

The Council of the European Union and the European Council

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The Council of the European Union and the European Council

The **Council of the European Union** (commonly known as the ‘Council of Ministers’ and designated as such in the Constitutional Treaty signed in Rome in 2004) and the **European Council** are the two institutions of the European Union representing the Member States. The legitimacy of both institutions derives from the fact that their members are drawn directly from government bodies which are democratically elected by the people. The fundamental role that they play in the workings of the European Union is proof of the overwhelming importance of the Member States in its institutional architecture.

The Member States are, indeed, the basis of the Union and, as ‘masters of the Treaties’, they exercise a power of scrutiny over major developments affecting it. Accordingly, they take decisions on treaty reform at intergovernmental conferences (IGCs). They also take a role in the general shaping of Union policies within the **European Council**, and they act as co-legislators with the European Parliament as the **Council of the European Union** (hereinafter ‘the Council’).

The Council and the European Council are both institutions of the European Union, but only the **Council** is a Community institution. Created by the Treaties establishing the European Communities, the Council became an institution common to the three Communities in 1967, when the Merger Treaty (establishing a single Council and a single Commission) came into force. It shares legislative and budgetary powers with the European Parliament and can thus adopt legally binding Community acts.

The Council consists of one representative for each Member State, who is of ministerial rank and empowered to act for that Member State’s government in a manner which is binding upon it. Depending on the agenda for discussion, it meets in various configurations and is attended by the Ministers responsible for a given portfolio (for example, finance or agriculture). Meeting as the ‘General Affairs’ Council, it is attended by the various Foreign Ministers and has a general remit to coordinate the Union’s policies. In this configuration, the Council is responsible for handling any issues forwarded to it by the European Council, and it prepares and follows up all the meetings of the European Council. In exceptional cases, the Council meets at Head of State or Government level. At this level, it decides which Member States meet the criteria for adoption of the single currency, and it nominates its candidate for the office of President of the Commission.

The **European Council** is not an institution provided for in the Treaties establishing the European Communities. It was created in the wake of the summits held by the Heads of State or Government of the Member States. It is first referred to in a treaty in the 1986 Single European Act, as a body bringing together the Heads of State or Government and the President of the Commission. By mere virtue of its composition, the European Council is already very different from the Council. The Single Act’s provision on the European Council forms part of the provisions common to the European Communities and European political cooperation (the ‘seed’ of the future common foreign and security policy (CFSP) established by the Treaty on European Union (TEU) in 1992). With the TEU, the European Council became an institution of the European Union responsible for giving the Union the impetus required for its development. The European Council cannot adopt Community acts. It lays down general lines of Union policy which the decision-making triangle of Commission, Parliament and Council must then translate into specific policy by means of legislation.