



PECUCS

Participation of European Citizens
in the Union's Climate Strategy



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The ordinary legislative procedure. Special legislative procedures.

Professoressa Celeste Pesce

Università degli studi di Bari «Aldo Moro»

Scienze dei servizi giuridici-Consulente del lavoro e operatore di impresa

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Article 289 TFEU

- 1. The ordinary legislative procedure consists of the joint adoption of a regulation, directive or decision by the European Parliament and the Council on a proposal from the Commission. This procedure is defined in Article 294.
- 2. In the specific cases provided for in the Treaties, the adoption of a regulation, directive or decision by the European Parliament with the participation of the Council or by the latter with the participation of the European Parliament constitutes a special legislative procedure.
- 3. Legal acts adopted by legislative procedure are legislative acts.
- 4. In the specific cases provided for in the Treaties, legislative acts may be adopted on the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.

Legislative initiative

- In general, the European Commission proposes new EU acts, and the Council and Parliament approve them.
- Art. 17, 2 TEU: A legislative act of the Union may be adopted only on a proposal from the Commission, unless the Treaties provide otherwise.
- The Commission plays a central role and has almost exclusive power with regard to legislative proposals.

Scheme for the adoption and implementation of the law EU derivative

Commission: prepares a formal proposal



Parliament and Council of Ministers: decide together



National or local authorities: implementation



Commission and Court of Justice: monitoring implementation



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The ordinary legislative procedure

- In the ordinary legislative procedure, the European Parliament is co-legislator with the Council. Introduced by the Maastricht Treaty, when it was called the codecision procedure, **this procedure is now the most widely used method in the EU decision-making process.**
- The TFEU changes its name and extends its use to policy areas such as: judicial cooperation in civil matters, police cooperation, humanitarian aid, and measures for the control of external borders, asylum and immigration.

The ordinary legislative procedure

- Under the ordinary legislative procedure, decisions are taken by a qualified majority, a system that ensures:
- that the decision is implemented when it is voted on by a majority of EU countries (55 % in most cases, 72 % in some cases);
- That these countries represent at least 65% of the total EU population.

Special legislative procedures

- The special legislative procedures are exceptions to the ordinary legislative procedure.
- They are applied in certain particularly sensitive policy areas.
- Unlike the ordinary legislative procedure, the Treaty on the Functioning of the EU does not provide a precise description of the special legislative procedures.
- Their detailed rules are therefore defined on a case-by-case basis by the articles of the Treaty which define the conditions for their application.

Special legislative procedures

In special legislative procedures, the Council of the EU is, in practice, the sole legislator.

The European Parliament is only involved in the procedure.

Its role is limited to consultation (as defined in Article 89 TFEU on cross-border police operations)

or

approval (as defined in Article 86 TFEU on the European Public Prosecutor's Office) as appropriate.

Special legislative procedures

- **Types of procedure:**
- **approval** - the European Parliament has the power to accept or reject a legislative proposal by absolute majority vote, but cannot amend it;
- **Consultation** - the European Parliament can approve or reject a legislative proposal, or propose amendments.
- **Legal basis:** Article 289, 2 TFEU
- The Treaties do not provide a precise description of the special legislative procedures. The rules are therefore defined on an ad hoc basis, on the basis of the relevant articles of the Treaty.

Special legislative procedures

Approval

Under the consent procedure, the Council may adopt legislative proposals after obtaining the consent of the European Parliament.

Parliament therefore has the power to accept or reject a legislative proposal by absolute majority voting, but it cannot amend it.

The Council does not have the power to disregard Parliament's opinion.

Special legislative procedures

Approval

Parliament's consent is also required under non-legislative procedures, for example:
when the Council adopts certain international agreements negotiated by the EU;
in cases of serious violation of fundamental rights (Article 7 TEU);
for the accession of new members to the EU;
in the provisions in the event of withdrawal from the EU.

Special legislative procedures

Consultation

Under the consultation procedure, the Council adopts a legislative proposal after Parliament has submitted its opinion on the consultation.

Under this procedure, Parliament can approve or reject a legislative proposal, or propose amendments to it.

The Council is not legally obliged to take Parliament's opinion into account, but according to the case law of the Court of Justice it cannot take a decision without having received such an opinion.

Special legislative procedures

The consultation procedure is used in areas such as agriculture, taxation and competition

In order to take certain decisions of particular importance, especially for agreements with third countries, including agreements allowing new countries to join the EU, the Council must obtain the consent of the European Parliament.

Acceptance or “assent” must be given by an absolute majority.