

What is European Law?

European Organisations

International Treaties based...

- Council of Europe (ECHR!)
- Organization of Economic Cooperation and Development (OECD)
- European Free Trade Area (EFTA)
- European Economic Area (EEA)
- Organization of Security and Cooperation in Europe (OSCE)

European Union

- European Law = EU Law (excluding organizations)

- Why is the EU (and it's law) so special?

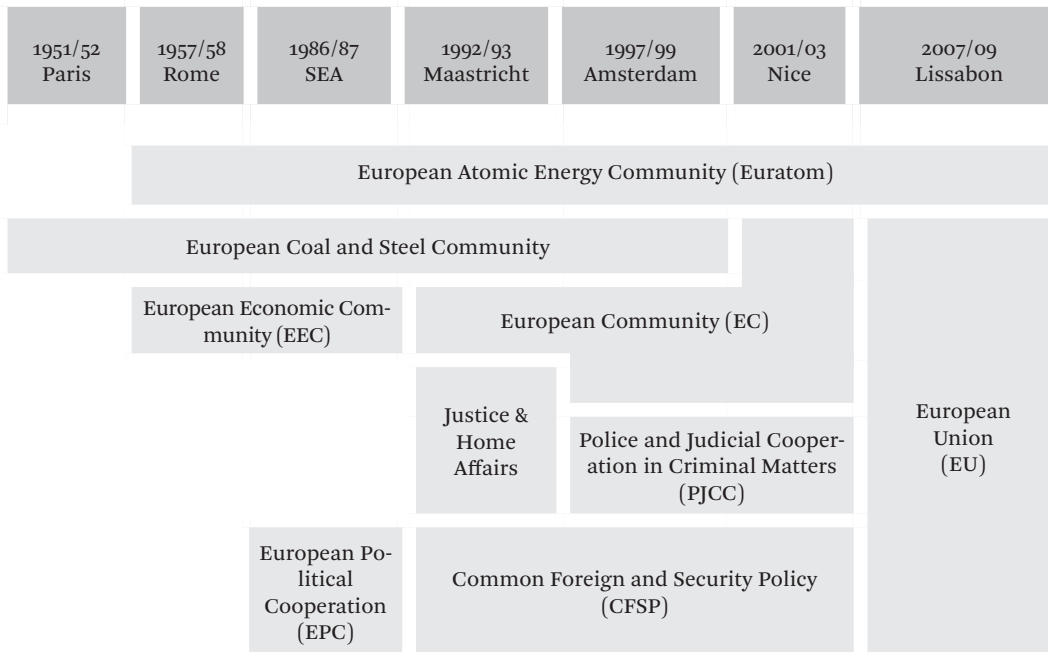
What is the EU?

- **28 Member States**
 - 1951/1957: Belgium, Germany, France, Italy, Luxembourg, Netherlands
 - 1973: Great Britain, Ireland und Denmark
 - 1981: Greece
 - 1986: Portugal und Spain
 - 1995: Sweden, Finland und Austria
 - 2004: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia
 - 2007: Romania and Bulgaria
 - 2013: Croatia

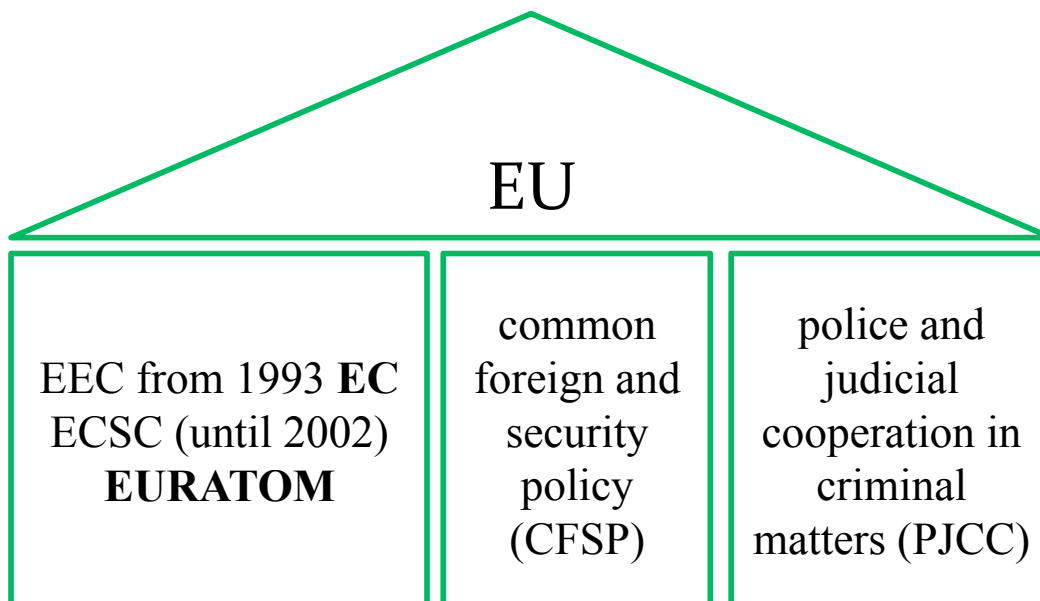
Aims of the EU – Art 3 TEU

- Promotion of **peace**, its **values** and the **well-being** of its people
- Area of **freedom**, **security** and **justice** without internal **frontiers**
- Establishment of an **internal market**
- Establishment of an **economic** and **monetary union**
- Promote the values and interests of the Union in **international relations**
- Contribute to **peace**, **security**, **sustainable development** and the protection of human rights

(Primary) European Law



3-pillar model before the Lisbon Treaty



Reform Treaty of Lisbon

- Reform Treaty of Lisbon (Lisbon Treaty 2007/2009)
- The 3-pillars-model was abandoned on 1 December 2009 with the entry into force of the Treaty of Lisbon, when the EU obtained a **consolidated legal personality**
- **TEU** - Treaty on the European Union
- **TFEU** - Treaty on the Functioning of the European Union

European Law | Primary European Law

| ROME TREATY 1957 | EU TREATY 1992 |
|--|---|
| <i>EEC-Treaty</i> | <i>EU-Treaty</i> |
| <ul style="list-style-type: none"> • Single European Act, 1986 | <ul style="list-style-type: none"> • Treaty of Amsterdam, 1997 |
| <i>EEC-Treaty as amended by the Single European Act</i> | <i>EU-Treaty as amended by Amsterdam</i> |
| <ul style="list-style-type: none"> • Treaty of Maastricht, 1992 | <ul style="list-style-type: none"> • Treaty of Nice, 2001 |
| <i>EEC-Treaty as amended by Maastricht</i> | <i>EU-Treaty as amended by Nice</i> |
| <ul style="list-style-type: none"> • Treaty of Amsterdam, 1997 | <ul style="list-style-type: none"> • Treaty of Lisbon, 2007 |
| <i>EEC-Treaty as amended by Amsterdam</i> | <i>TEU as amended by Lisbon</i> |
| <ul style="list-style-type: none"> • Treaty of Nice, 2001 | |
| <i>EEC-Treaty as amended by Nice</i> | |
| <ul style="list-style-type: none"> • Treaty of Lisbon, 2007 | |
| <i>TFEU as amended by Lisbon</i> | |

EUROPEAN UNION

TFEU

- Competences
- Non-discrimination and citizenship

- Union policies: eg.
 - Internal market
 - fundamental freedoms
 - Agriculture
 - Competition
 -
 - External action
(general, commercial and humanitarian)
 - Int. Agreements

- Institutional provisions
- Financial provisions

TEU

- Common goals and principles
- Democratic principles
- General provisions on the institutions

- Common Foreign and Security Policy

- Treaty revision procedure
- Admission and withdrawal of Member States

Organs of the EU

- Artt 13-19 TEU, Artt 223 et seq TFEU
 - The **European Council**
 - The **Council**
 - The **Commission**
 - The **European Parliament, EP**
 - The Court of Justice of the European Union, **CJEU**
 - The **European Central Bank, ECB**
 - The European Court of **Auditors**

Please Don't Mix! Other European Organisations

International Treaties

- Council of Europe (ECHR!)
- Organization of Economic Cooperation and Development (OECD)
- European Free Trade Area (EFTA)
- European Economic Area (EEA)
- Organization of Security and Cooperation in Europe (OSCE)

European Union

- European Law = EU Law (excluding organizations)

Competences of the EU (TFEU)

- Principle of **limited** singular **competence**
 - **no general competence** for EU organs
 - EU-organs can only act within the limited areas of competence assigned to it by the treaties
- 3 different **categories** of competences (Art 2 et seq TFEU)
 - **exclusive** competence: only the EU may legislate and adopt legally binding acts
 - **shared** competence: EU and Member States are allowed to act
 - principle of **subsidiarity**
 - supporting, coordinating and complementary competence: Union supports, coordinates or supplements actions of the Member States
- principle of **proportionality** in all competences

European Law I Secondary European Law

- Art 288 TFEU
 - **Regulation (Reg.):**
 - binding in all its parts
 - direct effect in the Member States
 - no act of implementation required
 - **Directive (Dir.):**
 - only binding in respect of its targeted and defined aims
 - details of implementation left to Member States
- Decisions
- Recommendations
- Opinions

Procedures

- depending on the competence
- most cases:
 - Commission
 - Council
 - European Parliament
- Commission prepares the text
- adoption by the Council (majority decision)
- approval of the European Parliament

Supremacy of EU Law

- primary & secondary European law have **supremacy** over national law of the MS
- eg, if a norm contradicts domestic Austrian law, European rule has priority – domestic rule is not applied
- **‘direct effect’**: European law have to be directly applied by national courts and administrative authorities (just as if the were rules of domestic law; no need for implementation)

Public International Law?

- **departure** from traditionally **‘intergovernmental’** nature
- TFEU created own legal system (became integral part of the legal of the MS)
- See Case **Costa/ENEL** 1964 ECR 1251:
“By creating a Community of unlimited duration, having its own institutions, its own personality, its own legal capacity and capacity of representation on the international plane and, more particularly, real powers stemming from a limitation of sovereignty or a transfer of powers from the States to the Community, the Member States have limited their sovereign rights, albeit within limited fields, and have thus created a body of law which binds both their nationals and themselves.”

Public International Law?

- **Primary Law:** TFEU/TEU
- **instruments used:** treaties
- decisive – **content:**
 - norms on the organization of the EU (European Council, Council, Commission, Parliament, CJEU, Central Bank, Auditors)
- institutional European Law – public int'l law
 - however, **no restriction** to institutional & organizational matters
 - also: 'substantive' or '**material European law**'
 - direct impact on fields of substantive law
 - non-discrimination
 - fundamental freedoms
 - anti-trust rules

Public International Law?

- **Secondary European Law:**
 - all fields of substantive law
 - corporations
 - administration
 - competition law
 - **European private law**
- EU Law establishes **uniform rules** of international (European) character and origin in almost all fields of private and public law
 - rule creation
 - supremacy
 - direct effect
- **European Private Law**
- Methodology: **Institutional European Law & Substantive European Law**