



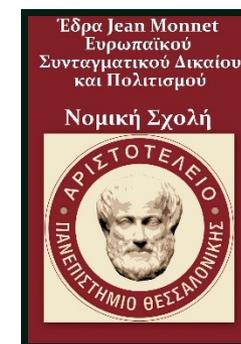
European Constitutional Law

Unit 2: The institutional framework of EU

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- Το έργο «Ανοικτά Ακαδημαϊκά Μαθήματα στο Αριστοτέλειο Πανεπιστήμιο Θεσσαλονίκης» έχει χρηματοδοτήσει μόνο τη αναδιαμόρφωση του εκπαιδευτικού υλικού.
- Το έργο υλοποιείται στο πλαίσιο του Επιχειρησιακού Προγράμματος «Εκπαίδευση και Δια Βίου Μάθηση» και συγχρηματοδοτείται από την Ευρωπαϊκή Ένωση (Ευρωπαϊκό Κοινωνικό Ταμείο) και από εθνικούς πόρους.



Περιεχόμενα ενότητας

1. Competences between EU and MS.
2. Main Principles.
3. The EU institutions.



Σκοποί ενότητας

- Presentation of EU legal system.
- Analysis of competences between EU and MS.
- Emphasis on the EU institutions.



Cooperation in EU

- 1.1. Integration:
 - Depending on the measures:
 - Negative Integration: removing barriers.
 - Positive Integration: coordination and harmonization of policies.
 - Depending on decision-making:
 - Intergovernmental cooperation.
 - Federal (transnational) cooperation.



Economic cooperation

Free Trade Area = Elimination of customs duties between Member States
+ unified external tariff.

⇒ **A customs Union:**

+ free movement.

⇒ **Common market:**

+ high harmonization and coordination on major financials.

⇒ **Economic union:**

+ irrevocable fixing exchange rates or a single currency.

⇒ **Monetary union:**

EMU: Economic and Monetary Union.

⇒ **Full economic union:** Full integration of the economy (and economic policy).



Written sources of European Union law: primary law

- Primary law:
 - Treaties,
 - The founding Treaties + annexes, protocols, declarations,
 - The amending Treaties,
 - Accession Treaties,
 - Acts of Permanent Representatives of the MS in the Council,
 - The agreements / treaties between MS in the context of international law.



Written sources of EU Law: derivative (secondary) law (1 of 2)

- I. The Regulation (European Law):
 - I. General power (over all Members).
 - II. Direct power and application.
 - III. Entire binding.
- II. The Directive (European Framework Law):
 - I. Specific power (engages MS / usually all).
 - II. In principle, with no immediate effect BUT ...
 - III. Binding in achieving the objectives).
- III. Decision:
 - I. Specific power (engages MS or individuals).
 - II. Immediate effect and implementation.
 - III. Entire binding.



Written sources of EU Law: derivative (secondary) law (2 of 2)

- ❑ Recommendations and Opinions:
 - ❑ Bind the institution that issued them,
 - ❑ If required for the issue of another Community act, their absence constitutes a plea (infringement of essential procedural requirements).
- ❑ Other Acts – soft Law:
 - ❑ Quasi-law Acts:
 - ❑ general programs, action plans, reports etc.
 - ❑ Acts on the operation / collaboration of the Institutions:
 - ❑ Statutes, operation rules, codes of conduct, joint statements, inter-institutional agreements, etc.
 - ❑ Commission communications.



Establishment of EC

- Establishment :
 - European Coal and Steel Community: Paris 1951.
 - Euratom: Rome 1957.
 - EEC: Rome 1957.
- Deepening Communities :
- (amendment of the Treaties)
 - 1986-87: The Single European Act → 1992.
 - 1992-93: Maastricht Treaty → EMU/EU.
 - 1997-99: Amsterdam Treaty → Social face.
 - 2000-03: Nice Treaty → Expansion.
 - (2004/05: European Constitution, not into force).
 - 2007/09 Lisbon Treaty.



Accession

3.1 Accession:

- Founding Members: France, Germany, Italy, BeNeLux.
- 1969: G. Britain, Ireland, Denmark.
- 1979/81: Greece.
- 1985: Spain, Portugal.
- 1994: Austria, Sweden, Finland.
- 2004: Cyprus, Malta, Hungary, Poland, Czech Republic, Slovakia, Slovenia, Estonia, Latvia, Lithuania.
- 2007: Bulgaria, Romania.
- 2013: Croatian.
- ??? FYROM, Albania (Kosovo), Serbia, Montenegro, Turkey.



Criteria for the accession of new Member

- Stable institutions that guarantee:
 - Rule of law,
 - Democracy,
 - Human rights,
 - Respect for and protection of minorities.
- Functioning market economy.
- Ability to assume the obligations of the SM.
- Withdrawal from the Communities.
 - Explicitly for the 1st time in the Treaty of Lisbon.



Other Initiatives

- Council of Europe:
 - International cooperation policy organization.
 - Strasbourg.
 - Members: EU 27 + 19 = 47 (Russia, Moldova, Turkey, Albania ... Armenia, Azerbaijan).
 - Central organs :
 - The Committee of Ministers,
 - The Parliamentary Assembly,
 - **The Court of Human Rights / ECHR.**
 - The central objective: human rights protection.



Competences between EU and MS

- ❖ Transfer of competences.
 - ❖ The specification principle of Community competence.
 - ❖ Special competences by the Treaties.



Competences EU and MS

- ✓ Lisbon Treaty:
 - ✓ **Exclusive competence:**
 - ✓ The EU has exclusive competence to regulate the subject.
 - ✓ Exclusive competence over international treaty when provided in an EU act.
 - ✓ **Shared competence:**
 - ✓ The competence of the legislation in this field is shared between the Member States and the EU.
 - ✓ **Supporting competence:**
 - ✓ EU has competence to support, coordinate or supplement the actions of Member States.



Competences

- **Exclusive competence:** European Customs Union, free market area, the establishment of competition rules necessary for the functioning of the internal market Monetary policy for Member States whose currency is the euro, the conservation of marine biological resources under the common agricultural policy, common commercial policy.
- **Shared competence:** internal market, social policy, as for dimensions specified in this treaty economic, social and territorial unity rural and fisheries, excluding the jurisdiction of the conservation of marine biological resources, environment, consumer protection, transport, energy, area of freedom, security and justice, common concerns in terms of public health, for dimensions specified in this Treaty.
- **Supporting competence:** protecting and improving public health, industry, culture, tourism, education and sport, civil protection, administrative cooperation.



The principle of Subsidiarity

- Maastricht Treaty + Protocol of Amsterdam Treaty.
- Only for shared competences.
- Decision-making close to the citizen. Two conditions concerning:
 - The existence of competence:
 - The goal can not be achieved by MS.
 - More effective the community action.
 - The way of exercising responsibility: margin for ethnic difference.



The principle of Subsidiarity: Consequences

- Presumption in favor of the lowest decision-making stage.
- Wide field of action at the national level.
- Commission proposal.
- Preference of Directives over other Community instruments.



Principle of Proportionality

For any competence:

- ❖ Measures which do not impose exorbitant restrictions or charges in relation to the desired result.
 - ❖ Qualitative criterion: the measure is appropriate (health - tax).
 - ❖ Quantitative criterion: the measure is not excessively restrictive.



EU Institutions:

The representation of MS

1.1 The European Council:

- Heads of State or Government and the FA Ministry.
- European Commission President + 1 member.
- Competences:
 - It defines the general political guidelines of the EU.



Lisbon Treaty: Institutions

- Permanent position of President of the European Council:
 - Elected by the European Council for two and a half years.
 - Continuity ensured,
 - Enhance the stability of the European Council operation.
- Post of High Representative of the Union for Foreign Affairs and Security Policy.



The Council

- ✓ Decision-making:
 - ✓ Simple majority.
 - ✓ Qualified majority voting:
 - ✓ Used when the Council takes decisions under the ordinary legislative procedure, which is also known as co-decision. About 80% of all EU legislation is adopted in this process.



The principle of double majority

Lisbon Treaty:

- ✓ 55% of MS,
- ✓ 65% of population,
 - ❑ Veto of at least 4 MS, otherwise qualified majority even if it is not satisfied the criterion of population.
- Unanimity eg taxation, foreign policy, defense and social security.



Competences of the Council

1. Legislation + Budget,
2. Coordination (especially EMU),
3. Executive and supervisory (but mainly Commission),
4. External relations.



EU Institutions:

European Commission

- 27 persons for 5 years - one Commissioner per Member State.
- Appointed by the governments.
- Competences:
 - Legislative,
 - Initiatives.
 - Executive,
 - Investigative,
 - External relations (negotiation).



EU Parliament

Democratic Legitimation

Elections:

- Election by direct vote every 5 years (from 1979),
- no more than 751 members (between 6 to 96 per MS).
- Privileges – immunity.

Function:

- Bureau,
- Parliamentary committees,
- Political Groups,
- General Secretariat.

Decision-Making:

- 1/3 quorum and majority votes.



Democratic legitimacy

Competences:

– Legislative:

- consultation, cooperation, co-decision, assent.

– Investigative:

- querying, censure, annual general report of the Commission, examine petitions from citizens, setting up temporary committees of inquiry.

– Participation in other functions of the Community.

– Receive reports from citizens (Article 194 TEU).



Legislation

✓ Ordinary legislative procedure (co-decision):

- ✓ extends to several new areas, such as
- ✓ justice and home affairs,
- ✓ in some aspects of the common commercial and common agricultural policy,
- ✓ and to the EU budget.

✓ Special legislative procedure:

- ✓ By the Treaties, in particular cases either by the European Parliament by the Council contribution or by the latter with the participation of Parliament,
- ✓ either after a group of Member States or the European Parliament, on a recommendation from the European Central Bank or at the request of the Court or the European Investment Bank (Article 289 TFEU).



Special legislative procedure

- ❖ Diverges from the ordinary legislative procedure, either because the Parliament and the Council acting together, either because the initiative for a legal act does not come from the Commission but from another institution or group of Member States (Articles 228, 308, 349 TFEU) .
- ❖ The European Council may decide to issue such acts in accordance with the ordinary legislative procedure (Article 48 TEU).

Judicial & subsidiary bodies

- ECJ,
- Court of Auditors.

Subsidiary bodies:

- ECOSOC,
- Committee of the Regions,
- The ECB and Europe Investment Bank,
- Funds.



EMU

ECB:

Competences:

- Banknote issuance monopoly,
 - Regulations, decisions, recommendations and opinions without the participation of other bodies.
- The European Banking System.



Thank you for your attention

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Bibliography

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Σημείωμα Αναφοράς

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