

Understanding the EU

11 August 2015, Steve Baker MP



The EU and European integration

The development of the European Union (EU) is defined by the principle of ever-greater integration expressed in the relevant treaties, notably in the preamble about 'ever closer union'. That is, the goal is continual integration among the nations of Europe until economic, monetary, fiscal and political union has been achieved.

The Lisbon Treaty defines the EU, which has many of the elements of a nation state including a constitution, flag, anthem, embassies, civil service and the institutions described below. The Lisbon Treaty was formerly known as the EU Constitution. The Constitution was rejected in referendums by the people of the Netherlands and France in 'No' votes in 2005.

Executive: the European Commission

The *European Commission* is the only institution of the EU with the power to initiate legislation. It is unelected, unlike most executive branches of government around the world.

The Commission works towards further European integration. It is also responsible for implementing decisions, upholding EU Treaties and managing day-to-day business. Power lies with the Directorates-General (DGs) of the Commission and with their unelected Commissioners.

Legislature: the European Parliament

The *European Parliament* is the only directly elected institution of the EU. Only around 40 per cent of voters across member states normally turn out for European Parliamentary elections.

Members of the European Parliament (MEPs) debate proposals from the Commission. In the last parliamentary term, only seven per cent of proposals were voted down. Commissioners are appointed with the agreement of the Parliament. Between 2009 and 2014 the majority of UK MEPs voted against 576 proposals in the Parliament – but 485 still passed.

It meets in both Brussels and Strasbourg, spending €114m travelling between them every year.

Second Chamber: the Council of Ministers

The second chamber of the EU's legislative branch is known as the *Council of Ministers*, also known as the Council of the European Union. The Council comprises representatives of the executive branches of government of the EU's 28 member states. It votes on Commission proposals, usually by a 'qualified majority' with no veto.

It is relatively unusual for a proposal to be openly blocked by the Council: most are discussed and amended at official level in the *Committee of Permanent Representatives* (COREPER) before they reach a vote. The UK has formally opposed 55 motions in the Council since 1996; all were nonetheless voted through.

The European Council

The *European Council* comprises the heads of state or government of the EU member states. It should not be confused with the separate, larger *Council of Europe*.

The European Council has no formal legislative power. It sets general political direction and priorities. It meets four or five times a year unless extraordinary or informal sessions are called.

The PM usually makes a statement to the Commons after every European Council meeting.

Supreme Court: The European Court of Justice

The *European Court of Justice* (ECJ, also 'The Court of Justice of the European Union') is the highest court in matters of European Union law. The ECJ is tasked with interpreting EU law and ensuring EU law is applied equally across all EU member states. It promotes 'ever closer union'.

ECJ rulings demonstrate the Court's view that EU law must be supreme in the event of any conflict with national law. The ECJ is today the final arbiter of what is law in the UK. It is able to overrule the UK's own Supreme Court.

Central Bank: The European Central Bank

The *European Central Bank* is the monetary authority for the Euro. It is responsible for implementing and regulating the monetary policy of the Eurozone.

In treaty law, the Euro is expected to be the currency of all the EU. All member states of the EU, except the UK and Denmark, are legally obliged to join the Euro. At some point on the present path, the UK will be in a tiny minority.

The scope of EU control over UK policy

The EU's role has increased dramatically since the 1950s. Today the EU has a large say over numerous policy areas including, according to its own website:

- Agriculture
- Audio-visual and media
- Budget
- Climate action
- Competition
- Consumers
- Culture
- Customs
- Development and co-operation
- Digital economy and society
- Economic and monetary affairs
- Education, training and youth
- Employment and social affairs
- Energy
- Enlargement
- Enterprise
- Environment
- EU citizenship
- Food safety
- Foreign and Security Policy
- Fraud prevention
- Health
- Humanitarian aid and civil protection
- Human rights
- Institutional affairs
- Justice and home affairs
- Maritime Affairs and Fisheries
- Multilingualism
- Regional Policy
- Research and Innovation
- Single market
- Space
- Sport
- Taxation
- Trade
- Transport

There is a 'ratchet effect': once a policy is handed to the EU, it is not returned. This is embedded in a doctrine of the European Court of Justice known as the "doctrine of the occupied field".

EU policy becomes law in each member state. It overrides UK law through our acquiescence in the European Communities Act 1972

A common citizenship

Citizens of EU member states are EU citizens with a right to live and work in any EU country.

The *EU Charter of Fundamental Rights* sets out the personal, civil, political, economic and social rights flowing from EU citizenship. The EU Fundamental Rights Agency (FRA) helps policymakers to pass new laws and works to raise public awareness of EU fundamental rights.

These rights go beyond the Human Rights Act and are in addition to the rights given by the European Convention on Human Rights and the European Court of Human Rights, which are separate to the EU. There is some legal conflict.

A common judicial and home affairs policy

Cooperation has intensified between national judicial authorities to ensure that legal decisions taken in one EU country are recognised and implemented in any other. The ECJ takes into account the aim of 'ever closer union' in its opinions.

The UK opted out of some pre-Lisbon EU justice and home affairs measures. Some were automatically subject to the ECJ, including asylum, immigration and borders. The UK has since opted back in to specific measures, including the European Arrest Warrant.

A common defence and foreign policy

The EU has a *Common Foreign and Security Policy* (CFSP). The CFSP covers all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a 'European Army', common defence forces and a single EU defence industry.

The EU has 140 'delegations' - EU embassies - around the world, each with 'Heads of Delegations' - EU Ambassadors - making up the European External Action Service - the EU's foreign service. The Commission President is now advocating the EU has an intelligence service.

A common economic and monetary union

In the latest EU Five Presidents' Report, Commission Vice-President Dombrovskis said: 'We need to accelerate the work on deepening the Economic and Monetary Union'.

The Presidents proposed strengthening the role of the Eurogroup by reinforcing the group's leadership and also suggested a centralised Eurogroup treasury to allow for future fiscal union.

Historically, no monetary union has existed without a political union.

A common commercial (trade) policy

The *Common Commercial Policy* severely limits the UK's ability to conduct its own trade negotiations. The Commission makes EU trade policy exclusively at EU level for all member states. The UK has a seat at the World Trade Organisation but it cannot conclude trade treaties.

Frequently Asked Questions

What is the extent of commitments made in treaties by the UK?

The UK must contribute to the EU budget and comply with common EU policies, accepting all legislation passed by the EU institutions as supreme over domestic UK law. The EU's body of law is called the 'acquis communautaire'.

Estimates vary but a recent study by *Business for Britain* showed that 65% of law introduced in the UK since 1993 was EU-derived. EU law includes regulations, which apply directly in the UK, directives, which are 'transposed' into national law, and legal decisions.

What is the EU's strategy for enlargement?

A number of Western Balkan countries are on a waiting list to join the EU. However, European Commission President Jean-Claude Juncker said in 2014 that the EU's expansion would be placed on hold with no new member states expected to join for five years. Negotiations continue between potential new members and the Commission. Serbia is expected to join around 2020.

What are the Prime Minister's commitments on renegotiation?

The Prime Minister said in March 2015, 'In the coming two years we have the opportunity to reform the EU and fundamentally change Britain's relationship with it.' The Government's goals can be split into four themes: competitiveness; increased powers for national parliaments; reforming EU migration rules and fairness for non-Eurozone members.

Specific measures advocated include cuts to EU regulations, increasing the pace at which free trade deals are agreed with the rest of the world and establishing a four-year waiting period before EU migrants can access in-work benefits. The PM has said the Government will seek to return powers over social and employment law to the UK.

The Prime Minister has promised "full-on treaty change" and "fundamental change". An end to 'ever closer union' has been promised. Merely removing those words from the preamble of the Treaty would have no practical consequences on further integration.

What did the Conservative manifesto say about the European Union?

'The EU is too bureaucratic and too undemocratic. It interferes too much in our daily lives, and the scale of migration triggered by new members joining in recent years has had a real impact on local communities. We are clear about what we want from the EU. We say: yes to the Single Market. Yes to turbocharging free trade. Yes to working together where we are stronger together than alone. Yes to a family of nation states, all part of a European Union – but whose interests, crucially, are guaranteed whether inside the Euro or out. No to 'ever closer union.' No to a constant flow of power to Brussels. No to unnecessary interference. And no, of course, to the Euro, to participation in Eurozone bail-outs or notions like a European Army.'

The manifesto also pledged an In/Out referendum on continuing British membership of the EU by the end of 2017.

How likely are renegotiations to be successful?

Reports that the referendum might be brought forward to 2016 have made prospects for major reform unlikely, unless the reforms are non-contentious, do not require EU Treaty change or have the support of all the other EU member states irrespective of potential changes of government.

EU Treaty amendment negotiations are usually long-drawn out affairs and require the unanimous approval of all 28 EU states, a process which often involves national referendums. The PM remains committed to 'proper, full-on treaty change'.

Anything less than treaty change is likely to be unpicked by ECJ rulings. Recent experience has shown the flimsiness of guarantees not backed by treaty change; for example there was a proposal to use the European Financial Stability Mechanism to assist Greece, despite a promise not to do so secured by the UK.

What would be the timescale if we were to leave?

Article 50 of the Lisbon Treaty provides for member states to leave within a two-year period of negotiation following an invocation of the Article by a member state. During that period, the member state and the EU would negotiate the member's terms of exit in a 'withdrawal agreement'. However, these terms would have to be agreed upon by the remaining EU member states under a system of Qualified Majority Voting so *other routes are likely to be preferable*.

What might the UK's relationship with the EU look like if we left?

In the worst-case scenario set out in Business for Britain's report *Change, or Go*, the UK would automatically have a World Trade Organisation (WTO) deal with the EU: both are WTO members. With such a deal, the UK would still be better off trading with the EU under WTO terms than the status quo, largely through the significant decline in global tariff rates since 1973.

A UK government might seek to re-join the European Free Trade Area (EFTA) and/or the European Economic Area (EEA) in order to remain a member of the EU single market. Each have their advantages and disadvantages.

If the UK votes to leave the EU, the UK will be in a very strong position to negotiate a completely new relationship with our EU partners based on trade and cooperation. It would not be in any EU member state's interests to erect tariff barriers between the UK and the rest of the EU.

What difference would a Bill of Rights make?

The Human Rights Act implements the European Convention on Human Rights under the auspices of the Council of Europe. The ECHR is completely separate from the EU.

The EU's Charter of Fundamental Rights creates similar obligations and therefore conflicts with UK law. The House of Commons European Scrutiny Committee has recommended unilaterally overriding the Charter "notwithstanding the ECA 1972".