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Introduction to Courses delivered in English

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Plan for the day

- Legal systems and relationship between them
 - international law, EU legal order and national law
- Legal method and interpretation of legal texts
 - in a national, international and EU perspective



Learning outcomes

- Ability to understand and analyse ...
- Ability to read and interpret legal texts ...
- Ability to critically analyse ...



Variations in legal method

- Constitution? Written, thick or thin?
- Statute: its relative importance and coverage varies
- Precedent: the same here
- Interpretation methods vary



Art 38 Statute of the International Court of Justice

- International conventions
- International custom
- General principles of law recognized by civilized nations
- Judicial decisions and the teachings of the most highly qualified publicists (subsidiary)



Peremptory norms or *jus cogens*

- Peremptory norms or *jus cogens* ("compelling law") accepted by the international community of states as norms from which no derogation is ever permitted.
- prohibition of genocide, maritime piracy, slavery and slave trade, torture, wars of aggression and territorial aggrandizement.



Sources of EU law

- Treaties
- General principles of EU law
- Regulations, Directives, Decisions etc
- EU Case law
- International treaties



The national legal system as a paradigm

- Making law and enforcing law
- Legislation
- Public administration
- Private parties
- Courts



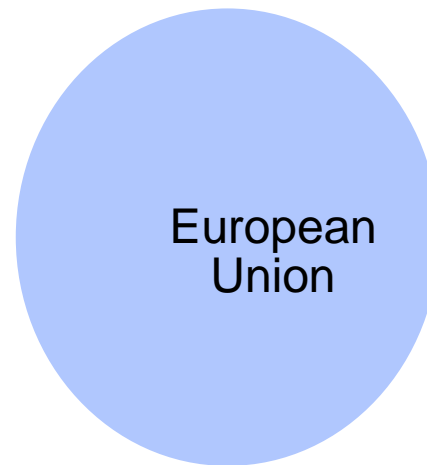
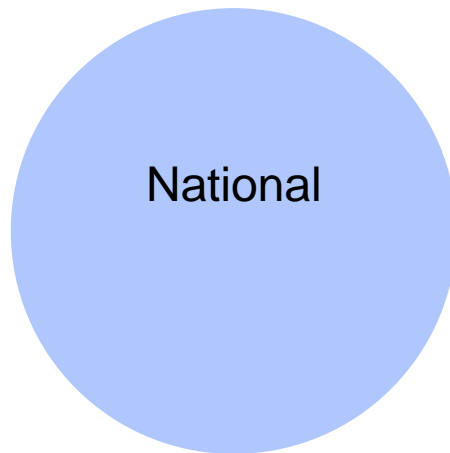
Interaction of national and international law

■ Monism & Dualism

- Are national law and international law different legal systems?
- What effect does international law have on national legal systems?
- Will national courts apply international law as well as national law?
- Which law takes precedence?



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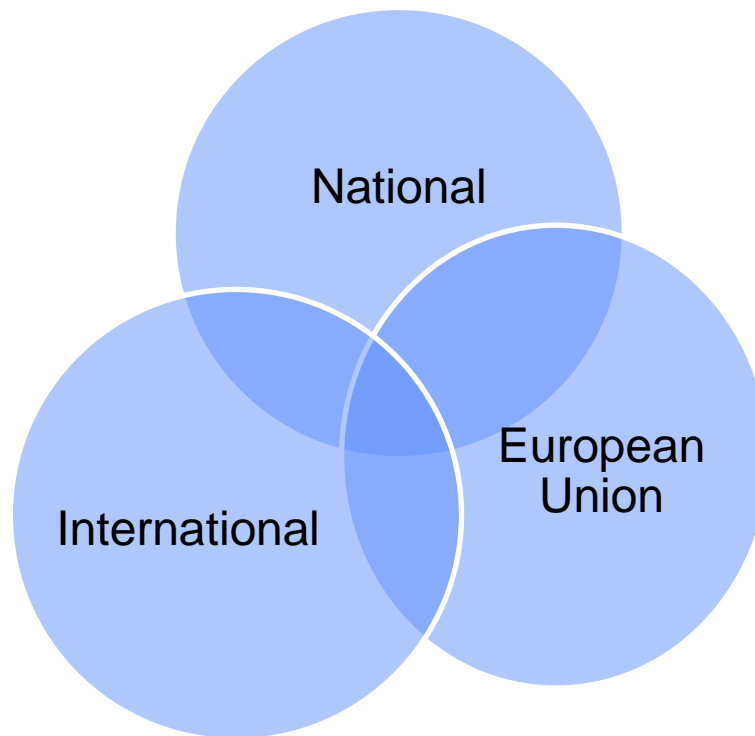
INTERNATIO
NAL

EU

National



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- Supremacy of international law over domestic law?
- Direct effect of international treaties?
Enforceability in the national courts? *Varies*
- *Cf.* EU law: supremacy, direct effect and enforceability:
 - Costa Enel, Van gend en Loos



European Union, its objectives and expansion

- Economic development and peace in the post-war Europe
- Founding Treaties
 - 1951: European Coal and Steel Community
 - 1957: Treaties of Rome:
 - » European Economic Community (EEC)
 - » 1957: EURATOM
- Economic integration, Common market and toll union



- Treaty of Rome subject to various amendments by successive Treaties:
 - **Single European Act** 1986 (Political cooperation on foreign policy and security)
 - **Treaty of Maastricht** 1992 (EU Treaty)
 - » Foreign policy and security
 - » Justice and Home Affairs
 - **Treaty of Amsterdam** 1997 (Workers' and citizens' rights, removing remaining barriers to free movement, enlargement)
 - **Treaty of Nice** 2001 (in force 2003)
 - **Treaty of Lisbon** (TFEU and TEU) 2009



EEC, EC or EU?

- EEC: Treaty of Rome 1957
- EC and EU: Maastricht Treaty 1992
- EU: Lisbon Treaty 2009
- *All contemporary references should now be to EU*
- NB: changes in the numbering of articles in the Treaties



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- **The European Union**
- The Council of the EU (Brussels)
- The European Commission (Brussels)
- The European Parliament (Brussels, Luxembourg & Strasbourg!)
- The Court of Justice of the European Union (Luxembourg)

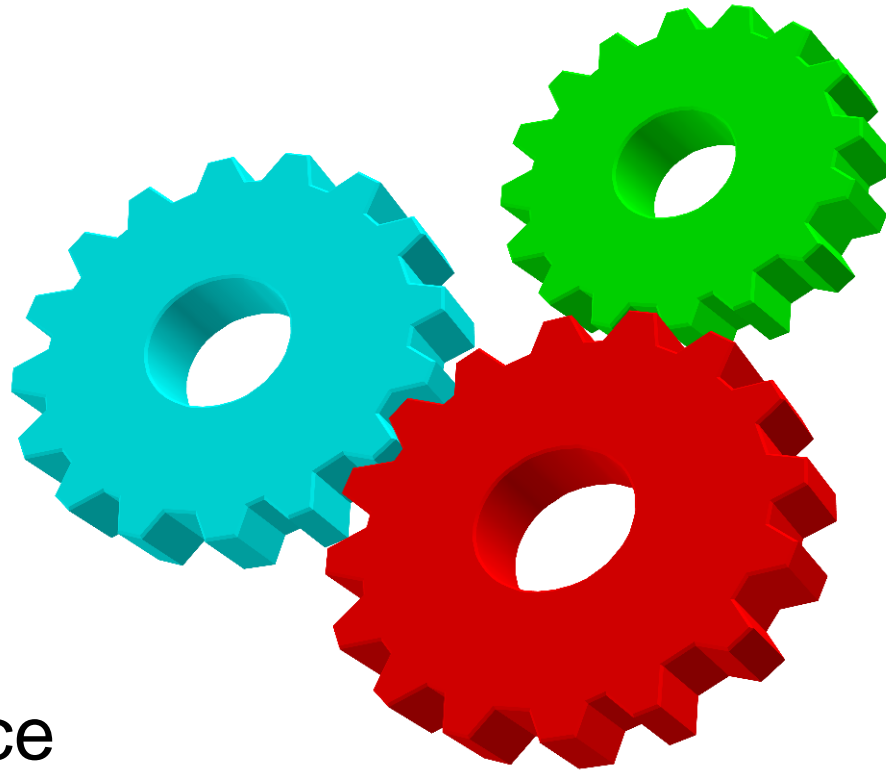


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Institutions in the EU Decision making process

Commission

Initiates
(legislates)
Executes



Parliament

Legislates
Controls

Court of Justice

Interprets
Adjudicates

Council

(Initiates)
Legislates
Coordinates



Limits on EU competence

- Attributed competence
- Subsidiarity
- Proportionality



- **Primary legislation: the Treaties and the Charter of Rights**
 - Lisbon Treaty, in force as of 1 December 2009
 - » Treaty on the European Union (TEU)
 - » Treaty on the Functioning of the European Union (TFEU, former EC Treaty)
- TEU and TFEU have the same legal value



- What provisions do TEU and TFEU contain?
- TEU contains mainly constitutional principles, some provisions on external action and foreign&security policy
- TFEU:
 - Principles and EU competences
 - EU citizenship
 - Internal market and free movement, competition (and other former EC)
 - Freedom, security and justice
 - EMU
 - External action



Human rights in the EU

- General principles of EU law as developed by EU Court
- Human rights are integrated in many EU policies
- The EU Charter of Fundamental Rights
- European Convention on Human Rights:
 - Article 6 TEU
 - a «special source of inspiration» for ECJ
 - EU «shall accede» to ECHR (EU not a party yet)

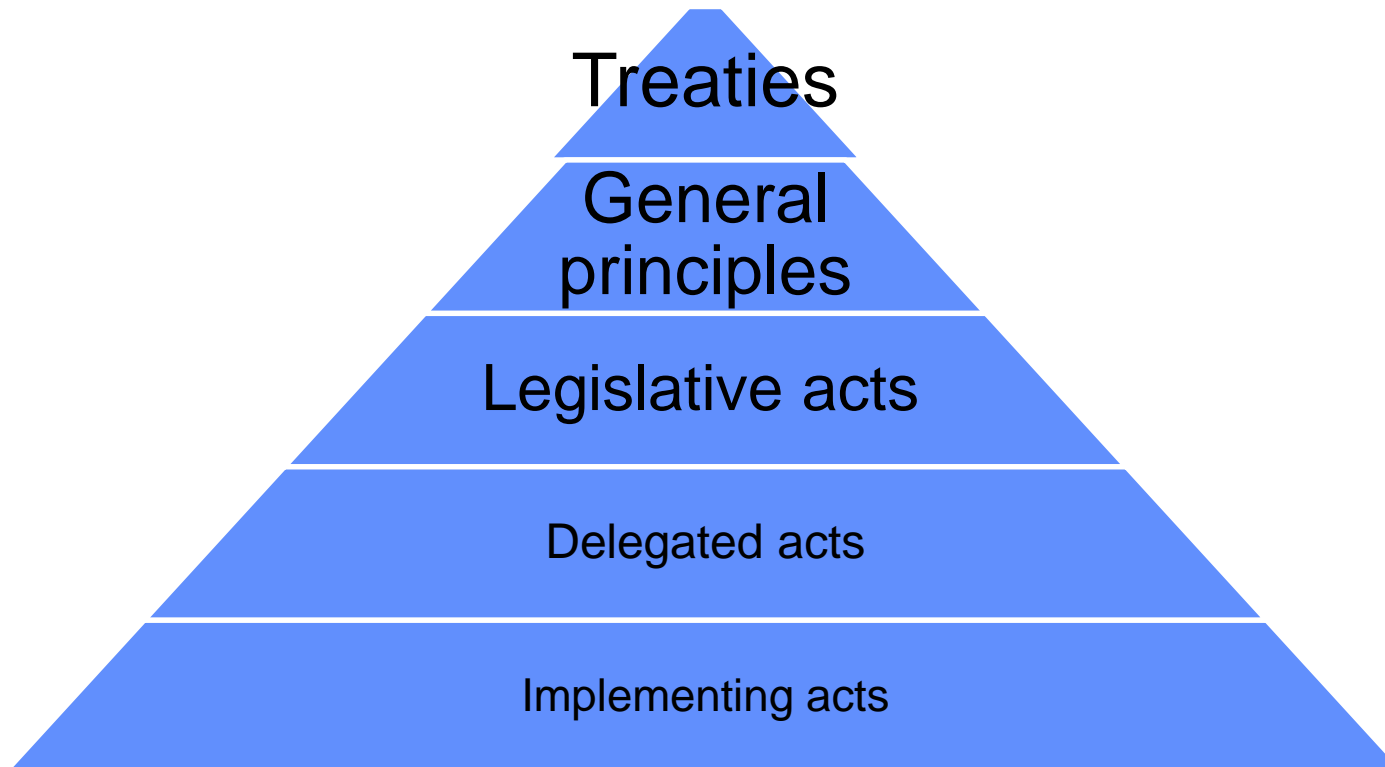


General principles of EU Law

- Developed in EU Courts' practice
- Proportionality
- Fundamental rights
- Legal certainty & legitimate expectations
- Equality and non-discrimination
- Precautionary principle
- Procedural justice



Hierarchy of norms





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