

Lawmaking and Legislative Process

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 lawmaking is often criticised for being too bureaucratic, secretive and difficult to understand.

Overview of European Lawmaking

The overall direction of European lawmaking 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. 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. Although there are several ways in which the Parliament and Council can examine laws, the most common (or 'ordinary legislating') method is 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.

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.

The EU's *Enhanced Cooperation* procedure allows at least one-third of member states to cooperate more closely on areas without unanimous agreement (they can agree policies without obliging other members to either veto or adopt it). The procedure was introduced under the Amsterdam Treaty and used for the first time in June 2010 when 14 states opted to establish common divorce laws, to allow couples to decide which states laws would apply to their divorce.

Comitology

Once legislation has been passed into law, it needs to be implemented by the European Council. The Council has passed a lot of responsibility for this phase to the Commission. However, the Council has also created a series of committees formed of national experts that work with the Commission during the implementation process and who can refer measures that they disagree with back to the Council for review.

This procedure is known as comitology and has been highly criticised by the European Parliament because the comitology committees' work is not transparent. There are also complaints that comitology gives the Council and national Governments too much control over the Commission, which interferes with the relationship between these different institutions.

Quotes

'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

Judicial Review: the power of the European Court of Justice to review any new EU legislation to ensure that it is legal.

Amendment: an alteration to the text of a proposed law.

Co-decision: a structure that means that EU decisions must be taken jointly by the Parliament and the Council of the European Union.

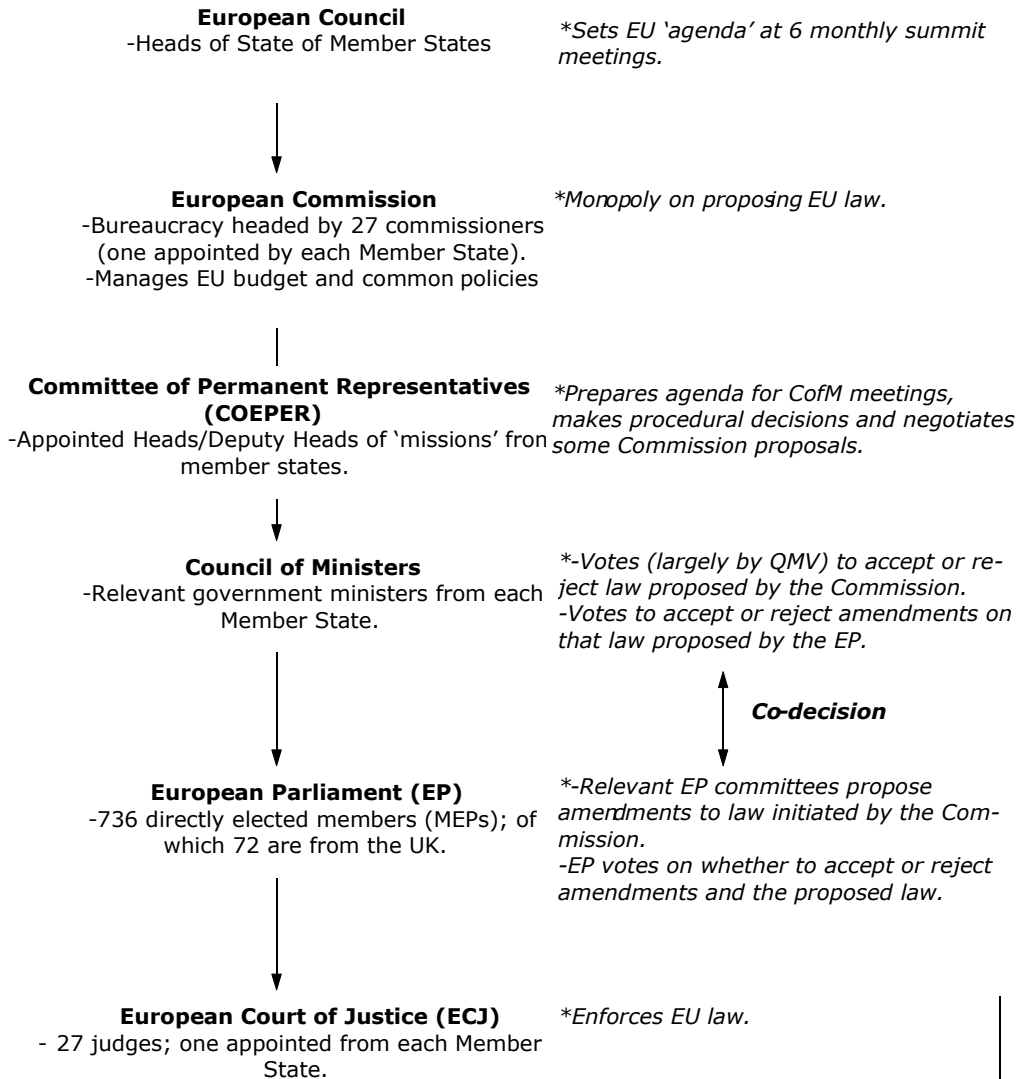
Enhanced Co-operation: a core of countries can cooperate more closely in areas of policy without obliging other members to either veto these policies or adopt it.

Links

- http://news.bbc.co.uk/1/shared/spl/hi/europe/04/eu_institutions/html/how_they_work.stm
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