

Law of the European Union

course for exchange students

version 2018

[2] Institutions of the European Union

Filip Křepelka

(krepelka@law.muni.cz)

Individuals and legal entities

- Legal entities (companies, associations etc. etc.) are instruments for human activities.
- They need individuals to act on behalf of them.
- States and units of their local government are also regarded as legal entities, having their institutions.
- Individuals are monocrats or members of collective institutions

Institutions of states and international organizations

- States have fonctionnaires and bodies for their operations: parliaments, heads of state, cabinets, courts and their judges, various administrative authorities, and elected bodies of regional and local self-government.
- Similarly, international organization have their assemblies, secretariates, administrative staff etc..

Merged Institutions of the European Communities and of the European Union

The European Union (and former European Communities) had and have various fonctionnaires and bodies for their activities and decision-making.

Due to legal interconnection between the European Communities (established in 1951 and 1957) and the European Union (established in 1992), their institutions were and are (EC for atomic energy) shared by them.

Overview of institutions

- (1) the European Parliament,
- (2) the Council (of the EU, of ministers) + COREPER
- (2a) the European Council,
- (3) the (European) Commission,
- (3a) agencies,
- (4) the (European) Court of Justice,
- (4a) other tribunals,
- (5) the European Central Bank,
- (6) advisory committees.

The European Parliament - composition

- The European Parliament is composed of 751 elected for five year – term (now 2014-2019).
- The European Parliament was elected firstly in 1977.
- Before it, Consultative Assembly composed of members delegated by national parliaments.
- Seats are distributed to European nations (member states) according to their population. Nevertheless, less populated nations are overrepresented.
- Numbers are fixed in primary law. They have repeatedly changed due to enlargements and reforms (next change will reflect Brexit...).

European Election

Election of the European Parliament are held according to principles set by the European Union law and implementing national legislation.

Last election 2014, planned 2019.

Held every fifth year at the same week (from Thursday to Sunday) in all member states.

Electoral system of proportional representation results in „colorful“ European Parliament.

Citizens of the European Union cast their vote in the member state where they reside.

Political scientists describe European election as elections of minor importance.

Europeans are not keen to vote. Why?

Delegations, factions, committees

- Members of the European Parliament are elected for national delegations separately in the member states.
- They are divided into political groups (factions) according to their political orientation.
- 8 groups exist now: GUE-NGL, S+D, ALDE, EPP, ECR, EFDD, ENF.
- Behind them, European political parties (as specific entities according to EU law financed by the EU) exist.
- They are mere associations of national political parties.
- Members of the European Parliament work in numerous committees (22), subcommittees, and delegations.

Roles of the European Parliament

- The European Parliament is legislative body in the EU.
- It decides on many regulations, directives, and decisions. It participates on other decision-making.
- Treaty of Lisbon increased legislative power of the European Parliament in legislation.
- Nevertheless, its legislative powers are limited if compared with national parliaments. The Council remains to be more important.
- Other tasks of the European Parliament are control of the (European) Commission and approval of budget of the European Union.

The Council: composition and role

- The Council (the Council of Ministers, of the European Union) is composed of ministers, i.e. members of the highest executive bodies of member states, or state secretaries, vice-ministers as surrogates.
- Several configurations: /1/ general affairs, /2/ foreign affairs, /3/ economic and financial affairs, agriculture and fisheries, /4/ justice and home affairs, /5/ employment social policy, health and consumer affairs, /6/ competitiveness, /7/ transportation, telecommunication and energy, /8/ Environment and /9/ Education, youth, culture and sport.
- Individuals are representatives of their states.
- The Council is the first legislative body of the European Union and the only decision-making body in several agendas yet controlled by the memb

COREPER

- The Committee of Permanent Representatives (COREPER) is composed of heads of missions of member states to and the European Union and numerous administrative staff.
- It prepares meetings of the Council.

The Council – decision making

- Unanimity is required for many decisions.
- Every member state can thus veto decision.
- In the past: Qualified majority voting – based on different „weight“ of votes of member states (2-10, 3-29 according to population of represented member states)
- The Treaty of Lisbon introduced for future decision based on 55% of member states with 65% of population of entire EU)

The European Council

The European Council is composed of heads of executives of member states (prime ministers, premiers, chancellors, or presidents)

- + non-voting president of the Commission
- + its own president.

(It shall not be confused with the Council of Europe which is another international organisation).

It meets several times in year, mostly in presiding member state.

It formulates the policies of European Union and approves measures expected by primary law.

Presidency of the Council and of the European Council

- Member states (i. e. their representatives in the Council, in COREPER) rotate in presidency of the European Union for period of six months.
- Meetings of the European Council, of the Council, of advisory and supplementary bodies and intergovernmental conferences (see below) are held usually in presiding member state.
- Treaty of Lisbon has introduced an individual president of the European Council.

Advisory committees

- There are two principal advisory committees within the European Union.
- the Economic and Social Committee consists of members representing various economic and social interests in the member states (trade unions, farmers, culture, employers etc.)
- the Committee of the Regions is composed of members representing regional and local government in member states.
- Both committees participate as advisory bodies in various legislative procedures.

the (European) Commission

- The Commission („the European Commission“) is the highest executive authority of the European Union.
- The Commission is principal administrative body of the European Union. It has limited own administrative agenda.
- The Commission prepares drafts of legislation (regulations, directives etc.).
- The Commission supervises the enforcement of European Union law by member states.

Composition of the Commission and its administration

- The Commission is composed of the president and of members.
- The number of members reflects number of member states (in the past, five most populous member states were represented with two members).
- Treaty of Lisbon expected reduction of number of members of the Commission. Nevertheless, it was abandoned as political compromise.
- The Commission is served by Directorates-General and other General Services of the Commission.

Creation of the Commission

- The Council selects the president of the Commission.
- Member states designate members (commissioners).
- The president distributes agendas to the members.
- the European Parliament approves the Commission in its vote of confidence.
- The Council nominates the Commission.
- The Commission can face vote of no-confidence in the European Parliament.
- The Commission is established for five year term coupled with the European parliament.

Agencies of the European Union

- The European Union (and the European Communities) have gradually established numerous agencies for special administrative tasks or for better cooperation of institutions of member states.
- These agencies are established usually as special legal entities.
- Some of them perform administrative functions.

the Court of Justice

- The Court of Justice (known as European Court of Justice) is the supreme judicial authority of the European Union.
- 28 judges are proposed by every member state and appointed jointly.
- The Court of Justice serves as an constitutional and administrative court .
- It also contributes to homogenous application of the European Union law by courts and tribunals of member states with judgements on their requests for preliminary reference.

The General Court (abolition of specialized tribunals)

The General Court (established as the Court of First Instance in 1989) and the Civil Service Tribunal (established in 2007).

- these courts were established for alleviation of the Court of Justice.
- These courts decide on individual cases with no or small political significance.
- Reform in 2016: special tribunals abolished and the General Court enlarged to 56 judges.

The European Central Bank

- The European Central bank is special legal entity within the European Union.
- It decides on monetary policy for member states which have introduced „Euro“.
- It is supreme authority of the „Eurosystem“ and of the European System of Central Banks.
- Central banks of member states which have introduced single currency have not ceased to exist. They are, however, not independent.

Location of institutions of the European Union

- There is no official capital of European Union.
- Several institutions are located in Brussels (the Commission, the Council, COREPER, committees of the European Parliament), in Luxembourg (the Court of Justice and other courts), in Strasbourg (plenary sessions of the European Parliament) and in Frankfurt am Main (the European Central Bank).
- Agencies are located in various cities of other member states.

Officials and employees of the European Union

- Most officials and employees of the European Union are remunerated by the European Union.
- There is complicated career system in the European Union.
- There is special labour law for public service in the European Union.
- There is special taxation and special social security for them and for their family members.

Linguistic regime of institutions and other structures

- All 23 authentic languages are official languages of the European Union.
- If particular state or individual under jurisdiction, its/his/her language is used.
- There are 2/3 unofficial working languages: English, French and sometimes German.

Intergovernmental conferences

- Supreme and superior representatives (prime ministers and ministers) of member states convene from time to time at intergovernmental conferences.
- Intergovernmental conferences are not an institution of the European Union.
- They, however, decide on further development of the European Union, including creation of new primary law.

The Convention

- The Convention was established in 2002 for preparation of new Treaty establishing a Constitution for Europe.
- It was composed of representatives of executives and parliaments of both member and candidate states.
- Results of the Convention were adopted by intergovernmental conference in 2004. Nevertheless, several member states have failed to ratify the Treaty and it did not enter into force.
- Similar convention is expected for future changes of founding treaties.

Comparison with institutions of international organisations and federations

- The European Union is a structure which has features of both standard international organisations and federations („hybrid“).
- Features of institutions and structures of the European Communities and the European Union reflect this nature.
- There are intergovernmental (the Council) and quasi-federal institutions (the European Parliament, the Commission, the Court of Justice, the European Central Bank).

Enforcement of the European Union law by the member states

The European Union lacks administration and judiciary for day-to-day enforcement of its law.

There are no European Union state, or regional departments, agencies and courts.

The European Union law is enforced usually by administration and judiciary of member states. They can be thus perceived as „agents“ of the European Union.

No armed forces, no state!

- The European European Union has no armed forces.
- No European army, or special police units.
- The European Union thus totally depends on loyalty of member states in enforcement of its law and policy.