

# EU environmental law

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# EU competences : The Lisbon Treaty

- Art. 3 TEU: environmental protection as EU aims
- Art. 11 TFEU: integration of environmental dimension
- Art. 191-193 TFEU: Environmental policy + specific reference to climate change in Art. 191(1)
- Art. 37 EU Charter of Fundamental Rights
- Multiple legal basis
- Shared competence between MS and EU institutions (Art. 2 & 4 TFEU)

# The protection of the environment in the Treaties.

- The Lisbon Treaty 2007, Art. 3 (EU objectives):
  - The Union shall (...) work for the sustainable development of Europe based on balanced economic growth and (...) a high level of protection and improvement of the quality of the environment. (...)
  - It shall (...) promote social justice and protection, (...) solidarity between generations (...)
  - In its relations with the wider world, the Union shall (...) contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights (...)

# The protection of the environment in the Treaties.

- The Lisbon Treaty 2007, Art. 21.2 (external action):
  - The Union shall define and pursue *common policies and actions*, and shall work for a high degree of cooperation in all fields of international relations, in order to: (....)
  - (d) *foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty; (...)*
  - (f) *help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development; (...)*

# EU environmental strategy

- Key challenges:
  - Climate change and clean energy
  - Sustainable transport
  - Sustainable consumption and production
  - Conservation and management of natural resources
  - Public health
  - Social inclusion, demography and migration
  - Global poverty and sustainable development challenges

# Objectives of EU environmental policy

- Objectives (Article 191 TFEU):
  - the conservation, the protection and improvement of environmental quality
  - the protection of people's health
  - The prudent and rational use of natural resources
  - promoting measures at international level to deal with regional or worldwide environmental problems and in particular combating climate change.

# The principles of the EU environmental policy

- Art. 191 TFEU:
  - High level of protection
  - Precautionary principle and preventive action
  - Rectification of environmental damage at source
  - “Polluters pays” principle
- Sustainable use of natural resources

# Precautionary principle

- Preventive action principle + precautionary principle (TEC 1992)
- Decision making process under conditions of scientific uncertainty
- Environmental protection, human health, consumer protection
- Judicial application: ECJ, Case C-318/98, *Fornasar*; ECJ, Case C-180/96, *BSE*; ECJ, Case C-127/02, *Waddenze*; CFI, Case T-70/99, *Alapharma Inc.*



# Public participation and access to information

- Title II TEU: Provisions on democratic principles: Art. 11 TEU:
  - dialogue with associations and civil society
  - extensive consultations with stakeholders
  - citizens' initiative
- Art. 15 .1 TFEU (participation of civil society)
- Art. 15.3 TFEU (access to information)

# Principle of good governance

- Article 15.1 TFEU

1. In order to promote good governance and ensure the participation of civil society, institutions and bodies of the Union shall act with utmost respect the principle of openness.

- Article 21.2 TEU

2. The Union shall define and pursue common policies and actions and strive to achieve a high degree of cooperation in all fields of international relations in order to:

- h) promote an international system based on stronger multilateral cooperation and good global governance

# Principle of integration

- Article 11 TFEU
  - The demands of environmental protection must be integrated into the definition and implementation of policies and actions of the Union, in particular with a view to promoting sustainable development.
- Judicial application: ECJ, Case C-513/99, *Concordia Bus*