

# PART 2: INSTITUTIONAL STRUCTURE AND LAW MAKING

## Chapter 2: The Institutions of the EU

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### Aims of this Chapter

This chapter will enable you to achieve the following learning outcome from the ILEX syllabus:

- 2 Understand the constitutional structure and institutions of the EU

### 2.1 Introduction

The European Union is unique in its set-up and fully understanding this set-up and the roles of each of the institutions will help you understand how the EU works, how decisions and laws are made and how they influence you or how you can influence them. Just like any organisation, club or group of people, the EU has its own way of doing things and we sometimes struggle to make sense of that because the EU does not do things quite like any other organisation, group or even country we know.

The basic structure of the EU institutions is set out in **Art 13 Treaty on European Union (TEU)** listing seven institutions:

- the European Commission;
- the Council of the European Union;
- the European Council;
- the European Parliament;
- the Court of Justice of the European Union;
- the Court of Auditors;
- the European Central Bank.

We will deal with the first five in some detail and provide a brief outline of the Court of Auditors and some additional institutions. The European Central Bank is responsible for setting monetary policy for EU Member States using the euro. It also sets interest rates for those Member States.

The European Parliament (EP), the Council of the European Union, and the European Commission form a “decision-making triangle” which produces the laws and policies of the EU. The Commission makes policy and proposes new laws; Parliament and the Council of the European Union turn those proposals into law by following set procedures set out in **TEU**. The Commission as the “guardian of the treaties” then enforces EU law with the assistance, where necessary, of the European Court of Justice.

Each institution is given specific powers by **TEU** and *shall act within the limits of the powers conferred on it (Art 13(2) TEU)*. What is more, the EU institutions *shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions (Art 13(1) TEU)*. Exactly how they do this is what we are going to explore in this chapter.

## 2.2 The European Commission

The European Commission, often simply referred to as the Commission, is in many ways the face of the EU. It is what people are talking about when they refer to “Brussels imposing decisions”. It is independent of national Governments and represents and upholds the interests of the EU as a whole. This section introduces you to the Commission. It will tell you what the Commission is, who is part of it, how it works and what its purpose is. The Commission’s headquarters are in Brussels in the Berlaymont building, which is pictured from two different angles below.



### 2.2.1 What is the Commission?

The term “Commission” is used to refer to the team appointed to run the institution and take its decisions. The term also refers to the institution itself and to its staff. The Commission is located in Brussels, but it also has offices in Luxembourg, representations in all EU countries and delegations in many capital cities around the world.

The appointed members of the Commission are known as “Commissioners”. They have generally held political positions in their countries of origin and many have been Government Ministers, but as members of the Commission they are committed to acting in the interests of the EU as a whole and not that of national governments.

The list of current commissioners can be found on the European Commission website at [http://ec.europa.eu/commission\\_2010-2014/index\\_en.htm](http://ec.europa.eu/commission_2010-2014/index_en.htm) . The Commission is headed up by a President, currently José Manuel Barroso. The President of the Commission is in many ways the face of the EU and never far away from the media spotlight. Below are some examples of the current president getting out and about and you can find additional information about him and his activities on his website: [http://ec.europa.eu/commission\\_barroso/president/index\\_en.htm](http://ec.europa.eu/commission_barroso/president/index_en.htm) .



## 2.2.2 Appointment of the Commission

Currently there is one Commissioner from each Member State (**Art 17(4) TEU**). From 2014, however, the number of Commissioners will reduce to two-thirds the number of Member States (**Art 17(5) TEU**) and the right to send a Commissioner will rotate between the Member States. A new Commission is appointed every five years. The Member State Governments, that is, the European Council (see **2.3**), put forward one candidate for Commission President. That candidate must then be approved by the European Parliament, which must vote the proposed President in by a qualified majority: **Art 17(7) TEU**. If the necessary majority is not reached, the European Council must propose another candidate. Once approved, the President-elect then discusses with the Council who to choose as members of the Commission. These potential Commissioners are put forward by their Member States and are selected on the basis of their *general competence and European commitment* as well as independence (**Art 17(3) TEU**). Once he or she has done so, the Parliament must vote on the Commission as a whole in order to approve it. Following that approval, work can begin.

## 2.2.3 What does the Commission do?

The European Commission has four main roles, which are also detailed in **Art 17(1) TEU**:

- proposing new legislation;
- implementing EU policies and the budget;
- enforcing European law;
- representing the EU on the international stage.

### 2.2.3.1 Proposing new legislation

The Commission has the “right of legislative initiative” (**Art 17(2) TEU**). In other words, the Commission alone is responsible for drawing up proposals for new EU legislation, which it presents to Parliament and the Council. These proposals must aim to defend the interests of the Union and its citizens, not those of specific countries or industries. Under **Art 241 TFEU** the Council can request that the Commission looks at a certain area and prepares a proposal, and **Art 225 TFEU** gives a similar right to the European Parliament to request a proposal from the Commission where it thinks a Union act is required to implement the treaties.

Before making any proposals, the Commission must be aware of new situations and problems developing in Europe, and it must consider whether EU legislation is the best way to deal with them. That is why the Commission is in constant touch with a wide range of interest groups and with two advisory bodies

— the European Economic and Social Committee and the Committee of the Regions. It also takes the opinions of national Parliaments and Governments into account. Intensive lobbying is therefore a big part of EU policy making and many trade and business associations have offices in Brussels so that they can keep an eye on what the Commission is doing and make sure their voice is heard and taken into account.

The Commission will propose action at EU level only if it considers that a problem cannot be solved more efficiently by national, regional or local action. This approach of dealing with issues at the lowest possible level is called the “subsidiarity principle” and is something we will consider in more detail later on. If the Commission concludes that EU legislation is needed, it drafts a proposal that it believes will deal with the problem effectively and satisfy the widest possible range of interests. To get the technical details right the Commission consults experts, via various advisory committees and consultative groups. Frequently, it publishes “Green” and “White” papers which act as consultation papers much as they do in the national context, holds hearings, seeks the views of interest groups and commissions specialist expert reports, and often consults the public directly before it makes a proposal in order to ensure that it has as complete a picture as possible.

### **2.2.3.2 Implementing EU policies and the budget**

The Commission is responsible for managing and implementing the EU budget. Most of the actual spending is done by national and local authorities, but the Commission is responsible for supervising it – under the watchful eye of the Court of Auditors. Both institutions aim to ensure good financial management. Only if it is satisfied with the Court of Auditors’ annual report does the European Parliament sign off on the budget.

The Commission also has to implement decisions taken by Parliament and the Council, such as those relating to the common agricultural policy, fisheries, energy, regional development, the environment, or youth and educational training and exchange schemes, to name just a few. It also plays a major role in competition policy in order to ensure that businesses operate on a level playing field. Just have a look at the European Commission website at [www.europa.eu](http://www.europa.eu) and you will see the variety of policies it deals with.

### **2.2.3.3 Enforcing European law**

The Commission acts as “guardian of the treaties”. This means that the Commission, together with the Court of Justice, is responsible for making sure that EU law is properly applied in all the Member States. If it finds that an EU country is not applying an EU law, it launches a process called the “infringement procedure”, which we will consider in detail in **Chapter 7**.

### **2.2.3.4 Representing the EU on the international stage**

The European Commission is an important spokesperson for the EU on the international stage. It represents the EU in other international organisations such as the World Trade Organisation, for example. It also negotiates on important international issues such as environmental protection, climate change and aid and trade partnerships with developing countries.

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