

Powers of the European Commission

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Powers before 1967

Within the European Coal and Steel Community (ECSC), the High Authority enjoyed general responsibilities. It was the only ECSC institution to do so; all the other institutions had clearly defined responsibilities.

The High Authority was responsible for ensuring that the objectives set out in the Treaty were attained (Article 8 of the ECSC Treaty). It was responsible for the setting up and the proper functioning of the common market in coal and steel. It also had to oversee, in general terms, the proper functioning of the Community with due regard to the Treaty.

The establishment of the common market

The High Authority was responsible for ensuring that ECSC objectives were attained, in other words, that a common market was established and that it functioned smoothly on the basis of a number of general principles, such as respect for free competition.

The common market in coal, iron ore and scrap metal was created on 10 February 1953 and became operative on 1 May the same year.

The responsibilities of the High Authority may be described as follows:

- The High Authority was an expert. It provided information and help to those active in the coal and steel sector.
- The High Authority was a banker. It provided undertakings with financial resources for investment and contributed to costs relating to company restructuring and workforce retraining. The High Authority also encouraged research.
- The High Authority was an arbitrator. It ensured that normal conditions of competition were established, upheld and respected. In particular, it could intervene over the price of coal and steel, determine production quotas, enforce provisions relating to the prohibition of agreements between concentrations of undertakings, and prevent interference with conditions of competition. It could also impose fines or penalties.

To this end, the High Authority was entitled to carry out the necessary studies and secure the information required to attain its aims. The High Authority could also impose fines when companies refused to provide information.

If it were to perform its duties effectively, the High Authority needed financial resources. As a result, it was authorised to procure the funds it required to carry out its tasks. It was empowered to impose levies on the production of coal and steel and to contract loans.

Guardian of the Treaty

The High Authority was invested with a specific responsibility: it was the Guardian of the Treaty. It had to oversee, in general terms, the application of the provisions of the ECSC Treaty. If the High Authority found or suspected a breach of these provisions, it was required to take a number of initiatives.

It could request a Member State to fulfil the obligations deriving from the Treaty if it noticed a breach of the

Treaty. If the Member State did not fulfil its obligation within the time-limit laid down, or if the Court dismissed its action, the High Authority, with the assent of the Council, could suspend the payment of any sums which it may have been liable to pay and take measures by way of derogation concerning the common market in coal and steel (Article 88 of the ECSC Treaty).

General instruments

The High Authority had at its disposal three legal instruments which enabled it to carry out its tasks: the decision, the recommendation and the opinion.

- Decisions were binding in their entirety.
- Recommendations were binding as to the aims to be pursued, but the choice of the means to achieve these aims was left to those to whom the recommendations were addressed.
- Opinions had no binding force.

Although the High Authority was empowered to take a decision, it might simply make a recommendation. All three legal instruments had to state the reason on which they were based. Decisions and recommendations became binding by the mere fact of publication, or by notification of the party concerned where they were individual in character (Articles 14 and 15 of the ECSC Treaty).

In 1957, the Treaties of Rome established the European Economic Community (EEC) and the European Atomic Energy Community (EAEC or Euratom).

The powers and responsibilities of the EEC Commission and the Euratom Commission differed from those of the ECSC High Authority. The latter held a central position in the decision-making process that did not exist in the Treaties of Rome, where the power of decision lay principally with the Council, and the Commission had, above all, the power to propose legislation. The pre-eminence of the High Authority in relation to the Special Council of Ministers was substantially changed in the EEC and Euratom Treaties.

The Treaties of Rome contain no specific clause setting out the powers of the Commission: the Treaties have to be read in their entirety if the scope of its task is to be understood.

The Commission fulfilled four principal functions:

- it was the Guardian of the Treaties;
- it had the right to propose legislation;
- it was the executive body of the Communities;
- it negotiated on behalf of and represented the Communities in their external relations.

These functions would be taken over by the Single Commission which took up office in 1967 after the entry into force of the Merger Treaty.

Powers and responsibilities after 1967

The Merger Treaty of 8 April 1965, which entered into force on 1 July 1967, established the Commission of the European Communities. This Commission exercises the powers and responsibilities conferred on the ECSC High Authority, the EEC Commission and the Euratom Commission (Article 9 of the Merger Treaty).

The merging of the institutions was not followed by a merging of powers, which continue to be governed separately by the various basic Treaties.

The progress of European integration has altered the scope of the Commission's powers. Its central position within the institutional framework of the Community has been strengthened, and it has acquired new responsibilities. The 1986 Single European Act conferred upon the Commission a vital role in the development of the internal market and also strengthened its role in the sphere of political cooperation. The 1992 Treaty on European Union extended its role above Community level, providing for its involvement in an intergovernmental capacity in the second and third pillars of the Union.