

## § 4 The institutional framework of the European Union

### I. Overview

- see the overview in art. 13 EU Treaty

### II. The Union's institutions (→ art. 13(1) EU Treaty)

- every institution adopts own *rules of procedure*
- principle of mutual sincere cooperation (art. 13(2) EU Treaty)
  - cooperation is regulated in *interinstitutional agreements* (cf. art. 295 FEU Treaty)
- citizen has *right of access to the documents* of the institutions (art. 15(3) FEU Treaty)

#### 1) The European Council (art. 15 EU Treaty, 235 et seq. FEU Treaty)

- with **President of the European Council** with own competences (art. 15(5,6) EU Treaty)
- the leading political institution
- composition: heads of state or government + own President + President of Commission
- decides usually by consensus
- meets twice every six months

#### 2) The Council of the European Union (art. 16 EU Treaty, 237 et seq. FEU Treaty)

- assisted by a *General Secretariat* and a *Committee of Permanent Representatives* of the governments of the member states (art. 16(7) EU Treaty, 240 FEU Treaty)
- the most powerful institution, in particular in legislation and budgeting (jointly with EP), foreign affairs and policy-making
- composition: one representative of each member state at ministerial level
- decides usually by qualified majority (55 % of member states, representing 65 % of the population), in some cases by simple majority (15 member states) or unanimous vote
- meets in 10 different configurations

#### 3) The European Parliament (art. 14 EU Treaty, 223 et seq. FEU Treaty)

- with **European Ombudsman** with own competences (art. 228 FEU Treaty)
- the only directly legitimized institution; no dominant role but important powers in legislation and budgeting (jointly with Council) and of political control
  - no right of legislative initiative
- composition: representatives of the Union's citizens
  - degressively proportional representation of the citizens (art. 14(2) EU Treaty)
  - uniform electoral procedure planned for the future (cf. art. 223 FEU Treaty)

#### 4) The European Commission (art. 17 EU Treaty, 244 et seq. FEU Treaty)

- with **President of the European Commission** with own competences (art. 17(6) EU Treaty)
- with **High Representative for Foreign Affairs and Security Policy** as vice-president with own competences and a *European External Action Service* (art. 18, 27 EU Treaty)
- promotes European public interest, takes initiatives, participates in legislative procedure, has own legislative and executive powers, executes budget and ensures compliance of the member states with Union law
- composition: in theory 19 members chosen in a system of equal rotation between the member states, in practice 28 members from all member states (cf. art. 17(5) EU Treaty)
  - integrity and independence strictly required (art. 17(3) sub-sect. 3 EU Treaty)
  - vote of consent of the European Parliament (art. 17(7) sub-sect. 3)
  - possibility of a motion of censure of the European Parliament (art. 17(8))

- 5) **The Court of Justice of the European Union** (art. 19 EU Treaty, 251 et seq. FEU Treaty, Statute of the Court of Justice)
  - consists of **European Court of Justice**, General Court and Civil Service Tribunal
  - "shall ensure that ... the law is observed"; strong impact of judicial development of law
  - composition of the ECJ: one judge from each member state + 8 advocate-generals
- 6) **The European Central Bank** (art. 282 et seq. FEU Treaty, Protocol on the statute of the European System of Central Banks and of the European Central Bank)
  - with *Governing Council* and *Executive Board* (art. 283)
  - constitutes together with the central banks of the member states the *European System of Central Banks (ESCB)* and with those of the Euro states the *Eurosystem*
  - enjoys legal personality and independence (art. 282(3) FEU Treaty)
- 7) **The European Court of Auditors** (art. 285 et seq. FEU Treaty)
  - independent institution for the Union's audit
  - composition: one member from each member state

### III. The advisory bodies

- do not take own decisions but are consulted
- 1) **The Economic and Social Committee** (art. 301 et seq. FEU Treaty)
    - advisory body for an institutionalised participation of stakeholders in the various economic and social sectors and of civil society
  - 2) **The Committee of the Regions** (art. 305 et seq. FEU Treaty)
    - advisory body for an institutionalised participation of the interests of regional and local governing entities (Länder, comunidades autonomas, régions, provinces, counties, départements, districts, communes etc.)

### IV. Other institutions, agencies and bodies

- 1) **Institutions based on primary law**
  - European Investment Bank (art. 308 FEU Treaty)
  - EURATOM Supply Agency (art. 53 et seq. EURATOM Treaty)
  - Europol (cf. art. 88 FEU Treaty)
  - In preparation: European Public Prosecutor's Office (cf. art. 86 FEU Treaty)
- 2) **Institutions based on secondary law**
  - a) **Interinstitutional bodies**
    - e.g. Publications Office, European School of Administration
  - b) **Agencies**
    - e.g. Eurojust, FRONTEX, European Environment Agency, European Banking Authority, European Defense Agency, European Union Agency for Fundamental Rights

### V. The principle of institutional balance

- ECJ, case 138/79, Roquette Frères / Isoglucose
- the equivalent to the principle of separation of power in the state