

The European Commission's right to propose legislation

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The European Commission's right to propose legislation

The Treaty establishing the European Coal and Steel Community (ECSC) — which expired on 23 July 2002 — conferred the power of decision principally on the Commission. However, in the Treaties establishing the European Community (EC) and the European Atomic Energy Community (EAEC), the Council and the European Parliament share this power, and the Commission participates — through its right to propose legislation — in the shaping of Community acts.

Under Article 211 of the EC Treaty and Article 124 of the EAEC Treaty, the Commission has its own power of decision and participates in the shaping of measures taken by the Council and European Parliament in the manner provided for in the Treaties. It draws up recommendations or delivers opinions in the areas covered by the Treaty, if the Treaty expressly provides for this or if the Commission deems it necessary.

Drafting of proposals

By virtue of its right to propose legislation, the Commission draws up legislative proposals which it presents to the Council and, where the codecision procedure is applicable, to the European Parliament.

In its proposals, the Commission defends Community interests without favouring sectoral or national interests whilst respecting the principle of subsidiarity. When it draws up its proposals, the Commission holds preliminary meetings in order to secure the opinions of government representatives, members of parliament, professional and trade union organisations, specific interest groups, and independent experts.

In principle, the Council may amend a proposal only by acting unanimously. The Commission may amend its proposal at any time during the procedure for the adoption of a Community act, as long as the Council has not already acted (Article 250 of the EC Treaty).

Under the cooperation procedure (Article 252 of the EC Treaty), the Commission re-examines its proposal after the Council has adopted a common position, by taking into account the amendments proposed by the European Parliament. The Commission submits its re-examined proposal to the Council, together with the amendments that it has not accepted, and it expresses its opinion on them. The Council may amend this proposal only if it acts unanimously.

The Council may ask the Commission to undertake any studies that the Council considers desirable and to submit to it any appropriate proposals (Article 208 of the EC Treaty and Article 122 of the EAEC Treaty). The European Parliament may also, acting by a majority of its Members, ask the Commission to submit to it any appropriate proposals (Articles 192 of the EC Treaty and Article 107a of the EAEC Treaty).

The Commission's right to propose legislation was extended by the 1997 Treaty of Amsterdam, which introduced new provisions into the EC Treaty. It also introduced the *Communitisation* of certain areas that were previously subject to intergovernmental cooperation (justice and home affairs), where the Commission would have the sole right to propose legislation after a five-year transitional period following the entry into force of the Treaty. During that period, the right would be shared with the Member States (Article 67 of the EC Treaty).

Power of decision

Under the EC Treaty, in addition to drawing up proposals, the Commission has its own power of decision in the area of competition law in order to ensure application of the principles set out in Articles 81 and 82 (Article 85), to ensure application of the Treaty to public undertakings and undertakings with special or exclusive rights (Article 86), or to examine State aid schemes (Article 88).

Under the ECSC Treaty, which expired on 23 July 2002, the Commission's independent power of decision was even more marked. Thus, for example, the autonomy of the ECSC operational budget accounted for a separate procedure whereby the Commission was empowered to procure the funds it required by imposing

levies on production and by contracting loans (Article 49).