

## The EEC institutions

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The Treaty establishing the European Economic Community (EEC), signed on 25 March 1957 in Rome by representatives of the six member countries of the European Coal and Steel Community (ECSC), reflects the institutional debate that had gone on for much of its preparation between those for and against supranationality. As soon as the Committee of Heads of Delegations of the Intergovernmental Conference on the Common Market and Euratom started work in June 1956, Paul-Henri Spaak, the Belgian Minister for Foreign Affairs and head of the Conference, sought to reach a fundamental agreement on the role of the future institutions before their powers were even decided. It was the decision-making arrangements contained in the Spaak report for dealing with practical issues that served as a basis for discussion. The Netherlands and German delegations were very quick to advocate a Community that was as federal as possible, by giving the Commission greater influence over the Council's decisions. The French delegation, on the other hand, stressed the need to agree on the rules for intergovernmental cooperation. The only option, therefore, was to have a hybrid institutional system closely combining intergovernmental and supranational elements. In the end, the Six agreed on a system which gave the Community both direct legislative power and the possibility of indirectly influencing the legal systems of the Member States.

The basic scheme of the EEC Treaty shared a number of similarities with the Treaty establishing the ECSC, and a number of experts from the ECSC High Authority are also known to have been closely involved in preparing the EEC Treaty. The EEC Treaty was founded on the traditional distinction between the three powers, with, *mutatis mutandis*, a legislative power, an executive power and a judiciary. These were the Assembly, the Council and Commission and the Court of Justice, respectively. Their terms of reference were limited, but they had real powers.

The Assembly was made up of representatives whom the six Member States of the Community appointed in their respective parliaments according to their own procedures. There were 36 for the Federal Republic of Germany (FRG), France and Italy, 14 for Belgium and the Netherlands, and 6 for Luxembourg. The Assembly had deliberative and supervisory powers. It discussed the annual general report which the Commission submitted to it. It could censure the Commission by a majority of two-thirds of the votes cast and a simple majority of members; the Commission was then forced to resign as a body. The Assembly could also deliberate on draft budgets submitted to it by the Council and propose amendments to them. It also issued opinions on some regulations when these were submitted to it by the Commission or the Council.

The Council, which was made up of government representatives, administered the Member States' common economic policy and had decision-making power in most cases. It decided either unanimously, by a qualified majority or by a simple majority. However, in most cases where a simple or qualified majority was required, a decision could be taken only on a proposal from the Commission, which in turn could be amended only by a unanimous decision of the Council. In the case of a qualified majority, the following weightings applied: FRG, France and Italy 4 votes each; Belgium and the Netherlands 2 votes; Luxembourg 1 vote. When the decisions concerned were not on proposals from the Commission, the agreement of at least four countries was also required.

The Commission was a body of nine members with collective responsibility, appointed by the governments for a period of four years and selected for their ability and independence. A collegiate body in which decisions were taken by a simple majority, it presented proposals which the Council could amend only by a unanimous vote. It ensured that the provisions of the Treaty and the measures taken by the institutions pursuant to the Treaty were applied. It formulated recommendations or delivered opinions on matters dealt with in the Treaty if the Treaty expressly provided for this or if the Commission considered it necessary. The Commission had its own decision-making power and participated in shaping measures taken by the Council and the Common Assembly. Finally, it exercised the powers conferred on it by the Council for the implementation of the rules which the Council laid down.

The Court of Justice consisted of seven judges, although their number could be increased by a unanimous decision of the Council. It was assisted by advocates general, who were also appointed for six years by their governments. The Court ensured that the law was observed in the interpretation and application of the

Treaty. It assessed the legality of acts of the Council and the Commission other than recommendations or opinions, when actions were brought on grounds of lack of competence, misuse of powers, or infringement of the essential procedural requirements of the Treaty or of any rule of law relating to its application.

Like the ECSC Treaty, the EEC Treaty provided for an advisory body. This was the Economic and Social Committee (ESC), which was made up of representatives of the various categories of economic and social activity: producers, farmers, workers, dealers, craftsmen and professional occupations. They were appointed for four years by a unanimous decision of the Council. The ESC comprised 22 Germans, 12 Belgians, 24 French, 24 Italians, 5 Luxembourgers and 12 representatives of the Netherlands. It had to be consulted by the Council or the Commission where the Treaty provided for this, and could be consulted in all other cases. It was set up following a proposal from the delegations from the Benelux countries, where such committees wielded considerable influence in the economic decision-making process.