy Studies, Brussels, 21.

concluding international treaties, or not. In the first case we can refer to express external competences/external competence. In the second case there is lacking of the explicit provision to the entering into international treaties, however the concluding agreements is still necessary for reaching the aims set in the Treaties. So in such cases we can talk about so called „implied” external competences.<sup>9</sup>

Concerning the Communities, founding treaties have previously contained provisions on the procedure for concluding agreements by the European Communities, as well and in connection with the progress of integration, almost all modifying treaties (Maastricht, Amsterdam and Nice) modified provisions connected to this topic, just like the currently operative Treaty of Lisbon (Articles 216 and 218 of TFEU). However, as regards the gradually stronger international appearance of the EU, it is worth investigating what kind of changes the Treaty of Lisbon has brought about in the EU's previous procedure for concluding international agreements.

Before the Treaty of Lisbon, Article 300 of the Treaty of the European Community at the same time contained the declaration of public competence referring to entering into international agreements and its inner rules referring to the process of public law.<sup>10</sup> With the entering into force of the Treaty of Lisbon, this ‘old’ provision became separated and now, Article 216 of TFEU especially determines the cases when the EU can enter into international agreements, while Article 218 of TFEU regulates the process of entering into agreements.

### ***3.1. Typing of explicit Union competences (express external competences)***

The EU possesses explicit external competence when the Treaties expressly empower the Union to conclude international agreements. They give the legal basis for this kind of action. This is reflected in Article 216 of TFEU, which states that the „*Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide*”.<sup>11</sup> In a limited number of cases, the Treaty of Lisbon provides an *explicit* competence to the EU to act externally. In the light of this, the EU has special competence set in the founding treaty among others, in the following areas:

- a common commercial policy (Articles 206-207 of TFEU);
- association agreements (Article 217 of TFEU);

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<sup>9</sup> KAJTÁR, GÁBOR: 216. cikk, in OSZTOVITS, ANDRÁS (ed.). *Az Európai Unióról és az Európai Unió működéséről szóló szerződések Magyarázata 3.* [Explanation of the Treaty on European Union and the Treaty on the Functioning of the European Union 3.], 2011, Complex Kiadó, Budapest, 2671-2674. Furthermore Judgement of the Court of Justice of 31 March 1971. The Commission vs. the Council (ERTA). Case C-22/70.

<sup>10</sup> See KOUTRAKOS, PANOS. *EU International Relations Law*, 2006, Hart Publishing, Oxford, 138-181.

<sup>11</sup> WOUTERS, JAN – COPPENS, DOMINIC – DE MEESTER, BART: The European Union's External Relations after the Lisbon Treaty, in GRILLER, STEFAN – ZILLER, JACQUES (ed.): *The Lisbon Treaty. EU Constitutionalism without a Constitutional Treaty?* 2008, Springer – Wien – New York, 169.

- an exchange-rate system for the euro in relation to non-Union currencies {Article 219 para. (1) of TFEU}.

For example, the common commercial policy belongs to the exclusive competence of the EU. This means that member states cannot enter into international agreements on these areas anymore, only the EU is eligible to do so. However the conclusion of the association agreements belongs to the shared competence of the EU.<sup>12</sup>

In addition, the Union is empowered to conclude agreements by the explicit provisions of the Treaties:

- the research and technological development {Article 186 of TFEU};
- the economic, financial and technical cooperation with third countries {Article 212 para. (3) of TFEU};
- the environment {Article of 191 para. (4) of TFEU};
- the development cooperation {Article 209 para. (2) of TFEU}; and
- the humanitarian aid {Article 214 para. (4) of TFEU}.

The EU can exercise these external competences even in respect of matters which are not yet subject of rules at Union level. In these areas, both the Union and Member States may cooperate with third countries or international organisations. Article 4 para. (4) of TFEU clarifies that the nature of these Union competences is ‘shared’ but the specialty is that their exercise by the Union does not prevent Member States from exercising their own competences in these fields.<sup>13</sup> “*The Union's competence in this regard does not detract from Member States' own powers to negotiate in international fora and conclude international agreements, although, Union action will reduce the scope for action on behalf of Member States, in view of the principle of primacy.*”<sup>14</sup>

At this point, it is worth to mention that there are such mixed- agreements where a field falls within the competence of both the Union and Member States, so the Union’s external action is categorised as mixed. These kinds of agreements cause various problems regarding international law, Union law and practice.<sup>15</sup>

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<sup>12</sup> It is important to mention within the framework of common commercial policy, that the analysis of competency questions between the EU and its Member States would require a separate research, with relation to WTO/GATT agreements. Hence, regarding the complexity of this theme, the current research does not deal with it.

<sup>13</sup> WOUTERS – COPPENS – MEESTER: *op. cit.* 168-170.

<sup>14</sup> LENAERT – VAN NUFFEL: *op. cit.* 1015.

<sup>15</sup> The interpretation and analyse of such agreements would go beyond the limits of this study. Connecting to the framework of explicit treaty-making power, we have to mention that the Union is allowed to conclude international agreements with one or more States or international organisations in the Common Foreign and Security Policy area (Article 37 of TEU). The nature of the Union’s competence in the field of CFSP is not well defined and might be best categorised as a kind of ‘*sui generis*’ competence or shared competence without pre-emption. See WOUTERS – COPPENS – MEESTER: *op. cit.* 169.

### 3.2. Implied external competence

In determining the grouping of the EU's external competences, the case law of the Court of the EU has a decisive role. The external competences of the Union have mainly been clarified in the European Court of Justice (hereafter ECJ) case law.<sup>16</sup>

The previous case law of ECJ highlighted that the Union may conclude international agreements not only in those cases where the Treaties or a legally binding Union act provides so but instead, it can rule without explicit procedure for concluding conclusion authorisation, with so called implied external competences.<sup>17</sup>

So, Article 216 of TFEU ensures 3 further possibilities to conclude entering into international agreements:

- „where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties;
- or is provided for in a legally binding Union act;
- or is likely to affect common rules or alter their scope.”

This Treaty provision codifies the external powers which – according to long-standing case law of the European Court of Justice – flow implicitly from the Treaties and secondary Union law. It is known as the „implied treaty-making power” of the EU.<sup>18</sup>

Based on the case law of ECJ, regarding to the judgment of AETR-case,<sup>19</sup> generally, it can be said that this kind of implied external competence is parallel with every existing inner competence. So, there is a parallelism of internal and external competences: if the internal competence has been exercised, an external competence follows.<sup>20</sup> This creating law interpretation of ECJ on implied express competence is also included in the Treaty of Lisbon. Hence, according to Article 3 para. (2) of TFEU: „*The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or in so far as its conclusion may affect common rules or alter their scope.*”

The significant element of the above-mentioned provision could be found in Article 216 of TFEU referring to that the EU can enter into agreements if it “*is likely to affect common rules or alter their scope.*” In connection with the AETR judgment, member states cannot assume international obligations on those areas

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<sup>16</sup> However, there is no possibility in current study to present numerous legal cases.

<sup>17</sup> Judgement of the Court of Justice of 31 March 1971. The Commission vs. the Council (ERTA). Case C-22/70.

<sup>18</sup> LENAERT – VAN NUFFEL: *op. cit.* 1016.

<sup>19</sup> Judgement of the Court of Justice of 31 March 1971. The Commission vs. The Council (ERTA). Case C-22/70.

<sup>20</sup> VÁRNAY, ERNŐ – PAPP, MÓNKA (ed.). *Az Európai Unió joga* [The European Union Law], 2010, Complex Kiadó, Budapest, 223-228.

where the EU has already practiced its competences as it would have effect on public policy and would lead to their modification. Hence, states' such behavior would endanger the realization of public policy. (This also comes from the Article 4 para. (3) of TEU.)<sup>21</sup>

Article 216 of TFEU refers to the other case also from the legal practice of competent courts, when the Union has external competence because its internal competence may only be effectively exercised together with an external competence. This corresponds to the situation where an international agreement of the Union is „*necessary to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties*”.

Furthermore the Article 216 of TFEU determines it as the third issue that the EU can even enter into international treaties without special external competence, if it is provided for in a legally binding Union act/normative instrument. It is important that its pre-condition the EU has competence to accept such a secondary legal source which serves as the legal base for the concluding of the international agreement. In that case, if the Treaties have not provided the necessary powers, then the Article 352 of TFEU ensures supplementary competence for the EU, where the action by the Union proves necessary, “*within the framework of the Union's policies, one of the objectives referred to in the Treaties.*”<sup>22</sup> However, this article by no means can be applied in order to accept such provisions which effect would result in the modification of Agreements.<sup>23</sup>

### **3.3. Who is obliged by obligations?**

It is an important and complex question that who is obliged by the obligations, which are assumed by the EU through the different kind of international agreements. Article 216 para. (2) of TFEU declares that „*Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.*” According to this text, if a Member State would breach the given agreement with legal or other factors (action), then it is considered as the violation of Union law, for which the Member State can be held responsible. In judgment of ECJ of 26 October 1982, in connection with Kupferberg case<sup>24</sup> the ECJ declared that Member States have responsibility regarding their obligations with third parties by the EU (formerly: the Communities).

Based on the above mentioned reasons the determination of the areas where the EU has competences to enter into international treaties is complex and complicated. Having special regard to that the question of legal personality and

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<sup>21</sup> KAJTÁR: *op. cit.* 2673.

<sup>22</sup> Article 352 TFEU.

<sup>23</sup> See KAJTÁR, GÁBOR. 352. cikk [Article 352], in OSZTOVICS, ANDRÁS (ed.): *Az Európai Unióról és az Európai Unió működéséről szóló szerződések Magyarázata 3* [Explanation of the Treaty on European Union and the Treaty on the Functioning of the European Union 3], 2011, Complex Kiadó, Budapest, 3337-3344.

<sup>24</sup> Judgement of the Court of Justice of 26 October 1982. *Hauptzollamt Mainz vs. C.A. Kupferberg*. Case 104/81.

competency problems strongly connected to entering into make this issue even more complicated. It is not by chance that the numerous case law of ECJ are normative and decisive, which analysis would be as a separate whole paper.<sup>25</sup>

#### 4. PROCESS OF THE CONCLUDING INTERNATIONAL AGREEMENTS<sup>26</sup>

Now, that I have broadly presented the EU's spheres of competences regarding to conclude international treaties, let me examine how the EU's contractual procedures operate. As I have already mentioned, Article 216 and 218 of TEU can be regarded as successors of Article 300 of TEC, which previous ones contain rules regarding to conclude into international treaties referring to Union institutions and member states. Its scope covers all such bilateral and multilateral international agreements which are concluded by the EU with other Member States and international organizations, and also agreements between the EU and member states.

Article 218 of TFEU regulates the process of entering into agreements, during 11 paragraphs, however, not in full detail.<sup>27</sup> In this procedure, the European Commission, the Council of the European Union and the High Representative of the Union for Foreign Affairs and Security policy have significant part; also, the European Parliament has increasing part in it.

The first phase of the procedure for concluding is the *authorization to start negotiations*. In the framework of this phase, the Commission or the High Representative makes suggestions to the Council having been convinced on the necessity of the planned agreement. Based on the suggestion, the Council authorizes the Committee and exclusively or mostly the High Representative in a resolution for initiating negotiations in cases of common foreign and security policy. The appointed main negotiator has the main role during the negotiations; however, one has to continually consult with special committees appointed by the Council, and has to negotiate along directives set by the Council. Therefore it can be stated that the Council has a main role to start the procedure of concluding agreements.

After the negotiations, Council decision is needed to sign the agreement.<sup>28</sup> Following this, there are two options to recognize the agreement as obligatory: i)

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<sup>25</sup> In this study the author does not intend to mention debates, problems connected to the obligatory nature of these agreements, on the place of international agreements in the EU's hierarchy, and besides, the scale of mixed agreements is unlimited.

<sup>26</sup> See KAJTÁR, GÁBOR: 218. cikk [Article 218], in OSZTOVICS, ANDRÁS (ed.): *Az Európai Unióról és az Európai Unió működéséről szóló szerződések Magyarázata 3* [Explanation of the Treaty on European Union and the Treaty on the Functioning of the European Union 3], 2011, Complex Kiadó, Budapest, 2677-2685.

<sup>27</sup> It would be quite long to analyse the elements of this provision, hence, in the framework of this paper the author would only like to focus on the most significant points in connection with the narrow field of interpretation.

<sup>28</sup> Art. 218 para. (5) TFEU.

the first is when the signature of agreement happens at the same time of the signature of agreement); while ii) the other option is that a Council decision is required to recognize agreements as obligatory. Until agreements enter into effect, the EU has to stay away from those actions which would stymie the agreement's subject and aim.

In those cases when the Council accepts agreements as obligatory with a regulation, its regulation is created upon the suggestion of the Commission and the High Representative. It is important that before accepting the regulation, it has to adequately cooperate with the European Parliament. There are detailed rules referring to this, as well. It is important to highlight the voting of the Council during this procedure, that the rules are always the same as rules to be applied in cases or authorizing the Commission or the High Representative. According to main rule, the Council decides with qualified majority but in certain determined cases consensual decision is needed.<sup>29</sup>

Who signs the agreement? Mostly, the Council authorizes the actual EU Presidency to decide who shall sign the agreement on the part of the EU. Hence, in most cases the 1-1 representative of the EU Presidencies and/or the Commission signs the agreement.

The entries into force of the agreements concluded by the EU are regulated by the general rules of international law. That is, an agreement does not automatically enter into force when it is recognized as obligatory by the EU or by a third state regarding them. Usually, they take regulations of the 1969 Vienna Convention on the Law of Treaties into consideration, especially its Article 24.<sup>30</sup>

In respect of the role of the European Parliament, it could be said the definite increasing role of the EP. Before the Treaty of Lisbon, the EP had no formal role during the negotiations on an international agreement. However, a Framework Agreement had been concluded between the Commission and the Parliament that provided for exchange of information between both institutions.<sup>31</sup> Due to the Treaty of Lisbon, the Council at least always consults with the European Parliament before agreements. However, it is not obliged to take the EP's opinion into account, in some cases; EP's agreement is needed to make Council decisions.<sup>32</sup> The significance of EP's role is important in agreements connected to the budget.

The above mentioned process means a smooth process regarding the Union entering into agreements, however, this process is not always so easy. Temporary applications are used many times, the modification of these agreements is also regular and there are cases when these agreements are suspended or ceased.<sup>33</sup>

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<sup>29</sup> Art. 218 para. (8) TFEU.

<sup>30</sup> Art. 24. Vienna Convention on the Law of Treaties (Vienna, 1969).

<sup>31</sup> WOUTERS – COPPENS – MEESTER: *op. cit.* 183-184.

<sup>32</sup> *See* Art. 218 para. (6) TFEU.

<sup>33</sup> Regarding this case, Art. 218 of TFEU also contains detailed rules.

## 5. SUMMARY

This paper analyzed the European Union's procedure for concluding international agreements after the Treaty of Lisbon. Thanks to the Lisbon Treaty the EU is undoubtedly the legal person of international law. Regarding that, the one of the indispensable and recognized manifestations of the legal personality is the ability to enter into treaties which contain rights and obligations that can be justified according to rules of international public law. The EU has ability to conclude agreements according to reach of the aims set out in Treaties. This EU's ability manifests in its external powers. In this respect the present study examines the EU's express and implied external competences to conclude agreements.

Before the Treaty of Lisbon, Article 300 of TEC contained in the same provision the competences referring to entering into international agreements and its inner rules referring to the process of the concluding agreements. With the entry into force of the Lisbon Treaty, this old provision became separated and now, Article 216 of TFEU especially determines the cases when the EU has competences to conclude international agreements, while Article 218 of TFEU regulates the process of entering into agreements. Regarding this separation of the former provision, the paper does not place only great emphasis on the external competences of the EU, but also analyses the procedure of the conclusion according to the role of the new post, namely the High Representative of the Union for Foreign Affairs and Security Policy, in this process. Furthermore this study emphasizes the increasing role of the European Parliament, which is also a new element in this EU's procedure for concluding agreements. Regarding these reforms and other significant reforms of the Treaty of Lisbon, it would be possible the realisation of the EU's more unified and more efficient appearance on international area and the realisation of the European Union's values and interests.

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- [3] Judgement of the Court of Justice of 26 October 1982. Hauptzollamt Mainz vs. C.A. Kupferberg. Case C-104/81.

#### ***Legal acts***

- [1] Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union (Lisbon, 2007).
- [2] Treaty on the European Community (Amsterdam, 1997).
- [3] Treaty establishing the European Atomic Energy Community (Rome, 1957).
- [4] Vienna Convention on the Law of Treaties (Vienna, 1969).