

THE EU POLICY MAKING PROCESS

OVERVIEW

This factsheet was developed as part of a series on evolving European Union chemicals policies.

THE EUROPEAN UNION (EU) INSTITUTIONS

Founded on November 1, 1993, the European Union (EU) is a complex political and economic union composed of several institutions that work together to make and implement policies across the Member States (countries that have joined the EU). The main EU Institutions (**FIGURE 1**) work together to create and enforce EU policies, regulations, and legislations in various areas, such as trade, environment, and security, among others. The specific roles and powers of each institution are defined by the EU treaties and evolve with the development of the EU.

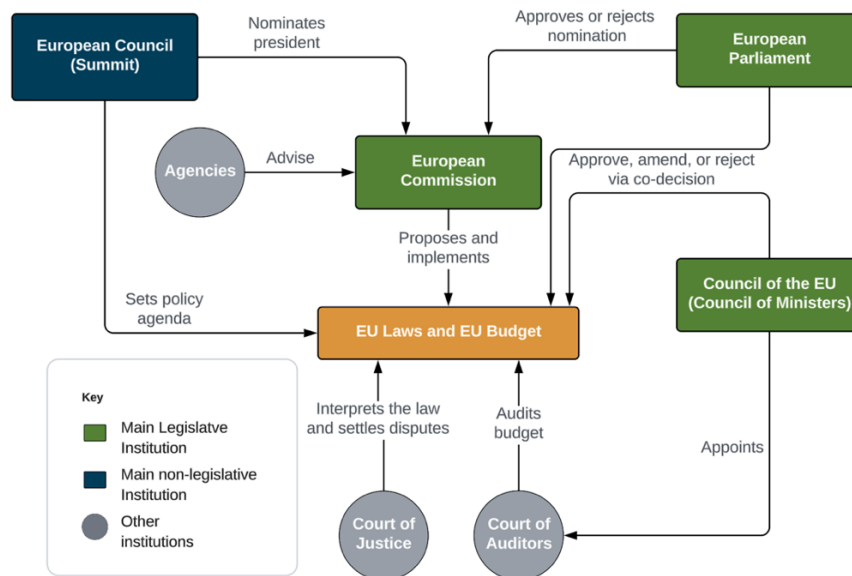


FIGURE 1. The main European Union (EU) institutions.

THE EUROPEAN COMMISSION

The European Commission (herein referred to as the Commission) is the EU's **executive branch**, responsible for **proposing and implementing EU legislation**, managing the EU budget, and managing programs approved by the European Parliament and the Council of the European Union. It also represents the EU in international affairs and negotiates international agreements. The **commission consists of 27 commissioners**, one from each Member State, who are **appointed based on their expertise and experience**.

The Commission proposes new laws and policies, which must then be approved by the European Parliament and the Council of the European Union. Together with the Court of Justice of the EU, the Commission is responsible for monitoring whether EU laws are applied correctly and on time. In this role, the Commission is referred to as the 'Guardian of the treaties'. Stakeholders can engage with the Commission through actions such as consultations, participation in expert groups, public affairs efforts, and shape proposals during initial development and trilogue negotiations.

THE EUROPEAN PARLIAMENT

The European Parliament (herein referred to as the Parliament) is the directly elected legislative body of the EU and shares legislative and decision-making authority with the Council. It represents EU citizens and has the power to amend, approve, or reject proposed legislation. Since February 2020, after the departure of the United Kingdom from the European Union, the Parliament is composed of 705 Members of the Parliament (MEPs) who are elected by EU citizens. The Parliament reviews and votes on legislation proposed by the Commission. It also has the authority to approve the EU budget. Its main parties range from center-right (European People's Party (EPP)) to center-left (Progressive Alliance of Socialists and Democrats (S&D)), centrist (Renew Europe), environmentalist (Greens/European Free Alliance (Greens/EFA)), right-wing nationalist (European Conservatives and Reformists Party (ECR) and Identity and Democracy (ID)), and left-wing socialist (European United Left/Nordic Green Left (GUE/NGL)). Non-Attached Members represent diverse independent views. During the legislative process, stakeholders can engage with the Parliament with actions such as participation in hearings, workshops and submission of position papers or amendments to the draft legislation.

THE COUNCIL OF THE EUROPEAN UNION (COUNCIL OF MINISTERS)

The Council of the European Union (herein referred to as the Council) represents the Member States' governments. It **shares legislative and decision-making authority with the Parliament**. It consists of government ministers (the cabinet-level post US equivalent is secretary, for instance: Secretary of State) from each member state, meeting about a hundred times a year, with its composition varying depending on the policy area being discussed. The Council, along with the Parliament, reviews and negotiates legislation proposed by the Commission. It also plays a key role in setting the EU's overall political direction. In most cases, the Council **votes by qualified majority, with each state having a particular weight in the vote according to its population**. Stakeholders can influence the process by engaging with national government representatives in the Council.

The Presidency of the Council is a rotating position held by each EU member state for six months. Its main responsibilities include setting the agenda for Council meetings, setting priorities, chairing discussions, brokering compromises among Member States, and representing the EU externally. EU Presidencies are often organized in groups of three (**FIGURE 2**), ensuring coordination and continuity, with each trio working closely for 18 months to maintain stability and consistency in EU governance.



FIGURE 2: Current trio presidency. Belgium (marked in green) currently holds the presidency of the Council.

THE EUROPEAN COUNCIL (SUMMIT)

The European Council is comprised of the heads of state or government of each of the 27 EU Member States. It sets the general political direction and strategic priorities of the EU. The European Council provides overall guidance and political decisions on important issues. It **does not make legislation** but can influence the legislative process. It also plays at the highest level, a role in coordination, arbitration or unblocking of difficult legislative dossiers.

OTHER INSTITUTIONS

The Court of Justice of the European Union (CJEU) ensures consistent interpretation and application of EU law, resolving legal disputes involving member states, institutions, and individuals. It is comprised of a judge from each Member State and a number of Advocates-General, with its issues binding judgments.

The European Court of Auditors audits EU finances for efficient spending, with members from each state producing reports influencing other EU institutions.

The Committee of the Regions (CoR) and the European Economic and Social Committee (EESC) are advisory bodies offering expertise on EU policy. Additionally, EU Agencies implement and manage EU policies, providing expertise and support to the Commission.

THE LEGISLATIVE PROCESS IN THE EU

The Ordinary Legislative Procedure

The procedure of *co-decision* was initially introduced in 1992 and broadened in 1999. Following the adoption of the Lisbon Treaty, co-decision was rebranded as the ordinary legislative procedure (**FIGURE 3**) and emerged as the primary decision-making process for enacting EU legislation. The legislative process in the EU is a complex system involving multiple institutions that is applicable to approximately 85 different policy domains, and typically proceeds as follows:

1. **Legislative Proposal:** The legislative process begins with a Green Paper issued by the Commission to stimulate discussion and gather opinions on a specific policy issue. It presents various policy options and invites feedback from stakeholders, member states, and the public. Proposals (consultation documents or discussion papers) can also originate from a group of member states, or the Parliament. Input received during the consultation process helps the Commission assess the feasibility and potential impact of different policy approaches. Subsequently, a White Paper may be issued outlining specific legislative or policy proposals based on the feedback received. The legislative proposal is then submitted to the Council and the Parliament, which is concurrently shared with national parliaments, and occasionally the Committee of the Regions and the Economic and Social Committee for their review. The Commission is the primary initiator of legislation, often in response to pressing issues or to implement EU policies. It is worth noting that the vast majority of proposals that make it to this stage of the process will eventually be adopted, though they may go through considerable changes.
2. **First Reading:** The proposal is then examined and debated, without a time limit, at the Parliament or the Council, depending on the type of legislation. The Parliament and Council may propose amendments. Additionally, the Council, Parliament, and Commission may arrange informal 'trilogue' meetings with their representatives to facilitate agreement. At the end of the first reading of a legislative proposal, a position is adopted. The resulting documents can be:
 - 2.1 Legislative acts that can be regulations (binding in all member states), directives (binding on the results but implementation at the Member State may vary), or decisions (binding for specific addressees),
 - 2.2 Council's position, expressing the will of the Council to amend the Parliament's position, or a

2.3 General approach, which refers to a political agreement within the Council that can be adopted while awaiting the Parliament's first reading position.

For context, between 2014–2019, 89% of proposals going through the Ordinary Legislative Procedure have been adopted during the first reading¹, reflecting a general trend over the last 20 years toward most proposals reaching resolution at this stage.

Second Reading: Once the first reading position is adopted, the Parliament and the Council have three months to review and vote on the proposed legislative text. First, the Parliament examines the Council's position and either approves it, proposes amendments, or rejects it. Then, the Council assesses the second reading of the Parliament and if an agreement is reached, the legislation moves forward for adoption. Between 2014–2019, 9% of proposals going through the Ordinary Legislative Procedure were adopted during the second reading². While uncommon, if no agreement is reached, a conciliation committee is convened.

3. **Conciliation:** If the Parliament and Council cannot agree on the text, a process called "conciliation" may be triggered. A Conciliation Committee is formed, consisting of members from both the Parliament and the Council, to reach a compromise. If the text approved by the conciliation committee finds favor with both institutions during the third reading, the legislative act is formally adopted. Only 1% of proposals going through the Ordinary Legislative Procedure between 2014–2019 were extended to review in a third reading³.
4. **Final Adoption:** The agreed upon text is then fine-tuned by legal linguists and translated into all official EU languages. The legislation is then formally adopted by both the Parliament and the Council and published in the Official Journal of the European Union (OJEU), entering into force twenty days after publication. However, the entry into force date can vary based on the specific provisions outlined in each piece of legislation. Some may include specific clauses or articles that set a different entry into force date. For example, certain regulations may have immediate effect upon publication (such as EU POPs which enter into force on the twentieth day following its publication), while others may specify a delayed entry into force to provide stakeholders with sufficient time for compliance (such as the recent ban on bisphenol A in food packaging, as part of the Packaging and Packaging Waste Regulation (PPWR), which will take effect 18 months after the regulation comes into force).

The legislative process aims to balance the interests of member states and the EU as a whole while ensuring democratic decision-making and effective governance. Member states are responsible for implementing EU legislation in their national legal systems. However, the Commission is in charge of monitoring and enforcement to ensure that member states comply with EU laws, and it can take legal action against countries that fail to implement them correctly. EU legislation can be reviewed and amended as necessary to adapt to changing circumstances or emerging issues.

¹ <https://www.europarl.europa.eu/olp/en/ordinary-legislative-procedure/overview>, accessed 2/15/2024

² www.europarl.europa.eu/olp/en/ordinary-legislative-procedure/overview, accessed 2/15/2024

³ www.europarl.europa.eu/olp/en/ordinary-legislative-procedure/overview, accessed 2/15/2024

The Ordinary Legislative Procedure of the EU

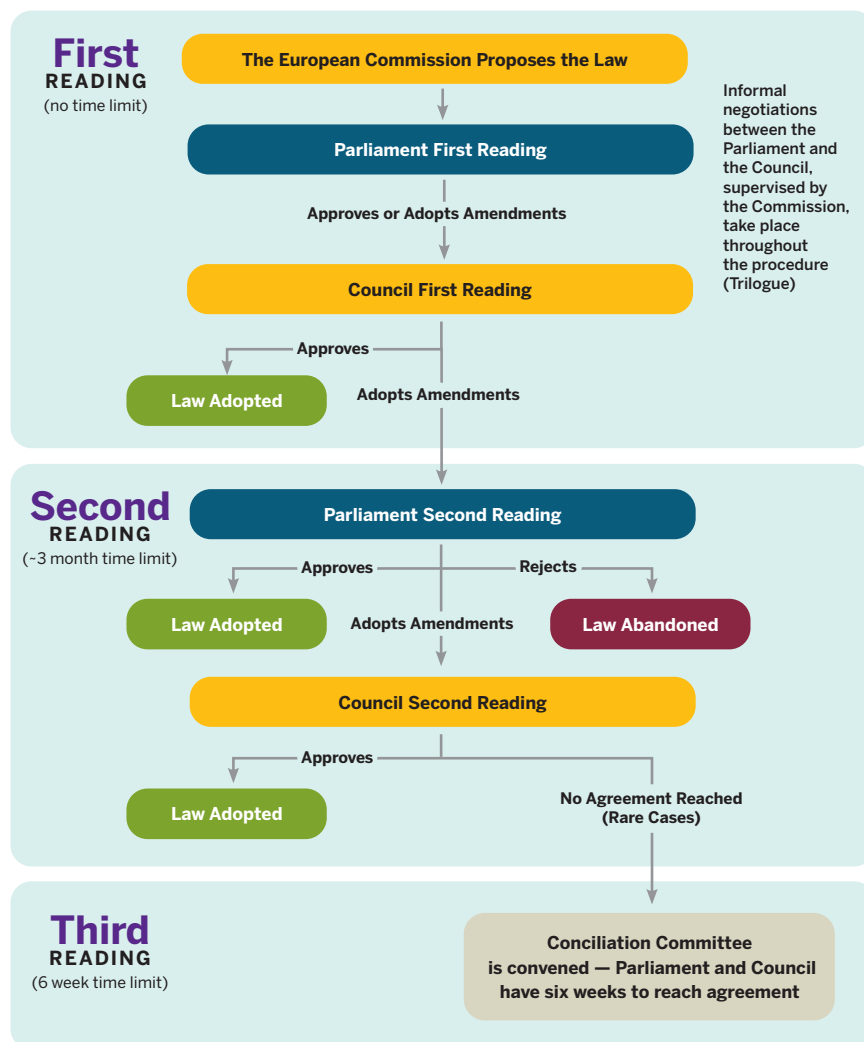


FIGURE 3. The ordinary legislative procedure of the EU.

COMMISSION PRIORITIES AND UPCOMING ELECTIONS

Commission Priorities

The Commission's main priorities for 2019–2024 are the European Green Deal, digitalization, economic growth, managing migration, enhancing the EU's geopolitical role, and safeguarding the rule of law and democracy. The Commission is currently trying to push through key files with the end of the current EU legislature. However, given the continued political pressures and upcoming 2024 Parliament elections after which the next Commission will be formed in late 2024, a shift in positions is forecasted. For example:

- The EPP is calling the EU to refocus on defense and competitiveness as a lesson from Russia's war on Ukraine, scrapping EU initiatives on pesticides and nature restoration to ensure food security.

- The recently finished Spanish EU Council Presidency focused on industrial policy and the energy and climate side of the Green Deal, and the current Belgian Presidency that started on 1 January 2024 will prioritize Europe's industry, with the aim to create a “New Industrial Deal” enhancing investments to support European innovation and entrepreneurship.
- Concerned by the delay in the publication of the Registration, Evaluation, Authorization and restriction of Chemicals (REACH) Revision, NGOs have been pressing the Belgian presidency to target Chemical Strategy for Sustainability (CSS) related topics, such as the need to develop an ambitious general approach on the Commission's legislative proposals on 'One Substance, One Assessment', and demand that the Commission urgently deliver the crucial missing ECHA Founding Regulation proposal.
- With regards to climate and environmental protection, there is growing support for a gradual green transition, which includes a larger focus on the economy when referring to nature protection and restoration. This approach recognizes the need to bridge environmental and economic concerns to mitigate disruptions to industries while fostering sustainable growth. There is a growing inclination to frame environmental protection through an economic lens, stressing the link between that and economic prosperity and seeking a more nuanced approach to the green transition.

European Parliament Elections 2024

For the 2024 European Parliament elections the following trends are expected:

- According to the latest polls ~60% of MEPs will be new to the Parliament.
- The participation of young people is of particular importance this year, with many parties opting/set to nominate younger candidates for the elections, giving space for younger politicians.
- The EPP will lose seats, but will still be the biggest group, followed by the S&D. The ECR will be the group that will gain more seats, but it will not radically increase its weight in the Parliament. The Greens/EFA is projected to lose the most seats.
- The next Parliament is likely to be even more fragmented, with the bigger groups losing further ground to the benefit of the smaller factions.
- Ursula Von der Leyen (Germany) is likely to continue her presidency of the Commission in the next term, but this is not assured. She has the tacit support of the German government, but also needs the backing of the EPP.
- There is some frustration, including in her own party, at the Green Deal for putting too much pressure on businesses and farmers, as seen in the latest EPP attempts to weaken draft laws on pesticides, nature restoration, due diligence, eco-design, as well as the Commission's delays on REACH and Green Claims.
- Additionally, the collapse of liberal parties across Europe is set to impact EU election performance.

New EU Legislature Focus and Challenges

Enlargement, the process of allowing new countries to join the EU as full member states, has regained prominence and will be a key focus for the upcoming Commission:

- The ongoing inter-institutional and member-state discussions are shaping the scope of enlargement, including potential multi-speed approaches, which recognize that each candidate or potential candidate country advances in its accession process based on its own merits, achievements, and compliance with EU requirements, all while aiming to avoid significant treaty amendments.
- President von der Leyen underscored the imperative of EU enlargement in her recent State of the Union address, explicitly mentioning Ukraine, Western Balkans, Moldova, and Georgia.
- Numerous unresolved issues persist, notably concerning financing and own resources, treaty modifications, and the reform processes within prospective member states.
- A Commission focused on enlargement might divert attention and resources from other portfolios such as climate and digital.

The new EU leadership faces a range of challenges as it takes on its role, these include boosting innovation competitiveness, particularly concerning the United States and Asia, and addressing the potential outcomes of the U.S. election. Additionally, there is a pressing need to bolster resilience while reducing dependencies on fossil fuels, particularly those sourced from outside the EU. Achieving decarbonization goals and creating value for both Member States and candidates with varying industrial bases, R&D capabilities, public revenue, and environmental standards compliance capabilities are crucial tasks on the agenda. These challenges underscore the complexities and multifaceted nature of the EU's role in a rap.

For more factsheets and information regarding Green Deal initiatives that impact chemicals management, please visit www.sustainablechemistrycatalyst.org/eu-chemical-policy.

AUTHORS

This factsheet was developed through a collaboration between:

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The Sustainable Chemistry Catalyst is an independent research and strategy initiative, based at the University of Massachusetts Lowell, that is focused on accelerating the transition to safer, more sustainable chemistry through research and analysis, and stakeholder engagement with scientists, policymakers, and commercial actors. The Catalyst works to understand barriers and opportunities to commercialization, identifies model solutions and strategies, develops methods to evaluate safer alternatives, and builds a community of expertise to support the transition to safer, more sustainable chemistries and technologies.



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