

# INTRODUCTION TO THE STUDY OF EU LAW

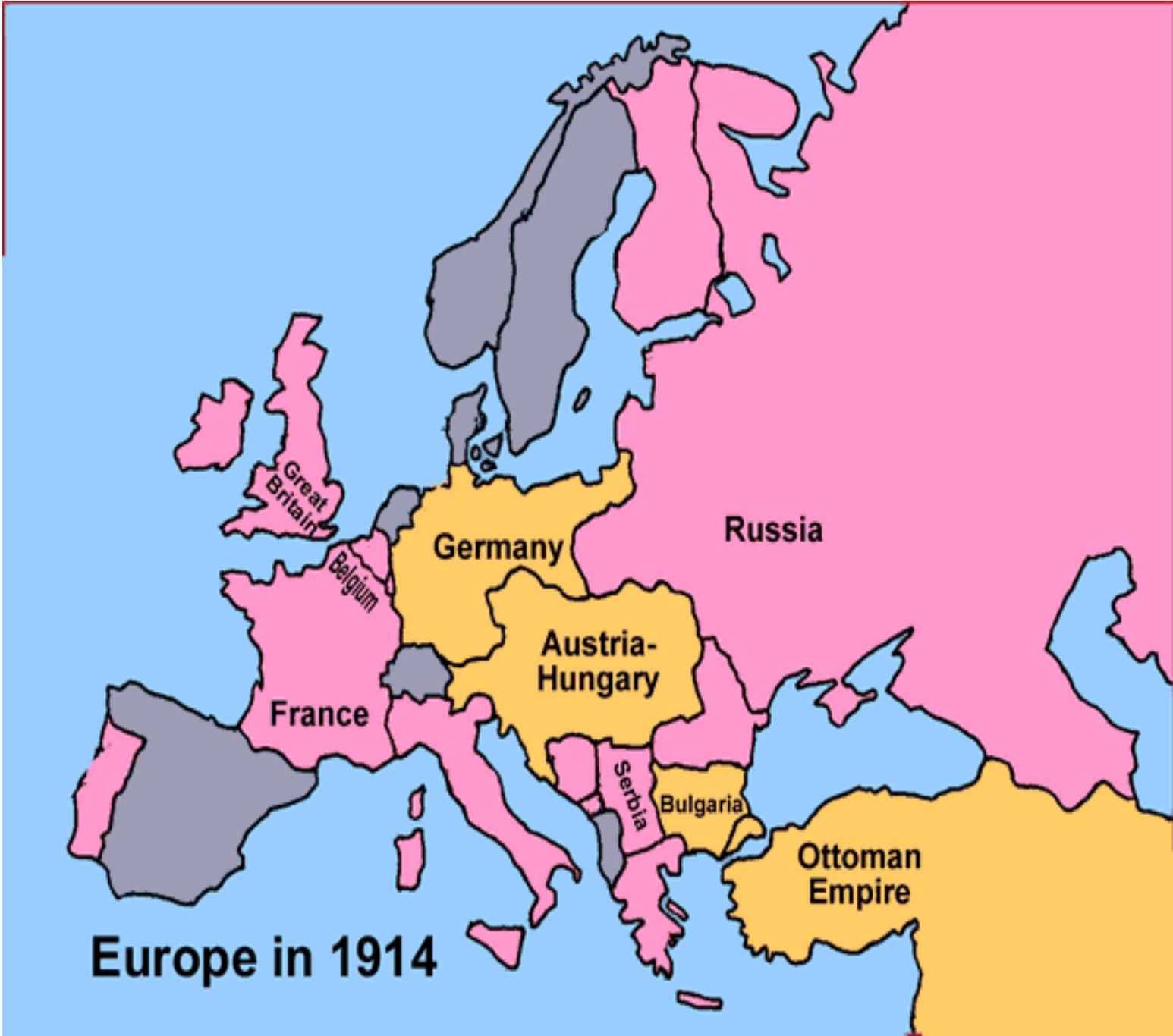
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# TOPICS TO BE COVERED IN THIS LECTURE

- Origins of the European Union
- The Treaties
- The Institutions
- Nature and Sources of EU Law
- The Main Provisions of the Treaties
  - Principles
  - Non-discrimination and Citizenship
  - The Internal Market
  - Rules on competition
- Enforcement of EU Law
- Other Competences

# EUROPE BEFORE 1914

- Many wars between nations
- Long hostility between France and Germany
- Western Europe – independent nation states
- Middle and Eastern Europe dominated by Empires of Germany, Austria-Hungary, Russia and Turkey (Ottoman Empire)
- First World War 1914-1918



# EUROPE 1919-1939

- Russian Revolution
- Dissolution of German and Austrian Empires
- Ottoman Empire removed from Europe
- New States in Middle and Eastern Europe
- Economic collapse
- Rise of dictatorships
- 1939-45 Second World War



# EUROPE 1919-20

# EUROPE 1945-50

- Ruin of Germany
- Economic collapse
- Iron Curtain
- Military weakness
- Economic weakness
  - anticompetitive practices
  - unequal access to resources (coal and iron)
- Regeneration of German economy
  - anti-trust laws (US model)

[see 1937 borders](#) [see 2000 borders](#)

- Warsaw Pact
- Other Marxist Regimes
- NATO alliance

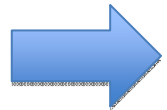




# Schuman Declaration – 9 May 1950

- Europe will not be made all at once, or according to a single plan.
- It will be built through concrete achievements which first create a de facto solidarity.
- The coming together of the nations of Europe requires the elimination of the age-old opposition of France and Germany.
- Any action taken must in the first place concern these two countries.

- With this aim in view, the French Government proposes that Franco-German production of coal and steel as a whole be placed
  - under a common High Authority,
  - within the framework of an organization open to the participation of the other countries of Europe.



EUROPEAN COAL AND STEEL COMMUNITY (1951)

EUROPEAN ECONOMIC COMMUNITY (1957)

EUROPEAN ATOMIC ENERGY COMMUNITY (1957)

Based on

COMMON RULES

COMMON INSTITUTIONS

# EEC TREATY (Treaty of Rome)

- Common Rules
  - The Common Market (now the Internal Market)
    - Abolition of internal tariff barriers
    - Common external tariff
    - The Four Freedoms
      - Free movement of goods
      - Free movement of persons
      - Free movement of services
      - Free movement of capital
    - Rules on Competition
    - Equal treatment of men and women at work

- Common Institutions

- Political Institutions

- Parliament (representing the people)
    - Council of Ministers (representing governments)
    - Commission (independent executive)

- Control Institutions

- Court of Justice (judicial control)
    - Court of Auditors (financial control)

# MAASTRICHT TREATY 1992

## Treaty on European Union

### “THREE PILLARS”

- European Community (EEC Treaty) plus
  - Economic and Monetary Union
    - EURO (1999-2002)
  - Citizenship of the Union
- Common Foreign and Security Policy
- Justice and Home Affairs
  - Police & Judicial cooperation in Criminal Matters

### New Institution

- European Council (Heads of State and Government)

# TREATY OF LISBON (2007)

- TREATY ON EUROPEAN UNION (TEU)
  - General Rules and Principles
- TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION (TFEU)
  - Detailed Rules
- CHARTER OF FUNDAMENTAL RIGHTS (2000)

# EUROPEAN UNION TODAY

- 27 MEMBER STATES – 28 from 1<sup>st</sup> July 2013
- 3 “Candidate” States
- 3 “Applicant” States
  
- EUROPEAN ECONOMIC AREA
- 27 EU Member States + 3 other States





# INSTITUTIONS

- POLITICAL INSTITUTIONS
  - European Council
  - European Parliament
  - Council of Ministers
  - European Commission
- JUDICIAL INSTITUTIONS
  - Court of Justice
  - General Court
- FINANCIAL INSTITUTIONS
  - European Central Bank
  - Court of Auditors

# EUROPEAN COUNCIL

## MEMBERS

- President (chosen by Council for 2.5 years)
- Heads of State and Government
- President of the Commission

## FUNCTION

To define general political directions and priorities

No legislative function

# EUROPEAN PARLIAMENT

- MEMBERS
  - 750 members (numbers proportionate to population of Member States)
  - Elected every five years
- FUNCTIONS
  - Legislation (with Council of Ministers)
  - Budgetary decisions and control (with Council)
  - Political control
  - Elect President of the Commission

# COUNCIL OF MINISTERS

- MEMBERS
  - Ministers of Member States with power to commit their governments
- FUNCTIONS
  - Legislation (with Parliament)
  - Budget decisions and control (with Parliament)
  - Policy-making and co-ordination
- DECISION-MAKING
  - By Qualified Majority unless otherwise provided
  - (from 2014) requires votes of 55% of States, representing 65% of the population of the Union
- SECRETARIAT

# EUROPEAN COMMISSION ORGANISATION

- COMMISSIONERS (one for each Member State)
  - President elected by European Parliament
  - 26 (27) Commissioners nominated by Member States and approved by European Parliament
- DIRECTORATES GENERAL AND DIRECTORATES
- One Commissioner appointed to be High Representative of The Union for Foreign Affairs and Security Policy
- EUROPEAN EXTERNAL ACTION SERVICE

# EUROPEAN COMMISSION FUNCTIONS

- Ensure the application of the Treaties
- Oversee the application of Union law
  - especially the rules on competition
- Execute the budget
- Manage programmes
- Exercise coordinating, executive and management functions

# COURT OF JUSTICE OF THE EU

- STRUCTURE AND MEMBERS
  - COURT OF JUSTICE
    - 1 Judge from each Member State
    - + 8 Advocates General
  - GENERAL COURT
    - 1 Judge from each Member State
- FUNCTION
  - to ensure that in the interpretation and application of the Treaties the law is observed

# NATURE & SOURCES OF EU LAW

- “New Legal Order”
- “Primacy” of EU law over law of the Member States
  
- Treaties and Charter (may have “direct effect”)
- Legislative acts
  - Regulations (directly applicable)
  - Directives (to be implemented by Member States)
  
- General Principles of Law
- Case law of the Court of Justice
  
- Also
  - Case law of the European Court of Human Rights
  - International Law
  - Constitutional law of the Member States



# PRINCIPLES

- Principle of SINCERE COOPERATION
  - The Union and the Member States shall, in full mutual respect, assist each other in carrying out the tasks which flow from the Treaties
- Principle of CONFERRAL
  - The Union shall act only within the limits of the competences conferred on it by the Member States in the Treaties
    - Exclusive competence
    - Shared competence

# PRINCIPLES

- Principle of SUBSIDIARITY
  - In areas of shared competence, Union may act only
    - if the objectives cannot be sufficiently achieved by the Member States,
    - or can be better achieved at Union level
- Principle of PROPORTIONALITY
  - Action must not exceed what is necessary to achieve objectives

# NON-DISCRIMINATION & CITIZENSHIP

- No discrimination on grounds of nationality
- Principle of equality (gender, age ...)
- Citizenship: every person holding the nationality of a Member State is a citizen of the Union
- EU citizens have the right
  - to *move* and *reside* freely within the territory of the Member States
  - conditions and limits laid down by the Treaties and legislation

# THE INTERNAL MARKET

- The “Four Freedoms”
- Freedom of movement of
  - Goods
  - Persons (“natural” and “legal” persons)
  - Services
  - Capital

# FREE MOVEMENT OF GOODS

- Customs Union
  - No internal tariff barriers
  - Common external tariffs
    - free circulation of goods once inside the EU
- Abolition of “non-tariff barriers” on imports and exports between Member States
  - No direct discrimination against goods from other Member States (*e.g.* quotas, differential taxation)
  - No indirect discrimination (*e.g. rules* on labelling or packaging) – “measures of equivalent effect”

# FREE MOVEMENT OF PERSONS

- Free movement of workers (employed)
- Free movement of self-employed
  - doctors, lawyers, artists, craftsmen, etc.
- Right of establishment
  - Setting up business permanently in another Member State
- Right to provide or receive services
  - Economic activity in another Member State on an occasional or temporary basis

# FREE MOVEMENT SERVICES & CAPITAL

- Free movement of services
  - Services not requiring physical movement of people – *e.g.* internet services
- Free movement of capital
  - free movement of money (including payments)
  - freedom to deposit money
  - freedom to invest

# EXCEPTIONS TO FREE MOVEMENT

- Exceptions must
  - serve a legitimate public purpose
  - be objectively necessary to achieve that purpose
  - be proportionate
    - not more restrictive or burdensome than is required to achieve the purpose



# RULES ON COMPETITION

- Rules applying to “undertakings”
  - Prohibition of anti-competitive agreements and concerted practices between undertakings
    - Exemption may be granted
  - Prohibition of abuse of a dominant position
    - No exemption
- Rules relating to States and State entities
  - Limitation/prohibition of State Aids

# ENFORCEMENT OF EU LAW

- By Governments and Courts of Member States
  - Possibility to seek a preliminary ruling on a question of law from the Court of Justice
- By the Commission
  - Directions and fines
- By EU Courts in direct actions
  - By Commission against Member States
  - By Member States against Union Institutions
  - Between Institutions
  - Against Institutions by persons affected directly and individually

# OTHER COMPETENCES

Include -

- Economic and monetary policy
- Employment and social policy
- Education and research
- Industry and trans-European networks
- Border controls, asylum and immigration
- Judicial and police cooperation
- External action
  - Common commercial policy (WTO, etc.)
  - Development cooperation and humanitarian aid