European Union law is a body of treaties and legislation, such as Regulations and Directives, which have direct effect or indirect effect on the laws of European Union member states. The three sources of European Union law are primary law, secondary law and supplementary law. The main sources of primary law are the Treaties establishing the European Union. Secondary sources include regulations and directives which are based on the Treaties. The legislature of the European Union is principally composed of the European Parliament and the Council of the European Union, which under the Treaties may establish secondary law to pursue the objective set out in the Treaties.

European Union law is applied by the courts of member states and the Court of Justice of the European Union. Where the laws of member states provide for lesser rights European Union law can be enforced by the courts of member states. In case of European Union law which should have been transposed into the laws of member states, such as Directives, the European Commission can take proceedings against the member state under the Treaty on the Functioning of the European Union. The European Court of Justice is the highest court able to interpret European Union law. Supplementary sources of European Union law include case law by the Court of Justice, international law and general principles of European Union law.

Although the European Union does not have a codified constitution, like every political body it has laws which "constitute" its basic governance structure. The EU's primary constitutional sources are the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), which have been agreed or adhered to among the governments of all 28 member states. The Treaties establish the EU's institutions, list their powers and responsibilities, and explain the areas in which the EU can legislate with Directives or Regulations. The European Commission has the initiative to propose legislation. During the ordinary legislative procedure, the Council (which are ministers from member state governments) and the European Parliament (elected by citizens) can make amendments and must give their consent for laws to pass. The Commission oversees departments and various agencies that execute or enforce EU law. The "European Council" (rather than the Council, made up of different government Ministers) is composed of the Prime Ministers or executive Presidents of the member states. It appoints the Commissioners and the board of the European Central Bank. The European Court of Justice is the supreme judicial body which interprets EU law, and develops it through precedent. The Court can review the legality of the EU institutions' actions, in compliance with the Treaties. It can also decide upon claims for breach of EU laws from member states and citizens.

The primary law of the EU consists mainly of the founding treaties, the "core" treaties being the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU). The Treaties contain formal and substantive provisions, which frame policies of the European Union institutions and determine the division of competences between the European Union and its member states. The TEU establishes that European Union law applies to the metropolitan territories of the member states, as well as certain islands and overseas territories, including Madeira, the Canary Islands and the French overseas departments. European Union law also applies in territories where a member state is responsible for external relations, for example Gibraltar and the Åland islands. The TEU allows the European Council to make specific provisions for regions, as for example done for customs matters in Gibraltar and Saint-Pierre-et-Miquelon. The TEU specifically excludes certain regions, for example the Faroe Islands, from the jurisdiction of European Union law. Treaties apply as soon as they enter into force, unless stated otherwise, and are generally concluded for an unlimited period. The TEU provides that commitments entered into by the member states between themselves before the treaty was signed no longer apply.[vague] All EU member states are regarded as subject to the general obligation of the principle of cooperation, as stated in the TEU, whereby member states are obliged not to take measure which could jeopardise the attainment of the TEU objectives. The Court of Justice of the European Union can interpret the Treaties, but it cannot rule on their validity, which is subject to international law. Individuals may rely on primary law in the Court of Justice of the European Union if the Treaty provisions have a direct effect and they are sufficiently clear, precise and unconditional.

The principal Treaties that form the European Union began with common rules for coal and steel, and then atomic energy, but more complete and formal institutions were established through the Treaty of Rome 1957 and the Maastricht Treaty 1992 (now: TFEU). Minor amendments were made during the 1960s and 1970s. Major amending treaties were signed to complete the development of a single, internal market in the Single European Act 1986, to further the development of a more social Europe in the Treaty of Amsterdam 1997, and to make minor amendments to the relative power of member states in the EU institutions in the Treaty of Nice 2001 and the Treaty of Lisbon 2007. Since its establishment, more member states have joined through a series of accession treaties, from the UK, Ireland, Denmark and Norway in 1972 (though Norway did not end up joining), Greece in 1979, Spain and Portugal 1985, Austria, Finland, Norway and Sweden in 1994 (though again Norway failed to join, because of lack of support in the referendum), the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia in 2004, Romania and Bulgaria in 2007 and Croatia in 2013. Greenland signed a Treaty in 1985 giving it a special status.

Following the Nice Treaty, there was an attempt to reform the constitutional law of the European Union and make it more transparent; this would have also produced a single constitutional document. However, as a result of the referendum in France and the referendum in the Netherlands, the 2004 Treaty establishing a Constitution for Europe never came into force. Instead, the Lisbon Treaty was enacted. Its substance was very similar to the proposed constitutional treaty, but it was formally an amending treaty, and – though it significantly altered the existing treaties – it did not completely replace them.

The European Commission is the main executive body of the European Union. Article 17(1) of the Treaty on European Union states the Commission should "promote the general interest of the Union" while Article 17(3) adds that Commissioners should be "completely independent" and not "take instructions from any Government". Under article 17(2), "Union legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise." This means that the Commission has a monopoly on initiating the legislative procedure, although the Council is the "de facto catalyst of many legislative initiatives". The Parliament can also formally request the Commission to submit a legislative proposal but the Commission can reject such a suggestion, giving reasons. The Commission's President (currently an ex-Luxembourg Prime Minister, Jean-Claude Juncker) sets the agenda for the EU's work. Decisions are taken by a simple majority vote, usually through a "written procedure" of circulating the proposals and adopting if there are no objections.[citation needed] Since Ireland refused to consent to changes in the Treaty of Lisbon 2007, there remains one Commissioner for each of the 28 member states, including the President and the High Representative for Foreign and Security Policy (currently Federica Mogherini). The Commissioners (and most importantly, the portfolios they will hold) are bargained over intensively by the member states. The Commissioners, as a block, are then subject to a qualified majority vote of the Council to approve, and majority approval of the Parliament. The proposal to make the Commissioners be drawn from the elected Parliament, was not adopted in the Treaty of Lisbon. This means Commissioners are, through the appointment process, the unelected subordinates of member state governments.

Commissioners have various privileges, such as being exempt from member state taxes (but not EU taxes), and having immunity from prosecution for doing official acts. Commissioners have sometimes been found to have abused their offices, particularly since the Santer Commission was censured by Parliament in 1999, and it eventually resigned due to corruption allegations. This resulted in one main case, Commission v Edith Cresson where the European Court of Justice held that a Commissioner giving her dentist a job, for which he was clearly unqualified, did in fact not break any law. By contrast to the ECJ's relaxed approach, a Committee of Independent Experts found that a culture had developed where few Commissioners had ‘even the slightest sense of responsibility’. This led to the creation of the European Anti-fraud Office. In 2012 it investigated the Maltese Commissioner for Health, John Dalli, who quickly resigned after allegations that he received a €60m bribe in connection with a

Tobacco Products Directive. Beyond the Commission, the European Central Bank has relative executive autonomy in its conduct of monetary policy for the purpose of managing the euro. It has a six-person board appointed by the European Council, on the Council's recommendation. The President of the Council and a Commissioner can sit in on ECB meetings, but do not have voting rights.

The second main legislative body is the Council, which is composed of different ministers of the member states. The heads of government of member states also convene a "European Council" (a distinct body) that the TEU article 15 defines as providing the 'necessary impetus for its development and shall define the general political directions and priorities'. It meets each six months and its President (currently former Poland Prime Minister Donald Tusk) is meant to 'drive forward its work', but it does not itself 'legislative functions'. The Council does this: in effect this is the governments of the member states, but there will be a different minister at each meeting, depending on the topic discussed (e.g. for environmental issues, the member states' environment ministers attend and vote; for foreign affairs, the foreign ministers, etc.). The minister must have the authority to represent and bin the member states in decisions. When voting takes place it is weighted inversely to member state size, so smaller member states are not dominated by larger member states. In total there are 352 votes, but for most acts there must be a qualified majority vote, if not consensus. TEU article 16(4) and TFEU article 238(3) define this to mean at least 55 per cent of the Council members (not votes) representing 65 per cent of the population of the EU: currently this means around 74 per cent, or 260 of the 352 votes. This is critical during the legislative process.

To make new legislation, TFEU article 294 defines the "ordinary legislative procedure" that applies for most EU acts. The essence is there are three readings, starting with a Commission proposal, where the Parliament must vote by a majority of all MEPs (not just those present) to block or suggest changes, and the Council must vote by qualified majority to approve changes, but by unanimity to block Commission amendment. Where the different institutions cannot agree at any stage, a "Conciliation Committee" is convened, representing MEPs, ministers and the Commission to try and get agreement on a joint text: if this works, it will be sent back to the Parliament and Council to approve by absolute and qualified majority. This means, legislation can be blocked by a majority in Parliament, a minority in the Council, and a majority in the Commission: it is harder to change EU law than stay the same. A different procedure exists for budgets. For "enhanced cooperation" among a sub-set of at least member states, authorisation must be given by the Council. Member state governments should be informed by the Commission at the outset before any proposals start the legislative procedure. The EU as a whole can only act within its power set out in the Treaties. TEU articles 4 and 5 state that powers remain with the member states unless they have been conferred, although there is a debate about the Kompetenz-Kompetenz question: who ultimately has the "competence" to define the EU's "competence". Many member state courts believe they decide, other member state Parliaments believe they decide, while within the EU, the Court of Justice believes it has the final say.

The judicial branch of the EU has played an important role in the development of EU law, by assuming the task of interpreting the treaties, and accelerating economic and political integration. Today the Court of Justice of the European Union (CJEU) is the main judicial body, within which there is a higher European Court of Justice (commonly abbreviated as ECJ) that deals with cases that contain more public importance, and a General Court that deals with issues of detail but without general importance. There is also a Civil Service Tribunal to deal with EU staff issues, and then a separate Court of Auditors. Under the Treaty on European Union article 19(2) there is one judge from each member state, 28 at present, who are supposed to "possess the qualifications required for appointment to the highest judicial offices" (or for the General Court, the "ability required for appointment to high judicial office"). A president is elected by the judges for three years. Under TEU article 19(3) is to be the ultimate court to interpret questions of EU law. In fact, most EU law is applied by member state courts (the English Court of Appeal, the German Bundesgerichtshof, the Belgian Cour du travail, etc.) but they can refer questions to the EU court for a preliminary ruling. The CJEU's duty is to "ensure that in the interpretation and application of the Treaties the law is observed", although realistically it has the ability

to expand and develop the law according to the principles it deems to be appropriate. Arguably this has been done through both seminal and controversial judgments, including Van Gend en Loos, Mangold v Helm, and Kadi v Commission.

Since its founding, the EU has operated among an increasing plurality of national and globalising legal systems. This has meant both the European Court of Justice and the highest national courts have had to develop principles to resolve conflicts of laws between different systems. Within the EU itself, the Court of Justice's view is that if EU law conflicts with a provision of national law, then EU law has primacy. In the first major case in 1964, Costa v ENEL, a Milanese lawyer, and former shareholder of an energy company, named Mr Costa refused to pay his electricity bill to Enel, as a protest against the nationalisation of the Italian energy corporations. He claimed the Italian nationalisation law conflicted with the Treaty of Rome, and requested a reference be made to both the Italian Constitutional Court and the Court of Justice under TFEU article 267. The Italian Constitutional Court gave an opinion that because the nationalisation law was from 1962, and the treaty was in force from 1958, Costa had no claim. By contrast, the Court of Justice held that ultimately the Treaty of Rome in no way prevented energy nationalisation, and in any case under the Treaty provisions only the Commission could have brought a claim, not Mr Costa. However, in principle, Mr Costa was entitled to plead that the Treaty conflicted with national law, and the court would have a duty to consider his claim to make a reference if there would be no appeal against its decision. The Court of Justice, repeating its view in Van Gend en Loos, said member states "albeit within limited spheres, have restricted their sovereign rights and created a body of law applicable both to their nationals and to themselves" on the "basis of reciprocity". EU law would not "be overridden by domestic legal provisions, however framed... without the legal basis of the community itself being called into question." This meant any "subsequent unilateral act" of the member state inapplicable. Similarly, in Amministrazione delle Finanze v Simmenthal SpA, a company, Simmenthal SpA, claimed that a public health inspection fee under an Italian law of 1970 for importing beef from France to Italy was contrary to two Regulations from 1964 and 1968. In "accordance with the principle of the precedence of Community law," said the Court of Justice, the "directly applicable measures of the institutions" (such as the Regulations in the case) "render automatically inapplicable any conflicting provision of current national law". This was necessary to prevent a "corresponding denial" of Treaty "obligations undertaken unconditionally and irrevocably by member states", that could "imperil the very foundations of the" EU. But despite the views of the Court of Justice, the national courts of member states have not accepted the same analysis.

Generally speaking, while all member states recognise that EU law takes primacy over national law where this agreed in the Treaties, they do not accept that the Court of Justice has the final say on foundational constitutional questions affecting democracy and human rights. In the United Kingdom, the basic principle is that Parliament, as the sovereign expression of democratic legitimacy, can decide whether it wishes to expressly legislate against EU law. This, however, would only happen in the case of an express wish of the people to withdraw from the EU. It was held in R (Factortame Ltd) v Secretary of State for Transport that "whatever limitation of its sovereignty Parliament accepted when it enacted the European Communities Act 1972 was entirely voluntary" and so "it has always been clear" that UK courts have a duty "to override any rule of national law found to be in conflict with any directly enforceable rule of Community law." More recently the UK Supreme Court noted that in R (HS2 Action Alliance Ltd) v Secretary of State for Transport, although the UK constitution is uncodified, there could be "fundamental principles" of common law, and Parliament "did not either contemplate or authorise the abrogation" of those principles when it enacted the European Communities Act 1972. The view of the German Constitutional Court from the Solange I and Solange II decisions is that if the EU does not comply with its basic constitutional rights and principles (particularly democracy, the rule of law and the social state principles) then it cannot override German law. However, as the nicknames of the judgments go, "so long as" the EU works towards the democratisation of its institutions, and has a framework that protects fundamental human rights, it would not review EU legislation for compatibility with German constitutional principles. Most other member states have expressed similar reservations. This suggests the EU's legitimacy rests on the ultimate authority of member states, its factual

commitment to human rights, and the democratic will of the people.

While constitutional law concerns the European Union's governance structure, administrative law binds EU institutions and member states to follow the law. Both member states and the Commission have a general legal right or "standing" (locus standi) to bring claims against EU institutions and other member states for breach of the treaties. From the EU's foundation, the Court of Justice also held that the Treaties allowed citizens or corporations to bring claims against EU and member state institutions for violation of the Treaties and Regulations, if they were properly interpreted as creating rights and obligations. However, under Directives, citizens or corporations were said in 1986 to not be allowed to bring claims against other non-state parties. This meant courts of member states were not bound to apply an EU law where a national rule conflicted, even though the member state government could be sued, if it would impose an obligation on another citizen or corporation. These rules on "direct effect" limit the extent to which member state courts are bound to administer EU law. All actions by EU institutions can be subject to judicial review, and judged by standards of proportionality, particularly where general principles of law, or fundamental rights are engaged. The remedy for a claimant where there has been a breach of the law is often monetary damages, but courts can also require specific performance or will grant an injunction, in order to ensure the law is effective as possible.

Although it is generally accepted that EU law has primacy, not all EU laws give citizens standing to bring claims: that is, not all EU laws have "direct effect". In Van Gend en Loos v Nederlandse Administratie der Belastingen it was held that the provisions of the Treaties (and EU Regulations) are directly effective, if they are (1) clear and unambiguous (2) unconditional, and (3) did not require EU or national authorities to take further action to implement them. Van Gend en Loos, a postal company, claimed that what is now TFEU article 30 prevented the Dutch Customs Authorities charging tariffs, when it imported urea-formaldehyde plastics from Germany to the Netherlands. After a Dutch court made a reference, the Court of Justice held that even though the Treaties did not "expressly" confer a right on citizens or companies to bring claims, they could do so. Historically, international treaties had only allowed states to have legal claims for their enforcement, but the Court of Justice proclaimed "the Community constitutes a new legal order of international law". Because article 30 clearly, unconditionally and immediately stated that no quantitative restrictions could be placed on trade, without a good justification, Van Gend en Loos could recover the money it paid for the tariff. EU Regulations are the same as Treaty provisions in this sense, because as TFEU article 288 states, they are ‘directly applicable in all Member States’. Moreover, member states comes under a duty not to replicate Regulations in their own law, in order to prevent confusion. For instance, in Commission v Italy the Court of Justice held that Italy had breached a duty under the Treaties, both by failing to operate a scheme to pay farmers a premium to slaughter cows (to reduce dairy overproduction), and by reproducing the rules in a decree with various additions. "Regulations," held the Court of Justice, "come into force solely by virtue of their publication" and implementation could have the effect of "jeopardizing their simultaneous and uniform application in the whole of the Union." On the other hand, some Regulations may themselves expressly require implementing measures, in which case those specific rules should be followed.

While the Treaties and Regulations will have direct effect (if clear, unconditional and immediate), Directives do not generally give citizens (as opposed to the member state) standing to sue other citizens. In theory, this is because TFEU article 288 says Directives are addressed to the member states and usually "leave to the national authorities the choice of form and methods" to implement. In part this reflects that directives often create minimum standards, leaving member states to apply higher standards. For example, the Working Time Directive requires that every worker has at least 4 weeks paid holidays each year, but most member states require more than 28 days in national law. However, on the current position adopted by the Court of Justice, citizens have standing to make claims based on national laws that implement Directives, but not from Directives themselves. Directives do not have so called "horizontal" direct effect (i.e. between non-state parties). This view was instantly controversial, and in the early 1990s three Advocate Generals persuasively argued that Directives should create

rights and duties for all citizens. The Court of Justice refused, but there are five large exceptions.

First, if a Directive's deadline for implementation is not met, the member state cannot enforce conflicting laws, and a citizen may rely on the Directive in such an action (so called "vertical" direct effect). So, in Pubblico Ministero v Ratti because the Italian government had failed to implement a Directive 73/173/EEC on packaging and labelling solvents by the deadline, it was estopped from enforcing a conflicting national law from 1963 against Mr Ratti's solvent and varnish business. A member state could "not rely, as against individuals, on its own failure to perform the obligations which the Directive entails." Second, a citizen or company can invoke a Directive, not just in a dispute with a public authority, but in a dispute with another citizen or company. So, in CIA Security v Signalson and Securitel the Court of Justice held that a business called CIA Security could defend itself from allegations by competitors that it had not complied with a Belgian decree from 1991 about alarm systems, on the basis that it had not been notified to the Commission as a Directive required. Third, if a Directive gives expression to a "general principle" of EU law, it can be invoked between private non-state parties before its deadline for implementation. This follows from Kücükdeveci v Swedex GmbH & Co KG where the German Civil Code §622 stated that the years people worked under the age of 25 would not count towards the increasing statutory notice before dismissal. Ms Kücükdeveci worked for 10 years, from age 18 to 28, for Swedex GmbH & Co KG before her dismissal. She claimed that the law not counting her years under age 25 was unlawful age discrimination under the Employment Equality Framework Directive. The Court of Justice held that the Directive could be relied on by her because equality was also a general principle of EU law. Third, if the defendant is an emanation of the state, even if not central government, it can still be bound by Directives. In Foster v British Gas plc the Court of Justice held that Mrs Foster was entitled to bring a sex discrimination claim against her employer, British Gas plc, which made women retire at age 60 and men at 65, if (1) pursuant to a state measure, (2) it provided a public service, and (3) had special powers. This could also be true if the enterprise is privatised, as it was held with a water company that was responsible for basic water provision.

Fourth, national courts have a duty to interpret domestic law "as far as possible in the light of the wording and purpose of the directive". Textbooks (though not the Court itself) often called this "indirect effect". In Marleasing SA v La Comercial SA the Court of Justice held that a Spanish Court had to interpret its general Civil Code provisions, on contracts lacking cause or defrauding creditors, to conform with the First Company Law Directive article 11, that required incorporations would only be nullified for a fixed list of reasons. The Court of Justice quickly acknowledged that the duty of interpretation cannot contradict plain words in a national statute. But, fifth, if a member state has failed to implement a Directive, a citizen may not be able to bring claims against other non-state parties, but can sue the member state itself for failure to implement the law. So, in Francovich v Italy, the Italian government had failed to set up an insurance fund for employees to claim unpaid wages if their employers had gone insolvent, as the Insolvency Protection Directive required. Francovich, the former employee of a bankrupt Venetian firm, was therefore allowed to claim 6 million Lira from the Italian government in damages for his loss. The Court of Justice held that if a Directive would confer identifiable rights on individuals, and there is a causal link between a member state's violation of EU and a claimant's loss, damages must be paid. The fact that the incompatible law is an Act of Parliament is no defence.

The principles of European Union law are rules of law which have been developed by the European Court of Justice that constitute unwritten rules which are not expressly provided for in the treaties but which affect how European Union law is interpreted and applies. In formulating these principles, the courts have drawn on a variety of sources, including: public international law and legal doctrines and principles present in the legal systems of European Union member states and in the jurisprudence of the European Court of Human Rights. Accepted general principles of European Union Law include fundamental rights (see human rights), proportionality, legal certainty, equality before the law and subsidiarity.

Proportionality is recognised one of the general principles of European Union law by the European Court of Justice since the 1950s. According to the general principle of proportionality the lawfulness of an action depends on whether it was appropriate and necessary to achieve the objectives legitimately pursued. When there is a choice between several appropriate measures the least onerous must be adopted, and any disadvantage caused must not be disproportionate to the aims pursued. The principle of proportionality is also recognised in Article 5 of the EC Treaty, stating that "any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty".

The concept of legal certainty is recognised one of the general principles of European Union law by the European Court of Justice since the 1960s. It is an important general principle of international law and public law, which predates European Union law. As a general principle in European Union law it means that the law must be certain, in that it is clear and precise, and its legal implications foreseeable, specially when applied to financial obligations. The adoption of laws which will have legal effect in the European Union must have a proper legal basis. Legislation in member states which implements European Union law must be worded so that it is clearly understandable by those who are subject to the law. In European Union law the general principle of legal certainty prohibits Ex post facto laws, i.e. laws should not take effect before they are published. The doctrine of legitimate expectation, which has its roots in the principles of legal certainty and good faith, is also a central element of the general principle of legal certainty in European Union law. The legitimate expectation doctrine holds that and that "those who act in good faith on the basis of law as it is or seems to be should not be frustrated in their expectations".

Fundamental rights, as in human rights, were first recognised by the European Court of Justice in the late 60s and fundamental rights are now regarded as integral part of the general principles of European Union law. As such the European Court of Justice is bound to draw inspiration from the constitutional traditions common to the member states. Therefore, the European Court of Justice cannot uphold measures which are incompatible with fundamental rights recognised and protected in the constitutions of member states. The European Court of Justice also found that "international treaties for the protection of human rights on which the member states have collaborated or of which they are signatories, can supply guidelines which should be followed within the framework of Community law."

None of the original treaties establishing the European Union mention protection for fundamental rights. It was not envisaged for European Union measures, that is legislative and administrative actions by European Union institutions, to be subject to human rights. At the time the only concern was that member states should be prevented from violating human rights, hence the establishment of the European Convention on Human Rights in 1950 and the establishment of the European Court of Human Rights. The European Court of Justice recognised fundamental rights as general principle of European Union law as the need to ensure that European Union measures are compatible with the human rights enshrined in member states' constitution became ever more apparent. In 1999 the European Council set up a body tasked with drafting a European Charter of Human Rights, which could form the constitutional basis for the European Union and as such tailored specifically to apply to the European Union and its institutions. The Charter of Fundamental Rights of the European Union draws a list of fundamental rights from the European Convention on Human Rights and Fundamental Freedoms, the Declaration on Fundamental Rights produced by the European Parliament in 1989 and European Union Treaties.

The 2007 Lisbon Treaty explicitly recognised fundamental rights by providing in Article 6(1) that "The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adopted at Strasbourg on 12 December 2007, which shall have the same legal value as the Treaties." Therefore, the Charter of Fundamental Rights of the European Union has become an integral part of European Union law, codifying the fundamental rights which were previously considered general principles of European Union law. In effect, after the Lisbon

Treaty, the Charter and the Convention now co-exist under European Union law, though the former is enforced by the European Court of Justice in relation to European Union measures, and the latter by the European Court of Human Rights in relation to measures by member states.

The Social Chapter is a chapter of the 1997 Treaty of Amsterdam covering social policy issues in European Union law. The basis for the Social Chapter was developed in 1989 by the "social partners" representatives, namely UNICE, the employers' confederation, the European Trade Union Confederation (ETUC) and CEEP, the European Centre of Public Enterprises. A toned down version was adopted as the Social Charter at the 1989 Strasbourg European Council. The Social Charter declares 30 general principles, including on fair remuneration of employment, health and safety at work, rights of disabled and elderly, the rights of workers, on vocational training and improvements of living conditions. The Social Charter became the basis for European Community legislation on these issues in 40 pieces of legislation.

The Social Charter was subsequently adopted in 1989 by 11 of the then 12 member states. The UK refused to sign the Social Charter and was exempt from the legislation covering Social Charter issues unless it agreed to be bound by the legislation. The UK subsequently was the only member state to veto the Social Charter being included as the "Social Chapter" of the 1992 Maastricht Treaty - instead, an Agreement on Social Policy was added as a protocol. Again, the UK was exempt from legislation arising from the protocol, unless it agreed to be bound by it. The protocol was to become known as "Social Chapter", despite not actually being a chapter of the Maastricht Treaty. To achieve aims of the Agreement on Social Policy the European Union was to "support and complement" the policies of member states. The aims of the Agreement on Social Policy are:

Following the election of the UK Labour Party to government in 1997, the UK formally subscribed to the Agreement on Social Policy, which allowed it to be included with minor amendments as the Social Chapter of the 1997 Treaty of Amsterdam. The UK subsequently adopted the main legislation previously agreed under the Agreement on Social Policy, the 1994 Works Council Directive, which required workforce consultation in businesses, and the 1996 Parental Leave Directive. In the 10 years following the 1997 Treaty of Amsterdam and adoption of the Social Chapter the European Union has undertaken policy initiatives in various social policy areas, including labour and industry relations, equal opportunity, health and safety, public health, protection of children, the disabled and elderly, poverty, migrant workers, education, training and youth.

EU Competition law has its origins in the European Coal and Steel Community (ECSC) agreement between France, Italy, Belgium, the Netherlands, Luxembourg and Germany in 1951 following the second World War. The agreement aimed to prevent Germany from re-establishing dominance in the production of coal and steel as members felt that its dominance had contributed to the outbreak of the war. Article 65 of the agreement banned cartels and article 66 made provisions for concentrations, or mergers, and the abuse of a dominant position by companies. This was the first time that competition law principles were included in a plurilateral regional agreement and established the trans-European model of competition law. In 1957 competition rules were included in the Treaty of Rome, also known as the EC Treaty, which established the European Economic Community (EEC). The Treaty of Rome established the enactment of competition law as one of the main aims of the EEC through the "institution of a system ensuring that competition in the common market is not distorted". The two central provisions on EU competition law on companies were established in article 85, which prohibited anti-competitive agreements, subject to some exemptions, and article 86 prohibiting the abuse of dominant position. The treaty also established principles on competition law for member states, with article 90 covering public undertakings, and article 92 making provisions on state aid. Regulations on mergers were not included as member states could not establish consensus on the issue at the time.

Today, the Treaty of Lisbon prohibits anti-competitive agreements in Article 101(1), including price fixing. According to Article 101(2) any such agreements are automatically void. Article 101(3)

establishes exemptions, if the collusion is for distributional or technological innovation, gives consumers a "fair share" of the benefit and does not include unreasonable restraints that risk eliminating competition anywhere (or compliant with the general principle of European Union law of proportionality). Article 102 prohibits the abuse of dominant position, such as price discrimination and exclusive dealing. Article 102 allows the European Council to regulations to govern mergers between firms (the current regulation is the Regulation 139/2004/EC). The general test is whether a concentration (i.e. merger or acquisition) with a community dimension (i.e. affects a number of EU member states) might significantly impede effective competition. Articles 106 and 107 provide that member state's right to deliver public services may not be obstructed, but that otherwise public enterprises must adhere to the same competition principles as companies. Article 107 lays down a general rule that the state may not aid or subsidise private parties in distortion of free competition and provides exemptions for charities, regional development objectives and in the event of a natural disaster.

While the concept of a "social market economy" was only introduced into EU law in 2007, free movement and trade were central to European development since the Treaty of Rome 1957. According to the standard theory of comparative advantage, two countries can both benefit from trade even if one of them has a less productive economy in all respects. Like in other regional organisations such as the North American Free Trade Association, or the World Trade Organisation, breaking down barriers to trade, and enhancing free movement of goods, services, labour and capital, is meant to reduce consumer prices. It was originally theorised that a free trade area had a tendency to give way to a customs union, which led to a common market, then monetary union, then union of monetary and fiscal policy, political and eventually a full union characteristic of a federal state. In Europe, however, those stages were considerably mixed, and it remains unclear whether the "endgame" should be the same as a state, traditionally understood. In practice free trade, without standards to ensure fair trade, can benefit some people and groups within countries (particularly big business) much more than others, but will burden people who lack bargaining power in an expanding market, particularly workers, consumers, small business, developing industries, and communities. The Treaty on the Functioning of the European Union articles 28 to 37 establish the principle of free movement of goods in the EU, while articles 45 to 66 require free movement of persons, services and capital. These so-called "four freedoms" were thought to be inhibited by physical barriers (e.g. customs), technical barriers (e.g. differing laws on safety, consumer or environmental standards) and fiscal barriers (e.g. different Value Added Tax rates). The tension in the law is that the free movement and trade is not supposed to spill over into a licence for unrestricted commercial profit. The Treaties limit free trade, to prioritise other values such as public health, consumer protection, labour rights, fair competition, and environmental improvement. Increasingly the Court of Justice has taken the view that the specific goals of free trade are underpinned by the general aims of the treaty for improvement of people's well being.

Free movement of goods within the European Union is achieved by a customs union, and the principle of non-discrimination. The EU manages imports from non-member states, duties between member states are prohibited, and imports circulate freely. In addition under the Treaty on the Functioning of the European Union article 34, ‘Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States’. In Procureur du Roi v Dassonville the Court of Justice held that this rule meant all "trading rules" that are "enacted by Member States" which could hinder trade "directly or indirectly, actually or potentially" would be caught by article 34. This meant that a Belgian law requiring Scotch whisky imports to have a certificate of origin was unlikely to be lawful. It discriminated against parallel importers like Mr Dassonville, who could not get certificates from authorities in France, where they bought the Scotch. This "wide test", to determine what could potentially be an unlawful restriction on trade, applies equally to actions by quasi-government bodies, such as the former "Buy Irish" company that had government appointees. It also means states can be responsible for private actors. For instance, in Commission v France French farmer vigilantes were continually sabotaging shipments of Spanish strawberries, and even Belgian tomato imports. France was liable for these hindrances to trade because the authorities ‘manifestly and persistently abstained'

from preventing the sabotage. Generally speaking, if a member state has laws or practices that directly discriminate against imports (or exports under TFEU article 35) then it must be justified under article 36. The justifications include public morality, policy or security, "protection of health and life of humans, animals or plants", "national treasures" of "artistic, historic or archaeological value" and "industrial and commercial property." In addition, although not clearly listed, environmental protection can justify restrictions on trade as an overriding requirement derived from TFEU article 11. More generally, it has been increasingly acknowledged that fundamental human rights should take priority over all trade rules. So, in Schmidberger v Austria the Court of Justice held that Austria did not infringe article 34 by failing to ban a protest that blocked heavy traffic passing over the A13, Brenner Autobahn, en route to Italy. Although many companies, including Mr Schmidberger's German undertaking, were prevented from trading, the Court of Justice reasoned that freedom of association is one of the ‘fundamental pillars of a democratic society’, against which the free movement of goods had to be balanced, and was probably subordinate. If a member state does appeal to the article 36 justification, the measures it takes have to be applied proportionately. This means the rule must be pursue a legitimate aim and (1) be suitable to achieve the aim, (2) be necessary, so that a less restrictive measure could not achieve the same result, and (3) be reasonable in balancing the interests of free trade with interests in article 36.

Often rules apply to all goods neutrally, but may have a greater practical effect on imports than domestic products. For such "indirect" discriminatory (or "indistinctly applicable") measures the Court of Justice has developed more justifications: either those in article 36, or additional "mandatory" or "overriding" requirements such as consumer protection, improving labour standards, protecting the environment, press diversity, fairness in commerce, and more: the categories are not closed. In the most famous case Rewe-Zentral AG v Bundesmonopol für Branntwein, the Court of Justice found that a German law requiring all spirits and liqueurs (not just imported ones) to have a minimum alcohol content of 25 per cent was contrary to TFEU article 34, because it had a greater negative effect on imports. German liqueurs were over 25 per cent alcohol, but Cassis de Dijon, which Rewe-Zentrale AG wished to import from France, only had 15 to 20 per cent alcohol. The Court of Justice rejected the German government's arguments that the measure proportionately protected public health under TFEU article 36, because stronger beverages were available and adequate labelling would be enough for consumers to understand what they bought. This rule primarily applies to requirements about a product's content or packaging. In Walter Rau Lebensmittelwerke v De Smedt PVBA the Court of Justice found that a Belgian law requiring all margarine to be in cube shaped packages infringed article 34, and was not justified by the pursuit of consumer protection. The argument that Belgians would believe it was butter if it was not cube shaped was disproportionate: it would "considerably exceed the requirements of the object in view" and labelling would protect consumers "just as effectively". In a 2003 case, Commission v Italy Italian law required that cocoa products that included other vegetable fats could not be labelled as "chocolate". It had to be "chocolate substitute". All Italian chocolate was made from cocoa butter alone, but British, Danish and Irish manufacturers used other vegetable fats. They claimed the law infringed article 34. The Court of Justice held that a low content of vegetable fat did not justify a "chocolate substitute" label. This was derogatory in the consumers' eyes. A ‘neutral and objective statement’ was enough to protect consumers. If member states place considerable obstacles on the use of a product, this can also infringe article 34. So, in a 2009 case, Commission v Italy, the Court of Justice held that an Italian law prohibiting motorcycles or mopeds pulling trailers infringed article 34. Again, the law applied neutrally to everyone, but disproportionately affected importers, because Italian companies did not make trailers. This was not a product requirement, but the Court reasoned that the prohibition would deter people from buying it: it would have "a considerable influence on the behaviour of consumers" that "affects the access of that product to the market". It would require justification under article 36, or as a mandatory requirement.

In contrast to product requirements or other laws that hinder market access, the Court of Justice developed a presumption that "selling arrangements" would be presumed to not fall into TFEU article 34, if they applied equally to all sellers, and affected them in the same manner in fact. In Keck and Mithouard two importers claimed that their prosecution under a French competition law, which

prevented them selling Picon beer under wholesale price, was unlawful. The aim of the law was to prevent cut throat competition, not to hinder trade. The Court of Justice held, as "in law and in fact" it was an equally applicable "selling arrangement" (not something that alters a product's content) it was outside the scope of article 34, and so did not need to be justified. Selling arrangements can be held to have an unequal effect "in fact" particularly where traders from another member state are seeking to break into the market, but there are restrictions on advertising and marketing. In Konsumentombudsmannen v De Agostini the Court of Justice reviewed Swedish bans on advertising to children under age 12, and misleading commercials for skin care products. While the bans have remained (justifiable under article 36 or as a mandatory requirement) the Court emphasised that complete marketing bans could be disproportionate if advertising were "the only effective form of promotion enabling [a trader] to penetrate" the market. In Konsumentombudsmannen v Gourmet AB the Court suggested that a total ban for advertising alcohol on the radio, TV and in magazines could fall within article 34 where advertising was the only way for sellers to overcome consumers' "traditional social practices and to local habits and customs" to buy their products, but again the national courts would decide whether it was justified under article 36 to protect public health. Under the Unfair Commercial Practices Directive, the EU harmonised restrictions on restrictions on marketing and advertising, to forbid conduct that distorts average consumer behaviour, is misleading or aggressive, and sets out a list of examples that count as unfair. Increasingly, states have to give mutual recognition to each other's standards of regulation, while the EU has attempted to harmonise minimum ideals of best practice. The attempt to raise standards is hoped to avoid a regulatory "race to the bottom", while allowing consumers access to goods from around the continent.

Since its foundation, the Treaties sought to enable people to pursue their life goals in any country through free movement. Reflecting the economic nature of the project, the European Community originally focused upon free movement of workers: as a "factor of production". However, from the 1970s, this focus shifted towards developing a more "social" Europe. Free movement was increasingly based on "citizenship", so that people had rights to empower them to become economically and socially active, rather than economic activity being a precondition for rights. This means the basic "worker" rights in TFEU article 45 function as a specific expression of the general rights of citizens in TFEU articles 18 to 21. According to the Court of Justice, a "worker" is anybody who is economically active, which includes everyone in an employment relationship, "under the direction of another person" for "remuneration". A job, however, need not be paid in money for someone to be protected as a worker. For example, in Steymann v Staatssecretaris van Justitie, a German man claimed the right to residence in the Netherlands, while he volunteered plumbing and household duties in the Bhagwan community, which provided for everyone's material needs irrespective of their contributions. The Court of Justice held that Mr Steymann was entitled to stay, so long as there was at least an "indirect quid pro quo" for the work he did. Having "worker" status means protection against all forms of discrimination by governments, and employers, in access to employment, tax, and social security rights. By contrast a citizen, who is "any person having the nationality of a Member State" (TFEU article 20(1)), has rights to seek work, vote in local and European elections, but more restricted rights to claim social security. In practice, free movement has become politically contentious as nationalist political parties have manipulated fears about immigrants taking away people's jobs and benefits (paradoxically at the same time). Nevertheless, practically "all available research finds little impact" of "labour mobility on wages and employment of local workers".

The Free Movement of Workers Regulation articles 1 to 7 set out the main provisions on equal treatment of workers. First, articles 1 to 4 generally require that workers can take up employment, conclude contracts, and not suffer discrimination compared to nationals of the member state. In a famous case, the Belgian Football Association v Bosman, a Belgian footballer named Jean-Marc Bosman claimed that he should be able to transfer from R.F.C. de Liège to USL Dunkerque when his contract finished, regardless of whether Dunkerque could afford to pay Liège the habitual transfer fees. The Court of Justice held "the transfer rules constitute[d] an obstacle to free movement" and were unlawful unless they could be justified in the public interest, but this was unlikely. In Groener v Minister

for Education the Court of Justice accepted that a requirement to speak Gaelic to teach in a Dublin design college could be justified as part of the public policy of promoting the Irish language, but only if the measure was not disproportionate. By contrast in Angonese v Cassa di Risparmio di Bolzano SpA a bank in Bolzano, Italy, was not allowed to require Mr Angonese to have a bilingual certificate that could only be obtained in Bolzano. The Court of Justice, giving "horizontal" direct effect to TFEU article 45, reasoned that people from other countries would have little chance of acquiring the certificate, and because it was "impossible to submit proof of the required linguistic knowledge by any other means", the measure was disproportionate. Second, article 7(2) requires equal treatment in respect of tax. In Finanzamt Köln Altstadt v Schumacker the Court of Justice held that it contravened TFEU art 45 to deny tax benefits (e.g. for married couples, and social insurance expense deductions) to a man who worked in Germany, but was resident in Belgium when other German residents got the benefits. By contrast in Weigel v Finanzlandesdirektion für Vorarlberg the Court of Justice rejected Mr Weigel's claim that a re-registration charge upon bringing his car to Austria violated his right to free movement. Although the tax was "likely to have a negative bearing on the decision of migrant workers to exercise their right to freedom of movement", because the charge applied equally to Austrians, in absence of EU legislation on the matter it had to be regarded as justified. Third, people must receive equal treatment regarding "social advantages", although the Court has approved residential qualifying periods. In Hendrix v Employee Insurance Institute the Court of Justice held that a Dutch national was not entitled to continue receiving incapacity benefits when he moved to Belgium, because the benefit was "closely linked to the socio-economic situation" of the Netherlands. Conversely, in Geven v Land Nordrhein-Westfalen the Court of Justice held that a Dutch woman living in the Netherlands, but working between 3 and 14 hours a week in Germany, did not have a right to receive German child benefits, even though the wife of a man who worked full-time in Germany but was resident in Austria could. The general justifications for limiting free movement in TFEU article 45(3) are "public policy, public security or public health", and there is also a general exception in article 45(4) for "employment in the public service".

Citizenship of the EU has increasingly been seen as a "fundamental" status of member state nationals by the Court of Justice, and has accordingly increased the number of social services that people can access wherever they move. The Court has required that higher education, along with other forms of vocational training, should be more access, albeit with qualifying periods. In Commission v Austria the Court held that Austria was not entitled to restrict places in Austrian universities to Austrian students to avoid "structural, staffing and financial problems" if (mainly German) foreign students applied for places because there was little evidence of an actual problem.

As well as creating rights for "workers" who generally lack bargaining power in the market, the Treaty on the Functioning of the European Union also protects the "freedom of establishment" in article 49, and "freedom to provide services" in article 56. In Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano the Court of Justice held that to be "established" means to participate in economic life "on a stable and continuous basis", while providing "services" meant pursuing activity more "on a temporary basis". This meant that a lawyer from Stuttgart, who had set up chambers in Milan and was censured by the Milan Bar Council for not having registered, was entitled to bring a claim under for establishment freedom, rather than service freedom. However, the requirements to be registered in Milan before being able to practice would be allowed if they were non-discriminatory, "justified by imperative requirements in the general interest" and proportionately applied. All people or entities that engage in economic activity, particularly the self-employed, or "undertakings" such as companies or firms, have a right to set up an enterprise without unjustified restrictions. The Court of Justice has held that both a member state government and a private party can hinder freedom of establishment, so article 49 has both "vertical" and "horizontal" direct effect. In Reyners v Belgium the Court of Justice held that a refusal to admit a lawyer to the Belgian bar because he lacked Belgian nationality was unjustified. TFEU article 49 says states are exempt from infringing others' freedom of establishment when they exercise "official authority", but this did an advocate's work (as opposed to a court's) was not official. By contrast in Commission v Italy the Court of Justice held that a requirement for lawyers in Italy

to comply with maximum tariffs unless there was an agreement with a client was not a restriction. The Grand Chamber of the Court of Justice held the Commission had not proven that this had any object or effect of limiting practitioners from entering the market. Therefore, there was no prima facie infringement freedom of establishment that needed to be justified.

In 2006, a toxic waste spill off the coast of Côte d'Ivoire, from a European ship, prompted the Commission to look into legislation against toxic waste. Environment Commissioner Stavros Dimas stated that "Such highly toxic waste should never have left the European Union". With countries such as Spain not even having a crime against shipping toxic waste, Franco Frattini, the Justice, Freedom and Security Commissioner, proposed with Dimas to create criminal sentences for "ecological crimes". The competence for the Union to do this was contested in 2005 at the Court of Justice resulting in a victory for the Commission. That ruling set a precedent that the Commission, on a supranational basis, may legislate in criminal law – something never done before. So far, the only other proposal has been the draft intellectual property rights directive. Motions were tabled in the European Parliament against that legislation on the basis that criminal law should not be an EU competence, but was rejected at vote. However, in October 2007, the Court of Justice ruled that the Commission could not propose what the criminal sanctions could be, only that there must be some.

The "freedom to provide services" under TFEU article 56 applies to people who give services "for remuneration", especially commercial or professional activity. For example, in Van Binsbergen v Bestuur van de Bedrijfvereniging voor de Metaalnijverheid a Dutch lawyer moved to Belgium while advising a client in a social security case, and was told he could not continue because Dutch law said only people established in the Netherlands could give legal advice. The Court of Justice held that the freedom to provide services applied, it was directly effective, and the rule was probably unjustified: having an address in the member state would be enough to pursue the legitimate aim of good administration of justice. The Court of Justice has held that secondary education falls outside the scope of article 56, because usually the state funds it, though higher education does not. Health care generally counts as a service. In Geraets-Smits v Stichting Ziekenfonds Mrs Geraets-Smits claimed she should be reimbursed by Dutch social insurance for costs of receiving treatment in Germany. The Dutch health authorities regarded the treatment unnecessary, so she argued this restricted the freedom (of the German health clinic) to provide services. Several governments submitted that hospital services should not be regarded as economic, and should not fall within article 56. But the Court of Justice held health was a "service" even though the government (rather than the service recipient) paid for the service. National authorities could be justified in refusing to reimburse patients for medical services abroad if the health care received at home was without undue delay, and it followed "international medical science" on which treatments counted as normal and necessary. The Court requires that the individual circumstances of a patient justify waiting lists, and this is also true in the context of the UK's National Health Service. Aside from public services, another sensitive field of services are those classified as illegal. Josemans v Burgemeester van Maastricht held that the Netherlands' regulation of cannabis consumption, including the prohibitions by some municipalities on tourists (but not Dutch nationals) going to coffee shops, fell outside article 56 altogether. The Court of Justice reasoned that narcotic drugs were controlled in all member states, and so this differed from other cases where prostitution or other quasi-legal activity was subject to restriction. If an activity does fall within article 56, a restriction can be justified under article 52 or overriding requirements developed by the Court of Justice. In Alpine Investments BV v Minister van Financiën a business that sold commodities futures (with Merrill Lynch and another banking firms) attempted to challenge a Dutch law that prohibiting cold calling customers. The Court of Justice held the Dutch prohibition pursued a legitimate aim to prevent "undesirable developments in securities trading" including protecting the consumer from aggressive sales tactics, thus maintaining confidence in the Dutch markets. In Omega Spielhallen GmbH v Bonn a "laserdrome" business was banned by the Bonn council. It bought fake laser gun services from a UK firm called Pulsar Ltd, but residents had protested against "playing at killing" entertainment. The Court of Justice held that the German constitutional value of human dignity, which underpinned the ban, did count as a justified restriction on freedom to provide services. In Liga Portuguesa de Futebol v Santa

Casa da Misericórdia de Lisboa the Court of Justice also held that the state monopoly on gambling, and a penalty for a Gibraltar firm that had sold internet gambling services, was justified to prevent fraud and gambling where people's views were highly divergent. The ban was proportionate as this was an appropriate and necessary way to tackle the serious problems of fraud that arise over the internet. In the Services Directive a group of justifications were codified in article 16 that the case law has developed.

In regard to companies, the Court of Justice held in R (Daily Mail and General Trust plc) v HM Treasury that member states could restrict a company moving its seat of business, without infringing TFEU article 49. This meant the Daily Mail newspaper's parent company could not evade tax by shifting its residence to the Netherlands without first settling its tax bills in the UK. The UK did not need to justify its action, as rules on company seats were not yet harmonised. By contrast, in Centros Ltd v Erhversus-og Selkabssyrelsen the Court of Justice found that a UK limited company operating in Denmark could not be required to comply with Denmark's minimum share capital rules. UK law only required £1 of capital to start a company, while Denmark's legislature took the view companies should only be started up if they had 200,000 Danish krone (around €27,000) to protect creditors if the company failed and went insolvent. The Court of Justice held that Denmark's minimum capital law infringed Centros Ltd's freedom of establishment and could not be justified, because a company in the UK could admittedly provide services in Denmark without being established there, and there were less restrictive means of achieving the aim of creditor protection. This approach was criticised as potentially opening the EU to unjustified regulatory competition, and a race to the bottom in standards, like in the US where the state Delaware attracts most companies and is often argued to have the worst standards of accountability of boards, and low corporate taxes as a result. Similarly in Überseering BV v Nordic Construction GmbH the Court of Justice held that a German court could not deny a Dutch building company the right to enforce a contract in Germany on the basis that it was not validly incorporated in Germany. Although restrictions on freedom of establishment could be justified by creditor protection, labour rights to participate in work, or the public interest in collecting taxes, denial of capacity went too far: it was an "outright negation" of the right of establishment. However, in Cartesio Oktató és Szolgáltató bt the Court of Justice affirmed again that because corporations are created by law, they are in principle subject to any rules for formation that a state of incorporation wishes to impose. This meant that the Hungarian authorities could prevent a company from shifting its central administration to Italy while it still operated and was incorporated in Hungary. Thus, the court draws a distinction between the right of establishment for foreign companies (where restrictions must be justified), and the right of the state to determine conditions for companies incorporated in its territory, although it is not entirely clear why.