

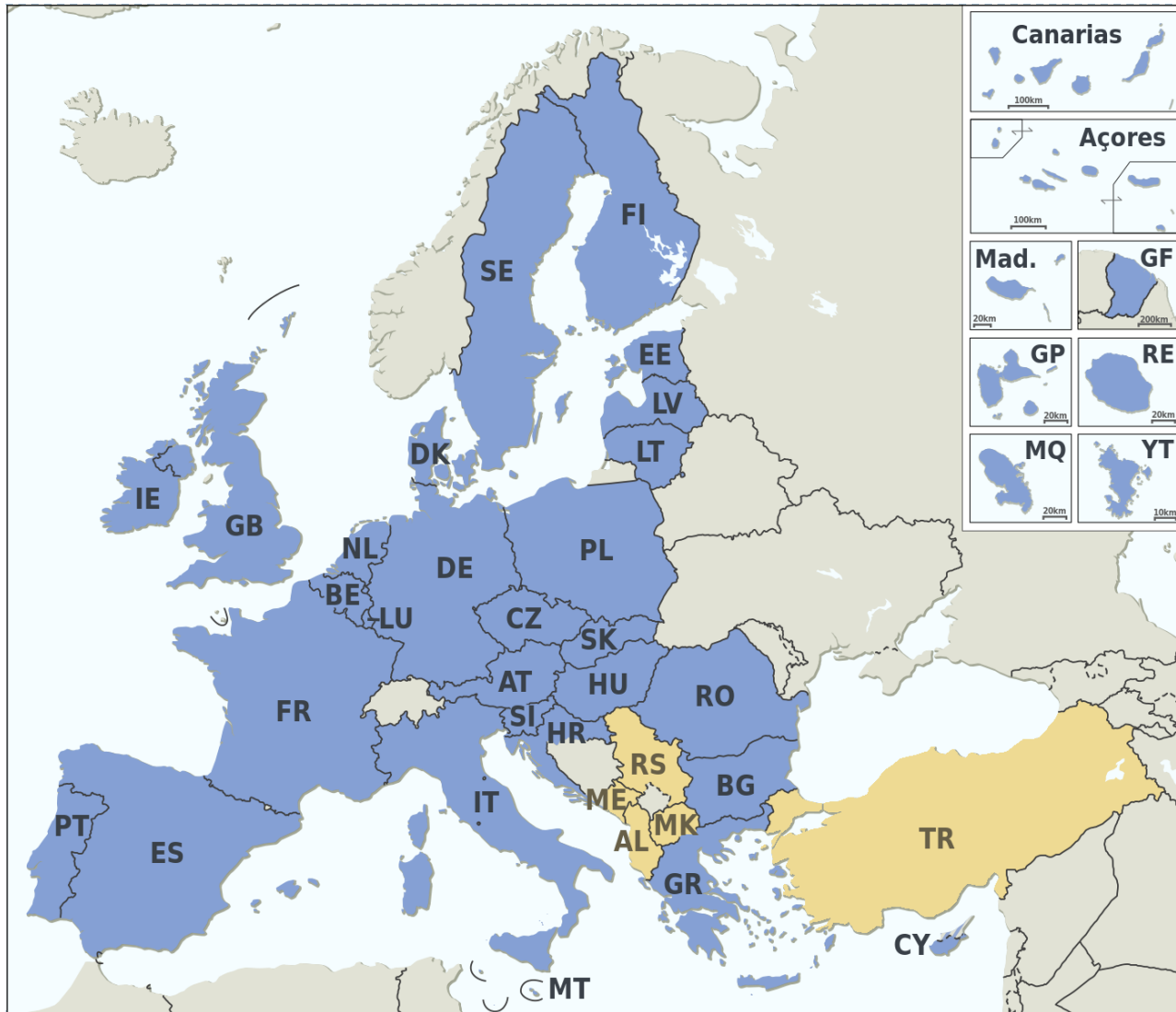
Seminar 2. Objectives and competences of the EU

12 September 2019

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EU MEMBER STATES



Complexity of EU Borders

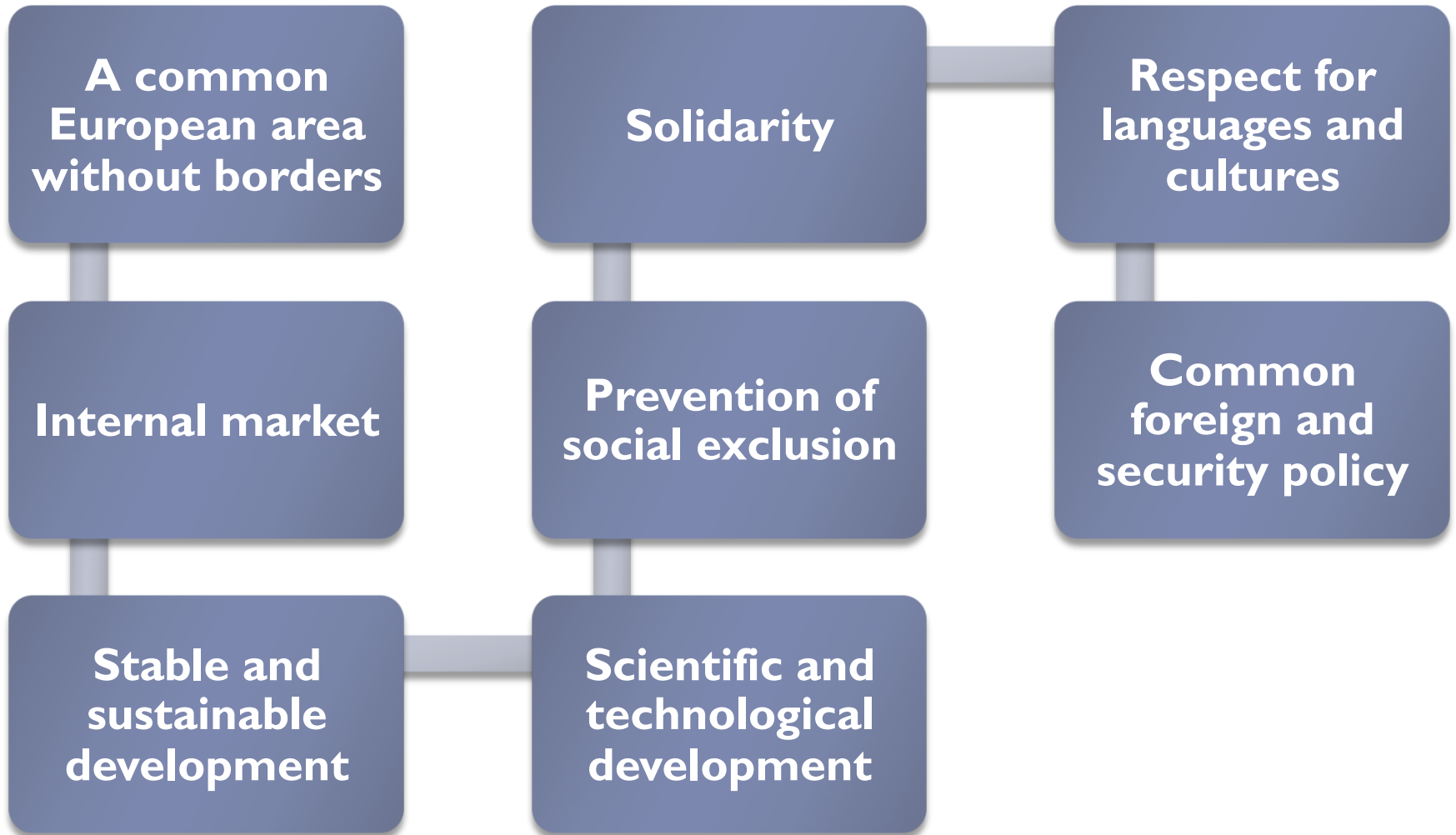


What are the objectives of the EU?

- ▶ <https://www.mentimeter.com/s/e2349b1fd14dca14d4688612510b1aff/8f2e64afa321>

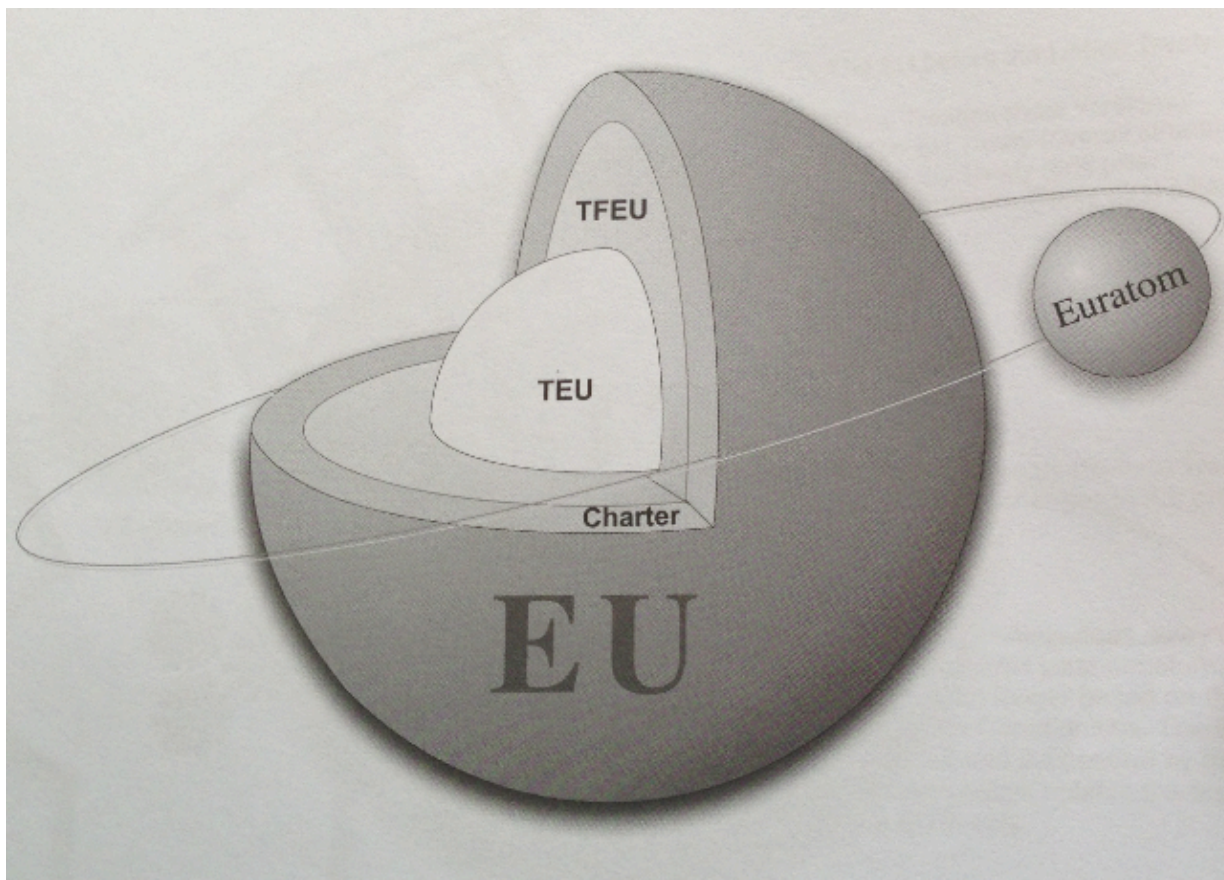


MAIN OBJECTIVES



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Tratado de Lisboa



- ▶ “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. 2 TEU – Values of the EU

- ▶ “The Union is founded on the values of **respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.** These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail..”



ART. 7 TEU

- ▶ 1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may determine that there is a **clear risk of a serious breach by a Member State of the values referred to in Article 2**. Before making such a determination, the Council shall hear the Member State in question and may address recommendations to it, acting in accordance with the same procedure. The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

 - ▶ 2. The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the consent of the European Parliament, may determine the **existence of a serious and persistent breach by a Member State of the values referred to in Article 2**, after inviting the Member State in question to submit its observations.
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France and Germany pile pressure on Poland and Hungary over rule of law

By Alexandra Brzozowski | EURACTIV.com

📅 10 abr. 2019

Advertisement



German Minister of State for Europe Michael Roth (L) and Romanian Minister Delegate for

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The Brief - Berlaymont's rural

WHY?

- ▶ POLAND:

- ▶ <https://www.youtube.com/watch?v=kxFd6A4IMWk>

- ▶ HUNGARY:

- ▶ <https://www.youtube.com/watch?v=IWYxavzgrQU>



ART. 3 TEU – Objectives of the Union

- ▶ 1. The Union's aim is to **promote peace**, its values and the well-being of its peoples.
 - ▶ 2. The Union shall offer its citizens an **area of freedom, security and justice** without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
 - ▶ 3. The Union 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**. It shall **combat social exclusion** and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and **protection of the rights of the child**. It shall promote economic, social and territorial **cohesion**, and **solidarity** among Member States. It shall respect its **rich cultural and linguistic diversity**, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.
 - ▶ 4. The Union shall **establish an economic and monetary union** whose currency is the euro.
 - ▶ 5. In its relations with the wider world, the Union shall uphold and promote its values and contribute to the protection of its citizens. It 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*, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.
 - ▶ 6. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties.
-



More objectives in TFEU

- ▶ **Art. 8 TFEU:** In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women.
 - ▶ **Art. 9 TFEU:** In defining and implementing its policies and actions, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.
 - ▶ **Art. 10 TFEU:** In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.
 - ▶ **Art. 11 TFEU:** Environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities, in particular with a view to promoting sustainable development.
 - ▶ **Art. 12 TFEU:** Consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities.
 - ▶ ETC.
-



Robert Schuman.

Declaration of 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 action be taken immediately on one limited but decisive point. It 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. The pooling of coal and steel production should immediately provide for the **setting up of common foundations for economic development as a first step in the federation of Europe**, and will change the destinies of those regions which have long been devoted to the manufacture of munitions of war, of which they have been the most constant victims. The solidarity in production thus established will make it plain that any war between France and Germany becomes not merely unthinkable, but materially impossible. The setting up of this powerful productive unit, open to all countries willing to take part and bound ultimately to provide all the member countries with the basic elements of industrial production on the same terms, will lay a true foundation for their economic

▶ unification[...]”.

EVOLUTION

New objectives/ competences

EEC TREATY:

- * customs union
- * four freedoms
- * competition policy
- * state aids
- * MS' fiscal regimes
- * common commercial policy
- * economic policy

Treaty on European Union

- * visas for non-EU nationals
- * education
- * culture
- * public health
- * consumer protection
- * transport
- * energy and telecommunications
- * industrial policy
- * development cooperation

Treaty of Amsterdam

- AFSJ
- Schengen Acquis
- National Parliaments
- Transparency
- Employment
- Social Policy abolished
- Principles Subsidiarity and Proportionality

SPECIFIC OBJECTIVES

ART. 3 TEU

AFSJ

Art. 3(2)
TEU

Internal
market

Art. 3(3)
TEU

EMU

Art. 3(4)
TEU

External
relations

Art. 3(5)
TEU



Subareas

Policies on
border
checks,
asylum and
immigration

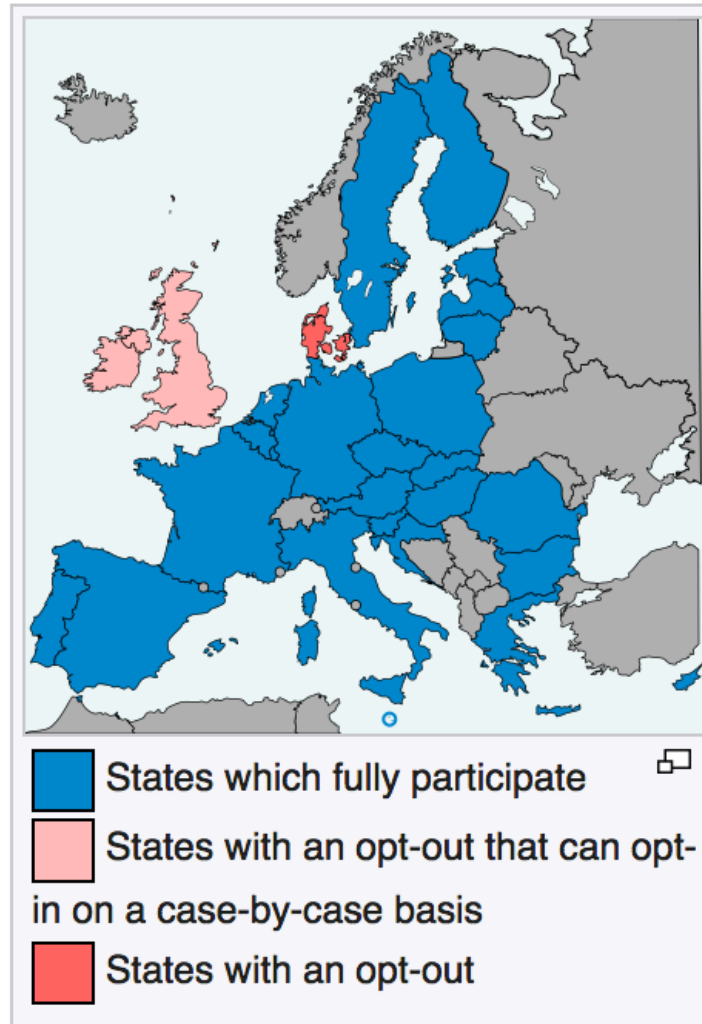
Judicial
cooperation
in civil
matters

Judicial
cooperation
in criminal
matters

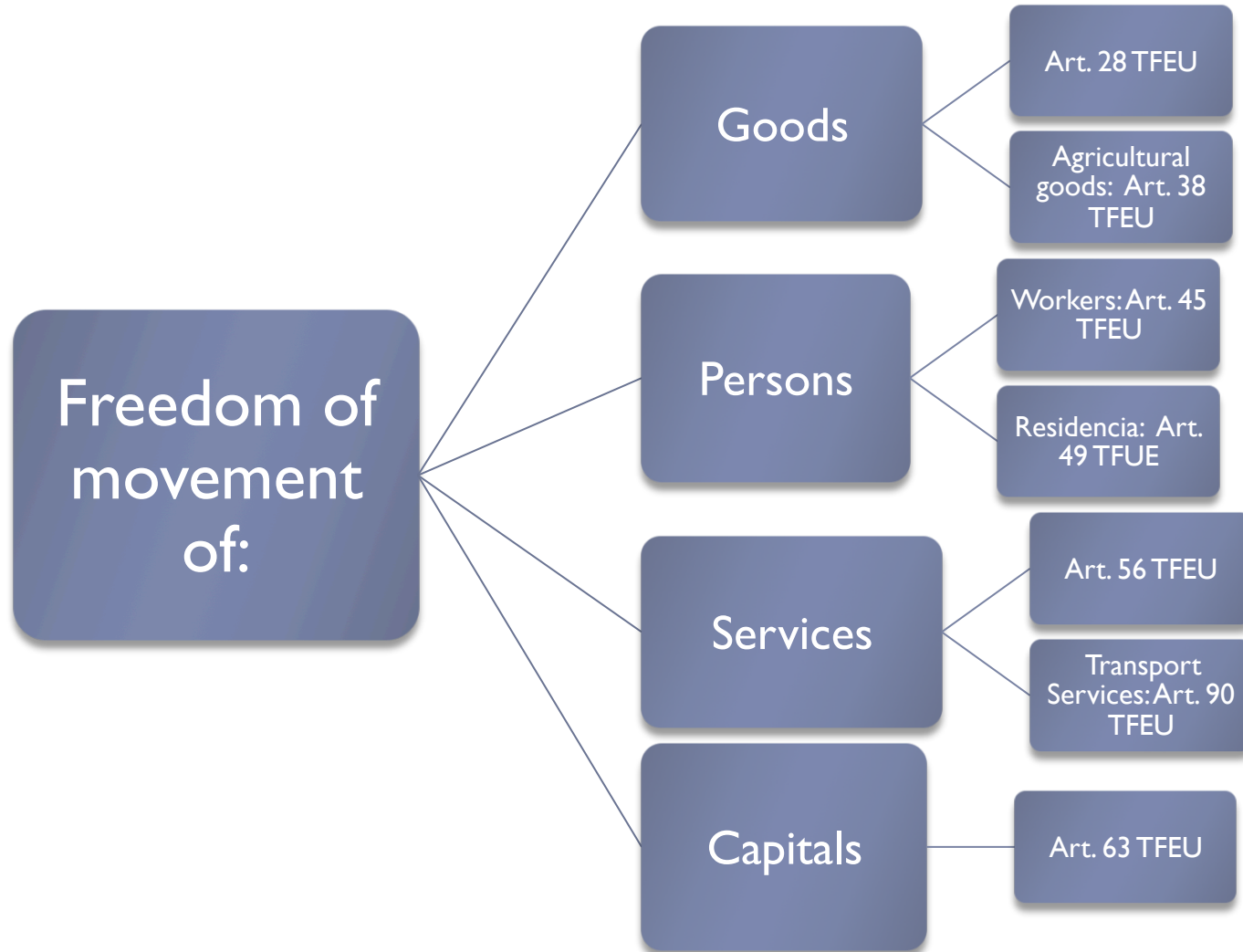
Police
cooperation



NOT ALL MEMBER STATES ARE IN



Internal market



Phases of economic integration

1. Free trade area



2. Customs union



3. Internal/
common
market

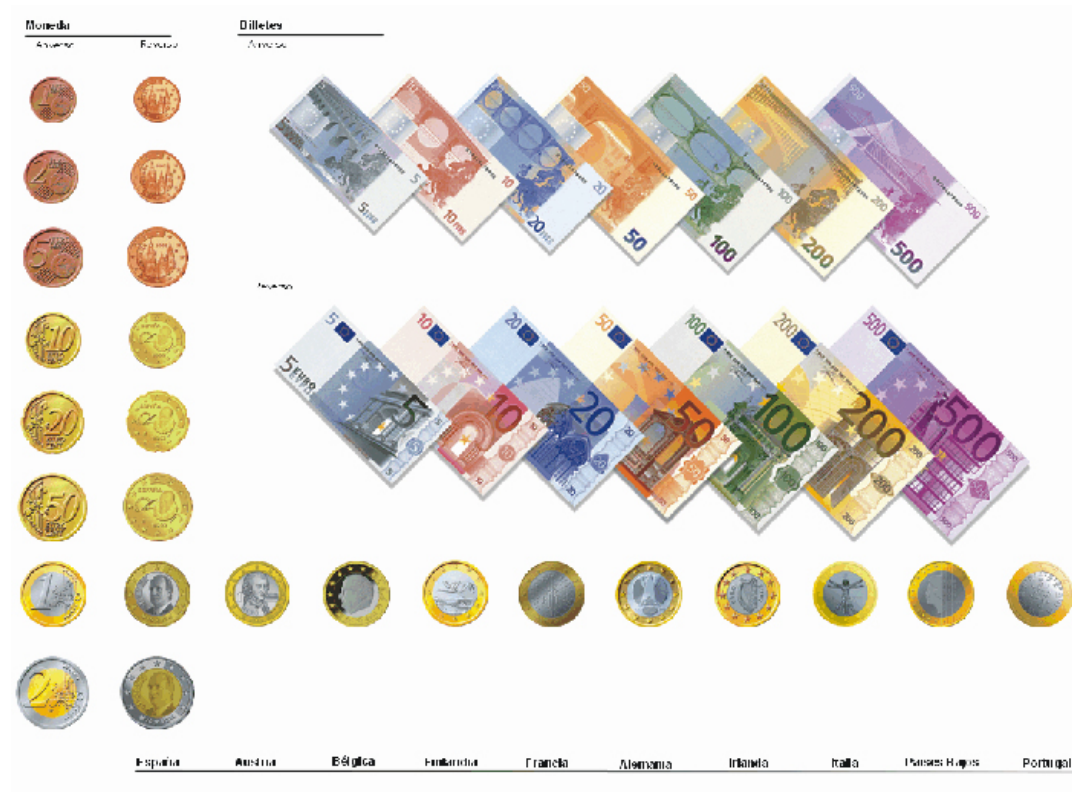


4. Economic
and Monetary
Union



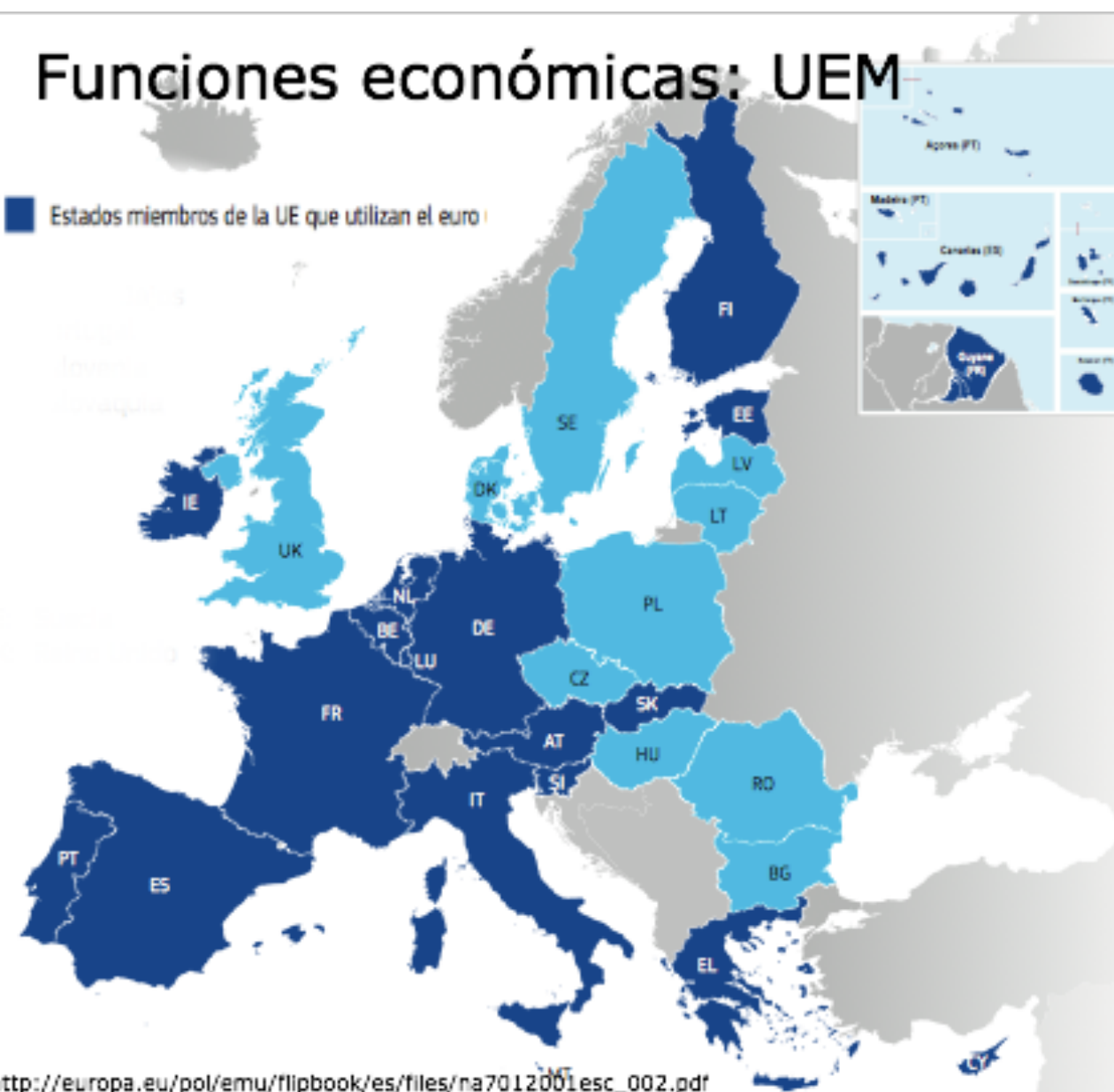
COMMON CURRENCY

<https://www.youtube.com/watch?v=StZhba7HMcQ>

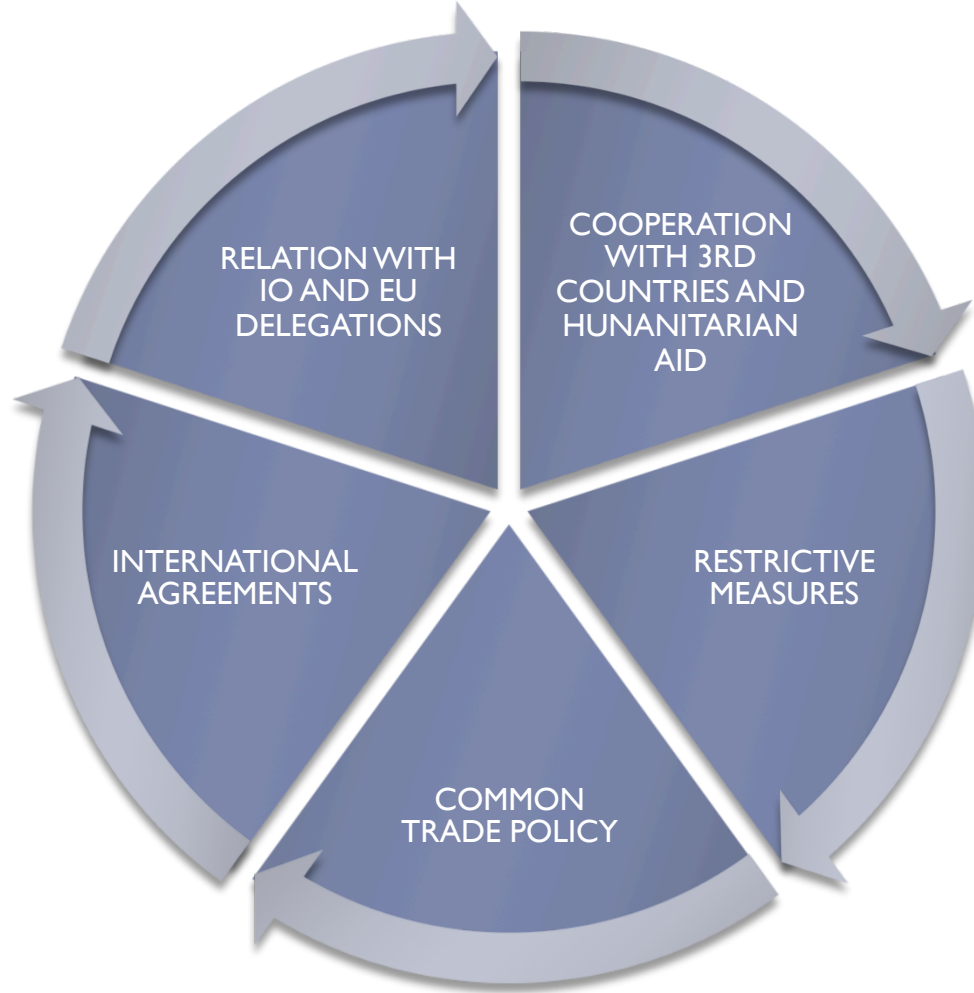


Funciones económicas: UEM

■ Estados miembros de la UE que utilizan el euro



EXTERNAL RELATIONS



► COMPETENCES OF THE EU



Sovereignty of EU law

▶ - Van Gend en Loos case

*“The conclusion to be drawn from this is that the community constitutes a new legal order of international law for the benefit of which **the states have limited their sovereign rights**, albeit within limited fields, and the subjects of which comprise not only member states but also their nationals, independently of the legislation of member states, community law therefore not only imposes obligations on individuals but is also intended to confer upon them rights which become part of their legal heritage .*



Costa v. ENEL

- ▶ *“By contrast with ordinary international treaties, the eec treaty has created its **own legal system** which, on the entry into force of the treaty, became an integral part of the legal systems of the member states and which their courts are bound to apply .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 particularly, real powers stemming from a limitation of 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 have thus created a body of law which binds both their nationals and themselves .”*

PRINCIPLE OF CONFERRAL

▶ **ART. 5 TEU:**

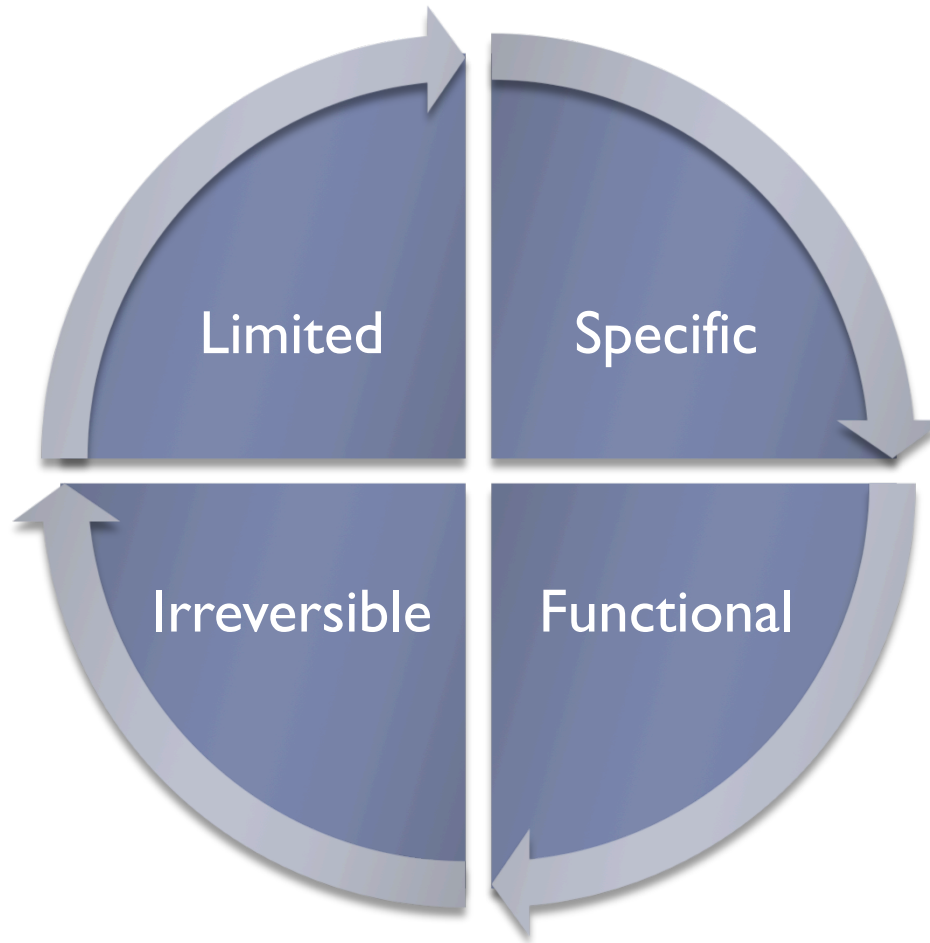
- ▶ 1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.
- ▶ 2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by 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. 13(2) TEU**

- ▶ 2. Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them. The institutions shall practice mutual sincere cooperation.



Competences of the EU



Principle of presumption of competence to the Member State

- ▶ **Art. 4(1) TEU**

- ▶ “1. In accordance with Article 5, competences not conferred upon the Union in the Treaties remain with the Member States. ”



In the Maastricht Treaty: The 3 pillars:



Since Lisbon Treaty –Art. 2 TFEU



COMPETENCES

Exclusive



- Commerce
- Competition



Shared



- Agriculture
- Environment



Supporting



- Tourism
- Education



Degree of EU intervention

Exclusive competence

The Union has exclusive competence to make directives and conclude international agreements when provided for in a Union legislative act as to ...

- the **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**
- the conservation of marine biological resources under the **common fisheries policy**
- **Common Commercial Policy**
- conclusion of certain **international agreements**

Shared competence

Member States cannot exercise competence in areas where the Union has done so, that is ...

- the **internal market**
- social policy, for the aspects defined in this Treaty
- economic, social and territorial cohesion
- **agriculture** and **fisheries**, excluding the conservation of marine biological resources
- **environment**
- consumer protection
- **transport**
- **trans-European networks**
- **energy**
- the **area of freedom, security and justice**
- common safety concerns in public health matters, for the aspects defined in this Treaty

Union exercise of competence shall not result in Member States being prevented from exercising theirs in ...

- research, technological development and **(outer) space**
- development cooperation, humanitarian aid

The Union coordinates Member States policies or implements supplemental to their common policies not covered elsewhere in ...

- the coordination of economic, employment and social policies
- common **foreign, security** and **defence** policies

Supporting competence

The Union can carry out actions to support, coordinate or supplement Member States' actions in ...

- the protection and improvement of human health
- industry
- **culture**
- tourism
- **education**, youth, **sport** and vocational training
- civil protection (disaster prevention)
- administrative cooperation



Shared competences

- ▶ Art. 2(2) TFEU
- ▶ “When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. **The Member States shall exercise their competence to the extent that the Union has not exercised its competence.** The Member States shall exercise their competence again to the extent that the Union has decided to cease exercising its competence.”



Flexibility clause

- ▶ Art. 352.1.
- ▶ If action by the Union should prove necessary, within the framework of the policies defined by the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the European Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures. Where the measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament.

PRINCIPLE OF SUBSIDIARITY

► Art. 5(3) TEU:

“Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, **the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States**, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.”



Activity: Vodafone case

Opinion AG Maduro

- ▶ **OPINION OF ADVOCATE GENERAL POIARES MADURO, 1 October 2009, Case C-58/08**

Par. 27-36

- ▶ 1. What are the issues that need to be taken into account in relation to the principle of subsidiarity?
- ▶ 2. Are these requirements taking place in the present case?




Criteria principle of subsidiarity

1. Necessity to act



2. More efficiency



3. Supranational dimension
of the problem

