The Reparation for Injuries Case Revisited: The Personality of the European Union

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I. Introduction

The advisory opinion given by the International Court of Justice in 1949 and concerning the “Reparation for Injuries Suffered in the Service of the United Nations” (hereinafter “the Reparation Case”) undoubt-

edly constitutes a leading case on the legal personality of international organizations. In its decision, the Court considered that the functions and rights conferred to the United Nations by its constituent instrument were such that they necessarily implied the attribution of international personality to the organization. This case, dealt with by the ICJ 50 years ago, has certainly not lost its relevance. It is therefore not by accident that the Reparation Case is frequently referred to in writings1 devoted to the current legal issue relating to the legal status of the European Union.

The establishment of the European Union by the Treaty of Maastricht of 7 February 1992, as modified by the Treaty of Amsterdam signed on 2 October 1997, has indeed been the subject of a number of articles which address the question of the international personality of this entity. Although the Treaty on European Union does not expressly recognize the personality of the Union, it contains provisions which reinforce the identity, if not the personality, of the European Union. It seems therefore appropriate to explore this question in the light of the learning which may be derived from the Reparation Case, keeping in mind that the issue exceeds the European level and has to be addressed in a broader context relating to the personality of intergovernmental organizations.

1. Organizations and International Personality

Today, it is stating the obvious to say that international organizations are subjects of international law. This assertion, whose accuracy is gen-