



# EU Substantive Law

Professor Rosa Greaves

Email: [rosa.greaves@glasgow.ac.uk](mailto:rosa.greaves@glasgow.ac.uk)

# Structure of today's Lecture



- What is EU 'Substantive' Law?
- Types of markets and on-going integration
- The internal market in its historical context

# What is EU Substantive Law?

## ◆ **Primary legislation: the Treaties**

- Treaty on the European Union (EU)
- Treaty on the Functioning of the European Union (TFEU, former EC Treaty)

## ◆ **Secondary legislation**

## ◆ **Case Law of the European Courts**

## ◆ **General principles**

# Recent developments in EU history

- ◆ Lisbon Treaty entered into force on 1 December 2009
- ◆ Van Rompuy elected first ever President of the European Council
- ◆ 2004 and 2007 Enlargements: EU of 28 Members
- ◆ **Ongoing process of integration**

# The process of integration

- ◆ Treaty of Rome subject to various amendments by successive Treaties:
  - Single European Act 1986
  - Treaty of Maastricht 1992
  - Treaty of Amsterdam 1997
  - Treaty of Nice 2001
  - Treaty of Lisbon 2009

# EEC/EC/EU terminology issues

- ◆ The EEC was renamed 'European Community' when the Maastricht Treaty came into force
- ◆ The European Communities was the term used to describe the three entities that emerged after the signing of the 1950s Treaties: ECSC, EEC, EURATOM
- ◆ The EU was created by the Maastricht Treaty and had a three-pillar structure until the Lisbon Treaty Reform
- ◆ Lisbon Treaty transferred legal personality of the EC to the EU and put an end to the three-pillar structure

# Free Movement of Goods

- ◆ Various types of markets
- ◆ Economic integration schemes
- ◆ The EU customs union

# Various types of markets

- ◆ Free trade area
- ◆ Customs union
- ◆ Common market
- ◆ European Economic Area (EEA)
- ◆ Economic union
- ◆ Political union



## Economic integration schemes

Scheme	Free intra-scheme trade	Common commercial policy	Free factor mobility	Common monetary policy	One government
<i>Free trade area</i>	Yes	No	No	No	No
<i>Customs Union</i>	Yes	Yes	No	No	No
<i>Common market</i>	Yes	Yes	Yes	No	No
<i>Economic union</i>	Yes	Yes	Yes	Yes	No
<i>Political union</i>	Yes	Yes	Yes	Yes	Yes

# The Internal Market

◆ Articles 3 TFEU

◆ Arts 28 -33 TFEU

◆ Arts 34-36, 45, 49, 56 & 57 TFEU

◆ Arts 18 & 19 TFEU

## Internal Market Article 3(3) TEU and Article 4(2)(a) TFEU



- ◆ Article 3(3) TEU: 'The Union shall establish an internal market. ...'
- ◆ Article 4(2)(a) TFEU: the internal market is an area of **shared** competence between the Union and MS.

# What kind of internal market?

Is it of a purely economic nature?

- ◆ Read Article 3(3) TEU in full  
... 'highly competitive social market economy'...including elements of social justice, protection of the environment and protection of fundamental rights

# Article 26 TFEU

- ◆ (2) The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.

[Plus other 'flanking' measures which help with the completion and functioning of the internal market: Agriculture, competition, social policy, area of freedom, security and justice]

# What is the Single European Market all about?

- ◆ Internal market (ex common market post FEU)  
Liberalisation of factors of production (4 freedoms)
  - Free movement of goods
  - Free movement of persons
  - Free movement of capital
  - Free movement of services
- ◆ Single market: Refers exclusively to the four freedoms

# The CM, SEM & Internal Market

- ◆ Phase I: up to 1985
- ◆ Phase II: 1985-1992
- ◆ Phase III: 1992-2009
- ◆ Phase IV: post 2010

# The Single European Act 1987

- ◆ Cecchini Report
- ◆ 1985 White Paper
- ◆ New provisions in SEA to achieve goals



# The European Economic Area

- ◆ The *acquis communautaire*
- ◆ Plus Transport & Competition
- ◆ Plus relevant market areas

# The Treaty on EU

- ◆ European Monetary Union
- ◆ Concept of Citizenship
- ◆ 3-pillar structure

# Further Treaties

- ◆ Treaty of Amsterdam
- ◆ Treaty of Nice
- ◆ The Treaty on the Functioning of the EU (TFEU)

# Next Seminar

- ◆ Removal of Customs Duties Between Member States