# **LAW & DATA** 2024/2025

# University of Padova

25 October 2024



orella Dal Monte, PhD djunct Professor niversity of Padova | Department of Mathematics

# **INTERNATIONAL AGREEMENTS**

#### agreements concluded by the <u>European Union</u> and third countries within the sphere of compentence 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, <u>one of the objectives referred to in the Treaties</u>, 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 <u>establishing</u> 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 (possibily, 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

# DIRECTIVE

binding as to the result to be achieved

## DECISION

binding in its entirety

directly applicable in all Member States

### IMPLEMENTATION IN MS

the choice of form and methods to achieve the result lies with the national authorities 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)** <u>2016/679</u> 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)** <u>2016/680</u> 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)** <u>2018/1725</u> 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** <u>2002/58/EC</u> 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



#### orella Dal Monte, PhD aw & Data | 2024-2025

# Council (Council of the EU)

One representative for each MS, able to commit the government of that State and cast its vote  $\rightarrow$  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 <u>independent from MS</u>, 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 <u>independent from their MS</u>

FUNCTIONS:JURISDICTIONAL→ litigationINTERPRETATIVE / PRELIMINARY RULINGS→ not litigationADVISORY / CONSULTATIVE→ not litigation



#### LITIGATION PROCEEDINGS BEFORE THE ECJ

#### DIRECT APPEALS

263 TFEU

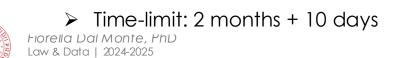
Appeal of acts adopted by EU Institutions

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



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