





The EU Single Market Law

One of the main purposes of EU law → building a Europe-wide market (the Internal/Common/Single Market) embracing the nation-wide markets of all the Member States

Internal market = Market integration

In this course, such a topic will be addressed from a legal perspective

Market integration: An ongoing process

From the outset it is one of the main aims at the heart of the European integration project:

- Art. 2 Treaty of Rome 1957 (EEC): «It shall be the aim of the Community, by establishing a Common Market (...)»
- Art. 3.3 TEU (after Lisbon): «The Union shall establish an internal market. (...)»
 → Art. 26 et seq. TFEU

But the goal is still far from being achieved... re-launching the single market

The single market is not "yesterday's business" (it has still to develop its full potential)
Re-launching the single market does not merely imply to eliminate the remaining obstacles to free intra-EU movement

A stronger and better integrated market which fully plays its role as a platform on which to build European competitiveness (vis-à-vis non-EU countries)

In the Single Market Act (2011), the European Commission identifies twelve "levers" to boost growth and strengthen confidence

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Market integration: a goal to be progressively achieved From different national markets (those of 28 EU Member States + third States participating in the European Economic Area) towards one single European market The **nature** of EU market changes in the course of the history of the EU, but not the **pursued aim** → to merge national markets into a single Europe-wide market, not simply to liberalise trade between EU countries The concept of "Internal Market" 女 The definition laid down in the Treaty and in the case-law ECJ case-law Case 15/81, Schul: "The concept of a common market (...) involves the elimination of all obstacles to intra-Community trade in order to merge the national markets into a single market bringing about conditions as close as possible to those of a genuine internal market". See also Case 270/80, Polydor

1985 Commission's White Paper

The objective of completing the internal market has 3 aspects:

- The welding together of the markets of the MSs into one single market
- Ensuring that this single market is also an expanding market – not stating but growing
- To this end, ensuring that the market is **flexible** so that resources, both of people and materials, and of capital and investments, flow into the areas of greatest economic advantage

Art 26(2) TFEU

The internal market shall comprise

- "an area without internal frontiers
- "in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties"

What is a "market"?

The place where supply (of goods or services) meets with demand of them.

Any place where the sellers of a particular good or service can meet with the buyers of that goods and service where there is a potential for a transaction to take place. The buyers must have something they can offer in exchange for there to be a potential transaction

What should be ensured for EU being a single integrated market area? Any market participant should be able to Deploy his or her labour and capital - Sell or buy goods - Perform or receive services Across the Union's «internal» frontiers without being impeded by national rules maintaining or reintroducing frontiers by means of trade restrictions Market integration Legal pluralism A single EU-wide market, but not a single law Legal pluralism in the European Union Market activities are regulated by a) Various (and different) national rules ы **EU** rules, i.e. Basic principles of freedom set out by primary law → negative integration → incompatible national rules may not be applied 2) Uniform or harmonised **secondary** law > positive integration → market is regulated at central (EU) level Vertical and horizontal conflicts of laws



2 different cases

- national rules vs uniform/harmonised

 EU rules → the conflicting rules share
 the same nature (positive market
 regulation) → final outcome: reregulation at EU level
- national rules vs <u>EU free movement</u> <u>provisions</u> → the conflicting rules have a different nature (positive market regulation vs negative freedom) → final outcome: de-regulation

Necessary premise (Direct Effect of EU Law)

Vertical conflicts actually arise only if EU rules have direct effect → they may be relied on by private parties before national courts → they confer rights upon private parties

How to solve vertical conflicts of laws?

<u>Principle of Supremacy of EU law</u> → it prevails over any conflicting national provision → the latter cannot be applied by courts in the Member States

Direct effect and Supremacy are 2 fundamental constitutional principles in the EU legal system

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II) Horizontal conflicts of laws	
National vs national rules	
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Conflicts (of laws and jurisdictions) between	
1) Public law rules (ex. dealing with product safety, access to a market activity)	
2) Private law rules (ex. contract, tort, company law)	
What is the impact of EU law on the issue as to how the conflicts above are solved?	
a) Compatibility with EU law test b) Uniform EU conflict rules	
a) Compatibility with EU law test The case	
Conflict between (public or private law) rules of two or more Member States No regulation at EU level	
How does EU law interfere with the solution of such a horizontal conflict?	
National rules (i.e. those of the <u>Host Country</u>) must be compatible with EU free movement principles → if not, they cannot be applied	
The "compatibility test" entails the law of another MS (Home Country) to be taken into account → Mutual Recognition → Indirect criterion for	
solving conflicts between national laws	

b) Uniform EU private international law Judicial cooperation in civil matters → Art 81 TFEU: power to legislate is conferred on EU legislature → rules on choice of laws and jurisdictions are enacted at EU level → they determine in a uniform way 1) Which court has jurisdiction 2) Which law applies → Uniformity → legal certainty → foreseeability	
B) Course structure	

What is this course aimed at?
(learning objectives)

You will be able

a) to solve practical problems involving legal issues relating to the EU single market

b) to elaborate papers on the issues above, applying the proper theoretical and methodological approach acquired

Course organisation & Assessment methods	
Interactive approach:	-
n Introductory lectures on each topic	
ii) Case-study iii) Class participation	
Papers on practical cases (to be written, working alone or in group, and	
discussed in class)	
v) Final oral exam? Maybe not	
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Further reading European Commission, White Paper on Completing the Internal Market, COM(85) 310 final European Commission, Communication on A single market for 21st century Europe, COM(2007) 724 final M. Monti, Report on A new strategy for the single market, 9 May 2010 European Commission, Communication on the Single Market Act, COM(2011) 206 final European Commission, Communication on Single Market Act II, COM(2012) 573 final