

GLOSSARY

This glossary should provide a helpful overview of terms of art and legal sources to those who are unfamiliar with the European legal system

Sources of Law

Founding Treaties

- Treaty Establishing the European Coal and Steel Community (1951). Expired in 2002.
- Treaty Establishing the European Economic Community (1957), in 1992 renamed the European Community (“Treaty of Rome” or “EC Treaty”), articles renumbered in the Amsterdam Treaty (1997).
- Treaty Establishing the European Atomic Energy Community (1957) (“Euratom Treaty”).
- Single European Act (1986). After a period of stagnation, the Single European Act gave renewed political impetus to the construction of a common market. The principal lawmaking devices for enabling the free circulation of goods, workers, capital, and services are recognition of regulatory requirements in the Member States as equivalent (“mutual recognition”) and the enactment of common, European regulatory standards in the face of widely divergent standards in the Member States (“harmonization”).
- Maastricht Treaty on European Union (1992) (“Maastricht Treaty”).
- Treaty of Amsterdam (1997).
- Treaty of Nice (2001).
- Treaty Establishing a Constitution for Europe (“Constitutional Treaty”), drafted by the Constitutional Convention, approved by European Heads of State on June 18, 2004, and signed by European Heads of State on October 29, 2004. It must now be ratified by each of the Member States. The Constitutional Treaty would replace the EC Treaty and the Maastricht Treaty. A protocol to the Constitutional Treaty modifies, but does not replace, the Treaty Establishing the European Atomic Energy Community.

Laws

- Regulation: Binding on citizens and Member States. The form of European law closest to a U.S. statute.
- Directives: Binding on Member States. Require implementing legislation or other measures by the Member States. Directives generally specify the ends to be accomplished, but allow Member States discretion when they implement through national legislation and rules.
- Decisions: Binding only on those named in the decision. Generally,

decisions are individual administrative determinations, issued by the European Commission to economic operators in areas like competition, international trade, and customs law. However, decisions can be addressed to Member States. Decisions can also be addressed to particular European institutions, setting down their procedures, allocating the budget, and deciding other institutional matters. In these cases, decisions approximate U.S. statutes.

Implementing regulations

Any measure applicable to a class of individuals or firms and issued pursuant to a delegation in a law, generally issued by the European Commission. They approximate U.S. rules or regulations.

Decisions

Binding on the individuals named in the decision. Generally, individual determinations issued by the Commission to economic operators pursuant to the Treaties or European laws in areas like competition, international trade, and customs duties.

Case Law

Judgments of the Court of Justice and the Court of First Instance (“European Courts”).

Administrative Bodies

European Commission

Staffed by European civil servants, located in Brussels, and headed by a President and College of Commissioners appointed by the Member States with the consent of the European Parliament. The Commission is responsible for implementing and enforcing, i.e. administering, European law. The Commission also exercises legislative powers, through the power to propose European laws to the government bodies with the power to vote and enact laws (the Council of Ministers and the European Parliament).

Comitology committees

Assist the Commission in exercising the powers delegated to it by the Council or the Council and Parliament. Composed of representatives of the Member States, who consider proposals from the Commission according to either a qualified majority or unanimity voting rule. Comitology committees are designed to serve as a surrogate for the legislator (the Council of Ministers) in the administrative process and to enable the legislator (the Council of Ministers) to monitor, and sometimes veto or modify, the Commission’s implementing regulations and decisions. There are three types: *advisory*,

management, and regulatory committees. The main difference is the degree of control over Commission implementing regulations and decisions. With an *advisory committee*, the Commission must simply submit the proposed action to the committee and “take into account” the committee’s opinion. A *management committee* has a veto power over Commission action, meaning that if it votes against a Commission decision, the matter is sent to the Council for a final decision. A *regulatory committee* has the power of assent, meaning that it must vote in favor of a Commission decision: otherwise the matter is sent to the Council for a final decision. In other words, a *qualified majority* of Member States must be in agreement to block a Commission implementing regulation in the case of a management committee, whereas a *minority* of Member States must be in agreement to block in the case of a regulatory committee.

Advisory committees

Established in certain policy areas (e.g., consumer affairs, agricultural seeds) to assist the Commission when drafting laws and implementing regulations. Members are usually pan-European federations of national interest organizations and are chosen by the Commission. Generally, consultation of such committees is left to the Commission’s discretion.

European agencies

Established in particular fields, e.g., new drugs, trademarks, the environment, staffed by European civil servants, and located throughout the territory of the European Union. Currently, there are 16 agencies. The powers of European agencies vary. Some, like the Office for Harmonisation in the Internal Market, has final decisionmaking powers (over trademark applications), others, like the European Medicinal Evaluation Agency, can make recommendations to the Commission, which retains final decisionmaking powers (on new drug approvals), and yet others, like the European Environmental Agency only have information-gathering powers.

Forms of European Administration

Direct administration

Implementation in policy areas such as competition law (anti-competitive inter-firm agreements, abuses of dominant market positions, merger pre-clearance) and international trade (anti-dumping duties) in which the Commission acts largely without the assistance or involvement of national administrations.

Indirect administration

Implementation in policy areas such as agricultural subsidies in which national administrations bear most responsibility, largely free of intervention by the Commission or other national administrations, and are subject to the

requirements of national administrative law. Characteristic of administration in the early decades of the European Community but less common today.

Mixed proceedings

An administrative proceeding involving domestic authorities, their counterparts in other Member States, and the Commission, which results in a single administrative determination under European law. Also called composite proceedings and joint proceedings. The prevalent mode of European administration today.

Mixed administration

Administrative action and decisionmaking in a wide array of policy areas and involving different types of legal instruments, based on mixed proceedings.