

Separation of Powers

- Legislature
- Executive
- Judiciary
- Should all be separate.

Legislature

- Both Houses of parliament, Lords & Commons.
- Formulate law from policy.

Judiciary

- All judges.
- Role to interpret law made by legislature.

Executive

Sort of "Board of Directors"

- Cabinet & PM.

Functions

- Formulate policy
- Take responsibility for individual government departments.

Why separate?

- Separation of powers exists to provide checks & balances
- Help develop a fairness in the whole legal system.

European Law

- Signed Treaty of Rome in 1973
- Became member of EU (EEC as it was then)
- Treaty of Rome gives inalienable rights to citizens
- Updated & amended by further treaties (Maastricht, Amsterdam & Nice)

Institutions of EU

- Parliament – Law-making body
- Council – policy making body – sort of European “cabinet”. Made up of heads of state, or high ranking Ministers.
- Commission – Scrutiny of work of EU.
- Court of Justice – Legal decisions relating to EU matters

Lisbon Treaty

- Modifies constitution of EU
- Creates an EU President (2 ½ year term)
- Removes the right of veto.
- Adopts the “Charter of fundamental rights of the EU”

Rights

- Free Movement of –
 - Goods
 - Finance
 - Labour
 - People
- In principle, at least.

Cassis De Dijon

- French Liqueur – around 18-20% alcohol
- German Law stated at time needed to be min 25% - import was stopped
- European Court decided in principle "If it is legal in one member state, it should be legal in all"
- Subject to certain allowed objections.

Objections

- For example – (for goods)
- On grounds of
 - Public Health
 - Consumer Protection
 - Tax Evasion
 - Fair Trading

Law -making

- Regulations – immediate/Direct effect. Automatically binding on all member states.
- Directives – Instructions to member states to make their own legislation on a subject.
 - Usually within a given time limit
 - Very common

Law-making (2)

- Decisions – can be directed to a specific party or country – binding upon them
- Recommendations / opinions – persuasive, but no binding effect

Directives - Examples

- Product Safety Directive
- Resulted in General Product Safety Regulations applicable to UK
 - Other EU states should have similar legislation
- Deals with the safety of goods supplied to the public.

Recent(ish) issue

- European Directive on Specified Quantities for foodstuffs
- Was implemented 2009
- Nearly all goods can now be packed in any quantity the manufacturer wishes.

European Court

- ECJ has jurisdiction over British courts in matters that directly relate to European issues
- Matter can be referred from any point in our court structure

Example

- Thoburn v Sunderland City Council 2002
- **Consorzio Del Prosciutto Di Parma v. Asda Stores Limited (2001 UKHL 7)**

Karen Murphy, Sky & The Premier League

- Is it legal to buy a satellite subscription from another EU country and show live Premier League Games in a pub?
- UK courts have upheld FAPL & BSkyB's rights over the showing of Premier League games & the ban on showing games live at 3pm on a Saturday.

- Murphy is a landlady of a pub in Portsmouth & chose a Greek supplier at a cost of around £100 per month as opposed to £1000
- How does this fit with EU Laws relating to the free movement of goods & services?

Preliminary hearing

- Case heard in ECJ in October 2010
- In the view of Advocate General Kokott, territorial exclusivity agreements relating to the transmission of football matches are contrary to European Union

Hearing October 2011

- The ECJ now says national laws which prohibit the import, sale or use of foreign decoder cards are contrary to the freedom to provide services.

However, only a partial victory

- ECJ added that while live matches were not protected by copyright, any surrounding media, such as any opening video sequence, the Premier League anthem, pre-recorded films showing highlights of recent Premier League matches and various graphics, were "works" protected by copyright.
- To use any of these extra parts associated of a broadcast, a pub would need the permission of the Premier League.

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