

PART 2: INSTITUTIONAL STRUCTURE AND LAW MAKING

Chapter 2: The Institutions of the EU

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Aims of this Chapter

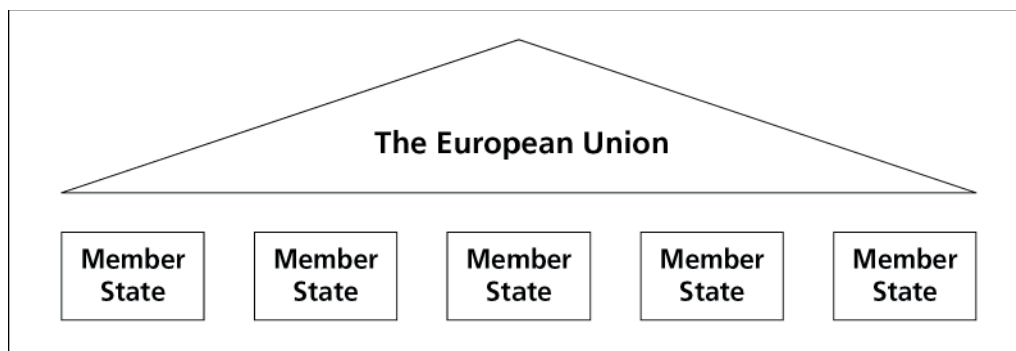
This chapter will enable you to achieve the following learning outcome from the CILEx syllabus:

2 Understand the constitutional structure and institutions of the EU

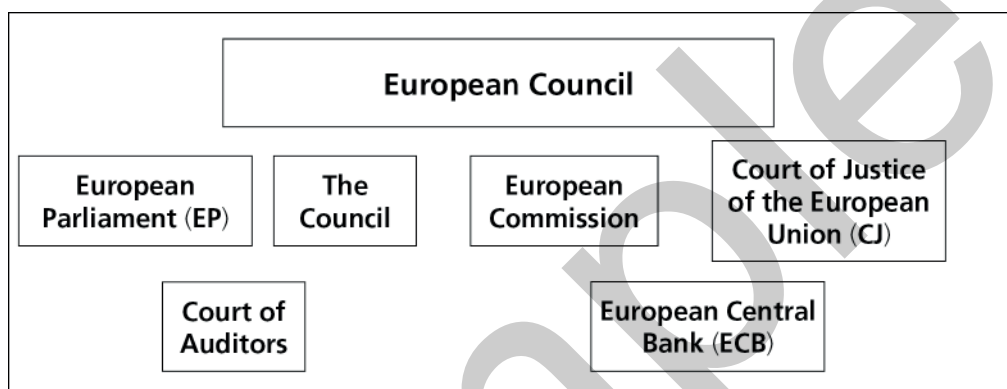
2.1 Introduction

When studying any legal system, a core issue is the organs of the relevant state. When studying English law, it is important to understand the role and powers of the executive, legislature and the judiciary as well as the relationship between them. That involves an assessment of the role, powers and relationship of the government, Parliament and national courts. Similarly, the study of EU law requires an understanding of its organs: the EU institutions. These institutions are responsible for the operation and development of the EU as well as EU law. The study of these EU institutions is helped by the fact that the Treaties of the EU actually spell out the role and powers of the institutions as well as the relationships between them. One theme that is often associated with the EU institutions is what is known as the “democratic deficit”. This is the term used to describe a lack of democracy associated with the institutions and therefore the operation of the EU. Over the years, the EU has constantly addressed this issue to enhance the level of democracy in its operation and this is mentioned below where relevant.

At this stage it is useful to remember that the EU is a **supranational** organisation. This means that, as an organisation, it sits above Member States as a higher authority.



The seven official EU institutions are listed in **Art 13 Treaty on European Union (TEU)** and can be represented as follows:



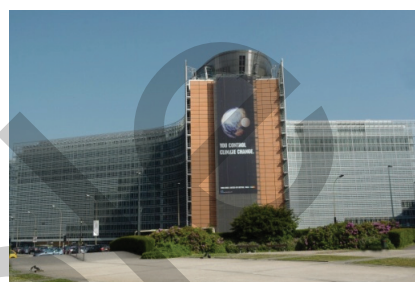
In this chapter, each EU institution is explained in turn. It should become apparent that whilst the EU operates through the functions of the institutions, they each represent different interests. For example:

- the European Council determines the direction of the EU;
- the EU Commission represents the interests of the EU;
- the Council represents the interests of Member States;
- the EP represents the interests of the citizens of Member States;
- the CJ is the authority on EU law and can enforce it against EU institutions and Member States;
- the Court of Auditors supervises the finances of the EU;
- the European Central Bank is the issuing bank of the euro and is responsible for monetary policy (a role equivalent to the Bank of England in the UK).

Each institution is given specific powers by **TEU** and *shall act within the limits of the powers conferred on it (Art 13(2))*. 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))*. Exactly how they do this will be explored 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 those of national governments.

The current list of Commissioners, their roles and profiles can be found on the Commission website at http://ec.europa.eu/commission/2014-2019_en. The Commission is headed by Jean-Claude Juncker. He was elected to this position by Member States in November 2014 for a five-year term. Previously, he was the Prime Minister of Luxembourg from 1995 to 2013 making him the longest serving leader of a democratic country. Whilst he was not well known to EU citizens generally, he was well known to politicians of Member States as a successful leader of a Member State. This is an important quality shared by those that held the position previously. After all, since the EU is a supranational body (above Member States), it makes sense that those with key positions should have the experience of running a country successfully.



On 1 November 2014, along with a new President, new Commissioners were appointed. This Commission was regarded as a strong and experienced team, with five former Prime Ministers, four Deputy Prime Ministers and 19 former Ministers. Seven of the Juncker Commission were returning Commissioners and eight were former Members of the European Parliament. 11 of the Commissioners were regarded as having a solid economic and finance background, and eight of them were known for their foreign relations experience.

2.2.2 Appointment of the Commission

Currently, there is one Commissioner from each Member State (**Art 17(4) TEU**). From November 2014, the number of Commissioners was supposed to reduce to two-thirds of the number of Member States (**Art 17(5) TEU**) and the right to send a Commissioner was supposed to rotate between the Member States. However, one of the concessions made to Ireland so that it would ratify the **Treaty of Lisbon 2007 (TL 2007)** was that it could continue to have its own Commissioner. On the basis that the same option was open to the other Member States, the number of Commissioners stayed the same. This is possible under **Art 17(5) TEU** because it allows the number of Commissioners to be changed. All that is required is a unanimous decision of the European Council, the institution that consists of the leaders of each Member State.

A new Commission takes office every five years. Traditionally, the process would start with the Member State governments, in the form of the European Council (see **2.3**). They would nominate a candidate to be the President of the Commission. That candidate would then have to be elected by a majority of the members of the **EP (Art 17(7) TEU)**. However, Jean-Claude Juncker secured his position under the more recent *Spitzenkandidaten* process. This process starts before the elections for the EP. The pan-European political parties each nominate a *Spitzenkandidat* (a lead candidate for the post of Commission President). Then, after the EP elections, the lead candidate from the party with the most seats would be the person that the European Council nominates as the Commission President. As before, that nomination would then have to be approved by the EP. The aim behind the process is to create a link between voting citizens and the Commission President. It provides more democratic legitimacy to the position. Such an aim should be achieved because, indirectly, an EU citizen's vote for an MEP should also reflect a preference for that MEP's party nomination for Commission President. It was also expected that the process would encourage more citizens to vote. Whilst there was no significant improvement on this in 2014, it was expected that the 2019 elections would benefit from this process now that it is clear how the process works and what is required from the participants.

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