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SPICe Briefing

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European Commission Work Programme 2023

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This SPICe briefing which has been produced for Scottish Parliament committees sets out the European Union's policy and legislative landscape as detailed by the European Commission Work Programme for 2023. The briefing will assist Committees in their scrutiny of the Scottish Government's policy commitment to keep pace with EU law.



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Summary

The European Commission publishes an annual work programme which sets out the list of the most important legislative and policy actions it will take in the year ahead. The European Commission's Work Programme for 2023 was published on 18 October 2022. Its content is informed by the six policy priorities of the current European Commission:

1. The European Green Deal
2. A Europe fit for the digital age
3. An economy that works for people
4. A stronger Europe in the world
5. Promoting our European way of life
6. A new push for European democracy

The Work Programme includes 43 new policy initiatives along with 116 pending priority proposals (EU legislation which is already introduced and being considered by the European Parliament and the appropriate sectoral Council of the European Union). In addition, the Commission proposes withdrawing one legislative proposal and repealing one piece of legislation.

Whilst the UK is no longer a member of the EU, the legislative and policy approach of the bloc continues to be important for the Scottish Parliament to monitor. In part this is because of the Scottish Government's commitment to align with EU law where appropriate. As a result, a continued focus on the Brussels policy environment will help MSPs and Committees in scrutinising the Scottish Government's stated ambition to keep pace with EU law.

European Commission's policy priorities

The current European Commission led by Ursula von der Leyen set out six priorities for the duration of her term which will last from 2019-2024 ¹. The six priorities are:

1. The European Green Deal
2. A Europe fit for the digital age
3. An economy that works for people
4. A stronger Europe in the world
5. Promoting our European way of life
6. A new push for European democracy

The rationale for these priorities was that the European Union needed to act to build a better future for the next generation.

Whilst these policy priorities have informed the development of the European Commission Work Programme for 2023, the Russian invasion of Ukraine in February 2022 and the consequent security and energy challenges facing EU Member States also heavily influenced the programme announced by the European Commission.

The European Commission's work programme

The European Commission's Work Programme for 2023 was published on 18 October 2022. The challenges created as a result of Russia's invasion of Ukraine are reflected in the title of the Work Programme which is "A Union standing firm and united".

In the introduction to the Work Programme, the European Commission identifies the challenges presented to the EU as a result of Russia's actions:

“Over the last year, Europe and the world have been confronted by a collision of crises. The barbaric Russian invasion of Ukraine has brought the horrific reality of war back to Europe. As the tragic toll in human lives and devastation continues to mount, so do the reverberations of the conflict across Europe and the rest of the world. The ensuing energy crises have compounded an already escalating cost of living squeeze which has dented Europe's strong post-pandemic recovery. In parallel, the global rules-based order is being challenged in new ways, underlining the need for unity and cooperation with our partners and investment and diplomatic outreach with countries around the world.”

European Commission, 2022²

Given these challenges, the European Commission identifies three key realities:

- Challenges of such scale can only truly be tackled collectively, as one Union.
- These crises underline the need for Europe to continue to accelerate the radical transformation set out at the beginning of the Commission's mandate in 2021 to ensure the EU is "better equipped and more prepared to face the challenges to come".
- That the challenges that the EU faces cannot be met with a business-as-usual approach.

Informed by these challenges, the Work Programme stated:

“In this spirit, our work will be focused on supporting Europeans through these testing times. This will be the Commission's first priority in the year ahead – whether by reducing energy prices, securing the crucial supplies needed for our industrial competitiveness and food security, strengthening our social market economy or not letting up in our response to the COVID-19 pandemic that is still present across our Union.”

European Commission, 2022²

What's in the Work Programme?

The detail of the European Commission's Work Programme is informed by the [three key realities](#) and covers proposals under each of the [six policy priorities for the current European Commission](#).

The Work Programme includes 43 new policy initiatives along with 116 pending priority

proposals (EU legislation which is already introduced and being considered by the European Parliament and the Council). In addition, the Commission proposes withdrawing one legislative proposal and repealing one piece of legislation.

The fact the Commission has identified 116 pending priority proposals is a reminder that the Work Programme provides a snapshot of new new legislation and initiatives to be introduced in addition to legislation already being considered. The relative slow pace of the EU legislative machine means that there are often large numbers of different pieces of legislation being considered at any one time. This is especially the case at the moment as the current Commission's mandate enters its final two years.

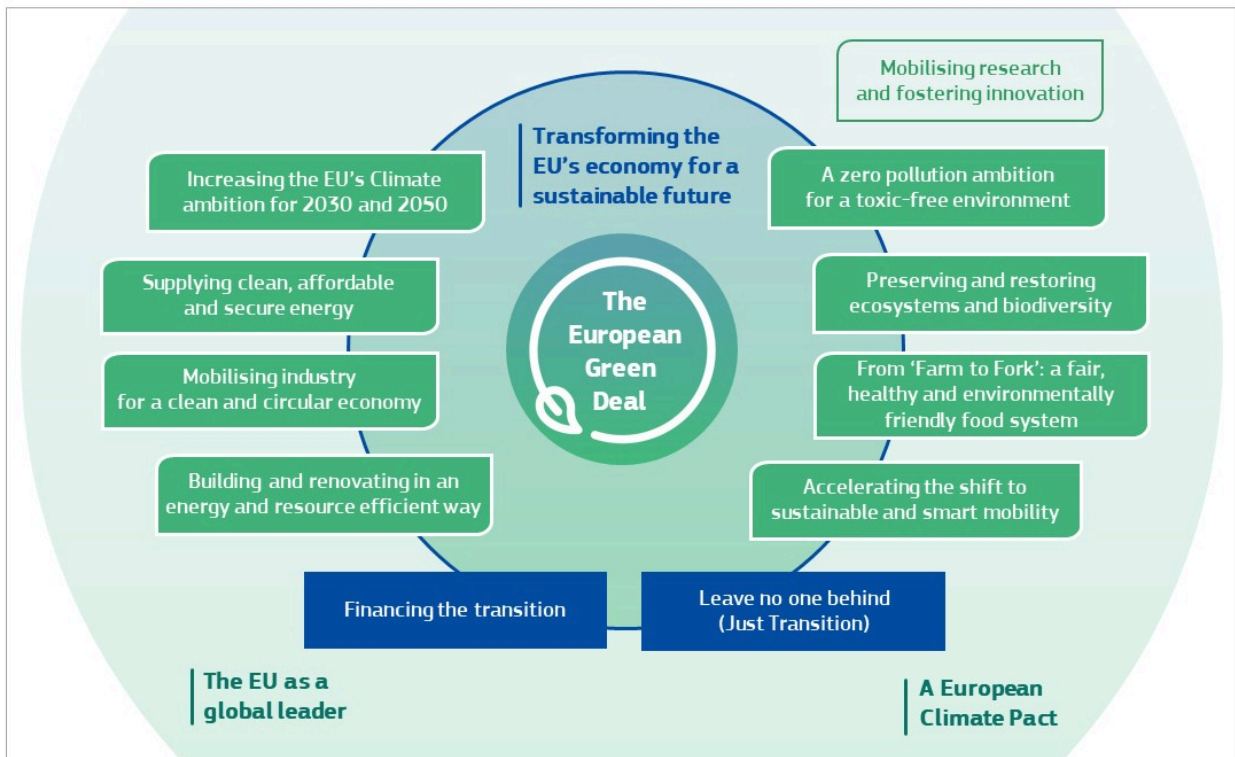
Information on some of the key proposals and ongoing legislation under each of the six policy priorities is provided below.

The European green deal

The overarching aim of the European green deal policy initiative is to make the European Union the first "climate neutral" continent and to achieve this by 2050 ³.

The European Green Deal

The European Green Deal sets out the different areas where action is required to achieve the European Commission's ambition to make the EU a carbon neutral continent.



European Commission Communication on the European Green Deal published in December 2019 ([EUR-Lex - 52019DC0640 - EN - EUR-Lex \(europa.eu\)](#))

The European Green Deal was launched at the beginning of the Commission's mandate and many of the legislative proposals have already been introduced. The approach is

underpinned by the European Climate Law which entered into force in June 2021 and writes the EU's climate neutrality by 2050 target into binding legislation along with a commitment to reduce net emissions by at least 55% by 2030⁴.

The European Green Deal also seeks to ensure that the transition to a climate friendly approach provides opportunities to build a new economic model built upon the following objectives:

- Reducing emissions
- Creating jobs and growth
- Addressing energy poverty
- Reducing external energy dependency and improving security of supply
- Improving health and wellbeing.

Legislative actions already introduced by the European Commission to implement the European Green Deal include:

- New rules on [applying the EU emissions trading system in the aviation sector](#)
- A European Commission proposal for [new EU-wide rules on packaging](#)
- A European Commission proposal for new [Euro 7 standards to reduce pollutant emissions from vehicles and improve air quality](#)
- European Commission proposals for [cleaner air and water](#)
- European Commission proposals to [restore Europe's nature by 2050 and halve pesticide use by 2030](#)
- European Commission proposals to [make sustainable products the norm and boost Europe's resource independence](#)
- [Political agreement on the Fit for 55 package](#) which includes a number of legislative measures which seek to ensure that the the [European Union can reduce its net greenhouse gas emissions by at least 55% by 2030](#) compared to 1990 levels and to achieve climate neutrality in 2050.

These legislative actions build on a number of action plans and strategies which have set out the European Commission's policy direction in this area. The plethora of legislative proposals as set out above mean that many of the proposals which are central to delivery of the European Green Deal have already been tabled by the European Commission. These will continue to work their way through the EU's legislative processes during 2023.

This means the Commission Work Programme for 2023 is slightly thinner in terms of new legislative proposals likely to come forward in this area. However, the Commission has committed to legislative proposals on reform of the EU electricity market, revision of the food, waste and textiles aspects of the European waste framework directive and a revision of European animal welfare laws. In addition, the Commission has committed to setting up a comprehensive framework for sustainable food systems in the EU which seek to make sustainability central to all food-related policies. Finally, the Commission will propose a

revision of the legislation on the registration, evaluation, and authorisation of chemicals (REACH) which will aim to secure "European competitive advantages and innovation by promoting sustainable chemicals, simplifying and streamlining the regulatory process, reducing burden and protecting human health and the environment" ² .

A Europe fit for the digital age

Recognising the increased reliance on digital technology in people's lives, this policy priority seeks to ensure that the digital transformation works for people and business whilst also contributing to the EU's [climate neutrality goal](#).

The European Commission's work in this area is underpinned by "[Europe's Digital Decade](#)" which seeks to ensure a digital transformation in the EU by 2030:

“ The EU's ambition is to be digitally sovereign in an open and interconnected world, and to pursue digital policies that empower people and businesses to seize a human centred, sustainable and more prosperous digital future. This includes addressing vulnerabilities and dependencies as well as accelerating investment.”

European Commission , 2021⁵

The digital decade is built upon four aims:

- Digitally skilled citizens and highly skilled digital professionals
- Secure, performant and sustainable digital infrastructures
- Digital transformation of businesses
- Digitalisation of public services

The 2023 Work Programme proposes 10 new legislative initiatives in the digital policy area. These include a commitment to bring forward a critical raw materials act which will seek to "ensure an adequate and diversified supply for Europe's digital economy as well as for the green transition - and prioritise re-use and recycling" ² .

Other measures proposed in this space include proposals to further expand the use of digital tools and processes in company law and a revision to the late payments directive to reduce burdens on SMEs. The Commission will also introduce a proposal on asbestos screening, registering and monitoring which will aim to "help ensure that all Member States increase their ambition to monitor, screen and tackle this dangerous substance".

In terms of non-legislative developments, the Commission will issue a Single Market Communication which will set out the "significant benefits" of the Single Market whilst "identifying implementation gaps and future priorities for the single market. In addition, 2023 has been designated as [European Year of Skills](#) with one of the key aims being to ensure that Europeans have the necessary digital skills to access the new opportunities presented by the green and digital transitions.

An economy that works for people

The Work Programme recognises that as 2023 begins, it is a time of "high economic uncertainty". As a result, the European Commission has pledged to look at introducing measures which will contribute to the EU's economic competitiveness:

“ "Russia's war of aggression against Ukraine is testing Europe's economic and social resilience at a moment when it is undergoing profound transformations. We need to develop a strong set of strategic trade and investment controls to strengthen our economic security, while also working to diversify value chains."”

European Commission, 2022²

Non-legislative measures proposed in this space by the European Commission include a review of the functioning of the [Multiannual Financial Framework \(MFF\)](#) which provides the EU with its long-term budget. The current MFF runs from 2021-2027 but the Commission has committed to considering how the EU raises its funding and a mid-term review of the current MFF. The Commission will also lead a review of the EU's economic governance.

In terms of legislative proposals, the Commission has committed to bringing forward proposals on the social economy. This includes a legislative proposal making it easier for European cross-border associations (an independent and self-governed cross-border entity established on a permanent basis within the territory of the Union for a common non-profit purpose) to benefit from the freedoms of the European Single Market. In addition, the Commission will bring forward a non-legislative Council Recommendation on developing social economy framework conditions "to help Member States better adapt their policies and laws to the specific needs of social economy entities" ² .

Other areas in which the Commission will bring forward proposals are on data access in financial services, including a proposed revision to EU rules on payment services and an update to the framework for quality traineeships to address issues, such as fair remuneration and access to social protection, to boost Europe's social resilience.

A stronger Europe in the world

Identified as a policy priority for the current Commission in 2019, A stronger Europe in the world is more significant following the Russian invasion of Ukraine. This has presented the EU (and the world) with new geopolitical considerations. These include how to address the global food and energy crises and how to continue developing the EU's relations with other regions of the world. In 2019, the Commission President described the aim of this priority in the following way:

“ "Multilateralism is in Europe's DNA. It is our guiding principle in the world. My Commission will keep on championing this approach and ensure that we uphold and update the rules based global order. We are on the right path and have achieved a lot over recent years, but major challenges remain. We must be ambitious, strategic and assertive in the way that we act in the world. We must build on our strengths, confront and address our vulnerabilities, and enhance our legitimacy”

European Commission , 2019¹

Whilst the Russian invasion of Ukraine has highlighted the challenges to the rules based global order it has also perhaps provided an idea about why the European Commission

considers it such a key priority. As might be expected, the external affairs aspect of the Work Programme focuses largely on non-legislative measures. These include:

- Continued cooperation with EU candidate countries in the Western Balkans and also Ukraine, Moldova and Georgia.
- Continue to feed into the work of the newly formed [European Political Community](#).
- Seek full ratification of the EU's trade agreements with Chile, Mexico and New Zealand, and continue negotiations for trade agreements with Australia, India and Indonesia.
- Develop a joint proposal for a new Agenda for Latin America and the Caribbean with the EU.

One legislative proposal of note in this area is the proposal for an "update to the EU's sanctions toolbox to include targeting corruption".

Promoting our European way of life

The European Commission sees its Promoting a European way of life priority as concerned with protecting EU citizens, European values and the European way of life including by ensuring security and safety for every person living in the EU. The proposals in this policy area are a mix of legislative and non-legislative.

A key plank of the proposals in this area relate to asylum and migration policy. The Work Programme includes a commitment to continue work to implement the [Pact on Migration and Asylum](#). This Pact includes already introduced legislative proposals on more efficient and faster procedures for addressing asylum cases along with commitments from all Member States to share the responsibility of supporting and welcoming asylum seekers. The approach also includes the following proposals:

“ "a common EU system for returns, to make EU migration rules more credible. This will include a more effective legal framework, a stronger role of the European Border and Coast Guard, and a newly appointed EU Return Coordinator with a network of national representatives to ensure consistency across the EU. It will also propose a common governance for migration with better strategic planning to ensure that EU and national policies are aligned, and enhanced monitoring of migration management on the ground to enhance mutual trust.””

European Commission, 2020⁶

Another legislative commitment in this policy areas is a proposal to introduce a revision to the combating child sexual abuse directive. According to the Commission:

“ "This will target new challenges brought about by technological change, and the need to step up the prevention, investigation and prosecution of child sexual abuse crimes, as well as supporting and protecting child victims, in both the online and the offline space, in line with the EU comprehensive strategy on the rights of the child. The initiative will complement the recent proposal for a Regulation laying down rules to prevent and combat child sexual abuse.””

European Commission, 2022²

The remaining proposals in this policy area are non-legislative. They include a commitment to update the EU learning mobility framework to enable learners to move more easily between education systems and two preventative health proposals by way of a Recommendation on vaccine-preventable cancers and an update of the smoke free environment Recommendation.

A new push for European democracy

When the new Commission took office back in 2019, democracy in some EU member states was under threat, in part due to the actions of some Member State governments, and in part due to the efforts of outside influences such as Russia. Writing at the time, Ursula von der Leyen said:

“Our democratic systems and institutions have come increasingly under attack in recent years from those who wish to divide and destabilise our Union. We need to do more to protect ourselves from external interference.”

European Commission, 2019¹

The Work Programme addresses concerns about the rule of law in Member States writing:

“Systematically upholding the rule of law across all Member States was an objective formulated by the Conference on the Future of Europe, and the third edition of the annual rule of law report in July 2022 contained for the first time recommendations addressed to all Member States. The European Democracy Action Plan has made the protection of key democratic pillars a top political priority. Building on this, the Commission proposed the European Media Freedom Act to provide legislative safeguards for media freedom and pluralism.”

European Commission, 2022²

Building on this work to protect the rule of law, the Commission commits to bringing forward a defence of democracy package during 2023. This package will seek to promote free and fair elections, to step up the fight against disinformation and to support media freedom. In response to the external threat to democracy, the package will also include proposals to protect EU democracies and strengthen trust by "defending our democratic system from outside interests".

The Work Programme also sets out a commitment to support the rights of persons with disabilities by proposing to introduce a European disability card which would ensure "the mutual recognition of disability status across all Member States".

The European Commission has also committed to working with the European Parliament and the Council to find agreements on two proposed legislative initiatives. These focus on a proposal on combating violence against women and domestic violence and a different proposal on pay transparency.

The Council Presidency

A key player in ensuring the Commission's legislative programme is passed will be the holder of the rotating Council of the European Union Presidency. The key role for the Presidency in this regard is to chair meetings of the nine different [Council configurations covering a range of policy areas](#) (with the exception of the Foreign Affairs Council) and the Council's preparatory bodies, which include meetings of member state officials such as the [Permanent Representatives Committee \(Coreper\)](#), and working parties and committees dealing with very specific subjects. It is in these bodies that the Governments of the Member States discuss the detail of proposed EU legislation.

As a result, the Commission will need to work with the holder of the Presidency and the appropriate members of the European Parliament to ensure legislative proposals progress. The legislative approach is outlined in more detail in the section on the [Ordinary Legislative Procedure](#).

The Swedish Presidency of the Council

The Swedish Government's high-level priorities for the next six months broadly reflect the current European Commission's policy priorities⁷. The Swedish priorities are:

- Security - unity
- Competitiveness
- Prosperity - Green and energy transitions
- Democratic values and the rule of law

During the course of its Presidency, the Swedish Government will seek to make progress on a number of legislative initiatives including many which are referenced in the Commission Work Programme. Details are set out in the [Presidency Programme](#).

Why does the EU's policy direction matter to Scotland?

Given that the UK's departure from the EU means that there is no longer a requirement to continue to comply with EU law, it would be fair to ask why continued analysis of the EU's policy and legislative programme is important.

The [UK Withdrawal from the European Union \(Continuity\) \(Scotland\) Act 2021](#) (section 1(1)) confers a power on Scottish Ministers to allow them to make regulations with the effect of keeping Scots law aligned with EU law in devolved areas. This is referred to as the “keeping pace” power. Scottish Ministers have indicated that, where appropriate, they would like to see Scots Law continue to align with EU law,

Whilst decisions about which particular EU legislation Scotland might align with will be at the discretion of Scottish Ministers, it is important that the Scottish Parliament continues to maintain awareness of EU policy and legislative developments. This will allow Parliamentarians to effectively scrutinise Scottish Ministers' use of the keeping pace power and help MSPs identify policy areas and occasions where decisions are taken not to align with EU law and scrutinise the reasons for this.

Whilst Scottish ministers may wish to seek continued alignment with EU law, other factors such as the effect of the [UK Internal Market Act 2020](#) or intergovernmental agreements on the operation of common frameworks may prevent them from seeking alignment with EU law in some policy areas.

A continued focus on the Brussels policy environment will help MSPs and Committees in scrutinising the Scottish Government's stated ambition to keep pace with EU law.

The European Union's policy making process

Different forms of EU legislation

There are five types or forms of EU legislation (Article 288 of the Treaty on the Functioning of the European Union):

- Regulations – these are binding and directly applicable in all Member States
- Directives – these are binding as to the result to be achieved but leave Member States to decide on the method of achieving that result. The method is decided by member states when they transpose the Directive into their own domestic legislation.
- Decisions – these are binding upon those to whom they are addressed
- Recommendations – these have no binding force
- Opinions – these have no binding force

Development of EU policy

The first stage in the EU policy and legislative process belongs to the European Commission. This is because the European Commission is the only EU institution which has the right to initiate legislation. Consequently, it is responsible for drafting appropriate legislative proposals.

Before proposing new policy and legislation the European Commission will assess the potential economic, social and environmental impact that a policy might have. This is done through the publication of an impact assessment which sets out the advantages and disadvantages of policy options. The impact assessment will also include input from non-governmental organisations, national authorities and industry, as well as the EU's own expert groups that are able to give advice on technical and scientific issues.

Individuals, businesses and organisations can provide feedback through public consultations (questionnaires) on the Commission's website.

Once the Commission has undertaken consultation it will draft formal proposals which will begin making their way through the European legislative process.

The Commission's draft legislative proposal is submitted to both the European Parliament and to the Council and also to all 27 Member State Parliaments and where appropriate the Committee of the Regions and the Economic and Social Committee.

The Treaty on the Functioning of the European Union provides that both the Committee of the Regions (Article 307) and the Economic and Social Committee (Article 304) should be consulted by the European Parliament, the Council or the Commission where the Treaties provide and where the institutions feel it is appropriate. This includes during the development and agreement of EU legislation. The Committee of the Regions and the

Economic and Social Committee submit their views in the form of opinions.

The Ordinary Legislative Procedure

Nearly all EU law is agreed using the Ordinary Legislative Procedure which recognises the European Parliament and the Council of the EU as co-legislators.

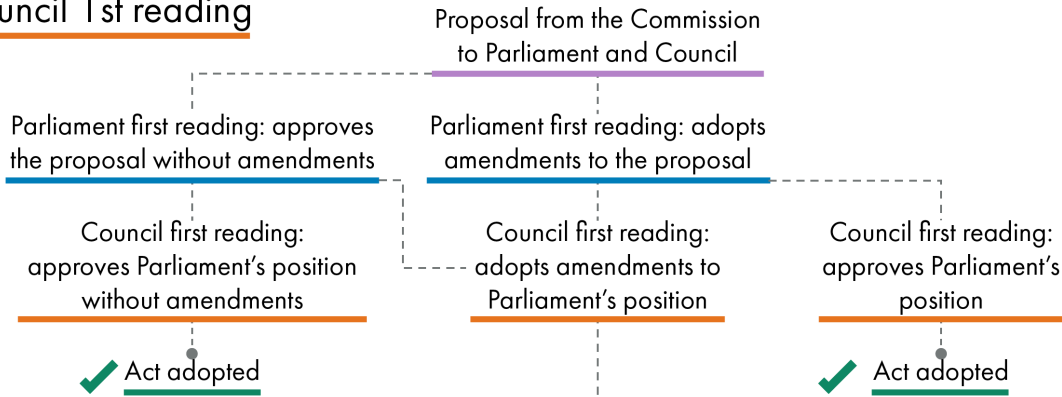
Once the Commission's legislative proposal has been finalised it is then up to the European Parliament and the Council of the European Union to take the proposal forward. Article 294 of the Treaty on the Functioning of the European Union (TFEU) describes how the Ordinary Legislative Procedure applies.

The Ordinary Legislative Procedure

1st reading

EP 1st reading

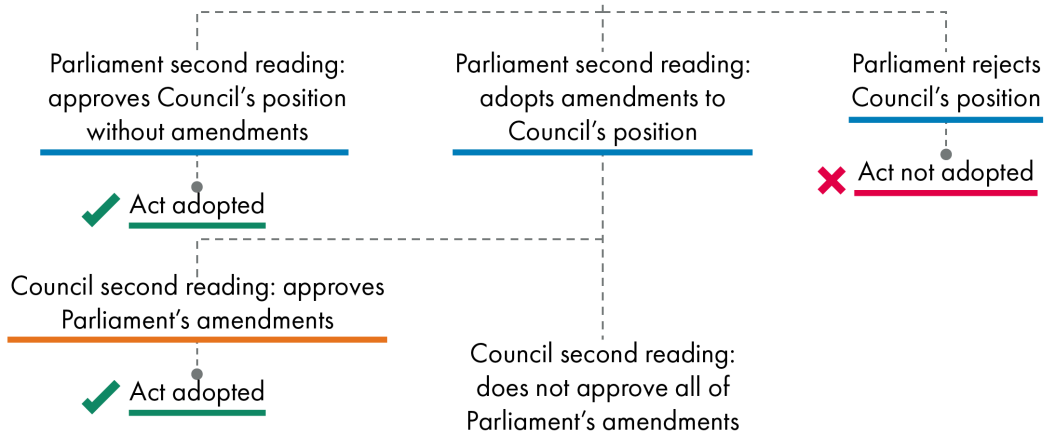
Council 1st reading



2nd reading

EP 2nd reading

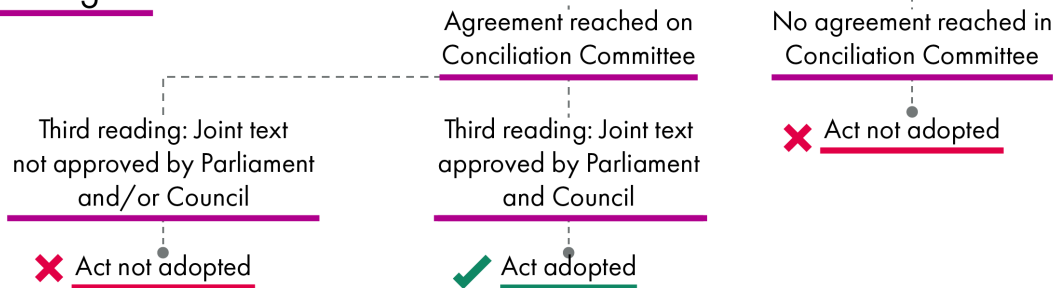
Council 2nd reading



3rd reading

EP and Council

3rd reading



European Parliament European Parliament, 2022⁸

In practice, the European Parliament is required to undertake first reading of the Commission proposal and send its draft of the text (with suggested amendments) to the Council for its consideration. This consideration is led by the relevant Parliamentary Committee and then subject to a vote of the plenary.

The European Parliament's consideration

Once the Commission's legislative proposal has been finalised it is then up to the European Parliament and the Council of the European Union to take the proposal forward. Article 294 of the Treaty on the Functioning of the European Union (TFEU) describes how the Ordinary Legislative Procedure applies.

In practice, the European Parliament is required to undertake first reading of the Commission proposal and send its draft of the text (with suggested amendments) to the Council for its consideration. This consideration is led by the relevant Parliamentary Committee and then subject to a vote of the plenary.

The European Parliament's role is set out in this [European Parliament overview](#).

The Council's consideration

The Council of the European Union (the Council) will consider the European Commission's amended legislative proposal. This consideration usually takes place in working groups with decisions then taken at sectoral Council meetings. At this stage in the process there are three possible scenarios:

- The Council accepts without alteration the Commission's proposal, which the European Parliament has not amended, and the act can be adopted;
- The Council accepts all the European Parliament's amendments which the Commission has incorporated into its amended proposal, and the act can be adopted;
- In all other cases, the Council adopts a common position.

The Council's common position would set out its views on the Commission's proposal and views on proposed European Parliament amendments. If the Council decides to adopt a common position it can take on average 15 months to agree although for some more complex dossiers it can take longer. (European Commission 2010) Once the Council has agreed its common position, the European Commission prepares a communication in which it sets out its views on the Council's common position and the Council's reaction to the European Parliament's amendments. The Commission document along with the Council's common position is forwarded to the European Parliament.

Second reading and Conciliation

If first reading does not lead to agreement then both the European Parliament and the Council can consider the amended proposal and the Council's common position again in a second reading. If no agreement can be reached, the Presidents of the European Council and the European Parliament will convene a conciliation committee.

The Conciliation Committee is made up of an equal number of representatives of the European Parliament and the European Council and is chaired by the European Commission. The aim of the Committee is to jointly agree finalised legislation.

If the conciliation procedure is successful then the European Parliament (by a majority of

the votes cast with no amendments allowed) and the European Council (by a qualified majority) must adopt the jointly agreed text.

This must be done within six weeks of the conciliation process starting (though there is provision to extend this timeframe by a further two weeks). If the Parliament and the Council cannot agree the text within the stipulated timeframe the legislation is not adopted and the proposal falls.

More first reading agreements

In recent years the Parliament and Council have sought to reach agreement on legislation at the first reading, so-called “first reading agreements”. First reading agreements occur when following consideration of the Commission's proposal, the conclusions and where appropriate amendments in the Parliament's first reading report are all agreed by the Council at its first reading. Facilitation of this approach takes place in trilogue meetings which are hosted by the two co-legislators and take place either in Parliament or in the Council and also involve the Commission.

Whilst some legislative files may move to second reading before being agreed, the need for the conciliation process has largely fallen away. For example, during the 2014-2019 term, the conciliation procedure was not required at all ⁸.

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