

Questions on History and Evolution of the European Union; the Lisbon Treaty; sources and distinct qualities of EU law (Monday 22 July and Tuesday 23 July)

1. *Which can be considered to be the driving force(s) behind the European Coal and Steel Community (1951), the predecessor of the European Union, and, by association, the European integration?*

to maintain the status of economics, build Europe up again, rebuild Europe after world war 2, keep the peace

2. *How would you describe the feelings towards a united Europe in the 1950s? How can they be reconciled with the failure to launch the Common Defence Community in 1954? Creating a union to share the coal and steel was proposed by Schumann, particularly France was strictly against that*

3. *To what extent has the Maastricht Treaty been a success?*

success was monetary union and the European citizenship, the pillar system was a fundamental contribution to establish the union, subsidiarity was set as a general rule but some things couldn't reach the agreements

4. *Did Amsterdam and Nice live up to the expectations?*

Amsterdam set an area of freedom, security and justice, Art 67 TFEU (check on paper /A)

5. *Would you consider the outcome of the Draft Constitutional Treaty referenda worth abandoning the idea of establishing a European Constitution?*

it was just a matter of wording, they changed critical words like charta of rights to bill of rights, but it stays pretty much the same because the legal binding is the same; there were more referendums planned

6. *What do you think is the most important development in the Lisbon Treaty?*

institution of framework, charta of fundamental rights became primary source of law, the union is the successor of the community, the union is a legal body, the distinction between legislative and non legislative acts was made

7. *What are the roots of the current Euro crisis, in terms of European integration? Note: Do not focus on the economics of the policies, but on what you know about the Union's history.*

not all entry states have achieved the entrance criteria they set themselves, the access of Greece to the European Union was too soon

8. What did the Court decide in *Van Gend en Loos*? Do you agree with the Court's reasoning?
van gend and loos granted the directional application and enlarged the idea of supremacy. Necessary for direct application of directives is that it's clear, precise and unconditional.
9. Assess the Court's judgment in *Costa v ENEL*. What did it add to *Van Gend en Loos*?
the supremacy of the EU law was concretized
10. What is the importance of the flexibility clause?
Art 352 TFEU, it's the implied powers theory, it permits to adopt the competences of the union, there needs to be a legal basis for the union to act and art 352 provides another basis if the "home" states cannot successfully handle the issues themselves. Art 352 is Auffangtatbestand ; i.e. in criminal matters there is no legal basis so memberstates have used art 352 to be able to convict criminals
11. The EU legal order is often said to be *sui generis*. What does this mean? Is the description justified?
sui generis means it is an independent legal system and cannot be compared with other legal systems, it has its own structure
12. Do you think that enhanced cooperation is a useful means to proceed further in European integration? Refer to the most recent examples.
yes, one example is the EU patent (cooperation considering patents) and European brands, family law (Haager Unterhaltsabkommen, Straßenverkehrsabkommen,..)
13. How do you think the duty of loyal cooperation under article 4(3) TEU is useful for the EU legal order?
in civil law it is important, on one hand you give up your sovereignty but on the other it is useful on a legal basis
14. Article 5(2) TFEU [Article 5(1) EC] states that "Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States." What conclusions do you draw from that statement? Is Article 5 TFEU in conflict with Article 352 TFEU [Article 308 EC]?
no it's not in conflict because it is more like the borderline of the conflict
15. What is the difference between subsidiarity in Article 5(3) TFEU [Article 5(2) EC] and proportionality in Article 5(4) TFEU [Article 5(3) EC](?
subsidiarity gives the right to act, proportionality says that you have to proportionate an act to the problem
16. What do you think is the most effective way to overcome the lack of horizontal direct effect of directives? case 555/07 ; national court must apply national law, even if the directives have been transformed or blah . Marleasing; enlarging the state as in case Foster