

Introduction

The process of writing and passing laws in the EU is complicated. It involves balancing the interests of the member states in the Council of the European Union and the European Parliament, with the interests of the European Commission. How all of these institutions work together in forming legislation depends upon the type of legislation being passed. Because of its complexity, EU law-making is often criticised for being too bureaucratic, secretive and difficult to understand.

History

The overall direction of European law-making is set by the European Council, which agrees the EU's long-term goals. They set guidelines for the Commission to follow and also pass powers to the Commission to act on a wide range of policies including the Single Market, social policy, asylum policy, the Common Agricultural and Fisheries policies, Justice and Home Affairs (JHA) and Foreign and Security Policy (CFSP).

The Commission can propose two types of laws: directives and regulations. Directives require new national legislation whereas regulations work within existing laws and so do not need further legislation at a national level. The European Court of Justice (ECJ) is the legal authority responsible for ensuring that EU law is followed. The Commission can take legal action against a member state government if it feels they are not putting the legislation into place properly. It also has the power of judicial review over new legislation to ensure that it is legal under existing EU law.

How does the process work?

Only the Commission has the ability to propose new laws. Before proposing new initiatives, the Commission prepares 'Impact Assessments' which assess the potential economic, social and environmental consequences they may have. They also consult with non-governmental organisations, local authorities, and representatives of industry and civil society. Citizens, businesses and organisations can also participate in this consultation procedure via the public consultations [website](#). The EU legislates on a number of areas, including, agriculture, the environment and transport. Member states have an absolute right of veto on issues such as social security, taxation, foreign affairs and defence.

Drafting EU laws can take anywhere between 12-18 months. The European Parliament and the Council of the European Union then examine the proposals and suggest amendments before voting on whether the law should pass. There are several ways in which the Parliament and Council can examine laws - the most common method is ordinary legislative procedure, or the co-decision procedure. In the co-decision procedure the Council and Parliament must both agree on the wording of the legislation. After the first reading of the legislation by both bodies, the Parliament can propose amendments. The Council then adopts a Common Position accepting, rejecting or making further amendments to the bill. If Parliament does not accept the Common Position, then the Commission can either withdraw the legislation or a Conciliation Committee is convened between the Parliament and Council to try to adopt a joint text that they both agree on. If this is successful, the law is passed, if not then it is rejected.

Under the special legislative procedures, the Council of the EU is in practice the sole legislator but must either consult or obtain the consent from the European Parliament depending on the case. The objective is to simplify the EU's decision-making process by making it clearer and more effective. The EU's annual budget is adopted under a special legislative procedure (Article 314 of the Lisbon Treaty).

The Lisbon Treaty (2007) changed the EU's legislative process - it increased the Parliament's power by extending the co-decision procedure, and in the Council it expanded the use of qualified majority voting (QMV), removing the national veto from certain policy areas.

Comitology

Once legislation has been passed into law, it needs to be implemented. Comitology refers to a process by which EU law is modified or adjusted and takes place within comitology committees chaired by the Commission. Comitology committees consist of representatives from each EU Member State and are chaired by a Commission official. Comitology committees act as a forum for discussion on implementing measures and as a communication channel between the Commission and the Member States' national authorities. The extent to which the committees' opinions are binding depends on the type of procedure.

EU regulations, directives and decisions are published in the Official Journal. Amendments to EU legislation are usually published in new and separate regulations and directives. Consolidated texts, i.e. the consolidation of a basic legal act and all its subsequent amendments into one text, are available on the European Commission's [Eur-lex website](#).

Derogation

In theory, all EU laws should be binding on all member states. But countries can sometimes negotiate to opt-out of a particular piece of legislation. When this happens, the member state concerned is granted a "derogation" from the law. These usually only last for a limited period and are designed to allow countries extra time to adapt to a particularly controversial new law.

"The European Council shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof."

Article 4 of the Treaty on European Union, 1992

"[the EU's] ways are complicated to the point of incomprehensibility'."

Dr Helen Szamuely, Bruges Group

Technical Terms

- ❖ **Amendment:** an alteration to the text of a proposed law.
- ❖ **Co-decision:** A structure that means that EU legislative decisions must be taken jointly by the Parliament and the Council of the European Union.

Links

- ❖ http://news.bbc.co.uk/1/shared/spl/hi/europe/04/eu_institutions/html/how_they_work.stm
- ❖ http://ec.europa.eu/codecision/procedure/index_en.htm
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