How the EU is Governed

Chapter 3

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EU Institutions

“To understand Europe you have to be a genius or French”

(Madeleine Albright)
U.S. Secretary of State
EU Institutions

1. The European Council (legislative)  
   (Heads of State and president of the European Commission)

2. The Council of the European Union  
   (formerly the Council of Ministers)

3. The European Parliament  
   (legislative)

4. The Commission, European Commission (executive)

5. The Court of Justice (judicial)
EU Institutions

European Commission
27 in 2009, Brussels

European Parliament
(736) Brussels & Strasbourg

Council of the European Union (27)
(345 weighted votes)

Decision

Guidance

European Court of Justice,
Luxembourg City

Court of First Instance

European Court of Auditors

Advice

Economic and Social Committee
(344)

Committee of the Regions
(344)
EU Institutions

Legislative

European Council (27)

Council of the European Union (27) (345 weighted votes)

European Commission 27 in 2009, Brussels

European Parliament (736) Brussels & Strasbourg

Executive

Judicial

European Court of Justice, Luxembourg City

Court of First Instance
The Institutions : Remarks

- They have been installed at different times.
- They have changed following the treaties.
- The structure is complex and confusing.
- They can not be compared with conventional institutions.
- They do NOT represent a government.
The European Council

- The European Council is the meeting of the Heads of State of the European Member States and the President of the European Council.
The European Council

- The Treaty of Lisbon (2007) changed the term of the President of the European Council from a rotating six month period to two and a half years.
- Herman van Rompuy of Belgium was appointed the first full-time President.
- 2009-2012
The Objectives:
the EC will “provide the Union with the necessary impetus for its development and shall define the general political guidelines hereof”
The European Council

Why do they meet:
- to exchange views
- to initiate cooperation in important fields
- to guarantee policy consistency
- to reach a common position
- to change the structure of the Union
The European Council

- Meet three or four times per year
- Examples for guidelines:
  - The summit in Dublin 1990: the German reunification
  - The summit in Copenhagen in 1993: criteria for accession
The Council of the European Union

- Formerly known as the Council of Ministers
- One minister from each of the EU’s national governments attends Council meetings. Different ministers are assigned to specific issue areas (e.g. agricultural ministers decide farm policy)

Source: The European Union- A Guide for Americans
The Council of the European Union

- High Representative of the Union for Foreign Affairs and Security Policy.
- Chairs the Council
- Baroness Catherine Ashton 2009-
- British
The Council of the European Union has six key responsibilities:

1. Adopting European laws—jointly with the European Parliament
2. Coordinating broad economic policies of the member states
3. Concluding international agreements
4. Approving the budget—jointly with the EP
5. Developing the Common Foreign and Security Policy
6. Coordinating cooperation between national courts and police forces in criminal matters

Source: The European Union- A Guide for Americans
The Council of the European Union-- before 2010

- Decision-Making Body:
- 3 voting options depending on the matter or the treaties.
  - Simple majority of the 345 weighted votes representing at least 62 percent of the EU population
    - Used mostly in matters dealing with procedural issues
  - Unanimity
    - Used for new laws, new political areas
      - Still used in areas such as:
        - Taxation
        - Foreign Policy
        - Security
        - Asylum and immigration
        - Energy
The Council of the European Union—before 2010

- Qualified majority (255/345)
  - Used in Areas such as:
    - Single Market (First Pillar)
The Council of the European Union: Dual Majority

According to the new treaty (treaty of Lisbon 2007), the Qualified Majority is the so called Dual Majority:

- 2010 and after, unless challenged
- 55% of the member states representing
- 65% of the population
- A blocking minority has to include at least 4 Member States (25% of the population)
Number of votes for each country in the Council of the European Union

<table>
<thead>
<tr>
<th>Country and Region</th>
<th>Votes</th>
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<tbody>
<tr>
<td>Germany, France, Italy and the United Kingdom</td>
<td>29</td>
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<tr>
<td>Spain and Poland</td>
<td>27</td>
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<tr>
<td>Romania</td>
<td>14</td>
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<tr>
<td>Netherlands</td>
<td>13</td>
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<tr>
<td>Belgium, Czech Republic, Greece, Hungary and Portugal</td>
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<tr>
<td>Austria, Bulgaria and Sweden</td>
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<tr>
<td>Denmark, Ireland, Lithuania, Slovakia and Finland</td>
<td>7</td>
</tr>
<tr>
<td>Estonia, Cyprus, Latvia, Luxembourg and Slovenia</td>
<td>4</td>
</tr>
<tr>
<td>Malta</td>
<td>3</td>
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</table>

Total: 345

A minimum of 255 votes out of 345 (73.9%) is required to reach a qualified majority. In addition:

- a majority of member states (in some cases two thirds) must approve the decision, and
- any member state may ask for confirmation that the votes cast in favour represent at least 62% of the EU’s total population

Source: Paschal Fontaine
The European Parliament

Brussels, Belgium
Each year, 12 four-day plenary sessions are held in Strasbourg and
Six two-day sessions are held in Brussels
The administrative offices are in Luxembourg

Source: Paschal
The European Parliament

Strasbourg, France

- The powers of a “normal” parliament:
  - To initiate laws
  - To enact laws
  - To raise revenues

- Power of Legislation
- Power over the Budget
- Power over the other institutions
The European Parliament

Strasbourg, France
A Historical Overview of the EP

- **1952** the Common Assembly of the ECSC
  - Members drawn from national parliaments
  - Limited powers
  - Based in Luxembourg
- **1962** renamed as the European Parliament
- **1979** direct election to the EP
  - Increasing the number of MEPs
  - Plenary sessions in Strasbourg
  - Additional sessions in Brussels
The European Parliament

- **Legislation:**
  - Budget and foreign aid
  - Environment
  - Trade
  - Security
  - Approval and dismissal of Commission
The European Parliament

- **Single Chamber:**
  - 736 members (2009)
    - Decided on the basis of the population of the EU, favoring the smaller countries. (eg: Germany 1 seat per 830,000 citizens / Luxembourg, 1 seat per 66,000 citizens)

- **President—Jerzy Buzek**
  (yehzrah BUzek)
  (2009 - 2012) Polish
<table>
<thead>
<tr>
<th>Country</th>
<th>Seats</th>
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<tr>
<td>Austria</td>
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<td>Finland</td>
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<td>France</td>
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<td>Germany</td>
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<td>Greece</td>
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<td>Hungary</td>
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<td>Luxembourg</td>
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<td>Netherlands</td>
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<td>Poland</td>
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<td>Portugal</td>
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<td>Romania</td>
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<td>Slovakia</td>
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<tr>
<td>Spain</td>
<td>50</td>
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<td>Sweden</td>
<td>18</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>72</td>
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**TOTAL**  736
EP Elections

- **Link between the people and the EU**
  - Providing political legitimacy to the EU
  - EP elections and the democratic deficit

- **Problems of EP elections**
  - Continuously declining turnout
  - Campaign on national political issues
  - Public apathy and disinterest

- **The gap between increasing EP powers and declining public interest in EP elections**

- **Common voting requirements**
  - 18 years old
  - Women allowed to vote
Election Turnout
1979-2009

The European Commission-Brussels
The Commission: Members

- 27 Members
- Appointed by the national governments
- Acceptable by:
  - the other countries
  - other commissioners
  - the president
  - the parliament (hearings)
- Appointed for five years
The Commission

- **After the Nice and Lisbon Treaty:**
  After 2014 the number of Commissioners will correspond to 2/3 of the Council of the European Union. The Commission will be chosen according to an equal revolving system between the Council of the European Union (18 in a Union of 27).

- **Reasons:**
  - more efficient, not enough portfolios (departments) for so many Commissioners
  - reinforce the European idea

President of the commission:
- Chosen by the EU Council
- Approved by the EU Parliament

Tasks:
- He distributes Portfolios
- He sets the Agenda
- He represents the Commission
- He gives dynamics to the EU integration. The president is supposed to bring the EU into motion, he is supposed to transform the treaties into reality.
The mandate of the current Commission ended on 31 October 2009. However, it is continuing in a caretaker capacity in order to deal with current business until the new College is approved and takes office.
The Commission: Portfolios

European Commission 2008–09

Stavros Dimas
Greek
Environment

Joaquín Almunia
Spanish
Economic and monetary affairs

Danuta Hübner
Polish
Regional policy

Joe Borg
Maltese
Fisheries and maritime affairs

Dalia Grybauskaité
Lithuanian
Financial programming and budget

Janez Potočnik
Slovenian
Science and research

Ján Figel’
 Slovakian
Education, training, culture and youth

Olli Rehn
Finnish
Enlargement

Louis Michel
Belgian
Development and humanitarian aid

László Kovács
Hungarian
Taxation and customs union

Neelie Kroes
Dutch
Competition

Mariann Fischer Boel
Danish
Agriculture and rural development
The Commission: Portfolios

European Commission 2008–09

Benita Ferrero-Waldner
Austrian
External relations and European neighbourhood policy

Charlie McCreevy
Irish
Internal market and services

Vladimir Spidla
Czech
Employment, social affairs and equal opportunities

Andris Piebalgs
Latvian
Energy

Meglena Kuneva
Bulgarian
Consumer protection

Leonard Orban
Romanian
Multilingualism

Androulla Vassiliou
Cypriot
Health

Catherine Ashton
British
Trade

The Commission: Its Role

- Power of Initiation (sole right)
- Power of Implementation
- Power of Collecting Funds
- Power of Negotiation
The Commission:

- **The Commission issues:**
  - **Regulations:** binding in their entirety, applicable in Member States
  - **Directives:** binding for Member States as to the results to be achieved; they must be integrated into the national framework
  - **Decisions:** binding to those to whom there are addressed
  - **Recommendations:** non-binding
The Supreme Court of the European Union:

- It has the ultimate say on matters of EU law in order to ensure equal application of the law across all EU member states
- Establishes legal certainty prized by business people because it reduces risk.
The European Court of Justice

What is the role of the ECJ?

- Ensures that EU laws are used in the same way by all EU countries
- The Court interprets the treaties and EU laws
- The Court makes sure the agreements meet the terms and spirit of the treaties
- The Court finds out if EU rulings and national laws are compatible
- The Court gives answers to national courts in case of disputes
What is the Structure of the Court?
The court has four elements:

- The president (elected for a 3 year term)
- 27 Judges (six years renewable)
- 8 Advocates General
- Court of First Instance (created in 1988)
- The Court of Justice
The European Court of Justice

- Broadly speaking two types of cases may be brought before the Court of Justice:
  - Cases (so called Direct Actions) may be brought in by the Commission, other Community Institutions or a member state
  - Cases brought to the Court by individuals
Forms of action

- Actions for failure to fulfill legal obligations
- Actions for annulment (concerning the legality of a particular regulation)
- Actions for failure to act--against the Commission or the Council
- Actions for compensation based upon non-contractual liability--against the EU for a wrongful act of an EU institution
- Appeals on points of law from national courts
Important rulings by the ECJ:

- **1963 Van Gend en (&) Loos vs. Nederlandse Administratie de Belastingen (Netherlands Inland Revenue Administration)**
  - Established the principal of Direct Effect
  - The court ruled that the protection of EU law applied to individuals as well as member states
The European Court of Justice

Van Gend and Loos Case 26/62

VAN GEND EN LOOS CASE 26/62

GERMANY

IMPORT

NETHERLANDS
European Court of Justice
Van Gend and Loos case

- A transportation company mover of ureaformaldehyde from West Germany to Netherlands had not paid the custom tariff, contrary to the national law in the Netherlands.
- The importer paid the tariff and then sued for reimbursement on grounds of the EU treaty (Rome EEC, art. 12) "Member States shall refrain from introducing between themselves any new customs duties on imports and exports or any charges having equivalent effect, and from increasing those which they already apply in their trade with each other."
- Ruling for the company
European Court of Justice

- Van Gend and Loos case:
- The court ruled:
- “The Community constitutes a new legal order of international law for the benefit of which states have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise not only Member States but also their nationals... Community law therefore not only imposes obligations on individuals but is also intended to confer upon them rights which become part of their legal heritage”
- Consequence: Treaty provisions have direct effect!
- Exceptions: provisions must be clear, unconditional and operational without further implementation
European Court of Justice

- The Cassis case
The Cassis case

Maison de Lamartine
CRÈME DE CASSIS

Sugar and alcohol are ideally balanced. Fruity and good finesse.

Combined with Burgundy Aligoté, it makes a delicious aperitif called Kir.

KYSELA PERE et FILS, LTD.
Kir is a popular French cocktail, locally known as 'blanc-cassis,' consists of white burgundy wine, traditionally Aligoté, mixed with Crème de Cassis, a sweet, blackcurrant-flavored liqueur.

Originally called blanc-cassis, the drink is now named after Félix Kir (1876 - 1968), mayor of Dijon in Burgundy, who as a pioneer of the twinning movement in the aftermath of the Second World War popularized the drink by offering it at receptions to visiting delegations. Besides treating his international guests well, he was also promoting two vital economic products of the region. The reinvention of blanc-cassis (post 1945) was necessitated by the German Army's confiscation of all the local red Burgundy during the war. Faced with an excess of white wine, Kir renovated a drink that previously was made primarily with the red.
Cassis case: Germany put a prohibition on imports of “crème de cassis” a French liqueur

1. An importer was prohibited by the German authorities from importing Cassis de Dijon, a French liqueur, into Germany, on the grounds that its alcoholic strength was too low. German law prevented the sale of any drink with an alcohol content between 15% and 25%.

2. The German authorities argued that this measure was not concerned with country of origin at all, and would have applied to domestic as well as to imported products.

3. Moreover, it pursued legitimate consumer protection objectives (it was argued, for example, that drinks in this strength encourage alcoholism).

4. The importer argued that the German legal measure was in contravention of Art. 28 of the ECT Treaty, being a measure equivalent to a quantitative restriction on importation.
The courts ruling:
“There is, therefore, no valid reason why, provided that they have been lawfully produced and marketed in one of the Member States, a beverage should not be introduced into any other Member State. The sale of such products may not be subject to a legal prohibition on the marketing of beverages with content other than the limit set by national rules”
The European Court of Justice

- Cassis de Dijon
  1979
  - Established the principal of the mutual recognition of goods
  - Underpinned the creation of the Single Market
The European Court of Justice

The Bosman Case: Union Royale Belge des Sociétés de Football association ASBL v. Jean-Marc Bosman

- The Case determined the legality of the system of transfers for football players and the existence of so-called “quota system”
The Bosman Case

The situation before:
1. A player could only move with the agreement of both clubs. This agreement was reached by setting a transfer fee whereby the buying club purchased the player from the selling club regardless of whether or not the player’s contract with the selling club had ended.
The Bosman Case

2. Quota systems existed in many national leagues and also in the UEFA club competitions:
   - only a limited number of foreign players could play in a particular game. (3 foreign players + 2 “assimilated”)
The Bosman Case

- Why did the case come about?
  - J.M Bosman’s contract had ended with RFC Liege and he wanted to play in Dunkerque
  - Liege reached an agreement with US Dunkerque, but did not ask for the transfer certificate, since they (RCL) had doubts about the solvency of the French club
  - The proposed transfer fell through and JMB was unable to play.
  - J.M Bosman claimed the right to “freedom of movement in The Union” (Art. 48/39)
The Bosman Case

The European Court of Justice:
I. Transfer-fees for out-of-contract players are illegal in the EU. ("provisions which ...deter a national of a member State from leaving his country of origin in order to exercise his right to freedom of movement....constitute an obstacle to that freedom ")

II. Quota systems are also illegal for player with EU citizenship.
III. The implications:

1. Clubs started to sign longer contracts
2. Smaller clubs began to lose out on transfer fees
3. Players started free negotiations with potential employers which resulted in higher wages. (>50 Mio EURO for Zidane)
4. Clubs controlled the movement of players under contract.
The Bosman Case

5. Clubs sometimes sell a player against his wishes in order to gain the capital from a transfer fee.

IV. The Commission’s point of view: comparison with other employees where people leave on short notice to work in another country in another company.
V. The Compromise:

New transfer regulations:
- Training compensation
- Protection of contracts
- Movement of player only in 2 transfer windows
- Creation of an independent arbitration system
British Beef

- In the 1990’s there was an outbreak of Mad-Cow disease in Great Britain and exports were stopped.
- In 1999, the French refused to accept the Community’s decision that British beef was safe to eat.
- In 2001, the Commission, using its watchdog powers, took France to the Court of Justice, which ruled for the Commission and fined France €10,000,000.