

Powers of the Council of the European Union

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The Treaties establishing the original three Communities did not confer the same powers on the Council. Profound differences exist between the Treaty establishing the European Coal and Steel Community (ECSC) — which expired on 23 July 2002 — and the Treaties establishing the European Economic Community (EEC) and the European Atomic Energy Community (EAEC or Euratom).

In the 1951 ECSC, the High Authority enjoyed maximum institutional power, and the Special Council of Ministers played only a secondary role, its main purpose being to harmonise the actions of the High Authority and those of the governments responsible for general economic policy in the Member States.

The 1957 Rome Treaties overturned the balance of power in the ECSC, and the Council became the centre of gravity of the institutional system, enjoying the bulk of the decision-making power. The approximation of Article 8 of the ECSC Treaty and the first paragraph of Article 145 of the EEC Treaty, which established the respective powers and responsibilities of the High Authority and of the Council, was significant. In general terms, the role of both institutions was similar: to ensure the attainment of the aims set out by the Treaty and in the conditions laid down by that Treaty.

The powers entrusted to the Councils of each of the Communities were assumed by the single Council established by the 1965 Merger Treaty. Nevertheless, institutional unity was not followed up by a substantive merging of the Treaties, and the powers of the Council continued to be different for each Community.

Article 202 of the Treaty establishing the European Community (formerly Article 145 of the EEC Treaty) has not undergone any changes since the Single European Act came into force in 1987. This Article establishes the main powers of the Council as follows: it ensures coordination of the general economic policies of the Member States, has power to take decisions and confers on the Commission, in the acts which the Council adopts, powers for the implementation of the rules which the Council lays down.

In addition to these general powers, which the Council exercises on the basis of individual provisions of the Treaty conferring on it specific powers, Articles 208 to 210 of the EC Treaty confer on it other secondary powers: it may ask the Commission to undertake studies and submit proposals to it, it may determine the rules governing the committees provided for in the EC Treaty, and it determines the salaries and allowance of members of the various bodies.

The Council also has the task of appointing the members of the Court of Auditors, the Economic and Social Committee and the Committee of the Regions. To this end, following the changes made by the 2001 Treaty of Nice, the Council acts by a qualified majority of its members and no longer unanimously. Prior consultation of the European Parliament is required only for the appointment of members of the Court of Auditors (Articles 247, 258 and 263 of the Treaty establishing the European Community and Articles 160b and 166 of the Treaty establishing the European Atomic Energy Community). Since the 2001 Treaty of Nice, the Council, meeting in the composition of Heads of State or Government and acting by a qualified majority, nominates the person whom it intends to appoint as President of the Commission.

In connection with the two areas of intergovernmental cooperation established by the 1992 Treaty on European Union — the common foreign and security policy and cooperation in the fields of justice and home affairs — the Council is the main body responsible for coordinating and taking decisions (Titles V and VI of the EU Treaty).