



**Faculty of Law**  
**University of Macau**

*The European Union and the Organization for the Harmonization  
of Business Law in Africa: Comparative Perspectives on their  
Institutional Frameworks and Legal Orders*

**Thesis submitted to the Faculty of Law in partial fulfilment of the requirements  
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by

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This work has not been submitted anywhere else, either in part or whole, for a degree or other academic credits.

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## ABSTRACT

The application of concepts and expressions in the context of regional integration is likely to be done incorrectly if the different experiences that populate this phenomenon are not fully taken into account. Indeed, if the (legal) realities that these concepts and expressions are to describe in such context are not taken into account, we may be presented with unwarranted approximations obscuring distinct identities that may ultimately influence legal solutions applied in that same context.

The comparison of the institutional framework and legal order of the European Union and of the Organization for the Harmonization of Business Law in Africa may have the advantage of showing precisely such limitations, particularly for the latter, whose legal literature often use concepts such as community law, supranationality or legal integration, the content of which has been polarized by the paradigmatic integrative experience of the European Union.

As will be demonstrated, particularly through the notions of autonomy and cooperation and of hierarchy, the European Union and the Organization for the Harmonization of Business Law in Africa both being attempts to solve and address fundamental problems felt by the participating States and the peoples within their respective regional contexts represent different and even opposite integrative solutions.

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## LIST OF ABBREVIATIONS

- Am. J. Comp. L.** American Journal of Comparative Law
- Am. J. Int'l L.** American Journal of International Law
- AU** African Union
- BCEAO** Banque Central des États d'Afrique Oriental
- BEAC** Banque des États d'Afrique Central
- Brit. Y. B. Int'l L.** British Yearbook of International Law
- CEMAC** Communauté Économique et Monétaire de l'Afrique Centrale
- CFA** Franc de la Communauté financière de L'Afrique and the franc de la coopération financière Africaine
- Charter of Fundamental Rights** Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007
- Chi.-Kent. L. Rev.** Chicago-Kent Law Review
- CIMA** Conférence Inter-Africaine des Marchés des Assurance
- CIPRES** Conférence Inter-Africaine de la Prévoyance Social
- Colum. J. Eur. L.** Columbia Journal of European Law
- Colum. J. Eur. L. Online** Columbia Journal of European Law Online
- Conference** The Conference of the Heads of State and Government
- COREPER** Committee of Permanente Representatives of the Governments of the Member States
- ECB** European Central Bank
- ECJ** Court of Justice of the European Union
- ECR** European Court Reports
- ECSC** European Coal and Steel Community
- EEC** European Economic Community

<b>ELRev.</b>	European Law Review
<b>EMU</b>	Economic and Monetary Union of the European Union
<b>EP</b>	Member of the European Parliament
<b>ERSUMA</b>	Regional High Judiciary School
<b>ESCB</b>	European System of Central Banks
<b>EU</b>	European Union
<b>EURATOM</b>	European Atomic Energy Community
<b>Harv. Int'l L.J.</b>	Harvard International Law Journal
<b>Treaty of Lisbon</b>	Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed in Lisbon, on 13 December 2007
<b>ICJ</b>	International Court of Justice
<b>IGC</b>	Intergovernmental Conference
<b>Mod. L. Rev.</b>	Modern Law Review
<b>OAPI</b>	Organisation Africaine de la Propriété Intellectuelle
<b>O.J.</b>	Official Journal of the European Union
<b>OHADA</b>	Organisation pour L'Harmonisation en Afrique du Droit des Affaires
<b>OHADA Treaty</b>	Traité de Port-Louis du 17 octobre 1993 Modifié par le Traité de Québec du 17 octobre 2008
<b>QMV</b>	Qualified majority vote
<b>TEC</b>	Treaty on the European Community, as amended
<b>TEU</b>	Treaty on the European Union, as amended
<b>TFEU</b>	Treaty on the Functioning of the European Union
<b>Tul. J. Int'l &amp; Comp. L.</b>	Tulane Journal of International and Comparative Law
<b>UEMOA</b>	Union Économique et Monétaire Ouest Africaine

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