

Introduction to Italian Law

2 – European Union: institutional framework

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Institutional framework – art. 13 TEU

- The Union have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.
- The Union's institutions shall be:
 - the European Parliament,
 - the European Council,
 - the Council,
 - the European Commission (hereinafter referred to as ‘the Commission’),
 - the Court of Justice of the European Union,
 - the European Central Bank,
 - the Court of Auditors

European Parliament

- *Article 14 TUE*
 - 1. The European Parliament shall, jointly with the Council, exercise *legislative* and *budgetary functions*.
 - It shall exercise functions of *political control* and *consultation* as laid down in the Treaties..
 - It *shall elect* the President of the Commission
- >>*Article 19 TUE*
 - The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article 234 of the Treaty on the Functioning of the European Union, the European Parliament may vote on a motion of censure of the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from the duties that he carries out in the Commission.

European Parliament

- *Article 14 TUE*
 - 2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number, plus the President. Representation of citizens shall be digressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats (...)
 - 3. The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.
 - 4. The European Parliament shall elect its President and its officers from among its members.

European Parliament

- Seats by political group and Member State – 2014
 - *<http://www.europarl.europa.eu/elections2014-results/en/seats-group-member-2014.html>*
 - According to art. 14.2 TUE:
 - In total: 751 MEPs shall not exceed the number of 750 MEPs + the President;
 - Representation of citizens shall be digressively proportional, with a minimum of 6 members per Member State (Malta). Non Member State shall be allocated more than 96 seats (Germany).

European Council

- *Article 15*
- 1. The European Council *shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof*. It shall not exercise legislative functions.
- 2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The High Representative of the Union for Foreign Affairs and Security Policy shall take part in its work.
- 3. The European Council shall meet twice every six months, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.
- 4. Except where the Treaties provide otherwise, decisions of the European Council shall be taken by consensus.

President of the European Council

- 5. The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end the President's term of office in accordance with the same procedure.
- 6. The President of the European Council:
 - (a) shall chair it and drive forward its work;
 - (b) shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;
 - (c) shall endeavour to facilitate cohesion and consensus within the European Council;
 - (d) shall present a report to the European Parliament after each of the meetings of the European Council.

President of the European Council

- The President of the European Council shall, at his level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.
- The President of the European Council shall not hold a national office

High Representative of the Union for Foreign Affairs and Security

- *Article 18*
- 1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High Representative of the Union for Foreign Affairs and Security Policy. The European Council may end his term of office by the same procedure.
- 2. The High Representative shall conduct the Union's common foreign and security policy. He shall contribute by his proposals to the development of that policy, which he shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.
- 3. The High Representative shall preside over the Foreign Affairs Council.

- 4. The High Representative shall be one of the Vice-Presidents of the Commission. He shall ensure the consistency of the Union's external action. He shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the High Representative shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3.

Council

- *Article 16*
- 1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Treaties.
- 2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.
- 3. The Council shall act by a qualified majority except where the Treaties provide otherwise.
- 4. As from 1 November 2014, a qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union. A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained. The other arrangements governing the qualified majority are laid down in Article 238(2) of the Treaty on the Functioning of the European Union.

Council

- 5. The transitional provisions relating to the definition of the qualified majority which shall be applicable until 31 October 2014 and those which shall be applicable from 1 November 2014 to 31 March 2017 are laid down in the Protocol on transitional provisions.
- 6. The Council shall meet in different configurations, the list of which shall be adopted in accordance with Article 236 of the Treaty on the Functioning of the European Union.
- The General Affairs Council shall ensure consistency in the work of the different Council configurations. It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.
- The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.
- 7. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.

Council

- 8. The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.
- 9. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established in accordance with Article 236 of the Treaty on the Functioning of the European Union.

COREPER (Article 240 TFEU)

- All the work of the Council is prepared or co-ordinated by the Committee of Permanent Representatives (*COREPER*)
- Its role is to prepare the agenda for the ministerial Council meetings; it may also take some procedural decisions;
- It oversees and coordinates the work of some 250 committees and working parties made up of civil servants from the member States;
- There are in fact two committees:
 - COREPER I consists of deputy heads of mission and deals largely with social and economic issues;
 - COREPER II consists of heads of mission (Ambassador Extraordinary and Plenipotentiary) and deals largely with political, financial and foreign policy issues.
- Weekly meetings are held in private; the agenda of the meeting is divided into
 - a part "I" (**I points**, items scheduled without debate) and
 - a part "II" (**II points**, items scheduled for debate).

European Commission

- Art. 17
- The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.
- 2. Union legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Treaties so provide.
- 3. The Commission's term of office shall be five years. The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.
- In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article 18(2), the members of the Commission shall neither seek nor take instructions from any Government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

European Commission

- 4. The Commission appointed between the date of entry into force of the Treaty of Lisbon and 31 October 2014, shall consist of one national of each Member State, including its President and the High Representative of the Union for Foreign Affairs and Security Policy who shall be one of its Vice-Presidents.
- 5. As from 1 November 2014, the Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.
- The members of the Commission shall be chosen from among the nationals of the Member States on the basis of a system of strictly equal rotation between the Member States, reflecting the demographic and geographical range of all the Member States. This system shall be established unanimously by the European Council in accordance with Article 244 of the Treaty on the Functioning of the European Union.

European Commission

- 6. The President of the Commission shall:
 - (a) lay down guidelines within which the Commission is to work;
 - (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;
 - (c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.
- A member of the Commission shall resign if the President so requests. The High Representative of the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article 18(1), if the President so requests.

European Commission

- 7. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.
- The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in paragraph 3, second subparagraph, and paragraph 5, second subparagraph.
- The President, the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

Court of Justice of European Union

- *Article 19*
- 1. The Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the Treaties the law is observed.
- Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

Court of Justice of European Union - composition

- 2. The Court of Justice shall consist of one judge from each Member State. It shall be assisted by Advocates-General.
- The General Court shall include at least one judge per Member State.
- The Judges and the Advocates-General of the Court of Justice and the Judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles 253 and 254 of the Treaty on the Functioning of the European Union. They shall be appointed by common accord of the governments of the Member States for six years. Retiring Judges and Advocates-General may be reappointed.

Court of Justice of European Union

- 3. The Court of Justice of the European Union shall, in accordance with the Treaties:
 - (a) rule on actions brought by a Member State, an institution or a natural or legal person;
 - (b) give preliminary rulings, at the request of courts or tribunals of the Member States, on the interpretation of Union law or the validity of acts adopted by the institutions;
 - (c) rule in other cases provided for in the Treaties.