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## Working Paper 3

### The Power Structure of the European Union

# **Project Schuman2030**

## **Working Paper 3**

### **The Power Structure**

### **in the European Union**

**Status:** Work In Progress

**Abstract:**

This Working Paper gives us a baseline for further analysis in subsequent Working Papers of the European Union from a democracy point of view. The EU is considered as an evolving project that goes to continuous e-iterations and refinements to reach the goals of Robert Schuman. This Working Papers covers how power is distributed over the different European and national institutions.

**Note:**

This is Work In progress. As feedback is collected, arguments raised and more data is discovered, we expect the project to evolve. And in the end, it will be up to national and EU parliaments to implement a concrete framework for 2030.

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This material is prepared with the help of Monica, Gemini, and Euria AI assistants.

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## 2 Power Distribution in the European Union: Theory and Practice

The EU operates through a unique multi-institutional system that doesn't fit traditional models of government. Power is distributed across multiple bodies with overlapping, complementary, and sometimes competing competences. The system is often described as "institutional balance" rather than traditional separation of powers.

Subsequent treaties have gradually shifted the power away from the member states to the E.U. level. In any political system is it crucial to know who holds the power in theory and in practice to verify the "**checks and balances**" that keep a society democratic. In this section we analyse how the power is distributed. The question is twofold: "**who has power**", but "**who really has power**", and that distinction is everything. What does it change for democracy and what are the long-term effects, in particular on the future of the European Union?

Below is a clear, structured, side-by-side analysis of power distribution in the EU, comparing the official legal status (what the treaties say) with the reality on the ground (how power is actually exercised). This is not theory, it's political anatomy.

### 2.1 European Commission

#### 2.1.1 Theoretical Powers:

**Legislative Initiative:** The Commission holds a **near-monopoly on legislative initiative**; as the Commission must propose almost all EU laws. This is unique compared to most parliamentary systems where legislators can propose laws.

**Executive Functions:**

- Implements EU law and budget
- Manages EU programs and funds
- Enforces EU law (can take member states to court)
- Negotiates international agreements on behalf of the EU
- Acts as "Guardian of the Treaties"

**Composition:** 27 Commissioners (one per member state), led by the Commission President. Appointed for 5-year terms.

#### 2.1.2 Practice:

**Legislative Initiative Limitations:**

While the Commission has formal monopoly, in practice:

- The European Council often instructs the Commission to propose legislation in specific areas
- The European Parliament can request the Commission to submit proposals (though the Commission can refuse)
- Member states in the Council can also pressure the Commission
- The Commission increasingly acts as a "secretariat" for political decisions made elsewhere
- It holds initiative monopoly and uses it to expand EU power even in areas where subsidiarity applies.

**Political Weakness:**

Despite its formal powers, the Commission is often politically weaker than the Council or European Council because:

- It lacks democratic legitimacy (not directly elected)
- It depends on member states for implementation
- It can be dismissed by the Parliament
- It must navigate between competing national interests

**Executive Power Fragmented:** The Commission shares executive power with:

- Member states (who implement most EU law)
- EU agencies (who handle specialized tasks)
- The European Council (which sets strategic direction)

## 2.2 Commission President

### 2.2.1 Theoretical Powers:

#### Leadership Role:

- Sets the Commission's political agenda
- Allocates portfolios among Commissioners
- Can reshuffle or dismiss individual Commissioners
- Represents the Commission in inter-institutional relations
- Increasingly seen as the EU's "political leader"

#### Selection:

Nominated by the European Council (by qualified majority) and elected by the European Parliament (absolute majority required). Since 2014, the **Spitzenkandidat** system links the position to European Parliament elections.

### 2.2.2 Practice:

**Variable Influence:** The President's actual power depends heavily on personality and political circumstances:

- **Strong Presidents** (e.g., Jacques Delors, José Manuel Barroso, Ursula von der Leyen) have shaped EU policy significantly
- **Weaker Presidents** have been overshadowed by the European Council President or powerful national leaders

#### Constrained by College:

Must maintain support of the Commission "college" (all 27 Commissioners), limiting unilateral action.

#### Competing Leadership:

Shares political leadership with the European Council President, creating potential confusion about who "leads" the EU.

### 2.2.3 How does the "Spitzenkandidat" system work

The **Spitzenkandidat** system is a process used in the European Union (EU) for the selection of the President of the European Commission.

#### Definition:

The term "Spitzenkandidat" translates to "lead candidate" in English. It refers to the candidates nominated by the European political parties to lead their campaigns for the presidency of the European Commission during the European Parliament elections.

#### Process:

- **Nomination:** Each of the major European political groups (such as the European People's Party, Progressive Alliance of Socialists and Democrats,

and others) selects a Spitzenkandidat prior to the European Parliament elections, typically through internal party processes.

- **Elections:** Voters in the EU elect Members of the European Parliament (MEPs). The political group that wins the most seats in the Parliament has the opportunity to propose its Spitzenkandidat for the presidency of the European Commission.
- **Appointment:** The European Council (composed of the heads of state or government of the EU member states) proposes a candidate for the presidency, taking into account the results of the European Parliament elections and the Spitzenkandidaten. The European Parliament must then approve this candidate.

**Goal:**

- The system aims to **enhance democratic legitimacy** by linking the election of the President of the European Commission to the outcome of the European Parliament elections. It encourages voters to consider the candidates for Commission President when casting their votes for MEPs.

**Pros:**

- **Increased Democratic Legitimacy:** The system connects the choice of the Commission President to the electorate's preferences, making the process more transparent and accountable.
- **Political Clarity:** Voters can identify and support candidates who represent specific political platforms and policies, fostering a clearer political debate.

**Cons:**

- **Limited Choices:** The system can lead to a situation where only candidates from the major political groups are considered, potentially sidelining smaller parties and independent candidates.
- **Political Tensions:** The process may create tensions between the European Parliament and the European Council, especially if the Council does not endorse the Spitzenkandidat proposed by the Parliament.
- The **election of Ursula von der Leyen** and her nomination for a second term illustrates that the Spitzenkandidat process can be influenced by political negotiations and compromises among EU leaders, rather than strictly adhering to the electoral outcomes. This raises questions about the effectiveness of the system in ensuring that the elected representatives truly reflect the will of the voters.

## 2.3 European Parliament

### 2.3.1 Theoretical Powers:

**Legislative Powers:**

- **Co-legislator** with the Council under the ordinary legislative procedure (covers ~85% of EU legislation)
- Can amend or reject legislation proposed by the Commission
- Must approve the EU budget (with the Council)
- **Cannot initiate legislation** directly (unique among major parliaments)

**Control Powers:**

- Elects the Commission President
- Approves the entire Commission (can dismiss it via censure motion)

- Questions Commissioners and Council representatives
- Establishes committees of inquiry
- Approves international agreements

**Composition:**

705 MEPs directly elected every 5 years, organized by political groups (not national delegations).

**2.3.2 Practice:**

**Growing Power:**

The Parliament has steadily increased its influence:

- Ordinary legislative procedure expanded from ~15% of legislation (1990s) to ~85% today
- Successfully asserted the Spitzenkandidat system in 2014 (though weakened in 2019)
- Increasingly willing to reject Commission proposals and international agreements (e.g., ACTA, SWIFT agreement)

**Democratic Deficit Persists:**

Despite being the only directly elected EU body:

- Low voter turnout (50.66% in 2019, varies widely by country)
- Citizens often vote on national rather than European issues
- Limited visibility and public awareness
- No right of legislative initiative undermines parliamentary character
- It has legislative power, but rarely uses it to challenge the Commission.
- It often rubber stamps the Commissions' proposals along political party lines.

**Coalition Politics:**

Requires cross-party coalitions (typically EPP + S&D + liberals) to pass legislation, leading to consensus-seeking and compromise.

**Interinstitutional Negotiations:**

Much legislative work happens in informal "trilogues" between Parliament, Council, and Commission representatives, reducing transparency.

## 2.4 European Council

**2.4.1 Theoretical Powers:**

**Strategic Direction:**

- Defines the EU's general political directions and priorities
- Does not adopt legislation (except in specific treaty-provided cases)
- Decides on treaty changes and EU enlargement
- Appoints key positions (Commission President, ECB President, High Representative)
  - Acts as final arbiter in political crises

**Composition:**

Heads of state/government of all 27 member states, plus the European Council President and Commission President. Meets at least 4 times per year.

**Decision-making:**

Primarily by **consensus**; qualified majority voting in specific cases (e.g., appointing Commission President).

## 2.4.2 Practice:

### Supreme Political Authority:

In practice, the European Council has become the EU's **most powerful institution**:

- Sets the real political agenda (Commission then drafts legislation to implement it)
- Makes all major decisions (Eurozone crisis responses, migration policy, Brexit negotiations, COVID recovery fund)
- Increasingly intervenes in areas formally reserved for other institutions
- National leaders have more democratic legitimacy than EU institutions
- No public accountability, meetings often secret

### Crisis Management:

During crises (financial crisis, migration, COVID-19), the European Council has dominated decision-making, often bypassing normal legislative procedures.

### Intergovernmental Character:

Represents the **intergovernmental** dimension of the EU, where member states retain control, contrasting with the **supranational** institutions (Commission, Parliament, Court).

### Marathon Summits:

Major decisions often require lengthy negotiations (sometimes 24+ hours) to reach consensus among 27 leaders with different interests as one member state can block anything.

## 2.5 European Council President

### 2.5.1 Theoretical Powers:

#### Chairmanship:

- Chairs and drives the work of the European Council
- Prepares and sets the agenda for European Council meetings
- Facilitates consensus among member states
- Ensures external representation of the EU on CFSP matters (shared with High Representative)
- Reports to the European Parliament after each meeting

#### Term:

2.5 years, renewable once. Elected by the European Council by qualified majority.

#### Limitations:

Cannot hold national office simultaneously. Has no executive powers or legislative initiative.

### 2.5.2 Practice:

**Broker and Facilitator:** The President's main role is **consensus-building** among 27 national leaders:

- Acts as mediator in disputes
- Conducts bilateral consultations before summits
- Proposes compromise solutions
- Success depends on diplomatic skill and political capital

**Variable Influence:** Power depends on personality and circumstances:

- Herman Van Rompuy (2009-2014): Low-key, effective facilitator during Eurozone crisis

- Donald Tusk (2014-2019): More assertive, particularly on Brexit and migration
- Charles Michel (2019-now): Active during COVID-19 crisis and Ukraine war
- António Costa (December 2014 – now)

**Dual Leadership Problem:** Creates confusion with Commission President about who represents the EU internationally and who sets the political agenda.

## 2.6 Council of Ministers (Council of the EU)

### 2.6.1 Theoretical Powers:

#### Legislative Powers:

- Co-legislator with Parliament under ordinary legislative procedure
- Sole legislator in some areas (CFSP, some tax matters)
- Adopts EU budget (with Parliament)
- Coordinates member state policies

**Composition:** Ministers from all 27 member states, meeting in 10 different configurations depending on policy area (e.g., Foreign Affairs Council, Economic and Financial Affairs Council).

#### Voting:

- **Qualified Majority Voting (QMV):** Standard method (55% of states representing 65% of population)
- **Unanimity:** Required for sensitive areas (taxation, foreign policy, social security, EU membership)
- **Simple majority:** Rare, for procedural matters

**Rotating Presidency:** Each member state holds the Council presidency for 6 months, setting the agenda and chairing meetings (except Foreign Affairs Council).

### 2.6.2 Practice:

**Real Legislative Power:** The Council is the true legislative powerhouse:

- Represents member state interests directly
- Can amend or reject Commission proposals
- Often waters down or blocks ambitious legislation
- Ministers accountable to national parliaments, not EU institutions

**Intergovernmental Bargaining:** Legislative decisions involve complex negotiations:

- Ministers defend national interests
- Smaller states form coalitions to block or promote proposals
- Large states (Germany, France) often dominate
- Compromises reached through package deals and side payments

#### COREPER Influence:

The **COREPER or Committee of Permanent Representatives** (member state ambassadors or diplomats) prepares Council meetings and resolves ~90% of issues before ministers meet, giving senior diplomats significant power.

#### Transparency Deficit:

Council legislative deliberations are less transparent than Parliament's, despite being a co-legislator.

### **2.6.3 Notes on COREPER**

COREPER stands for the Committee of Permanent Representatives in the European Union. It plays a crucial role in the EU's decision-making process, facilitating cooperation and decision-making among member states. Its role in preparing and negotiating issues before they reach the Council is essential for the efficient functioning of the European Union. Here's a detailed overview:

#### **1. Composition:**

- COREPER is composed of the permanent representatives of the EU member states in Brussels. These representatives are usually ambassadors or senior diplomats who represent their countries at the EU.

#### **2. Structure:**

- COREPER is divided into two main bodies:
  - COREPER I: Deals primarily with social, environmental, and health issues, as well as other technical matters.
  - COREPER II: Focuses on political and economic issues, including foreign affairs and security.

#### **3. Functions:**

- Preparation of Council Meetings: COREPER prepares the work of the Council of the European Union (often simply referred to as the Council), where ministers from member states meet to discuss and make decisions on EU legislation and policies.
- Negotiation and Agreement: COREPER facilitates negotiations among member states on various issues, striving to reach consensus before matters are brought to the Council for formal approval.
- Coordination: It serves as a platform for coordinating national positions on EU policies and legislation, ensuring that member states are aligned before discussions at higher political levels.

#### **4. Decision-Making:**

- While COREPER itself does not make binding decisions, its recommendations and agreements are vital for the smooth functioning of the Council. Decisions made at the Council level often reflect the consensus reached in COREPER.

#### **5. Importance of COREPER**

- Efficiency: By handling technical and preparatory work, COREPER helps streamline the legislative process within the EU, allowing the Council to focus on more significant political decisions.
- Influence: Given its role in negotiations and preparation, COREPER has significant influence over the EU's legislative agenda and the outcomes of Council meetings.
- Intergovernmental Cooperation: COREPER exemplifies the intergovernmental nature of the EU, where member states collaborate closely on shared interests while maintaining their sovereignty.

## 2.7 High Representative for Foreign Affairs and Security Policy

### 2.7.1 Theoretical Powers:

#### Dual Role:

- **High Representative:** Conducts the EU's Common Foreign and Security Policy (CFSP)
- **Vice-President of the Commission:** Coordinates external relations
- Chairs the Foreign Affairs Council
- Heads the European External Action Service (EEAS)

#### Appointment:

Appointed by the European Council (by qualified majority) with Commission President's consent. Must be approved by Parliament as part of the Commission.

#### Functions:

- Proposes CFSP initiatives
- Implements CFSP decisions
- Represents the EU internationally on foreign policy
- Ensures consistency of EU external action

### 2.7.2 Practice:

**Weak Position:** Despite impressive formal powers, the High Representative is often ineffective:

- **Member states retain control** over foreign policy (CFSP requires unanimity)
- Large member states (France, Germany) conduct their own foreign policies, often bypassing the High Representative
- Dual reporting (to European Council and Commission) creates confusion
- Limited budget and resources compared to national foreign ministries

**Variable Performance:** Effectiveness depends on individual and circumstances:

- Catherine Ashton (2009-2014): Criticized as ineffective, but negotiated Iran nuclear deal
- Federica Mogherini (2014-2019): More visible, but still overshadowed by national leaders
- Josep Borrell (2019-2024): Active but often contradicted by member states (e.g., on China, Russia)
- Kaja Kallas (2024-now): widely perceived as a bold and direct diplomat, often described as Europe's "unofficial truth-teller". Her transition to High Representative has been marked by both praise for her clear-eyed realism and criticism for her undiplomatic "plain speaking"

#### Structural Limitations:

EU foreign policy remains fundamentally **intergovernmental**—the High Representative can only act when member states agree. It speaks for the EU but rarely acts for it.

## 2.8 Court of Justice of the European Union (CJEU)

### 2.8.1 Theoretical Powers:

#### Judicial Authority:

- Interprets EU law authoritatively

- Ensures uniform application of EU law across member states
- Reviews legality of EU acts (judicial review)
- Decides disputes between EU institutions and member states
- Hears preliminary references from national courts

**Composition:**

- **Court of Justice:** One judge per member state, plus advocates-general
- **General Court:** Handles most cases at first instance
- **Specialized courts:** For specific areas

**Principles Established:**

- **Supremacy:** EU law takes precedence over national law
- **Direct effect:** Individuals can invoke EU law in national courts
- **State liability:** Member states liable for damages from EU law violations

### **2.8.2 Practice:**

**Powerful Institution:** The CJEU has been remarkably successful in establishing its authority:

- National courts generally accept and apply CJEU rulings
- Has expanded EU competences through broad treaty interpretation
- Enforces EU law even against powerful member states
- Created constitutional principles not explicitly in treaties

**Integration Driver:** The Court has been a major force for European integration:

- Established single market principles (free movement, mutual recognition)
- Protected fundamental rights before the Charter existed
- Limited member state sovereignty in numerous areas

**Growing Challenges:** Recent tensions:

- Polish and Hungarian constitutional courts have challenged CJEU supremacy
- Rule of law crisis raises questions about enforcement
- Some member states slow to implement judgments
- Increasing politicization of judicial appointments
- It enforces EU law, even when it contradicts national sovereignty

**Limited Enforcement:** The Court depends on member states and national courts for enforcement, it has no police force or direct enforcement mechanism.

## **2.9 National Parliaments**

### **2.9.1 Theoretical Powers:**

**Subsidiarity Control:**

- Review Commission proposals for compliance with subsidiarity principle
- Can issue "reasoned opinions" if they believe EU is overstepping
- "Yellow card": If 1/3 of national parliaments object, Commission must review (can maintain, amend, or withdraw)
- "Orange card": If simple majority objects under ordinary legislative procedure, and 55% of Council or Parliament agrees, proposal is blocked

**Scrutiny of National Ministers:**

- Hold their own government ministers accountable for positions in the Council
- Can mandate negotiating positions (varies by member state)

**Participation in Treaty Changes:** Must ratify treaty amendments.

### **2.9.2 Practice:**

**Limited Effectiveness:** National parliaments have struggled to exercise meaningful influence:

- **Yellow card rarely used:** Only 3 times since Lisbon Treaty (2009-present)
- Orange card never triggered
- Reasoned opinions often ignored by Commission
- Difficult to coordinate across 27 countries and different parliamentary systems

### **Variable Engagement:**

Some national parliaments (e.g., Danish Folketing, German Bundestag) actively scrutinize EU affairs; others barely engage.

### **Timing Problems:**

Proposals often reach national parliaments too late (unrealistic by design) to influence outcomes effectively.

### **Indirect Influence:**

National parliaments' main power remains controlling their own governments, which then act in the Council.

## **2.10 European Central Bank (ECB)**

### **2.10.1 Theoretical Powers:**

#### **Monetary Policy:**

- Exclusive competence over monetary policy for the Eurozone (20 member states)
- Sets interest rates
- Manages the euro
- Conducts foreign exchange operations
- Holds and manages member states' foreign reserves

#### **Independence:**

Explicitly independent from political institution, neither the ECB nor national central banks can take instructions from EU institutions or member states. It holds the economic power, but has no political legitimacy.

#### **Governance:**

- Governing Council: ECB Executive Board + Eurozone national central bank governors
- Executive Board: President, Vice-President, 4 members (appointed by European Council)

### **2.10.2 Practice:**

**Powerful Institution:** The ECB has become one of the EU's most powerful institutions:

- **Eurozone crisis response:** Launched unconventional policies (OMT, QE, LTRO) that arguably saved the euro
- **"Whatever it takes":** Mario Draghi's 2012 pledge demonstrated the ECB's political significance
- **Banking supervision:** Gained supervisory powers over Eurozone banks (2014)

**Controversial Actions:** The ECB has faced criticism for:

- **Overstepping mandate:** Some argue crisis measures went beyond price stability

- **Democratic deficit:** Unelected officials making decisions with huge economic and social impacts
- **German opposition:** Bundesbank and German Constitutional Court have challenged ECB policies
- **Distributional effects:** Policies benefit some member states more than others

**Political Constraints:** Despite formal independence:

- Faces political pressure from member states (especially Germany)
- Must navigate between different national interests
- Dependent on member states for fiscal backup (e.g., ESM)
- Subject to CJEU judicial review (though Court has been deferential)

## 2.11 European External Action Service (EEAS)

### 2.11.1 Theoretical Powers:

**Diplomatic Service:**

- Supports the High Representative in conducting CFSP
- Operates EU delegations in third countries and international organizations
- Coordinates with member state diplomatic services
- Prepares policy proposals and implements decisions

**Composition:** Mix of Commission officials, Council Secretariat staff, and seconded national diplomats.

**Budget:** Separate from Commission budget, though relatively modest.

### 2.11.2 Practice:

**Weak Institution:** The EEAS has struggled to establish itself:

- Turf battles: Conflicts with Commission (development policy) and Council (crisis management)
- National dominance: Member states retain control over foreign policy; EEAS often sidelined
- Resource limitations: Much smaller than national foreign ministries
- Identity crisis: Unclear whether it's a supranational or intergovernmental body
- It represents the EU, but rarely speaks for it.

**Limited Effectiveness:** The EEAS has difficulties:

- Coordinating 27 different national foreign policies
- Speaking with one voice internationally
- Competing with powerful national diplomatic services
- Establishing credibility with third countries

**Incremental Progress:** Despite challenges, the EEAS has:

- Built a network of 145 delegations worldwide
- Developed some policy expertise (e.g., Iran negotiations)
- Improved coordination on some issues
- Provided career path for EU diplomats

## 2.12 EU Citizens

### 2.12.1 Theoretical Powers:

**Democratic Rights:**

- Vote in European Parliament elections (every 5 years)

- **European Citizens' Initiative (ECI):** 1 million signatures from at least 7 member states can request the Commission to propose legislation
- Petition the European Parliament
- Complain to the European Ombudsman
- Access to EU documents (transparency regulation)

#### **Fundamental Rights:**

Protected by the Charter of Fundamental Rights and CJEU jurisprudence.

### **2.12.2 Practice:**

**Weak Direct Influence:** Citizens have limited direct impact on EU decision-making:

- Low EP election turnout: ~50%, with many voting on national issues
- ECI largely ineffective: Of ~100 initiatives launched, only 6 have reached the 1 million signature threshold, and the Commission has rejected most or proposed minimal action
- Distance from institutions: EU decision-making perceived as remote and technocratic
- Limited awareness: Many citizens don't understand how EU institutions work

**Indirect Influence:** Citizens influence the EU primarily through:

- National elections (determining government positions in Council)
- National referendums on EU issues (though rare)
- Public opinion affecting national leaders' EU positions
- Civil society organizations and lobbying

**Democratic Deficit:** The EU faces persistent criticism for:

- Lack of direct accountability
- Complexity and opacity of decision-making
- Exaggerated and detailed regulation
- Dominance of technocrats over elected politicians
- Weak link between citizen preferences and EU policies

*Citizens are the EU's foundation, but not its architects. They have voice, but have no vote on EU policy.*

## **2.13 Institutional Relationships: Theory vs. Practice**

### **2.13.1 Formal Institutional Balance**

**Theoretical Model:**

- **Commission:** Proposes (executive/initiator)
- **Parliament + Council:** Decide together (legislative)
- **Court:** Interprets and enforces (judicial)
- **European Council:** Sets strategic direction (political leadership)
- **ECB:** Manages monetary policy (independent)

This creates a system of **checks and balances** where no single institution dominates.

### **2.13.2 Actual Power Dynamics**

**Reality is more complex:**

**1. European Council Dominance:** In practice, the European Council has become the **supreme political authority**, particularly during crises:

- Sets the real agenda (Commission implements it)
- Makes major decisions (other institutions follow)
- Resolves deadlocks between institutions
- National leaders have more legitimacy than EU officials

**2. Commission Weakness:** Despite formal powers, the Commission is often politically weak:

- Lacks democratic legitimacy
- Dependent on member states for implementation
- Increasingly acts as "secretariat" for European Council decisions
- Can be overruled or ignored by Council

**3. Parliament's Growing Assertiveness:** The Parliament has steadily increased its influence:

- Expanded co-decision powers
- More willing to reject proposals and agreements
- Successfully asserted role in appointing Commission
- But still lacks legislative initiative

**4. Council as Legislative Gatekeeper:** The Council (Ministers) remains the key legislative institution:

- Represents member state interests directly
- Can block or water down legislation
- Ministers accountable to national parliaments
- Often more powerful than Parliament in practice

**5. Court as Integration Driver:** The CJEU has been remarkably successful:

- Established supremacy and direct effect
- Expanded EU competences through interpretation
- Generally respected by national courts
- But facing new challenges from Poland and Hungary

**6. ECB as Crisis Manager:** The ECB has emerged as a powerful actor:

- Saved the euro during the crisis
- Acts independently of political institutions
- But faces political pressure and legal challenges

**7. Fragmented Executive:** Executive power is divided among:

- Commission (formal executive)
- European Council (political direction)
- Council (policy coordination)
- Member states (implementation)
- EU agencies (specialized tasks)

This creates coordination problems and accountability gaps.

## 2.14 Key Relationships and Tensions

### 2.14.1 Commission vs. European Council

**Theoretical:** Commission proposes, European Council provides strategic direction.

**Practice:** European Council increasingly **instructs** Commission what to propose, reducing Commission's autonomy. Commission President and European Council President compete for political leadership.

### 2.14.2 Parliament vs. Council

**Theoretical:** Equal co-legislators under ordinary legislative procedure.

**Practice:** Council often more powerful because:

- Ministers represent member states directly
- Council can block legislation more easily
- Parliament must build cross-party coalitions
- But Parliament increasingly assertive

### **2.14.3 Commission vs. Council**

**Theoretical:** Commission proposes, Council decides.

**Practice:** Council can pressure Commission to propose (or not propose) legislation. Commission must navigate between different member state interests.

### **2.14.4 Supranational vs. Intergovernmental**

**Fundamental tension:**

- **Supranational institutions** (Commission, Parliament, Court) seek deeper integration
- **Intergovernmental institutions** (European Council, Council) protect member state sovereignty
- This tension is built into the EU system and drives much political conflict

### **2.14.5 Large vs. Small Member States**

**In European Council/Council:**

- Large states (Germany, France, Italy, Spain, Poland) have more weight
- Small states can form coalitions to block decisions
- Qualified majority voting balances population and state equality
- But Germany's economic power gives it outsized influence

### **2.14.6 Eurozone vs. Non-Eurozone**

**Growing divide:**

- Eurozone members (20 states) have separate governance structures (Eurogroup, ESM)
- Non-Eurozone members excluded from key economic decisions
- Creates "two-speed Europe"

### **2.14.7 EU Institutions vs. National Parliaments**

**Accountability gap:**

- National parliaments control their ministers in Council
- But have limited oversight of EU-level decisions
- Subsidiarity control mechanism largely ineffective
- Creates democratic deficit

## **2.15 Summary: Power Distribution in Practice**

### **2.15.1 Most Powerful Institutions:**

**1. European Council:** Supreme political authority, especially during crises. Sets real agenda and makes major decisions.

**2. Council of Ministers:** Key legislative institution, represents member states directly, can block or water down legislation.

**3. European Central Bank:** Exclusive control over Eurozone monetary policy, demonstrated power during crisis.

**4. Court of Justice:** Authoritative interpreter of EU law, driver of integration, generally respected.

**5. European Parliament:** Growing legislative power, increasingly assertive, but lacks initiative.

**6. Commission:** Formal powers significant, but politically weak in practice. Often implements European Council decisions rather than setting agenda independently.

### **2.15.2 Weakest Actors:**

**1. National Parliaments:** Limited influence despite Lisbon Treaty provisions.

**2. EU Citizens:** Weak direct influence, democratic deficit persists.

**3. High Representative/EEAS:** Formal powers impressive, but member states retain control over foreign policy.

**4. European Council President:** Facilitator rather than leader, overshadowed by powerful national leaders.

### **2.15.3 Summary Table: Power Distribution, Official vs. Reality**

Body	Official Power	Reality Power	Who Really Holds Power?
<b>Commission</b>	Proposes laws, enforces treaties	Dominant actor, sets its own agenda	Commission President
<b>EU Parliament</b>	Co-legislator, elects Commission	Rubber-stamps, low trust	Fragmented political groups (composed of PEMs from member state political parties)
<b>European Council</b>	Sets direction, no legislation	Supreme body, decides crises	Heads of State
<b>Council of Ministers</b>	Co-legislator, represents states	Veto player, blocks progress	National ministers
<b>High Representative</b>	Leads foreign policy	Limited power, depends on states	No real authority
<b>CJEU</b>	Interprets law, strikes down national laws	Supreme court, overrides constitutions	Judges
<b>National Parliaments</b>	Can object to laws	No real power, “red card” never used	Asleep watchdogs
<b>ECB</b>	Manages euro, sets policy	Most powerful, no accountability	Governors
<b>EEAS</b>	Diplomatic corps	Underfunded, bypassed	No real role
<b>Citizens</b>	Can petition, vote	No real influence, ECI ignored	Voice without vote

## 2.15.4 Note on the confusion between “Presidents”

The EU institutions have 2 leading personalities called “President”, which is confusing. There is the “President of the European Commission” and the “President of the European Council”.

**The Two Presidents: summary of key differences:**

Aspect	Commission President	European Council President
Current holder	Ursula von der Leyen (second term)	António Costa
Selection	Nominated by European Council, elected by Parliament	Elected by European Council
Term	5 years (aligned with Parliament)	2.5 years, renewable once
Role	Leads the Commission, proposes legislation, executive functions	Chairs European Council meetings, facilitates consensus among heads of state/government
Power base	Supranational institution	Intergovernmental institution
Can hold national office?	No	No

The existence of two presidents has created ongoing confusion and competition:

**Who represents the EU?**

- Both attend international summits
- Both speak for the EU in different capacities
- Third countries often confused about who to deal with
- Media and public don't understand the distinction

**Who sets the agenda?**

- European Council President chairs meetings of national leaders
- Commission President proposes legislation to implement their decisions
- Potential for conflict and turf battles

This "dual presidency" structure is one of the institutional oddities created by the Lisbon Treaty's compromise between supranational and intergovernmental visions of the EU.

## 2.15.5 Note on the confusion between the two “Councils”

The **European Council** and the **Council of the European Union** are two distinct entities within the European Union (EU) that play different roles in the governance and decision-making processes. Here's a breakdown of their differences:

**European Council**

- **Definition:** The European Council is the highest political body of the EU, consisting of the heads of state or government of the EU member countries, along with its President and the President of the European Commission.
- **Key Functions:** Strategic Direction: It sets the overall political direction and priorities of the EU.

- **Decision-Making:** It addresses major issues and challenges facing the EU, such as foreign policy and economic strategy.
- **Summits:** It meets at least four times a year in summits to discuss and decide on key issues.
- **Membership:** Composed of the leaders of the 27 EU member states, the President of the European Council, and the President of the European Commission.
- **Role:** Primarily a strategic and political body, not involved in the day-to-day legislative processes.

### **Council of the European Union (Council of Ministers)**

- **Definition:** The Council of the European Union, often referred to simply as the Council, is one of the main decision-making bodies of the EU, representing the governments of the member states.
- **Key Functions:** Legislative Role: It negotiates and adopts EU legislation, often in conjunction with the European Parliament.
- **Policy Coordination:** Coordinates policies among member states in various areas, such as foreign affairs, economic policy, and justice.
- **Budgetary Powers:** Shares budgetary responsibilities with the European Parliament.
- **Membership:** Composed of government ministers from each EU member state, with different configurations depending on the policy area being discussed (e.g., foreign affairs, agriculture).
- **Role:** Acts as a legislative and executive body, involved in the formulation and implementation of EU laws and policies.

### **Summary of Differences**

Feature	European Council	Council of the European Union
<b>Composition</b>	Heads of state/government, Presidents	Government ministers of member states
<b>Function</b>	Sets political direction and priorities	Legislative and policy-making
<b>Meeting Frequency</b>	At least four times a year	Varies based on legislative needs
<b>Decision-Making</b>	Strategic decisions on major issues	Negotiates and adopts legislation

In summary, the European Council focuses on high-level political strategy, while the Council of the European Union is involved in the legislative process and policy implementation.

## **2.16 Note on the “Red Card”**

To truly understand the "Power Reality" of the EU in 2025, it is essential to look at why the tools given to national democracies—like the Orange Card—frequently fail.

In Robert Schuman's philosophy, the national parliament was the "root" of the system. Today, however, these roots are often bypassed by a design that makes formal opposition nearly impossible to coordinate.

## 2.16.1 *The Reality: Designed to be Dormant*

The "Red Card" (a direct veto) was never implemented and does not actually exist in the Treaties. It was a political promise made to the UK in 2016 that died with Brexit. National Parliaments only have the "Yellow Card" and "Orange Card."

The "Orange Card" was meant to be the next best thing. However, as of late 2025, it remains a "ghost power" that has never once been successfully triggered.

Why it fails in practice:

- **The Impossible Math:** To trigger an Orange Card, more than 50% of all national parliamentary votes (currently 28 out of 54 votes) must object within just 8 weeks. This is a logistical impossibility for 27 diverse nations.
- **The 8-Week "Speed Trap":** Coordinating 27 different parliaments—each with their own schedules, translation needs, and internal debates—in just two months is a logistical nightmare. By the time many parliaments even realize a law is being proposed, the window is already closing.
- **The "Commission Loophole":** Even if an Orange Card is triggered, the Commission isn't forced to stop. It only has to "review" the law. If it decides to keep it, the law only dies if a majority of the European Parliament or 55% of the Council (the national governments) agree with the parliaments.

### **The Reality Gap:**

In Schuman's vision, if the nations spoke, the center would listen. In 2025, the center (the Commission) has the final say on whether the nations' objections are even "legally valid."

## 2.16.2 *Case Study: The "Silent" Vetoes*

There have been only three Yellow Cards in EU history (where only 1/3 of parliaments objected). In two of those three cases, the Commission simply refused to back down, claiming its own analysis of "the European interest" outweighed the parliaments' concerns about their own sovereignty.

Case	Year	National Objection	Commission Response
Monti II	2012	Right to strike	Withdrawn (but denied because of the card).
EPPO	2013	EU Prosecutor overreach	Ignored the parliaments and pushed it through.
Posted Workers	2016	National labor market control	Ignored the parliaments and maintained the law.

## 2.17 Note on lobbying power:

The EU also knows a substantial influence from lobbying groups. One can argue that lobbying group represent an important input in the legislative process as they represent interests that are specific that might be unclear to the legislators. However, while this can be justified for technical matters, the driving force is often vested interests. If this happens on a massive scale and often behind closed doors, then this is clearly undermining democratic processes. Unfortunately, this is certainly the case in the EU.

The influence of lobbying in Brussels is one of the most contentious aspects of the modern EU, directly contrasting Robert Schuman's vision of a "transparent community." In 2025, lobbying has evolved into a massive industry where the lines between corporate influence, NGO advocacy, and EU subsidies have become increasingly blurred.

### **2.17.1      *The Power of Lobbying: Corporate Firepower***

Brussels is the second-largest lobbying hub in the world (after Washington D.C.). As of late 2025, over 16,000 entities are registered in the EU Transparency Register.

- **The "Spending Gap":** The top 50 corporations alone spend nearly €200 million annually on EU lobbying. Big Tech (Meta, Microsoft, Google), Energy (Shell, ExxonMobil), and Chemicals (Bayer, BASF) dominate the landscape.
- **Regulatory Capture:** Recent 2025 reports on the "Omnibus Simplification" package show that corporate lobby groups successfully pushed to roll back environmental and human rights due diligence rules, arguing for "competitiveness" over regulation.
- **Unprecedented US Influence:** A 2025 trend noted by analysts is the "overt" lobbying by US-based multinationals (like the Competitiveness Roundtable), which has reached record levels to influence EU tech and climate standards.

### **2.17.2      *The "Subsidized Lobbyist" Controversy***

In 2025, it became clear that the EU is subsidising the very groups that lobby it. This creates a "circular" policy environment that critics call a democratic echo chamber.

- **NGO Funding:** The EU grants roughly €7 billion to NGOs every three years. While much of this goes to humanitarian aid, a significant portion (around €700 million/year) supports "advocacy" and "policy development."
- **The "LIFE" Scandal:** A major political row erupted in 2025 regarding €15.6 million in annual subsidies given to environmental NGOs. Critics argue the Commission uses these funds to "buy" support for its Green Deal policies, effectively paying groups to lobby the Parliament in favour of the Commission's own agenda.
- **Audit Warnings:** In April 2025, EU auditors released a "startling" report concluding that EU funding for NGOs is "too opaque." The report noted that the Commission does not properly disclose which "advocacy activities" it is paying for, exposing the EU to high reputational risks.

### **2.17.3      *How Groups Drive Regulation: The Mechanisms***

Lobbying in the EU doesn't just happen at the final vote; it starts long before a law is even written.

- **Expert Groups:** The Commission relies on "Expert Groups" for technical advice. Corporate representatives often outnumber civil society members in these groups, allowing them to bake their interests into the "technical" definitions of a law before it reaches politicians. This even applies to the heavily funded R&D frameworks.
- **The "Brussels Bubble" Ecosystem:** Lobbying firms like Fleishman-Hillard and FTI Consulting employ thousands of former EU officials (see the "Revolving Door"), using their inside knowledge to navigate the complex "trilogues" (secret negotiations between the Commission, Council, and Parliament).

- **Policy Promotion:** The EU often funds "civil society platforms" to ensure "diverse voices" are heard. However, because these platforms depend on EU grants for survival, they rarely challenge the core expansion of EU power, creating a veneer of public support for centralised policies.

#### **2.17.4 The "Revolving Door"**

The "Revolving Door" describes the practice where EU officials leave public service to work for lobby groups, or vice versa. This creates a conflict of interest where officials may draft laws to favour their future employers.

##### **The Revolving Door, 3 Key Examples:**

- **The "Big Tech" Pipeline:** In 2025, reports highlighted that over 70% of high-level staffers working on the Digital Markets Act (DMA) have held roles in major tech firms. Critics argue this allows companies like Apple or Google to "buy" the insiders who know exactly how to bypass new regulations.
- **Commissioner to Consultant:** Former Commissioners often join "Strategic Advisory" firms immediately after their cooling-off period. For example, former Commissioners have joined firms like Goldman Sachs or Uber, using their personal networks to open doors in Brussels that are closed to ordinary citizens.
- **The "Expert Group" Swap:** Industry lobbyists are frequently appointed to Commission "Expert Groups." They help write the technical standards for their own industry (e.g., chemical safety or carbon emissions), ensuring the regulations favours established players while blocking smaller competitors. Established players also get early access allowing them to be the first on the market meeting new standards. Work programmes in R&D are defined so that major industry players can benefit from the funding.

**Power Reality assessment:** Influence for Sale

**The Result:** This cycle ensures that regulation is rarely "bottom-up." Instead, it is a high-level negotiation between a specialised class of officials and the lobbyists who used to be their colleagues.

Feature	Schuman's Vision	2025 Reality
<b>Input</b>	Direct feedback from national industries/citizens.	High-budget corporate and subsidized NGO campaigns.
<b>Transparency</b>	Decisions made "under the control of public opinion."	High-stakes negotiations in "Trilogues" behind closed doors.
<b>Integrity</b>	Moral leadership and shared sacrifice.	The "Revolving Door" between EU officials and lobby firms.
<b>Funding</b>	Self-supported national interest groups.	EU-subsidized lobbying & Big Tech spending.

The assessment is clear: The EU has created a system where the Commission proposes a policy, subsidizes NGOs to promote that policy, and consults corporate expert groups to refine the technical details. This "closed loop" makes it very difficult for ordinary

citizens (including small companies) or national parliaments to shift the direction of the EU once the "lobbying machinery" has started.

## 2.18 Conclusion: The EU as a "Closed Loop"

- 1. Theory vs. Practice Gap:** Formal powers often don't match actual influence. The European Council, for example, has relatively limited formal powers but dominates in practice.
- 2. Crisis-Driven Evolution:** Power distribution shifts during crises, with the European Council and ECB gaining influence at the expense of normal legislative procedures.
- 3. Intergovernmental Resurgence:** Despite decades of integration, member states (through European Council and Council) retain ultimate control, especially on sensitive issues.
- 4. Fragmented Executive:** No single "government", executive power divided among multiple institutions, creating coordination problems.
- 5. Democratic Deficit:** Despite Parliament's growing powers, citizens remain distant from EU decision-making, and accountability remains weak.
- 6. Personality Matters:** Individual leaders (Commission President, European Council President, ECB President) can significantly affect institutional power through personal authority and political skill.
- 7. Institutional Balance is Dynamic:** Power relationships constantly evolve through practice, crisis response, and gradual institutional change.

In 2025, the EU functions as a '**Self-Validating System.**' The Commission proposes the law, the Court interprets the law, and the Commission judges the validity of national objections to that law and the Parliament rubber stamps it. This creates a circle of power that Robert Schuman specifically warned against when he called for a 'spirit of service' toward the member nations.

The unfortunate conclusion is that the EU is **not fully acting as a democracy, it often acts as a technocratic oligarchy.** Officially, power is shared, between Parliament, Commission and Council. Power is concentrated, in the Commission, the European Council, and the ECB. Citizens, national parliaments, and even the Parliament, have little real power. The Lisbon Treaty did not fix this, it entrenched it.

How can the EU rebalance power, to restore democracy, subsidiarity, and legitimacy, without dismantling or undermining the union? This is a complex question and will be explored in upcoming Working Papers.

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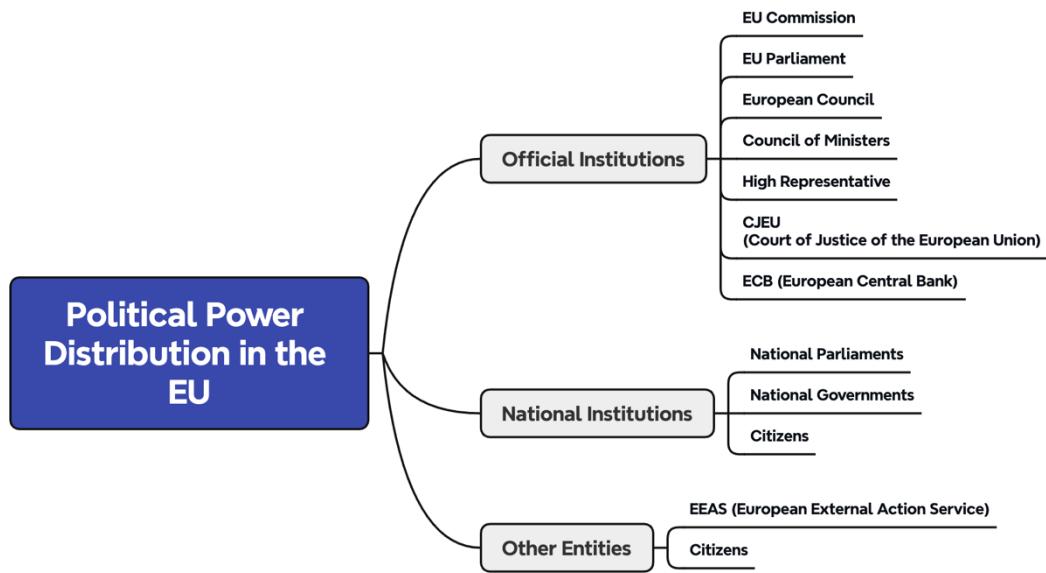
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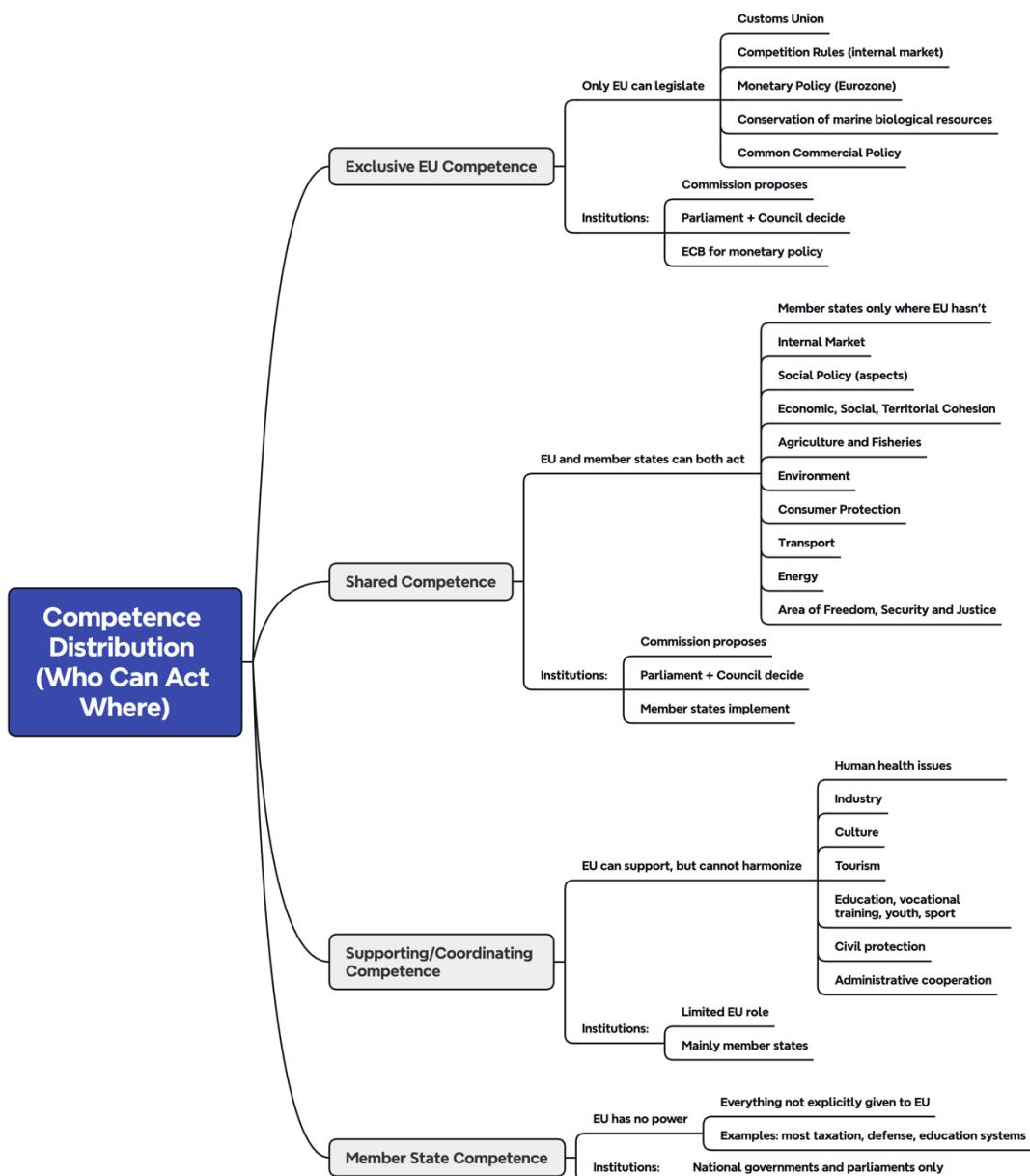
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### 3 The European Power Distribution in graphs

#### 3.1 EU Political Power Entities

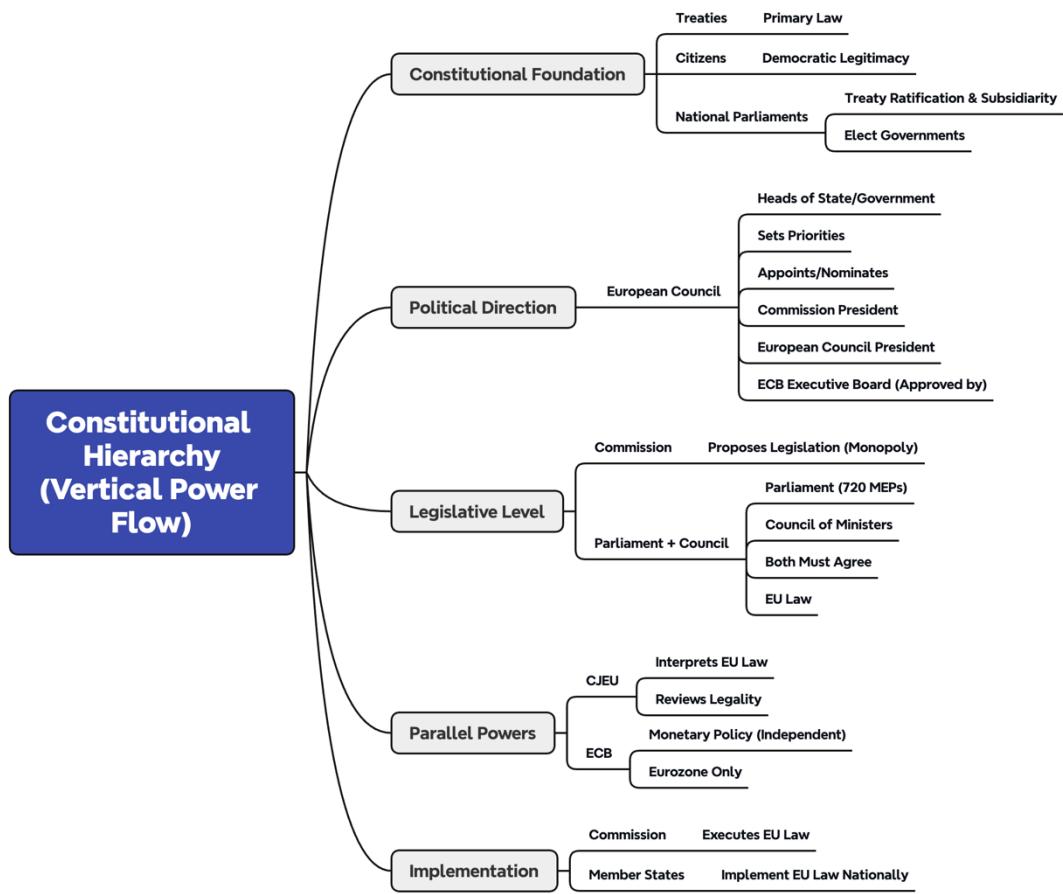


## 3.2 EU Competence distribution



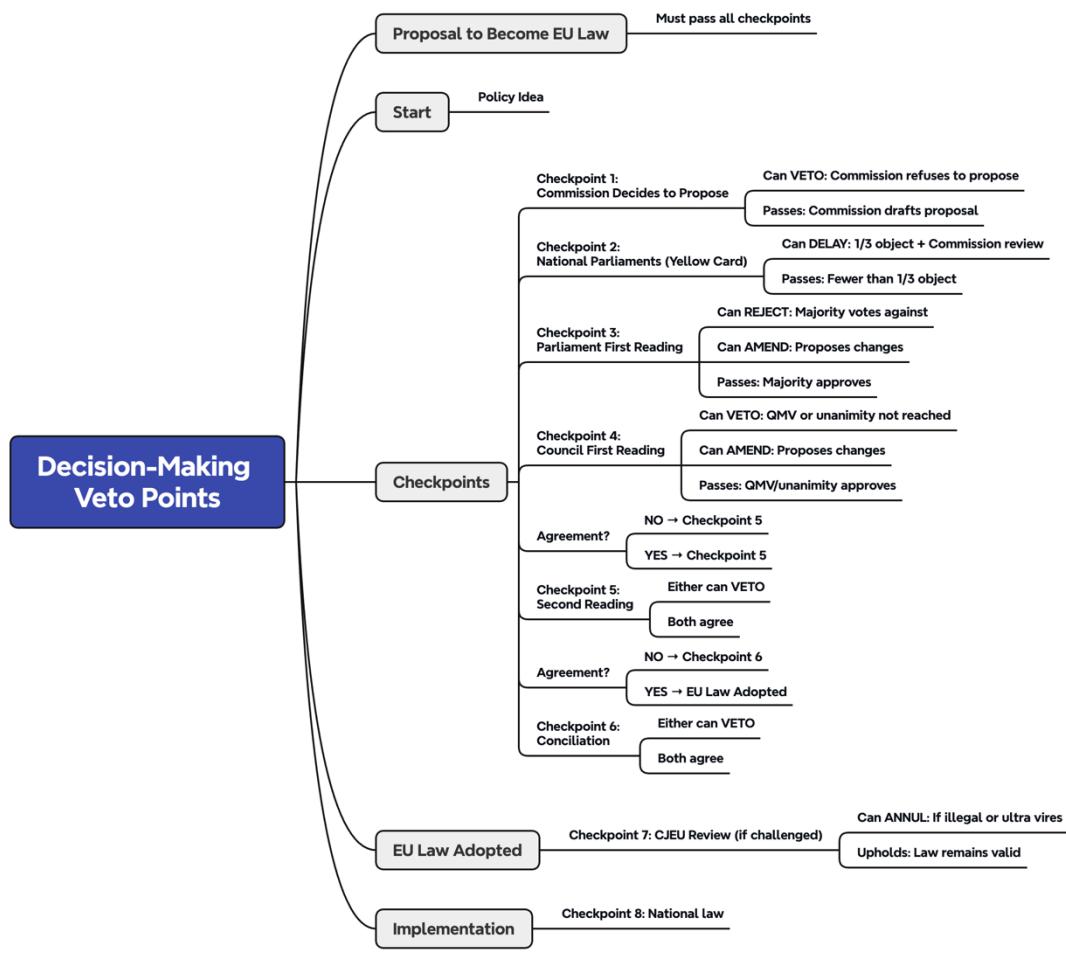
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### 3.3 Vertical Power Flow (constitutional hierarchy)

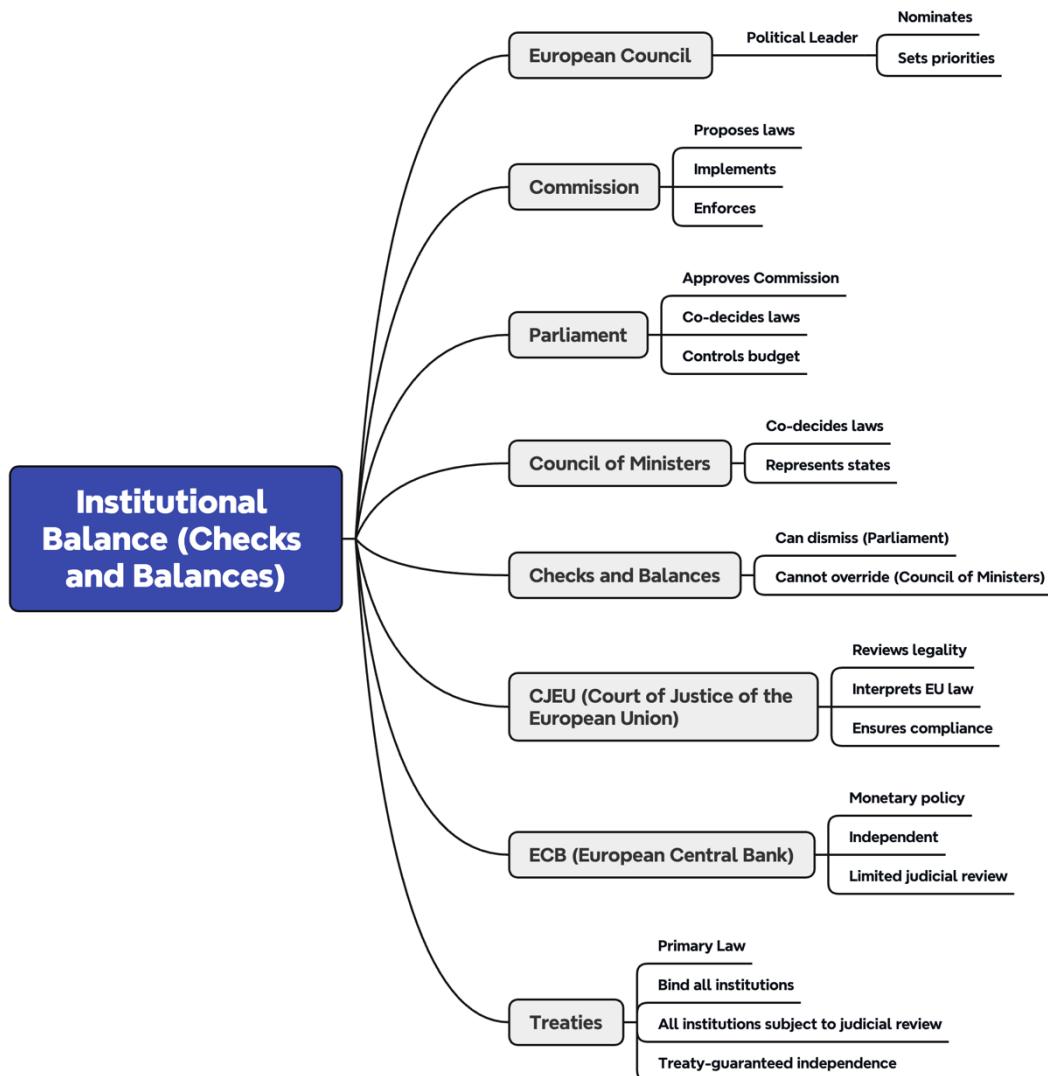


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### 3.4 Decision making Veto Points



### 3.5 Institutional Balance (Checks and Balances)



Presented with xmind

## 3.6 Legislative Process Flow

