



The EU and Multilateral Organisations

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SUPRANATIONAL LEGAL ORDER

THE VAN GEND EN LOOS CASE

“The conclusion to be drawn from this is that the Community constitutes a **new legal order of international law** for the benefit of which the states have limited their sovereign rights” (1963)

COSTA v ENEL SUPREMACY OF EU LAW

“By contrast with ordinary international treaties, the EEC Treaty has created its own legal system which, on the entry into force of the Treaty, became an integral part of the legal systems of the Member States and which their courts are bound to apply.” ECJ, 1964

SUPRANATIONAL LEGAL ORDER

LISBON TREATY

17. Declaration concerning primacy

“The Conference recalls that, in accordance with well settled case law of the Court of Justice of the European Union, the Treaties and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case law.”

ON THE LEVEL OF
HEAD OF STATE

- President of the European Council
- President of the European Commission

ON THE LEVEL OF
FOREIGN AFFAIRS
MINISTRY

High Representative of the
Union for Foreign Affairs

PRESIDENT OF THE EUROPEAN COUNCIL

External representation of the EU on:

- Issues related to the EU Common Foreign and Security Policy (CFSP), alongside the High Representative of the Union for Foreign Affairs and Security Policy (Art 15.6 TEU)
- International summits, usually alongside the President of the European Commission

WHAT COUNCIL ?

EU

The European Council

Head of State (28) + President
of European Commission
+ High Representative of FA
Meet twice a year

The Council (of
Ministers)

The Council of Europe
1949
Strasbourg
(HCHR)

Article 13 TEU

1. The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.

The Union's institutions shall be:

- the European Parliament,
- the European Council,
- the Council,
- the European Commission (hereinafter referred to as “the Commission”),
- the Court of Justice of the European Union,
- the European Central Bank,
- the Court of Auditors

Common Foreign and Security Policy - CFSP

Article 40

“The implementation of the common foreign and security policy shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Treaties for the exercise of the Union competences referred to in Articles 3 to 6 of the Treaty on the Functioning of the European Union.”

Common Foreign and Security Policy - CFSP

Article 275

“The Court of Justice of the European Union shall not have jurisdiction with respect to the provisions relating to the common foreign and security policy nor with respect to acts adopted on the basis of those provisions.”

HOWEVER, the Court shall have jurisdiction to monitor compliance with **Article 40** of the Treaty on European Union and to rule on proceedings, brought in accordance with the conditions laid down in the fourth paragraph of **Article 263** of this Treaty, reviewing the legality of decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter 2 of Title V of the Treaty on European Union.

Common Foreign and Security Policy - CFSP

(Art 263) “The **Court of Justice of the European Union** shall review the legality of legislative acts, of acts of the Council, of the Commission and of the European Central Bank, other than recommendations and opinions, and of acts of the European Parliament and of the European Council intended to produce legal effects vis-à-vis third parties. It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects vis-à-vis third parties. (...)

Any natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and does not entail implementing measures.

Art 24.-TEU - THE COURT OF JUSTICE ...SHALL NOT HAVE JURISDICTION WITH RESPECT TO THESE PROVISIONS,

exception of its jurisdiction to monitor compliance with Article 40:
Art TFEU COMPETENCES

review the legality of "certain decisions" as provided for by the second paragraph of Article 275 TFEU

"The Court of Justice of the European Union shall not have jurisdiction with respect to the provisions relating CFSP."
HOWEVER,

Art TFEU COMPETENCES

EXCLUSIVE: Art 3 TFEU)

Concurrent (Shared)
Art. 4 TFEU

Complementary
Art 6 TFEU

Art 263 TFEU "Any natural or legal person may, institute proceedings against an act addressed to that person or which is of direct and individual concern to them"

Chapter 2 TEU Specific provisions on the common foreign and security policy

EU MISSIONS

- Civilian Missions

Police Missions: Reform local police

Rule of Law M: Strengthen institutions

- Military Missions

Autonomous Union M: Complete resourced by Member States

Berlin Plus Arrangement: EU is permitted to use **NATO** assets and capabilities

TFEU - CONCURRENT COMPETENCES

Art 4. Shared competence between the Union and the Member States applies in the following

principal areas:

- (a) internal market;
- (b) social policy, for the aspects defined in this Treaty;
- (c) economic, social and territorial cohesion;
- (d) agriculture and fisheries, excluding the conservation of marine biological resources;

(e) environment;

(f) consumer protection;

(g) transport;

(h) trans-European networks;

(i) energy;

(j) area of freedom, security and justice;

(k) common safety concerns in public health matters, for the aspects defined in this Treaty.

TFEU - Complementary Competences

Art 6 TFEU The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be:

- a) protection and improvement of human health;
- (b) industry;
- (c) culture;
- (d) tourism;
- (e) education, vocational training, youth and sport; (f) civil protection;
- (g) administrative cooperation.

EXCLUSIVE COMPETENCES

Article 3 TFEU

1. The Union shall have exclusive competence in the following areas:

(a) customs union;

(b) the establishing of the competition rules necessary for the functioning of the internal market;

(c) monetary policy for the Member States whose currency is the euro;

(d) the conservation of marine biological resources under the common fisheries policy;

(e) common commercial policy.

ERTA Case 22/70 1971

“17. In particular, each time the Community, with a view to implementing a common policy envisaged by the Treaty, adopts provisions laying down common rules, whatever form these may take, **THE MEMBER STATES NO LONGER HAVE THE RIGHT, ACTING INDIVIDUALLY OR EVEN COLLECTIVELY, TO UNDERTAKE OBLIGATIONS WITH THIRD COUNTRIES WHICH AFFECT THOSE RULES.**

18. As and when such common rules come into being, the Community alone is in a position to assume and carry out contractual obligations towards third countries affecting the whole sphere of application of the Community legal system.

19. With regard to the implementation of the provisions of the Treaty the **SYSTEM OF INTERNAL COMMUNITY MEASURES MAY NOT THEREFORE BE SEPARATED FROM THAT OF EXTERNAL RELATIONS.”**

COMMON COMMERCIAL POLICY - CCP.

Art 207 TFEU.-

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalization (...)

COMMON COMMERCIAL POLICY - CCP.

Art 207 TFEU.-

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in **TARIFF RATES, THE CONCLUSION OF TARIFF AND TRADE AGREEMENTS RELATING TO TRADE IN GOODS AND SERVICES, AND THE COMMERCIAL ASPECTS OF INTELLECTUAL PROPERTY, FOREIGN DIRECT INVESTMENT**, the achievement of uniformity in measures of liberalization (...)

INTERNATIONAL ECONOMIC LAW

International
Economic Law

International Trade Law

- World Trade Organization, OMC

International Financial Law

- Regulatory rules, standards, and best practices of the international financial system.

International Investment Law

- Bilateral Treaties (6000 treaties)

INVESTMENT VS. TRADE

International investment transactions involve the transfer of one asset to another country, maintaining the control over the asset with the expectation of a profit in the long term.

On the other hand, trade transactions involve the exchange of one asset (usually goods) for other asset (usually money)

COMMON COMMERCIAL POLICY - CCP.

Art 207 TFEU.-

“3. (...) Where agreements with one or more third countries or international organisations need to be negotiated and concluded, **Article 218** shall apply, subject to the special provisions of this Article”

“4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the **Council** shall act by a **qualified majority.**”

Art 218 TFEU

- (a) after obtaining the consent of the European Parliament in the following cases:
 - (i) association agreements;
 - (ii) agreement on Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;
 - (iii) agreements establishing a specific institutional framework by organising cooperation procedures;
 - (iv) agreements with important budgetary implications for the Union;
 - (v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required.

QUALIFIED MAJORITY

Art 16 TEU

4. As from 1 November 2014, a qualified majority shall be defined as at least **55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union.**

ASSOCIATION AGREEMENTS

- ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES (Article 198)
- CONTRACTUAL ASSOCIATION (Article 217 TFUE)
- SPECIAL ASSOCIATION: THE EUROPEAN NEIGHBOURHOOD POLICY (Art 8 TEU)

Bilateral: Oldest 1963 “Ankara agreement”.

Multilateral: EFTA States

1. ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES (Article 198)

“The Member States agree to associate with the Union the non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom. These countries and territories (hereinafter called the "countries and territories") are listed in Annex II.

The purpose of association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Union as a whole.

OVERSEAS COUNTRIES AND TERRITORIES TO WHICH THE PROVISIONS OF PART FOUR OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION APPLY

Greenland, New Caledonia and Dependencies, French Polynesia, French Southern and Antarctic Territories, Wallis and Futuna Islands, Mayotte, Saint Pierre and Miquelon, Aruba, Netherlands Antilles: Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten, Anguilla, Cayman Islands, Falkland Islands, South Georgia and the South Sandwich Islands, Montserrat, - Pitcairn, Saint Helena and Dependencies, British Antarctic Territory, British Indian Ocean Territory, Turks and Caicos Islands, - British Virgin Islands, Bermuda.

Contractual Association (ARTICLE 217 TFUE)

“The Union may conclude with one or more third countries or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.”

SPECIAL ASSOCIATION: THE EUROPEAN NEIGHBOURHOOD POLICY (Art 8 TEU)

- 1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.
- 2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

UKRAINE ASSOCIATION AGREEMENT

Includes a **Deep and Comprehensive Free Trade Area (DCFTA)**. The DCFTA will offer Ukraine a framework for modernising its trade relations and for economic development by the opening of markets via the progressive removal of customs tariffs and quotas, and by an extensive harmonisation of laws, norms and regulations in various trade-related sectors, creating the conditions for aligning key sectors of the Ukrainian economy to EU standards.

The DCFTA consists of 15 Chapters, 14 annexes and 3 protocols.



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