

Lawmaking and Legislative Procedure in the European Union

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tl;dr

THE EU'S LAWMAKING BODIES

The process of writing and passing laws in the European Union primarily involves three institutions: the European Commission, the European Parliament, and the Council of the EU. The Commission proposes legislation, and the Parliament and the Council approve, amend, or reject it.

The Parliament is the EU's legislature. It represents all EU citizens and is directly elected by them. The Council of the European Union represents the governments of the individual member states. The European Commission is the EU's politically independent executive body responsible for drawing up proposals for new European legislation and ensuring, together with the Court of Justice, that these laws are properly applied by member states. It consists of one commissioner from each member state, for a total of 27.

KEY TAKEAWAYS

THE EU LEGISLATIVE PROCESS

The overall direction of European lawmaking is set by a strategic body made up of the heads of state or government from each EU country, as

well as the presidents of the European Council and the European Commission. This body provides the union with its general political priorities. Confusingly, this group is called the European Council, but it is distinct from the Council of the EU. It usually meets four times a year and generally decides issues by consensus (unanimity or, in some cases, qualified majority).

Following these guidelines, the Commission can propose two types of laws: regulations and directives. A regulation is a binding legislative act that enters into force on a set date in all the member states and that overrides existing national laws with which it might otherwise conflict. A directive sets objectives that every EU country must reach and translate into their own national law within a set period of time.

Before proposing a new bill, the Commission runs a public consultation, although input received through this process may not be reflected in the final bill. The process of drafting new laws can take up to 18 months.

Once the discussion is complete, the Commission takes a simple majority vote and submits a formal proposal for legislation to the European Parliament.

THE ORDINARY LEGISLATIVE PROCEDURE OR THE CO-DECISION PROCEDURE IN THE EU

After the Commission submits a proposal, the Parliament and the Council of the European

Union examine it and either approve or amend it. The primary decision-making procedure used for adopting legislation at the European Union level is called ordinary legislative procedure (OLP), or the co-decision procedure. It covers 85 policy areas and is used except in those areas where treaties specify that a special legislative procedure is to be applied to that particular subject.

OLP gives equal weight to deliberations by the Parliament and the Council. It can be compared to the legislative process in a state with a bicameral system (such as in the United States) under which a legislature is divided into two separate assemblies, chambers, or houses.

The procedure calls for at least one and up to three readings by the Parliament and the Council. The vast majority of proposals (74%) are adopted at first reading. In such examples, the Parliament approves the proposal (with or without amendments) and then the Council approves Parliament's position.

The Council may propose amendments to the Parliament's position, and return the proposal for a second reading. If the two bodies still do not reach agreement after the second reading, the Commission can either withdraw the bill or convene a Conciliation Committee between the Parliament and the Council to finalize negotiations.

If the text finalized by the Conciliation Committee is acceptable to both institutions at the third reading, the legislative act is adopted.

MEMBER STATES' COMPLIANCE WITH THE LAW

The Commission functions as the enforcer of European law, pursuing legal action before the Court of Justice against member states who fail to comply with their EU obligations. In 2007, enforcement cases hit a record 3,400,

prompting the Commission to flag in its 25th Annual Report to the European Parliament the problem of an EU-wide implementation deficit. While progress has been made in the ensuing years, the problem has not been completely eradicated. The Commission's 37th Annual Report revealed that it had launched 797 infringement cases in 2019.

About 80% of infringement procedures before the Court of Justice involve directives, while non-compliance with regulations accounts for 20% of cases. The process by which directives are incorporated into member states' national laws can be complex. Despite differing national legal and administrative systems, each EU member state must interpret the general principles laid down in directives and develop precise instruments and procedures to give them effect. Compliance with regulations is generally more straightforward, since they must be applied uniformly by all member states. Regulations nonetheless sometimes also require extensive institutional and legal changes.

For more on the recently proposed EU draft bills targeting Big Tech companies, see Dirk Auer and Anastasiia Rusanova's short explainers discussing the [Digital Services \(DSA\)](#) and [Digital Markets Acts \(DMA\)](#).

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