# **European Union Law**

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# The institutional structure of the EU

Lesson No 6

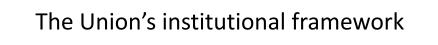
#### The European Union is ...

... a new 'legal entity' on which the MS have <u>conferred</u> <u>competences to attain objectives</u> they have in common – Art 1 TEU

It actually consists of "an **institutional framework** which shall aim to promote (the) values (of the EU), advance its objectives, serve its interests, those of its citizens and those of the MS, and ensure the consistency, effectiveness and continuity of its policies and actions" – Art 13 TEU



A set of bodies (the "institutions") vested with governmental 'powers' or functions



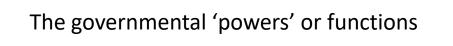
Article 13.1 TEU (Lisbon):

The Union's institutions shall be:

- the European Parliament,
- the European Council,
- The Council,
- the European Commission (hereinafter referred to as 'the Commission'),
- the Court of Justice of the European Union,
- the European Central Bank,
- the Court of Auditors.

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# THE 'SEPARATION-OF-POWERS' PRINCIPLE AND THE EU



The 'classic trinity' of powers  $\leftarrow$  Montesquieu –

- 1) Legislative: to make laws
- 2) Executive: to propose and implement laws
- 3) Judicial: to arbitrate laws (solving disputes)

Additional powers (recognised by modern constitutions) –

- 4) **External**: foreign relations (it lies in between legislative and executive powers)
- 5) Governmental control of financial markets

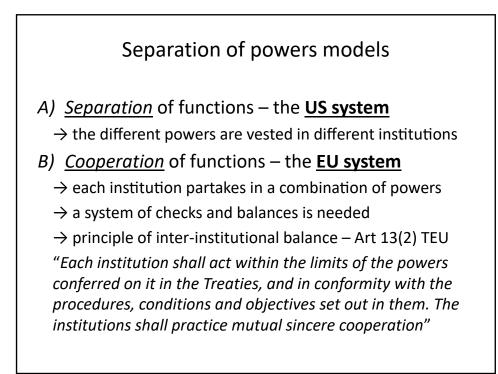
### The Montesquieu's theory: distribution of powers

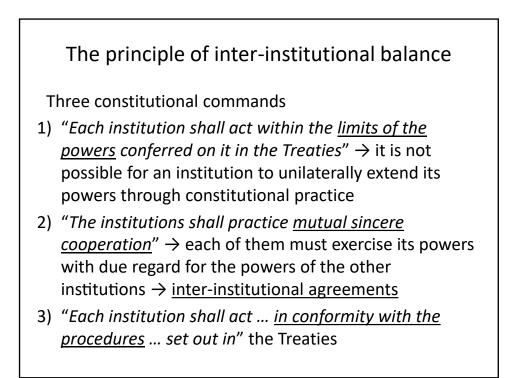
What if the governmental 'powers' are united in the same person or institution?

 $\rightarrow$  there can be no liberty, but tyranny

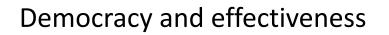
These powers must then be 'distributed' (allocated) between different institutions: the separation-of-powers principle

How can they be distributed?  $\rightarrow$  two models

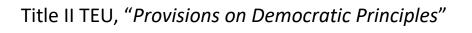




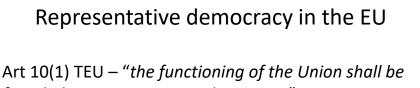




- Democracy, equality and the rule of law are among the values the Union is founded upon – Art 2 TEU → the Union's institutional framework is to be modelled on those values
- The Union's system has to ensure that EU law is effective ← this firstly depends upon the effective functioning of EU political institutions
- Is there a <u>tension</u> between democracy and effectiveness?



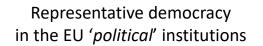
- Principle of the equality of European citizens Art 9 TEU
- Representative Democracy, which the functioning of the Union shall be founded on – Art 10 TEU
- > Participatory Democracy Art 11 TEU
- National Parliaments actively contributing to the good functioning of the Union – Art 12 TEU



founded on representative democracy" What does 'representative democracy' mean?

Sovereignty lies in the people, which exercises it through its representatives, democratically elected

- → Decision-making powers are vested in political institutions having a democratic mandate (they have been elected by the public)
- → Multiple levels of government the dual nature of the EU, as union of peoples and sovereign States



A) Institutions charged with decision-making powers:

- <u>Citizens</u> are directly represented at Union level → <u>European</u> <u>Parliament</u>
- Art 10.4 TEU → Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union
- Member States are represented in → European Council and Council → by their Heads of State or Government and by their governments, themselves 'democratically accountable' either to their national Parliaments, or to their citizens

B) European Commission  $\rightarrow$  responsible to the European Parliament – Art 17.8 TEU

## Participatory democracy in the EU

- ✓ Art 11(2) TEU → an "open, transparent and regular dialogue" between the Union's institutions and representative associations and civil society
- ✓ Art 11(3) TEU → "The European Commission" before proposing a normative act: Art 17(2) TEU – "shall carry out <u>broad consultations with parties concerned</u> in order to ensure that the Union's actions are coherent and transparent"
- ✓ Arts 11(4) TEU and 24 TFEU → <u>the European citizens'</u> <u>initiative</u>, inviting the European Commission to submit any appropriate proposal for a legal act of the Union

#### The European citizens' initiative

- ✓ Art 11(4) TEU "Not less than one million citizens who are nationals of a significant number of MS may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties"
- ✓ Art 24 TFEU the European Parliament and the Council shall adopt the provisions for the procedures and conditions required for a citizens' initiative → Regulation (EU) No 211/2011 of 16 February 2011

