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## Rule of law

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# Rule of law - concept

- Respect for law
- Legal certainty
  - non-retroactivity
  - legitimate expectations
- Due process
  - right to be heard
  - duty to give reasons
- Enforcement
- Access to justice

# Democratic foundations of EU

- Art.1 TEU
  - This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which **decisions are taken as openly as possible and as closely as possible to the citizen.**
- Art.10.3 TEU
  - Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.
  - Art.15.1 TFEU
  - In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible.

# UE values – art.3 TEU

- 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.

# EU objectives – art. 3 TEU

- „1.The Union's aim is to promote peace, **its values** and the well-being of its peoples.
- 3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a **high level of protection and improvement of the quality of the environment.**

# Objectives of EU external action – art.21 TEU

- 1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: **democracy, the rule of law**, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and **respect for the principles of the United Nations Charter and international law.**

# Internal policy: good practice and challenges

- EU institutions vs Member States
  - Infringement procedures
  - EU funding
  - Court of Justice and access to justice under art.9 Aarhus Convention in MS
- EU level
  - Court of Justice and access to justice under art.9 Aarhus Convention at EU level
  - Transparency
  - Public participation
    - Plans and programmes „relating to environment” and plan of inspections



# Access to justice at EU level

- Art. 9.3 of the Aarhus Convention and Plauman test applied by CJEU
- Case ACC-32 at Aarhus Compliance Committee
  - Partial ACC findings of 2011– conditional non-compliance
- CJEU ruling in joined cases C-401/12 P to C-403/12 P and joined cases C-404/12 P and C-405/12 P Council, European Parliament, Commission v. Vereniging Milieudefensie, Stichting Stop Luchtverontreiniging Utrecht, joined cases C-401/12 P to C-403/12 P, 13 January 2015.

# ACC findings of 2011

- *The Party concerned must ensure that members of the public have access to administrative or judicial review procedures, as set out in article 9, paragraph 3, with respect to at least some acts and omissions by EU institutions.*
- *The cases considered in Part I reveal that, to be individually concerned and thus have standing, the legal situation of the person must be affected because of a factual situation that differentiates him or her from all other persons. Thus, persons cannot be individually concerned if a decision or regulation takes effect by virtue of an objective legal or factual situation.*
- *The ECJ's jurisprudence on access to justice that was considered in Part I was **too strict to meet the criteria of the Convention.***
- ***If that jurisprudence continued, unless fully compensated for by adequate administrative review procedures, the Party concerned would fail to comply with article 9, paragraph 3, of the Convention***

# External policy: good practice and challenges

- „Flagship” international processes
  - Neighborhood policy
  - Climate change
  - Biosafety
- „Standard” international processes
  - Compliance bodies
  - Promoting EU standards