

LAW & DATA

2024/2025

University of Padova

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HIERARCHY OF SOURCES OF EUROPEAN UNION LAW

PRIMARY LAW

INTERNATIONAL AGREEMENTS

SECONDARY LAW

SUPPLEMENTARY LAW

<https://eur-lex.europa.eu/homepage.html>



PRIMARY LAW

○ **TREATIES**

- **Founding treaties** (establishing EC → EU)
- Amending treaties
- Protocols annexed to Treaties
- **Accession treaties**

○ **CHARTER OF FUNDAMENTAL RIGHTS**

(since 2009 Lisbon Treaty – same value as Treaties)

○ **GENERAL PRINCIPLES ESTABLISHED BY THE ECJ**

TREATIES

○ TREATY ON THE EUROPEAN UNION

- objectives and principles of the EU
- institutions of the EU

○ TREATY ON THE FUNCTIONING OF EUROPEAN UNION

- organisational, functional provisions to reach EU objectives
- procedures for the functioning of EU institutions

○ TREATY ON THE EUROPEAN UNION

Art. 2

The Union is founded on the **values** of **respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights**, including the rights of persons belonging to **minorities**.

These **values are common** to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Art. 3

1. The Union's aim is to **promote peace**, its **values** and the **well-being** of its **peoples**.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the **free movement of persons** is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
3. The Union shall establish an **internal market**. It shall work for the **sustainable development** of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the **environment**. It shall promote **scientific and technological advance**.
It shall combat **social exclusion and discrimination**, and shall promote social justice and protection, **equality** between women and men, **solidarity between generations** and protection of the **rights of the child**.
It shall promote economic, social and territorial **cohesion**, and **solidarity among Member States**.
It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.
4. The Union shall establish an **economic and monetary union** whose currency is the euro.
5. **In its relations with the wider world**, the Union shall **uphold and promote its values and interests** and contribute to the **protection of its citizens**. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.
6. The Union shall pursue its objectives **by appropriate means** commensurate with the **competences** which are conferred upon it in the Treaties.

○ TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

Art. 16(1)

Everyone has the right to
the **protection of personal data** concerning them.

EU CHARTER OF FUNDAMENTAL RIGHTS

ART. 6(1) TEU

«The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties»

CHAPTERS:

- I **DIGNITY** *«Human dignity is inviolable, it must be respected and protected»*
- II **FREEDOMS**
 - Respect for private and family life
 - Protection of personal data
- III **EQUALITY**
- IV **SOLIDARITY**
- V **CITIZENS' RIGHTS**
- VI **JUSTICE**
- VII **GENERAL PROVISIONS** Safeguard clause

GENERAL PRINCIPLES OF EU LAW ESTABLISHED BY THE COURT OF JUSTICE

legal principles developed by the Court of Justice over time
no exhaustive list - under constant development
stemming from constitutional traditions of EU Member States

examples

Legal certainty

Legitimate expectation

Primacy of EU Law

Direct effect of EU Law

Protection of fundamental rights → art. 6(3) TEU

«Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law»

INTERNATIONAL AGREEMENTS

agreements concluded by the European Union and third countries within the sphere of competence of the EU

Art. 216 TFEU

- «1. The Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.
2. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States».

Art. 217 TFEU

«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».

Art. 218 TFEU

Procedure for negotiating and concluding international agreements, involving Council, European Parliament (possibly, the ECJ)



SECONDARY LAW

○ TYPICAL ACTS – Art. 288 TFEU

- REGULATIONS | DIRECTIVES | DECISIONS (hard law)
- OPINIONS | RECOMMENDATIONS (soft law)

○ ATYPICAL ACTS

- communications | resolutions | white papers | green papers

SECONDARY LAW

REGULATION

binding
in its entirety

directly applicable
in all Member States

DIRECTIVE

binding
as to the result
to be achieved

IMPLEMENTATION
IN MS

=

the choice of form
and methods to
achieve the result lies
with the national
authorities

DECISION

binding
in its entirety

GENERAL //
INDIVIDUAL*

*decision which specifies
those to whom it is
addressed shall be binding
only on the addressees