



BRIEFING PAPER

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"Ever Closer Union" in the EU Treaties and Court of Justice case law

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Summary

The 1957 *Treaty Establishing the European Community* contained the objective of laying the foundations of an "ever closer union among the peoples of Europe".

This aim has remained in the EU Treaties ever since, surviving several Treaty amendments and one attempt to remove it and another to replace it with the phrase "federal union".

The Treaty text refers to a union of peoples, not of Member States.

The EU Court of Justice interprets the EU Treaties and EU law using a purposive approach, and is therefore bound to take into account the aim of "ever closer union" in its Opinions and Judgments. A very small percentage (0.2%) actually refer to this aim, and most of these are concerned with transparency and public access to official documents. But the "spirit" of closer union is often referred to in Court of Justice rulings.

The UK Government wants to remove "ever closer union" from the EU's aims, or to exempt the UK from it.

As "ever closer union" is written into the EU Treaties, removing it would imply that a Treaty amendment is needed.

Some commentators believe that amending the Treaties along these lines would not be too problematic. Others think that, given the political will among EU Member States, this could be achieved without Treaty change, by agreeing a protocol to this effect along the lines of earlier Treaty opt-out protocols, or adopting a political declaration.

1. The objective of “ever closer union” in the EU Treaties

1.1 From Rome to Maastricht

Treaty of Rome

The 1957 [Treaty Establishing the European Community](#) (TEC or Treaty of Rome) contained the objective of “ever closer union” in the following words in the Preamble: “*DÉTERMINÉS à établir les fondements d'une union sans cesse plus étroite entre les peuples européens*”. In English this is: “**Determined to lay the foundations of an ever closer union among the peoples of Europe**”.

Article 2 of the original TEC also promoted the ‘spirit’ of closer union in its description of the aims of the Community, ending with “**closer relations between the States belonging to it**”:¹

La Communauté a pour mission, par l'établissement d'un marché commun et par le rapprochement progressif des politiques économiques des États membres, de promouvoir un développement harmonieux des activités économiques dans l'ensemble de la Communauté, une expansion continue et équilibrée, une stabilité accrue, un relèvement accéléré du niveau de vie, et des relations plus étroites entre les États qu'elle réunit.

“And dealing properly with the concept of “ever closer union”, enshrined in the treaty, to which every EU country now has to sign up. It may appeal to some countries. But it is not right for Britain, and we must ensure we are no longer subject to it”.

David Cameron, [Telegraph, 15 March 2014](#)

Solemn Declaration on European Union

In the [Solemn Declaration on European Union](#) of June 1983, the then ten heads of state and government (including the UK) agreed:

... on the basis of an awareness of a common destiny and the wish to affirm the European identity, confirm their commitment to progress towards an **ever closer union among the peoples and Member States of the European Community**.

The *Solemn Declaration* added closer union among Member States, as well as the peoples of Europe.

Single European Act

Under the 1986 [Single European Act](#), Member States were: “MOVED by the will to ... **transform relations as a whole among their States into a European Union**”.

Maastricht Treaty

The objective of “ever closer union” was retained in the Preamble to the 1992 [Treaty on European Union](#) (TEU – Maastricht Treaty): “**RESOLVED to continue the process of creating an ever closer union among the peoples of Europe**, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity”.

¹ English translation, published as Cmnd. 5179-II, January 1973, upon UK entry into EEC.

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It was also located in Article 1 TEU: **"This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe**, in which decisions are taken as closely as possible to the citizen".

The end of Article 2 TEC was amended to "solidarity among Member States", rather than "closer relations".

An explicit reference to a "federal union" in an earlier Dutch Presidency draft, to which the UK Government had objected, was deleted.

1.2 "Ever closer union" since Maastricht

Amsterdam and Nice

The 1997 [Amsterdam Treaty](#) added a new qualification to "ever closer union": "in which decisions are taken **as openly as possible** and as closely as possible to the citizen". The Nice Treaty did not change this.

EU Constitution

As a result of UK pressure, the [Treaty Establishing a Constitution for Europe](#) did not contain the aim of "ever closer union" in the Preamble to the treaty itself, but it was assumed to be an EU aim in the Preamble to the *Charter of Fundamental Rights*, which was incorporated into the Constitution: "The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values". However, this treaty was rejected in referendums in 2005 in France and The Netherlands.

Lisbon Treaty

Since Lisbon (2009) the EU Treaties have contained three references to "ever closer union":

The **Preamble** to the [Treaty on European Union](#):

RESOLVED to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity.

Article 1 TEU with similar wording to earlier Treaties:

This Treaty marks **a new stage in the process of creating an ever closer union among the peoples of Europe**, in which decisions are taken as openly as possible and as closely as possible to the citizen.

The **Preamble** to the [Treaty on the Functioning of the European Union](#) (TFEU - the renamed TEC): "DETERMINED to lay the foundations of an ever closer union among the peoples of Europe ...".

A spirit of "solidarity" is specified or inherent in many Union policies and is also contained in a Solidarity Clause in Article 222 TFEU.

1.3 Context: political centralisation or general rhetoric?

“Ever closer union” in the Treaties is “among the peoples of Europe”, not among the Member States. This has led many experts to conclude that it is not about more centralisation and integration but subsidiarity, the principle that decisions are made at the lowest appropriate level. However, as Labour Peer Roger Liddle² points out: “Doctoral theses can be written on the legal and practical significance of the reference in the treaties to ‘ever-closer’-union”.³

The former Minister for Europe, Denis MacShane, pointed out that “When denouncing ‘ever closer union’, British Eurosceptics rarely add ‘of peoples’ and instead imply it refers to a union of states or governments which is explicitly not in the text”.⁴

Explicit or not, others attach much more importance to the phrase as a general but powerful EU aspiration. Former Liberal MEP Andrew Duff, for example, believes: “These words are not of marginal importance, but appearing in the first article of the treaty, predicate the whole constitutional order of the EU”.⁵

For many “ever closer union” is seen as a “lingering symbol of a ‘United States of Europe’ ambition”.⁶ The UK Government under Tony Blair successfully removed the phrase from the (failed) 2004 *Treaty Establishing a Constitution for Europe*, only for it to be re-inserted in the Lisbon Treaty.

David Cameron said on 21 October 2015 that “getting Britain out of ever closer union is not simply a symbol; it will be taken into account in all future jurisprudence” of the European Court of Justice.⁷

Sir William Cash⁸ did not think much would change as a result of removing “ever closer union” from the Treaties: “it would not change any of our existing EU obligations and laws, nor fundamentally change our relationship with the EU under the existing treaties [?]”.⁹

In reply the Prime Minister again emphasised that “ever closer union” was “important both symbolically and legally”, continuing:

It is important symbolically because the British people always felt that we were told we were joining a common market, and were never really told enough about this political union, which we have never been happy with. I want to make it explicit that for us it is principally a common market and not an ever-closer union, but

² Former Europe adviser to Tony Blair and adviser to the former EU Commission President, José Manuel Barroso.

³ Policy Network, “[Britain no longer part of ‘ever-closer’ union?](#)” 6 November 2015.

⁴ [EurActiv, 13 November 2015](#).

⁵ [BlogActiv, 13 November 2015](#).

⁶ Liddle, *ibid*.

⁷ [HC Deb 21 October 2015 c956](#).

⁸ Chair of the Commons European Scrutiny Committee.

⁹ [HC Deb 19 October 2015 c663](#). See also Lord Lamont: “I do not think that removing the phrase “ever closer union” will be of great legal significance. It is largely symbolic”, [HL Deb 13 October 2015 c108](#); [Douglas Carswell blog](#), 10 November 2015.

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this concept does have legal force because ever-closer union has been used by the courts to enforce centralising judgments and I want that to change.

Conor James McKinney points out that there are other examples of political symbolism in the EU Treaties which are equally, if not more, potent:

... the treaties have plenty more general rhetoric where that came from. They talk about "a new stage in the process of European integration"; "further steps to be taken in order to advance European integration"; of "solidarity" and "convergence". The Court, Commission and other EU bodies could take the view that the spirit of European integration isn't necessarily confined to one phrase.¹⁰

He also notes that the phrase "has little *direct* legal effect", while acknowledging the argument "that it provides the EU Court of Justice with an overriding sense of mission toward further European integration. The impact of its removal would be mainly political".¹¹

¹⁰ Fullfact.org, "[Renegotiating "ever closer union"](#)", Conor James McKinney, 14 July 2015.

¹¹ McKinney, *ibid.*

2. “Ever closer union” at the EU Court of Justice

2.1 Introduction

A *Curia* word search of EU case law in the Court of Justice, General Court and Civil Service Tribunal (and their antecedent institutions) in which the objective of “ever closer union” is cited gave 57 occasions at the time of writing, and not all of these were final judgments.¹² This is a very small number of cases overall. From 28 November 1954 until 13 November 2015 there have been 29,969 cases (including opinions) at the EU courts. 57 represents only 0.19% of the total number of cases.

Of those 57 cases, 34 concerned institutional transparency and access to official documents, 19 cases concerned other matters (e.g. accession to the European Convention on Human Rights, free movement, equal treatment, access to benefits, Schengen, judicial cooperation, access to education). In 4 cases, “ever closer union” occurred in a footnote in the ruling, referring to a landmark case concerning judicial cooperation (*Pupino*).

But, as Gunnar Beck pointed out in 2012, the ‘spirit’ of closer union is much more often referred to in Court of Justice rulings:

... if the case law search is broadened from the expression ‘ever closer union’ to include the words ‘spirit of’ and ‘spirit and’ there are 554 cases during the same reference period, in which the Court refers to either the ‘closer union’ objective or the spirit of either the Treaties or of individual provisions. The latter broader measure provides a better indication of the true importance of the ‘closer union’ objective which underlies the purposive framework of the Treaties and is therefore difficult to over-estimate. Its effect has almost certainly been to take the development of de facto precedents in EU law cumulatively into a more communautaire direction than a more pluralistic structure of treaty-based objectives would have done. For the status of the concept of ‘closer union’ as a kind of meta-objective tends to give any reference to purposive arguments and hence the Court’s cumulative approach an in-built integrationist flavour. It is a characteristic feature of the Court’s meta-teleological interpretation that the Court understands purpose at a high, systemic level of generality, which tends to favour or enhance further EU integration.¹³

Many critics believe the EU Court has typically tried to resolve legal uncertainty and pursue an integrationist agenda by relying on the flexibility afforded by the objective of “ever closer union”. Others write of “the court’s mandate to pursue ever-closer union”.¹⁴ John Rentoul¹⁵ commented:

“... the phrase has little *direct* legal effect, although it’s been argued that it provides the EU Court of Justice with an overriding sense of mission toward further European integration. The impact of its removal would be mainly political”.

[Full Fact](#), Conor James McKinney, 4 November 2015

¹² Some are preliminary opinions by an Advocate-General.

¹³ *The Legal Reasoning of the Court of Justice of the EU*. 2012.

¹⁴ The Court of Justice’s Vision for and Development of EU Democracy, David Yuratich, Bournemouth University. UACES conference paper 2014 at <http://www.uaces.org/documents/papers/1401/yuratich.pdf>.

¹⁵ Chief political commentator for The Independent on Sunday.

It is an aspiration, and for a closer union "among the peoples of Europe", not the countries thereof. It has no legal effect, except that it suffuses the assumptions of the European Court of Justice with idealistic federalism.¹⁶

Professor Derrick Wyatt QC¹⁷ thinks "The aim of 'ever closer union' has probably played a larger role in the thinking of the Court of Justice than appears on the face of the Court's judgments".¹⁸ He described the numerous judgments "driven by judicial policy, rather than reached by a convincing process of legal analysis and reasoning", stating that this approach had led "to a relentless increase in EU competence, and has undermined the political and democratic processes provided for or recognised in the Treaties. The formulation of 'ever closer union' has underpinned this approach, and cannot be described as solely symbolic".¹⁹

2.2 Examples of "ever closer union" in EU Court of Justice case law

The following extracts from opinions and rulings of the EU Court are examples from the last five years, and the full current list of 57 is in the Appendix to this briefing:

- [OPINION 2/13 OF THE COURT](#) (Full Court), 18 December 2014.

Accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms — Compatibility of the draft agreement with the EU and FEU Treaties):

167. These essential characteristics of EU law have given rise to a structured network of principles, rules and mutually interdependent legal relations linking the EU and its Member States, and its Member States with each other, which are now engaged, as is recalled in the second paragraph of Article 1 TEU, in a 'process of creating an **ever closer union** among the peoples of Europe'.

- [JUDGMENT OF THE GENERAL COURT](#) (Fifth Chamber), 25 October 2013.

Access to documents – Regulation (EC) No 1049/2001 – Document drawn up by the Commission in the context of the merger between Deutsche Börse and NYSE Euronext – Refusal to grant access – Exception relating to the protection of the decision-making process. Case T-561/12:

19. It should be noted in that regard that, in accordance with the first recital of Regulation No 1049/2001, that regulation reflects the intention expressed in the second paragraph of Article 1 EU – inserted by the Treaty of Amsterdam – of marking a new stage in the process of creating an **ever closer union** among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen. As stated in the second recital of that regulation, right of public access to documents of the institutions reflects the democratic nature of those institutions

¹⁶ [Independent](#), 30 September 2013.

¹⁷ University of Oxford and Brick Court Chambers.

¹⁸ [Open Europe blog, 15 October 2015](#).

¹⁹ *Ibid*.

(see Case C-506/08 P Sweden v MyTravel and Commission [2011] ECR I-6237, paragraph 72 and the case-law cited).

- [Case C-477/10 European Commission v Agrofert Holding, a.s.](#)
OPINION OF ADVOCATE GENERAL CRUZ VILLALÓN delivered on 8 December 2011.

Appeal — Access to documents of the institutions — Refusal — Exception based on the protection of commercial interests:

28. According to recital 4 in the preamble to Regulation No 1049/2001, 'the purpose of this regulation is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and limits on such access in accordance with Article 255(2) of the EC Treaty'. (9) That regulation thus seeks, as recital 1 in its preamble states, to put into practice the intention, expressed in Article 1 TEU, of 'creating an **ever closer union** among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen'.

- [OPINION OF ADVOCATE GENERAL BOT](#) delivered on 6 March 2012.

Case C-364/10, Hungary v Slovak Republic. Failure of a Member State to fulfil obligations – Article 259 TFEU – Article 21(1) TFEU – Directive 2004/38/EC – Right of EU citizens to move within the territory of the Member States – Refusal to allow the President of Hungary to enter the territory of the Slovak Republic – Application of European Union law to Heads of State – Wrongful application of European Union law:

That said, as in the case of any competence reserved for them, the Member States should not exercise their diplomatic competence in a manner that might lead to a lasting break in diplomatic relations between two Member States. Such a break would, in fact, be incompatible with the integration process aimed at creating, in the words of the preamble to the EU Treaty, 'an **ever closer union** among the peoples of Europe' and would constitute a barrier to the attainment of the essential objectives of the Union, including the aim of promoting peace.

- [OPINION OF ADVOCATE GENERAL KOKOTT](#) delivered on 10 March 2011.

Case C-71/10 Office of Communications v The Information Commissioner. Reference for a preliminary ruling from the Supreme Court of the United Kingdom (Directive 2003/4/EC – Access to environmental information – Exceptions – Public interest in disclosure – Interest served by refusal – Balancing exercise – Cumulation of interests:

21. Furthermore, the Treaty of Amsterdam has in the meantime given expression, in the second paragraph of Article 1 EU, to the intention to create an **ever closer union** among the peoples of Europe in which decisions are taken as openly as possible and as closely as possible to the citizen. For that purpose Article 15 TFEU (formerly Article 255 EC) requires the institutions to observe the principle of transparency and – together with Article 42 of the Charter of Fundamental Rights – provides for a right of access to

their documents. This right is made a reality by Regulation (EC) No 1049/2001, (8) which by Article 3 et seq. of Regulation (EC) No 1367/2006 (9) also governs the application of the law on environmental information to EU institutions and bodies.

- [OPINION OF ADVOCATE GENERAL Kokott](#) delivered on 14 October 2010.

Case C-524/09 Ville de Lyon v Caisse des dépôts et consignations. Reference for a preliminary ruling from the Tribunal administratif de Paris (France) Environment policy – Directive 2003/87/EC – Greenhouse gas emission allowance trading – Regulation (EC) No 2216/2004 – Community system of registries – Directive 2003/4/EC – Access to environmental information – Access to information on greenhouse gas emission trading – Refusal to disclose such information – Responsibilities of the Central Administrator and of the national registry administrator – Confidentiality of information held in the registry and possibility of an exception:

28. The Court has held, with regard to the old Environmental Information Directive, Directive 90/313/EEC, (10) that the legislature's intention was to make the concept of 'information relating to the environment' a broad one. (11) The Court considers the definition in Article 2(1) of the new Environmental Information Directive to be even wider and more detailed. (12) Furthermore, the Treaty of Amsterdam has in the meantime given expression, in the second paragraph of Article 1 EU, to the intention to create an **ever closer union** among the peoples of Europe in which decisions are taken as openly as possible and as closely as possible to the citizen. For that purpose Article 15 TFEU (formerly Article 255 EC) requires the institutions to observe the principle of transparency and – together with Article 42 of the Charter of Fundamental Rights – provides for a right of access to documents.

- [OPINION OF ADVOCATE GENERAL KOKOTT](#) delivered on 3 February 2011.

Cases C-403/08 and C-429/08, Football Association Premier League Ltd and Others v QC Leisure and Others. Reference for a preliminary ruling from the High Court of Justice, Chancery Division, United Kingdom; Karen Murphy v Media Protection Services Ltd. Reference for a preliminary ruling from the High Court of Justice, Administrative Court, United Kingdom. Satellite transmission of football matches – Marketing of decoder cards which have been lawfully placed on the market in other Member States – Directive 98/84/EC – Legal protection of services based on conditional access – Illicit access device – Directive 2001/29/EC – Harmonisation of certain aspects of copyright and related rights in the information society – Reproduction right – Communication to the public – Directive 93/83/EEC – Coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable transmission – Free movement of goods – Freedom to provide services – Competition – Article 101(1) TFEU – Concerted practices – Practice having the object of preventing, restricting or distorting competition – Criteria for assessing the anti-competitive object of a practice:

29. Directive 93/83 deals with issues relating to intellectual property in the field of satellite broadcasting. Various recitals in its

preamble are of particular importance for an understanding of the directive:

'(1) the objectives of the Community as laid down in the Treaty include establishing an **ever closer union** among the peoples of Europe, fostering closer relations between the States belonging to the Community and ensuring the economic and social progress of the Community countries by common action to eliminate the barriers which divide Europe;

3. Changing "ever closer union"

The Prime Minister has made removing "ever closer union" from the EU's aims - or from the UK's aims in the EU – a main theme of his proposed reform. He wrote in the [Telegraph, 15 March 2014](#):

And dealing properly with the concept of "ever closer union", enshrined in the treaty, to which every EU country now has to sign up. It may appeal to some countries. But it is not right for Britain, and we must ensure we are no longer subject to it.

He [informed](#) the Commons on 29 June 2015 of the June European Council and the UK's reform proposals, saying:

We will put the Common Market back at the heart of our membership, get off the treadmill to ever-closer union, address the issue of migration to Britain from the rest of the EU and protect Britain's place in the single market for the long term.

As "ever closer union" is enshrined in the EU Treaties, removing it or amending it would imply a need for Treaty change. At present it is not clear how much support David Cameron would have for this.²⁰

Roger Liddle thinks there would be little support for David Cameron's demand, not because it would be difficult to achieve, but because of the precedent it might set for more opt-outs:

There is also awkward politics at stake for our partners. Why agree to a high-profile symbolic retreat from the general commitment to European integration by a single member state, when the EU itself faces powerful forces for disintegration from within? Who would be the next to follow? How would the anti-European populists in other member states make use of such a significant concession to Britain? Why should François Hollande agree to a change in order to ease David Cameron's political problems with Ukip and its Tory sympathisers, when the National Front's Marine Le Pen (who represents a far greater threat to Hollande's politics in France than Farage does to Cameron's politics in Britain) will criticise him for weakness in not securing similar anti-European symbols for France?²¹

However, some commentators suggest that Treaty change might not be necessary; that there are other ways in which "ever closer union" could be made to not apply to the UK, given sufficient support for this in the EU.

The Conservative Fresh Start group and the think tank Open Europe suggested either amending the Treaties to clarify that "ever closer union" does not apply equally to all Member States, or adopting a political declaration to this effect.²² This would confirm the [June 2014](#)

"... we want an end to our commitment to an 'ever closer union,' as enshrined in the Treaty".

Conservative election Manifesto, May 2015

²⁰ He may have support from Denmark and the Netherlands (the Dutch Government said in 2013 "the time of an 'ever closer union' in every possible policy area is behind us"). According to a public opinion poll published by Opinium Research in August 2015, 35% supported moving towards ever closer union, while 49% believed the EU should stay where it is in terms of integration or repatriate powers to Member States. See [Open Europe comment](#), 13 August 2015.

²¹ Policy Network, [Britain no longer part of 'ever-closer' union?](#) 6 November 2015.

²² EU Fresh Start, ['Strategies for Fundamental EU reform: How to Achieve Treaty Change without Changing the Treaties!'](#) December 2014.

[European Council conclusions](#), which noted a political interpretation of ever closer union:

... the concept of ever closer union allows for different paths of integration for different countries, allowing those that want to deepen integration to move ahead, while respecting the wish of those who do not want to deepen any further.

Economist Vicky Pryce sees conflicting evidence of ever closer union and wonders whether “it would be better to start rethinking whatever closer union really means, and whether Europe will ever get there”.²³

Daniel Hannan, Conservative MEP, thought “ever closer union” might not require Treaty change via the Ordinary Revision Procedure (i.e. the full process involving an IGC and possibly a convention), but via a simplified revision process:

Federalist governments are relaxed about that change: they know that the rules will continue to be interpreted by the integrationist European Court of Justice, which is always ready to disregard what the treaties say in favour of what it thinks they ought to say. Such a teensy tweak won't require a new treaty or new parliamentary ratification, say Euro-lawyers. It's minor enough to be enacted through the self-amending mechanism introduced in Article 48 of the Lisbon Treaty.²⁴

Andrés Ortega of the Elcano Royal Institute thinks Jean-Claude Juncker's proposals for progress in an energy union, capital markets and digital union will appeal to the UK Government as they aim to increase growth and employment. But he notes that although they might “lead to new steps towards that ‘ever closer union’”, “it will no longer involve all the peoples of Europe”.²⁵

Former Europe Minister Denis MacShane did not think changing the aim for the UK would be problematic:

It should not be impossible for EU lawyers to find words together with FCO experts that can be added to the next Treaty whenever that is negotiated. There are forthcoming Treaties on possible enlargement and a potentially a big one to put on a full Treaty basis some of the supervisory mechanisms that have been created in the Eurozone.

At the moment a British declaration agreed in principle now can be inserted into a new Treaty. For the time being such a declaration can be lodged with the United Nation or the World Court [...] as a solemn undertaking by the EU to declare that the aspiration to ‘an ever closer union of peoples’ does not apply to the UK.²⁶

Raoul Ruparel, Co-Director at Open Europe, considered the proven ‘flexibility’ of the EU in finding a way around problems. Of the “ever

²³ [Europe's World, 24 February 2014](#).

²⁴ Conservativehome, 18 February 2015, [Cameron's coming EU renegotiation will alter nothing](#).

²⁵ Elcano Royal Institute, [Global Spectator: Goodbye to an ever closer EU, or perhaps not?](#) Andrés Ortega 2/06/2015

²⁶ Opinion, [EurActiv, 13 November 2015](#).

closer union" issue, he thought "in the EU where there is a will, there is a way".²⁷

Alain Dauvergne of the Jacques Delors Institute thought granting the UK an exemption from ever closer Union "should its partners give their consent – will require some inventiveness".²⁸

Professor Steve Peers suggested a legally binding Decision:

... it could be arguable that a legally binding Decision of Member States' Head of State and Government can clarify that this does not mean (for instance) that the UK is bound to sign up to Schengen or the single currency, or must give up its JHA opt-outs or join an EU army (and so on). Such legally binding Decisions are only valid under EU law if they do not contradict the Treaties; but there would be no such conflict if the Decision simply confirmed existing legal rules.²⁹

Roger Liddle considered the practical effect of a UK opt-out from ever closer union:

What would change as a result? Does the removal of a British commitment to 'ever-closer' union rule out closer British cooperation in future in other non-euro fields such as defence and external relations, energy and climate change, migration and asylum? Would it be seen as giving the British a right to opt-out of any future piece of legislation to which they objected? Why should the British have the right to be members of a 'pick and choose' Europe, when the basic principle of European integration is that the same set of rules should apply to all – even though the existence of much 'variable geometry' means that this principle is sometimes honoured only in its breach.³⁰

²⁷ The Spectator, [Thankfully for Cameron, EU treaty change isn't a black and white issue](#), Raoul Ruparel, 26 May 2015.

²⁸ Notre Europe, Policy paper 129, 30 March 2015. [Cameron: taking a gamble on Europe](#).

²⁹ EU law analysis blog, "[Cameron's Chatham House speech: Full speed ahead for the renegotiation of the UK's EU membership?](#)" 10 November 2015.

³⁰ Policy Network, [Britain no longer part of 'ever-closer' union?](#) 6 November 2015.

4. Further reading

- *Financial Times*, 21 June 2013, "[Time for 'ever closer union' in Europe over, say Dutch](#)"
- *Europe's World*, [Perhaps the British were right all along about the perils of ever-closer union](#), 24 February 2014, Spring 2014
- *The Parliament Magazine*, [David Cameron's EU renegotiation strategy must focus on alternative to 'ever closer union'](#), Brian Johnson, 9 June 2015
- *EurActiv* [UK in Europe](#) pages
- NOMOS, The EU Between 'an Ever Closer Union' and Inalienable Policy Domains of Member States, Thomas Giegerich | Oskar Josef Gstrein, Sebastian Zeitzmann [eds.] 2014
- Grahnlaw, [Ever closer union – without Britain](#), 30 June 2014
- UACES Conference Paper, [The Court of Justice of the European Union's vision for and development of EU democracy](#), David Yuratich, Bournemouth University, UACES 44th Annual Conference Cork, 1-3 September 2014
- Gunnar Beck, The Legal Reasoning of the Court of Justice of the EU, Modern Studies in European Law, 2012
- [EVER CLOSER UNION? SUPRANATIONALISM AND INTERGOVERNMENTALISM AS CONCEPT](#), fifth pan-European conference on EU politics, Portugal, 23-26 June 2010, "How EU Institutions form positions". Adriaan Schout & Sarah Wolff Netherlands Institute of International Relations ('Clingendael')
- Desmond Dinan, Ever Closer Union: An Introduction to European Integration. Palgrave Macmillan (The European Union Series), August 2010
- Desmond Dinan, Ever Closer Union. Boulder, London: Lynne Rienner Publishers, 1999

5. Appendix

Court of Justice cases citing "ever closer union"

Case	Document	Date	Name of the parties	Subject-matter	Curia	EUR-Lex
Avis 2/13	Opinions of the Court ECLI:EU:C:2014:2454	18/12/2014	Avis au titre de l'article 218, paragraphe 11, TFUE			
C-350/12 P	Opinion ECLI:EU:C:2014:88	13/02/2014	Council v In 't Veld	Provisions governing the institutions - Access to documents		
C-280/11 P	Judgment ECLI:EU:C:2013:671	17/10/2013	Council v Access Info Europe	Provisions governing the institutions - Access to documents		
C-477/10 P	Opinion ECLI:EU:C:2011:817	08/12/2011	Commission v Agrofert Holding	Provisions governing the institutions		
C-364/10	Opinion ECLI:EU:C:2012:124	06/03/2012	Hungary v Slovakia	Citizenship of the Union - Right of entry and residence		
C-71/10	Opinion ECLI:EU:C:2011:140	10/03/2011	Office of Communications	Environment		
C-524/09	Opinion ECLI:EU:C:2010:613	14/10/2010	Ville de Lyon	Environment - Pollution		
C-506/08 P	Opinion ECLI:EU:C:2011:107	03/03/2011	Sweden v MyTravel and Commission	Provisions governing the institutions		
C-506/08 P	Judgment ECLI:EU:C:2011:496	21/07/2011	Sweden v MyTravel and Commission	Provisions governing the institutions		
C-429/08	Opinion ECLI:EU:C:2011:43	03/02/2011	Murphy	Freedom of establishment		
C-403/08	Opinion ECLI:EU:C:2011:43	03/02/2011	Football Association Premier League and Others	Freedom of establishment		
C-73/08	Opinion ECLI:EU:C:2009:396	25/06/2009	Bressol and Others	Principles, objectives and tasks of the Treaties		

C-28/08 P	Judgment ECLI:EU:C: 2010:378	29/06/2010	Commission v Bavarian Lager	Free movement of goods - Quantitative restrictions - Measures having equivalent effect		
C-23/08	Opinion ECLI:EU:C: 2009:150	12/03/2009	Koupatantze	Principles, objectives and tasks of the Treaties		
C-22/08	Opinion ECLI:EU:C: 2009:150	12/03/2009	Vatsouras	Principles, objectives and tasks of the Treaties		
C-532/07 P	Judgment ECLI:EU:C: 2009:2	21/09/2010	Commission v API	Provisions governing the institutions - Access to documents		
C-528/07 P	Judgment ECLI:EU:C: 2009:2	21/09/2010	API v Commission	Provisions governing the institutions - Access to documents		
C-514/07 P	Judgment ECLI:EU:C: 2010:541	21/09/2010	Sweden v API and Commission	Provisions governing the institutions - Access to documents		
C-139/07 P	Opinion ECLI:EU:C: 2009:520	08/09/2009	Commission v Technische Glaswerke Ilmenau	Provisions governing the institutions		
C-345/06	Opinion ECLI:EU:C: 2008:212	10/04/2008	Heinrich	Provisions governing the institutions - Acts of the institutions		
C-450/05	Opinion	28/06/2007	Wachter	Freedom of establishment		
C-440/05	Opinion ECLI:EU:C: 2007:393	28/06/2007	Commission v Council	Justice and home affairs	 	
C-419/05	Opinion	28/06/2007	Möser	Freedom of establishment		
C-396/05	Opinion ECLI:EU:C: 2007:392	28/06/2007	Habelt	Freedom of establishment	 	
C-303/05	Opinion ECLI:EU:C: 2006:552	12/09/2006	Advocaten voor de Wereld	Justice and home affairs	 	
C-39/05 P	Judgment ECLI:EU:C: 2008:374	01/07/2008	Sweden and Turco v Council	Provisions governing the institutions - Access to documents		
C-467/04	Opinion ECLI:EU:C: 2006:406	15/06/2006	Gasparini and Others	Justice and home affairs	 	
C-354/04 P	Opinion ECLI:EU:C: 2006:667	26/10/2006	Gestoras Pro Amnistia and Others v Council	Justice and home affairs	 	

19 "Ever Closer Union" in the EU Treaties and Court of Justice case law

C-147/03	Opinion ECLI:EU:C: 2005:40	20/01/2005	Commission v Austria	Principles, objectives and tasks of the Treaties		
C-105/03	Opinion ECLI:EU:C: 2004:712	11/11/2004	Pupino	Justice and home affairs		
C-105/03	Judgment ECLI:EU:C: 2005:386	16/06/2005	Pupino	Justice and home affairs		
C-105/03	Judgment (Summary) ECLI:EU:C: 2005:386	16/06/2005	Pupino	Justice and home affairs		
C-385/01	Judgment ECLI:EU:C: 2003:87	11/02/2003	Brügge	Justice and home affairs		
C-187/01	Judgment ECLI:EU:C: 2003:87	11/02/2003	Gözütok	Justice and home affairs		
T-424/14	Judgment ECLI:EU:T: 2015:848	13/11/2015	ClientEarth v Commission	Provisions governing the institutions - Access to documents	http://curia.europa.eu/juris/img/btn_document.gif	
T-496/13	Judgment ECLI:EU:T: 2015:374	11/06/2015	McCullough v Cedefop	Provisions governing the institutions - Access to documents	http://curia.europa.eu/juris/img/btn_document.gif	
T-115/13	Judgment ECLI:EU:T: 2015:497	15/07/2015	Dennekamp v Parliament	Provisions governing the institutions - Access to documents	http://curia.europa.eu/juris/img/btn_document.gif	
T-561/12	Judgment ECLI:EU:T: 2013:558	25/10/2013	Beninca v Commission	Provisions governing the institutions - Access to documents		
T-223/12	Judgment ECLI:EU:T: 2014:975	19/11/2014	Ntouvas v ECDC	Provisions governing the institutions - Access to documents		
T-188/12	Judgment ECLI:EU:T: 2015:124	27/02/2015	Breyer v Commission	Provisions governing the institutions - Access to documents	http://curia.europa.eu/juris/img/btn_document.gif	
T-545/11	Judgment ECLI:EU:T: 2013:523	08/10/2013	Stichting Greenpeace Nederland and PAN Europe v Commission	Agriculture and Fisheries - Plant health legislation		
T-447/11	Judgment ECLI:EU:T: 2014:267	21/05/2014	Catinis v Commission	Provisions governing the institutions - Access to documents		
T-111/11	Judgment ECLI:EU:T: 2013:482	13/09/2013	ClientEarth v Commission	Provisions governing the institutions - Access to documents		
T-339/10	Judgment ECLI:EU:T: 2013:38	29/01/2013	Cosepuri v EFSA	European Union public contracts		
T-300/10	Judgment ECLI:EU:T:	22/05/2012	Internationaler Hilfsfonds v	Provisions governing the institutions		

	2012:247		Commission	- Acts of the institutions		
T-167/10	Judgment ECLI:EU:T: 2012:651	06/12/2012	Evropaïki Dynamiki v Commission	Competition	[]	2
T-17/10	Order ECLI:EU:T: 2012:625	27/11/2012	Steinberg v Commission	Provisions governing the institutions - Access to documents	[]	2
T-471/08	Judgment ECLI:EU:T: 2011:252	07/06/2011	Toland v Parliament	Provisions governing the institutions - Access to documents	[]	2
T-166/05	Judgment ECLI:EU:T: 2009:65	11/03/2009	Borax Europe v Commission	Provisions governing the institutions	[]	2
T-121/05	Judgment ECLI:EU:T: 2009:64	11/03/2009	Borax Europe v Commission	Provisions governing the institutions	[]	2
T-337/04	Judgment ECLI:EU:T: 2007:357	27/11/2007	Pitsiorlas v Council and ECB	Provisions governing the institutions - Access to documents	[]	2
T-84/03	Judgment ECLI:EU:T: 2004:339	23/11/2004	Turco v Council	Provisions governing the institutions - Access to documents	[] []	2
T-315/01	Judgment ECLI:EU:T: 2005:332	21/09/2005	Kadi v Council and Commission	Free movement of capital	[] []	2
T-306/01	Judgment ECLI:EU:T: 2005:331	21/09/2005	Yusuf and Al Barakaat International Foundation v Council and Commission	External relations - Common foreign and security policy	[] []	2
T-211/00	Judgment ECLI:EU:T: 2002:30	07/02/2002	Kuijer v Council	Provisions governing the institutions - Access to documents	[] []	2
T-3/00	Judgment ECLI:EU:T: 2007:357	27/11/2007	Pitsiorlas v Council and ECB	Provisions governing the institutions - Access to documents	[] []	2
T-191/99	Judgment ECLI:EU:T: 2001:284	11/12/2001	Petrie and Others v Commission	Provisions governing the institutions	[] []	2

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