

See discussions, stats, and author profiles for this publication at: <https://www.researchgate.net/publication/271076686>

Is There A Problem of "Rule By Judges" In The European Union?

Conference Paper · January 2013

DOI: 10.13140/2.1.1365.0246

CITATIONS

0

1 author:



Tamar Burduli

GeoWel Research

6 PUBLICATIONS 0 CITATIONS

SEE PROFILE

Some of the authors of this publication are also working on these related projects:



Master Thesis [View project](#)

COLLEGE OF EUROPE

NATOLIN CAMPUS

EUROPEAN INTERDISCIPLINARY STUDIES

IS THERE A PROBLEM OF “RULE BY JUDGES” IN THE EUROPEAN UNION?

Paper presented by

Tamar Burduli

for Politics and Policies of the European Union

Academic year 2013-2014

Word Count (with footnotes): 3470

Introduction

European Court of Justice considered as an “engine of integration”¹ has been criticized for acquiring too much power compared to other European Union institutions thanks to law. Some people have been arguing that non-elective judges of the ECJ have become more and more influential actors in the EU decision-making compared to the representatives of other institutions of the union. Consequently, some of these sceptics might be concerned with this increasing power of the judges and be afraid of the EU becoming a Kritarchian community in the long run.

In order to understand why some might argue that the judges of the European Court of Justice have become or are becoming the “rulers” of the Union community, it is essential to analyse reasons behind this argument. Therefore, the following paper will discuss the sources of power of the ECJ that give an origin to the mentioned “fear”:

1. Autonomy and Authority
2. Constitutionalisation and Power of Treaty Interpretation
3. The ECJ and the Member States

1. Autonomy and Authority

To begin with, ECJ has extended its power through enlargement, now equaling to 28 member states and a bit more than 507 million citizens² who are legally bound by ECJ rulings and have to respect the EU law over national law in case of conflict between the two. Moreover, the court has a right of judicial review over the compliance of the supranational EU institutions to the treaties of the union. Frequent use of the preliminary ruling procedure by the national courts of the members states also adds to the authority of the ECJ. In 2011

¹ Renaud Dehousse, *The European Court of Justice. The Politics of Judicial Integration*, Palgrave Macmillan, London, 1998, p. 74; Mark A. Pollack, *The Engines of European Integration, Delegation, Agency and Agenda-Setting in the EU*, Oxford University Press, Oxford, 2003, p. 19; 390.

² Population on 1 January, 14 June 2013. Available at: <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tps00001>, (consulted on 01.11.2013).

number of such cases amounted to 338 among 638 cases that the court had throughout the whole year.³

Recently the ECJ has been blamed of gaining more power through policy-making and losing its original purpose.⁴ According to Damian Chalmers, professor of EU law at the London School of Economics, in 2012 the ECJ's field of competences has been widened by including more ability of trimming public finances, which is not a usual competence for the courts.⁵ The “fiscal compact” or the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union signed by 25 member states requires the budgets of the EU countries to be balanced, meaning that their structural government deficit should not exceed 0.5% of nominal GDP. In case of non-compliance and non-transposition of the rule in their national legal systems, the ECJ can charge a penalty amounting no more than 0.1% of the GDP.⁶

Regarding autonomy, if we look at other EU bodies, the European Parliament, the Council of Ministers and the Commission are largely dependent on each other, each institution's decision-making procedure legally requires engagement in that of other institutions'. For example, under the Treaty of Lisbon, policy initiation competence is maintained for the Commission, although it should give the EP a reasoned opinion in case of non-initiation of legislation upon the parliament's request.⁷ Article 68 TFEU gives the council the power to “define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice”.⁸ However, the ECJ operates more as an independent body, also because of its purpose and competences. The cases regarding the member states and/or EU institutions are taken to the ECJ, who acts independently from all those institutions regarding its judgement. Based on this, among the concerned by the ECJ's

³ *Judicial Reach: The Ever-Expanding European Court of Justice*, November-December 2012. Available at: <http://www.worldaffairsjournal.org/article/judicial-reach-ever-expanding-european-court-justice>, (consulted on 01.11.2013).

⁴ *The European Court of Justice has taken on huge new powers as “enforcer of the Treaty on Stability, Coordination and Governance. Yet its record as a judicial institution has been little scrutinized*, 7 March 2012. Available at: <http://blogs.lse.ac.uk/euoppblog/2012/03/07/european-court-of-justice-enforcer/>, (consulted on 01.11.2013).

⁵ *Ibid.*

⁶ *Fiscal Compact Entered into Force on January 1 2013*, 1 January 2013. Available at: <http://www.european-council.europa.eu/home-page/highlights/fiscal-compact-enters-into-force-on-1-january-2013?lang=en> (consulted on 01.11.2013).

⁷ *The European Union's Institutional Balance of Power after the Treaty of Lisbon*, 17 September 2010. Available at: http://ec.europa.eu/education/jean-monnet/doc/ecsa10/monarb_en.pdf, (consulted on 02.11.2013).

⁸ *Consolidated Version of the Treaty on the Functioning of the European Union*, 9 May 2008, Official Journal of the European Union C 115/47.

growing power, might be the higher level of the EU institution representatives, meaning the commissioners, the members of the European Parliament and the heads of the state in the Council, whose main concern would be losing their authority in the EU power balance, especially if we take into account the on-going debates over which of these three institutions is the most powerful or whether there is an institutional balance. This would seem more painful for the European Parliament since the Treaty of Lisbon gave him new law-making powers with over 40 new fields of legislation by co-decision with the Council of Ministers.⁹ Even though the competences of the ECJ clearly revolve around the judiciary characteristics, in case of the breach of law or conflict between the member state's national and EU laws it is the European Court of Justice who gives its decision, ruling or sanction. Consequently, the ECJ appears as having the final say, in other words, higher power or authority through judicial activism.

Moreover, public opinions are split about upholding the Rule of Law by the European Court of Justice. Neofunctionalists believe that the detachment of law and politics in the ECJ activities gives it autonomy, authority and power to act against the interests of the member states.¹⁰ According to Karen Alter, this results from the legal character of the entity.¹¹ However, neorealists argue that the ECJ is not able to exercise this power because the member states have tools for controlling the court, i.e. the court cannot selfishly go against the interests of the big member countries. Consequently they believe that the ECJ is represented as an agent for the member states.¹²

Additionally, the introduction of a direct effect by the of Van Gend en Loos case¹³ and establishment of the primacy (i.e. supremacy) of the EU law over national laws of the member states in case of a conflict between the two by Costa vs ENEL case¹⁴ set basis for the origination of the autonomy of the ECJ. This, in turn, was again strengthened in 1990s

⁹European Parliament and the Lisbon Treaty. Available at: <http://www.europarl.europa.eu/aboutparliament/en/0042423726/Parliament-and-the-Lisbon-Treaty.html>, (consulted on 01.11.2013).

¹⁰The European Court of Justice: An Agent of Member States? 28 April 2011. Available at: <http://www.e-ir.info/2011/04/28/the-european-court-of-justice-an-agent-of-member-states/>, (consulted on 02.11.2013).

¹¹Karen J. Alter, "Who are the "Masters of the Treaty"?: European Governments and the European Court of Justice", in: *International Organization*, Vol. 52, No. 1, 1998, p. 121.

¹²Ibid; Geoffrey Garrett & Barry Weingast, "Ideas, Interests, and Institutions: Constructing the EC's Internal Market", in: J Goldstein & R.Keohane (ed.), *Ideas and Foreign Policy*, Cornell University Press, Ithaca, 1993, pp. 173-206.

¹³ECJ Case 26/62 Van Gend & Loos v Nederlandse Administratie der Belastingen [1963] ECR 1.

¹⁴ECJ Case 6/64 Costa v ENEL [1964] ECR 585.

regarding the possibility of binding the Community with an international treaty¹⁵. The ECJ's competences are spread on internal and external level, building up to larger scope of power and authority to decide for the EU on international matters. This might be on one hand seen as limiting the level of cooperation with the third countries, or on the other hand - as acting as a guardian of policies of the European Union (internal market, for instance). However, "when the Court protects the EU from the normative impact of international law, it does so out of a (spoken or unspoken) concern for the autonomy of the EU, the founding stone of its gradual constitutionalisation".¹⁶ Although this excerpt advocates constitutionalisation in favour of the ECJ's greater aim to lookout for the EU's autonomy, this mere activity is claimed to catalyse that of the Court itself.

To add, the ECJ is highly protected from its own "court courbing mechanisms"¹⁷ meaning that it is protected from infringements or sanctions and there is no direct instant higher authority.

2. Constitutionalisation and Power of Treaty Interpretation

The ECJ's contribution to the constitutionalisation of the EU has been largely recognized.¹⁸ The discussions mainly refer to the teleological explanation of the process, especially to the interpretation of the EU Treaties in the above mentioned ECJ cases. These theories try to analyze the reasons for acceptance of sovereignty of the treaties over the national law by the member states, in other words, the reasons behind taking pro-integrationist approaches by the member states.

According to toneofunctionalists, the legitimacy of the ECJ lies in its supremacy¹⁹, inseparation of law and politics, that makes it difficult for the politicians to question the Court's judgements²⁰: "the judicial use of nominally neutral legal principles "masks" the politics of judicial decisions, gives judges legitimacy, and "shields" judges from political

¹⁵ECJ Opinion 1/91 EEA Agreement [1991] ECR I-6079.

¹⁶Jan Willem van Rossem, "The Autonomy of EU Law: More is Less?", in: R. A. Wessel & S. Blockman (eds.), *Between Autonomy and Dependence. The EU Legal Order under the Influence of International Organisations*, Springer, New York City, 2013, p. 12-45.

¹⁷R. Daniel Kelemen, "The Political Foundations of Judicial Independence in the European Union", in: *Journal of European Public Policy*, Vol. 19, No. 1, 2012, pp. 43-58.

¹⁸Thomas Christiansen & Christine Reh, *Constitutionalizing the European Union*, Palgrave Macmillan, Basingstoke, 2009, p. 114.

¹⁹Joseph Weiler, "The Transformation of Europe", in: *Yale Law Journal*, Vol. 100, No. 8, 1991, pp. 2403-2483.

²⁰Anne-Marie Burley & Walter Mattli, "Europe before the Court", in: *International Organization*, Vol. 47, No. 1, 1993, pp. 41-76.

criticism”²¹. While neofunctionalists believe in integration by law, rationalists believe in judicial activism, where the ECJ is presented as a strategic political rational actor²² and acts according to the most powerful member countries' interests²³. Historical institutionalists, argue that power of the ECJ was a natural and unplanned aftermath, which is now problematic to reverse because of the unanimity condition for the Treaty changes.²⁴

In their book *Constitutionalizing the European Union*, Thomas Christiansen and Christine Reh show that the EU system has undergone a political change in two forms: formally (Intergovernmental Conferences - ICGs) and informally (policy-making). However, at the same time, integration by law was actively progressing.²⁵

Through the case law the ECJ has been setting the legal system and fundamental principles of the EU law, meaning that it has been constitutionalising the European Union. Van Gend en Loos and Costa v ENEL cases were followed up by the supremacy codification in the Treaty articles in the 60's. Furthermore, Stauder²⁶, Internationale Handelsgesellschaft²⁷, Nold²⁸ and Hauer²⁹ cases in the 60-70's have founded legal principles of fundamental rights and have had a political follow-up by declarations on: European Identity; Protection of Fundamental Rights; and Democracy have contributed to the creation of Copenhagen Criteria, Articles 6, 7 and 49 of Treaty on European Union, and drafting of European Union Charter of Fundamental Rights.³⁰ Meanwhile, the Court started to progressively use the constitutional language and, consequently, in *Les Vertes v Parliament*³¹ judgement in 1986 it referred to the European Community as “a Community based on the rule of law, inasmuch as a neither its members states nor its institutions can avoid a review of the question whether the measures adopted by them are in conformity with the basic constitutional charter, the Treaty.”³² Via the judgements based on the interpretation of the Treaties the ECJ has become one of the major “constitutional agenda-setters”, which can be illustrated by the adoption of provision on

²¹Alter, op. cit., p. 130.

²²Andreas Grimm, “Judicial Interpretation or Judicial Activism?: the Legacy of Rationalism in the Studies of the European Court of Justice”, in: *Harvard Center for European Studies Working Papers Series*, No. 176, 2010.

²³Geoffrey Garrett, “The Politics of Legal Integration in the European Union”, in: *International Organization*, Vol. 49, No. 1, 1995, pp. 171-181.

²⁴Alter, op. cit., p. 136.

²⁵Christiansen & Reh, op. cit., pp. 61-62.

²⁶ECJ Case 26/69 Stauder v Ulm, [1969] ECR 419.

²⁷ECJ Case 11/70 Internationale Handelsgesellschaft mbH v Einfuhr, [1970] ECR 1161.

²⁸ECJ Case 4/73 Nold v Commission, [1974] ECR 491.

²⁹ECJ Case 44/79 Hauer v Land Rheinland-Pfalz, [1979] ECR 3727.

³⁰Ibid. p. 65.

³¹ECJ Case 294/83, Parti Ecologiste ‘Les Verts’ v Parliament, [1986] ECR 1365.

³²Ibid.

gender equality surpassing the equal pay (Article 141 TEC), which happened as a direct consequence of Kalanke case ruling.³³

Moreover, in the Opinion 1/1991 the Court referred to the Treaties as a “constitutional charter... subjects of which compromise not only member states but also their nationals.”³⁴ One of the political after-effects of these events was Laeken declaration of 2001 which calls a Convention on the Future of Europe and for reforms regarding improved division and definition of competences among the EU bodies, simplification of their instruments, and adding democracy, transparency and efficiency to the Union. Within these challenges fall the competences of the Court, simplification of the treaties, whether the Charter of Fundamental Rights should become part of the Treaties and whether the EC should accede to the European Convention on Human Rights.³⁵ Discussion of these topics leads to the dilemma of adoption of a constitutional text in the EU.³⁶ Additionally, even though typically the Court does not take part in the negotiations on Treaty amendments (the Council secretariat is the one who acts as a legal advisor), it has been included as an observer in the above mentioned convention. The court has also been asked to give advice by member state delegations on certain reforms (e.g. on institutionalisation of flexibility 1996-1997), have been consulted as experts by the CFE - Confédération Fiscale Européenne. Moreover, they have submitted opinions and recommendations to the IGCs and have had systematic meetings with the Nice IGC representatives. Certain number of these opinions and recommendations have been satisfied and the clearest example is the creation of the Court of the First instance and the alteration in their voting procedure to qualified majority voting procedure.³⁷

In the chapter Constitutional role of the European Court of Justice Christiansen and Reh identify the above mentioned cases, their judgements and after-effects additional sources to ECJ's power and “judicial control”³⁸ over the public sphere, original source of which was interpretation of the Treaty provisions and ability to alter the understanding of a state power without any explicit constitutional steps. Furthermore, they indicate that the ECJ “has effectively used epistemic, ideational and social resources: expertise, the ability to convince

³³Paul Craig & Grainne de Burca, *EU Law: Text, Cases and Materials* (5th edition), Oxford University Press, Oxford, 2011, pp.914-17; ECJ Case C-450/93 [1995].

³⁴Christiansen & Reh, op. cit., p. 66.

³⁵Christiansen & Reh, op. cit., pp. 65-66.

³⁶European Council, *The Laeken Declaration*, SN 273/01, European Council, Laeken, 2001.

³⁷Christiansen & Reh, op. cit., pp. 114-116.

³⁸Ibid., pp. 66.

through legal justification and the reputation as an impartial and apolitical actor” and has been setting agenda “for future constitutional reform.”³⁹

3. The ECJ and the Member States

A question whether the ECJ judges are biased has also been come up in public discussions. The large number of the ECJ cases that the Commission won, the non-electiveness of the judges and the fact that the ECJ tends to “pick the fights it knows it can win”⁴⁰ illustrate that it tends to favor Brussels over the member countries. Hence, the member states have been skeptical about its growing power. Among the skeptics the most discontented ones are France, Germany and the UK. It has been very hard for them to accept the idea of primacy of the EU law. Number of judges in the Germany still believe that their national law should prevail over the EU law in case of divergence between the two.⁴¹ But the most resistant ones have been the British who counter the ceding of their sovereignty. In 1995 Sir Patrick Neill suggested that the majority of the member countries should be able to turn down the ECJ judgements⁴². MP Martin Vickers is also calling for measures to “end rule by judges and reinstate Parliamentary democracy”.⁴³ According to him, “one of the biggest European issues has been the implementation of the Human Rights Act and unwanted interference from foreign courts into the British legal process” and that the British have “one of the finest justice systems in the world.”⁴⁴ In fact, between 1973-1976 the number of breaches by the UK amounted to 39, which is a really small number compared to other large member states.⁴⁵ As of today, some other big or small member states have more breaches than the UK.⁴⁶ Nowadays, the EU law has much impact on Britain's socio-political and economic constitution⁴⁷ partly because the non-existence of the written constitution makes it easier for the ECJ to acquire judicial power over there.

³⁹Ibid., pp. 116.

⁴⁰Judicial Reach, op.cit.

⁴¹*European Court of Justice. Biased Referee?* 15 May 1997. Available at: <http://www.economist.com/node/149581>, (consulted on: 06.11.2013).

⁴² Ibid.

⁴³*MP Calls for Action to 'End Rule by Unelected European Judges*, 13 January, 2012. Available at: <http://www.grimsbytelegraph.co.uk/MP-calls-action-end-rule-unelected-European/story-14412213-detail/story.html>, (consulted on: 01.11.2013).

⁴⁴ Ibid.

⁴⁵*European Court of Justice. Biased Referee?* op. cit.

⁴⁶European Commission, 30th Annual Report on Monitoring the Application of EU Law, Brussels, 2013, p. 8.

⁴⁷*Is the European court of justice a legal or political institution now?* 10.08.2010. Available at: <http://www.theguardian.com/law/2010/aug/10/european-court-justice-legal-political>, (consulted on 01.11.2013).

As already mentioned, there is polemic about whether the judges are independent from national interests. Nowadays, 28 ECJ judges are appointed on a one-per-member state basis. Eight advocates-general are also appointed by the member states' governments, but they have to agree on the candidates. Judges and the advocates-general are appointed for renewable six-year terms. Five big states (France, Germany, the UK, Spain and Italy) nominate five advocates-general, other three positions are rotated among the other member countries by alphabetical order.⁴⁸ President is elected for a renewable term of three years. This appointment system has been criticized for being non-democratic and not open, since it's still based on member states and their sizes.⁴⁹

Conclusion

As a conclusion, based on the analysis, it can be said that despite the fact that the ECJ has been performing as a catalyst for the EU integration and as a major actor in harmonization of law among the member countries, the European Court of Justice can be clearly seen as a threat to the power balance among the institutions of the European Union. "Rule by judges" has been gradually becoming one of the important points of criticism towards the Court and has been denounced by the member states as well. Enlargement of the European Union, establishment of the EU law supremacy over the national law and direct effect, and substantial amount of constitutionalisation have largely contributed to the development and increase of the Court's power, autonomy and authority. However, these points might be regarded as the advantages and achievements instead of as criticisms, as does the Commission:

"The Court laid the foundations of our judicial order and did it scrupulously, acting with complete independence. Without the Court, Europe could not have achieved the degree of integration we enjoy today.

I should like to cite some of the principles the Court has established over the years, often thanks to original methods of interpretation:

- the primacy of Community law over national law
- its direct effect, and
- the fact that it can be invoked before national courts

⁴⁸Ditlev Tamm, "The History of the Court of Justice of the European Union Since its Origin", in: A. Rosas, E. Levits, Y. Bot (eds.), *The Court of Justice and the Construction of Europe: Analyses and Perspectives on Sixty Years of Case-law*, Springer, Heidelberg, 2013, pp. 9-35.

⁴⁹*European Court of Justice. Biased Referee?* op. cit.

These principles have ensured that we have a coherent and effective judicial and institutional system. And though there has been criticism, mainly from those who feared "rule by judges", your jurisprudence has won the unanimous consensus and respect of the Member State courts.

The authority of the Court largely derives from the fact that its decisions are "the fruit of reason, not the power of dominant interests", as one Advocate-General put it.⁵⁰

Consequently, it depends on the point of view: for those who place integration as a top priority and believe in supranationalism, the ECJ serves as a perfect example of integration and still believe in separation of law and politics. Whereas for intergovernmentalists the accumulated power of the ECJ derives from integration through law and results in acquiring political power, therefore it cannot anymore act as an independent or impartial party and might be subject to favoring one or more member states, possibly the bigger ones.

⁵⁰European Commission, *Europe and the Rule of Law*, Speech 02/612, European Court of Justice, Luxembourg, 2002, p.2.

Bibliography

Primary Sources

1. *Consolidated Version of the Treaty on the Functioning of the European Union*, 9 May 2008, Official Journal of the European Union C 115/47.
2. European Commission, 30th Annual Report on Monitoring the Application of EU Law, Brussels, 2013.
3. European Commission, *Europe and the Rule of Law*, Speech 02/612, European Court of Justice, Luxemburg, 2002, p.2.
4. European Council, *The Laeken Declaration*, SN 273/01, European Council, Laeken, 2001.
5. EUROSTAT, *Population on 1 January*, 14 June 2013. Available at: <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tps00001>, (consulted on 01.11.2013).

Secondary Sources

Books

1. CHRISTIANSEN Thomas & REH Christine, *Constitutionalizing the European Union*, Palgrave Macmillan, Basingstoke, 2009, 328 p.
2. CRAIG Paul & DE BURCA Grainne, *EU Law: Text, Cases and Materials* (5th edition), Oxford University Press, Oxford, 2011, 1320 p.
3. DEHOUSSE Renaud, *The European Court of Justice. The Politics of Judicial Integration*, Palgrave Macmillan, London, 1998, 240 p.

Articles

1. ALTER Karen J., “Who are the “Masters of the Treaty”?: European Governments and the European Court of Justice”, in: *International Organization*, Vol. 52, No. 1, 1998, pp. 121-147.
2. BURLEY Anne-Marie & MATTLI Walter, “Europe before the Court”, in: *International Organization*, Vol. 47, No. 1, 1993, pp. 41–76.
3. GARRETT Geoffrey, “The Politics of Legal Integration in the European Union”, in: *International Organization*, Vol. 49, No. 1, 1995, pp. 171-181.

4. GARRETT Geoffrey & WEINGAST Barry, "Ideas, Interests, and Institutions: Constructing the EC's Internal Market", in: J Goldstein & R. Keohane (ed.), *Ideas and Foreign Policy*, Cornell University Press, Ithaca, 1993, pp. 173-206.
5. GRIMMEL Andreas, "Judicial Interpretation or Judicial Activism?: the Legacy of Rationalism in the Studies of the European Court of Justice", in: *Harvard Center for European Studies Working Papers Series*, No. 176, 2010, 32 p.
6. KELEMEN R. Daniel, "The Political Foundations of Judicial Independence in the European Union", in: *Journal of European Public Policy*, Vol. 19, No. 1, 2012, pp. 43-58.
7. TAMM Ditlev, "The History of the Court of Justice of the European Union Since its Origin", in: A. Rosas, E. Levits, Y. Bot (eds.), *The Court of Justice and the Construction of Europe: Analyses and Perspectives on Sixty Years of Case-law*, Springer, Heidelberg, 2013, pp. 9-35.
8. VAN ROSSEM Jan Willem, "The Autonomy of EU Law: More is Less?“, in: R. A. Wessel & S. Blockman (eds.), *Between Autonomy and Dependence. The EU Legal Order under the Influence of International Organisations*, Springer, New York City, 2013, p. 12-45.
9. WEILER Joseph, "The Transformation of Europe", in: *Yale Law Journal*, Vol. 100, No. 8, 1991, pp. 2403–2483.

Internet Sources

1. CHALMERS Damian, *The European Court of Justice has taken on huge new powers as "enforcer of the Treaty on Stability, Coordination and Governance. Yet its record as a judicial institution has been little scrutinized*, 7 March 2012. Available at: <http://blogs.lse.ac.uk/euoppblog/2012/03/07/european-court-of-justice-enforcer/>, (consulted on 01.11.2013).
2. *European Court of Justice. Biased Referee?* 15 May 1997. Available at: <http://www.economist.com/node/149581>, (consulted on: 06.11.2013).
3. *European Parliament and the Lisbon Treaty*. Available at: <http://www.europarl.europa.eu/aboutparliament/en/0042423726/Parliament-and-the-Lisbon-Treaty.html>, (consulted on 01.11.2013).

4. EVERSON Michelle, *Is the European court of justice a legal or political institution now?* 10.08.2010. Available at: <http://www.theguardian.com/law/2010/aug/10/european-court-justice-legal-political>, (consulted on 01.11.2013).
5. *Fiscal Compact Entered into Force on January 1 2013*, 1 January 2013. Available at: <http://www.european-council.europa.eu/home-page/highlights/fiscal-compact-enters-into-force-on-1-january-2013?lang=en> (consulted on 01.11.2013).
6. FLAMINI Roland, *Judicial Reach: The Ever-Expanding European Court of Justice*, November-December 2012. Available at: <http://www.worldaffairsjournal.org/article/judicial-reach-ever-expanding-european-court-justice>, (consulted on 01.11.2013).
7. POLLACK Mark A., *The Engines of European Integration, Delegation, Agency and Agenda-Setting in the EU*, Oxford University Press, Oxford, 2003, 496 p.
8. MONAR Jorg, *The European Union's Institutional Balance of Power after the Treaty of Lisbon*, 17 September 2010. Available at: http://ec.europa.eu/education/jean-monnet/doc/ecsa10/monarb_en.pdf, (consulted on 02.11.2013).
9. MORGUL Dilek, *The European Court of Justice: An Agent of Member States?* 28 April 2011. Available at: <http://www.e-ir.info/2011/04/28/the-european-court-of-justice-an-agent-of-member-states/>, (consulted on 02.11.2013).
10. *MP Calls for Action to 'End Rule by Unelected European Judges*, 13 January, 2012. Available at: <http://www.grimsbytelegraph.co.uk/MP-calls-action-end-rule-unelected-European/story-14412213-detail/story.html>, (consulted on: 01.11.2013).