

## Guardian of the Treaties

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## Guardian of the Treaties

The Commission oversees the application of the provisions of the Treaties and the measures taken by the institutions pursuant thereto (Article 211 of the EC Treaty and Article 124 of the Euratom Treaty). In this area, it has powers of investigation, prevention, sanction and authorisation.

### – Power of investigation

Within the context of its monitoring role, the Commission may secure any information and carry out any checks required for the performance of its duties. Thanks to its resources, the Commission may obtain information on the situation in and conduct of Member States and companies. These powers of investigation are particularly important in the field of competition law (Articles 81 et seq. of the EC Treaty).

### – Power of prevention

The Commission acts to prevent infringements of the Treaty in various ways: informal meetings to encourage compliance with Community law, opinions or recommendations or even binding acts such as directives or decisions.

### – Power of sanction

The Commission also has the power to impose sanctions (fines or penalties) principally on Member States and companies breaching the rules on competition.

### – Power of authorisation

The Commission is also the institution responsible for authorising a temporary suspension of the application of the Treaty by the Member States through safeguard clauses. The basic Treaties include provisions allowing protective measures to be adopted, both in the field of economic and monetary policy (Articles 119 and 120 of the EC Treaty) and in the area of the common commercial policy (Article 134 of the EC Treaty).

This monitoring task applies in particular in the event of a Member State's failure to meet Community obligations.

The basic Treaties (Articles 226 of the EC Treaty and 141 of the Euratom Treaty; see also Article 88 of the ECSC Treaty) confer powers upon the Commission to institute proceedings before the Court of Justice if it considers that a Member State has failed to fulfil an obligation under the Treaty.

If the Commission notes such failure, the State concerned must submit its observations. The Commission then delivers a reasoned opinion, with which the State must comply within the time-limit laid down by the Commission. If the State in question does not comply, the Commission may bring the matter before the Court of Justice.

The ECSC Treaty (until its expiry on 23 July 2002) provided for a more complex procedure whereby the Commission itself was empowered to record the failure in a reasoned decision, against which the Member State concerned had unlimited jurisdiction before the Court.

The main aim of this infringement procedure is to encourage a Member State to return to a situation that complies with Community law. In practice, the initiation of proceedings is generally preceded by negotiations between the Commission and the Member State, which then lead to a gradual regularisation of infringements without the intervention of the Court.