

Issued by the Department
of Chamber and Committee Services
June 2010

European Union Institutions and Legislation



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A short guide for Members of Parliament by the
staff of the European Scrutiny Committee and the
National Parliament Office

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Introduction

The United Kingdom joined the European Economic Community (now the European Union) on 1 January 1973.¹ The European Economic Community (EEC) had been created by the *Treaty of Rome*² in 1957, a consequence of 11 years of negotiations to reconstruct the European continent after World War II. Its objective was to establish a common market among the founding Member States — Germany, France, Belgium, Italy, Luxembourg and the Netherlands — as a means of ensuring economic stability and closer relations. Four institutions responsible for its operation were set up: the Commission, the Council (of Ministers), the Assembly (now the European Parliament) and the European Court of Justice.

Since the late 1980s there has been a gradual increase in the competences transferred by Member States to the European Union and considerable reform in the way it operates. In 1987 the *Single European Act* aimed to speed up the completion of the internal market by introducing qualified majority voting³ instead of unanimity where each Member State has a veto for Council decisions on internal market measures. It also established a legal basis for the European Council (twice yearly meetings of EU heads of states and foreign ministers), which had previously met informally; and the seeds of cooperation in economic and monetary policy and foreign policy.

In 1993 the *Treaty on European Union*, also known as the Maastricht Treaty, created the European Union (EU) and introduced a *pillar system* to its structure.⁴ The *European Community* replaced the EEC and became the first pillar of the EU. Under this pillar, 'economic and monetary union' was established, which would lead to the adoption of the euro in 2002. The second pillar was entitled the *Common Foreign and Security Policy*, which laid down the EU's role in foreign affairs. The third was *Justice and Home Affairs*, which covered immigration, asylum, judicial cooperation in civil matters and police and judicial co-operation in criminal matters. Although the second and third pillars marked significant extensions of EU competence, they operated along largely intergovernmental lines, with the Member States retaining the policy and legislative initiative, voting by unanimity in the Council, and the Commission and European Parliament playing secondary, consultative roles. This was in contrast to the first pillar where the Commission had the sole right of initiative and the Council adopted legislation usually by qualified majority voting with the participation of the European Parliament ('the Community method').

EU policy on immigration and asylum moved into the first pillar as a consequence of the entry into force of the *Amsterdam Treaty* in 1999. The Amsterdam Treaty also incorporated further social, employment and consumer rights into the first pillar and introduced further measures on the Common Foreign and Security Policy.

On 1 December 2009 the EC along with the pillar system of the EU was abolished when the *Treaty of Lisbon* came into force. The EU is now responsible for all former EC policies, as well as the Common Foreign and Security Policy and Justice and Home Affairs.^{5 6} It is only the Common

¹ As well as the European Economic Community, the UK also joined the European Atomic Energy Community (Euratom) and the European Coal and Steel Community (ECSC).

² Formally entitled the Treaty establishing the European Economic Community.

³ See page 21-22 for details of qualified majority voting (QMV).

⁴ The founding Treaties have been revised very substantially five times: in 1987 (the Single European Act), in 1992 (Treaty on European Union), in 1997 (Treaty of Amsterdam), in 2001 (Treaty of Nice) and in 2009 (Treaty of Lisbon).

⁵ The only exception and surviving non-EU institution is the specialist the European Atomic Energy Community (Euratom) which, however, operationally depends on the EU's structures and institutions.

⁶ The Title in the Treaty of Lisbon covering Justice and Home Affairs has been renamed the 'Area on Freedom, Security and Justice'. Both terms are still used, however. Under a Protocol to the Lisbon Treaty, the UK and Ireland are not bound by any EU legislation in this field — police and judicial cooperation in criminal matters, judicial cooperation in civil matters, asylum and immigration — unless they opt into it.

Foreign and Security Policy, which now formally includes a Common Security and Defence Policy, which remains intergovernmental. For all other areas of policy the Commission has the sole or occasionally a shared right of initiative, the default legislative procedure being qualified majority voting in the Council and co-decision with the European Parliament.⁷ The Treaty of Lisbon has strengthened the EU's role in developing human rights norms by making the **Charter of Fundamental Rights of the European Union**, which includes economic and social rights, legally binding⁸ and by committing the EU to accede to the European Convention on Human Rights. The Treaty has also changed much of the EU's legislative and procedural nomenclature to take account of the reforms it introduced.

As a consequence of the Treaty of Lisbon the EU is now governed by two Treaties: the **Treaty on European Union (TEU)**, which lays down the objectives of the EU⁹ and its general institutional, legislative and policy-making framework, and the details of the Common Foreign and Security Policy; and the **Treaty on the Functioning of the European Union (TFEU)**, which contains detailed provisions governing the EU's operation and competences in all other areas. These Treaties (the EU Treaties), like their predecessors, are given effect in the United Kingdom by the European Communities Act 1972.

There has been a gradual **enlargement** of the membership of the European Union (EU), which presently stands at 27 Member States; and further enlargement is expected. The six founder members of the EEC were joined in 1973 by Denmark, Ireland and the United Kingdom, in 1981 by Greece, in 1986 by Spain and Portugal, in 1995 by Austria, Sweden and Finland, and in 2004 by Cyprus, Malta, Hungary, Poland, Slovakia, Latvia, Estonia, Lithuania, the Czech Republic and Slovenia. Bulgaria and Romania joined on 1 January 2007. Croatia, the Former Yugoslav Republic of Macedonia, Turkey and Iceland are **candidate countries**. Albania, Bosnia Herzegovina, Kosovo under UN Security Council 1244, Montenegro and Serbia are potential candidate countries.

United Kingdom Permanent Representation to the European Union (UKRep)

UKRep is essentially the Brussels arm of the Government Departments in Whitehall and elsewhere. The main job of its staff is to represent the UK in day-to-day negotiations in the Council. They are in close and regular contact with the Commission, the European Parliament and other EU institutions, the Council Secretariat and the Permanent Representatives of the other Member States.

UKRep staff can offer up-to-date advice on current Commission activities and the progress of specific Commission and other proposals in the Council and European Parliament decision-making process. UKRep also provides information on commercial opportunities for British firms under EU programmes and EU export promotion campaigns. Staff responsibilities are organised around the composition and subject-matter of the different specialist Councils.

UKRep website is <http://ukeu.fco.gov.uk>

Members can reach the UKRep operator from telephones in the House by dialling #6 43.

⁷ The co-decision procedure has been re-named "the ordinary legislative procedure" by the Treaty of Lisbon. See page 20 for details.

⁸ Subject to a Protocol to the Treaty which prevents national courts in Poland and the UK, and the Court of Justice, from "find[ing] that the laws, regulations and administrative provision, practices and acts" of Poland and the UK are inconsistent with the Charter.

⁹ Article 3 TEU — see page 20 for further details.

Institutions of the European Union

Websites

Useful websites include:

http://europa.eu	The EU's server (run by the European Commission), which contains links to all the institutions as well as EU news, future events, statistics, publications and databases.
http://eur-lex.europa.eu	A search facility providing text of EU legislation in force.
http://europarl.org.uk	Run by the UK Office of the European Parliament, this site offers information on the work of the UK's MEPs as well as a guide to the European Parliament.
http://ec.europa.eu/unitedkingdom	Run by the London Office of the European Commission, this site offers information on Commission activities in Britain, including weekly news-sheets and details of EU events.

The powers and duties of the EU institutions are set out in Articles of the EU Treaties.¹⁰ Under the principle of conferral, the institutions are only able to exercise powers which have been conferred on them by the Member States.¹¹

The European Council

Under the Treaty of Lisbon, the European Council was given a president and became a formal institution of the EU. It is the highest-level decision-making forum in the EU, consisting of the heads of state or government of the Member States, together with its President and the President of the Commission. The EU's High Representative for Foreign Affairs and Security Policy also takes part in its meetings.

The European Council is tasked with giving the EU its ultimate political direction, which it does by adopting 'conclusions' at the end of its meetings. It is also the EU's highest-level problem-solving forum when ministerial Councils have failed to agree. It does not, however, exercise any legislative functions. It meets a minimum of twice every six months in Brussels but can also meet *ad hoc*. It submits a report to the European Parliament after each of its meetings and a yearly written report to the European Parliament on the progress achieved by the EU.

The post of President is currently held by a Belgian politician, Herman Von Rompuy. The President is elected by Member States in the European Council by a qualified majority and can serve for a

¹⁰ See Articles 13-19 TEU, and Articles 223-287 TFEU.

¹¹ Articles 4 and 5 TEU.

maximum of five years (two terms of two-and-a-half years). He chairs European Council meetings with a view to facilitating 'cohesion and consensus'¹², and the length of his mandate is designed to give greater continuity to the formulation of policy in the European Council than was achieved under the previous system of six-monthly rotating presidencies. Under the Common Foreign and Security Policy (CFSP), the President also represents the EU internationally at the level of Head of State.

The Council

The Council is made up of ministers of the governments of Member States. It is based in Brussels,¹³ in the offices of its secretariat opposite the headquarters of the Commission. It is the principal legislative and decision-making body of the EU. It also shares responsibility with the European Parliament for setting the EU's annual budget. It is headed by a rotation of Member States which act as its Presidency, otherwise known as the Presidency of the EU (not to be confused with the individual who is appointed as the President of the European Council). The majority of the Council's decisions is taken by qualified majority; and, if legislation is being adopted, by the ordinary legislative procedure (co-decision).¹⁴

Council configurations

The composition of the Council varies according to the business under discussion. For example the Justice and Home Affairs (JHA) Council gathers justice and interior ministers to discuss the development and implementation of common policies in this sector; and the Economic and Financial Affairs (Ecofin) Council gathers finance ministers to discuss economic policy coordination and economic relations with third countries.¹⁵ Business is usually arranged so that matters will be dealt with by a Council attended by the corresponding ministers, although, in cases of urgency, other business can be added to the agenda. The various Council configurations meet at ministerial level at a rough average every two months, but some meet less frequently, and some more. Under the Treaty of Lisbon the Council now meets in public more regularly.¹⁶

COREPER and Council working groups

The Council is assisted in its work by a Committee of Permanent Representatives (COREPER), which consists of the Member States' Permanent Representatives (ambassadors) to the European Union. COREPER works in two configurations: COREPER I consisting of the Deputy Permanent Representatives which deals with more technical matters;¹⁷ and COREPER II (the more senior committee), consisting of the Permanent Representatives, which deals with general affairs, economic and financial affairs, justice and home affairs, and institutional matters. COREPER is responsible for preparing the work of the Council and carrying out tasks assigned to it by the Council. It will aim to settle negotiations so that further discussion among ministers in the Council is not required, and this is what usually happens. A proposal on which COREPER is able to reach full agreement will normally come before the Council for formal approval only — an 'A point'; a 'B point' indicates that debate is needed in the Council; and an 'I point' that it is for information only and no decision is needed. However, some items of public importance are taken as 'false B points' to give the appearance (to the interested public) that they will be debated in the Council, when in reality agreement has been reached in COREPER.

¹² Article 15(6) TEU.

¹³ Ministerial Council meetings are held in Luxembourg in April, June and October.

¹⁴ See footnote 7.

¹⁵ The other Council configurations are the General Affairs Council, the Foreign Affairs Council, the Employment, Social Policy, Health and Consumer Affairs Council, the Competitiveness, Transport, Telecommunications and Energy Council, the Agriculture and Fisheries Council, the Environment Council, and the Education, Youth and Culture Council.

¹⁶ Article 16(8) TEU.

¹⁷ Employment, social policy, health and consumer affairs, competitiveness, transport, telecoms, energy, agriculture and fisheries, environment, education, sport, youth and culture.

Under COREPER are a host of Council 'working groups', known by acronyms which indicate subject matter, which comprise diplomats or technical experts from the Member States and which are the main negotiating forums for draft legislation. The nuts and bolts of the Council's technical work takes place in these working groups, and they will try to settle negotiations before they reach COREPER.

Joint Presidencies

The Treaty of Lisbon introduced the concept of joint presidencies of the Council to give greater continuity to the implementation of EU policies.¹⁸ The Presidency of all Council configurations other than the Foreign Affairs Council and the Political and Security Committee is now held by a group of three Member States ('the trio') for a period of 18 months, each sharing a common work programme and each chairing in turn the Council configurations for six months. Previously there was no overlap between six-monthly presidencies, which led to some initiatives being championed for six months at the expense of a longer term approach. The order of presidencies until 2014 is set out in Table A.

CFSP in the Council

There are important distinctions in the Council between the conduct of mainstream EU legislative business and the CFSP, to the extent that the CFSP procedure should be considered *sui generis*. The CFSP is headed by the High Representative for Foreign Affairs and Security Policy, a post created by the Treaty of Lisbon and currently held by Baroness Ashton, who is also a Vice-President of the Commission with responsibility for external relations.¹⁹ The High Representative is supported by the newly-established European External Action Service, which is generally described as an EU diplomatic service, and which was an innovation of the Treaty of Lisbon.²⁰ Unlike for legislative business where in most cases the Council is acting on a proposal from the Commission and decides by qualified majority, the decisions of the Council under the CFSP are Member State-led and taken by unanimity. CFSP decisions are not generally subject to judicial review by the Court of Justice, and the Commission and European Parliament have only secondary, consultative or implementing roles. In 2000 the Nice Treaty created a Political and Security Committee (PSC), which is made up of ambassadors of the Member States. Rather than COREPER, it is the PSC that is the focal point of the CFSP at senior official level. It oversees implementation of policies in countries and international situations in which the CFSP or CSDP is active; it provides political control and strategic direction to EU crisis-management operations; and it prepares meetings of the Foreign Affairs Council, which, exceptionally for a Council configuration, is permanently chaired by the High Representative.

General Secretariat of the Council: Rue de la Loi 175, 1048 Brussels, Belgium: tel: 00 32 2 285 61 11; **House of Commons direct dialling code #6 20 (+ extension).**

¹⁸ See the ninth declaration annexed to the Final Act of the Lisbon Treaty.

¹⁹ See Article 18 TEU.

²⁰ Article 27 TEU.

Table A

Order of Presidencies of the EU²¹

January-June 2010	Spain
July-December 2010	Belgium
January-June 2011	Hungary
July-December 2011	Poland
January-June 2012	Denmark
July-December 2012	Cyprus
January-June 2013	Ireland
July-December 2013	Lithuania
January-June 2014	Greece

The Commission

The Commission is described as the executive of the EU: within the competences laid down by the EU Treaties it proposes legislation and implements policy. There are 27 members, known as Commissioners — one from each Member State. The current Commission took office in 2010. Its President, José Manuel Barroso, has been in office since 2004, having had his five-year mandate renewed in 2009. The headquarters of the Commission is in Brussels, but it has delegations in most countries, which will now become part of the European External Action Service.

The Treaty of Lisbon has introduced changes to the procedures for appointment of the Commission to make it more accountable to the European public. First, the intended President of the Commission is proposed by the European Council acting by a qualified majority. The proposed candidate must then be elected by the European Parliament by a majority of its members; if this threshold is not met, the European Council has to propose a replacement candidate within one month. Importantly, the European Council now has to take into account the most recent European Parliament elections when proposing the Commission President. This is intended to symbolise the political importance of the European Parliament; encourage public interest in the five-yearly European Parliamentary elections; and strengthen the democratic legitimacy of the Commission. Next a list of Commissioners is proposed by the Council 'by common accord' with the President-elect. The proposed Commissioners are subject as a body to a vote of consent by the European Parliament. And finally, following parliamentary approval, the European Council appoints the Commission by qualified majority.

Only Member State nationals are eligible to be appointed as Commissioners, and the term of office is a renewable five-year period. Commissioners are required to be completely independent, and can neither seek nor take instructions from governments or other bodies.

The decisions of the Commission are taken by a majority vote in the College of Commissioners, which meets each week.²² Each Commissioner has a private office (*cabinet*) to support him or her. In addition to the College of Commissioners and their respective *cabinets*, the work of the Commission is divided amongst 28 Directorates-General (DGs), each of which is headed by a Director-General.²³ Every Commissioner is assigned one or more DG portfolios, as outlined in Table B. The Directors-

²¹ For further information see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:001:0011:0012:EN:PDF>

²² On Wednesdays in Brussels, and Tuesdays in Strasbourg during European Parliament plenary sessions.

²³ For an up-to-date list of Directorates-General see http://ec.europa.eu/about/ds_en.htm

General are responsible to the relevant Commissioners. The Commission has a particularly influential legal service, which is independent of the DGs and reports to the President. The director-general of the legal service attends meetings of the College of Commissioners: the College does not usually adopt a measure without a 'favourable opinion' (*avis favorable*) from the legal service.

The Commission has the following general functions under the Treaties:

- **EU policy-making**

The Commission is the engine of the EU. It has significant powers of legislative initiative: in most policy areas the Council and European Parliament normally legislate on a Commission proposal. Such proposals are often preceded by 'communications' or White and Green Papers, which should be based on widespread open consultation. Each year in spring the Commission publishes an Annual Policy Strategy and in autumn a Legislative and Work Programme which expands on the Annual Policy Strategy and sets out a detailed agenda for the year ahead. In very few cases the Commission has its own power to take binding decisions or to adopt EU legislation on its own initiative.

- **Treaty guardianship**

As important as its policy role is monitoring compliance with the EU Treaties. It brings proceedings in the Court of Justice against Member States for breach of their obligations under the EU Treaties or EU Regulations, Directives or Decisions. Less often it brings proceedings against other EU institutions for breach of the EU Treaties. In some fields, notably competition, the Commission also has power to initiate proceedings against companies and individuals.

- **Policy implementation and delegated powers**

The Commission implements EU policy where this is not done by Member States. To achieve this the Council may delegate legislative and administrative powers to the Commission, and does so frequently. When it does so, the Commission's actions are called 'delegated' or 'implementing' acts under the Treaty of Lisbon, replacing the term 'comitology'.²⁴

- **Management of EU funds**

The Commission executes the EU budget and manages EU financial programmes. The Commission also plays an important role in the inter-institutional exchanges between the two budgetary authorities — the Council and the European Parliament — that are required to settle the EU budget.

- **Representation**

Under the Council's direction the Commission represents the EU in trade negotiations and other agreements with third countries, and in international organisations where appropriate.

Commission Headquarters: 1049 Brussels, Belgium; tel: 00 32 2 299 1111; **direct dialling code #6 21 (+ extension)**.

London Office: 8 Storey's Gate, London SW1P 3AT; tel: 020 7973 1992.

²⁴ See page 22 for further information.

Table B

Commissioners and their portfolios

	Nationality	Portfolios
José Manuel Barroso President	Portuguese	
Baroness Ashton Vice-President	British	High Representative of the Union for Foreign Affairs and Security Policy
Viviane Reding Vice-President	Luxembourger	Justice, Fundamental Rights and Citizenship
Joaquín Almunia Vice-President	Spanish	Competition
Siim Kallas Vice-President	Estonian	Transport
Neelie Kroes Vice-President	Dutch	Digital Agenda
Antonio Tajani Vice-President	Italian	Industry and Entrepreneurship
Maroš Šefčovič Vice-President	Slovakian	Inter-Institutional Relations and Administration
Janez Potočnik	Slovenian	Environment
Olli Rehn	Finnish	Economic and Monetary Affairs
Andris Piebalgs	Latvian	Development
Michel Barnier	French	Internal Market and Services
Androulla Vassiliou	Cypriot	Education, Culture, Multilingualism and Youth
Algirdas Šemeta	Lithuanian	Taxation and Customs Union, Audit and Anti-Fraud
Karel De Gucht	Belgian	Trade
John Dalli	Maltese	Health and Consumer Policy
Máire Geoghegan-Quinn	Ireland	Research, Innovation and Science
Janusz Lewandowski	Polish	Financial Programming and Budget
Maria Damanaki	Greek	Maritime affairs and fisheries
Kristalina Georgieva	Bulgarian	International Cooperation, Humanitarian Aid and Crisis Response
Günther Oettinger	German	Energy
Johannes Hahn	Austrian	Regional Policy
Connie Hedegaard	Danish	Climate Action
Štefan Füle	Czech	Enlargement and European Neighbourhood Policy
László Andor	Hungarian	Employment, Social Affairs and Inclusion
Cecilia Malmström	Swedish	Home Affairs
Dacian Cioloș	Romanian	Agriculture and Rural Development

The Court of Justice of the European Union

The Court of Justice is the final arbiter on all legal questions submitted to it under the EU Treaties. It consists of 27 judges, one from each Member State, assisted by at least eight advocates-general who provide in most cases a non-binding written opinion to assist the Court.

The Court's general duty is to ensure that in the interpretation and application of the EU Treaties and secondary EU law (Regulations, Directives and Decisions) the principles of EU law are observed. Its jurisdiction has two main strands: the first relating to actions initiated directly before the Court, either alleging a breach of a Treaty obligation by a Member State or challenging the legality of an act of the EU institution ('direct actions'); the second involving references from the courts of Member States for preliminary rulings on the interpretation of the EU Treaties and on the validity and interpretation of acts of the institutions ('preliminary rulings').

The jurisdiction of the Court expanded with the entry into force of the Treaty of Lisbon to cover police and judicial co-operation in criminal matters, an area which is likely to give rise to considerable litigation and significantly increase the Court's caseload.

Palais de la Cour de Justice, Luxembourg 2925, Luxembourg; tel: 00 352 430 31; **direct dialling code #6 35.**

The General Court (formerly the Court of First Instance)

The Court of First Instance was established in 1989 to relieve the increasing workload of the Court of Justice. It became the General Court after the entry into force of the Treaty of Lisbon. It consists of 27 judges, one from each Member State. There are no separate advocates-general, although any judge may act as such.

In practice, the General Court exercises at first instance the jurisdiction of the Court of Justice in relation to actions for review of the legality of acts of the institutions, or for their failure to act; actions for compensation for non-contractual liability; staff cases; and those cases where jurisdiction is conferred under a contract concluded on behalf of the EU. The General Court is also competent to give preliminary rulings on questions referred from national courts, but only in certain specific areas laid down in its statute. The General Court also has jurisdiction to hear appeals against decisions by the 'specialised courts'²⁵ ('judicial panels' prior to the Treaty of Lisbon), which are competent to hear, at first instance, actions on specific areas of EU law, notably intellectual property.

There is a right of appeal from the General Court's decisions to the Court of Justice on matters of law only.

Palais de la Cour de Justice, Luxembourg 2925, Luxembourg; tel: 00 352 430 31; **direct dialling code #6 35.**

²⁵ The European Union Civil Service Tribunal, established in 2004 is the sole specialised court to have been set up thus far.

The European Parliament

The European Parliament has evolved from the relatively powerless Assembly established in 1951 into the considerably more powerful institution it is today. The Assembly began referring to itself as the Parliament as early as 1962, though its title was formally altered only by the Single European Act of 1986.

Membership

Since 1979 Members of the European Parliament have been elected by direct universal suffrage for a term of five years. The most recent elections took place in June 2009. Electoral procedures vary from one Member State to another but all require elections to be by proportional representation and prohibit dual mandates. All EU nationals have the right to stand for election to the European Parliament, including if they reside in a Member State of which they are not a national.

The total membership of the European Parliament is 736²⁶, of which 72 represent United Kingdom constituencies (59 in England, 6 in Scotland, 4 in Wales and 3 in Northern Ireland). A list of the UK's MEPs and their constituencies elected in 2009 is at Table D. The number of MEPs representing each Member State varies depending on the number of inhabitants, ranging from 99 for Germany to five for Malta.

Political groupings

Members of the European Parliament affiliate themselves with one of the seven official transnational political groupings, or are classified as 'independents'. The present political make-up of the European Parliament is shown in Table C. The President of the Parliament is Jerzy Buzek.

Table C

Seats by party group as at 14th July 2009

European People's Party (EPP)	265
Progressive Alliance of Socialists and Democrats (S&D)	184
Alliance of Democrats and Liberals for Europe (ALDE)	84
Greens/European Free Alliance (Greens-EFA)	55
European Conservatives and Reformists (ECR)	54
Confederal Group of the European United Left/Nordic Green Left (GUE-NGL)	35
Europe of Freedom and Democracy (EFD)	31
Independents (NA)	28
Total	736

The UK's 13 Labour MEPs are members of the S&D, whilst the 25 Conservative MEPs are members of the ECR, as is the Ulster Unionist Party MEP. The 12 Liberal Democrats belong to the ALDE. The 12 UK Independence Party MEPs form part of the EFD group. The two Scottish National Party MEPs, the two Green Party MEPs and the Plaid Cymru MEP are members of the Greens-EFA Group. The Sinn Fein MEP is a member of the GUE-NGL. The two BNP MEPs and the Democratic Unionist Party MEP are not affiliated to any party group.

The political groupings exert an influence on every aspect of the European Parliament's business. The Chairmen of the groups, together with the elected President (and Vice-Presidents) of the

²⁶ This figure may change as a result of the entry into force of the Treaty of Lisbon, but is limited to 750 MEPs (Article 14 TEU).

European Parliament, form the Conference of Presidents, which is responsible, among other things, for organising the Parliament's work and drawing up the draft agenda.

The ratios of political group membership are reflected in the composition of the 20 permanent committees and their sub-committees, which vary greatly in size. These committees scrutinise the main areas of EU activity and draw up reports which are debated in plenary. The committees and their Chairmen are listed in Table E.

Procedures

The European Parliament meets and debates in public. Its formal decisions and resolutions are always adopted in plenary by a majority of the votes cast unless the EU Treaties indicate otherwise.²⁷ It meets both in Brussels and Strasbourg. Plenary sessions take place in Strasbourg for, on average, one week in each month, excluding August, though additional mini-sessions are held in Brussels. Much of the legislative scrutiny is carried out by committees, which meet in Brussels and Strasbourg.

Legislative role

The legislative functions of the European Parliament differ significantly from those of national parliaments, reflecting the fact that, as originally conceived, its role in the legislative process was purely consultative. In the last twenty or so years, however, its legislative functions have been significantly increased mainly through the co-decision process (now called the 'ordinary legislative procedure' under the Treaty of Lisbon), which gives it equal legislative powers with the Council and means both institutions have to agree on a proposal for legislation before it can be adopted.²⁸ The European Parliament now has co-decision powers in nearly all policy fields and, in institutional terms, has benefitted the most from the changes introduced by the Treaty of Lisbon.

In a few policy fields, including the conclusion of certain international agreements, the European Parliament has to give its consent to a proposal for legislation before it can be adopted by the Council. Although the European Parliament has no formal powers to amend a proposal, the Council will have to ensure that there is sufficient parliamentary support for a proposal before adoption.²⁹ Parliamentary consent was recently withheld on an international agreement between the EU and the US on bank data transfers, forcing the agreement to be renegotiated taking greater account of the European Parliament's concerns over data privacy.

In terms of how the European Parliament considers legislation, a proposal is sent to the relevant parliamentary committee, which appoints a *rapporteur* to report on it. Other committees can adopt opinions on the proposal, which are taken into account by the *rapporteur*. The *rapporteur* produces a draft report and resolution, both of which are debated in a plenary session and subject to possible amendment before being adopted.

Other roles

- **Budget**
The European Parliament shares responsibility with the Council for setting the EU's annual budget.
- **Annual general report**
The European Parliament is required to debate in open session the annual general report

²⁷ Article 231 TFEU.

²⁸ See page 20 for further information.

²⁹ See page 20 for further information.

submitted to it by the Commission under the EU Treaties.

- **Approval of Commission**

The President and the members of the Commission are subject to a vote of approval as a body by the Parliament. So far the Parliament has successfully opposed the appointment of two proposed candidates for the office of Commissioner.

- **Oral and written questions to the Commission and Council**

The EU Treaties require the Commission to reply orally or in writing to questions put to it by the Parliament or its Members. Council members attend the Parliament to speak on behalf of the Council, and this practice has been formalised by the Council's rules of procedure.

- **Committees of Inquiry**

The EU Treaties allow the Parliament, at the request of a quarter of its Members, to set up a temporary Committee of Inquiry to investigate alleged contraventions or maladministration in the implementation of EU law. Examples of inquiries set up by the Parliament are the BSE investigation, or the committee on the Equitable Life crisis.

- **Ombudsman**

The Parliament is required to appoint a Parliamentary Ombudsman, who investigates complaints from EU citizens and natural or legal persons resident in the EU concerning maladministration in the activities of EU institutions or bodies (except the Court of Justice and the General Court). The Ombudsman is required to submit an annual report to the Parliament on the outcome of his enquiries. The present Ombudsman is Nikiforos Diamandouros.

- **Motion of censure**

A significant supervisory power of the European Parliament is the motion of censure, which requires the members of the Commission to resign as a body. The motion of censure requires a two-thirds majority of the votes cast, representing a majority of the Members. Although a number of motions of censure have been tabled, none has yet been carried. However, the Santer Commission resigned in 1999 in order to forestall a vote on such a motion, which was expected to be carried.

In Brussels: European Parliament, Rue Wiertz, 1047 Brussels, Belgium; tel: 00 32 2 284 21 11; **direct dialling code #6 24 (+ extension)**.

In Luxembourg: European Parliament, Plateau du Kirchberg, B.P. 1601, 2929 Luxembourg; tel: 00 352 43 001; **direct dialling code #6 22 (+ extension)**.

In Strasbourg: Allée du Printemps, B.P. 1024/F, 67070 Strasbourg Cedex, France; tel: 00 33 3 88 174001; **direct dialling code #6 23 (+ extension)**.

European Parliament UK office, 2 Queen Anne's Gate, London SW1H 9AA; tel: 020 7227 4300.

The European Ombudsman, 1 Av du Président Robert Schuman, BP403, 67001 Strasbourg Cedex, France; tel: 00 33 3 88 172313.

Table D

UK Members of the European Parliament

Regions	Conservative	Labour	Liberal Democrat	UKIP	Other
East Midlands	Roger Helmer Emma McClarkin	Glenis Willmott	Bill Newton Dunn	Derek Clark	
Eastern	Robert Sturdy Geoffrey Van Orden Vicky Ford	Richard Howitt	Andrew Duff	David Campbell Bannerman Stuart Agnew	
London	Syed Kamall Charles Tannock Marina Yannakoudakis	Claude Moraes Mary Honeyball	Sarah Ludford	Gerard Batten	Jean Lambert (Green)
North East	Martin Callanan	Stephen Hughes	Fiona Hall		
North West	Robert Atkins Sajjad Karim Jacqueline Foster	Arlene McCarthy Brian Simpson	Chris Davies	Paul Nuttall	Nick Griffin (BNP)
South East	Daniel Hannan James Elles Nirj Deva Richard Ashworth	Peter Skinner	Sharon Bowles Catherine Bearder	Nigel Farage Marta Andreassen	Caroline Lucas (Green)
South West	Giles Chichester Julie Girling Ashley Fox		Graham Watson	Trevor Colman The Earl of Dartmouth	
West Midlands	Philip Bradbourn Malcolm Harbour	Michael Cashman	Liz Lynne	Mike Nattrass	Nicole Sinclair
Yorkshire and the Humber	Timothy Kirkhope	Linda McAvan	Diana Wallis Edward McMillan- Scott	Godfrey Bloom	Andrew Brons (BNP)
Wales	Kay Swinburne	Derek Vaughan		John Bufton	Jill Evans (PC)
Scotland	Struan Stevenson	David Martin Catherine Stihler	George Lyon		Ian Hudghton (SNP) Alyn Smith (SNP)
Northern Ireland					Jim Nicholson (UUP) Diane Dodds (DUP) Bairbre de Brún (Sinn Féin)
Totals	24	13	12	12	11

Table E

European Parliament Committees

Committee	Chair
Foreign Affairs	Gabriele Albertini (EPP)
Budgets	Alain Lamassoure (EPP)
Budgetary Control	Luigi de Magistris (ALDE)
Economic and Monetary Affairs	Sharon Bowles (ALDE)
Employment and Social Affairs	Pervenche Berès (S&D)
Environment, Public Health and Food Safety	Jo Leinen (S&D)
Industry, Research and Energy	Herbert Reul (EPP)
Internal Market and Consumer Protection	Malcolm Harbour (ECR)
Transport and Tourism	Brian Simpson (S&D)
Regional Development	Danuta Hübner (EPP)
Agriculture and Rural Development	Paolo De Castro (S&D)
Fisheries	Carmen Fraga Estévez (S&D)
Culture and Education	Doris Pack (EPP)
Legal Affairs	Klaus-Heiner Lehne (EPP)
Civil Liberties, Justice and Home Affairs	Juan Fernando López Aguilar (S&D)
Constitutional Affairs	Carlo Casini (EPP)
Women's Rights and Gender Equality	Eva-Britt Svensson (GUE/NGL)
Petitions	Erminia Mazzoni (EPP)
Development	Eva Joly (Greens/EFA)
International Trade	Vital Moreira (S&D)
<i>Temporary Committees</i>	
Special Committee on the Financial, Economic and Social Crisis	Wolfgang Klinz (ALDE)

The European Central Bank

The European Central Bank is the central bank for the EU's single currency, the euro. It became an institution of the EU under the Treaty of Lisbon. The European Central Bank's main task is to maintain the euro's purchasing power and thus price stability in the eurozone. The eurozone comprises the 16 European Union countries that have introduced the euro since 1999.

The Court of Auditors

The Court of Auditors consists of 27 members, one from each Member State, appointed by the Council for renewable terms of six years.

The Court of Auditors helps ensure that the EU budget operates efficiently and openly. It is responsible for preparing an annual audit report of the EU budget and, since 1994, for providing a 'declaration of assurance' as to its implementation. The aim of the declaration is to provide the

European Parliament and the Council, as well as EU citizens, with an audit opinion on whether EU money has been properly spent in accordance with EU law and reliably recorded in the annual consolidated accounts of the European Union. To date the Court of Auditors has been unable to make a positive declaration, prompting criticism of the way in which the European Commission and the Member States implement the EU budget, and allegations of widespread fraud. In countering this, there is strong criticism that the threshold applied by the Court of Auditors — “a material level of error of legality and/or regularity” — is impossible to meet and fails to distinguish between irregularity and fraud on the one hand and administrative mistakes on the other. There have been discussions on reforming the declaration but no concrete steps to date.

The Court is also charged with assisting the European Parliament and the Council in their implementation of the budget. It publishes Special Reports on particular expenditure programmes and may also, at any time, submit observations on specific questions and deliver opinions at the request of one of the EU institutions.

Court of Auditors, 12 rue Alcide de Gasperi, Luxembourg 1615, Luxembourg; tel: 00 352 4398 45410.

Other bodies

The Economic and Social Committee

The Economic and Social Committee consists of 344 members — 24 from the United Kingdom — drawn from employers' organisations, trade unions, consumer associations and other interests. It is appointed by the Council on the basis of lists provided by Member States. Once appointed, members are bound to act in a personal capacity and cannot accept outside instruction. The Committee operates in plenary session and through a series of specialised sections.

The Treaties require the Committee to be consulted on proposals by the Commission for legislation in many fields, including the internal market. It may also be consulted in other cases.

The Economic and Social Committee, 99 Rue Belliard, Brussels 1040, Belgium; tel: 00 32 2 546 9011.

Committee of the Regions

The Committee of the Regions was set up by the TEU to provide a forum in which representatives of regional and local government could be consulted on EC policies such as those on education, culture, public health and trans-European networks. It has a membership of 344 — 24 from the United Kingdom. The members of the Committee, together with an equal number of alternates, are appointed for four years by the Council on proposals from Member States.

Committee of the Regions, 101 Rue Belliard, Brussels 1040, Belgium; tel: 00 32 2 282 22 11.

European Union Legislation and Procedure

EU legislation

The Treaty on the Functioning of the European Union (TFEU) provides for three forms of binding legislation³⁰ – Regulation, Directive and Decision – and defines their legal effect.³¹

A **Regulation** is directly applicable in all Member States from the date of its coming into force without any action on the part of Member States. Member States may, however, need to supplement a Regulation by providing enforcement machinery and prescribing sanctions for breach of its requirements.

A **Directive** is binding on each Member State as to the result to be achieved, but it leaves to national authorities the choice of form and method. Member States are required under the terms of each Directive to make the necessary changes in their laws and administrative arrangements to comply with the requirements of the Directive by the date specified in it.

A **Decision** is binding on those to whom it is addressed. Decisions may be addressed to Member States, but are often addressed to particular undertakings or individuals as, for example, in the case of decisions taken by the Commission under the EU's competition rules. The Council also acts by decision when exercising its powers on procedural and institutional matters.

Regulations, Directives and Decisions must state the reasons on which they are based and must refer to any opinions submitted by other institutions or bodies.³² The Court of Justice has held that the statement of reasons must be sufficiently clear to explain the justification for the legislation to those it addresses, as well as to enable the Court to exercise its powers of judicial review.

Regulations and Directives addressed to Member States must be published in the Official Journal of the EU; they appear in the Official Journal (OJ) 'L' series, together with all other legislative instruments of general importance.

EU legislative procedures

A preliminary paragraph in the text of all EU legislation will set out the relevant Treaty Article on which it is based and from which the EU derives its power to act. This is called the 'legal base'. The legal base will also lay down the legislative procedure to be followed in the Council and the European Parliament.

Under the Treaty of Lisbon, there are two new categories of legislative procedure: the **ordinary legislative procedure** and a **special legislative procedure**; legislation adopted by these procedures is formally referred to as **a legislative act**.³³ Legislation not adopted by either of these procedures is referred to as 'a non-legislative act'.

In nearly all cases the Commission has the exclusive right of initiative to propose draft legislative

³⁰ The Treaty of Lisbon uses the term 'legal acts' for legislation; for ease, 'legislation' is used in this guide.

³¹ Article 288 TFEU.

³² Article 296(2) TFEU.

³³ See Article 289(3) TFEU.

acts and starts the procedure by presenting a draft of the proposed measure to the Council and European Parliament.³⁴ The Economic and Social Committee, Committee of the Regions and European Central Bank must be consulted on proposals within their remit.

Ordinary Legislative Procedure

The ordinary legislative procedure is a new term for the co-decision procedure. The Treaties of Amsterdam, Nice and Lisbon all increased the number of areas where legislation could be adopted by co-decision, to the extent that it can be considered the default procedure (hence being now called the '*ordinary* legislative procedure'). Under this procedure the Council commonly acts by qualified majority, but unanimity remains the rule in respect of sensitive areas like Treaty amendment and taxation.

In sum, the ordinary legislative procedure requires the Council and the European Parliament to agree on a proposal for legislation before it can come into effect. The majority of proposals are agreed after the first reading in the European Parliament. If, on the second reading, the European Parliament proposes amendments to the common position adopted by the Council which the Council does not accept, a Conciliation Committee, on which both institutions are represented, is convened to agree a joint text. A joint text agreed by the Conciliation Committee has to be approved by both institutions and, if one fails to do so, the proposed legislation falls. If the Committee cannot agree on a joint text the proposed legislation also falls.

Special Legislative Procedures

In any case where the legal base indicates that the Council is to adopt legislation on the basis of a 'special legislative procedure', it will mean that the Council does not act as an equal co-legislator with the European Parliament but after having either 'consulted' it or sought its 'consent'. The Council usually acts by unanimity and there are two types of special legislative procedure.

Consultation procedure

Under this procedure the Council adopts legislation based on a proposal by the Commission after consulting the European Parliament. Although required to consult the European Parliament on legislative proposals, the Council is not bound by its position. This procedure applies, for example, to measures concerning social security or social protection of EU citizens; electoral rights of EU citizens; identity documents to facilitate the free movement of EU citizens within the EU; cross-border family law; and operational co-operation between national enforcement agencies. Additionally, consultation is still used for legislation concerning internal market exemptions and competition law. The consultation procedure is also used in relation to the EU's advisory bodies such as the Committee of the Regions and the Economic and Social Committee, which are consulted on a range of areas affecting their area of expertise.

Consent procedure

In the consent procedure (formerly the assent procedure), the Council adopts legislation based on a proposal by the European Commission only after obtaining the consent of the European Parliament, which is given by a majority of its members. Thus the European Parliament has, in effect, a right of veto; but there is no mechanism for the European Parliament to propose amendments, so the

³⁴ There are a few exceptions. No Commission proposal is required to enable the Council to lay down European Parliament election procedure, to adopt its own rules of procedure, or to lay down rules governing the collection of information by the Commission. A quarter of Member States or more can propose legislation in the field of judicial cooperation in criminal matters and police cooperation. The European Central Bank shares the right of initiative with the Commission in relation to proposals to amend the statute of the European System of Central Banks, and provisions relating to the Court of First Instance and amendments to the Statute of the Court of Justice are made by the Council at the request of the Court of Justice.

decision not to consent is a drastic one that will inevitably lead to the proposed legislation falling.³⁵ The consent procedure applies, for example, to Council measures on anti-discrimination, on the conclusion of certain international agreements, and in respect of the Council's power to adopt measures to achieve a Treaty objective for which no specific power has been provided.³⁶

Passage of legislation through the Council

Following the formal submission of draft legislation to the Council by the Commission in all 23 languages of the EU, the draft goes via the Council and COREPER to one of the Council working groups, where experts from Member State governments consider it. Most of the detailed negotiation on proposals is carried out at this level, though important and controversial issues are left to COREPER and/or ministers in the Council to decide.

The Commission may alter its proposal at any time before the Council has acted on it.³⁷ In practice, the Commission frequently submits an amended proposal when the European Parliament, in its first reading opinion on the Commission's original proposal, has suggested amendments. The Commission may also submit an amended proposal to facilitate agreement in the Council, or to take account of developments since the original proposal was submitted. In addition, successive drafts of a proposal are often worked out in the course of working group discussions at official level under the authority of the Presidency. These are often referred to as 'Presidency texts'. The text of a measure when finally adopted thus frequently differs, sometimes considerably, from the text originally proposed by the Commission.

CFSP procedures

CFSP procedures are different from all other areas of EU activity: the CFSP remains essentially inter-governmental in character; CFSP measures are 'non-legislative',³⁸ and almost always adopted on the basis of unanimity; the Commission is far less influential and has no exclusive right of initiative, although the Council may require the Commission to submit proposals; provisions exist for the Parliament to be kept informed, but it has no right of veto over CFSP policies. The common instrument of the CFSP is a Council Decision.

Voting in the Council

The Treaty on European Union (TEU) states that 'the Council shall act by qualified majority except where the Treaties provide otherwise'.³⁹ On procedural matters the Council generally acts by simple majority, but, on matters of substance, the Treaties provide for unanimity or more commonly qualified majority voting.

Where the Council is required to act by qualified majority the votes allocated to each Member State are as follows (until 31 October 2014):

³⁵ As happened with the SWIFT Agreement in early 2010 (see page 13).

³⁶ Article 352 TFEU.

³⁷ Article 293 TFEU.

³⁸ Article 24 TEU.

³⁹ Art. 16(3) TEU.

Germany, France, Italy, the United Kingdom	29
Spain, Poland	27
Romania	14
Netherlands	13
Belgium, Czech Republic, Greece, Hungary, Portugal	12
Austria, Bulgaria, Sweden	10
Denmark, Ireland, Lithuania, Slovakia, Finland	7
Cyprus, Estonia, Latvia, Luxembourg, Slovenia	4
Malta	3
Total	345

A qualified majority is reached:

- if a majority of member states (in some cases a two-thirds majority) approves; **and**
- if a minimum of 255 votes is cast in favour of the proposal, out of a total of 345 votes.

In addition, a Member State may ask for confirmation that the votes in favour represent at least 62% of the total population of the EU. If this is found not to be the case, the decision will not be adopted.

The voting rules are set to change to a double majority voting system in November 2014; the new rules are set out in the Lisbon Treaty.⁴⁰

Enhanced role of national parliaments

The EU Treaties include a 'Protocol on the Role of national Parliaments in the European Union'⁴¹ which imposes an eight-week⁴² interval between the tabling of any draft legislative act (i.e. one being adopted by the ordinary or a special legislative procedure) and placing it on a Council agenda for decision. This is intended to give national parliaments adequate time to examine the proposal and the position their government intends to adopt on it. The eight-week period can, however, be circumvented in urgent cases.

In addition, a 'Protocol on the Application of the Principles of Subsidiarity and Proportionality'⁴³ was added by the Treaty of Lisbon. This allows national parliaments to submit a 'reasoned opinion' within the same eight-week period to the institution proposing the draft legislative act outlining why the proposal does not comply with the principle of subsidiarity. If a third or more of EU national parliaments submit reasoned opinions (the threshold drops to a quarter for legislation in the field of cooperation in criminal matters) the originating institution, usually the Commission, is bound to review its proposal with a view to maintaining, amending or withdrawing it⁴⁴. If more than a half submit reasoned opinions and the originating institution decides to maintain the proposal, it in turn must submit a reason opinion in support of this decision to the Council and European Parliament, each of which can strike down the proposal if in agreement with national parliaments.

Under the same Protocol, national parliaments can now apply to the Court of Justice (through their

⁴⁰ Article 238 TFEU.

⁴¹ Protocol 1.

⁴² The Treaty of Lisbon increased this period from six to eight weeks.

⁴³ Protocol 2.

⁴⁴ The full details of the thresholds and their consequences are set out in Article 7 of the Protocol.

Member States) for judicial review of EU legislation on the grounds of infringement of the principle of subsidiarity.⁴⁵

Further powers given to national parliaments under the Treaty of Lisbon include: representation in any future 'convention' on changes to the EU Treaties;⁴⁶ a veto right over the exercise of *paserelle* ('bridge') clauses which either change voting in the Council from unanimity to a qualified majority or the ordinary legislative procedure to a special legislative procedure;⁴⁷ and evaluation of the activities of Eurojust and Europol.⁴⁸

Commission delegated and implementing powers

The TFEU provides that a legislative act, typically a Regulation or a Directive, may contain a power for the Commission to adopt 'delegated' or 'implementing' legislation.⁴⁹ These are described in the Treaty of Lisbon as non-legislative acts (although they are legally binding), and are used mainly for implementing technical rules. Prior to the Treaty of Lisbon, this procedure was called 'comitology'. The Commission's powers are now subject to a right of revocation and of opposition by both the Council and the European Parliament⁵⁰. The relation between EU legislative and non-legislative acts in this context broadly resembles that between primary and secondary legislation in the UK.

Implementation of EU law in the United Kingdom

The European Communities Act 1972⁵¹ implements the EU Treaties. The Treaties are defined in section 1, while section 2 provides for the rights and obligations arising from the Treaties to be given legal effect in the United Kingdom.

Under section 2(1), any right or obligation under those parts of EU law which are directly applicable is to be recognised, available in law and enforceable as an 'enforceable EU right'.

Section 2(2) of the 1972 Act makes provision for subordinate legislation to implement EU obligations which are not directly applicable, such as obligations arising under a Directive, and to make supplementary provision to secure the effective operation and enforcement of those which are directly applicable. Subordinate legislation under section 2(2) may make any provision that might be made by Act of Parliament,⁵² except that there is no power to impose or increase taxes, to legislate retrospectively or to confer new powers to make subordinate legislation.⁵³

It is a fundamental characteristic of the EU legal system that EU law has primacy over the laws of the Member States⁵⁴ and provision is made in section 2(4) of the 1972 Act for any enactment passed or to be passed to be construed and have effect subject to directly applicable EU law.⁵⁵

⁴⁵ Article 8 of Protocol 2.

⁴⁶ Article 48(3) TEU.

⁴⁷ Article 48(7) TEU and section 6 of the European Union (Amendment) Act 2008, which lists the *paserelle* provisions of the EU Treaties for which approval by both Houses of Parliament is needed.

⁴⁸ Article 85 and 88 TFEU.

⁴⁹ Article 290 and 291 TFEU.

⁵⁰ The EU will adopt Regulations setting out the detailed procedure for Commission delegated and implementing legislation.
⁵¹ c. 68.

⁵² *ibid.*, section 2(4).

⁵³ *ibid.*, schedule 2, paragraph 1, which also limits the power to create new criminal offences.

⁵⁴ See the Opinion of the European Court of Justice on the Agreement establishing the European Economic Area. (Opinion 1/91 *EEA Agreement* [1991] ECR I-6079).

⁵⁵ As to the effect of this provision in respect of Acts passed after the European Communities Act, see Official Report, 13 June 1972, cols 1320-22, and *Macarthy's Limited v Smith* [1981] 1 ALL E.R. 111 per Lord Denning., *Garland v British Rail* ([1983] 2 A.C. 751) per Lord Diplock and *R v Secretary of State for Transport ex parte Factortame* (No. 2) (Case C-213/89, [1991] A.C. 603) per Lord Bridge.

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