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European Union



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European Union

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The European Union plays an important role in the European integration process. The European Commission is responsible for submitting legislative proposals and overseeing the single market. Laws are adopted jointly by Parliament and the Council in a process involving close cooperation with stakeholders from society and sometimes with regional and local governments too.

1 Introduction

The European Union (EU) is an important, if not *the* most important, focal point of the European integration process. Since the start of European integration in the 1950s, a differentiated institutional structure has evolved, and the integration process has extended to virtually all policy areas. Depending on the policy area in question, however, there are considerable differences in the decision-making processes and competences of the supranational bodies, particularly the Council of Ministers of the EU, the European Commission and the European Parliament. The political system of the EU stands out precisely because of these differences between the individual policy areas, and because the functions of the supranational bodies only partially correspond with those of a national executive, legislature and judiciary.

The period following the entry into force of the Single European Act (1987) and the Maastricht Treaty (1993) was marked by a rapid succession of institutional changes within the EU. These were occasioned partly by the enlargement of the EU to include central and eastern European countries, and partly by the desire of the member states for enhanced cooperation. After the EU's Constitutional Treaty was rejected in referendums in France and the Netherlands in 2005, and following the entry into force of the Lisbon Treaty in 2009, however, the political will for further fundamental changes to the EU has subsided. Today, it would seem that the EU has achieved a stable institutional structure, whose potential to further evolve – if at all – is limited to certain specific areas (cf. Moravcsik 2008). One example is the current debate on reinforced budgetary coordination among member states, particularly those that have joined the European Monetary Union and use the euro as their currency.

Given the relatively stable structure of the European institutions, the scientific discourse since the 1990s has increasingly shifted away from the question of a possible endpoint in the European integration process ('Is the EU developing into a federation or a confederation?'). Instead, scientific debate now focuses primarily on the question of how \triangleright *Governance* works in the European multi-level system, how successful European policy is, and what effects legislation and policy decisions at EU level have on national policy.

The next section starts by examining the structure of the EU and its underlying treaties. The institutions of the Union and the special features of their political decision-making processes are then discussed in connection with the concept of governance. The emphasis is on market integration and the flanking policies, since this incorporates all policy areas relating to spatial development. Finally, consideration is given to the importance of local and regional levels in European policymaking.

2 Structure of the EU

2.1 Economic integration as a core programme of the EU

The task-oriented nature of the EU is crucial to understanding its institutional structure and policymaking processes. In accordance with the principle of conferral, the EU can only act in areas in which the member states have explicitly conferred competences upon it. These competences originally lay in the establishment of a common market and the enactment of common rules for other policy areas (for example ▷ *Agricultural policy* and transport policy). Other layers of cooperation were soon added to the core programme of economic integration. These were essentially social and ecological flanking policies to support market integration and safeguard policy intervention options. They included the Common Agricultural Policy, the structural policy of the Union (▷ *European regional policy*), European consumer and ▷ *Environmental policy* and a nascent European spatial planning policy. Increasingly, however, the Union was also given powers outside the scope of economic integration, for example in foreign, security and defence policy, justice and home affairs. It was not only the problematic side effects of economic integration that spawned these additional forms of cooperation, but also specific experiences of cooperation among member states, which fostered a willingness to seek more joint problem-solving in additional areas.

2.2 From Maastricht to Lisbon

The term *European Union* is a product of the Maastricht Treaty on European Union, which was agreed in 1992 and entered into force in 1993 (Council of the European Communities / Commission of the European Communities 1992). Under the umbrella of the newly founded EU, the existing economic integration policy within the European Community was merged with two other areas in which there had been a comparably loose form of cooperation between the member states up to that point. The areas in question were the Common Foreign and Security Policy (CFSP) and cooperation on justice and home affairs. The resulting institutional architecture was often depicted as a ‘temple’: the first pillar of the EU was formed by economic integration, the second pillar was the CFSP, and cooperation on justice and home affairs made up the third pillar. The roof of the temple comprised certain components of the Treaties applicable to all three areas, for example the principles of the rule of law, democracy and ▷ *Subsidiarity*.

The temple structure was formally abandoned with the entry into force of the Treaty of Lisbon in 2009, although the various decision-making processes and competences still remained in some policy areas. The separate treaties on the European Economic Community and the European Union were incorporated into two new treaties: the Treaty on the European Union (TEU, EU 2012b), which lays down the objectives and basic principles of the EU, and the Treaty on the Functioning of the European Union (TFEU, EU 2012a), which defines the decision-making processes and competences of the individual institutions. At the same time, the European Charter of Fundamental Rights, which was proclaimed in 2000, now became enforceable as part of the European Treaties. As a result of this Charter, the fundamental rights enshrined in the constitutions of the individual member states and in the European Convention on Human Rights are also binding on the EU and any action undertaken by its institutions (cf. Vedder/Heintschel von Heinegg 2012).

3 EU institutions

The various institutions of the EU take measures to fulfil the goal of integration and safeguarding existing achievements. In keeping with the task-oriented nature of the Union, each of the institutions is given a specific task profile, and the policymaking process has certain particularities (cf. Wessels 2008; Tömmel 2014). These are described below for the three most important institutions (Commission, Parliament and Council of the EU/European Council).

3.1 The Commission

The European Commission is tasked with developing initiatives for implementing the single market and overseeing its smooth operation. Here, a distinction must be made between the legislative, executive and representative functions of the Commission (cf. Tömmel 2014: 93 et seq.). As far as the legislative process of the Union is concerned, the Commission has the right of initiative (except in certain circumstances laid down in the Treaties). This means that the Union cannot adopt any legislative acts without a prior proposal from the Commission. Although the Council and Parliament may ask the Commission to put forward a legislative proposal, the Commission is not obliged to do so (Article 225 and 241 TFEU). Conversely, the Commission cannot succeed with its political initiatives unless the Council and Parliament give their consent. The three institutions are thus heavily dependent on each other in their day-to-day work. This is also evidenced by the way in which proposals are prepared. Formally speaking, this task falls under the remit of the Commission, which generally consults extensively with various experts and stakeholders. However, even before the Commission submits a proposal, it often liaises with the representatives of the member states in the Council and the corresponding committees of the European Parliament. Another important legislative task of the Commission involves the EU budget: the Commission draws up the annual budget on the basis of the Union's longer-term financial framework, which is established by Parliament, the Council and Commission. The budget also requires the agreement of the Council and Parliament, another process that involves close cooperation (Article 313-316 TFEU).

The executive powers of the Commission primarily involve supervising the functioning of the internal market and other policies of the Union. If the principle of freedom of movement of persons, goods, services and capital is infringed, or in the case of inadequate or delayed implementation of EU legislation, the Commission can issue the member state in question with a warning and bring charges before the Court of Justice of the European Union in the event of non-compliance. In addition, the Commission exercises certain powers conferred on it by the Treaties or secondary legislation without the involvement of the other institutions. An example of these powers is the approval of state aid or company mergers of European relevance. Furthermore, the Commission plays a role in implementing the budget and spending plans, particularly for measures under the European Structural Funds, and it also participates in decisions regarding the allocation of funds. Alongside these decisions, the Commission can also issue communications or recommendations. A third function of the Commission is to represent the Union, for example in negotiations for agreements with third countries.

The Commission is a collegiate body, which – modelled on the administrative system in France – comprises the College of Commissioners itself, and an administrative substructure made up of various Directorates-General. The Commissioners form the political leadership of the Commission, while the Directorates-General deal with the technical preparation and implementation of EU policy. Unlike the ministerial bureaucracy in Germany, the allocation of tasks among Commissioners does not always correspond exactly with the Commission's administrative structure based on the Directorates-General. The Commission can take decisions based on a majority vote of the Commissioners, although decision-making by consensus is the usual method.

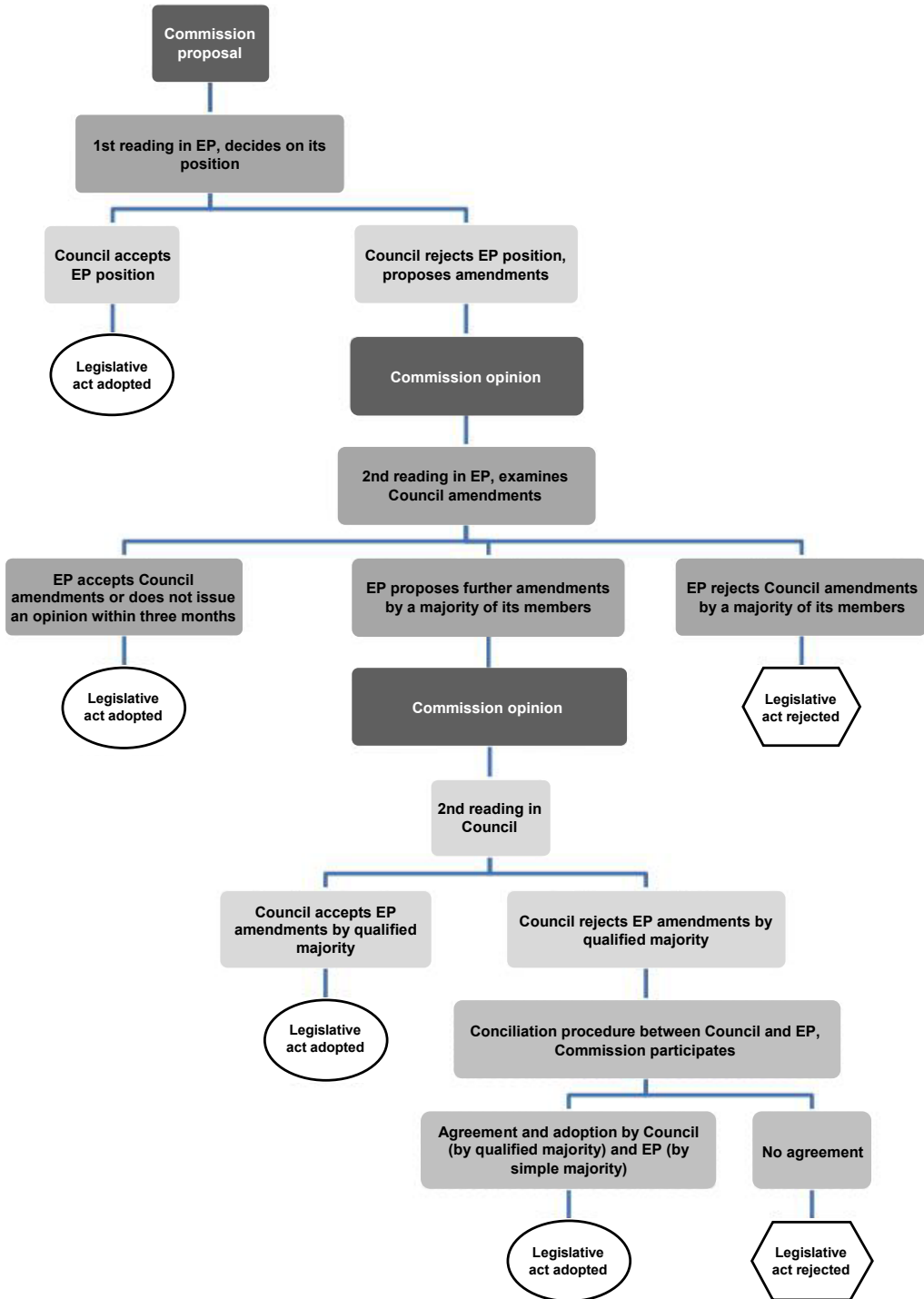
The Commission is headed by the Commission President. This position was originally conceived according to the principle of *primus inter pares*, but has since been given more political clout. Since the Treaties of Amsterdam (1997) and Nice (2001), the President has had a limited say in the selection of the other Commissioners, and is more or less free to allocate their portfolios as he or she sees fit. In accordance with the Treaty of Lisbon, member states must take into account the results of the preceding European Parliament elections when selecting a Commission President (Article 17(7) TEU). In connection with the 2014 European elections, this led for the first time to the nomination of lead candidates by the political groups, a practice that was not envisaged in the Treaties.

3.2 Parliament

The European Parliament (EP) fulfils various important roles within the European institutional framework. Together with the Council, it is the most important actor when it comes to adopting legislative proposals and making decisions regarding the budget. In addition, the Parliament oversees the activities of the Commission and is involved in its selection. Lastly, it fulfils an important function as the body that represents the people of the Union.

This special role of Parliament only evolved gradually during the process of integration. The Parliament was originally established in the Treaty of Rome as an assembly of representatives of the national parliaments, and its function was purely advisory. The Assembly confidently renamed itself the European Parliament in 1962, and was gradually upgraded in the years that followed. Important milestones in this process were the first direct election of its members (1979) and the various treaty reforms in the 1980s and 1990s. In the wake of these reforms, Parliament was given more influence and co-decision powers in a growing number of policy areas. Up until the Maastricht Treaty, however, Parliament did not have the power to axe a legislative proposal.

Figure 1: The ordinary legislative procedure of the EU



Source: The author

Parliament now has such a veto right under the ordinary legislative procedure (Article 294 TFEU; see Fig. 1). By virtue of the Lisbon Treaty, this procedure applies to most policy areas of the Union and virtually all areas relating to market integration. In line with this procedure, both the Council and Parliament deliberate on a legislative proposal submitted by the Commission on a given subject. First of all, Parliament adopts a position (specifically on amendments or clarifications it wishes to introduce into the draft legislation), which it puts forward in subsequent negotiations with the Council. If the Council follows the position of Parliament, the legislative proposal is deemed to be adopted. If it does not, a multi-stage procedure ensues, in which the Council reworks the legislative proposal, and Parliament – according to a majority vote of its members – either adopts or rejects it at second reading, or suggests further amendments. If there are still conflicting opinions on both sides, a conciliation procedure may be launched between the Council and Parliament. The Commission also participates in this process and tries to bring about a rapprochement. The proposal drafted in conciliation can then be adopted or rejected by either side – by a majority vote in Parliament and by qualified majority in the Council. The essence of this complex procedure lies in the veto right on both sides, so that legislative proposals can only be adopted on the basis of compromise between the Council and Parliament.

Alongside the ordinary legislative procedure, there are other decision-making processes that are called upon in certain situations, for example in the event of a vote of no confidence against the Commission, during the budgetary process or for various provisions relating to foreign policy and cooperation in justice and home affairs.

In addition to its legislative and budgetary powers, Parliament also has a say in the selection of the Commission's political leadership. Parliament must approve the proposal negotiated between the member states for the Commission President, as well as the proposal negotiated between the Commission President and the member states regarding the nomination of individual commissioners. Parliament can also force the Commission to resign following a vote of no confidence adopted by a two-thirds majority.

Compared with national parliaments, party political polarisation is much more limited in the European Parliament. The constant legislative negotiation processes with the Council, during which decisions are sometimes taken by absolute majority, force the largest (Social Democratic and Christian Democratic/Conservative) groups in the European Parliament to work together. Another contributing factor is that the prevailing fault line in the European Parliament does not run between 'right' and 'left', but between those in favour of integration and those that are sceptical of it. The dominant force in the European Parliament is an informal grand coalition made up of members from both the 'left' and the 'right' who mainly support integration.

Despite the fact that the European Parliament has accrued more rights over time, its powers are still inadequate compared with those of national parliaments. Among its problems are the fact that its legislative and budgetary powers are shared with the Council, it is not entitled to put forward its own legislative proposals and it has only a limited say in a number of policy areas, particularly in foreign, security and defence policy. Parliament is also politically undermined by what is generally a low turnout in the European elections (around 43% in 2009 and 2014) and relatively scant coverage in mass media. Arguments against further upgrading Parliament, however, include not just reservations on the part of national governments and parliaments about sovereignty, but also fundamental considerations relating to democratic theory. In a Europe

fragmented by its linguistic, cultural and historical borders, there is an absence of social solidarity and no common political public sphere, a prerequisite if debates and decisions of the European Parliament are ever to be seen as representative of opposing views within a European ‘demos’ (Grimm 1995). A more optimistic view presupposes that such a ‘demos’ could take shape during the course of the European integration process, and that Parliament could be a catalyst for the emergence of a European public space (cf. Kohler-Koch/Conzelmann/Knodt 2004: 193 et seq.).

3.3 Council of the European Union / European Council

The Council of the European Union (often known as the Council of Ministers, or simply the Council) is the institution that represents the member states, each of which sends a representative of the national executive (generally a minister or deputy minister). Alongside Parliament, the Council is the central decision-making body in the legislative process. The Council, together with Parliament, is also responsible for adopting the annual budget of the EU.

In line with the task-oriented structure of the Union, the Council meets in different technical formations. The two most important council configurations are the General Affairs Council (composed of high-level ministers from the member states, generally the ministers for foreign affairs or ministers for Europe) and the Economic and Financial Affairs Council (ECOFIN, composed of economic and finance ministers). Whilst the General Affairs Council deals with across-the-board issues, including the budget or enlargement negotiations, ECOFIN is tasked with matters such as coordinating the member states’ economic policies, the banking union and financial markets. These two councils also have shared competence for the European Structural Funds. The Council holds regular meetings in other configurations, too, covering environmental and agricultural policy, for example, or transport, telecommunications and energy. Alongside formal meetings of the individual council formations, there are also many informal meetings to exchange views on legislative proposals and promote technical discussion between the ministries of the member states. It is in this context – at the Informal Council of Ministers for Spatial Development, and the European Spatial Planning Observation Network, ESPON – that the foundations are laid for decisions on European spatial development policy (▷ *European spatial development policy*).

Pursuant to Article 16(3) TEU, the Council takes decisions by qualified majority, unless there are specific measures applicable to certain policy areas. In line with the ordinary legislative procedure described above, a qualified majority in the Council is reached if 55% of member states (or 15 out of 28) agree, and these member states represent at least 65% of the total population of the Union. A blocking minority of 35% of the population is only reached if it is composed of at least four member states (Article 16(4) TEU). The purpose of this clause is to prevent the three most populous member states from wielding too much power. A number of policy areas are subject to special provisions that stipulate other thresholds for reaching a qualified majority in the Council. In any case, a formal overruling of member states remains the exception: through a package of solutions and compromises, the Council generally tries to reach a unanimous decision, even if a qualified majority would have sufficed in accordance with the Treaties.

The Council of Ministers of the EU should not be confused with the European Council. The latter is a meeting between the heads of state or government of the member states, and generally takes place on a quarterly basis to define political goals and guidelines for the EU, as well as to take decisions of major political importance (Article 15 TEU). These include decisions on the

initiation or completion of enlargement negotiations, a joint response to a foreign political crisis, principles governing the coordination of member states' economic policies and the nomination of a candidate for the post of Commission President. The European Council adopts politically binding conclusions, but does not play a role in the actual legislative process of the Union. Neither is it included in the European Union's system of *checks and balances* (through the Court of Justice of the European Union, for example). The European Council has benefited from greater visibility thanks to the Treaty of Lisbon, which established the post of President of the European Council (cf. extensively on the European Council and the Council of Ministers Wessels 2008: 155 et seq.).

3.4 Further institutions and bodies of the EU

Alongside its main institutions, i.e. Parliament, the Commission, the Council and the European Council, the EU is composed of other institutions (the Court of Justice of the European Union, the European Central Bank and the European Court of Auditors) and a number of supplementary bodies. The European Investment Bank is particularly important when it comes to spatial planning (Article 308-309 TFEU). The Committee of the Regions (CoR) and the European Economic and Social Committee (EESC) are also relevant in this context (Article 300-307 TFEU). While the CoR is composed of representatives from regional and local authorities, the EESC is a consultative body for employers, trade unions and other economic stakeholders (for example farmers and consumers). Both bodies must be consulted in various specific circumstances set down in the Treaties, but they can also issue comments on their own initiative. The aim of these bodies is to communicate the interests of civil society to the Commission and Council, as well as to help the various interest groups organise themselves transnationally and connect with their counterparts in other countries. The CoR and EESC carry little political weight, partly because they have no rights in the legislative process of the EU, and partly because there are many other informal channels for consultation between the institutions of the EU and social interest groups (cf. Tömmel 2014: 172 et seq.; Hönnige/Panke 2015).

4 The policymaking process of the European Union

4.1 Governance in the European multi-level system

The previously outlined discussion on European multi-level governance revolves around the observation that the policymaking process in the European Union cannot be equated with the hierarchical 'top-down' approach of a national government. Decision-making processes at European level and the implementation of European policy are based on cooperation and consensus between the European institutions on the one hand, and a large number of public and private stakeholders on the other. This coordination process often involves several levels at the same time, which means that European, national, regional and even local levels are all interlinked (cf. Knodt/Große Hüttmann 2012).

There are practical reasons for the emergence of these multi-level negotiating networks between public and private stakeholders. At European level, politicised confrontation and majority decisions play a subordinate role, meaning that the emphasis is on a factual approach

to decision-making and the implementation of decisions. Thanks to cooperation with experts and representatives of interest groups, and the involvement of several tiers of administration, conflicts of interest are settled in an amicable fashion and the practicability of policies is ensured. But political interests also play a role: by interacting with civil society, the Commission, in particular, tries to strengthen its position and cast itself in the role of representative of the European common good (cf. Kohler-Koch/Quittkat/Buth et al. 2013). Conversely, social stakeholders seek contact with the European institutions in order to try to get their interests taken into account. This is why the creation of specialised consultative and advisory bodies attached to the Commission is accompanied by a similar development within the committees of the European Parliament, the General Secretariat of the Council and the secretariats of the council configurations.

4.2 A Europe with the regions

During the implementation of European policy there is also often a close interaction between political and social stakeholders. An example of this is the comitology procedure, which serves to implement European law at national level, and involves civil servants from the member states alongside representatives from the Commission and various experts. Another example is the principle of partnership in European structural and regional policy, where public and private stakeholders work together to implement regional development goals. This process has led to reinforced cooperation between the Commission and the regional and local levels of the member states. On the one hand, the European level benefits from the technical expertise of local and regional levels, and on the other hand, the subnational territorial authorities have recognised the relevance of the European tier for pursuing their own interests and gaining access to funding. This process is reflected by the establishment of the Committee of the Regions, described above, and a growing array of regional representations (particularly that of the German federal states) in Brussels (cf. Tömmel 2014: 167 et seq.).

And yet these developments do not point to the emergence of a Europe of the regions. The phenomenon of regional lobbying has not become a ubiquitous practice, and there is no evidence to suggest that the influence of the regional level on policymaking is anything more than sporadic. Furthermore, European regional policy has never subscribed to the goals of decentralisation and regionalisation (cf. Keating 2008). It would be incorrect, therefore, to speak of a general increase in the importance of regional tiers of government in connection with European integration. However, by drawing on their own resources (local expertise and legitimacy, for example), regional stakeholders can indeed participate in policymaking processes at European level, even outside the scope of structural fund support. Hence, instead of a Europe *of* the regions, a Europe *with* the regions appears to be a more realistic prospect for the future (cf. Conzelmann 2009).

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