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# The Institutions of the European Union



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## Introduction

Although the United Kingdom has been a member of the European Community, now the European Union, for nearly 40 years, and much has been published about the EU institutions, there are still many questions posed by people in Britain and many misunderstandings about who does what in the EU. This paper provides a brief introduction to the institutions of the EU; more detailed SEE briefing papers are available on the European Council, the EU Council of Ministers, the European Parliament, the European Commission and the European Court of Justice.

## The Remit of the European Union

The Union acts only where the Member States give it powers to act (“competences”), because they believe that it is to their advantage to act together. Those competences are laid down in the Treaty on the Functioning of the European Union (the former Treaty of Rome). The treaties have been amended on a number of occasions but always by unanimous decision of the Member States, ratified by their people or parliaments.

The EU cannot legislate or act outside the terms of the Treaties. Thus in the creation of the EU and in its future development it is the Member States who rule. Laws are made by the Ministers of the Member States, including the United Kingdom, in the Council of Ministers and the European Parliament and not by bureaucrats, as is commonly believed.

## The Institutions

The Institutions of the European Union are:

- The European Council
- The Council of Ministers
- The European Parliament
- The European Commission
- The Court of Justice
- The Court of Auditors

The role of the High Representative for Foreign Affairs and Security straddles the divide between the Commission and the Council as the holder is a Vice President of the Commission and also chairs the Foreign Affairs Council.

There are two bodies that are not institutions of the Union but give valuable advice: the Committee of the Regions and the Economic and Social Committee.

### **The European Council**

At least four times each year the heads of state or government of the 28 Member States meet in the European Council to deal with the most important and difficult issues facing the EU. The Lisbon Treaty made the European Council an institution and put it in charge of the political direction of the EU and of setting the strategy for the Common Foreign & Security Policy. The European Council, which has a full-time president, operates by consensus on policy matters.

### **The Council of Ministers**

The prime policy-making and legislative body of the European Union, the Council of Ministers comprises the Ministers of all 28 Member States. It meets in various forms (e.g. the Environment Council, Economic and Finance Council, Agriculture Council and the Foreign Affairs Council) covering the main areas falling within EU responsibility.

The Presidency of the EU rotates between Member States every six months. The relevant minister for the Member State holding the presidency will chair the Council meeting except for the European Council and the meetings of the foreign affairs council, which is chaired by the High Representative for Foreign Affairs & Security.

Although the Treaty lays down whether decisions in the Council require a unanimous vote or a qualified majority in favour, Ministers prefer to achieve consensus, deciding most questions by agreement and without recourse to a vote. If there is no agreement or favourable decision by vote, a proposal is usually abandoned, withdrawn or resubmitted after amendment. For most legislation, the Council can only act on a proposal from the European Commission (although it can of course amend it – unanimously if the Commission does not agree – or reject it<sup>1</sup>): this is to ensure that proposals before the Council reflect the interests of the whole Union, since the European Commission is the institution which represents as far as possible the common interest.

The Council in all its various formations is underpinned by a structure of over 150 committees composed of officials representing member state governments. At the lowest level are the working groups, where the detailed negotiations among Member States take place to arrive at common solutions. Between the working groups and ministerial/Council levels are several senior/ambassadorial level committees. They can take a wider view of outstanding issues not soluble at the lower level. They also prepare the ministerial level discussion or negotiation if they cannot settle the issues. These committees are: the Committee of Permanent Representatives (known universally by its French acronym as COREPER) for external relations and general affairs and for co-ordinating the work of the EU as a whole and most Community legislation; the Economic and Financial Committee; the Special Committee for Agriculture; the 133 Committee, for trade policy issues (known by the treaty article which created it); the

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<sup>1</sup> Unanimity is not required to amend a Commission proposal concerning the budget or the multi-annual financial framework.

Co-ordinating Committee for Justice and Home Affairs (COSI); and the Political and Security Committee (PSC), for foreign, security and defence policy.

### **The European Parliament**

The 751 members of the European Parliament are directly elected by the people of the Union in elections held every five years under proportional representation arrangements decided nationally. The European Parliament and the Council have to agree before most EU laws can be adopted. Such laws normally take the form of “directives” which Member States have to turn into national laws, using their own wording to reflect the meaning of the directive.

The European Parliament and the Council are the joint budgetary authority of the EU and determine the amount of money to be spent each year in the budget.

The European Parliament, like many national parliaments, scrutinises the operation and implementation of Union policies by the Commission and is vigorous in its oversight.

### **The European Commission**

The European Commission is headed by 28 Commissioners (one from each Member State). Member States agree on a President of the Commission, who must then be endorsed by the Parliament. The President conducts a selection process for the other commissioners in discussion with Member States; the European Parliament then can only vote on the college of commissioners as a whole. Normally the Commissioners have either held Ministerial posts in their own country or have been members of their national parliaments or the European Parliament. Commissioners are answerable for the European interest and are not allowed to take instruction from their governments.

The Commission's principal roles are:

1. *as the proposer of legislation at Union level:* the Commission consults very widely with those directly concerned such as consumer and environmental groups, business, commerce, trade unions, and professional interests. The great majority of proposals in fact come in response to the wishes of the Member States or of important opinion within the Union;
2. *the implementation of policies and programmes decided by the Council and Parliament:* the Commission draws strongly on the services of the Member States themselves (for example, on agriculture and on regional and social spending) and also works closely with international organizations and non-governmental organizations (for example, on humanitarian aid and development);
3. *as the regulator of the Internal Market:* one of the most important Commission roles is its independent decision-making capacity in ensuring fair competition in the internal market by its powers in relation to business mergers, against the abuse of dominant commercial positions and on state aids.

The Commission also has an important role as the spokesman of the whole Union, within the terms of a negotiating position decided by the Council, in international negotiations on external trade and in some other areas;

4. *as "Guardian of the Treaties"*; The Commission ensures that the Member States correctly transpose the European Union directives into national law and follows up on any other infringements, if necessary referring them to the European Court of Justice.

### Staff and budget

The European Commission has about 33,000 permanent and temporary posts in its operational budget for a Union population of over 500 million people, a substantial number of whom are translators and interpreters. The Commission's administrative budget is less than that of the Mayor of London and is about three per cent of the entire European Union budget. The Commission's staff is a permanent civil service, almost all of whom are recruited by open competition.

### Delegated legislation

When the Council has taken decisions on primary legislation, it has often delegated secondary and minor legislation to the Commission which then acts in consultation with the experts of the Member States. As a result there is a large volume of this minor legislation but a substantial amount expires or is repealed each year. In recent years, there have also been some moves to replace legislation with less formal benchmarking and comparison of national practices.

### **The European Court of Justice**

The European Court of Justice (ECJ) has no connection to the European Court of Human Rights in Strasbourg, which predates the European Union and is not a part of the Union. The ECJ in Luxembourg, whose members are nominated by Member States, is the ultimate authority on the validity, interpretation and application of European Union law. Whether at the request of the highest court of a Member State or the Commission, the Court may clarify the meaning of EU law and can require a Member State to change its law in line with its EU obligations. Its power is the clearest possible demonstration of the respect of the rule of law in the European Union. The Court has the power to levy fines on Member States who ignore its judgments. However, it is not a US-style Supreme Court in that it can only deal with matters covered by the Treaties.

### **The Court of Auditors**

The Court of Auditors' main task is to monitor the European Union's finances and point out areas where the management needs to be improved. Made up of one nominee per Member State, it is free to organize its own work, and, in particular, to plan its own auditing activities. The Treaty requires the Court of Auditors to assist the Parliament and the Council in exercising their powers of control over the implementation of the budget to ensure that it is properly spent. The Court may, at any time, submit observations on specific questions and deliver opinions at the request of one of the other Institutions.

### **Conclusion**

The EU's institutions were carefully designed in the founding treaties to best achieve the common objectives of the Member States. It achieves this through a central institution charged with proposing legislation and safeguarding the treaties (Commission), working

on the basis of decisions made by a body in which the Member States take decisions (Council), subject to the approval of the elected representatives of the people on certain issues at EU level (European Parliament) as well as through their Ministers in the Council at national level, overseen by an independent court and scrutinised by independent auditors.

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## Senior European Experts

The Senior European Experts Group is an independent body consisting of former high-ranking British diplomats and civil servants, including several former UK ambassadors to the EU, and former officials of the institutions of the EU.

The group provides high-quality, fact based briefing materials on EU issues.

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