

Law of the European Union

[3] Institutions of the European Union

Filip Křepelka

(krepelka@law.muni.cz)

Individuals acting on behalf of legal entities

- Legal entities (companies, associations etc. etc.) need individuals for their activities. Anyway, they are only tools for human activities.
- States and units of their local government can be also regarded as legal entities.
- Individuals – if joined together, creating a body - perform functions on behalf of these entities.
- States or international organisations and structures have individuals and groups for their operations: parliaments, heads of state, executive councils, courts and their judges, various administrative authorities, and elected bodies of regional and local self-government.

Joint Institutions of the European Communities and of the European Union

The European (Economic) Community, the European Atomic Energy Community and the European Union are not an exception. They have several different bodies for their activities.

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

Overview of institutions

- (1) the European Parliament,
- (2) the Council (of the EC / EU)
- (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.

European Parliament

- The European Parliament is composed of 736 elected for five year term.
- The European Parliament was elected for the first period in 1977. Before it, Consultative Assembly existed. It was 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.

Delegations, factions, committees

- Members are elected for particular national delegations separately in member states.
- They are divided 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 and Party of European Socialists).
- Formation of these political groups has, however, limited importance. They are free associations of national political parties.
- Members of the European Parliament work in numerous committees, subcommittees and delegations.

Roles of the European Parliament

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

European Elections

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

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

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

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

Political scientists describe European elections as elections of minor importance. Europeans are not keen to participate on them.

The Council: composition and role

- The Council (the Council of Ministers, the Council of the European Communities / the European Union) is composed of ministers, i.e. members of the highest executive bodies of member states.
- Individuals are representatives of their states.
- 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.

The Council – decision making

- Unanimity of member states is required for some decisions. Every member state can thus veto decision.
- Qualified majority voting – based on different „weight“ of votes of member states (3 to 29 according to population of represented member states, Treaty of Lisbon expects voting based on majority of member states with 60% of population)

European Council

The European Council is composed of heads of executives of member states (prime ministers, premiers, chancellors, or presidents) and non-voting president of the Commission.

(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

- Member states (i. e. their representatives in the Council, in COREPER and in the European Council) rotate in presidency of the European Union for period of six months (half year).
- Meetings of the European Council, of the Council, of advisory and supplementary bodies and intergovernmental conferences (see below) are usually held in presiding member state.
- Treaty of Lisbon expects individual president of the European Union (the European Council). Member states will further host meetings in framework of presidency.

Advisory committees

- There are two principal advisory committees within the European Union.
- the European Economic and Social Committee is composed of members representing various economic and social interests in 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 Commission

- The Commission („the European Commission“) is the highest executive authority of the European Union.
- The Commission is principal administrative body. 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.
- Its role in the first pillar (European Communities for economic integration) is stronger than its role in 2nd and 3rd pillars.

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 past, five most populous member states were represented with two members).
- Treaty of Lisbon expected reduction of number of members of the Commission.
- The Commission is served by Directorates-General and other General Services of the Commission.

Establishment of the Commission

- The Council selects the president of the Commission.
- Member states designate commissioners (one from each member state at the moment)
- The president distributes agenda to these commissioners
- 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, which is related to term of the European Parliament.

Special Agencies

- The European Community and the European Union have gradually established several 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 most important agencies for the 1st pillar are the European Environmental Agency, Office for Harmonization of Internal Market and many other.
- For the 2nd pillar and 3rd pillar, there are Europol and Eurojust.

the Court of Justice

- The Court of Justice (known as European Court of Justice, officially the Court of the European Communities) is the supreme judicial authority of the European Union.
- 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 with an agreement of member states.
- The Court of Justice serves as an constitutional and administrative court. It contributes to homogenous application of the European Union law by courts and tribunals of member states with judgements on their requests for preliminary reference.

Other Tribunals of the European Union

The Court of First Instance (established in 1989)
and

the Civil Service Tribunal (established in 2007).

- these courts were established for alleviation of the Court of Justice.
- They decide on individual cases with no or small political significance.
- New judicial bodies of the European Communities have been proposed.

European Central Bank

- The European Central bank is special legal entity within framework of the European Union.
- It decides on monetary policy for member states which have introduced „euro“ as their single currency.
- It is supreme authority 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.

Locations of institutions of the European Union

- 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).
- Special agencies are located in other 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 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 two or three unofficial working languages of the European Union: 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 draft of new Treaty establishing a Constitution for Europe.
- It was composed of representatives of executive 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.

Comparison with institutions of international organisations and federations

- The European Union is a structure with 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).

Daily Application by Administration and Judiciary of Member States

the European Union lacks both administration and judiciary for day-to-day administration of their own 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.

- The European Communities and the European Union have no armed forces There are no European army, or special European police units.
- The European Union thus relies on loyalty of member states in enforcement of its law and policy.