European Union Politics

SESSION 2:

INSTITUTIONS, ACTORS AND THE EU POLICY-MAKING PROCESS IN THE LISBON TREATY FRAMEWORK

The Lisbon Treaty 2007/9: institutional, legislative and political framework

▶ "**Reformed**" Constitutional treaty of the early 2000

▶ Created **new "institutions"** – HR for Union Foreign Affairs and Security Policy (Commission VP) and permanent President of the European Council

▶ Abolished Maastricht "pillars" and **reshuffled policy areas** according to **EU/MS competences**

▶ Amended/simplified the **QMV** (Qualified Majority Voting) legislative procedure now called the **ordinary legislative procedure**

▶ Clarified principles of integration: **conferral, subsidiarity, proportionality** and **legislative supremacy**

▶ Included the **Charter of Fundamental Rights** - now legally binding

Lisbon treaty: "reshuffled" policy competences

Exclusive EU competence

- Customs union
- Competition rules in the internal market
- Monetary policy (Eurozone)
- Conservation of marine biological resources under common fisheries policy
- Common commercial policy (international trade on behalf of the MS)

Shared competences between EU and MS

- Internal market
- Social policy, for the aspects defined in this Treaty
- Economic, social and territorial cohesion
- Agriculture and fisheries, excluding the conservation of marine biological resources
- Environment
- Consumer protection
- Transport and trans-European networks
- Energy
- Area of freedom, security and justice
- Common safety concerns in public health matters, for the aspects defined in this Treaty

Supporting, coordinating EU competences

- Research
- Technology
- Space
- Development cooperation
- Humanitarian aid

- Economic
- Social
- Employment

- Protection and improvement of human health
- Industry
- Culture
- Tourism
- Education, vocational training, youth and sport
- Civil protection
- Administrative cooperation

Supranational

Intergovernmental

Where did Foreign Policy and Defence "competence" go?

Lisbon treaty = not one but **2 "reformed" treaties**

- **Rome treaty --> *Treaty on Functioning of the European Union***
  - Contains the division of competences (previous slide)
  - Provisions on legislative acts and procedures, policies, finances, external action (non-FP)
- **Maastricht treaty --> *Treaty on European Union***
  - European values and democratic principles
  - Institutional framework
  - **Title V: EU foreign policy, EEAS, defence cooperation**

Pre-Lisbon Pillar Structure

Post-Lisbon Structure

The Lisbon Treaty

Treaty on European Union

PJC Pillar Three

More Intergovernmental

CFSP Pillar Two

More Surpanational

TEC Pillar One

Treaty on European Union CFSP

More Intergovernmental

Treaty on Functioning of the European Union

Police and Justice Cooperation

More Surpanational

European Communities

The **European Commission**

▶ 27 members: including the Commission President **Ursula von der Leyen** and HR for Union Foreign Affairs and Security Policy **Josep Borrell**

▶ Represents the **"Union" interest =** a *supranational* institution

▶ **Proposes** new EU-wide legislation and **oversees** its implementation in MS

▶ **Represents the EU** externally in **trade negotiations (WTO)**

▶ **Commissioners** are nominated by states, but are

accountable to the **European Parliament** (2/3 majority)

The **European Commission**
internal structure

▶ **College of Commissioners** leads *Directorates-general* (akin to ministries at the national level), agencies and services

▶ *Right of legislative initiative*:

- Draws input from MS, experts, industries, unions, lobbyists!

- To succeed, the EC must find balance between European

  inter-institutional, national, regional, social-economic and private interests !

2019-2024 goals: Green deal, digital Europe, "economy that works for people," protect European values, promote democracy, stronger role in a multipolar world

High Representative of the Union for Foreign Affairs and Security Policy

Josep Borrell's "double act":

▶ Commission Vice President and

▶ Chair of the Foreign Affairs Council meetings (Council of the EU)

… a "**bridge**" between European Commission (EU) and the Council of the EU (states)

… task to coordinate *internal* and *external* aspects of Commission policies

Manages the *European Foreign and Security Policy* and *Common Security and Defence Policy*

Heads the **European External Action Service** (EU diplomatic corps.)

Heads the **European Defence Agency**

PESCO Permanent Structured Cooperation of MS in foreign affairs and defence

Council of the European Union
aka "the Council" or Council of Ministers

NOT A SINGLE BODY!!!

▶ Represents the **Member states'** interest – inter*governmental* institution

▶ **Legislative body at EU level**   ...together with the European Parliament (citizens)

Ordinary legislative process; see slide 22

(akin to the "Senate" in the US; except 1 MS = 1 minister representative)

• **Executive** functions at home as member states **ministers**

▶ Different Council "<u>configurations</u>" according to policy areas

▶ **<u>Rotating presidency</u>** – (every 6 months) to prepare agenda, chair Council/ministers' meetings, coordinate national positions

Council of the European Union
internal structure

Council Configurations ([video](#)):

▶ **General Affairs Council (GAC)** -> ensures consistency throughout different configurations; communicates with other institutions; prepares and does the follow-up on the **European Council** meetings

▶ **Foreign Affairs Council (FAC)** -> chaired by the HR (Borrell); CFSP and CSDP, trade and development cooperation, sanctions etc.

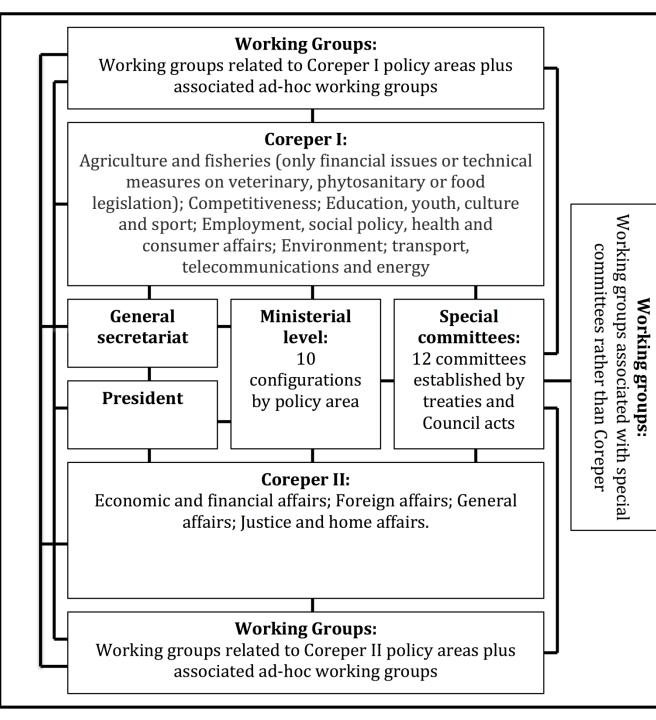Example: FAC meeting February, 21st 2022

OTHER CONFIGURATIONS:

Economic and Financial Affairs (ECOFIN), Agriculture and Fisheries (AGRIFISH), Justice and Home Affairs (JHA), Competitiveness (COCOM), Employment, Social Policy, Health and Consumer Affairs (EPSCO), Environment (ENVI), Education, Youth, Culture and Sport (EYC), Transport, Telecommunications and Energy (TTE)

Council of the European Union and "embassies" of the Member States in EU

▶ Ministers in the Council are supported by **Permanent** national **Representations** in Brussels --> **national "diplomatic missions" to the EU**

▶ ***Co**mité des **re**présentants **per**manents --> **COREPER I + II***

▶ COREPERs meet <u>weekly</u> to prepare and discuss "items" on agenda, pre-negotiate national positions for minister-level Council meetings

- A items which are pre-negotiated - formal ministerial approval

- **B items** typically need ministerial decision in the Council

UK Mission to the European Union

Name change after Brexit: Representation to Mission

Working Groups:
Working groups related to Coreper I policy areas plus associated ad-hoc working groups

Coreper I:
Agriculture and fisheries (only financial issues or technical measures on veterinary, phytosanitary or food legislation); Competitiveness; Education, youth, culture and sport; Employment, social policy, health and consumer affairs; Environment; transport, telecommunications and energy

General secretariat

President

Ministerial level: 10 configurations by policy area

Special committees: 12 committees established by treaties and Council acts

Working groups: Working groups associated with special committees rather than Coreper

Coreper II:
Economic and financial affairs; Foreign affairs; General affairs; Justice and home affairs.

Working Groups:
Working groups related to Coreper II policy areas plus associated ad-hoc working groups

▶ COREPERs are assisted by policy area **Working Groups**

▶ A good place to lobby the states for a particular outcome!

▶ Consult with special **committees** - *Committee of the Regions* (local administration); *European Economic and Social Committee* (employers, workers), *Political and Security Committee*

Council of the European Union
LEGISLATIVE ROLE

→ **Ordinary legislative procedure/Qualified majority** on proposals coming from the Commission or High Representative

▶ **55%** of member states (15 out of 27) **+ 65%** of population **to pass**

• Blocking minority: at least 4 MS representing at least 35% population

▶ Formally applies to about **80% of legislation** (typically economic laws)

Voting calculator: [here]

→ **Unanimity** on sensitive matters:

▶ Foreign, security and defence policy, own resources (EU budget), new members, taxation, social security, some provisions of in justice and home affairs, EU citizen's rights

→ **Simple** majority vote used for procedural issues

Table 1: Voting power of EU Member States In the Council of the EU with and without the United Kingdom as EU Member State (Banzhaf Indices, calculated by the author).

Member State	with the UK (2019)	without the UK (2019)	Δ ↓
Germany	10,293	12,055	1,762
France	8,430	9,982	1,552
Spain	6,194	7,611	1,417
Poland	5,062	6,459	1,397
Italy	7,754	9,058	1,304
Romania	3,721	3,984	0,263
Netherlands	3,481	3,714	0,233
Belgium	2,902	3,035	0,133
Greece	2,836	2,957	0,121
Czechia	2,824	2,941	0,117
Portugal	2,791	2,903	0,112
Sweden	2,775	2,883	0,108
Hungary	2,741	2,843	0,102
Austria	2,645	2,729	0,084
Bulgaria	2,469	2,517	0,048
Denmark	2,342	2,365	0,023
Finland	2,315	2,333	0,018
Slovakia	2,308	2,324	0,016
Ireland	2,247	2,251	0,004
Croatia	2,174	2,164	-0,010
Lithuania	2,044	2,008	-0,036
Slovenia	1,969	1,918	-0,051
Latvia	1,956	1,902	-0,054
Estonia	1,894	1,827	-0,067
Cyprus	1,848	1,772	-0,076
Luxembourg	1,821	1,740	-0,081
Malta	1,809	1,725	-0,084
United Kingdom	8,356	0,000	-8,356

Council voting weights after Brexit
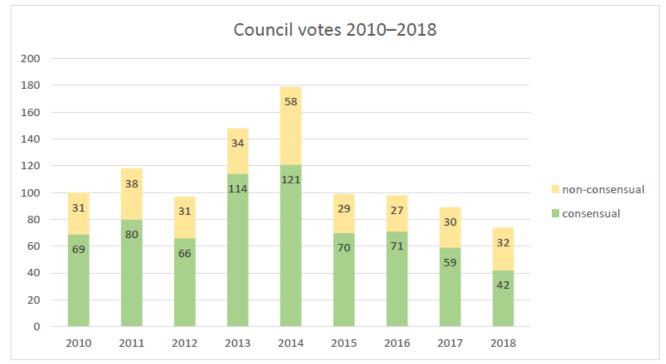
Consensual decisions despite QMV!!!

Figure 6: Consensual and non-consensual adoption of proposals in the Council 2010- (Nov) 2018; the numbers are absolute numbers of decisions, non-consensual comprising both votes against and abstentions, based on data on Council website[16].
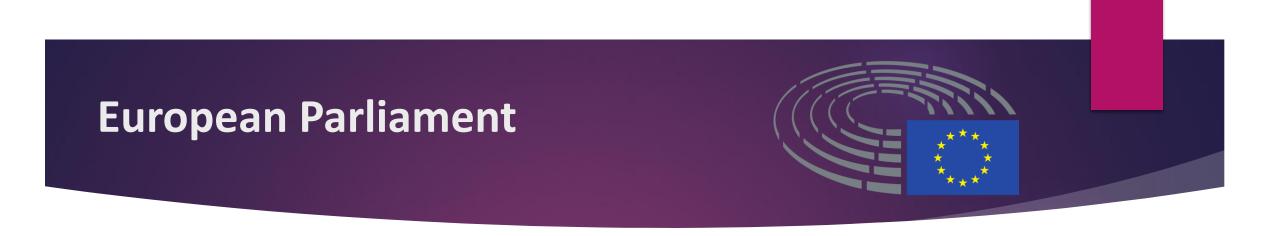
European Council   ...the EU "summit"

▶ Created informally in the 1970s to **provide leadership** to the Communities

▶ Composed of **Heads of State and Government** + HR for Union Foreign Affairs and Security = an intergovernmental body

▶ **Permanent** president **Charles Michel**

- chairs meetings to maintain **continuity** (instead of rotating Council presidency)

- Cooperates with other EU institutions and the public

- Facilitates consensus and coordination among members
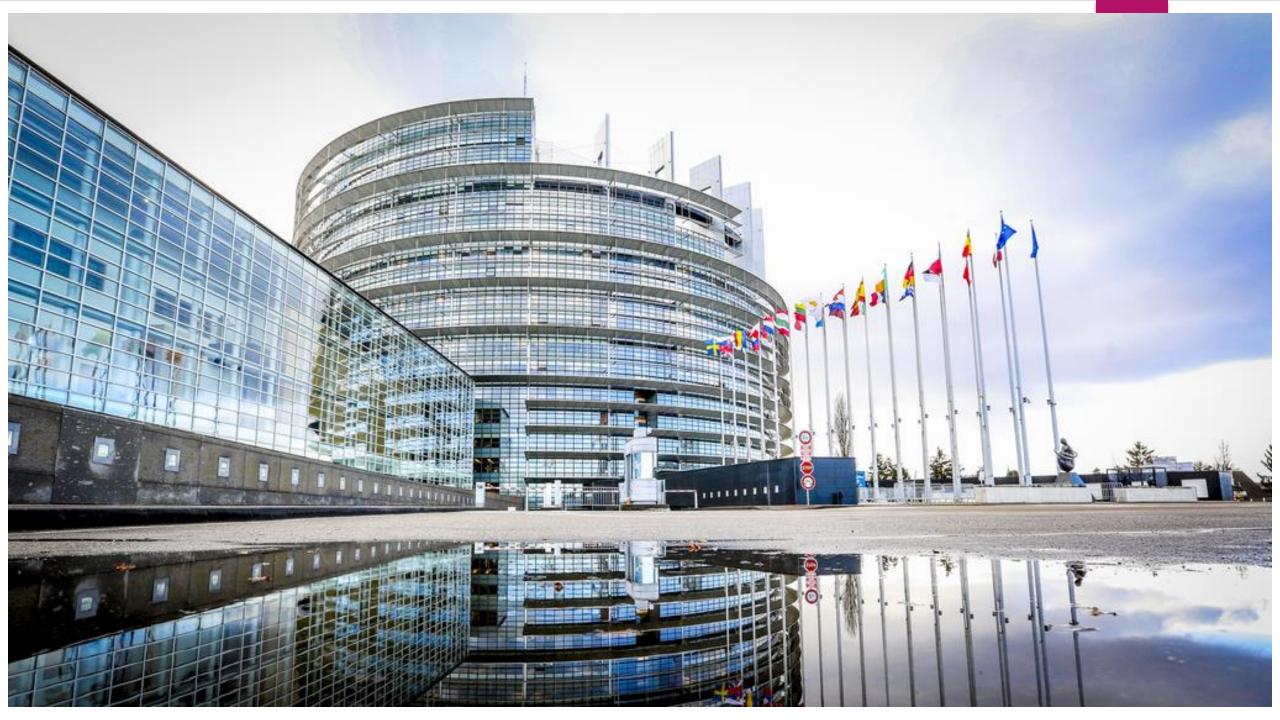
LAST SUMMIT: February 1, 2024

European Parliament

▶ 705 members

▶ Directly elected since 1979 **represents the EU citizens –** supranational institution

(akin to a House of Representatives)

▶ Together with the **Council of EU**, it is EU's second **legislative body**

• legislating either in the **ordinary legislative procedure (co-decision)** mode or

• special legislative procedure: consultation (opinion), consent, assent

▶ **Approves/dismisses** the European Commission as a whole (requires 2/3 majority)

European Parliament

▶ <u>Strasbourg</u> seating arrangements

European Parliament

▶ EP president **Roberta Metsola**

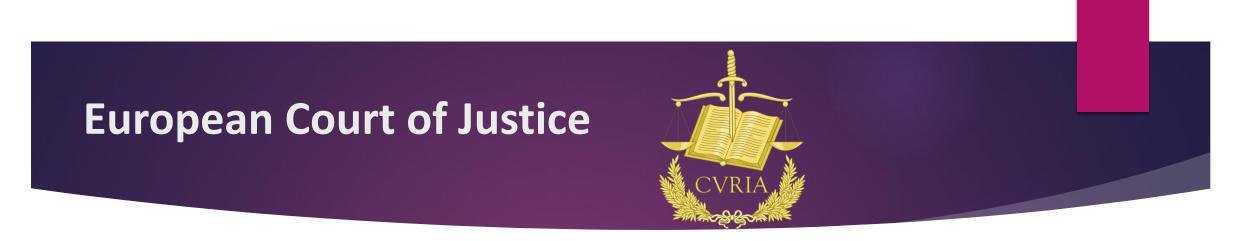▶ **7** main trans-national **political groups**

▶ **+/- 20 committees** (preparing EP opinions on legislation)

(a good place to lobby too)

Walking on "egg shells"

▶ EP needs to be constructive with its amendments in a delicate balance-of-power with the Council and the European Commission

▶ Find consensus among the big 3-4 political groups ~ simple majority

▶ MEPs at times find themselves torn between EP party allegiance and domestic political pressures

European Court of Justice

▶ Highest **legal authority in European Union law** (legal supremacy)

• **Interprets** EU law --> **EU case law** (example: "direct effect" or "mutual recognition")

• Ensures compliance with EU law --> **infringement proceedings** usually raised by the Commission against a MS or a business

• MS exceptionally refer a case to ECJ for a decision

• An arbiter of inter-institutional squabbles

▶ Seat in Luxembourg
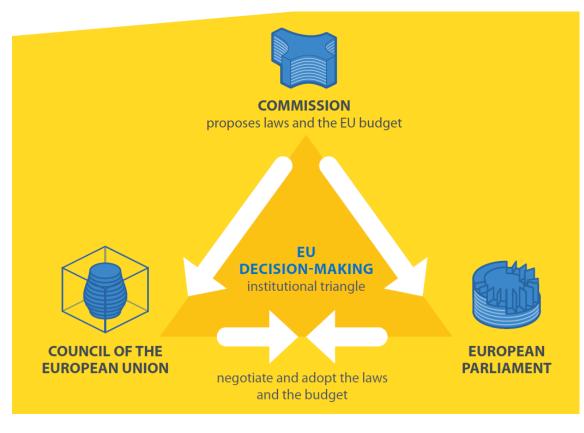
Types of EU Legislative acts

"secondary legislation"

Binding:

▶ **Regulations**: strongest legislation, directly enforceable, generally applicable; overrides domestic legislation

▶ **Directives**: need to be '*transposed*' into national legislation (see art. 3)

▶ **Decisions**: directly binding upon those to whom they are addressed (sanctions)

Non-Binding:

▶ **Opinions:** relevant in intergovernmental policies (accession)

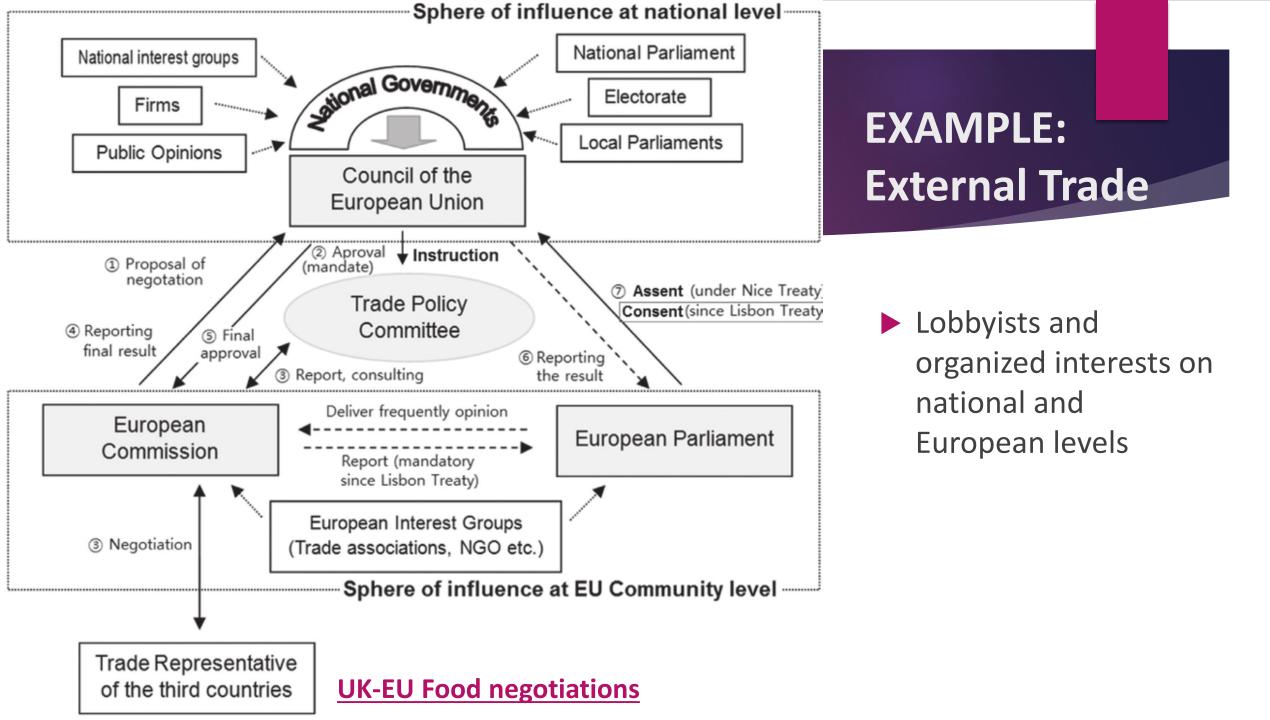▶ **Recommendations:** achieve a goal without mandatory policy framework

Policy-Making in the European Union
in exclusive and shared competence

COMMISSION
proposes laws and the EU budget

EU DECISION-MAKING
institutional triangle

COUNCIL OF THE EUROPEAN UNION

negotiate and adopt the laws and the budget

EUROPEAN PARLIAMENT

SIMPLIFIED:

1. Direction / goal set by **European Council**

2. **European Commission** proposes a legal draft (a regulation or a directive)

3. **European Parliament** (citizens) and **the Council** (states) read/amend, vote, adopt = it becomes European law

4. **Member states** implement

5. **Commission** oversees implementation

6. In case of problem --> **European Court of Justice**

EXAMPLE: External Trade

▶ Lobbyists and organized interests on national and European levels

UK-EU Food negotiations

Policy-Making in the EU

▶ Click link to follow FULL **ordinary legislative procedure** (no point in transcribing it here…)

▶ Plus lobbyists, think-tanks, NGOs, businesses, transnational professional organizations (farmers, carmakers), regions, national interests

▶ Institutions' internal structures (EP committees, Council working groups, Commission directorates)

▶ Member states' "sniping" at principles of *subsidiarity* and *proportionality*

▶ On-going inter-institutional "following"

▶ Continuous inter-institutional cooperation (informal and formal)

▶ Despite strong rhetoric on occasion …dogged pursuit of compromise

Interests

- Interests or information?
- Murky swamp or "business as usual"?
- Complicated network of influences
- Democratic deficit?

LENGTH of legislative process
- Takes 12-36 months
- EP "legislative train"

Transparency

▶ **European Ombudsman**

- Independent body to hold <u>EU institutions accountable</u>

- Deals with maladministration complaints

▶ **European Court of Auditors**

- Transparency in budgetary matters

- Cooperation with MS auditors

▶ **European institutions** themselves are trying to <u>clear up the air</u>

- register lobbyists

- publish <u>Council voting results</u> since 2006

- live EP plenary sessions

- live Council press conclusions

Discussion

▶ Is the EU more complicated than any other national system of government? Or is it just one of a kind?

▶ Is the EU more besieged by lobbyists and/or corrupt than states?

▶ Can you make sensitive deals in full lime-light (transparency)?

▶ What could the EU do to be more "open to the public"? Can it be, if it's "so far up"?