INTRODUCTION

The formation of foreign policy in the European integration process began simultaneously with the establishment of the European Communities. Initially it was a common trade and development policy. Around the mid-seventies of the twentieth century, member states of the European Communities started to emphasize non-economic aspects of foreign policy, i.e., international relations.

The development of that sphere has been rather slow because it is directly linked to the development of the institutional system of the European Union as an integration community. The institutional system in any integration community is of paramount importance for successful cooperation in various spheres of integration. As Y. A. Tikhomirov rightly noted, "globalization in the world leads to the internationalization of law," (TIKHOmirov, 2011, p. 68) which in turn leads to the formation of integration processes in various regions of the world. The effectiveness of cooperation among the participating states in the integration process directly depends on the functioning of the institutional system, so a comparative analysis of the competence of institutions and methods of making integration decisions "gives us the clue to understanding the essence and prospects of the global evolution of law". (INTEGRATION LAW IN THE MODERN WORLD, 2015, p. 4)

The foreign policy segment in the European integration process was called the Common Foreign and Security Policy (CFSP). The formation of this sphere took place gradually (COLLIGNON, 2004, p. 65). Foreign policy in the economic sphere began to take shape as early as in the Treaty establishing the European Economic Community in 1957, (TREATY ON THE ESTABLISHMENT OF THE EUROPEAN ECONOMIC COMMUNITY, 2021). while such an area as common foreign and security policy was first included in the Treaty on European Union in 1992. Today both treaties have undergone significant changes and amendments, and the legal basis of the European Union activity in the foreign economic sphere are the Treaty on European Union in the Lisbon Treaty version and the Treaty on the Functioning of the European Union, also in the Lisbon Treaty version. However, before the adoption of the Lisbon Treaty, the European Union had gone a long way in shaping and establishing its foreign policy area.

METHODS OF RESEARCH

In the course of the research, the authors have thoroughly analyzed the regulatory framework of the European Union, firstly, the founding treaties - the Treaty on European Union and the Treaty on the Functioning of the European Union -concerning the spheres of institutional system and foreign policy, as well as practice of the institutional system. The methodological basis of the research comprised the general scientific dialectical method of knowledge. In the process of research there were used such methods as formal-legal, comparative-historical, system-structural, comparative and others. To study the regulatory framework of the European Union the formal-legal method was engaged, which allowed to identify the content of specific legal norms, to determine the presence of gaps and contradictions in the normative regulation. Comparative-legal method was used to identify the features of the development of the institutional system at different stages of integration. The method of modern post-classical legal science such as constructivism, which reveals the peculiarities of construction of principles and models of the institutional system, as well as anthropocentrism, which allows to understand the role of the institutional system in the implementation of norms of integration law were also taken to make the research complete.
DISCUSSION AND RESULTS

Let us dwell upon some main points, which play a key role in the formation of the foreign policy sphere of the European integration process. At first, such moments are the draft Treaty Establishing a Constitution for Europe (2004) and the Lisbon Treaty (2007), which when viewing them with amendments and additions took the main provisions of the draft Constitutional Treaty and introduced fundamental changes into the founding treaties of the European Union. Since in 1992 such a sphere was included into Treaty on European Union as an independent segment in the integration process, the following stages of formation of the foreign policy of European integration are of the most importance:

In 2001, the Laaken Declaration declared the European Union’s aspiration to become a full-fledged world power. To achieve that goal, the Declaration said, it was necessary to substantially reform the legal basis of foreign policy (RUSSIA AND THE EUROPEAN UNION, 2003). The next stage of high priority in the development of the common foreign and security policy, as well as diplomatic service of the European Union is related to the draft Treaty Establishing a Constitution for Europe, which remained a draft, but had a significant impact on the formation of these aspects of the European integration process (MESHCHERYAKOVA, 2008, p. 99).

The Draft Constitution was supposed to codify all the aspects related to the foreign policy of the European Union in a separate section of the treaty, which was rational in itself, but included significant innovations, after discussion of which the member states could not reach a consensus. In Section 5 of Chapter 1 of the draft treaty it was supposed to fix the general principles and goals of the foreign policy of the European Union, as well as the mechanisms of their implementation (DEHOUSSE, 2002, p. 35). In Section 5 of the Chapter 6 it was planned to fix the procedure of concluding international treaties of the Union with third countries. Section 5 of Chapter 5 was supposed to include provisions on restrictive measures, regarding to member states not complying with the norms of the European Union law (BRAND, 2004, p. 25). Diplomatic relations with third countries and international organizations were given in Section 5 of Chapter 7 of the treaty (PRELIMINARY DRAFT OF CONSTITUTIONAL TREATY (CONSTITUTION) OF THE EUROPEAN UNION, 2021).

The right to represent the European Union in the international arena and to implement foreign policy was delegated by the Draft Constitution to the Minister for Foreign Affairs of the European Union (Articles 1-28 of the Draft Treaty) (PRELIMINARY DRAFT OF CONSTITUTIONAL TREATY (CONSTITUTION) OF THE EUROPEAN UNION, 2021). According to the Draft Treaty, the Minister of Foreign Affairs was to be involved both in draft and implementation procedures of foreign policy activities. In order to carry out these activities, the Draft Constitution introduced the Minister of Foreign Affairs to the European Commission as a Vice-President. Moreover, the Draft Constitution gave the Minister of Foreign Affairs the right to initiate decisions in the field of general foreign and security policy (Articles 111-296 of the Draft Treaty) (PRELIMINARY DRAFT OF CONSTITUTIONAL TREATY (CONSTITUTION) OF THE EUROPEAN UNION, 2021).

Therefore, the Draft Constitution linked the reform of representation in the international arena with the new post of Minister for Foreign Affairs of the European Union.

The Draft Constitution of the European Union also recognized the President of the Council of Europe (Articles 1-22 of the Treaty draft) (PRELIMINARY DRAFT OF CONSTITUTIONAL TREATY (CONSTITUTION) OF THE EUROPEAN UNION, 2021). Consequently, the Draft Constitution envisaged three of its officials in order to implement a common foreign policy: Minister for Foreign Affairs, President of the European Commission, and President of the European Council.

A special aspect of the European Union’s foreign policy is the diplomatic service. The establishment of the European Foreign Service is the most important contribution of the draft Treaty establishing the Constitution for Europe to the development of this aspect of integration. The European External Action Service, as it was called in the Draft Constitution, was to be made up of the staff of the European Commission, the General Secretariat of the Council of the European Union, and the diplomatic services of the member states. And the
Minister of Foreign Affairs of the European Union was to be in charge of the European External Action Service.

According to Articles 111-328 of the draft Treaty establishing the Constitution for Europe, it was supposed to introduce permanent or temporary representations of the European Union to third countries and representations at international organizations. These representations were also supposed to be subordinated to the Minister of Foreign Affairs of the European Union. These representations were to replace the European Commission’s representations in third countries and international organizations.

As a priority, the draft treaty also envisaged a common security and defense policy (Articles 1-41 of the draft Treaty).

The Draft Constitution also expanded the number of representations that the European Union could have in third countries and international organizations, including military missions (Articles 111-309 to 111-310). Such representations also included the European Defense Agency (Articles 111-311) and permanent cooperation in the military sphere (Articles 111-312 of the same draft Treaty) (PRELIMINARY DRAFT OF CONSTITUTIONAL TREATY (CONSTITUTION) OF THE EUROPEAN UNION, 2021).

However, the draft Treaty establishing a Constitution for Europe did not pass ratification in the member states, so it was decided to start working on a new revision treaty, the Lisbon Treaty. The reason for the non-ratification of the draft Constitution for Europe was not the least of all the innovations that took place in the implementation of the common foreign policy of the European Union.

The Lisbon Treaty’s reform of the European Union’s foreign policy area primarily affected the mechanisms of implementation of foreign policy.

According to the Lisbon Treaty, the institutions carrying out foreign policy activities are the European Council and the Council of Ministers of the European Union which the intergovernmental institutions of the European Union (THE LISBON TREATY, 2009). When voting in these institutions on foreign policy issues the principle of unanimity is applied (Part 1 of Article 31 of the Treaty on European Union in the Lisbon version) (TREATY ON THE EUROPEAN UNION, 2021). Thus, the position of the Minister of Foreign Affairs, proposed in the Draft Constitution, was not approved by the Lisbon Treaty. Instead of the position of the European Union Minister of Foreign Affairs, the Lisbon Treaty established the post of European Union High Representative for Foreign Affairs and Security Policy (Article 18 of the Treaty on European Union).

The High Representative prepares and implements the actions and measures of European Union’s foreign policy. The High Representative for Foreign Affairs and Security Policy may act independently of the European Commission (Article 30 of the Treaty on European Union in the Lisbon version). The introduction of the position of the High Representative of the European Union is also connected with the reform of the European Union’s foreign political representation, which now does not include the Minister for Foreign Affairs.

The Lisbon Treaty supported the introduction of a European diplomatic service proposed in the draft Constitution, the official name of which is the European External Action Service. It is made up of the staff of the European Commission, the General Secretariat of the Council of the European Union and the diplomatic services of the member states (part 5 of Article 27 of the Treaty on European Union) (TREATY ON THE EUROPEAN UNION, 2021).

Thus, regarding the formation of the European Union’s diplomatic service, the Lisbon Treaty took advantage of the developments made in the draft Constitution, excluding the post of the Minister of Foreign Affairs. The Lisbon Treaty also provided for the establishment of permanent and temporary representations of the European Union to third countries and international organizations (Article 221 of the Treaty on the Functioning of the European Union) (TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, 2021). All permanent and temporary European Union representations are subordinated to the High Representative of the European Union for Foreign Affairs and Security Policy, and replace the representations of the European Commission established earlier.
The Lisbon Treaty expanded the number of missions that the European Union may have in third countries and to international organizations as compared with those envisaged in the draft treaty establishing the Constitution for Europe. In particular, it provides for the establishment of missions to assist third countries in the fight against terrorism.

The Lisbon version of the Treaty on European Union establishes, in Articles 42 and 46, ongoing cooperation in the military field (TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, 2021).

During the latest reform of the European Union legal framework much attention was paid to so-called European Neighborhood Policy as an additional direction of cooperation with neighboring European Union states (Article 8 of the Treaty on European Union in Lisbon version).

Thus, the European integration process has achieved a high degree of delegation of powers of member states to bodies of the integration community, which allows it not only to carry out a unified foreign policy and military cooperation, but also to have representation in third countries (have diplomatic missions) in various countries of the world, as well as in international organizations. The mentioned factor shows that as it was supposed by the founders of the European integration process, the present European Union is getting the features of a state-like formation, which is proved by the establishment of the diplomatic service of the European Union first of all. The long period of formation and development of the European foreign service is connected with the fact that certain legal mechanisms were tested in practice, which resulted in the creation of a flexible mechanism of cooperation, making it possible to find compromises and take into account the interests of member states.

REFERENCES


TIKHOMIROV, Y.A. The State: Continuity and Novelty, Moscow, 68, 2011. [Russian].


Improvement of the organizational mechanisms of the eu foreign policy and foundation of the European Union diplomatic service

Resumo
Os autores estudam a formação, evolução e regularidades da Política Externa e de Segurança Comum da União Europeia, bem como do serviço diplomático da União Europeia. A base metodológica deste estudo consiste em historicismo, sistematismo, análise, estatística e jurisprudência comparativa. A posição do autor baseia-se na legislação e nas ideias dos representantes da comunidade científica competente sobre a questão da política externa e de segurança comum da União Europeia, as regularidades de seu aperfeiçoamento e desenvolvimento. Com base na análise jurídica do direito da União Europeia, é realizada a diferenciação das características características de sua política externa, bem como questões de regulação jurídica do serviço diplomático. Como resultado do estudo, foi revelada a importância da escolha correta das formas organizacionais e legais de desenvolvimento de qualquer esfera do processo de integração e, em particular, da política externa e de segurança comum, não apenas pelo seu efetivo funcionamento, mas também pelo desenvolvimento progressivo do processo de integração como um todo.


Abstract
The authors pursue the aim to study the formation, evolution and regularities of the Common Foreign and Security Policy of the European Union, as well as the European Union diplomatic service. The methodological basis of this study consists of historicism, systematism, analysis, statistics and comparative jurisprudence. The author’s position is based on the legislation and ideas of representatives of the competent scientific community on the issue of common foreign and security policy of the European Union, the regularities of its improvement and development. On the basis of the legal analysis of the European Union law the differentiation of the characteristic features of its foreign policy is carried out as well as issues of legal regulation of the diplomatic service are raised. As a result of the study the significance of the right choice of organizational and legal forms of development of any sphere of the integration process and, in particular, common foreign and security policy, not only for its effective functioning, but also for further progressive development of the integration process as a whole has been revealed.

Keywords: European Union. Common foreign and security policy. European diplomatic service. High representative of the european union for foreign affairs and security policy

Resumen
Los autores estudian la formación, evolución y regularidad de la Política Exterior y de Seguridad Común de la Unión Europea, así como el servicio diplomático de la Unión Europea. La base metodológica de este estudio consiste en historicismo, sistematismo, análisis, estadística y jurisprudencia comparativa. La posición del autor se basa en la legislación y las ideas de los representantes de la comunidad científica competente sobre la cuestión de la política exterior y de seguridad común de la Unión Europea, las regularidades de su mejora y desarrollo. Sobre la base del análisis jurídico del Derecho de la Unión, se lleva a cabo la diferenciación de las características de su política exterior, así como las cuestiones de regulación jurídica del servicio diplomático. Como resultado del estudio se ha puesto de manifiesto la importancia de la correcta elección de las formas organizativas y jurídicas de desarrollo de cualquier esfera del proceso de integración y, en particular, de la política exterior y de seguridad común, no sólo para su funcionamiento eficaz, sino también para un desarrollo progresivo del proceso de integración en su conjunto.