

The European Economic Community Treaty: Structure and Function

The European Economic Community Treaty determine the institutions of the European Community (EC) and their basic functions. These institutions have broad legislative, judicial, and administrative powers, which enable them to render direct and binding orders to member states and to their nationals. This extensive delegation of duties in the treaty is founded on the belief that the future economic development of the EC would introduce changed circumstances that could not be anticipated in the treaty, and also that the creation of a strong central organization would lay the groundwork for future political unity. The powers of these EC institutions—the European Parliament, the Council, and the Commission—are allocated to maintain balanced distribution of powers in the European Community.

The Parliament

Composition of the Parliament

The Parliament consists of representatives of the nationals of the countries of the European Community. The function of the Parliament is to exercise the advisory and supervisory powers conferred upon it by the European Economic Community Treaty. The European Parliament officially came into existence in March of 1958. Its members are appointed by and from among the members of the national parliaments of the member states. The number of delegates from each country is as follows.

France	81
Germany	81
Italy	81
United Kingdom	81
Spain	60
The Netherlands	25
Belgium	24
Greece	24
Portugal	24
Denmark	16
Ireland	15
Luxembourg	6

Parliament members sit by party rather than by nation. Political groups act according to political perspective rather than on a national basis. As of January 1, 1986, groups constituting the Parliament were, in order of size, Socialists, European People's Party, European Democratic Group, Communists and Allies, Liberal, Democratic and Reformist Group, European Renewal and Democratic Alliance, Rainbow Group, and European Right.

The members of the European Parliament are thus representatives of their peoples, rather than representatives of their governments. They may not receive instructions from the national parliaments, political parties, or interest groups, and they are expected to act in the interest of the EC as a whole.

Functions of the Parliament

The European Parliament functions in an advisory and supervisory capacity.

The Parliament's advisory power is a means of involving the peoples of the EC in the drafting of EC legal measures, and allows the Parliament to play a part in the legislative process of the community. The treaty provides for consultation of the Parliament by the Council as an essential formality before the Council makes a final decision as to certain treaty matters. Disregard of this formality renders the measure void. Simply presenting a proposal accompanied by a request for an opinion of the Parliament is not sufficient; if the opinion is never actually rendered by the Parliament, the measure is void.

The treaty provides for the Parliament's supervisory functions through which it can force the Commission to resign by a motion of censure. The Parliament and its members may question the Council and the Commission to obtain the information necessary to make such a decision.

Parliament has also sought a greater voice in the negotiation and conclusions of international agreements to which the EC is to be party, and of treaties on the accession of new member states. To that end, a cooperation agreement called the Single European Act (SEA) was adopted. This agreement provides that the Council's common position, reached by a qualified majority, must be communicated to the Parliament accompanied by an explanation of the Council's reasons for taking that position. The Parliament must make a decision on the Council's position in 3 months; its failure to do so allows the Council to pass the measure. Should the Parliament propose amendments or reject the Council's position by a majority of its membership, the Council can overrule the Parliament's amendments or reject them only by a unanimous vote.

All members of the Commission and Council may attend sessions of Parliament. Those speaking in the name of the Commission or the Council must be heard at these sessions.

The Council

The European Council strengthens the decisionmaking capacity of the EC since many of the Council's decisions can be adopted by majority, rather than unanimous, vote.

Composition of the Council

Representatives of member states make up the Council of the European Communities. The members of the Council represent the member states according to instructions of the individual State. The members also are a part of an EC institution and can take decisions that may bear variance with the instructions of their governments. Such variance does not in any way affect the validity of a Council decision. As the council acts as a federal institution, its decisions are valid notwithstanding any deviation from instructions.

Representatives of the member states are required to be members of the government of the member state they represent. Member states may decide which member of the government it wishes to appoint, and different members of the government may be delegated, depending on the matter before the Council.

Functions of the Council

The role of the Council is to ensure the coordination of the economic policies of the member states. Under the treaty, the Council has the power to take decision, or adopt legislation proposed by the Commission. The treaty also requires the Council to confer on the Commission certain powers for the implementation of the rules the Council has adopted, and gives the Council the power to exercise implementing power itself in certain circumstances.

Coordination of Economic Policies—It is the particular task of the Council to coordinate the “general economic policies” of the member states. Thus, general economic policy in principle remains within the competence of the individual member states except to the extent that the treaty confers powers upon the EC. Coordination is to be achieved through consultations in the Council and through the recommendations made by it. The Council's powers to enforce the coordination of the economic policies reach no further than this, except insofar as it has expressly been given such powers by specific treaty provisions.

Power To Take Decisions—*The* power to take decisions or adopt legislation encompasses all acts that are to be undertaken under the provisions of the treaty—for example, on the budget of the EC, on the bringing of suit, or on the appointment of officials. The power to take decisions is limited in that most decisions require a prior proposal of the Commission and often the consultation of the Parliament or of the Economic and Social Committee.

Implementation of Council Acts—*The* Commission has the power to implement rules the Council has made. This power may be curtailed by certain requirements relating to the manner in which it is exercised. The Council may also reserve the right to directly exercise implementing powers itself. These procedures must be in accordance with rules and principles the Council will specify.

The Commission

Functions of the Commission

The Commission consists of 17 independent members. Its primary function is to see that the EEC treaty provisions are executed. The Commission also monitors the application of legislation promulgated by the institutions for purposes of implementing the treaty.

The Commission supervises the orderly functioning and development of the Common Market. This includes the removal of barriers between economies of Member States, the smooth conduct of economic life within the area in which a single market is to be established, and increasing economic activity and the standard of living. Member States have a duty to facilitate the achievement of the Commission's tasks, i.e., to ensure that the provisions of the treaty and the implementing measures adopted by the institutions are applied. Member States have a duty to consult the Commission and they must keep the Commission informed of measures they have taken in fulfillment of their obligations to implement EC rules.

The Commission may formulate recommendations or opinions on all matters covered by the treaty. This includes all matters that are dealt with in the treaty or subjects having a direct connection with treaty rules. While in some cases the treaty expressly provides for issuance of recommendations or opinions, the Commission is not limited to the provisions of the treaty and may issue recommendations or opinions any time it considers necessary. Recommendations and opinions may be addressed to anyone, and are not binding.

Finally, the Commission exercises powers conferred by the Council for the implementation of the treaty. This cooperation between the two EC institutions consists primarily of the Commission's right to make proposals for almost all important measures adopted by the Council. These powers of implementation are exercised within the framework of general rules made by the Council, and the limits of the power are to be inferred from the particular wording of the provision in question.

The Cooperation Procedure

The Council and Commission

The Commission has the right to initiate action on most issues under the provisions of the treaty. The Commission exercises that right to a large extent by making proposals to the Council. Article 149 restricts the power of the Council to amend the proposal of the Commission. Under that article, any amendment of a proposal of the Commission must be approved by unanimous vote, even though the adoption of the proposal itself may require a different majority. The effect of this provision strengthens the position of the Commission and makes the amendment of its proposals less likely. If a single member state objects to an amendment, and if the Commission fails to make changes desired by a majority of the Council, the Council can then either accept or reject the proposal as made by the Commission. If, on the other hand, the Council adopts an amendment by unanimous vote, the acceptance or rejection of the amended proposal must still be voted on, and the outcome of that vote depends upon whether the amended proposal is approved by the majority required under the applicable provision of the treaty. The Council must at all times observe the other rules of the treaty.

The European Parliament

When the Council has received a proposal from the Commission and obtained the Opinion of the European Parliament it may adopt a "common position." This "common position" must be communicated to the European Parliament, along with the reasons that led to its adoption as well as the Commission's position on the

draft. The act may be definitively adopted if within 3 months (subject to a 1-month extension) the Parliament approves the measure or has not acted on it. The Parliament may, alternatively, within this 3-month period propose amendments to the Council's common position, or it may reject the position. If the Parliament rejects the Council's common position, unanimity is required for the Council to act on a second reading.

The proposal on which the Council has taken a common position must be reexamined by the Commission within 1 month, and the Commission must take into account the amendments proposed by the European Parliament. Any parliamentary amendments which the Commission has chosen not to accept must be forwarded to the Council, together with the Commission's opinion on them. The Council may adopt these amendments, notwithstanding the Commission's rejection, but its vote must be unanimous. The Council must adopt any proposal that has been reexamined by the Commission; if the Council wishes to make any amendments, it can do so only by unanimous vote. If the Council does not take any action within 3 months, the Commission's proposal is deemed not to have been adopted. If the Council and the Parliament agree, this 3-month period may be extended for a maximum of 1 month.

Paragraph three of article 149 gives some flexibility to Commission proposals by authorizing the Commission to amend its original proposal as long as it has not been acted upon by the Council.

SOURCE: Common Market Reports.