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The Foundations of EU Law

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The essential purpose of European Union (EU) integration is, as Article 1, paragraph 2 of the Treaty on European Union (TEU) makes clear, to create ‘an ever closer union among the peoples of Europe’. The EU legal order is therefore shaped to support a dynamic process of European integration. Its legal construct relies on a number of foundational objectives, principles and values – such as equality between participating States and their peoples – that also act as compasses (Section 1.1). The ambitious nature of the process, going well beyond a simple form of economic collaboration among States, distinguishes it from other forms of regional integration while enabling multiple interactions with non-member States and other organisations (Section 1.2). This first chapter stresses that the legal specificities of the EU legal order are best understood in light of its ongoing process of change, constantly seeking to better match evolving political goals with an appropriate legal machinery (Section 1.3). The resulting decisive changes and predominant features of the EU legal order are first and foremost crystallised in the primary legal framework on which it relies, in the form of the two main treaties shaping the EU. This primary legal framework will be introduced subsequently (Section 1.4), before further elaborating on the actors of the integration process (Chapter 2), the system of legal norms (Chapter 3) and the unique nature of the EU legal order (Chapter 4).

1.1 EUROPEAN INTEGRATION: OBJECTIVES, PRINCIPLES AND VALUES

1.1.1 An Ever Closer Union

The objective of ‘an ever closer union among the people of Europe’, clearly asserted in EU law since 1957,¹ must be understood in light of post-World War II traumas. The founding Member States – the Benelux countries, France, Germany and Italy – agreed to engage in an

¹ TEEC, Preamble, Recital (1).

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ambitious political and legal project, initially and primarily articulated in economic terms, with a view to reunifying the continent. The aim to create an ever closer union is sometimes mistakenly perceived as enabling a never-ending expansion of EU powers. It is actually a more nuanced – but no less ambitious – commitment to build a common future, which allows different paths to be chosen by agreement.²

1.1.2 Equality and Sincere Cooperation

This central objective builds on two indispensable principles. A first precondition for any serious attempt to pacify Europe was to avoid the mistakes of the past, such as humiliating a country or nation, and instead to postulate the equality of Member States. The EU must indeed respect the equality of Member States under the treaties on which it is founded.³ Every single Member State that signs up to those treaties, no matter the size, economic or geopolitical power of that State, will be represented equally.⁴ That equality between Member States also applies to the citizens of each Member State, all having been granted the status of ‘European citizen’ since the early 1990s.⁵ The latter have been protected against discrimination on grounds of nationality, such as in the field of employment, since the early days of the project.⁶

There are settings in which intense negotiations on institutional rules have resulted in acknowledgement of the factual diversity and specificities of various Member States.⁷ In an EU with an overall increasingly large number of members, and with ever wider fields of action, the legal presumption of equality thus comes with nuances. From the perspective of EU law though, these nuances do not call into question the fundamental premise: balance with a view to reunification can only result from the presumption of equality between Member States, unless otherwise carefully articulated within EU law.

Since 1992, the founders of the EU Treaties have deemed it useful to specify that the equality of Member States is combined with respect for ‘their national identities’. The latter are understood to be ‘inherent in [the] fundamental structures [of Member States], political and constitutional, inclusive of regional and local self-government’.⁸ Multiple provisions of EU law, and examples of case law, illustrate deference to national organs for the

² On the possibility of reducing competences conferred on the EU, see for instance Art. 48(2) TEU; and for differentiated integration within EU law, see Art. 20 TEU. See further European Council, ‘A New Settlement for the United Kingdom within the European Union: Extract of the Conclusions of the European Council of 18–19 February 2016’, OJ C 69, 23.2.2016, p. 1, Section C.1; C-621/18, *Wightman*, EU:C:2018:999, paras. 61–67.

³ Art. 4(2) TEU.

⁴ See for instance the composition and functioning of the European Council, which has a key role in seeking to achieve consensus on most sensitive matters, Chapter 2, Sections 2.3.3.2 and 2.3.3.3.

⁵ Art. 9 TEU. ⁶ See Art. 45 TFEU, and more generally the current Art. 18 *et seq.* TFEU.

⁷ See for instance the composition of the Parliament, or the rules on the rotating presidency of the Council, Chapter 2, Sections 2.3.2.3 and 2.3.4.3. On the former, the German Federal Constitutional Court (BVerfG) noted that, ‘[a]s a representative body of the peoples in a supranational community, characterised as such by a limited willingness to unite, [the European Parliament] cannot, and need not, as regards its composition, comply with the requirements that arise at state level from the equal political right to vote of all citizens’ (BVerfG, 2 BvE 2/08, Act Approving the Treaty of Lisbon, 30.6.2009, paras. 271, 279–280 *et seq.*).

⁸ Art. 4(2) TEU. The concept was used for instance in C-208/09, *Sayn-Wittgenstein*, EU:C:2010:806, paras. 83, 92.

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protection of sensitive interests.⁹ While the advancement of the process of integration is inevitably both a response to and a driver for change, it is not intended to profoundly call into question the inherent specificities of each State. A delicate balance must be found, between national divergences and the general interests of the EU.

A second precondition for the European project to be successful is reliance on the principle of 'sincere cooperation'.¹⁰ The EU and the Member States have always been expected to jointly contribute to achieving the objectives of the process of EU integration, as agreed upon in the EU Treaties. They must do so in full respect for each other, including in reciprocal relations between Member States.¹¹ On the one hand, Member States shall ensure the fulfilment of their obligations and facilitate the achievement of the EU's objectives. On the other hand, Member States shall refrain from any measure which could jeopardise the attainment of the EU's objectives. As for EU institutions, they are expected to practise mutual sincere cooperation¹² and act in line with the delicate balance of powers and interests that they represent at European level.

These two central principles of European integration: equal treatment among Member States and the principle of sincere cooperation, act as political compasses for the EU integration process. They also produce legal effects and may be used to shed light on compliance of actors with EU law.¹³ This is intended to pave the way for a spirited collaboration between Member States, which is also sometimes referred to in terms of 'solidarity'.¹⁴

1.1.3 Founding Values and Mutual Trust

These principles, as well as the entire integration process, are themselves grounded in a set of values, common to the Member States and providing the foundations of the EU construct. These values have not always been explicitly asserted in the founding treaties, but can now be found in an important provision of the TEU, Article 2, according to which:

⁹ See for instance the possibilities to derogate from the prohibition of restrictions to the free movement of goods (Art. 36 TFEU), or the rules on the interpretation of the CFEU (Art. 52(1) and (4) CFEU). Such a balancing is ultimately subject to judicial review by the Court of Justice of the European Union; for a recent example of acknowledgement of different national perceptions of animal welfare and freedom of religion see C-336/19, *Centraal Israëlitisch Consistorie van België et al.*, EU:C:2020:1031, para. 71.

¹⁰ Art. 4(3) TEU.

¹¹ For a recent illustration, although it is not for the Court of Justice of the European Union to encroach upon the powers reserved for the Member States regarding geographical determination of their borders, Slovenia and Croatia, two of the latest States to join the EU, ought to 'strive sincerely to bring about a definitive legal solution consistent with international law, as suggested in the Act of Accession', to a related ongoing dispute between them in order to ensure 'the effective and unhindered application of EU law in the areas concerned' (C-457/18, *Republic of Slovenia v. Republic of Croatia*, EU:C:2020:65, para. 109).

¹² Art. 13(2) TEU.

¹³ E.g. Case 39/72, *Commission v. Italy (Premiums for slaughtering cows)*, EU:C:1973:13, para. 24; see further Chapter 2, Section 2.3.1.2.

¹⁴ For recent examples see: Arts. 3(3) TEU, 80 TFEU and related case law on the relocation of nationals of third countries in response to an emergency situation characterised by a sudden inflow into certain Member States (Joined Cases C-643/15 and C-647/15, *Slovakia and Hungary v. Council*, EU:C:2017:631, para. 252). See also: Art. 2 TEU, together with the provisions of Title II of Part Six of the TFEU on EU financial provisions and related case law where solidarity is understood to be given practical effect through the Union budget: Case C-156/21, *Hungary v. Parliament and Council (General Regime of Conditionality for the Protection of the European Union Budget)*, EU:C:2022:97, para. 129.

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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.

Because the EU legal order is based on the fundamental premise that its Member States share and recognise the founding values listed in Article 2 TEU, it is often said that there is 'mutual trust' between the Member States. That trust is understood to create a presumption that those values will be recognised by all Member States, and that EU law that implements these values will be respected.¹⁵ Article 2 TEU has gained renewed attention in recent years due to vivid concerns expressed by selected European institutions about the risks of serious breaches of the rule of law, and the thorny question of how to sanction them, particularly in rule of law Poland and in Hungary.¹⁶

Although Article 2 TEU is of paramount importance for the EU, defining its key concepts is not an easy task. For instance, what is meant by 'rule of law' is not defined in the EU Treaties. The EU legislator recently stressed that respect for the rule of law is understood to be 'an essential precondition for compliance with the principles of sound financial management' in the EU.¹⁷ In this context, it further specified that the rule of law includes the principles of legality, legal certainty, prohibition of arbitrariness of the executive powers, effective judicial protection, separation of powers, and non-discrimination and equality before the law.¹⁸

Guidance on other notions enshrined in Article 2 TEU is sparse in the EU Treaties themselves. By way of example, the TEU includes a number of provisions on 'democratic principles', such as the reference to 'representative democracy'¹⁹ as the foundation of the functioning of the EU and the duty to take decisions 'as openly and as closely as possible to the citizens'.²⁰ The Treaty on the Functioning of the European Union (TFEU) prohibits discrimination among the nationals of the Member States.²¹ Certain provisions of the treaties allow for the further adoption of EU legislation, giving flesh to some of the values listed in Article 2 TEU, such as the principle of non-discrimination, to which expression is given in several directives implementing the principle of equal treatment between persons irrespective of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.²²

¹⁵ Opinion 2/13, Accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms, EU:C:2014:2454, para. 168. The implications and limits of the concept remain subject to much debate; see S. Prechal, 'Mutual Trust before the Court of Justice of the European Union', *European Papers*, 2 (2017), pp. 75–92.

¹⁶ See Chapter 4, Section 4.3.2.1.

¹⁷ 'Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a General Regime of Conditionality for the Protection of the Union Budget', OJ L 433I, 22.12.2020, p. 1, Preamble (7). Note that two Member States have requested the annulment of the regulation; the action failed; Case C-156/21, *Hungary v. Parliament and Council*, EU:C:2022:97.

¹⁸ 'Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a General Regime of Conditionality for the Protection of the Union Budget', OJ L 433I, 22.12.2020, Art. 3(a); see further Arts. 3 (the following may be indicative of breaches of the principles of the rule of law) and 4(2) (breaches of the principles of the rule of law shall concern one or more of the following).

¹⁹ Art. 10(1) TEU. ²⁰ Art. 10(3) TEU. ²¹ Art. 18 TFEU.

²² E.g. 'Council Directive 2000/43/EC of 29 June 2000 Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', OJ L 180, 19.7.2000, p. 22; 'Council Directive 2000/78/EC of 27 November 2000 Establishing a General Framework for Equal Treatment in Employment and Occupation', OJ L 303, 2.12.2000, p. 16.

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Most of the guidance on the founding values is not actually found within the treaties, but elsewhere. Article 6 TEU acts as a bridge between the treaties and other sources of EU law.²³ In 2009 this Article granted the Charter of Fundamental Rights of the European Union (CFEU) the same legal value as the treaties, so that the Union now recognises the rights, freedoms and principles it contains. The European Convention on Human Rights (ECHR), a legal instrument belonging to a different legal order – that of the Council of Europe (which includes all the Member States, as well as other States) – also has significant influence on the definition of EU values. Finally, general principles of EU law, which have been developed through the Court of Justice's case law, and which are derived *inter alia* from the Member States' common constitutional traditions, also provide guidance on what the EU's key values are.

1.2 A UNIQUE FORM OF REGIONAL INTEGRATION

Building on this central objective, foundational principles and values, the EU was conceived, and further developed, as a unique form of regional integration. It differs from other models of regional integration because it encompasses a particularly ambitious range of policy areas, and deploys powerful tools so that its rules can be implemented.

1.2.1 An Ambitious Integration Process

Regional integration may vary in scope and range. Illustrating the starting point of economic integration between different States, somewhere at the bottom end of an 'integration scale' is the so-called free trade area. A free trade area is a group of two or more customs territories in which duties and other regulations having a restrictive effect on commerce – with exceptions – are eliminated on substantially all trade *between* the constituent territories in products originating in such territories.²⁴ It therefore ensures free trade between the contracting parties, in our case, the Member States of the EU. One may, for instance, buy a toaster made in Germany while shopping in the Netherlands, and take it to one's home in Belgium without having to pay customs duties.

More ambitious than a free trade area is a customs union, which is what exists in the EU. A customs union means there is a single customs territory instead of two or more customs territories. These territories not only benefit from a free trade area between them, but also apply substantially the same duties and other regulations of commerce to the trade of territories *from outside* the contracting parties.²⁵ By way of example, the Commission reported that in 2019 more than 3,699 firearms were seized at the external borders of the EU, along with over 400,000 pieces of ammunition and more than 7,500 explosives items. In doing so, customs officials from different Member States were applying common EU rules for the protection of consumers against illegal and dangerous goods entering the EU from third countries.²⁶

The EU offers even more than a customs union: it seeks to establish its own internal market. This includes a customs union, which covers all trade in goods with free movement

²³ See further Chapter 3, Section 3.1.3.1.

²⁴ See General Agreement on Tariffs and Trade (GATT 1994), Art. XXIV(8)(b). ²⁵ *Ibid.*, Art. XXIV(8)(a).

²⁶ European Commission, 'Customs sees what you don't ... and protects you', available at ec.europa.eu.

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between the Member States, as well as a common customs tariff.²⁷ It also provides for a 'common market', in which the free movement of persons, services and capital is ensured, and where progress eliminating obstacles to movement leads to asserting the existence of an 'internal market'²⁸ in an 'area without internal frontiers', to which we return subsequently. For example, I am a national of a Member State of the EU (France), working in another Member State of the EU (Belgium), under the same conditions as the nationals of the host State. I benefit from the free movement of workers in the EU. This relies on a set of common rules facilitating the functioning of the internal market, such as those on the rights of family members of migrant workers. The EU also includes a large number of policies supporting the establishment of an internal market – such as a common competition policy, a common commercial policy, a common agricultural, environmental and transport policy. These policies allow the EU to develop tools for the achievement of common objectives in these fields, such as common requirements for the safe and efficient provision of air navigation services in the single European sky.²⁹

Once again, the EU's regional objectives go a few steps further. This became particularly clear from the 1990s onwards. The EU allows the nationals of the Member States, who hold the fundamental status of EU citizens, to move and reside within the EU even if they do not engage in an economic activity – although carefully designed conditions apply.³⁰ The EU has a common economic and monetary policy, with a majority of Member States using a single currency (the euro); an Area of Freedom, Security and Justice (AFSJ) without internal frontiers, with a majority of the Member States having abolished internal border controls on persons (the Schengen Area), being part of a common asylum law system (the Dublin system), and with a policy on the prevention and combating of crime; as well as a Common Foreign and Security Policy (CFSP) with the progressive framing of a common defence policy among some of the Member States. The set of sub-objectives of the European Union, thereby summarised, is listed in Article 3 TEU.

As a result, the EU is a much broader economic, social and political project than those following traditional forms of regional economic integration. This is because, as noted already, the EU ultimately has a meta-objective to create a closer union among the peoples of Europe. The EU is a purposive project, constantly evolving to adjust to a rapidly changing domestic and international context. As a consequence, it is difficult to put a label on the specific type of regional integration that it represents without reflecting on the labels themselves.³¹ Importantly though, this large scale project, the most advanced of its kind, remains limited by the fact that the EU can only be understood as a 'derivative' legal order.³² As the last recital of Article 3 TEU clearly shows, '[t]he Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the

²⁷ Art. 28(1) TFEU. ²⁸ Art. 26(2) TFEU.

²⁹ 'Regulation (EC) No. 550/2004 of the European Parliament and of the Council of 10 March 2004 on the Provision of Air Navigation Services in the Single European Sky', OJ L 96, 31.3.2004, p. 10.

³⁰ See further Chapter 2, Section 2.2.3.

³¹ This would be beyond the scope of this book; see further: R. Schütze, *The Changing Structure of European Law*, vols. I and II (Oxford University Press, 2009, 2017).

³² N. Walker, 'Human Rights in a Post-national Order: Reconciling Political and Constitutional Pluralism', in T. Campbell, K. D. Ewing and A. Tomkins (eds.), *Sceptical Essays on Human Rights* (Oxford University Press, 2001), p. 129.

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Treaties'. The EU can therefore only exercise competences conferred upon it by its Member States, as will be further discussed in Chapter 3, Section 3.2.

1.2.2 A Regional Project that Interacts with Others

The EU is not the only form of regional integration in Europe, and it has a wealth of links with other organisations and European States. Several European States – which are today Iceland, Liechtenstein, Norway and Switzerland – have decided not to be part of the EU, but to create *among themselves* the European Free Trade Association (EFTA).³³ EFTA was initially created in 1960 in parallel to the early years of the European Economic Community (EEC) that has today become the EU. The objective of EFTA is to promote a continued and balanced strengthening of trade and economic relations with free trade in goods, progressive liberalisation of the free movement of persons as well as trade in services and of investment, providing fair conditions of competition, opening the public procurement markets and providing appropriate protection of intellectual property rights.³⁴ It is therefore a project that is more ambitious than a simple free trade area. Nevertheless, it remains primarily focused on the promotion of free trade and economic integration.

Most of the EFTA states (with the exception of Switzerland) are also part of the European Economic Area (EEA), created in 1994 to bring those EFTA States closer to the process of European Union integration, and its internal market in particular. The EEA aims to promote continuous and balanced strengthening of trade and economic relations between the EU and the EFTA States. To that effect, it entails the free movement of goods, persons, services and capital, a system ensuring that competition is not distorted, as well as cooperation in other fields, such as research and development, the environment, education and social policy.³⁵ The EFTA States engaged in the EEA also contribute to the EU budget for their participation in EU activities,³⁶ despite the fact that these States do not take part in all EU economic policies, such as agriculture and fisheries, the customs union and trade policy. Iceland, Liechtenstein and Norway have joined additional selected EU policies, such as the Schengen Area (in which there are no internal border controls) through ad hoc agreements with the EU.³⁷ Nevertheless, the cooperation in the context of the EEA remains primarily focused on economic forms of cooperation. Overall, the EFTA States are not developing common policies with the EU in fields such as the monetary union, most aspects of Justice and Home Affairs (JHA; other than the Schengen Area) and CFSP.³⁸

Two of the EFTA States stand out in terms of the nature of their relationship with the EU. Norway, on the one hand, is an EEA partner that has a set of additional ad hoc arrangements with the EU going beyond mere economic forms of integration, for instance, in the fields of

³³ See further Chapter 2, Section 2.1.1.

³⁴ Convention Establishing the European Free Trade Association, Art. 2.

³⁵ 'Agreement on the European Economic Area', OJ L 1, 3.1.1994 (consolidated 15.3.2021), Art. 1.

³⁶ Ibid., Art. 82.

³⁷ E.g. 'Agreement Concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway Concerning the Latter's Association with the Implementation, Application and Development of the Schengen Acquis: Final Act', OJ L 176, 10.7.1999, p. 36.

³⁸ More information on 'What Is the EEA Not?' at www.efta.int/eea/eea-agreement.

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JHA and CFSP.³⁹ Switzerland, on the other hand, is not an EEA State, but has developed a very close relationship with the EU owing to a multitude of bilateral treaties that are largely comparable, in terms of their content, to the EEA.⁴⁰ Switzerland is also now a member of the Schengen Area.⁴¹

These close partners of the EU are expected to accept a set of rules for international cooperation and to ensure the smooth functioning of the internal market. For instance, seven bilateral agreements between the EU and Switzerland were concluded together in 1999, with a clause specifying that all would cease to apply if any of them was terminated (a 'guillotine' clause).⁴² Furthermore, it is often argued that the EFTA States, and Norway in particular, must comply with many EU rules (as a consequence of either the EEA Agreement, or further ad hoc international treaties) without actually taking part directly in the drafting and negotiations of these EU rules. One ought to keep in mind therefore that much of what is discussed in the remainder of this book may be relevant outside of the EU, for countries such as the EFTA States.

These are points that have been particularly vividly debated in the context of the negotiations on Brexit, and the negotiations to design a new relationship between the EU and the United Kingdom (UK).⁴³ The UK left the EU on 31 January 2020.⁴⁴ After a transition period which expired on 31 December 2020, EU law ceased to apply to that State unless otherwise provided. Specific provisions of the Withdrawal Agreement between the UK and the EU are intended to ensure an orderly withdrawal by requiring certain EU rights to continue to apply. Some of these rights relate to customs and the free movement of goods in relations to Northern Ireland.⁴⁵ Others seek to ensure a level of continued protection of EU citizens and UK nationals, and their respective family members – but only those who exercised their free movement rights before the end of 2020.⁴⁶ In addition to the provisions

³⁹ E.g. 'Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters', OJ L 339, 21.12.2007, p. 3.

⁴⁰ E.g. 'Agreement between the European Economic Community and the Swiss Confederation', OJ L 300, 31.12.1972, p. 189; 'Agreement between the European Community and Its Member States, of the One Part, and the Swiss Confederation, of the Other, on the Free Movement of Persons: Final Act', OJ L 114, 30.4.2002, p. 6; 'Agreement between the European Community and the Swiss Confederation Concerning the Criteria and Mechanisms for Establishing the State Responsible for Examining a Request for Asylum Lodged in a Member State or in Switzerland', OJ L 53, 27.2.2008, p. 5. An attempt to have an Institutional Framework Agreement, intended to enhance and develop EU-Swiss bilateral relations for the future, failed in 2021 after the Swiss Federal Council took the decision to terminate the negotiations with the EU.

⁴¹ 'Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's Association with the Implementation, Application and Development of the Schengen Acquis', OJ L 53, 27.2.2008, p. 52.

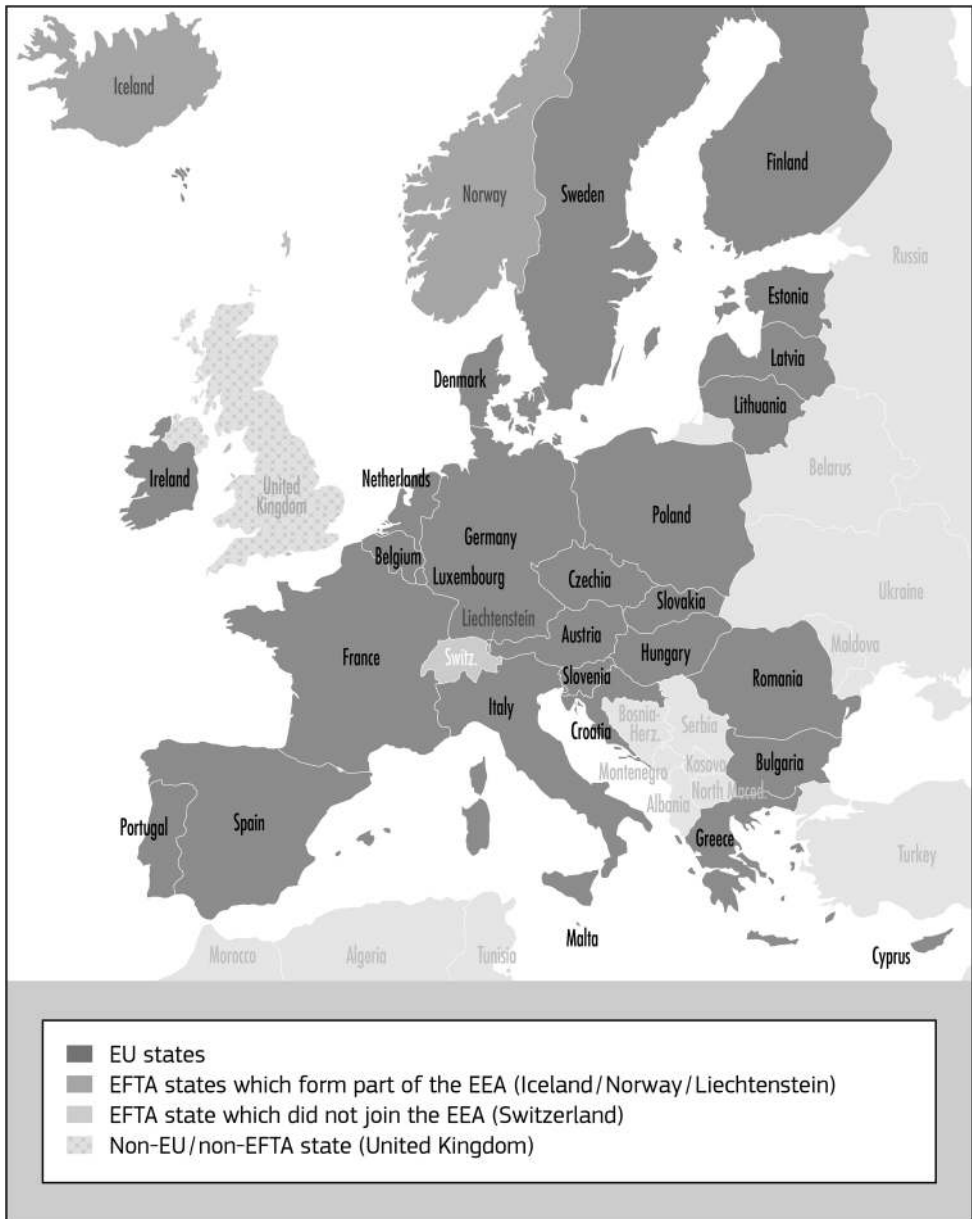
⁴² 'Agreement between the European Community and its Member States, of the One Part, and the Swiss Confederation, of the Other, on the Free Movement of Persons', OJ L 114, 30.4.2002, p. 6, Art. 25(4).

⁴³ E.g. House of Lords, European Union Committee, 'Brexit: the options for trade', HL Paper 72, 13.12.2016, pp. 22–23.

⁴⁴ See Chapter 2, Section 2.1.3.

⁴⁵ 'Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community', OJ L 29, 31.1.2020, p. 7, Protocol annexed to the EU Treaties on Ireland/Northern Ireland, Art. 5.

⁴⁶ 'Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community', OJ L 29, 31.1.2020, Part II. The provisions of this Agreement and the provisions of EU law made applicable by this Agreement shall produce in respect of and in the United Kingdom the same legal effects as those which they produce within the EU and its Member States. 'Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community', OJ L 29, 31.1.2020, Art. 4(1); see also Part II and Art. 158 on citizens' rights.



Map 1.1 The EU, the EEA, Switzerland and the UK

on separation and the protection of acquired citizens' rights, a new Trade and Cooperation Agreement (TCA) was agreed in December 2020, with a view to establishing 'clear and mutually advantageous rules governing trade and investment'.⁴⁷ It builds on the assertion

⁴⁷ 'Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part', OJ L 149, 30.4.2021, p. 10, Preamble recital (4); other agreements may also be concluded, e.g.