The European Union

• Three important EU-related events in the past week
  – Announcement that UK will notify EU tomorrow, March 29, of its intent to withdraw from the EU – to invoke Article 50 TEU
  – Declaration of Rome, Saturday, March 25, 2017
  – Proceedings against Poland under Article 7 TEU

• Brexit

• Article 50 TEU
  – 1) Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.
  – 2) A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with the State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.
  – 3) The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

• Declaration of Rome, March 25, 2017
  – 60th anniversary of the signing of the Treaty of Rome
  – 27 Member States of European Union
    • United Kingdom not present
  – Re-founding of the European Union, without U.K.
The European Union

- Der Spiegel
- Man-in-the-street reaction from streets of Berlin
The European Union

- Relations between EU and Poland threatened to collapse
  - Proceeding pending for more than a year, accusing Poland of deviating from fundamental values of the European Union by compromising the independence of the Supreme Court of Poland
  - March 22, Frans Timmermans, VP of European Commission, announced collapse of mediation procedure
  - Polish Prime Minister, Beata Szydlo, threatened to torpedo Declaration of Rome
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- Article 2 TEU
  - The Union is founded on the values of respect for human dignity, freedom, democracy, 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.

- Article 7 TEU:
  - On a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the Values referred to in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to it.

The European Union reacted strongly
- Manfred Weber (Germany, CSU), head of EPP fraction:
  - “Europe must be one of the fundamental values of Poland, and there can be no compromise on this issue.”
- Others demanded “nuclear option” of Article 7 of TEU
  - Any Member State who violates fundamental values of the EU will have its right to vote in Council suspended
- Others threatened to suspend EU financial payments to Poland in next budget
  - Poland is largest net recipient of EU funding
  - Receives 25 percent of all EU expenditures
  - EU payments are 2 percent of its GDP

The European Union

- European Commission
  - Central administrative body of EU, often called the executive organ
  - Looks like an executive branch with very broad functions
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<tr>
<th>The European Union</th>
<th>European Commission</th>
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<tr>
<td>• Lisbon TEU Article 17 lists purposes:</td>
<td>• TFEU Article 294 gives Commission monopoly on initiating legislation and subsequent drafting of texts of laws</td>
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<td>– Promote the general interest of the European Union</td>
<td>• Thus, Commission sets legislative agenda of the EU</td>
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<td>– Ensure the application of the Treaties</td>
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<td>– Oversee the application of EU law under the control of the ECJ</td>
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<td>– Exercise coordinating, executive, and management functions; specifically to execute the budget and manage programs</td>
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<td>– To provide External representation of the EU except in the realm of Common Foreign and Security Policy</td>
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<td>• Commission currently has 28 members, one from each Member State, including the President</td>
<td>• President of Commission</td>
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<td>• Attempts to decrease size as matter of efficiency; no success so far</td>
<td>– Nominated by European Council by QMV, taking into account most recent parliamentary elections</td>
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<td>– Elected by European Parliament for a 5-year term</td>
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<td>– If Parliament does not elect Council’s candidate, Council has one month to nominate another candidate</td>
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<td>• Over time, President of European Commission has been very influential</td>
<td>• Jean-Claude Juncker</td>
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<td>– Walter Hallstein; Jacques Delors, Jose Manuel Barroso</td>
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<td>• Current President is Jean-Claude Juncker, former Prime Minister of Luxembourg, elected in 2014</td>
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The European Union
European Commission

• Formal authority of President of Commission progressively strengthened
  – Participates with European Council in designation of other Commissioners for election by Parliament
  – Has power to allocate and reallocate portfolios
  – Has power to lay down guidelines for Commission’s work
  – May require a Commissioner to resign
  – Sets agenda for the Commission program of action
  – Each January presents Parliament with agenda of Commission for the year

The European Union
Court of Justice

• Highest Court of the European Union
  • Lisbon TEU Article 19(1) provides: “The Court of Justice shall ensure that in the interpretation and application of this Treaty the law is observed.”
  – Deeper jurisprudential mission that simply interpretation and application
  – Continental traditions that distinguish underlying legal principles from their articulation in statutes
  – German conception of purposive interpretation, Zweckmäßigkeit

The European Union
Court of Justice

• Four principal forms of jurisdiction and several secondary ones
  – TFEU Article 267 “preliminary rulings;” referrals of EU law issues raised before national courts
  – TFEU Article 258 authorizes Commission to sue a Member State when they violate a Treaty provision or fail to implement secondary legislation properly
  – TUEU Article 263 permits review of legality of legislative acts and other legally binding acts of EU institutions and agencies
  – Appellate jurisdiction to review General Court judgments (largely employment law issues with EU civil servants)

The European Union

• Other EU Institutions
  – European Central Bank
  – Court of Auditors
  – European Investment Bank
  – Committee of the Regions
  – EU Agencies
    • Nineteen in all
    • One example: European Environment Agency

The European Union

• EU Finances and Budget
  – Member State contributions
  – “Matricular Contributions”
  – Articles of Confederation
The European Union

- EU Finances and Budget
  - "Own Resources" starting in 1969

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- EU Own Resources
  - Customs duties, agricultural levies, sugar levies
  - Less 20 percent kept by Member States for administration
  - Share of each Member State’s VAT
    - 0.3 percent levy
  - Standard percentage of Gross National Income (GNI)
    - Rebates to U.K., Denmark, Netherlands, Sweden, and Austria
    - Absolute cap of 1.20 percent of EU GNI from all sources
    - About €150 billion now

The European Union

- EU Budget
  - Largest budget expenditure remains subsidies to farmers and other agricultural expenses
    - CAP now 30 percent of EU budget; in 1985 it was 70 percent

The European Union

- EU Budget
  - Also spend 9 percent of EU budget on rural development projects

The European Union

- EU Budget
  - Second largest budget item is regional aid
    - Biggest beneficiaries are Greece, Ireland, Italy, Portugal, Spain, and eastern European Member States
    - Virtually all Member States receive regional aid
    - Amounts to subsidies from west and north to east and south; more developed to less developed
The European Union

- EU Budget
- Financial assistance to non-European less developed countries
  - Especially former colonies

- EU administrative expenses, cost of all EU institutions and agencies, between 6 and 7 percent of total EU expenditure
- Fewer than 50,000 total EU civil servants
- Current budget about €145 billion
- Current budgets of 28 Member States about €6.5 trillion
Principles of Governance

• Article 3 TEU
  – The Union’s aim is to promote peace, its values, and the well-being of its peoples.
  – The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.

Principles of Governance

• Article 3 TEU
  – 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. It shall promote scientific and technological advance.
  – It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

Principles of Governance

• Article 3 TEU
  – It shall promote economic, social and territorial cohesion, and solidarity among Member States.
  – It shall respect its rich cultural heritage and linguistic diversity, and shall ensure that Europe’s cultural heritage is safeguarded and enhanced.
  – The Union shall establish an economic and monetary union whose currency is the euro.
**Principles of Governance**

- Article 3 TEU
  - In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations.

**Exclusive Union Competences**

- Article 3 TFEU
  - Customs Union
  - Common commercial policy
  - Monetary policy within the monetary union
  - Competition policy
  - Conservation of marine biological resources

**Shared Competences**

- Article 4 TFEU
  - Internal market
  - Social policy
  - Economic, social, and territorial cohesion
  - Agriculture and fisheries (except for conservation)
  - Environment
  - Consumer protection
  - Transportation
  - Trans-European networks
  - Energy
  - Freedom, security and justice and common safety in public health

**Subsidiarity Principle**

- Article 5 TEU
  - In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives cannot be sufficiently achieved by the Member States, either at the central level or at a regional or local level, but can rather, by reason of the scale or effects of the proposed actions, be better achieved at the Union level.

**Subsidiarity Principle**

- Article 5(3) TEU
  - Under the principle of proportionality, the content and form of Union actions shall not exceed what is necessary to achieve the objectives of the Treaties.
  - Principle of Proportionality, Verhältnismäßigkeit
Subsidiarity Principle

- Question is whether Subsidiarity Principle is justiciable
- ECJ has never annulled a piece of EU legislation as violating Principle of Subsidiarity

The European Union