

LAW & DATA

2024/2025

University of Padova

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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

Examples of EU secondary legislation on data

Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data - **Data Protection Directive**

Regulation (EU) 2016/679 on the protection individuals with regard to the processing of personal data and on the free movement of those data, known as the GDPR - **General Data Protection Regulation**

Directive (EU) 2016/680 on protecting individuals when personal data are used by law enforcement authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties – **Data Protection Law Enforcement Directive**

Regulation (EU) 2018/1725 laying down rules for protecting individuals with regard to the processing of personal data by the EU institutions, bodies, offices and agencies and on the free movement of those data.

Directive 2002/58/EC on the processing of personal data and the protection of privacy in the electronic communications sector – **E-communications Directive**

Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence – **Artificial Intelligence Act**

INSTITUTIONS OF THE EU

ART. 13 TEU

- **EUROPEAN PARLIAMENT**
- **EUROPEAN COUNCIL**
- **COUNCIL OF THE EUROPEAN UNION (Council)**
- **EUROPEAN COMMISSION**
- **COURT OF JUSTICE OF THE EU**
- **EUROPEAN CENTRAL BANK**
- **COURT OF AUDITORS**

EUROPEAN PARLIAMENT

- max 750 members = MEPs (currently 705)
every MS has a different number of MEPs according to its population
- 5 years' term
- since 1979 directly elected by EU citizens
representing **citizens' interests** (not MS)
- groups formed according to affinities in political parties (not upon nationality)
- Strasbourg | Brussels | Luxembourg

FUNCTIONS

➤ **LEGISLATIVE**

one of the legislative chambers of the EU

➤ **BUDGETARY**

monitoring on the expenditures

➤ **SUPERVISORY**

on the activities of other EU Institutions – general report

- question the Commission
- investigate (temporary Committees of Inquiry)
- receive petitions by EU citizens
- election of Ombudsman = civil mediator

➤ **ELECTIVE**

President of the EU Commission (proposed by the Council)
EU Commissioners (proposed by the Commission's President)

European Council

27 Heads of State and Governments

President elected for a 2.5 years' term

No legislative function, but
guideline function (objectives in CFSP +
EU external action; broad guidelines
on economic policies)

It can intervene in some areas
foreseen by Treaties

Conclusions

Council (Council of the EU)

One representative for each MS, able to
commit the government of that State
and cast its vote → **interests of the
Governments**

Different configurations (GA, FA,
Economic and financial, Environment,
JHA, ...)

LEGISLATIVE FUNCTION
(one chamber)

Supervisory functions on other institutions

EUROPEAN COMMISSION

27 Commissioners – approved by the EP (5 years' term)

but independent from MS, appointed with a procedure involving EP,
President of the Commission and MS
(President is proposed by the European Council)

Divided into Directorates General

Representing the **interests of the EU as a whole**

FUNCTIONS:

LEGISLATIVE – initiative

EXECUTIVE AND ADMINISTRATIVE – enforcement of EU law

BUDGETARY – management of EU budget

SUPERVISORY – on MS (possible breaches of EU law) and on private entities

EUROPEAN COURT OF JUSTICE

European Court of Justice + General Court of the EU

JUDGES and ADVOCATES GENERAL

whose number depends on the number of MS (usually one per MS)
6 years' term – renewable every three years

Appointed among individuals possessing qualifications required for appointment to the highest judicial offices in their respective countries or jureconsults of recognised competence BUT independent from their MS

FUNCTIONS:

JURISDICTIONAL

→ litigation

INTERPRETATIVE / PRELIMINARY RULINGS

→ not litigation

ADVISORY / CONSULTATIVE

→ not litigation

LITIGATION PROCEEDINGS BEFORE THE ECJ

DIRECT APPEALS

263 TFEU

Appeal of acts adopted
by EU Institutions

PUBLIC initiative

MS, other EU institutions

PRIVATE initiative

Any natural or legal person
*«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»*

➤ VICES

lack of competence, invalidity, voidness,
misuse of powers

➤ Time-limit: 2 months + 10 days

FAILURE TO ACT

265 TFEU

PRELITIGATION

Letter of formal notice

2 months for acting

Non-performance

LITIGATION before the ECJ

COMPENSATION FOR DAMAGES

340(2) TFEU

Initiative by individuals, legal
persons, and Member States

Damage must be proved as
unlawful, serious, certain