

# Award in European Union Law

Lecture Title: European Union Legislation

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Date:



Diploma in Law (Malta)



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ADVOCATES

# Course Structure

- 7 Lectures
- Assessment type: Assignment
- Aims and Objectives:
  - European Integration
  - European Institutions
  - EU Legislation
  - Applicability and direct effect
  - General Principles
  - Four Freedoms
  - EU Labour Law
  - EU Competition Law



# LECTURE 1

- Development of European Integration and the European Union Institutions



# European Integration

- Post-war years – rebuilding plan
- The Marshall Plan
- A 'European family' – Winston Churchill



# The European Coal and Steel Community

- 23rd July 1952
- Promotion of peace – but why coal and steel?
- How many countries joined?
- 50-year lifespan
- 5 institutions
- Did it have legal personality?



# 1<sup>st</sup> July 1958 – European Economic Community and Euratom

- Signed in Rome
- EEC Treaty – free trade market – customs union
- Euratom – cooperation in the use of atomic energy
- 3 communities - EEC, ECSC and Euratom
- Article 3 of the EEC Treaty – activities to be pursued
- Euratom – Has it succeeded? Still existing?



# 1<sup>st</sup> July 1973: Enlargement

- Effects of EFTA – European Free Trade Association
- Attempts by the UK to join
- 1961 – Macmillan Government
- 1967 – Wilson Government
- 1970 – Heath Government
- Joined on 1st January 1973



# Further enlargements

- 1st January 1981: Greece
- 1st January 1986: Portugal and Spain





# 1<sup>st</sup> July 1987: Single European Act (SEA)

- First major amendments to the founding Treaties
- Going beyond the economic sphere



# Further amendments

- New 'cooperation procedure'
- Strengthening of the European Parliament



# 1<sup>st</sup> November 1993: Treaty on European Union

- Maastricht Treaty
- Extended competencies
- Two new pillars:



# The 'European Union'



# Amendments to the EEC Treaty

- Creation of citizenship of the EU
- Timetable for implementation of a common currency
- Adoption of the principle of subsidiarity
- Amendment of decision-making process
- New areas of tasks and activities



# Enlargement and the Treaty of Amsterdam

- 1st January 1995: Finland, Austria and Sweden
- 1st May 1999: Treaty of Amsterdam
- Respect for human rights, democracy and rule of law



# 1<sup>st</sup> February 2003: Treaty of Nice

- Ratification problems for Ireland
- Institutional reform – making way for 2004 enlargement
- Eurojust



# New Member States

- 1st May 2004: 10 new Member States joined including Malta
- 1st January 2007: Bulgaria and Romania joined
- Total of 27 Member States





# Treaty of Lisbon

- 1st December 2009
- Talks of a 'Constitution of the EU'
- Ratification by Ireland



# The Provisions of the Lisbon Treaty

- Retained the TEU and the TFEU
- EC Treaty renamed to the 'Treaty on the Functioning of the European Union' (TFEU)
- Article 3 – Union's objectives
- Equality of its citizens
- Representative democracy



# Citizens' Initiative

- Citizens' petition for action
- Not less than 1 million citizens
- From quarter of Member States



# Joining the Union

- Article 49 TEU sets out the conditions of eligibility and the procedure for accession to the EU
- Applies to the Council – consultation with the Commission and consent of the European Parliament.

## *Article 49*

(ex Article 49 TEU)

Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account.

The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.



# Exiting the Union

- Article 50 TEU – First provision for a Member State to voluntarily withdraw from the Union
- First time used by the United Kingdom – BREXIT

## *Article 50*

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.



# Article 50 contd.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.



# BREXIT

- UK – First nation to trigger article 50
- Negotiations over the exit agreement took over the prescribed two years
- An extension was granted
- 5 years on – was it the right decision?



# Enlargement vs Exiting

- 1st July 2013 – Croatia joined
  - Candidate countries
    - Albania
    - Republic of North Macedonia
    - Montenegro
    - Serbia
    - Turkey
- Accession negotiations – adherence with article 49
- Potential candidates
  - Bosnia and Herzegovina
  - Kosovo





# Part II INSTITUTIONS AND RELATED BODIES OF THE EUROPEAN UNION



# The Institutional Framework

- Article 13(1) TEU

## Article 13

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 Union's institutions shall be:

- the European Parliament,
- the European Council,
- the Council,
- the European Commission (hereinafter referred to as 'the Commission'),
- the Court of Justice of the European Union,
- the European Central Bank,
- the Court of Auditors.

2. Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them. The institutions shall practice mutual sincere cooperation.

3. The provisions relating to the European Central Bank and the Court of Auditors and detailed provisions on the other institutions are set out in the Treaty on the Functioning of the European Union.

4. The European Parliament, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.



# Separation of powers

- The three organs
- Not a strict separation of powers
- Changed roles throughout the years



# The European Council

- Formal recognition in the SEA
- Strictly political forum
- Composed of the heads of state of Member States
- To meet at least twice a year



# The European Council

- Sets the outline for policies and legislation for the Commission
- Political direction
- Based on consensus
- Generally subjects are raised according to the political issues prevalent at the times but certain subjects appear regularly



# The President of the European Council

- Leader of the EC
- Elected by the members of the EC – qualified majority
- Term of two and a half years – renewable once
- Not allowed to hold national office
- Functions of the President
- Shall chair and drive it forward
- Preparation and continuity of the work of the EC
- Endeavour to facilitate cohesion and consensus within the EC
- Present a report to the EP after each meeting



# The Commission



# The Commission

- Article 17 TEU – 8 primary roles for the Commission
- Composition – One Commissioner from each Member State
- Different composition throughout the years





# Independence and Integrity of the Commission

- Independent Commissioners – notwithstanding nominated by Member States
- Enshrined in the TEU
- Applies even after holding office
- Commission vs Edith Cresson (Case C-432/04)



# The President of the European Commission

- Appointment – EC proposes to the EP, the EP elects by majority
- Involved in the appointment of the individual Commissioners
- Appointed for a renewable period of five year
- Power of the European Parliament to veto the whole Commission – Case of Rocco Buttiglione



# Role of the President

- Article 17(6) of the TEU:

6. The President of the Commission shall:

- (a) lay down guidelines within which the Commission is to work;
- (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;
- (c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The High Representative of the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article 18(1), if the President so requests.

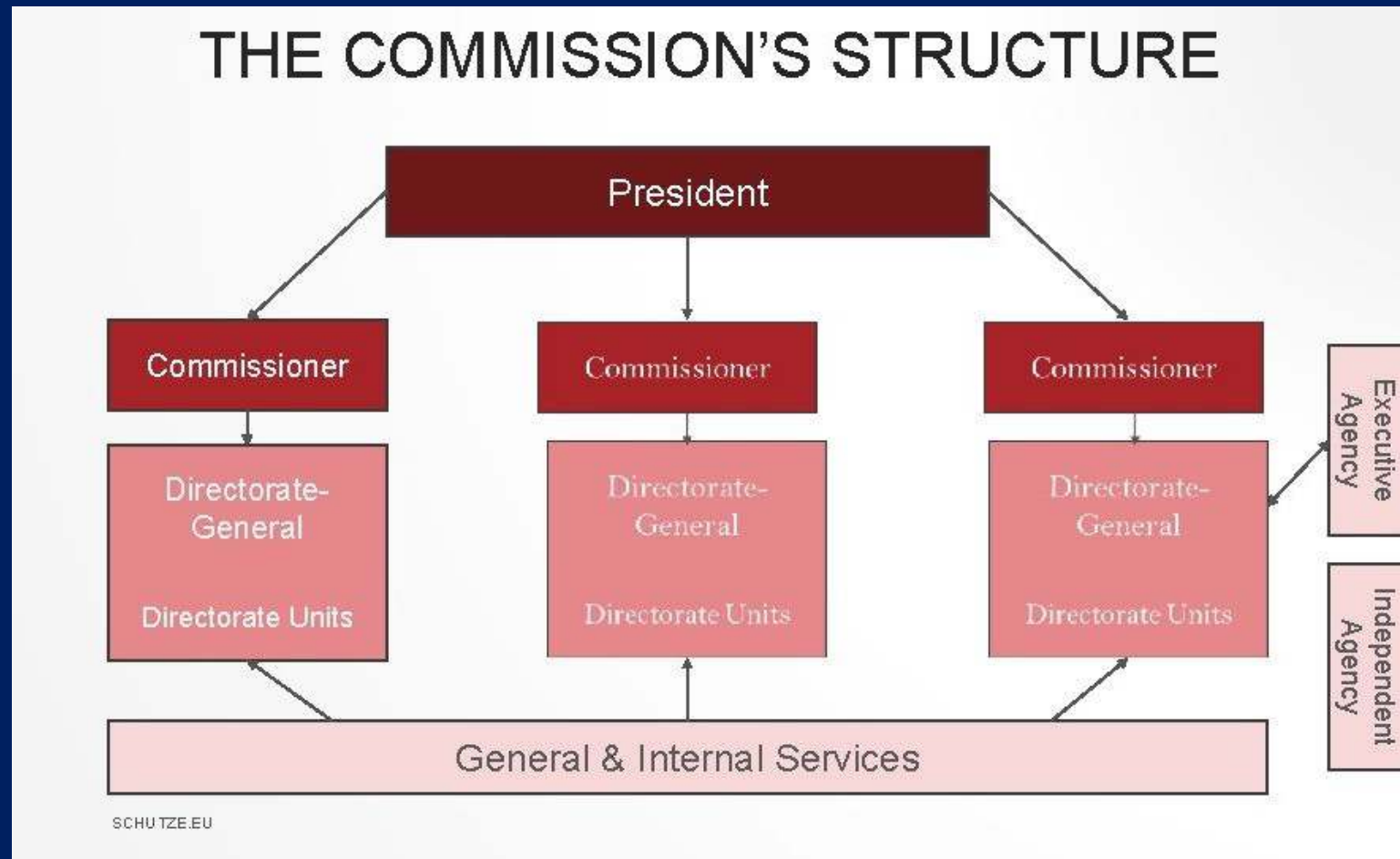


# Structure of the Commission

- Each Commissioner is responsible for one or more policy areas – allocated by the President
- Each Commissioner is assisted by a small Cabinet of officials – personal appointment
- Each Commission is divided by Directorates-General – headed by a Director General
- Each Directorate General is further divided into a number of Directorates



# Structure



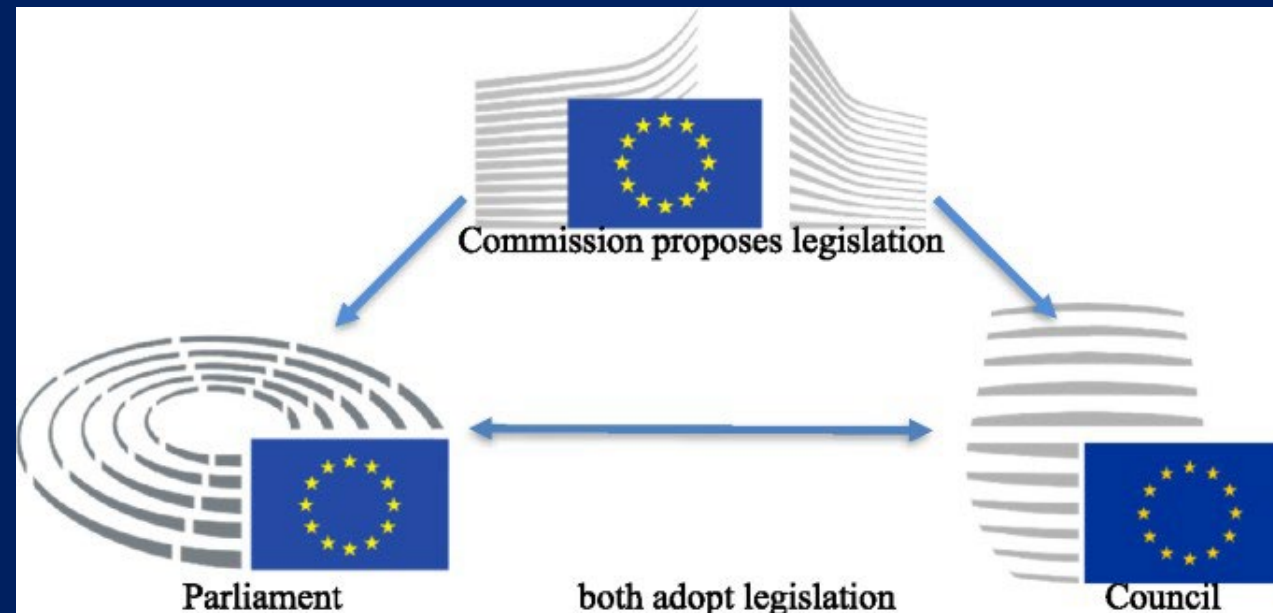
# Termination from Office

- Termination may occur by:
- Expiry of 5 year period
- Death
- Voluntary resignation
- Compulsory resignation – upon request by the President – Dalli vs Commission (Case T-562/12)
- Compulsory retirement
- Compulsory collective resignation



# Roles of the Commission

- As initiator of changes in policy and legislation
- Primary proposer of legislation



# Roles of the Commission

- Represents the Union in negotiations with other groups of states
- Holder of Union funds and administers four special funds
- European Social Fund
- Cohesion Fund
- European Agricultural Guidance and Guarantee Fund
- European Regional Development Fund
- Guardian of the Treaties
- Action against Member States in breach of EU law





# The Council

- Composed of representative of each *Member State* at ministerial level
- Binds the government of the *Member States*
- Article 16(6) TEU provides for the Council to meet in different configurations



# The Presidency of the Council

- Held in turn by each Member State for a period of six months
- Trio presidency – coordination over an 18-month period
- Maltese Presidency – January 2017



# Function of the Council

- Article 16(1) TEU
  - To exercise legislative and budgetary functions.
  - To carry out policy-making and coordinating functions as laid down in the Treaties
  - Final decisions are made
- Sweden and Turco v Council (Joined cases C-39/05 and C-52/05)



# European Parliament



# Main elements of the European Parliament

- Originally an 'Assembly' with advisory and supervisory powers
- Transformed to one of the most powerful institutions
- Only directly elected institutions
- However still lacks the power to initiate legislation

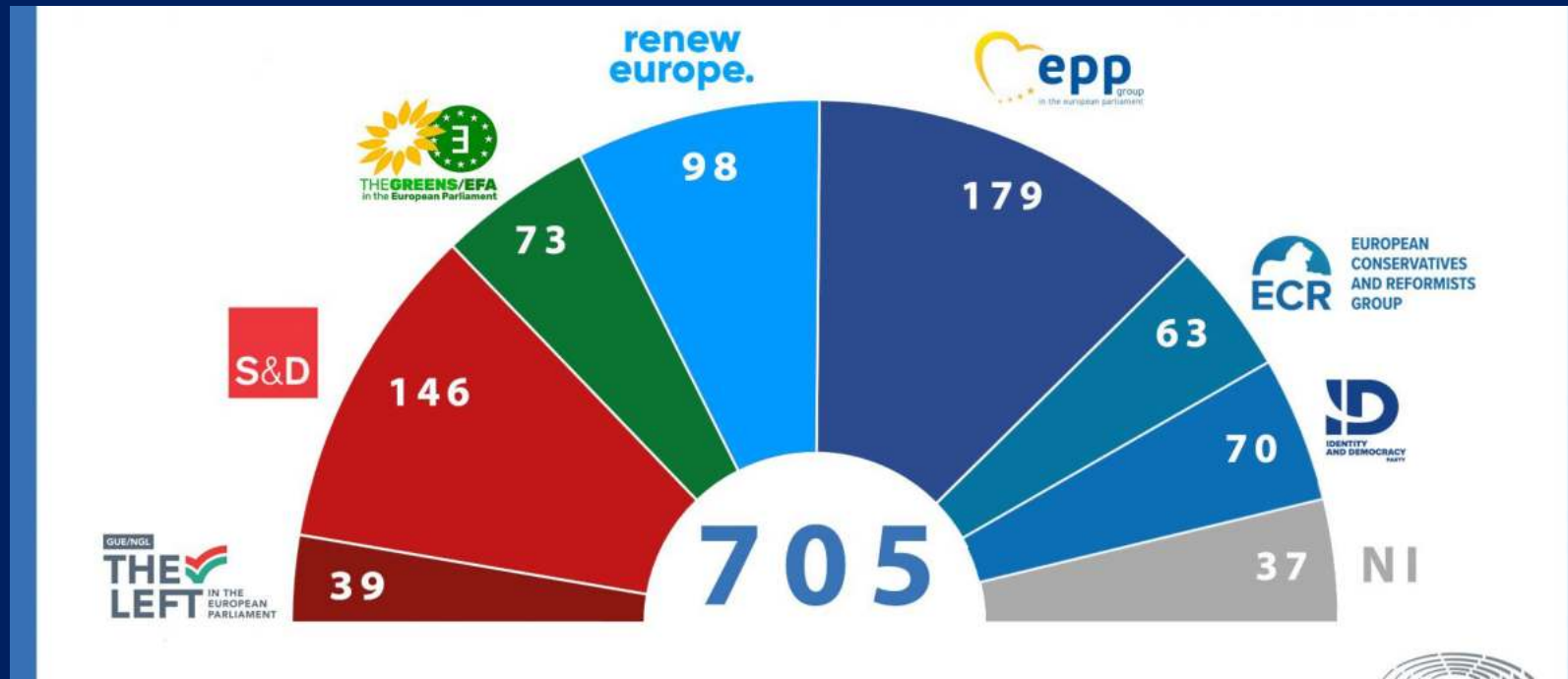


# Composition of the European Parliament

- Members of Parliament elected from all Member States
- Currently 705 MEPs
- Elected for a five year term
- MEPs sit within broad political groupings rather than national groupings



# Political groups in the EP



# Political grouping

- Political activity largely takes places through the groups
- Used to comprise of MEPs elected in at least one-fifth of the Member States and a minimum of twenty
- Case of the 'Identity, Tradition and Sovereignty Group
- Now – at least one-quarter of the Member States and a minimum of twenty-five





# Development of political grouping

- Provide mutual ideological support and identification
- Organizational benefits including funds
- Advantages in the conduct of Parliamentary business
- Case Jean Claude Martinez et vs European Parliament (Joined Cases T-222/99, T-327/99 and T-329/99)
- The constitution was in violation of the concept behind a political grouping



# Powers of Parliament

- 3 main powers:
- Participation in the legislative process of the Union
- Acting as the budgetary authority
- Supervision of the Commission



# Court of Auditors

- Carries out the external audit of the general budget of the Union
- Appointed by each Member States
- Term of 6 years



# European Central Bank

- Enacts Legislation
- Imposes fines
- Submit opinions



THANK YOU





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