



The European Union – How is it organised...

In just half a century, the European Union has achieved remarkable things. It has delivered peace between its members and prosperity for its citizens. It has created a single European currency (the euro) and a frontier-free 'single market' where goods, people, services and capital move around freely. The EU has grown from six to twenty seven countries and it is negotiating to embrace even more. It has become a major trading power, and a world leader in fields such as environmental protection and development aid.

The EU's success owes a lot to its unique nature and the way it works. The countries that make up the EU remain independent sovereign nations but they pool their sovereignty in order to gain a strength and world influence none of them could have on its own. Pooling sovereignty means, in practice, that the member states delegate some of their decision-making powers to European institutions they have created, so that decisions on specific matters of joint interest can be made democratically at European level.

Introducing the European Union - Part 2: Decision making processes

Decision-making at European Union level involves various European institutions, in particular the European Commission, the European Parliament, the Council of the European Union. In general it is the European Commission that proposes new legislation, but it is the Council and Parliament that pass the laws. Other institutions and bodies also have roles to play. The rules and procedures for EU decision-making are laid down in the treaties. Every proposal for a new European law is based on a specific treaty article, referred to as the 'legal basis' of the proposal. This determines which legislative procedure must be followed. The three main procedures are 'consultation', 'assent' and 'co-decision'.

The Treaties:	Treaty	In force	Summary
<p>The European Union is based upon and governed in accordance with a number of Treaties between the Member States. These Treaties are the most fundamental part of the <i>acquis communautaire</i> and in every case have been the subject of (sometimes prolonged) negotiations leading to unanimous agreement amongst governments and ratification by national parliaments and, in some cases, by referendum too. The Treaties not only serve as the Union's constitution but are also prescriptive in that several of them set objectives for the future, usually accompanied by a deadline and sometimes by a precise timetable. Most of the Treaties contain provision for their own amendment and, with one exception, were concluded for an unlimited period. In common with the rest of the <i>acquis communautaire</i>, the Treaties must be accepted in their entirety by states wishing to join the Union. The table below lists the main Treaties and Acts in chronological order, together with the date of entry into force and a brief</p>	European Coal and Steel Community (ECSC) Treaty (Treaty of Paris, 1951)	1952	Concluded for 50 years amongst the Six on the basis of the Schuman Plan
	European Economic Community (EEC) Treaty (Treaty of Rome, 1957)	1958	Concluded on the model of the ECSC Treaty but with a much broader range of objectives; the most important of the Treaties
	European Atomic Energy Community (EAEC or Euratom) Treaty (also signed in Rome, 1957)	1958	A sector-specific Treaty of limited application
	Treaty establishing a Single Council and a Single Commission of the European Communities (Merger Treaty, 1965)	1967	Amended the ECSC, EEC and Euratom Treaties to create a Council and a Commission serving all three Communities
	Treaty amending certain Budgetary Provision of the Treaties establishing the European Communities (and of the Merger Treaty) (Treaty of Luxembourg, 1970)	1971	Laid down a new procedure for settling the Budget and introduced the system of 'own resources'

summary, where relevant, of how each relates to the others. The first three Treaties, establishing three legally distinct Communities are sometimes referred to as the 'founding Treaties'.



http://europa.eu/abc/treaties/index_en.htm

Treaty amending certain Financial Provisions of the Treaties establishing the European Communities (and of the Merger Treaty) (1975)	1978	Refined the budgetary procedure to give the European Parliament more power and set up the Court of Auditors
Act concerning the election of the representatives of the European Parliament by direct universal suffrage (European Elections Act, 1976)	1978	The basis for the first (1979) and subsequent European elections
Single European Act (1986)	1987	Amended and expanded the EEC Treaty (most importantly by extending the scope of qualified majority voting) and laid down new procedures for foreign policy co-operation
Treaty on European Union (Maastricht Treaty, 1992)	1993	Established the European Union; amended and expanded the EEC Treaty; created the co- decision procedure; created 'pillars' of Common Foreign and Security Policy (CFSP) and Co-operation in the Fields of Justice and Home Affairs (JHA)
Treaty of Amsterdam (1997)	1999	Amended the Maastricht Treaty and the EEC Treaty; extended co-decision; added new provisions on social policy; incorporated the Schengen <i>acquis</i> into EEC Treaty; created 'constructive abstention'; strengthened transparency
Treaty of Nice (2001)	2003	The Treaty of Nice, signed on 26 February 2001, entered into force on 1 February 2003. It dealt mostly with reforming the institutions so that the Union could function efficiently after its enlargement. The Treaty of Nice, the former Treaty of the EU and the Treaty of the EC have been merged into one consolidated version.
Treaty establishing a Constitution for Europe (2004)	-	Before the Constitution for Europe can enter into force, it must be ratified by all the Member States of the European Union. The ratification, however, is suspended due to negative results of respective referenda in France and the Netherlands.

Types of European Union legislation

There are three different kinds of law in the European Union:

- Primary legislation, i.e. the Treaties and other agreements possessing similar status;
- Secondary legislation, i.e. the regulations, directives, decisions, recommendations and opinions based upon the Treaties (see above);
- Case law, i.e. judgments of the European Court of Justice and of the Court of First Instance. Collectively they are known as the '*Acquis communautaire*'.

Primary legislation is agreed on the basis of direct negotiations between Member States' governments. Such agreements are drawn up in the form of treaties which are subject to ratification in national parliaments (but not by the European Parliament!). The same is true of any subsequent amendments to them. In some Member States, recourse may be had to a referendum. Secondary legislation is drawn up using a variety of different procedures, depending upon the Treaty article chosen by the Commission as the legal base for the proposal in question. Case law results from judgments of the European Court of Justice and of the Court of First Instance meeting Luxembourg, normally in response to referrals from

national courts or as a result of actions brought by the Commission in its capacity as the guardian of the Treaties.

The different types of secondary legislation are:

- **Regulations:** binding and directly applicable in all Member States without any implementing national legislation. Management of the day to day aspects of the Common Agricultural Policy, for example, is by means of regulations.
- **Directives:** binding on the Member States with respect to the result to be achieved and with respect to the deadline, but with the choice of method left to the Member States. Directives have to be implemented in national legislation in accordance with each Member State's own procedures. There can be a substantial delay between the approval of a directive in the Council of Ministers and its implementation in the national law of the Member States. Enforcement - by no means even - is normally the responsibility of the national authorities.
- **Decisions:** may be issued either by the Council or by the Commission and are binding upon those to whom they are addressed, normally a Member State or a commercial enterprise. No national implementing legislation is required.

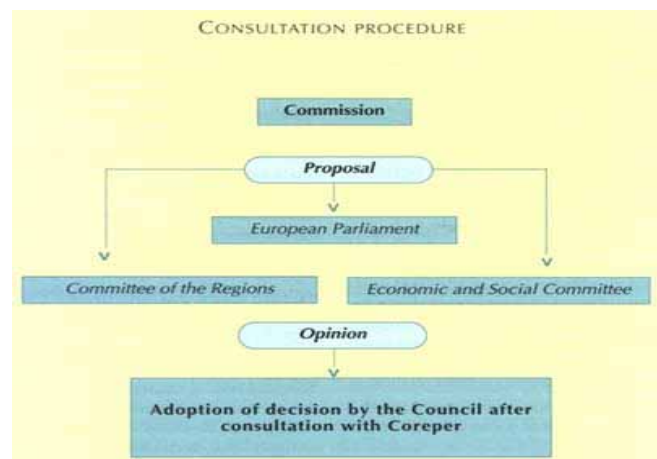
Recommendations and **Opinions:** have no binding effect, and may be issued either by the Council or by the Commission.

The Legislative Process

Consultation Procedure

Legislation may be adopted under the Consultation Procedure, the Co-operation Procedure or the Co-Decision Procedure. The choice of procedure depends upon the Treaty article which the Commission has chosen as the legal base for its proposal (see section 2.3). Until the entry into force of the Single European Act in July 1987, all legislation was adopted under the simplest of these procedures, known as the Consultation Procedure.

This procedure requires the Council to obtain the opinion of the European Parliament (and sometimes also the opinions of ECOSOC and the Committee of the Regions) before adopting legislation. However, neither the Council nor the Commission is obliged to accept the amendments contained in the Parliament's opinions and it is only by refusing to give an opinion that the Parliament can exert pressure. Once the Parliament has given its opinion, the Council can adopt the proposal unamended, adopt it in an amended form, or be unable to agree. In the last case the proposal remains "on the table".

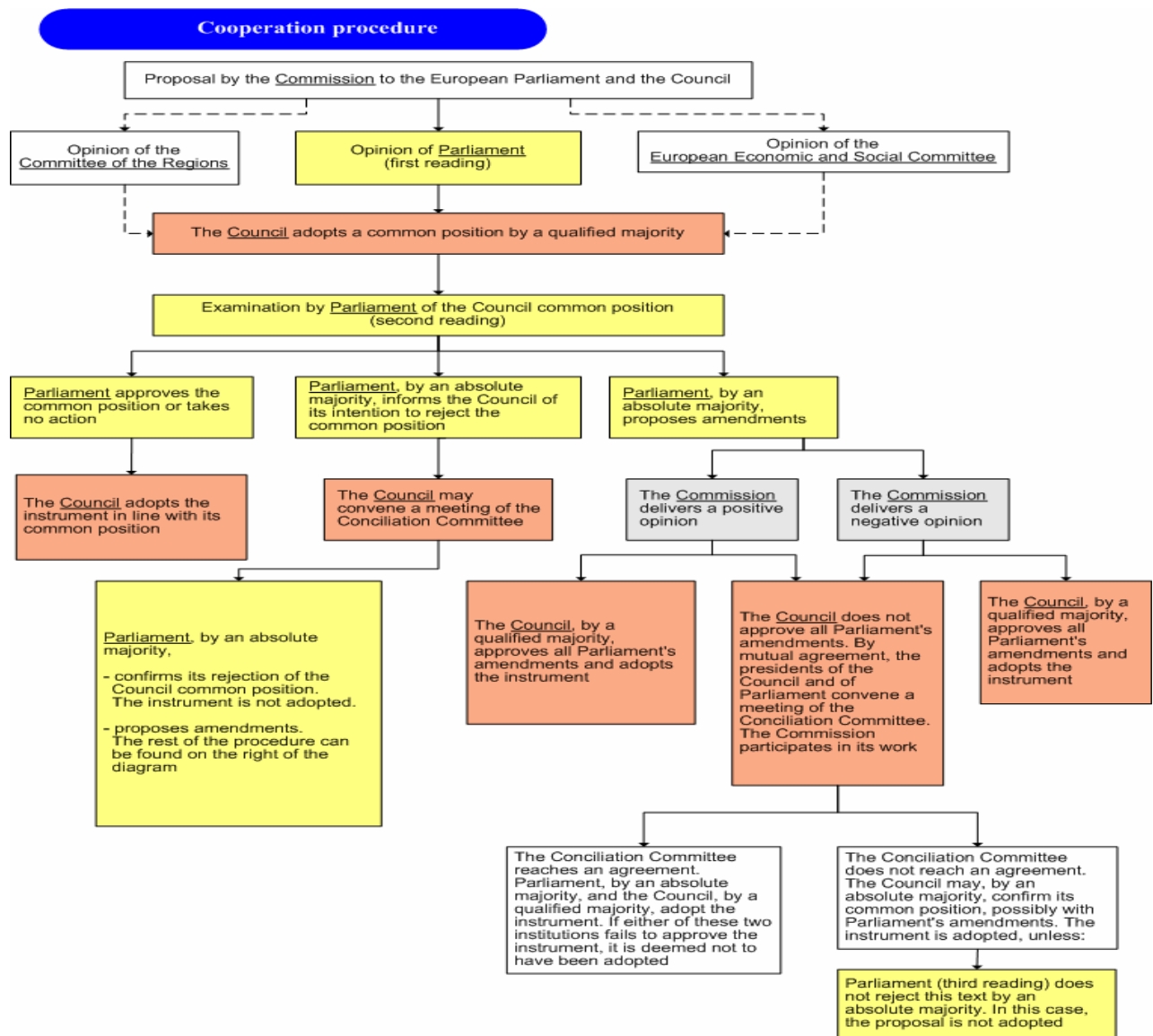


Co-operation Procedure

The Co-operation Procedure, introduced in 1987, allows the Parliament two opportunities to scrutinize and possibly amend the Commission's proposal. At the first stage, the Parliament, ECOSOC and the Committee of the Regions give their opinions in the same way as under the Consultation Procedure. Only the Parliament can propose amendments.

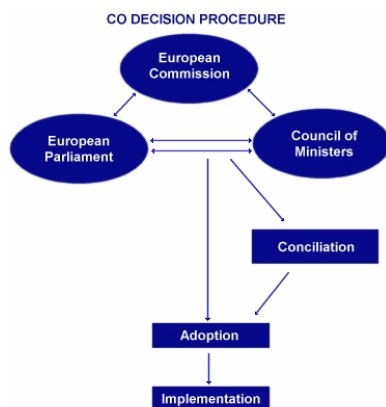
The Commission indicates which amendments it accepts before the proposal is forwarded to the Council, which then draws up its "common position". Studies have shown that about 40 per cent of the Parliament's amendments are accepted at this stage. The Council's common position is sent back to the Parliament which may within three months approve it, reject it, or adopt amendments to it. The Council may then adopt the proposal in question, although it can do so only by unanimous agreement:

- when it wishes to amend a proposal on its own initiative;
- when it decides to take up amendments which have been proposed by the Parliament but rejected by the Commission;
- when it decides to adopt a common position which the Parliament has rejected;
- when it wishes to override amendments which the Parliament has adopted by an absolute majority (314 votes) at second reading and which are supported by the Commission.



Co-Decision Procedure

The Maastricht Treaty (effective from November 1993) introduced the Co-Decision Procedure in order to strengthen the Parliament's influence over legislation. Once the Treaty of Amsterdam comes into effect, the Co-Decision Procedure will replace the Co-operation Procedure in all but a very few areas and become the normal mode of Council-Parliament involvement in legislation. The essential difference between the two procedures is that the Co-Decision Procedure :



- allows for the convening of a 'Conciliation Committee' in which at the final stage differences between the Council and the Parliament may be resolved;
- allows the Parliament, as a last resort, the right to reject the proposal outright by an absolute majority.

Under the Co-Decision Procedure, the Council and the Parliament are jointly responsible for the final adoption of legislation. It has been estimated that some 60 per cent of the Parliament's amendments are incorporated into the legislation.

For more information on the EU legislative process:

http://europa.eu.int/eur-lex/en/about/pap/process_and_players3.html

The European Commission's implementing powers

Once approved by the European Parliament and the Council, the detailed procedures for implementing directives are worked out by special committees of representatives of Member States, normally civil servants. This committee process is known as 'comitology'. The role of these committees, meeting behind closed doors and without publishing minutes, has long been a bone of contention between the European Parliament, the Commission and the Council. Though most committees deal with complex technical matters, some of their decisions have a profound effect on interested parties. In theory, the Commission consults interested parties who are listed in its Directory of Interest Groups. Member State governments are supposed, through their own machinery, to consult interested parties within their own countries. This unsatisfactory procedure was set up by a decision of the Council of Ministers in 1987. As a result of the Amsterdam Treaty, it has to be clarified. 'Comitology' is the main cause of the so-called democratic deficit since it is subject to the democratic scrutiny of neither the European Parliament nor national parliaments.

The budgetary procedure

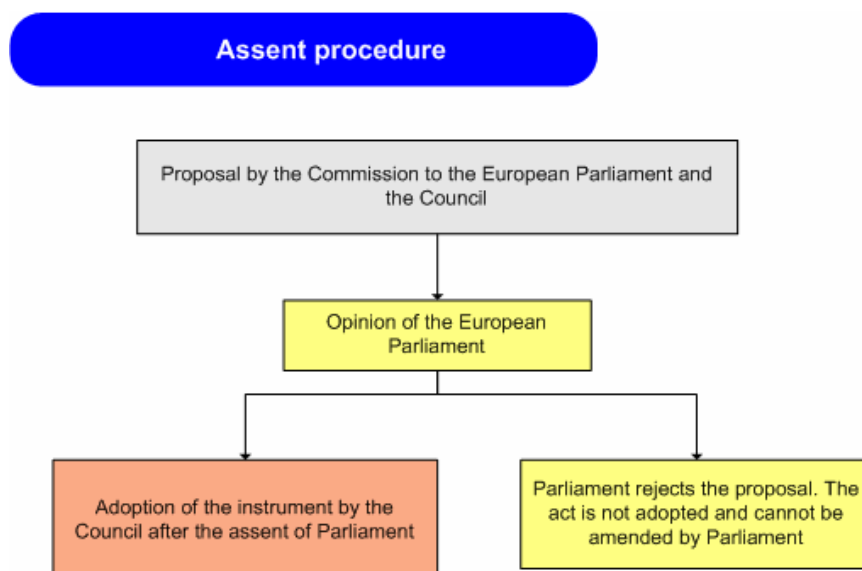
A different procedure is used for the Budget of the Union. The Commission draws up a Preliminary Draft Budget covering all expenditure, operational and administrative, by the institutions of the Union. This must be done by 15 June of the year preceding the budgetary year in question. On this basis, the Council adopts, before 31 July, a Draft Budget which is forwarded to the European Parliament. At its first reading of the Budget in October, the Parliament may amend any of the proposals for expenditure contained in the Budget, which is then returned to the Council. The Council may make further changes before the Budget is returned to the Parliament for a second reading in December.

At this point, the Parliament may reject the whole Budget as it did for the first time in 1979 and require a new draft to be submitted. Broadly speaking, the Council has the last word on what is called "compulsory expenditure" (about half the Budget) defined as "expenditure necessarily resulting from the Treaties or from acts adopted in accordance therewith". By far the biggest element in this category is price support under the Common Agricultural Policy. The Parliament has the last word on "non-compulsory expenditure" within a maximum rate of increase fixed annually in agreement with the Council. If the Parliament is satisfied with the Budget as a whole, the President of the Parliament will declare the Budget adopted.

The assent procedure

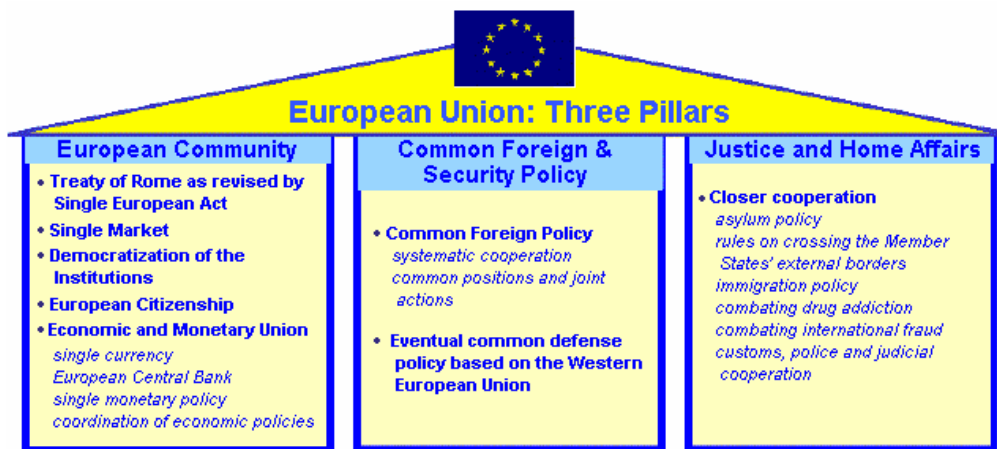
One further procedure should be noted, known as the Assent Procedure. This allows the Parliament to give its assent to any agreement concluded between the Union and a non-member country or group of countries. An absolute majority of the Parliament's total membership is required for new accessions to the Union. If assent is withheld, the agreement cannot come into effect.

Since the Union is a major trading power, the range of agreements is very wide and the Assent Procedure is an important addition to the Parliament's powers.



The inter-governmental pillars

The Maastricht Treaty created a European Union which rests upon three "pillars". The central pillar is the European Community (EC) itself and the decision-making procedures described in this publication are those which apply to action within the EC pillar, normally known as the "first pillar".



The procedures in the other two pillars (the Common Foreign and Security Policy and Co-operation in the fields of Justice and Home Affairs) are different, for although the Council of Ministers plays much the same role, the legislative instruments are not the same. The Commission is less influential and recourse cannot be had to the Court of Justice. Action in these fields is essentially intergovernmental in character. Under both pillars, provision exists for the European Parliament to be kept informed and consulted. Members of the European Parliament are also entitled in the normal way to put questions to the Council of Ministers. In so far as action is taken under either heading which involves a charge to the Budget of the Union, the Parliament's powers with respect to the Budget (see above) may be brought into play.

For more information about the decision making process and procedures in the European Union, please visit: http://europa.eu/institutions/decision-making/index_en.htm