

EU MATTERS **project**

Chapter 3. EU political and decision-making process

Part 1

1. Overview of the EU legislative process
2. Explanation of the role of the Parliament, Commission and Council in legislation
3. Explanation of the EU budget process

Training Academy
Ms. Giovanna Cuturi

1. Overview of the EU lawmaking process

Community law or the legal system of the EU consists of.

Founding treaties and by subsequent amending acts (protocols)

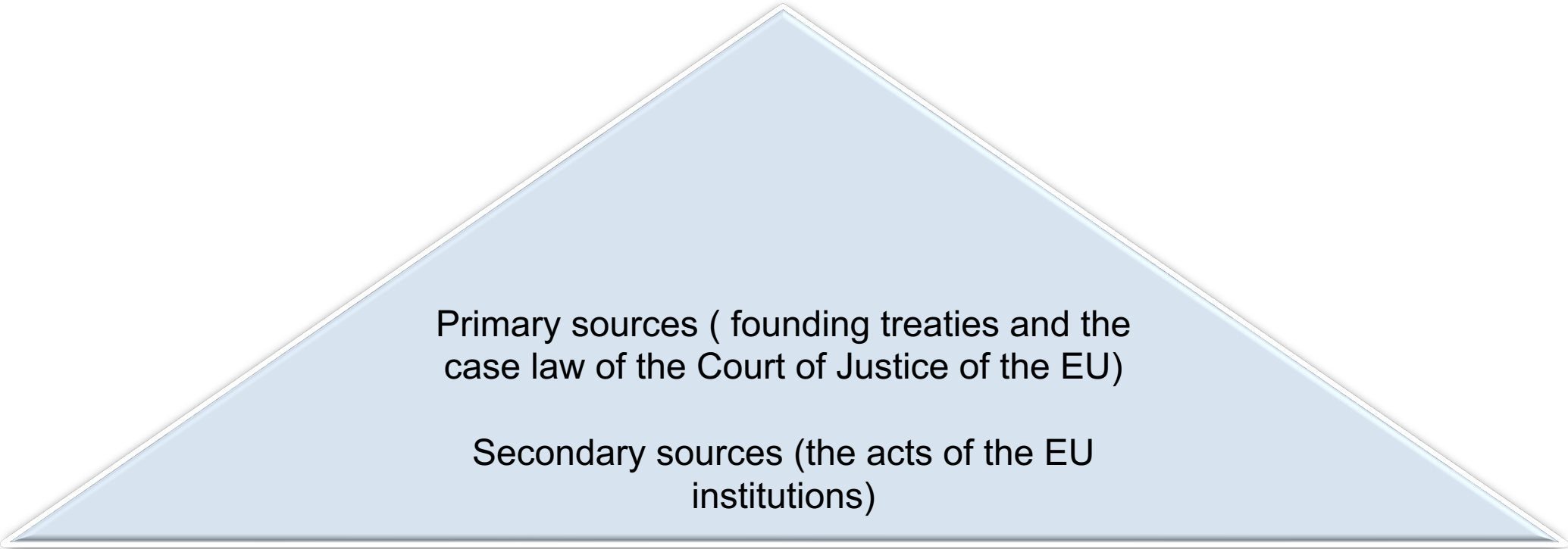
Normative acts issued by community institutions and Acts adopted by European institutions

Agreements entered into by communities with third states

PECULIARITIES OF COMMUNITY LAW

It has characteristics characteristic of both **domestic law** (e.g., the existence of a centralized system of ascertaining and implementing law) and **international law** (e.g., having treaties as its source).

The sources of EU law



Primary sources (founding treaties and the
case law of the Court of Justice of the EU)

Secondary sources (the acts of the EU
institutions)

EFFECTIVENESS OF EU LAW

- Can have **BINDING** EFFECTIVENESS (regulations, directives, decisions) or **NON-BINDING** EFFECTIVENESS (recommendations, opinions) and has a **system of sanctions and coercive enforcement** through the Court of Justice.
- In domestic legal systems, these rules are placed on a higher plane than those of the legal systems of member states (**principle of precedence** of EU law over domestic law).

2. Explanation of the role of Parliament, Commission and Council in legislation

The **institutions involved in EU decision-making** are:

- The European Parliament, which represents the citizens of the EU
- The Council of the European Union, which represents the governments of the EU countries
- The European Commission, which represents the general interests of the EU and has the right of legislative initiative

EU policies are generally decided through the **ordinary legislative procedure** (formerly known as the "co-decision" procedure), which allows the three main institutions to reach agreement on legislation.

Initially, the Treaty of Rome gave the Commission proposal and negotiating power, mainly in the legislative field and in external economic relations, and gave **decision-making powers to the Council** or, in the case of appointments, to representatives of member state governments. It assigned advisory power to the Parliament.

Parliament's role has gradually grown.

Legislative initiative rests with the Commission but, the Maastricht Treaty, reinforced by the Lisbon Treaty, nevertheless granted the European Parliament a right of legislative initiative that allows it to ask the Commission to submit a proposal

The **Treaty of Amsterdam** made substantial progress on the path to democratizing the Community by simplifying the co-decision procedure, extending it to new areas and strengthening Parliament's role in appointing the Commission.

Following the same approach, the **Treaty of Nice** greatly increased Parliament's powers. On the one hand, the co-decision procedure (in which the Parliament has the same powers as the Council) now applied to almost all new areas in which the Council decides by qualified majority; on the other hand, the Parliament gained the same powers as the member states in terms of being able to refer issues to the Court of Justice.

The **Lisbon Treaty** represents another qualitative step toward full equality with the Council in matters of EU legislation and finances

STEPS of the ordinary legislative procedure

- a. Commission proposal
- b. First reading in Parliament . Parliament adopts its position by simple majority.
- c. First reading in Council. The Council adopts its position by qualified majority vote. If the Council approves Parliament's position, the act is adopted in the wording that corresponds to Parliament's position. Otherwise,
- d. Second reading in Parliament, which may approve the proposal as amended by the Council or take no decision; in either case, the act is adopted as amended by the Council; reject the Council's position by an absolute majority of its members; the act is not adopted and the procedure ends; adopt, by an absolute majority of its members, amendments to the Council's position, which are then forwarded to the Commission and the Council for their opinion ; in the latter two cases, the second reading in the Council will take place.
- e. Second reading in the Council. If the Council approves all of Parliament's amendments within three months of receiving them, voting by qualified majority but unanimously on those amendments on which the Commission has given a negative opinion, the act is adopted. Otherwise, the Conciliation Committee shall be convened within six weeks.

f. Conciliation. The Conciliation Committee consists of an equal number of representatives of the Council and Parliament, assisted by the Commission. It examines the positions of the Parliament and the Council and has six weeks to agree on a joint draft, which must be approved by VMQ of the Council representatives and a majority of the Parliament representatives. If the committee does not reach agreement on a joint draft by the deadline, the procedure ends and the act is not adopted. If, on the other hand, the committee reaches agreement, the joint draft is sent to the Council and Parliament for their approval.

g. Conclusion of the procedure (third reading). The Council and Parliament have six weeks to approve the joint draft. The Council shall act by a qualified majority and Parliament by a majority of the votes cast. The act is adopted if the Council and Parliament approve the joint draft. If either institution does not approve the draft by the deadline, the procedure ends and the act is not adopted.

The number of first-reading agreements reached through informal negotiations between the Council and Parliament has increased significantly in recent years.

SPECIAL LEGISLATIVE PROCEDURES Approval and Consultation

APPROVAL

The legislator is the Council while, The European Parliament must give its approval regarding a legislative proposal or be consulted on it;

Under the consent procedure the European Parliament has the power to accept or reject a legislative proposal by an absolute majority vote, but cannot amend it; under consultation the European Parliament can approve or reject a legislative proposal and can propose amendments.

the Council can adopt legislative proposals after obtaining the consent of the European Parliament.

As a legislative procedure, consent is used for the adoption of new legislation concerning anti-discrimination and also provides Parliament with a veto right when the general subsidiary legal basis is applied.

Parliament's consent is also required under nonlegislative procedures, for example: when the Council adopts certain international agreements negotiated by the EU; in cases of serious violations of fundamental rights (Article 7 of the Treaty on European Union); and for the purpose of accession of new members to the EU.

CONSULTATION

The Council is not legally obliged to take into account the opinion of Parliament, but according to the case law of the Court of Justice it cannot adopt a decision without having received that opinion. It applies in various areas, such as derogations within the internal market and competition rules, and is required under nonlegislative procedures when international agreements are adopted under the common foreign and security policy.

ADOPTION AND IMPLEMENTATION

The Council adopts EU legislation in the form of regulations and directives, either together with the European Parliament, in accordance with Article 294 TFEU (ordinary legislative procedure), or alone, after consultation with Parliament (1.2.3.).

The Council also adopts individual decisions and non-binding recommendations (Article 288 TFEU) and issues resolutions.

The Council and Parliament establish general rules for the exercise of implementing powers conferred on the Commission or reserved for the Council itself (Article 291.3. TFEU).

3. Explanation of the EU budget process

Instrument that enables and allocates **resources** toward **investment**, establishing revenue and expenditure for financing EU **policies** and **programs** in line with the Union's policy priorities and legal obligations.

Since 1988, the EU has adopted long-term (5-7 years) budgets called multi-year (**MFF**) and short (**annual**) financial frameworks

The European Parliament and the Council together constitute the budgetary authority.

Prior to 1970, only the Council had budgetary authority while the Parliament had only an advisory role.

Before the Lisbon Treaty came into force, the Council and Parliament each had two readings during the budget procedure, at the end of which Parliament could adopt the budget or reject it outright.

The Lisbon Treaty introduced a simpler and more transparent budget procedure (budget co-decision).

BUDGET PROCEDURE

FOUR STAGES :

1.presentation of the draft budget by the Commission.

Parliament and Council set guidelines on budget priorities. The Commission prepares the draft budget and submits it to the Council and Parliament (no later than September 1 under Article 314(2) TFEU, but by the end of April or early May according to the pragmatic calendar). To take into account new developments, the draft budget may be amended by the Commission later, but in any case before the Conciliation Committee is convened.

2. Adoption of the Council's position on the draft budget. The Council adopts its position on the draft budget and transmits it to Parliament (under Article 314(3) TFEU, the draft budget is due by October 1, but under the pragmatic calendar it is transmitted by the end of July). It must fully inform Parliament of its reasons for adopting such a position.

3. Reading of Parliament. Parliament has 42 days to respond. During this period it may approve the Council's position or decide not to act, in which case the budget is deemed adopted, or it may propose amendments if these are adopted by a majority of its members, in which case the amended draft is referred to both the Council and the Commission. The President of Parliament, in agreement with the President of the Council, must then immediately convene a meeting of the Conciliation Committee.

4. Conciliation Committee meeting and budget adoption. From the day of convening, the Conciliation Committee (composed of an equal number of representatives of the Council and Parliament) has 21 days to reach agreement on a joint draft. To do so, it must adopt a decision by a qualified majority of the members of the Council or their representatives and a majority of the representatives of the Parliament.

The Commission participates in the work of the Conciliation Committee and takes any initiative necessary to promote a rapprochement between the position of Parliament and that of the Council. If the Conciliation Committee does not reach agreement on a joint draft within the 21-day period, the Commission shall submit a new draft budget. If the Conciliation Committee reaches agreement on a joint draft within that period, the Parliament and the Council each have 14 days to approve it.

The ultimate responsibility for budget **execution** rests with the **Commission**, which must ensure that every euro spent is recorded and accounted for even though member states, in cooperation with the Commission, are required to ensure that appropriations are used in accordance with the principles of sound financial management.

The execution of the EU's annual budget is checked under what is known as the budget discharge procedure.



