

How to use this leaflet

The aim of this guide is to explain how the co-decision procedure provided for under Article 251 of the EC Treaty works. It sets out what happens at each stage as a Proposal for legislation makes its way through the European Commission, European Parliament and Council. This guide goes beyond simply explaining the wording of the treaty by also setting out the EU institutions' rules of procedure and providing some examples of how the system works in practice. It is widely acknowledged that this process is complex and difficult to understand. We hope this leaflet will help you make sense of it all.

Abbreviations used in the leaflet

COR Committee of the Regions; **COREPER** Committee of Permanent Representatives; **COROP** Council Rules of Procedure; **CP** Common Position; **CROP** Commission Rules of Procedure; **DG** Directorate-General; **ESC** Economic and Social Committee; **EP** European Parliament; **EPRO** European Parliament Rules of Procedure; **MEP** Member of European Parliament; **MS** Member States; **OJ** Official Journal; **PERMREP** Permanent Representative of the Member States to the EU; **QMV** Qualified Majority Voting; **SG** Secretariat-General.

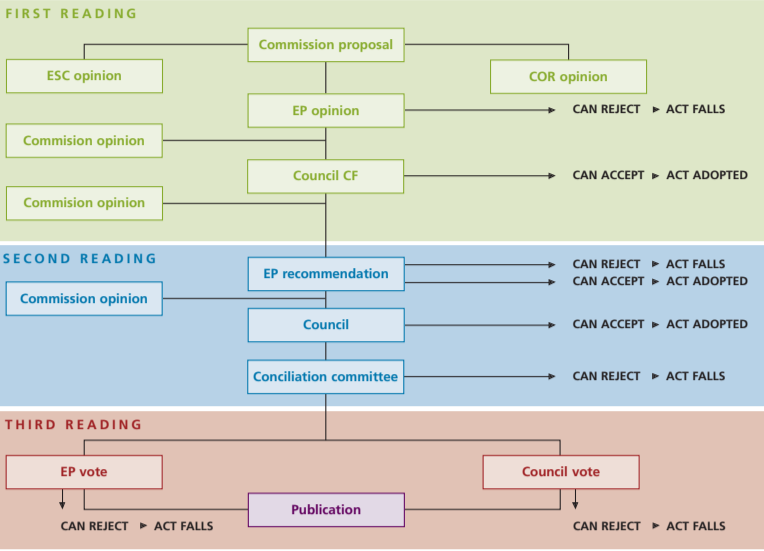
Colour codes representing each level in the co-decision procedure

■ First reading ■ Second reading ■ Conciliation
■ Third reading ■ Publication

Colour codes representing each of the EU institutions

■ Commission ■ European Parliament ■ Council
■ Advisory committees

Overview



FIRST READING

Commission proposal

ACTOR	ACTION
Commission Art. 251,2 EC Treaty Art. 250,2 EC Treaty Art. 8, 12 CROP	One or more DGs draw up the first draft. Other DGs may suggest changes during <i>inter-service consultation</i> . The draft Proposal will be checked by the legal service and translated into all Community languages. Before adopting a Proposal, the Commission produces an impact assessment and consults widely with stakeholders and MS (including public hearing). The Proposal is then discussed at Cabinet level, first by the special chefs, then at the Monday chefs' meeting. At this meeting the agenda for the Wednesday Commissioners' meeting is set. The College of Commissioners then adopts the Proposal, usually without vote or, occasionally, by simple majority vote and the Secretariat-General submits it to the EP and Council. Additional notes <ul style="list-style-type: none"> ■ The Commission can table a new Proposal or withdraw its Proposal until the Council CP is formally adopted during Council first reading. ■ In many uncontroversial cases, legislative Proposals are adopted by written procedure or as an A-point (ie without discussion and vote).
Economic and social committee Art. 262 EC Treaty Rule 117 EPRO	Gives its Opinion.
Committee of the regions Art. 265 EC Treaty Rule 118 EPRO	Gives its Opinion.

No time limits

European Parliament first reading

ACTOR	ACTION
EP president Rule 40 EPRO	Receives the Proposal and refers it to the lead and opinion-giving Committees.
EP committee Rule 42, 46 EPRO	Co-ordinators of the political groups in the lead Committee decide which MEP (Rapporteur) will draft the Report. Other political groups in the Committee choose Shadow Rapporteurs and other interested Committees appoint Draftsmen to produce Opinions. Additional notes <ul style="list-style-type: none"> ■ All political groups are given the opportunity to draft Reports. The number of reports allocated to each group depends on the size of the group.
MEP	The Rapporteur writes a draft Report on the Proposal and is kept informed by the Commission and Council of any developments or progress made. In this exercise the Rapporteur will be supported by the Secretariat of the Committee. Additional notes <ul style="list-style-type: none"> ■ Rapporteurs try to achieve the widest possible consensus to ensure their Report is adopted by the Committee.
EP committee Rule 34, 35 EPRO	First discussion (the deadline for tabling of amendments is fixed). Additional notes <ul style="list-style-type: none"> ■ Deadlines must take into account the time needed for translation (usually 10 working days). ■ If MEPs dispute the legal basis of the Proposal, they will ask the Legal Affairs Committee for its Opinion. If the legal basis is not disputed by the Committee, amendments concerning the legal basis may not be introduced at plenary. ■ Parliament is obliged to verify if proposed legislation complies with principles of subsidiarity and proportionality and with fundamental rights.
MEPs Rule 150 EPRO	MEPs from both the lead and opinion-giving Committees can table amendments (technically, all MEPs have this right).
EP committee Rule 47, 50, 151, 185 EPRO	Lead Committee adopts Report by voting (simple majority) on every amendment tabled and on the Opinions of other Committees. (It also considers the Opinions of the Commission and the Council.) Additional notes <ul style="list-style-type: none"> ■ The weight of Opinions from other Committees will vary but there are two procedures that can be applied to increase the Opinions' importance. <ul style="list-style-type: none"> - Hughes procedure, whereby all amendments and conclusions of the opinion-giving Committee must also be voted on by the lead Committee. - Enhanced Hughes procedure, whereby amendments that fall under the exclusive competence of the opinion-giving Committee (as set out in EPRO) are automatically carried by the lead Committee. ■ The Commission will give an indication as to which amendments it can accept. The Committee can delay its vote until the Commission has done this. ■ Oral amendments are admissible, unless a member objects.
EP plenary Art. 251,2 EC Treaty Rule 51, 52, 53, 149-164 EPRO	At the beginning of the full vote in plenary, the Commission (a Commissioner) gives its oral opinion on all the amendments tabled. Additional notes <ul style="list-style-type: none"> ■ If the amendments are tabled orally, or late, the Commission may delay its Opinion and the vote is postponed until the following plenary. The full Parliament then votes on the Report prepared by the Committee at its plenary session and can: <ul style="list-style-type: none"> - approve the Proposal; - reject the Proposal (act falls); or - amend the Proposal. Additional notes <ul style="list-style-type: none"> ■ In all three cases, a simple majority is required (393 out of 785 votes). ■ The EP Secretariat produces a consolidated version of the amended Proposal after first and second reading, so that the act is easier to read.

Commission's modified proposal

ACTOR	ACTION
Commission Rule 53 EPRO	Gives its Opinion on amendments agreed at plenary. The Commission will always produce a modified proposal if it accepts amendments. The Council must act on the basis of this modified proposal. Additional notes <ul style="list-style-type: none"> ■ This stage is not included in the EC Treaty.

Council first reading

ACTOR	ACTION
Council SG	Council staff send copies of the Commission's Proposal and the EP's Opinion to all the PERMREPs. Additional notes <ul style="list-style-type: none"> ■ During the first reading in the EP, working groups and COREPER will begin examining the Proposal.
Council presidency	Presidency officials lay down timetable for COREPER and working group discussions, in co-operation with Council SG. Additional notes <ul style="list-style-type: none"> ■ This will be influenced by whether or not the act is a Presidency priority or whether the Presidency forecasts a possible compromise amongst the MS.
COREPER and working groups Art. 7, 11, 12, 15 19 COROP	Consider the EP's Opinion and prepare the Council's position. Additional notes <ul style="list-style-type: none"> ■ Those Proposals on which COREPER can reach a compromise will be adopted by the Council as an A-point; the others as a B-point (ie with discussion). Urgent matters can be decided by written procedure.
Council Art. 251,2 and 254,1 EC Treaty	Receives the EP's Opinion, and can: <ul style="list-style-type: none"> - approve the unamended Proposal (act adopted); - approve the Proposal as amended by the EP (act adopted); or - adopt a CP if it cannot accept all the EP's amendments. Additional notes <ul style="list-style-type: none"> ■ The Council first reaches a political agreement. The new draft is then reviewed by the legal linguists and adopted as a CP in any Council meeting as an A-point. ■ Under the co-decision procedure, the Council votes by QMV, except in the areas of culture (Art. 151), free movement of workers and social security (Art. 42) and the self-employed (Art. 47). ■ For a decision to be adopted under QMV, it must have the agreement of the majority of MS (ie 14 states), approximately 74 per cent of weighted votes (255 out of 345) and, if a state so requests, it must be verified that the majority represents at least 62 per cent of the total EU population. Abstentions count as 'No' votes (under unanimity, they count as 'Yes'). ■ If adopted, the act must be signed by both the Presidents and the SGs of the Council and the EP. It will then be published in the OJ. ■ About 30 per cent of EU legislation is adopted at first reading. ■ A number of legislative proposals are permanently blocked at first reading stage. Each year, the Commission withdraws some of its blocked proposals and publishes a list of them in the OJ.

Commission opinion

ACTOR	ACTION
Commission Art. 251,3 EC Treaty Art. 12 CROP	Gives its Opinion on the CP (formally called the Commission's Communication on the Common Position). Additional notes <ul style="list-style-type: none"> ■ The Opinion is formally approved by the College, usually by written procedure. ■ The Commission can delay the procedure by not giving its Opinion, since the EP can only start its second reading once the Opinion has been delivered.

Glossary of document reference numbers used by the European institutions*

Procedures

ATT Expected procedure; **AVC** Assent procedure; **BUD** Budgetary procedure; **CNB** ECB consultation; **CNS** Consultation procedure; **COD** Co-decision procedure; **DEC** Discharge procedure; **MOC** Motion of censure; **NOM** Nomination procedure; **SYN** Co-operation procedure.

Institutions

CDR Committee of the Regions; **CE** European Commission; **CES** Economic and Social Committee; **CSL** Council; **PE** European Parliament.

Document references

A6 Report (in sixth EP legislature); **ACI** Inter-institutional agreement; **B6** Proposal for a resolution, oral question; **C6** Document reference from other institutions; **COM** Commission document; **COS** Strategy document (eg White Paper etc); **CSE** Document for European Councils; **DCE** Written declaration; **IMM** Immunity; **INR** Information documents; **INI** EP own initiative report; **LEX** Adopted act; **R6** Opinion, resolution, decision; **REG** EP Rules of procedure; **RSB** Resolution; **RSP** Resolution on urgent topics; **TEC** File of work in progress.

* These French abbreviations have not been adhered to in this leaflet.



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SECOND READING

European Parliament second reading

ACTOR	ACTION
<p>EP president Rule 57, 58 EPRO Art. 251,2/7 EC Treaty</p>	<p>On the first day of the following plenary, the President announces receipt of the CP and refers it to the Committee responsible (as at first reading).</p> <p>Additional notes</p> <ul style="list-style-type: none"> ■ The three month period can be extended to four months at any time at the request of the Chair of the lead Committee. ■ The clock starts ticking the day after the CP has been received. ■ No formal Opinions are given by other Committees.
<p>MEP Rule 59 EPRO</p>	<p>Rapporteur drafts Recommendation on the CP.</p> <p>Additional notes</p> <ul style="list-style-type: none"> ■ The Rapporteur is usually the same as at first reading. ■ Communication of the CP is the first item on the agenda of the next Committee meeting.
<p>EP committee Rule 59 EPRO</p>	<p>Discusses the draft Recommendation before and/or after it is finalised by the Rapporteur, and considers the Commission's Opinion.</p> <p>Additional notes</p> <ul style="list-style-type: none"> ■ The Rapporteur keeps in regular contact with both the Commission and the Council to boost the chances of an early compromise which would avoid the need for formal conciliation.
<p>EP committee Rule 62, 150, 151 EPRO</p>	<p>Deadline for tabling amendments in Committee is set.</p> <p>Additional notes</p> <ul style="list-style-type: none"> ■ The EP can now only adopt amendments that: <ul style="list-style-type: none"> – restore the EP's position at first reading; – are a compromise between the EP and Council; – amend a completely new section introduced into the act by the CP; or – take into account new facts or a new legal situation. ■ In fact, the number of derogations from these rules allows the EP to introduce a wide range of new amendments. ■ The President can waive these rules if new elections have taken place in the meantime. The President's decision is final.
<p>EP committee Rule 59 EPRO</p>	<p>Votes on all the amendments and the draft Recommendation after hearing the Council and Commission's Opinions on the amendments.</p>
<p>EP plenary Art. 251,2 EC Treaty Rule 60-62, 156 EPRO</p>	<p>The EP can:</p> <ul style="list-style-type: none"> – reject the Proposal by an absolute majority of all its members (ie not just of those present) (act is not adopted and falls); – approve the CP by simple majority or fail to vote (the act is adopted as set out in the CP); or – amend the CP by an absolute majority of all its members. <p>Additional notes</p> <ul style="list-style-type: none"> ■ At plenary stage, amendments may also be tabled by a political group or 37 individual members acting together. ■ If there are over 50 amendments tabled, the President may refer them back to the lead Committee where they will need support from at least 10 per cent of members in order to be put to vote at plenary. ■ Before the vote, the Commission gives its (oral) Opinion on all the amendments. ■ If the CP is amended, the EP conciliations secretariat begins preparations for formal negotiations. ■ The EP has never failed to conclude its second reading within the deadlines.

Commission opinion

ACTOR	ACTION
<p>Commission Art. 251,2/3 EC Treaty Joint Declaration on co-decision</p>	<p>Gives its formal Opinion (modified Proposal) on the EP's amendments.</p> <p>Additional notes</p> <ul style="list-style-type: none"> ■ If the Commission rejects amendments, the Council may only adopt them unanimously. ■ The Opinion must be delivered within two weeks of the EP's vote.

Council second reading

ACTOR	ACTION
<p>Council Art. 251,3/7 EC Treaty Art. 7, 11, 12, 15, 17, 19 COROP EP conciliations handbook</p>	<p>The Council, acting by QMV (unless otherwise required), can:</p> <ul style="list-style-type: none"> – approve all the EP's amendments (the act is adopted as set out in the amended CP); or – reject some or all amendments. In this case, a Conciliation Committee must be convened (within six + two weeks). <p>Additional notes</p> <ul style="list-style-type: none"> ■ The next three + one month period only starts when the Council receives the EP's Recommendation. ■ If adopted by Council, the act must be signed by the EP and Council Presidents and published in the OJ. ■ Approximately 50 per cent of all legislation adopted under the co-decision procedure is adopted during second reading. ■ When rejecting EP amendments, the Council usually takes a formal decision through its written procedure or as an A-point, but without specifying which amendments it cannot accept. This gives it maximum flexibility during conciliation negotiations. ■ Informal Trialogues (EP Vice-President, Rapporteur, Presidency and Commission) begin. ■ Approximately 20 per cent of all co-decision legislative procedures enter the conciliation procedure.

CONCILIATION

Trialogues

ACTOR	ACTION
<p>Council EP Commission No formal process</p>	<p>Trialogues between the EP (represented by the Vice-President, the Chair of the lead Committee and the Rapporteur), Council (Presidency) and Commission (a Director-General or Director) are held to seek a compromise between the EP and Council before convening the full Conciliation Committee.</p> <p>Additional notes</p> <ul style="list-style-type: none"> ■ Approximately two to three Trialogues are held before the first formal meeting of the Conciliation Committee.
<p>Council EP Commission Art. 251, 4-6 EC Treaty Rule 63, 64 EPRO Joint Declaration on co-decision</p>	<p>The full Committee is made up of 27 MEPs (reflecting the EP's political composition and adopting decisions with a minimum of 14 votes) and 27 Deputy PERMEPs (voting by QMV except in the areas where unanimity is required). The Commission (usually a Commissioner) also attends Conciliation Committee meetings. The Committee can:</p> <ul style="list-style-type: none"> – reach a compromise (joint text); or – fail to reach a compromise (act is not adopted and falls). <p>Additional notes</p> <ul style="list-style-type: none"> ■ The clock starts ticking from the date on which the Committee first meets. ■ The Commission's role is to propose draft compromise texts and try to broker a deal. ■ The Committee is jointly chaired by one of the three EP Vice-Presidents responsible for Conciliation and a Presidency Minister. ■ The Committee's task is to find agreement on the EP amendments which Council rejected at second reading. ■ Since the entry into force of the Maastricht Treaty (1993) approximately 160 conciliations have been concluded successfully. Only two sets of conciliation talks have ended without agreement: the Voice Telephony (1994) and Capital Adequacy (1998) Proposals. Both raised comitology problems.

THIRD READING

Council and European Parliament third reading

ACTOR	ACTION
<p>Council EP Art. 251,5 EC Treaty Rule 65, 68 EPRO</p>	<p>The Council (QMV) and EP (simple majority) can:</p> <ul style="list-style-type: none"> – approve the joint text within the time limit (the act is adopted); or – fail to adopt the joint text (the act is not adopted). <p>Additional notes</p> <ul style="list-style-type: none"> ■ The clock starts ticking from the date on which the transmission letter addressed to the Presidents of the EP and Council is signed. ■ The Council usually adopts the joint text as an A-point. The EP delegation submits the joint text to the full Parliament with a report (in the name of the Rapporteur), which also includes a short explanatory statement. ■ The adopted text is signed by the EP and Council Presidents and their SGs. ■ Only three acts have been rejected in plenary at this stage: the Biotech (1995), Takeover (2001) and Port Services (2003) Directives.

PUBLICATION

Secretariat general

ACTOR	ACTION
<p>Council EP Art. 254 EC Treaty Declaration 34, EC Treaty Joint declaration on co-decision</p>	<p>Act should be published in the OJ within one month of signature.</p> <p>Additional notes</p> <ul style="list-style-type: none"> ■ Declaration 34 of the EC Treaty stipulates that the entire co-decision procedure should operate as expeditiously as possible and that the second reading should not exceed nine months. In any case, the period from adoption of the CP to publication cannot exceed 15 months.



Time limit: three + one months

Time limit: two weeks

Time limit: three + one weeks

Time limit: six + two weeks to convene the Committee

Time limit: six + two weeks to adopt the joint text

Time limit: one month