

The European Union

Part One

Key facts and figures

Introduction

The European Union (EU) is a political and economic union of 27 member states that are located primarily in Europe. It has an area of 4,475,757 km², and an estimated population of over 446 million.

The EU has developed an internal market through a standardised system of laws that apply in all member states.

EU policies aim to ensure the free movement of people, goods, services, and capital within the internal market.

Within the Schengen Area, passport controls have been abolished. A monetary union was established in 1999 and came into full force in 2002, and is composed of 19 EU member states which use the euro currency.

Introduction

- The predecessor of the EU was created in the aftermath of the Second World War.
- The integration process had started with the Schuman-Declaration of 9 may 1950, which was the impetus for developing the Treaty establishing the European Coal and Steel Community (ECSC-Treaty) of 18 April 1951.
- The Schuman-Declaration had created the basic concepts which were fundamental for the process of European integration: its architectural plan of instituting supra-nationality by the transfer of powers from States to a confederation.

Introduction

- The first steps were to foster economic cooperation: the idea being that countries that trade with one another become economically interdependent and so more likely to avoid conflict.
- The result was the European Economic Community (EEC), created in 1958, and initially increasing economic cooperation between six countries: Belgium, Germany, France, Italy, Luxembourg and the Netherlands.

Maastricht Treaty (1992-2007)

- The next step in the process of enhancing a closer European integration was taken by the 12 EEC Member States by signing the Treaty on the European Union at Maastricht on 7 February 1992.
- The European Union was formally established when the Maastricht Treaty—came into force on 1 November 1993.
- The treaty also gave the name European Community to the EEC, even if it was referred as such before the treaty.

Lisbon Treaty (2007-present)

- On 13 December 2007 the new EU Reform Treaty of Lisbon was signed by the representatives of the Member States.
- On 1 December 2009, the **Lisbon Treaty** entered into force and reformed many aspects of the EU.
- It changed the legal structure of the European Union, merging the EU three pillars system into a single legal entity provisioned with a legal personality,
- It created a permanent President of the European Council,
- It strengthened the position of the High Representative of the Union for Foreign Affairs and Security Policy

Lisbon Treaty (2007-present)

- the European Charter of Fundamental Rights become legally binding by a normative reference in Article 6 TEU;
- transferred „police and judicial cooperation in criminal matters” into the new Title V „Area of Freedom, Security and Justice” of Part III of the supranationality structured TFEU;
- in order to provide the possibility for a group of Member States to proceed faster to the goal of a closer integration, the „enhanced cooperation” (Article 20 TEU) among them was introduced.

Economic indicators

The EU as a whole is the largest economy in the world.

The EU in 2017 generated a nominal gross domestic product (GDP) of **15.875 trillion US dollars**, constituting approximately 35.5% of global nominal GDP.

Together with the United States and China, the EU is one of the 3 largest global players in international trade.

EU Institutional System

- The EU operates through a **hybrid system** of supranational and intergovernmental decision-making.
- The seven principal decision-making bodies—known as the institutions of the European Union—are the European Council, the Council of the European Union, the European Parliament, the European Commission, the Court of Justice of the European Union, the European Central Bank, and the European Court of Auditors.

The Nobel Peace Prize

In 2012, the EU received the Nobel Peace Prize for having "contributed to the advancement of peace and reconciliation, democracy, and human rights in Europe."

Demographics

- The EU covers over 4 million km² and has 446 million inhabitants - the world's third largest population after China and India.
- By surface area, France is the biggest EU country and Malta the smallest.

Languages

The EU has 24 official and working languages: Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Irish, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, and Swedish.

Important documents, such as legislation, are translated into every official language.

Religion

Self described religion in the European Union (2017)

- Catholic (48%)
- Protestant (12%)
- Orthodox (8%)
- Other Christian (4%)
- Non believer/Agnostic (16%)
- Atheist (7%)
- Muslim (2%)
- Other religion/None stated (3%)

Religion- Article 17 TFEU

The EU has no formal connection to any religion.

The EU **respects** the "status under national law of churches and religious associations or communities in the Member States".

Recognising their identity and their specific contribution, **the Union maintains an open, transparent and regular dialogue with these churches and organisations.**

Religion- Article 17 TFEU

- It contains aspects of a collective right to freedom of religion.
- Article 17(1) recognises the various organisational forms of religious communities that can be found and are legally accepted within the EU Member State.
- Article 17(2) guarantees the same status and the same protection to philosophical and non-confessional organisations.
- A duty to respect and the duty not to prejudice.
- It contains a prohibition of a legal harmonisation which prevents the EU from introducing even minor legislative acts concerning religion and religious communities.

Symbols

The flag of the Union consists of a circle of 12 golden stars on a blue background. The blue represents the West, while the number and position of the stars represent completeness and unity, respectively. Originally designed in 1955 for the Council of Europe, the flag was adopted by the EC, in 1986.

Since 1985, the flag day of the Union has been Europe Day, on 9 May (the date of the 1950 Schuman declaration).

Symbols

The anthem of the Union is an instrumental version of the prelude to the Ode to Joy, the 4th movement of Ludwig van Beethoven's ninth symphony.

The anthem was adopted by European Community leaders in 1985 and has since been played on official occasions.

The EU motto

United in Diversity was adopted as the motto of the Union in the year 2000, having been selected from proposals submitted by school pupils.

It signifies how Europeans have come together, in the form of the EU, to work for peace and prosperity, while at the same time being enriched by the continent's many different cultures, traditions and languages.

Europe Day

Europe Day held on **9 May** every year celebrates peace and unity in Europe. The date marks the anniversary of the historical 'Schuman declaration'.

At a speech in Paris in 1950, **Robert Schuman**, set out his idea for a new form of political cooperation in Europe, which would make war between Europe's nations unthinkable.

EU citizenship

All citizens of an EU country are automatically citizens of the EU. Being an EU citizen gives us some **important extra rights and responsibilities**.

- **Moving & living in the EU:** As an EU citizen, you have the right to live and move within the EU without being discriminated against on the grounds of your nationality.
- **Participating in the political life of the EU:** Every EU citizen has the right to vote and stand as a candidate in both local and European elections in the EU country they live in, **under the same conditions as nationals of that country**.

EU citizenship

- **Petitions & complaints:** You can petition the European Parliament to address either a personal need, or on a matter of public interest. The subject must fall within the EU's remit (i.e. it mustn't be something that is decided at local or national level) and must affect you directly. You can complain to the European Ombudsman about misconduct by an EU institution or body.
- **Consular protection:** If you are in a non-EU country and need help, as an EU citizen you are entitled to consular protection from the embassy or consulate of any other EU country, if your own country does not have an embassy or consulate in the non-EU country. You can ask for assistance in situations involving, for example, death, accident or illness, arrest or detention, being the victim of violent crime and repatriation.

The Euro

The euro is the official currency for 19 of the 28 EU member countries.

A long preparatory path of over 40 years led to the introduction of the euro in 2002. The European Central Bank and the European Commission are in charge of maintaining its value and stability, and for establishing the criteria required for EU countries to enter the euro area.

From economic to political union

- What began as a purely economic union has evolved into an organization spanning policy areas, from climate, environment and health to external relations and security, justice and migration.
- The EU is based on the rule of law: everything it does is founded on treaties, voluntarily and democratically agreed by its member countries.
- The EU is also governed by the principle of representative democracy, with citizens directly represented at Union level in the European Parliament and Member States represented in the European Council and the Council of the EU.

Human rights and equality

- One of the EU's main goals is to promote human rights both internally and around the world. Human dignity, freedom, democracy, equality, the rule of law and respect for human rights: these are the core values of the EU.
- Since the Lisbon Treaty's entry in force in 2009, the EU's Charter of Fundamental Rights brings all these rights together in a single document. The EU's institutions are legally bound to uphold them, as are EU governments whenever they apply EU law.

From 6 to 27 members

- In 1951, six countries founded the European Coal and Steel Community, and later, in 1957, the European Economic Community and the European Atomic Energy Community: Belgium, Germany, France, Italy, Luxembourg and the Netherlands
- A further 22 countries have since joined the EU, including a historic expansion in 2004 marking the re-unification of Europe after decades of division.
- The United Kingdom withdrew from the European Union on 31 January 2020.

Part Two

EU Legal Bases

Maastrich Treaty

- The European Union was formally established when the Maastricht Treaty—came into force on 1 November 1993.
- The Treaty on the EU (TEU) was signed by the 12 Member States of the ECs on 7 February 1992 in Maastricht.
- The TEU was amended by the Treaties of Amsterdam on 2 October 1997 (in force on 1 May 1999) and of Nice on 26 February 2001 (in force on 1 February 2003).

Lisbon Treaty

- The TEU was also changed by the Treaty of Lisbon which was signed on 13 December 2007.
- On 1 December 2009, the Lisbon Treaty entered into force and reformed many aspects of the EU. In particular, it changed the legal structure of the European Union, merging the EU three pillars system into a single legal entity provisioned with a legal personality, created a permanent President of the European Council, and strengthened the position of the High Representative of the Union for Foreign Affairs and Security Policy

The structure of the EU- before Lisbon

According to Article 1 TEU before Lisbon, the EU had been „founded on the European Communities, supplemented by the policies and forms of cooperation established by this Treaty”.

At a closer look, the EU Treaty consisted of three pillars”; this is why the construction was thought to resemble a Greek temple (temple model).

The European Communities formed the first pillar. The second pillar consisted of the Common Foreign and Security Policy (CFSP), and the third pillar was formed by the Police and Judicial Cooperation in Criminal matters (PJCC).

The European Communities law was supranational law, whereas the CFSP and the PJCC created intergovernmental relations.

Lisbon Treaty

The „three-pillars” construction was set aside by the Treaty of Lisbon.

The Treaty has created a principally uniform legal order based on two equally ranking Treaties: TEU and TFUE.

The only general exception is the explicitly exempted sector of the Common Foreign and Security Policy!!!!

TEU

Preamble

- It states the aims, motives and the principles which were essential for establishing the EU.
- It does not constitute specific treaty obligations. However, according to Art. 31 (2) VCLT of 1969 the preamble of a treaty provides a guide for the Treaty's interpretation.
- The preamble comprises 14 recitals. In the first three recitals the historic position of the EU is being characterized, recitals 4-7 refer to the most important principles, recitals 8-12 list the specific areas in which the EU should uphold its activities and recitals 13-14 state general objectives of the Treaty.

Common Provisions

Title I Common Provisions (Articles 1-8 TEU)

- Article 1 sets out the basis of the EU integration (the ,who', the ,how' and the ,why') and pledges a transparent and citizen-oriented Union.
- Article 2 proclaims the values upon which the EU is founded.
- Article 3 sets out the objectives the EU is to pursue.
- Article 4 contains the principles of conferral, of the equality of MS, of the safeguarding of national identities, and of loyalty (sincere cooperation).

Common Provisions

Title I Common Provisions (Articles 1-8 TEU)

- Article 5 elaborates on the principle of conferral and defines the application of the principles of subsidiarity and proportionality.
- Article 6 sets out the sources of the human rights norm applicable in the EU legal order;
- Article 7 establishes a unique procedure to sanction MS essentially for acting in an 'un-European' way by not respecting values set out in Art. 2;
- Article 8 defines the relationship of the EU with neighbouring countries.

Art. 1 TEU- Framework

By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN UNION, hereinafter called 'the Union', on which the Member States confer competences to attain objectives they have in common.

Art. 1 TEU- Framework

Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein.

Competences not conferred upon the Union in the Treaties remain with the Member States.

Art. 1 TEU- Framework

The European Union operates according to the principles of conferral (which says that it should act only within the limits of the competences conferred on it by the treaties) and of subsidiarity (which says that it should act only where an objective cannot be sufficiently achieved by the member states acting alone).

Art. 1 TEU- Aim

This Treaty marks a **new stage** in the process of creating an ever closer union among the peoples of Europe,
in which decisions are taken as openly as possible and as closely as possible to the citizen

Art. 1 TEU- Aim

- The TEU is the Treaty establishing the European Union. The member states form the basis of the Union.
- The post-Lisbon EU may be characterized as a mainly supranational organized association of States; it is a creation of a legal order *sui generis* of an entity situated between the concept of a sovereign federal state, and an international organisation of the traditional type in which sovereign Member states cooperate intergovernmentally according to the rules of public international law.

Art. 1 TEU- Aim

- The aim: „an ever closer Union”.

The TEU regards itself as a „new stage” in creating an „ever closer Union among the peoples of Europe. This reflects the fact that creating a Union provided with a generally supranational character signifies a substantial step forward, but that the final stage has not yet been achieved.

Art. 1 TEU- Aim

- Transparency and „closeness to the citizens”

By referring to transparency and „closeness to the citizens” as important characteristics of the Union, the TEU in its Article 1 para. 2 refers to some essential conditions for the acceptance of „an ever closer Union” by the peoples of the Member States.

Transparency requires the best possible openness of the decision making processes.

Closeness to the citizens means the overall democratic legitimacy of EU actions.

Art. 1- Bases of the EU

The Union shall be founded on the present Treaty and on the Treaty on the Functioning of the European Union.

Those two Treaties shall have the same legal value.

The Union shall replace and succeed the European Community.

Art. 1- Bases of the EU

- Both Treaties complement each other. They are intrinsically interlinked and interrelated in their contents.
- They enjoy equal ranking. This means that TEU cannot be apprehended as a European Constitution the provisions of which would rank ipso facto above those of TFEU.

Art. 3- Objectives

- Article 3 TEU first provides a general goal of the EU, namely promotion of peace, of its values and of the well-being of its peoples.
- The next paras. 2-5 specify this high level aim by listing general tasks which the EU should fulfil to reach that aim. These tasks concern the creation of an area of freedom, security and justice (para.2) and an internal market with social policy components and accompanying also non-economic policies (para.3), as well as an economic and monetary union (para.4) and the formation of the EU's external relations (para.5).

Art. 47 TEU- International Legal Personality

„The Union shall have legal personality”.

International Legal Personality

- The EU has the capacity to have rights in its own name and to be a subject to obligations all of kinds (over the whole field of its objectives).
- This means in practice: to conclude international agreements with third countries and international organisations; the right of legation; to have legal responsibility for damages; to be a party of treaties.

International Legal Personality

- The extent to which the EU as an international legal personality may acquire rights and enter into obligations depends on the scope of competences conferred upon it.
- The recognition of international legal personality implies that, within the limits of attribution of substantive powers, the EU can act by all the means available under international law and international relations.

International Legal Personality- Reparations for Injuries Suffered in the Service of the UN – ICJ 1949

- „(...) the rights and duties of an entity such as the (UN) Organization must depend upon its purposes and functions as specified or implied in its constituted document and developed in practice”.

The precise scope of the powers and duties of the EU is determined pursuant to its primary law.

International Legal Personality- Costa v. ENEL Case

In *Costa* ruling in the mid-1960s, the Court stated that: „by creating a Community of unlimited duration, having its own institutions, its own personality, its own legal capacity, and capacity of representation on the international plane and more particular, real powers stemming from a limitation of a sovereignty or a transfer of powers from the states to the Community, the Member States have limited their sovereign rights, albeit within limited fields and thus created a body of law which binds both their nationals and themselves”.

Jus tractatum

- According to Articles 37 TEU and 216 TFEU, the EU may conclude international agreements with international subjects.

Membership of international organisations

The EU has capacity to conclude agreements, including multilateral agreements establishing an international organisations.

The EU may conclude agreements with the Member States; accede to an international organisation, in some cases the EU has taken the place of its Member States: FAO and WTO.

Liability under international law

The EU is liable for consequences of its international action.

The EU institutions may also award it compensation pursuant to their own decision. For its part, the EU is entitled to act where its rights under a treaty are infringed. A dispute may only be resolved in the manner agreed by Contracting Parties or in accordance with procedure provided for in the treaty in question.

Diplomatic relations

Third countries wishing to maintain permanent contacts with the EU apply to the EU for accreditation of a diplomatic mission.

Union delegations- art. 221 TFEU

Union delegations in third countries and at international organisations represent the Union.

Union delegations are placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy. They should act in close cooperation with Member States' diplomatic and consular missions

Representation of the EU

Outside the framework of the CFSP, the Treaties do not lay down general rules on external representation of the EU.

In most cases, the Commission has the right to negotiate agreements with third countries, although the Council nominates the negotiator.

Representation of the EU- Economic and monetary affairs

The Council can carry out this representation itself or leave it to: 1) the Commission, 2) the European Central Bank or 3) where the powers lies with the Member States and the Presidency (art. 138(2) TFEU).

Representation of the EU- CFSP

The High Representative represents the Union for matters relating to the CFSP.

Conducts political dialogue with third parties on the Union's behalf and express the Union's position in international organisations and at international conferences (art. 27 (2) TEU).
Is assisted by a European External Action Service.