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The principle of conferral: what kind of competence is the environment?

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Principle of conferral

- The delimitation of the Union's competences is based on the principle of conferral (Art. 5.1 TEU).
- Under the principle of conferral, the Union acts only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Any competence not conferred upon the Union in the Treaties remains with the Member States (Art. 5.1 TEU).

Principle of conferral

- Derived nature of the European Union's competences.
- Functionalism typical of international organisations: common objectives among Member States and tasks aimed at achieving those objectives.
- Residual nature of state competences.
- Restrictive approach of the Treaty of Lisbon.

EU competences

- Categories of EU competences:
- **Exclusive competences of the EU:**
- When the Treaties confer exclusive competence on the Union in a given area, only the Union may legislate and adopt legally binding acts (Art. 2.1 TFEU).
- Member States' powers if authorised by the EU or in the implementation of EU law.

Exclusive competences of the EU

- The definition of the EU's exclusive competences is a new feature of the Treaty of Lisbon.
- The list of exclusive competences is exhaustive and is contained in Article 3 TFEU:
- Customs union;
- Competition rules necessary for the internal market;
- Monetary policy in the euro area;
- Conservation of marine biological resources;
- Common commercial policy.



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Concurrent powers

- When the Treaties confer on the Union a competence shared with the Member States in a given area, the Union and the Member States may legislate and adopt legally binding acts in that area (Art. 2.2 TFEU).
- The list is only illustrative and is contained in Art. 4 TFEU. For the sake of brevity, we report:- Internal market; Social policy; For the purposes of our investigation, it should be noted that competence in the field of the environment is included in this category.

Support skills

- In certain areas and under the conditions laid down in the Treaties, the Union has competence to carry out actions to support, coordinate or supplement the actions of Member States, without however replacing their competence in these areas (Art. 2.5 TFEU).
- So-called third-type competences. The list is exhaustive and is contained in Art. 6 TFEU:

| Health protection and improvement | Industry |
|---|------------------|
| Culture | Tourism |
| Education, vocational training, youth and sport | Civil protection |
| Administrative cooperation | |



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Special skills

- Coordination of economic, employment and social policies: parallel role of Member States and the European Union (Article 5 TFEU):
 - The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.
 - The Union may take initiatives to ensure coordination of the social policies of the Member States.
- Common foreign and security policy (Art. 2, paragraph 4, TFEU):
 - The Union shall have competence, in accordance with the provisions of the Treaty on European Union, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.
 - Specific provisions on the CFSP are contained in the TEU.