



HOW THE EU CREATES LAWS

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ABSTRACT

The European Union (EU) is a political and economic organization established in 1992 by the Maastricht Treaty. It includes 27 member states that have come together to

strengthen the development of common interests. The EU provides its member states with an institutional framework for making laws, identifying areas of policy, negotiating, and setting political priorities. EU member states have unanimously agreed not only to adopt legislation enacted by EU institutions but also to override national laws. The main decision-making organs of the EU are the Council of the European Union, the European Parliament, and the Commission. Their work is complemented by other institutions and bodies, which include the Court of Justice of the European Union. This article will examine the laws and regulations of the EU, how the EU creates laws, and how they are implemented in the member states. For which we need to study its legislatures, the EU is a symbol of a role model for developing countries in formulating their policies.

The model of the European Union takes its root when Belgium, France, Italy, Luxembourg, the Netherlands, and West Germany created the European organization to regulate the coal and steel industries under the Treaty of Paris in 1951. The European Coal and Steel Community (ECSC) gave confidence to member states, and they set up the European Economic Community (EEC) and European Atomic Energy Community (Euratom) for general economic cooperation with the Treaties of Rome in 1957.

In April 1965, with the Merger Treaty, all the above-mentioned communities were streamlined into a single commission and a single council. The Single European Act was introduced in 1986 to speed up decision-making in the preparation for the single market and created the cooperation and assent procedures. The foundation of the European Union was established by the Maastricht Treaty in 1992, which introduced the co-decision procedure. Common foreign and internal affairs policy, defense, justice, and citizenship are examples of new forms of cooperation



between European Union states that make it a political union in the world.

The Treaty of Amsterdam repealed the Treaties establishing (EEC) and (EURATOM) and consolidating the EU, EEC, and ECSC treaties to create a transparent legislative procedure and implement reform in the EU institutions in preparation for the arrival of future member countries into the union. The Treaty of Nice in 2001 introduced reform and methods for changing the composition of the Commission in the institutions of the EU. In December 2009, the Treaty of Lisbon came into force with the purpose of making the EU more democratic whereby powers are clarified to belong to the EU, EU member states, and shared.

The Union has grown in size several times by the accession of new states, those who fulfill the Copenhagen criteria, which impose economic and political conditions. Denmark, Ireland, and the United Kingdom joined in 1973, Greece in 1981, Spain and Portugal in 1986, Austria, Finland, and Sweden in 1995, Czechia, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia in 2004, Bulgaria and Romania in 2007, and Croatia in 2013. On January 31, 2020, the United Kingdom withdrew from the EU via Brexit [1, P.35; 2].

II. Legislative Procedure in European Union

1. Demography

The EU consists of 27 member states with a population of approximately 447 million people as of January 1, 2021, with a growth rate of 0.1% (2020). That is 9.78 percent of the world's population. The EU has a total area of 4,233,262 km² (1,634,472 sq mi). The EU's religious affiliation is 71.6% Christian. 24.0% have

no religion, 1.8% are Muslims, and 2.6% are others. The Belgian capital, Brussels, is also considered the de facto headquarters of the European Union [3, 4].

The EU is represented in the World Trade Organization as a political entity that has a net wealth of around EUR 69 trillion (2020), which is 20% of the global wealth. In 2020, the average annual net earnings in the European Union were around €24,000 (\$33,000). The EU is home to one-third of the world's top 500 largest corporations in terms of revenue. The nineteen member states of the EU have joined a monetary union, which is officially known as the euro area, whereby they use the euro currency as their primary currency [5, 6, 7, 8, 9].

2. Law & Regulations

The Union implements the principles of its treaties through a number of acts called regulations, directives, decisions, recommendations, and opinions. These laws have different types of jurisdictions, such as binding, not binding, applicable to all EU member states or specific states. We will discuss these laws one by one as below [10].

• Treaties

Treaties are the basic and fundamental laws of the EU that must be ratified by member states. The member states did agree and passed the treaties. The Treaties are the rules and regulations for the functioning of the EU institutions. The EU was founded through several treaties. These treaties are supported by the ability to further expand, amend, and repeal them by further agreement of the treaties between the members [11].

• Regulations

The regulations are binding and apply to all EU member states. They have direct effects. Once enacted, these



regulations become part of national law and are enforceable. The national courts of the member countries have jurisdiction over them [12].

- Directives

Directives are legislative acts that harmonize across EU member states to achieve specific objectives. The Directives are the deadlines that states normally have to adopt in their national laws. The member states can also introduce new laws to transpose directives into national law. However, it depends upon the member states what types of legislation in their national law they need to achieve the goals [13, P.695].

- Decisions

The decision has a direct and binding effect on those to whom it is issued. These can be EU member states, organizations, or individuals. The EU Commission, for example, issues a ruling that Estonia is violating EU environmental law. This decision will be for Estonia only [14, P.367].

- Recommendations

The recommendations are not binding on EU member states. When the Commission issues a recommendation, EU member states may act on it, but without any legal consequences. The recommendation allows the commission to express their views and propose a line of action without imposing any legal obligation on those to whom it is addressed [15, P.240].

- Opinions

The opinions are similar to recommendations in that they do not have a binding effect, but this instrument is different from a recommendation in the way which is not addressed to someone. For example, the Committee of the Regions

issued an opinion on the clean air policy package for Europe [16, P.37, 60].

3. Institutions

The EU has three leading institutions for legislative-related decisions, which are involved in the administration process of EU policies [17].

- The European Parliament (Brussels/Strasbourg/Luxembourg)

The European Parliament is a part of the legislative process in the EU. The European Parliament has 705 members that are directly elected by EU voters for 5 years. All member states have a seat in Parliament based on their population. One member state may have no fewer than six or more than 96 seat in the parliament. The Parliament elects its president and 14 vice presidents for a term of 2.5 years. They represent the Parliament to the EU institutions and the world. The European Parliament has legislative, supervision, and budgetary roles [18].

- The Council of the European Union (Brussels/Luxembourg)

The Council of the European Union consists of a government minister from each member state, who shares decision-making powers with the European Parliament to discuss, amend, and adopt laws and coordinate policies. The presidency of the council is rotated every six months among the EU member states. The functions of the council are to pass laws and adopt the EU budget in conjunction with the European Parliament. The council drafts guidelines for an economic policy every year [19, P.23, 72].

The council develops foreign and security policies. To negotiate and adopt the EU laws. To conclude an agreement between the EU and other countries or organizations. The council uses the



qualified majority voting process, which means that at least 55% of the member states must agree, and this means 15 states that represent at least 65% of the total population of the EU. At least four states should be present to block the decision. This amounts to 35% of the total population of the EU [20, P.171].

- The European Commission (Brussels/Luxembourg)

The European Commission is the executive body of the EU. It proposes new laws, manages EU policies and allocates funds, enforces EU law, and represents the EU internationally. Each member state nominates a commissioner who does not represent the country but has a field of responsibility. There are 27 commissioners led by the commission president, eight vice presidents, and eighteen commissioners, each responsible for a portfolio. All the nominated candidates are approved by the European Parliament [21, P.27, 48].

Their work is complemented by other institutions and bodies, which include:

- The Court of Justice of the European Union (Luxembourg)

The European Court of Justice is a legal institution of the EU and is divided into two courts. The Court of Justice is made up of one judge from each member country and eleven advocate generals. The Court deals with requests for a preliminary ruling from national courts, certain actions for annulment, and appeals. The General Court consists of two judges from each member state. It rules on actions for annulment brought by individuals, organizations, or EU governments [22].

Every judge and advocate general are appointed for a six-year term with renewal. The judges select a president who has a term of three years. In the Court of Justice,

each case is assigned one judge and one advocate general. The jurisdiction of the court has been invoked in the written stage and oral or public hearing stages. In the General Court, the stages are the same, but most cases are heard by three judges, and there is no advocate general [23, P.98, 132].

4. Legislation

The treaties are the primary sources of EU law where member states agree to set up the EU structure and function. The EU legislative institutions derive their power from treaties to make secondary laws. EU laws are superior to national laws, and member states can't pass any law that contradicts EU laws. The EU laws override the laws of member states, even if they were enacted before the EU law came into force [24].

Three principles are used to determine in which areas the EU can make laws. These are conferral, proportionality, and subsidiarity. In conferral, the EU uses the authority to make laws conferred by treaties. The act can't be beyond the authority. In proportionality, the EU can make laws to achieve the aims and objectives of the treaties. In subsidiarity, the EU makes laws only where the outcome would be better than national legislation. EU policies are decided through the co-decision procedure, whereby the main institutions come to an agreement on the legislative [25].

The commission prepares a report to assess the potential impact of economic, social, and environmental factors, taking input from non-governmental organizations, national authorities, and expert groups in the industry. Individuals, enterprises, and organizations can give their feedback through public consultation



to the commission. National Parliaments can also express their reservation that the issue should be addressed at the national level instead of the EU level [26, P. 93, 109].

With the right of initiative, the commission may present the proposal of law, either of its own motion, through consultation with other EU institutions, member states, or public consultation. Both, the Parliament and the Council with the relevant committees, review the proposed law. At this stage, the proposed law may be approved, approved with certain amendments, or rejected [27, P.70, 150].

The Parliament, the Council, and the Commission meet to determine whether they can agree on recommended amendments, if the Commission doesn't agree with amendments the Council can overrule the objection by unanimous decision. If the Commission considers that the recommended amendments excessively change the proposal, it has the right to withdraw. And if all three institutions don't agree on a final text, a second reading takes place [28, P.107, 126].

In the second reading, the Parliament and the Council propose further amendments. The Parliament can also block the proposal if it can't agree with the Council. Where both agree on the amendments, a proposal would be adopted on the other hand if they can't agree, a conciliation committee will be set up to make a solution. Both institutions can block the proposal in the final second reading, and if the proposal is adopted, it is published in the EU official journal [29, P.235, 253].

The EU uses several procedures to make a law, which depend upon the nature of the law being enacted and the treaty

state. The ordinary legislative procedure gives the same weight to the Parliament and the Council and is the main legislative procedure for lawmaking in the EU. The others are special legislative procedures. In this legislation, there are two types of procedures. One is the consent procedure, where Parliament has the power to accept or reject a proposal by an absolute majority but can't amend the proposal. The Council doesn't have the power to overrule the Parliament [30].

In the special legislative procedure, the second is the consultation procedure, where Parliament may accept, reject, or amend the proposal. This procedure applies to internal market exemptions and competition law. The Council adopts a legislative proposal after the Parliament has submitted its opinions. The council can pass a law without having it approved by Parliament, but Parliament must give its advice, and that may be against it [31, P.161, 180].

III. Conclusion

The European Council consists of the heads of all member states. This institution drafts the treaties that govern the EU's structure. All the members unanimously agreed and signed the treaties. The Treaties are the rules and regulations for the functioning of the EU institutions. They were the ones who agreed to stand by economic policies after World War II. The legislation of the single market in the EU countries allows for the free movement and free movement of goods, services, people, and money in all member states. They similarly stopped charging customs duties when trading with each other. These legislations brought good times for their economy. The Commission has proposed two drafts to regulate digitalization in the



EU: the Digital Services Act (DSA) and the Digital Markets Act (DMA) to create more

economic opportunities and protect the rights of communities in cyberspace.

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