



Co-funded by the
Erasmus+ Programme
of the European Union



**ERASMUS+ STRATEGIC PARTNERSHIPS IN
RESPONSE OF THE COVID-19 SITUATION
„EDULAW“**



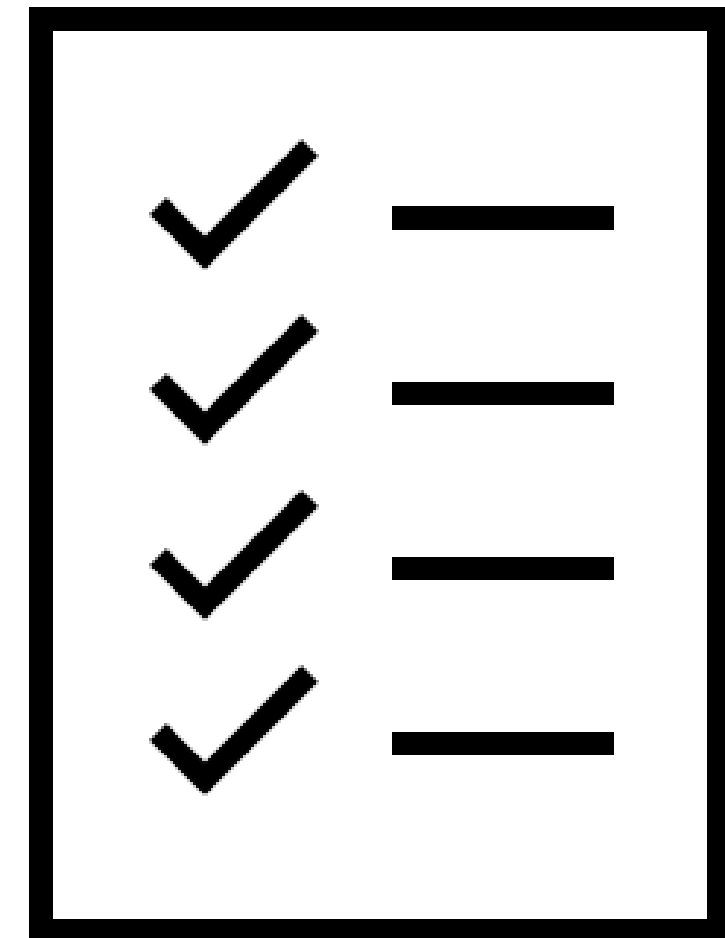
EU Environmental law

Lucia Pašová

Professor/Slovak university of Agriculture in Nitra

Program

1. The idea of integration
2. International communities
3. Revision treaties
4. Aims of the EU
5. Tools of achieving the objectives
6. EU international legal personality
7. Competences of the EU
8. Principles



Program

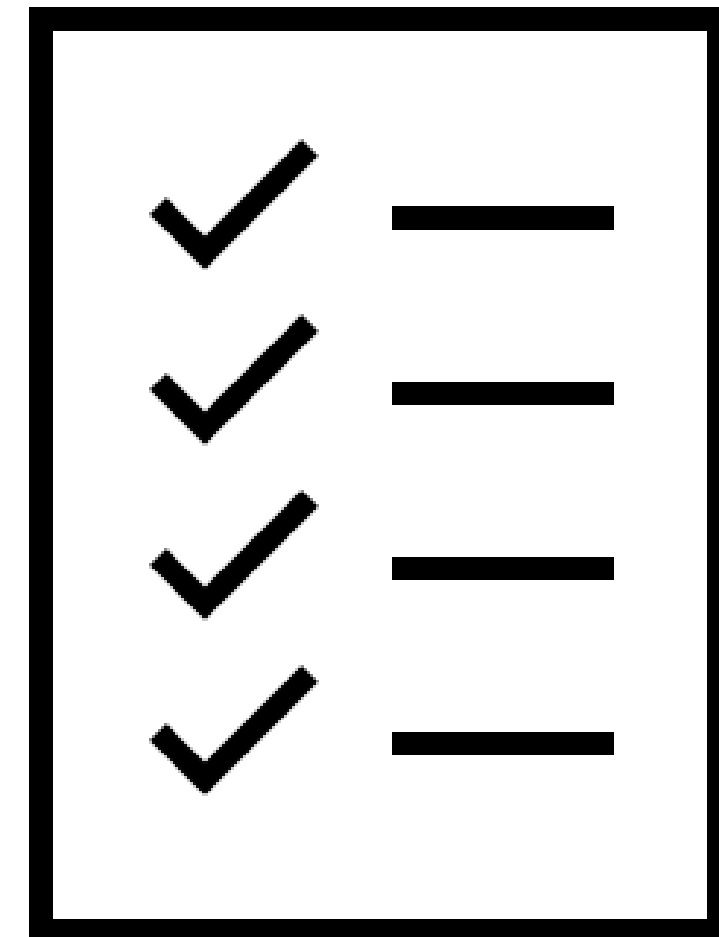
9. EU initiatives, policies and strategies

10. EU law

10.1. Primary law

10.2. Secondary law

11. Atypical legal acts



The idea of the integration?

- since the creation of independent European states
- 1929 -> **European Federal Association**
- effort to create a union in economic, social, policy area without limiting sovereignty participating States
 - 1946 -> **United States of Europe**
 - 1947 -> **European Recovery Program**

International communities

1. European Coal and Steel Community

2. European Economic Community (EEC)

3. European Atomic Energy Community (EURATOM)

- are international organizations of a transnational nature established by international treaties
- own legal personality
- they act through the bodies (lately they act jointly through the bodies which have been linked)

Revision treaties

- Single Europea Act (1986/1987)
- Maastricht Treaty (1992/1993)
- Amsterdam Treaty (1997/1999)
- Nice Treaty



Lisbon Treaty (2007/2009)

- the most important changes
- legal personality of the EU
- incorporation of the Charter of Fundamental Rights into the primary law of the EU
- concere division of the competences
- concretisation of the bodies and policies

Candidate states

Serbia, including
Kosovo (UN
Resolution 1244)

Albania

Monte Negro

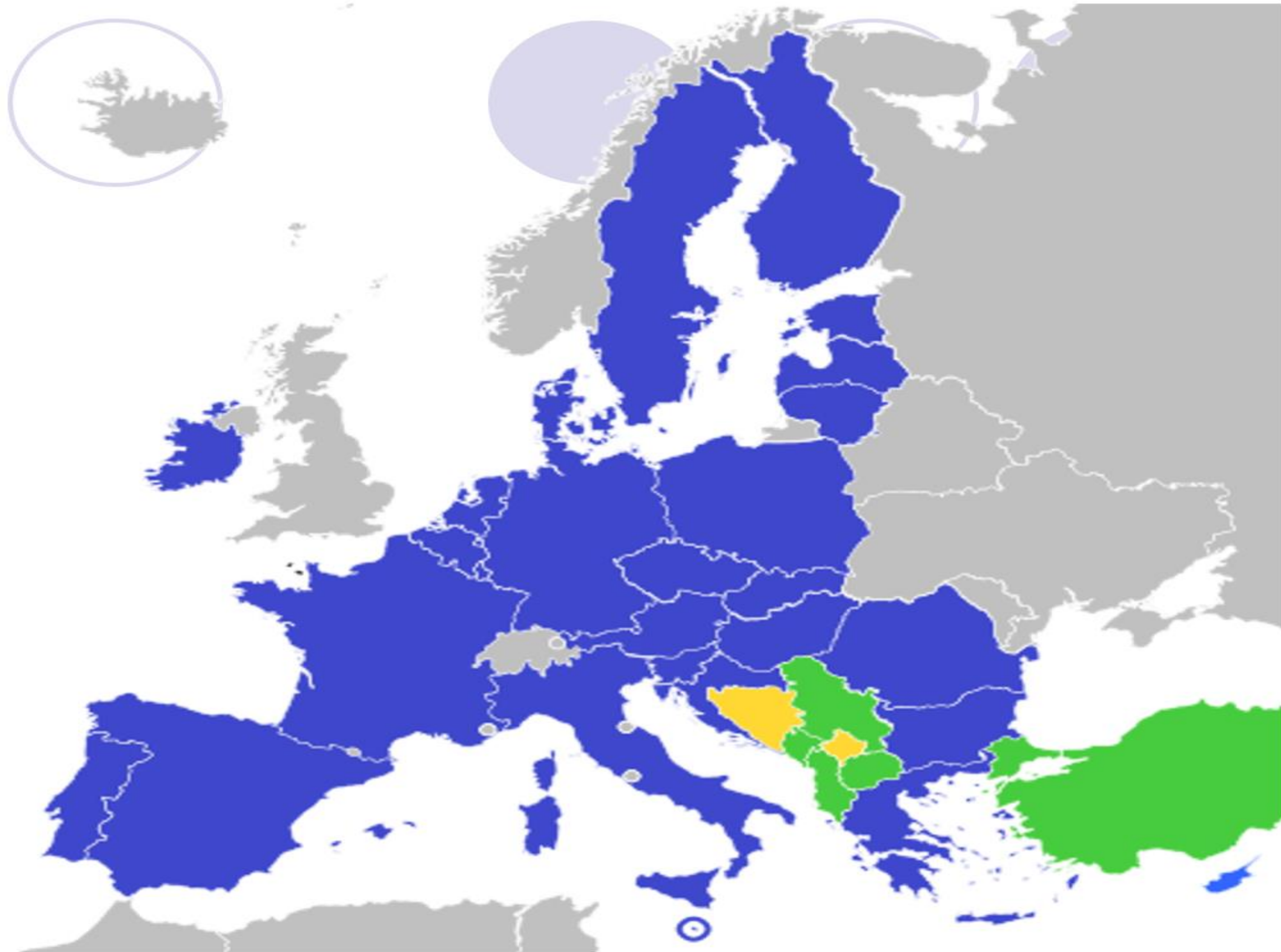
North Macedonia

Turkey

Potencial
candidate states

Bosna &
Herzegovina

Kosovo



What is the EU?

- 3 features of the state - territory, population, jurisdiction (*exercise of power through the organizational-normative substrate, ie through the legal system*)
- the state has sovereignty => EU it is not a sovereign actor, even though it is entrusted with the exercise of delegated powers
- it also implements the function of protecting fundamental rights and freedoms through the Charter of Fundamental Rights -> *The Court of Justice of the European Union shall not have jurisdiction to rule on the exercise of the powers of Member States with regard to the maintenance of law and order and the safeguarding of internal security.*

Aims

- complex concept
- compromise in the creation and during the adoption of the founding treaties – aims are expressed as motives (mostly in preambles), tasks, mission, own goals
- aims are important for the development of European law



Aims of the EU (Article 3 TEU)

- The EU's aim is to promote peace, its values and the well-being of its peoples.
- The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, (...)
- The EU shall establish an internal market. It shall work for the **sustainable development** of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of **protection and improvement of the quality of the environment**. It shall promote scientific and technological advance.
- The EU shall combat social exclusion and discrimination, and shall promote social justice and protection.
- The EU shall promote economic, social and territorial cohesion, and solidarity among Member States.

Tools of achieving the objectives

- **Legal acts**
- **Budget** financed from own resources (agricultural policy, subsidies, structural funds for regions a measures in the frame of social policy, some areas of internal policy e.g. support for internal trade, development and research, environmental protection, culture, support for youth, support for third countries in development programs)
- **Organizational and technical set of joint EU bodies** – a single institutional framework that ensures the coherence and sustainability of measures
- **Common market** – the elimination of barriers of the EU trade in order to connect national markets into a single market
- **Common policies**

EU international legal personality

- The EU can only act within the competences conferred on the EU by the Member States (Lisbon Treaty).. **The extent is questionable???**
- Article 1 TEU „*By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN UNION, on which the Member States confer competences to attain objectives they have in common.*“
- Article 2, Section 1 TFEU defines the areas, scope and manner of exercising its powers: „*When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.*“ (autonomy in the process of execution).

Competences of the EU

- Competence = ***ability to have the means to perform the tasks of the entity***
- the question of competences and its division - governed by its own rules based on the Lisbon Treaty.
- the Lisbon Treaty sets out the limits of the EU's competences more clearly than in previous treaties.

Division of powers

- a) **horizontal** - within the EU between the various legislative, executive and judicial institutions

- b) **vertical** - EU x Member States - by the founding treaties, states transferred part of their powers to the EU -> delegation (delegation is unconditional and unlimited - EU competence is limited by the principle of subsidiarity)



Vertical competences - principles

- **Principle of legality** - checks whether there is EU competence in the area and, if so, to what extent; The EU can only act in the areas entrusted to it by its Member States
- Subsidiarity principle
- Proportionality principle

Subsidiarity principle

- ***Subsidiarity principle*** - In areas which do not fall under the exclusive competence of the EU, the EU can only act if the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore be better achieved at EU level.
- According to the Amsterdam Treaty, the principle is respected only if at the same time:
 - the proposed measure has international aspects which cannot be satisfactorily addressed by Member States' action
 - national action or inaction by the EU would seriously harm the interests of the Member States
 - joint action at EU level would bring clear benefits in terms of the scope and effects of the proposed measure

EU competences

Exclusive

- customs union
- the establishing of the competition rules necessary for the functioning of the internal market
- monetary policy for the member states whose currency is the euro
- conservation of marine biological resources under the common fisheries policy
- common commercial policy
- concluding international agreements
 - when their conclusion is required by a legislative act of the EU
 - when their conclusion is necessary to enable the EU to exercise its internal competence
 - in so far as their conclusion may affect common rules or alter their scope.

Shared

- internal market
- social policy, limited to the aspects defined in the TFEU
- economic, social and territorial cohesion
- agriculture and fisheries, excluding the conservation of marine biological resources
- environment
- consumer protection
- transport
- trans-European networks
- energy
- area of freedom, security and justice
- common safety concerns in public health matters, limited to the aspects defined in the TFEU
- research, technological development and space
- development cooperation and humanitarian aid

Support, coordinate or supplement actions of the member states

- protection and improvement of human health
- industry
- culture
- tourism
- education, vocational training, youth and sport
- civil protection
- administrative cooperation

Legally binding EU acts in these areas cannot imply the harmonisation of national laws or regulations.

Provide arrangements within which EU member states must coordinate policy

- economic policy
- employment
- social policies



Article 3 TFEU

Article 4 TFEU

Article 6 TFEU

Article 5 TFEU

EU initiatives, policies and strategies

- They concern, for example, relations with the new neighbors, the enlarged EU and the improvement of the competitiveness of the Union's economy in the world.
- Strengthens the EU's capacity to fight international cross-border crime, illegal immigration, trafficking in women and children, drugs and weapons (Lisbon).
- **Sustainable development, improvement of the environment through high environmental protection:**
 - at international level, they will promote measures to address regional and global environmental problems, in particular climate change. Strengthening the EU's role in climate change will mean that Europe will continue to play a leading role in the fight against global warming
 - achieving energy efficiency and savings, as well as the development of new and renewable energy sources, TU energetics
 - the Lisbon Treaty also provides a new basis for cooperation between Member States in sport, humanitarian aid, civil protection, tourism and space research

EU law

- European law => particular international law
1. European Court of Justice- "The EC is creating a new legal order of the MP, in favor of which the Member States have limited (in limited areas) their sovereign rights and whose subjects are not only the Member States but also their nationals" (Van Gend en Loos)
 2. The EU has created its own legal order, which has become an integral part of the Member States' system => European law comes from an autonomous source (the Treaty) and therefore cannot be violated by a national rule

=> EU law is a legal order

Sources of the EU Law

1. Primary law
2. Charter of Fundamental Rights
3. Fundamental rights and general principles of law
4. Secondary law
5. International agreements concluded by the ESS / EU and the Member States, on the one hand, and third parties, on the other
6. Judicial decisions
7. Legal custom
8. Tertiary law



1. Primary law

- ***Treaty on European Union*** - general provisions, objectives, basic principles, principles of separation of powers, method of revision of the Treaties, basic characteristics of the institutions and their powers and specific provisions on the The Common Security and Defence Policy
- ***Treaty on the Functioning of the EU*** - legal basis for the action of the EU and its institutions within their competences
- ***Treaty establishing the European Atomic Energy Community***
- ***protocols and annexes to the founding treaties (Article 51 TEU)***

2. Charter of Fundamental Rights

1. **Dignity** (right to life, dignity, integrity of the person, prohibition of torture, degrading treatment, slavery and forced labor)
2. **Freedoms** (right to liberty and security, protection of personal data, freedom of thought, conscience, religion, ...)
3. **Equality** (non-discrimination, equality before the law)
4. **Solidarity** (right of collective bargaining, right to health protection, **right to environmental protection and consumer protection**, ...)
5. **Civil rights** (petitions, active and passive suffrage, ...)
6. **Justice** (presumption of innocence, right to a fair trial, ...)

Regulations

- a set of generally binding legal norms that are binding and apply immediately at the time of enter into force in all Member States
- all authorities are obliged to apply the regulation (it produces the same legal consequences where the conditions are the same)
- the regulation suppresses all national law which is in conflict with it - **direct effect**
- enter into force on the date stated therein, if no such date is specified, on the twentieth day following that of its publication in the Official Journal of the European Union



Directives

- The EU adopt directives with a certain content of regulation, which is then implemented by the Member States to which it is bound within the deadline set by the directive, by means and in the form of national law - **the directive is binding only on the objective to be achieved.**
- binding = does not directly establish the rights and obligations of individuals and legal entities
 - MSs is obliged to transpose the directive
 - MSs cannot be relieved of this obligation
- it can bind all states or only certain states
- it is published in the Official Journal of the EU
- preferred act in the case of harmonization

Decision

- the decision concerns a single case and is fully binding on the addressee, ie for a limited number of addressees (they deal with specific cases)
- addressees: individuals, legal entities, groups, Member States
- has a direct effect on the addressees Effective date: delivery date
- they are not published in the Official Journal (with certain exceptions), but are served on the person to whom they are addressed
- they are most often adopted in the field of competition law, where they are issued by the Commission

Recommendations and opinions

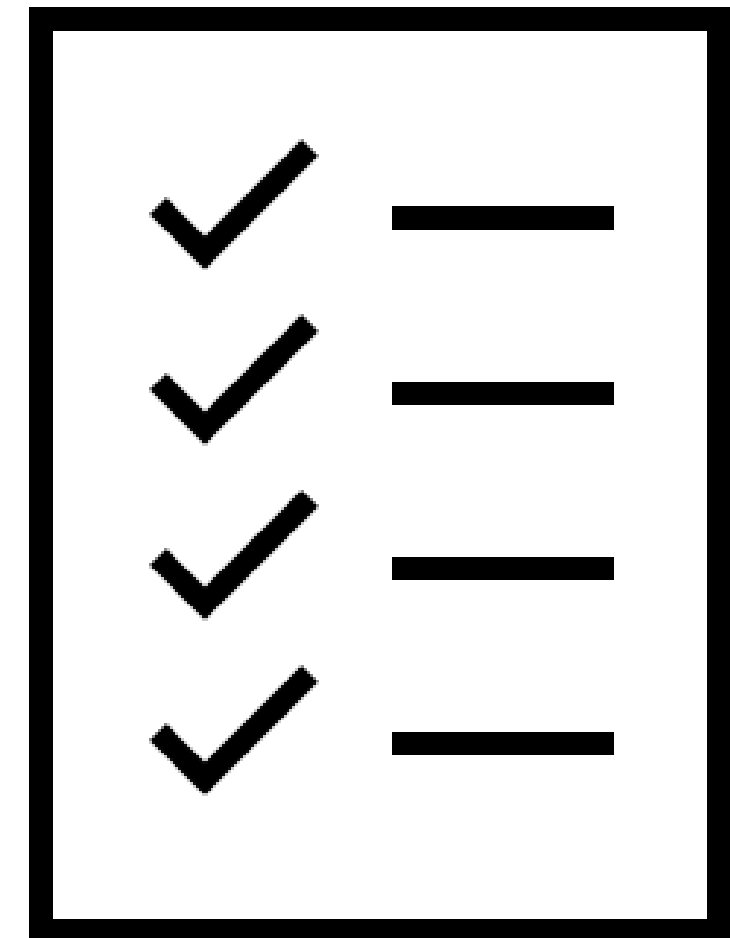
- non-binding legal acts (however, they are a precondition for a certain action or further procedure in the sense of the principle of loyalty)
- non-compliance cannot be disadvantageous
- contain an assessment of the legally relevant situation by the EU institutions (this is a kind of guide, advice)
- addressees: Member States, or other entities
- failure to issue a recommendation / opinion is grounds for bringing an action for failure to act (never an action for annulment, as they are not binding)

Atypical legal acts

- other legal acts such as measures, guidelines, white papers, green papers, ..
- **Green Papers** are communications issued by the European Commission to discuss common policy areas
- **White Papers** - provide guidance on further EU action in certain areas. In many cases, they follow on from the Green Papers that have been published for consultation at European level. The White Papers contain formulated proposals for specific policy areas to help develop these policy areas

Short Summary / key messages of the lecture

1. Explain subsidiarity principle.
2. What are the main aims of the EU (name 3)?
3. Name at least 4 sources of EU law.



Thank you for your attention

Any question? Doubts?
Feel free to reach me at:
lucia.palsova@uniag.sk

