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Course: Law of the European Union

[3] Institutions of the EC/EU

Introduction

All legal entities need individuals (individual human beings, simply said „people“) for their activity. Legal entities are only tools for human activities. States and local self-government on their territory can be also regarded as legal entities. Certainly, their particularity is jurisdiction they have over individuals. States and international (governmental) organisations are legal entities acknowledged fully by international law.

Individuals – often joined together, thus creating a body - perform functions in the name of all these entities. States or international organisations and structures have individuals and groups for their government and other operations (parliaments, heads of state, executive councils, court chambers and individual judges, various inferior administrative authorities, elected bodies of regional and local self-government etc.). The European Communities (the European (Economic) Community and the European Atomic Energy Community at the moment) and the European Union are not exception. They have several different bodies for various government and other operations. Due to legal interconnection between the European Communities (established in 1951 and 1957) and the European Union (established in 1992), these institutions are conjoint.

Overview of institutions of the European Union and the European Communities:

The institutions are (1) the European Parliament, (2) the Council (of the EC / EU), (2a) the European Council, (3) the (European) Commission, (3a) various agencies, (4) the (European) Court of Justice, (4a) other tribunals, (5) the European Central Bank, (6) various advisory committees. Intergovernmental conference is not a body of the European Union and the European Communities. It is composed of representatives of member states. The Convention was an ad hoc body for preparation of the Constitutional Treaty.

(1) The European Parliament comprises 785 (after last enlargement) elected members for five-year term. The European Parliament was elected for the first period in 1977. At the beginning of the European Communities, only Consultative Assembly existed, composed of delegated members.

Seats are distributed to European nations which established the European Union and the European Communities according to their population. The biggest delegation is from Germany (99 seats), the smallest from Malta (5), the delegation from the Czech Republic is medium sized (24).

Members of the European Parliament are elected as members of national delegations. Nevertheless, they divide themselves into political groups (factions) according to their political orientation (there are seven political groups in the European Parliament at the moment (the most important are the European Peoples Party – European Democrats and Party of European Socialists).

Formation of political groups has, however, limited importance. These political groups are quite loose association of national political parties.

Members of the European Parliament work in numerous committees and other bodies. The European Parliament is legislative body. It decides on many regulations and directives. Nevertheless, its legislative powers are limited if compared with national parliaments. Other tasks: control of the (European) Commission and approval of budget of the European Communities and the European Union.

European elections are organised - according to principles established by the European Community law and national legislation - at the same week in all member states. System of proportional representation results in extremely „colorful“ European Parliament. Citizens of the European Union can cast their vote in the member state they live in. Political scientists, however, perceive European elections as elections of minor importance.

(2) the Council (the Council of Ministers, the Council of the European Communities / the European Union) is composed of ministers – members of the highest executive bodies of member states (often labelled as „governments“).

There is no individual membership in the Council. Individuals act as representatives of their states. Presidency is served by member states for half-year terms. Sometimes unanimity of member states is required for decisions. Qualified majority voting – based on ponderation of votes of member states (3 to 29 according to population) – was gradually introduced.

The Committee of Permanent Representatives (COREPER) is composed of heads of mission of member states to the European Communities and the European Union. It prepares meetings of the Council. The Council is the first legislative body of the European Communities and the only decision-making body of the European Union in the 2nd and 3rd pillars.

(2a) the European Council is composed of heads of executives of member states (prime ministers, premiers, chancellors and presidents). It formulates the policies of European Union.

(3) the Commission (the European Commission) is the highest executive authority of the European Communities and the European Union.

It is established in complicated procedure. The Council selects the president. Member states designate commissioners (one from each member state at the moment), the president distributes agenda to these commissioners and the European Parliament approves the Commission (vote of confidence). It can face vote of no-confidence.

The Commission is key administrative body of the European Communities and the European Union. It prepares drafts of legislation (regulations, directives etc.). It supervises the enforcement of European Community law by member states. It has limited own administrative agenda. It shall be underlined that vast majority of administration of law of the European Communities and of the European Union is

task of member states and their administrative authorities. The Commission is served by 23 Directorates-General and other General Services.

(3a) Special agencies are authorities and institutions established usually as special legal entities for specific purposes and tasks. Some of them perform administrative functions. The most important agencies for the 1st pillar are the European Environmental Agency, Office for Harmonization of Internal Market and many others. For the 2nd pillar and 3rd pillar, there are Europol and Eurojust.

(4) the Court of Justice (the European Court of Justice, the Court of the European Communities) is the supreme judicial authority of the European Communities. It plays no role in the 2nd pillar and its operations are restricted in the 3rd pillar. 27 judges are proposed by each member state and appointed by an agreement of member states. The Court of Justice serves as a constitutional and administrative court of the European Communities. It contributes to homogenous application of the European Community law by courts and tribunals of member states with judgements on their requests for preliminary reference.

(4a) other tribunals are the Court of First Instance and the Civil Service Tribunal. These tribunals have alleviated the Court of Justice. They decide on individual cases with no or small political significance.

(5) the European Central Bank sets monetary policy for member states which have already introduced single currency (euro). It is head of the European System of Central Banks of member states.

(6) Advisory committees are the European Economic and Social Committee (members representing various economic and social interests in member states) and the Committee of the Regions (members representing regional and local government or federal entities). Both committees participate as advisory bodies on legislative procedures.

Seats of institutions and other structures of the European Communities and the European Union are different. There is no official capital of European Union and the European Communities. Several institutions are located in Brussels (the Commission, the Council, COREPER, committees of the European Parliament), Luxembourg (the Court of Justice and other courts), Strasbourg (plenary sessions of the European Parliament) and Frankfurt am Main (the European Central Bank). Numerous special agencies are located in other cities.

Functionaires and other employees are remunerated by the European Communities. There is special labour law for public service, special taxation and special social security for them and their family members.

Linguistic regime of institutions and other structures – all 23 authentic languages are official languages. If particular state or individual under jurisdiction, its/his/her language is used. There are two-three unofficial working languages: English, French and sometimes German.

Intergovernmental conferences of supreme and superior representatives (premiers and ministers) of member states convene for adoption of founding treaties and treaties amending them. Intergovernmental conferences are not

body of the European Communities and the European Union, although their composition is similar to composition of the European Council and the Council.

Conclusions

The European Communities and the European Union is an 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 confirm this mixed nature. There are intergovernmental and quasi-federal institutions.

The European Communities and the European Union lack hierarchically organized administrative authorities for day-to-day administration of their own law and fully developed judiciary. There are no state or regional or local departments, agencies and courts. Both tasks are fulfilled by administrative authorities and judiciary of member states.

The European Communities and the European Union have no armed forces. There are no European army, European police units and no European special services.

Therefore, there is no capacity to enforce the law of the European Union and of the European Communities directly. The European Communities and the European Union rely on member states and their administrations and judiciaries.

Therefore, state administrative and judicial authorities can be regarded as „agents“ (intermediaries) of European law (direct effect and indirect effect).