



# **POL314H5S – Lecture 2**

## **EU Institutions I:**

### **The Commission and the ECJ**

Mauricio Mandujano Manriquez  
PhD Fellow in Political Science

[m.m.manriquez@arena.uio.no](mailto:m.m.manriquez@arena.uio.no)

[m.mandujanomanriquez@mail.utoronto.ca](mailto:m.mandujanomanriquez@mail.utoronto.ca)

POL314H5S – European Politics II



UNIVERSITY OF  
**TORONTO**  
MISSISSAUGA



UiO : **ARENA Centre for European Studies**  
University of Oslo

# AGENDA

- I. The European Commission
- II. The European Court of Justice
- III. Integration through Law
  - A. Pantheon of Landmark Judgements
- IV. A Short Note on on Rule of Law Backsliding



# §I. The European Commission



Berlaymont building at Rue de la Loi 200, Brussels

# Who is the European Commission?



# Who are the European Commission?



- **College of Commissioners:** 27 members of the College are appointed by the European Council and voted as a whole by European Parliament
  - **President of Commission:** Ursula von der Leyen
  - **High Representative\ Vice-President :** Kaja Kallas



# Who are the European Commission?



Ursula von der Leyen





# Dual role of the European Commission

## The Commission

### Proposing new laws, acts, and initiatives

“Union legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise.” Art. 17(2) TEU

(Kelemen & Pavone, 2023; Article 17 TEU)

### Enforcement powers

“The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them.”  
Art. 17(1) TEU

**Is there anything problematic with this dual mandate?**





# Commission Enforcement Powers

- Infringement procedure:
  - Art. 258 TFEU  $\Rightarrow$  when MS fails to comply with EU law.
  - Art. 260 TFEU  $\Rightarrow$  when comply with a judgment.
- Art. 7 (1) TEU  $\Rightarrow$  “a clear risk of a serious breach”
- Art. 17 (1) TEU  $\Rightarrow$  Guardian of the treaties

## §II. The European Court of Justice



Palais de la Cour de Justice, Kirchberg, Luxembourg

“Tucked away in the fairyland Duchy of Luxembourg...”



# Who are the European Court of Justice?



# Main functions of the Court

- Interpretation of the Treaties & EU Law
  - Mainly preliminary rulings (Art. 267 TFEU)
- Determine violations of EU law
  - All procedures types (Art. 267, Art. 258, Art. 259 TFEU)

**What kind of institution is the European Court of Justice?**





# What does the president of the Court thinks ?

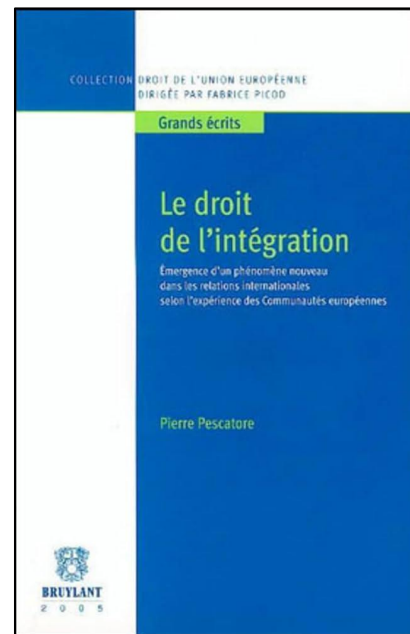
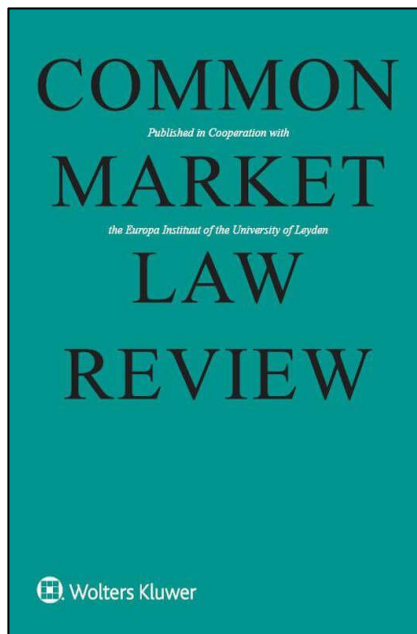


“integration through the rule of law” defines what the European Union stands for. That expression conveys the simple yet powerful message that European integration can only take place when both the EU institutions and the Member States respect the “rules of the game.”

– Koen Lenaerts, 2022, President of the Court.



# §III. Integration Through Law



# What is the integration through law ?

The devising of EU competences from 'newfound problems' that have an European dimension. Via:

- ⇒ preliminary reference procedure
- ⇒ infringement action for enforcement
- ⇒ new regulation
- ⇒ trade via mutual recognition.

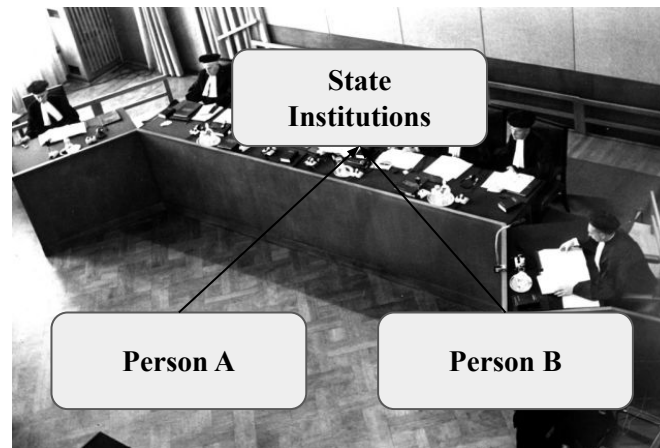


# Who are the agents of legal integration?



# Pantheon of Judgements: *Van Gend en Loos*

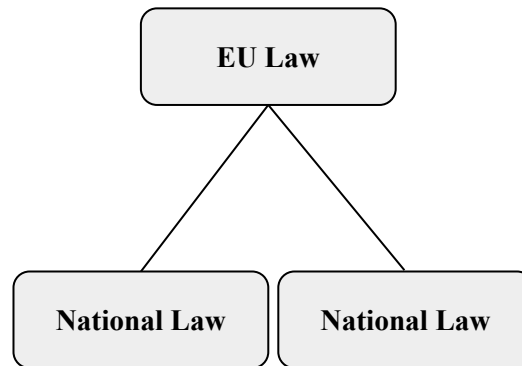
In *Van Gend en Loos* [1963] the ECJ established the doctrine of ***direct effect*** which established that provisions of EU Law were capable of creating legal rights which could be enforced by both natural and legal before the courts of the then Community of Member States.



- **autonomous legal order**
- **a system of individual rights and duties**

# Pantheon of Judgements: *Costa v ENEL*

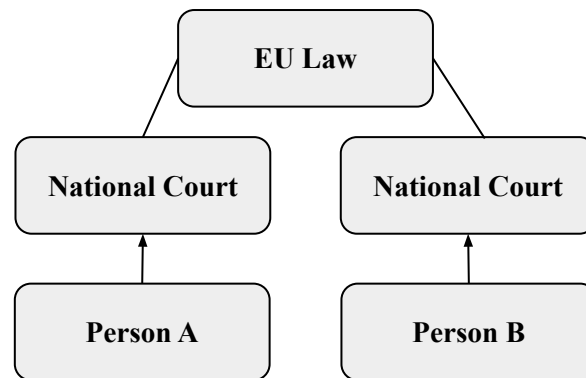
In *Costa v ENEL* [1964], the ECJ established the ***doctrine of supremacy***, confirming that EU law takes precedence over national law, ensuring the uniform application and effectiveness of EU legal provisions within Member States.



- **autonomous legal order**

# Pantheon of Judgements: *Portuguese Judges*

In Portuguese Judges [2018], the Court Established there must be ***effective judicial protection*** to ensure that individual rights endowed by EU law are protected. Thus makes the link to individuals who are covered by EU law.



- Individuals must be ensure effective judicial protection under EU Law

# §IV. A Short Note on on Rule of Law Backsliding





# Disabling & Capturing the Polish Constitutional Tribunal

- **Court packing:** changing the number of judges in a court, typically with the “intention of altering the court's ideological balance” to favor certain political outcomes.
- **Legislative bombardment:** strategic overload by executive that effectively halts judicial review by focusing on ‘token’ or ‘self-referential’ laws.

# Timeline of Key Events

- 10-24 May 2015 - Polish Presidential Elections where Andrzej Duda (*Prawo i Sprawiedliwość* (PiS)) won by 3 almost percentage points.
- 25 June 2015 - Polish Lower House (Sejm) passed amendment on Statute on the Constitutional Tribunal.
- 8 October 2015 - Polish Lower House (Sejm) elected five judges to the Constitutional Tribunal
- 25 October 2015 - Polish Parliament elections:
  - Polish Lower House (*Sejm*) - where PiS won 235/460 seats (231 - majority).
  - Polish Upper House (*Senat*) - where PiS won 61/100 seats (51 - majority).
- 25 November 2015 - PiS-dominated new Parliament passed resolution where all five judges appointed on October 8 were null and void.
- 27 July 2017 - The Law on the Organization of Common Courts
- 8 December 2017 - The Law on the National Council of the Judiciary (*Krajowa Rada Sądownictwa* - KRS)
- 8 December 2017 - The Law on the Supreme Court (*Sąd Najwyższy*)
- 20 December 2019 - The Law on the Organization of Ordinary Courts



# Questions?



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