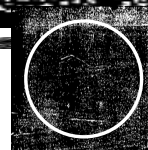




EU Law 2230/ 3145

Professor Iyiola Solanke



ARTICLE 13 TEU

1992

masterly treaty

1. The Union shall have an institutional framework which 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.

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

Obligation to 'practice mutual sincere cooperation'.



in the same way that
there's a gov. in the member states in the EU.

links to:

the level of democracy in the EU

IS THERE AN EU GOVERNMENT?

non-state
entities
can have
a government

Nix: The function performed by those institutions, not the names of them, creates a commission. The EU need not be a state to fulfill many of the traditional functions of government... the EU certainly possesses all the classic characteristics of a political system [...] Executive, legislative and judicial powers are exercised 'jointly' by the EU institutions. Nevertheless, instead of a classic 'organic' separation of powers into three different institutions, there is a 'functional' separation of powers across several institutions...

So the institutional framework may look slightly different to a traditional government, but those same functions are carried out across the institutions. A Council of Ministers (cabinet)

Farrell and Heretier:

'the European Union is neither a standard democratic nation state, nor an intergovernmental organization, but something in between. There is no "government" as such in the European Union, with a party to support it in Parliament; rather, there are fifteen governments, each with specific mandates from their domestic population.'

European parliament functions in a very different way to a national parliament. => No parliament, no government represents their own governments.

there is no government in the European Union.



ABOUT THE EP...

the only representative institution in the EU.

Began life as an ^{appointed} Assembly in 1957; first elections in 1979 - the only directly elected international parliament in the world

The treaty of Rome created with no elections

unique:

So the EP is the institution in the EU that represents the interests of the citizens

751 MEPs (96 - 6 per MS 'degressive proportionality') representing EU citizens - 35%
MEPs = women

goal of meps:

Elections every 5 years, organized by MS (EP9) - no political parties only political

'groupings' ^{the last one: 2019} not organized along political party lines.

Works through committees ('heart' of the EP!): Grouping with more seats chair more committees -> EP election outcomes affect EP amendments

Meets in Luxembourg, Brussels and Strasbourg (plenaries)

Find the MEPs for Leeds/ your home city: which groupings are they part of? Which committees do they sit on?

there's a EU parliament
bc if there's no political party there's not governing political party.
necessary for a gov. to exist



THE EUROPEAN PARLIAMENT: ART 14 TEU

it 'shall, jointly with the Council, exercise **legislative and budgetary functions**'; *so the EP has a direct responsibility for the amount of money that the EU has & how spent*

Article 314 TFEU: EP shares equal control with the Council of Ministers on all aspects of EU spending.

2018
Incremental increase in power: Budgetary Treaties 1970 & 1975

it 'shall exercise functions of **political control** and consultation as laid down in the Treaties';

1. Election of Commission President (Art 17.7 TEU): Propose candidate based upon EP election (SM) - Jean Claude Juncker (EPP) (2014 – 2019); Ursula van der Leyen (EPP) 2019 – *center-right grouping received most votes*
2. Investiture and Sacking of the Commission: Hearings of nominees (2 so far rejected); *of commission*
Approval or veto (Art 17.8 TEU) of whole college *the EP has intervention in the composition*
3. Brexit – consent on Withdrawal Agreement (Art 50.2 TEU) *the EP has to give its consent on any withdrawal agreement negotiated by the commission & member state* *the parliament can indeed reject a person nominated by the member state.*



EP LEGISLATIVE ROLE

against "EU has a government", because in most nation states it is the representative institution, so the parliament that has the legislative initiative however in the EU, this legislative initiative is enjoyed by the European commission

↓
doesn't actually have the legislative initiative

The Treaty on Functioning of EU
Proposal stage: may ^{only} request Commission proposal (Art 225 TFEU), cannot represent any proposal for legislation

No legislative initiative

Stronger power to veto than create legislation

Adoption stage: 3 readings under OLP (Art 294 TFEU) ^{to approve or reject a proposal presented by commission}

Co-legislator: OLP requires EP approval for adoption

Ordinary Legislative procedure

Post – adoption: action for annulment (Art 263 TFEU)

New privileged position in relation to judicial review

Cf C302/87 EP v Council; C 70/88 EP v Council (Chernobyl)



COMMISSION COMPOSITION

each member state nominates a person to sit within the commission
however donot represent their own country

28 'Portfolios' – 1 per member state

'Directorates General' (DGs)

area of work is managed by the particular commissioner

Commissioners - nominated by MS (with agreement of Commission President) – approved en bloc by EP

Role = ^{solely} to protect interests of the EU

https://ec.europa.eu/commission/commissioners/2019-2024_en#bootstrap-fieldgroup-nav-item--name--2

commission is perhaps similar to a national civil service
it's the biggest institution, is responsible for developing & implementing & sometimes enforcing the key policies of the EU



Role:

too much power? bc it does so much.

EUROPEAN COMMISSION

Article 17(1) TEU

- promote the general interest of the Union and take initiatives
- ensure the application of the Treaties, and of measures adopted by the institutions
- oversee the application of Union law under the control of the Court of Justice of the European Union
- execute the budget and manage programmes
- exercise coordinating, executive and management functions
- ensure the Union's external representation
- initiate the Union's annual and multiannual programming



‘GUARDIAN’ OF THE TREATIES

Infringement procedures (Art 258 – 260 TFEU)

C 292/11 Commission v Portugal: must respect role of CJEU

Competition law (Art 105 TFEU, Reg 1/2003, European
Competition Network)

EU Pilot and Solvit



COMMISSION LEGISLATIVE ROLE

17.2 TEU Union legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Treaties so provide.

Role of 'neutral broker' — *negotiate with the MS, between MS, with EI / with the council of ministers.*

Civil service of the EU



JUNCKER – PAST PRESIDENT OF THE EUROPEAN COMMISSION

‘The Commission is not a technical committee made up of civil servants who implement the instructions of another institution. The Commission is political. And I want it to be more political. Indeed, it will be highly political. Its make-up must reflect the plurality of the majority of ideas which take shape.’

(Agenda for Jobs, Growth, Fairness and Democratic Change’ July 2014, p15)



VAN DER LEYEN,

COMMISSION PRESIDENT

increase the partnership
between EP and EC

“As we move forward together, I want a more inclusive and open approach to the way we work. I want to strengthen the Commission’s partnership with the European Parliament, the voice of citizens. In this spirit, I have consulted far and wide and have inspired myself from my discussions with the political groups in the European Parliament, as well as from the European Council’s Strategic Agenda for 2019-2024. These Political Guidelines draw on the common ideas and priorities that unite us. They are not an exhaustive work programme but rather aim to frame our common work.

The Political Guidelines focus on six headline ambitions for Europe over the next five years and well beyond: ☐ A European Green Deal ☐ An economy that works for people ☐ A Europe fit for the digital age ☐ Protecting our European way of life ☐ A stronger Europe in the world ☐ A new push for European democracy”



EU actually undermines national democracy? => it allows govts to marginalize national parliaments

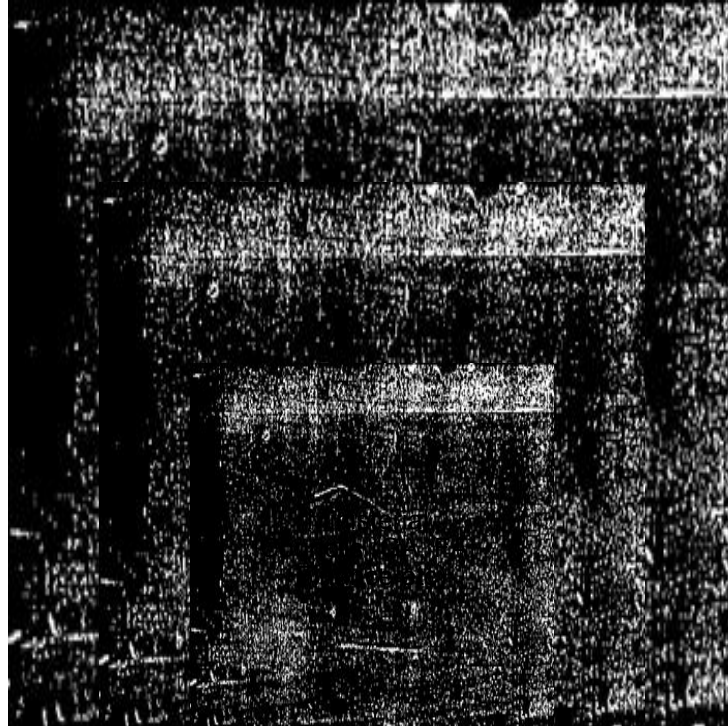
THE COUNCIL OF MINISTERS

Central forum for
EU law and
budget

Forum for
consultation
between MS

Everyday
management of
agenda

Delegate
legislative tasks
to Commission



Ministers

Secretaries of
State - voice of
governments

Sectoral
configuration (10)
eg. Foreign
Affairs; Economic
and Financial
Affairs; Agriculture
and Fisheries;
Environment;
Education, Youth
and Culture



COREPER

COREPER I AND II

Supports GA

Acts on Commission proposals

Oversees working groups

Transparency and accountability



Role: Set out the long-term vision for the EU and to determine the political direction of EU.

THE EUROPEAN COUNCIL

POWERS

doesn't engage in law-making at all
high-level policy of EU.
long-term strategy
political direction
predominantly a political institution

The Man who once briefly imagined that Democracy was more important than Market Stability...



Political definition and guidance

Summits eg Bratislava Summit on Brexit

Eurozone crisis

Impetus for new developments

Open Method of Co-ordination Forum
for final political agreements

Accessions. Treaty reforms. Brexit

Work Agenda of Commission



THE PRESIDENCIES

Senior leaders in the EU

Presidents and Vice Presidents

Key factors of leadership

transparency, visibility, playing an educational role, clarity, setting out a direction, credibility and continuity.

Kissinger – who leads the EU, who to call?



COMMISSION PRESIDENT

Most democratically legitimate role ?

proposed by the European Council to the European Parliament based upon results of the EP elections

elected by the European Parliament by a majority of its members

Shared political ideology between leader of the Commission and largest grouping in the EP

CP not only has some democratic legitimacy, but also have direct control over the direct work of commission
27 Commissioners work directly under President
(Art 248 TFEU)

Allocation/ Re-allocation of portfolios

Guidelines within which Commissioners will work

Appointment of all V-Ps except the High Representative.

Request resignations



COUNCIL OF MINISTERS PRESIDENCY

Article 16(9) TEU:

The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation...

MS minister chairs meetings of each of the Council configurations.

Sets the agenda and agenda priorities, liaison with the Commission and the EP Presidents, representation of the Council in the other institutions, leading co-decision procedures, signing agreed acts and chairing the CM Councils.

Formal rotation – allows smaller MS to ‘lead’ 500 million people on a world stage & promote own agenda:

‘When you are not the Presidency, you are swallowing bitter pills every day, only because you know that you will have the Presidency one day and the others will have to swallow their bitter pills. You suffer for six years and in the seventh you get to bash the others... What you want is a Presidency that is skilfully violating you so that it is not publicly visible.’



TEAM CM PRESIDENCIES

Pre-Lisbon Treaty: rotation every six months

Problems of continuity and real achievements; burden on MS resources

Post-Lisbon Treaty: 18 month 'Team presidencies'

3 member states develop a common agenda for 18 months.

NB: MS levels of organisation differ; interruption of domestic political issues

current trio – Germany, Portugal, Slovenia

<http://www.consilium.europa.eu/en/council-eu/presidency-council-eu/>



THE EUROPEAN COUNCIL PRESIDENT

Pre-Lisbon: 6 months; Post-Lisbon: 'permanent' office (2.5 years)

Art 15(5) TEU:

'The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end the President's term of office in accordance with the same procedure.'

Art 15.6(d): report to EP after every meeting

Tasks: chair the Council and 'drive forward' its work; ensure preparation and continuity of EC work; find 'cohesion and consensus' between members

Administrative not political or legislative role

Level of influence – voice of EC President in Brexit negotiations?



the only directly elected institution in the EU that represents the citizens of the EU. doesn't have a clear role for its leader.

EP PRESIDENT

Art 14 4 TEU: The European Parliament shall elect its President and its officers from among its members.

Only institution to have had two female Presidents - Simone Veil (79-82) and Nicole Fontaine (99-02).

only role : **Treaty sets out no role** for the EP President - web outline:
chairs the plenary sittings of Parliament, the Conference of the Presidents of Political Groups (seven) and the Bureau of Parliament (including 14 Vice-Presidents); responsible for the application of the Rules of Procedure of Parliament; oversees all EP activities

Representative role: within the European Council, in IGC and external / international matters

Legislative role: chairs EP/CM conciliation delegations ; ^{committee sitting} signs budget for EP; signs all legislative acts adopted under co-decision.



WHO WOULD YOU CALL?

Commission President

European Parliament President

The Council of Ministers 'trio'

European Council President

...German Chancellor

