

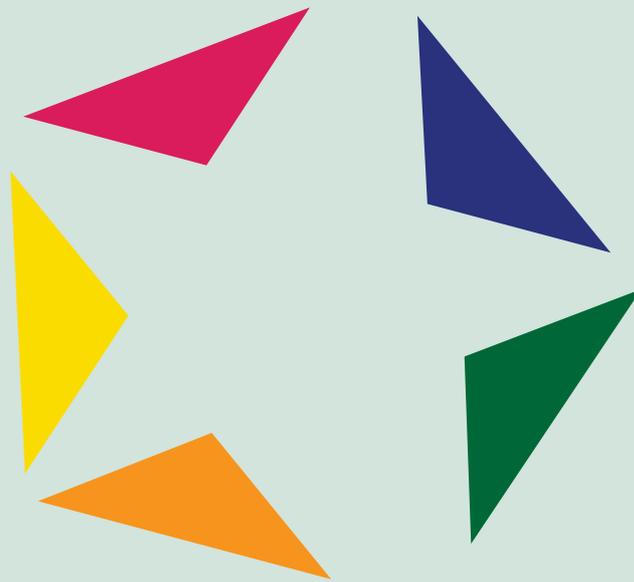


Europe *At work*

BEFORE THE GAME

Content: Factsheets for Europe at Work	Page
Factsheet 1: Making laws in the EU	2-7
• Democratic legitimacy	3
• Laws that work	4
• Institutions in EU legislation	5-7
Factsheet 2: Freedom of movement for the workforce	8-11
• What are your rights?	9
• Social dumping and welfare tourism	10
• Who has the right?	10
• The Court of Justice	10
• Who moves?	10
• The economic arguments for free movement	11





FACTSHEET 1

MAKING LAWS IN THE EU

Making laws in the EU

In many ways, cooperation in the European Union is different from international cooperation in the UN or other transnational organisations. A decisive difference is that EU member states have placed a large part of their legislation into the EU cooperation.

This means that laws may be passed in the EU that member states, companies and citizens are obliged to respect. If they don't, they might be sentenced at a court just as they would if they had violated national legislation. All to say that cooperation in the EU is more obligating than most other forms of international cooperation.

However, not all areas of EU-cooperation take the form of legislation. In many areas, the countries are not ready to commit themselves to that degree. Legislation is mostly used to ensure the countries' shared wish to trade on equal terms with each other on the Single Market where EU citizens can buy and sell both goods and services on terms more or less like those they meet in their home countries.

Experience tells us that it is difficult to establish equal terms for trade in countries with different rules, interests and traditions. What do you do if a competitor in another country receives state funding? Or if they are able to sell their goods cheaply by ignoring standards for pollution or consumer safety, or by using child labour? That is a kind of competition which most people find unfair, and which puts pressure on politicians to make common rules in other areas, such as the environment, product safety, consumers' rights, competition rights and working conditions.

Because the EU cooperation involves obeying laws that affect important areas of life, it is particularly important to discuss and determine them in a proper manner. There are two concerns in particular that must be balanced in this regard.

First, laws must be determined in a way that most people find fair and agreeable. Even if they might disagree with some of the laws, and even when the political process is different than in their home country. In other words, citizens must view the law as democratically legitimate.

Second, it is important that the lawmaking process has effects in practice. The purpose of the law is to prevent conflicts between differing viewpoints and interests, and to avoid chaos and uncertainty when the rules are unclear in an area.

Democratic legitimacy

There are a number of principles and procedures that make EU laws acceptable or legitimate for those who are affected by them.

In a democratic state, democratic legitimacy is very much achieved in laws being determined by representatives of the voters who are able to replace them with new representatives on election day. That is only partly the case in the EU, where the democratically elected members of the European Parliament have to share the right to legislate with the governments of the member states in the Council of the European Union. The ministers are indirectly elected, and they can only be replaced by decisions in their own country.

EU legislation is built on the principles that also apply in a democratic state. Among other things, this means that everyone is equal before the law. Big, strong and rich countries can also be overruled when laws are processed, and they are convicted if they do not comply with these laws. These principles act as a counterweight to the principle of 'might makes right' which otherwise dominates international cooperation, and help make laws legitimate.

Another important aspect is the fact that decisions can be made in the EU only in the areas where member states have transferred competence to the EU (principle of legality). This is determined in the treaties of the EU where the basic form of the cooperation is defined. The treaties are a result of long and difficult negotiations between the governments. When they have reached a compromise, the treaty must be approved in every single country. Usually, national parliaments decide are the ones to decide whether or not a member state can accept a new treaty.

When the member state parliaments have accepted a new treaty, they have also accepted that a certain part of their legislative work will now be transferred to the EU cooperation. Lawmaking in the EU are in other words built on the competence that the EU has been handed over by representatives of the voters in the member states.

At the same time, there are a number of fundamental considerations that must always be respected in the EU. They contribute to the perception of balance and fair play.

First, the treaty determines that laws cannot be accepted if they are in conflict with the European

Convention of Human Rights. A principle prohibiting discrimination of any kind also exists. A third principle states that the EU must make laws in solidarity with consumers, workers and peripheral areas. Finally, there is a principle to counteract centralisation, which requires the EU to only make laws when the member states cannot do it as effectively (the principle of subsidiarity).

The treaty describes how cooperation is to work in practice to let everyone get the influence to which they are entitled through EU procedures. For example, the treaties determine tasks and competences for the special EU organs such as the European Commission, the Council of the European Union and the European Parliament. The treaty also defines the decision-making process. This process is designed in a way that broad compromises are always necessary, ensuring that a majority of states and people will support new EU legislation.

Laws that work

International cooperation often works very slowly when everyone agreeing is a requirement. The negotiations in the UN to reduce CO₂ emissions form a good example. The EU countries prioritise that their lawmaking process has to lead to results in practice. The most important instrument in this regard is probably the opportunity to put a law to a vote if consensus cannot be reached before a deadline.

The threat of being isolated and overruled usually encourages the parties to stretch quite far to reach a compromise. Usually, negotiators working to further a body of interests would rather see small results than none at all. Member states also have an interest in helping each other and making concessions – otherwise they might not find a majority for good legislation. Having friends who might help out another time is always good, too.

The effective lawmaking machine comes at a price. No longer can the national government decide on its own which problems to address. It has to deal with what others perceive as problems. Necessary compromises force them to abandon points of view which cannot gain support.

Sometimes, they are overruled in matters that are important to them.

At the same time, EU laws are hard to change once they have been accepted with broad majorities. Also, the member states cannot accept laws that run counter to EU laws (principle of supremacy). If the member states were able to change their minds once a compromise had been reached, the negotiation process would run in circles.

Institutions in EU legislation

Three EU institutions in particular play a role in the legislative process: the European Commission, the Council of the European Union, and the European Parliament. The Commission is an invention particular to the EU, and doesn't exist anywhere else in international cooperation or in the member states. The Council is the forum where ministers from the member states make common decisions. These two are accountable to the European Parliament, which also participates in legislation and the passing of the EU budget.



European Parliament

The European Parliament consists of elected politicians from all

member states who hold their seat for five years. It is a big parliament with 705 members after the exit of Great Britain. The size of the Parliament ensures that it can contain the many viewpoints of the member states, and not only the biggest parties. In Parliament, politicians are joined in groups according to their observations to let them share the work and make agreements on behalf of more parliamentarians. These groups all have members in the Parliament committees which process laws in different areas, e.g. research, foreign policy or the labour market. The committees are often where a compromise is reached and thus finds support from a majority of the European Parliament. The committee also elects a spokesperson – a rapporteur – to negotiate with the Council and the Commission.



The Council of the European Union represents the governments of the member states and

consists of the ministers of the area under treatment (e.g. agriculture or economy). The Council must accept all legislation just like the Parliament. The laws are prepared by officials, meaning that the ministers only negotiate on the points where they disagree. The ministers must make sure to have a mandate from their national governments to know what is most important, and what they can agree to. The voting system in the Council ensures broad support from a majority of countries and a majority of citizens. This form of qualified majority is also known as the 'double majority'. It implies that a majority of the member states must support legislation, and that these countries together must represent 65 % of the EU population. The requirement that more than half of the states must support a law means that the biggest countries cannot decide everything themselves. The 15 smallest countries can always block a decision. That is also the case for the 3 biggest countries with more than 35 % of the EU population.



The European Commission.

While the Council represents the states, and the

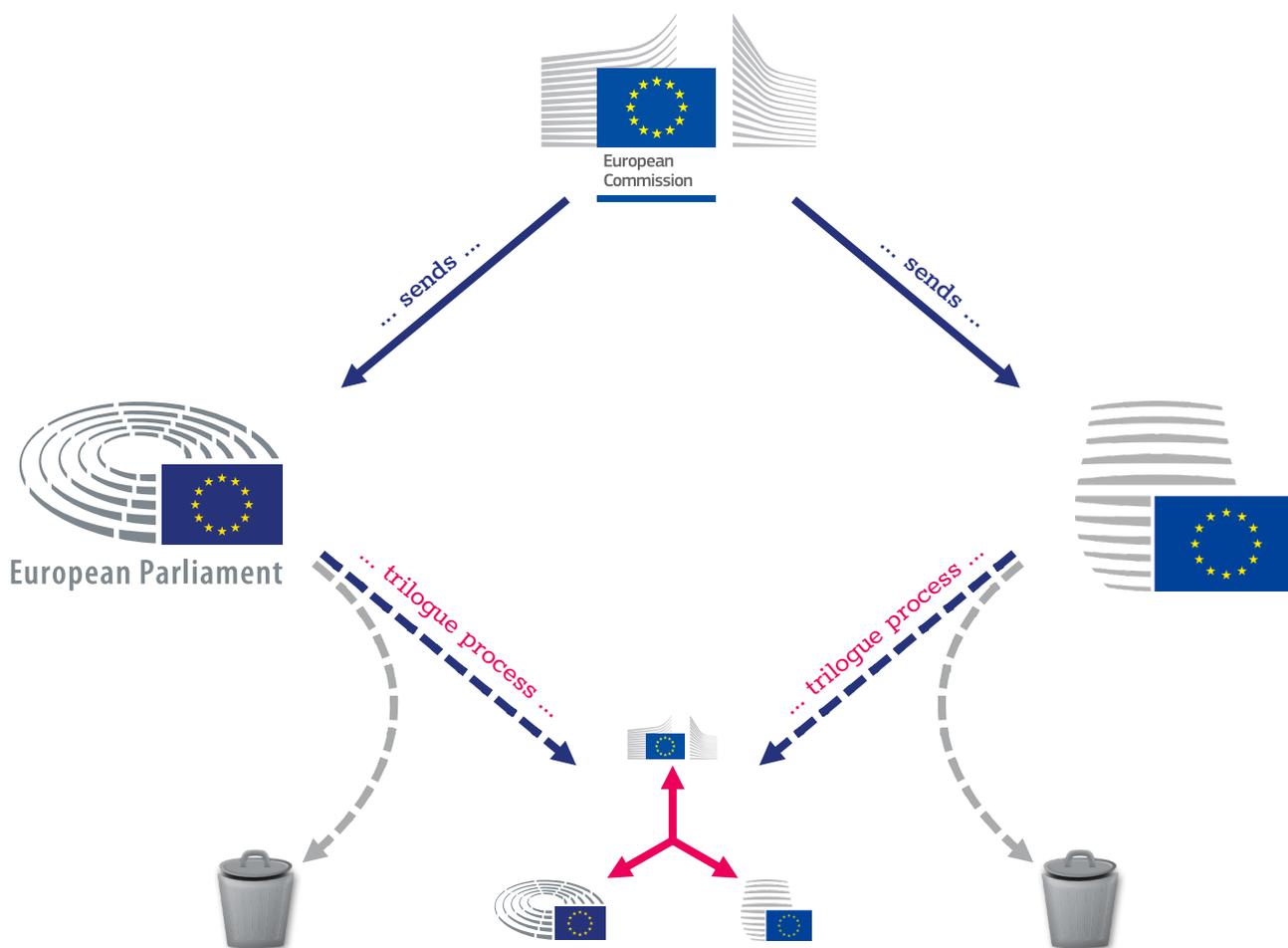
Parliament represents political views in the population, the Commission must represent the overall objectives of the EU, including the goal of a still closer integration between the countries. The role of the Commission in the legislative process is to draft laws which further these objectives, and which can be implemented. The laws are often drafted on the initiative of others, e.g. state leaders, but the Commission decides what the law should look like, and ensures that it meets the standards of good EU legislation. The Commission often helps the Council and Parliament agree on the final shape of the law. When a law has passed, the Commission needs to make sure that the member states implement it as promised. The Commission consists of sectors which handle their own policy area, e.g. climate, budget or research. There is one commissioner per member state, but they are independent of their home country.

The legal process

Proposals usually have to be adopted in both the Council of the European Union and the European Parliament to become law in the EU. In Parliament, a simple majority of the 705 elected

parliamentarians must vote in favor of the proposal. Council of the European Union votes by a so-called qualified majority.

The Council of the European Union, the European Parliament, state leaders, 1 million citizens or 4 member states request the Commission to propose a law. If the Commission doesn't propose one on its own initiative. The Commission analyses the matter with relevant parties and drafts a law proposal which it...



The parliamentarians discuss the matter in the relevant Committees and with other members of their groups, parties etc. If there is a majority, they accept the proposal, typically with amendments which the Council can accept with the proposal.

In the trilogue between the European Parliament, the Council of the European Union and the Commission, a compromise is often found. Otherwise, the proposal has to be reprocessed in the Parliament and in the Council within a set time frame.

The ministers discuss the Commission's proposal and the Parliament's amendments and consult the interested and/or relevant parties in their homelands. Either the whole package is accepted, or the Council accepts a joint position. In that case, a Trilogue process with the Parliament and the Commission is initiated.

Institutions in EU legislation

Democratic legitimacy. A political decision such as a law is democratically legitimate when it is recognised by those affected by the decision, because it has been reached following principles governing distribution of power which are subject to general agreement.

Directives and regulations There are different types of laws in the EU. The most common are the so-called regulations, which apply immediately for all citizens of the member states and the so-called directives which commit the member states to implement the decisions, but leave room for them to decide how.

The overall objectives of the EU: The treaty defines several overall objectives for the EU: long-term economic development with low inflation and high employment, social development, sustainable development, balanced social security, high social standards, respect for citizens' human rights, respect for national identity of Member States, and respect for democratic governance of member states.

Integration is a process, where national boundaries is a still smaller obstacle for trade, relocation, investments and cooperation. In the newest treaty of the EU, the Lisbon Treaty, it is determined that the member states must always work together from a principle of stronger integration and a still closer union (principle of stronger integration).

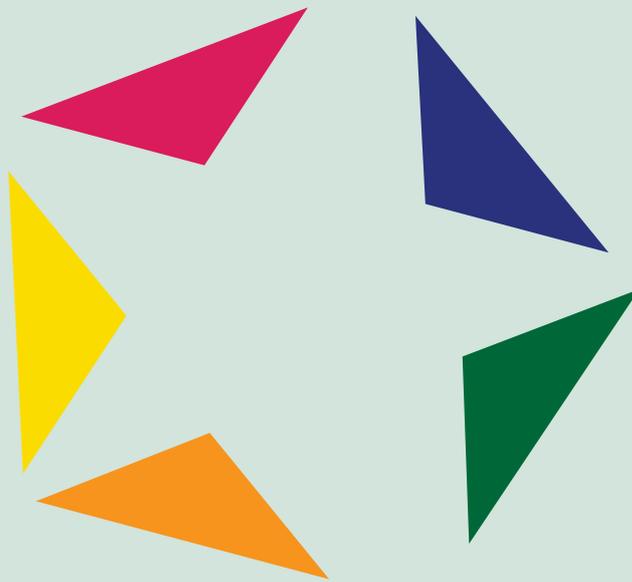
A qualified majority usually means that it is not enough to make a decision based on just one vote. In the Council, it has a special meaning: a law must be supported by a majority of countries (at least 16 out of 27 (28)) and these countries must represent at least 2/3 of the EU population. This means that French votes 'count more' than Estonian because there are more French nationals – but the big countries cannot just make decisions over the heads of the smaller ones.

Legality means legal or according to the law. In the EU, it means that the EU institutions must receive competence to act and make decisions about law. This competence is transferred in the treaties.

The principle of subsidiarity states that all political and societal questions must be handled by the authority best equipped to do so. The EU can only make decisions when it cannot be done as effectively by governments or by regional or local authorities. The national parliaments can object if this principle is not respected.

Treaties are agreements between states. The current treaty is called the Lisbon Treaty. It was accepted in 2007 and came into effect in 2009. The treaty is sometimes called the constitution of the EU, and it defines the areas of work and procedures of the Union. In other words, EU decisions and legislation have their bases in this treaty.

Trilogue negotiations are a forum where the Council of the European Union, the European Parliament and the Commission meet to negotiate and settle compromises.



FACTSHEET 2

FREEDOM OF MOVEMENT FOR THE WORKFORCE

Freedom of movement for the workforce

Many of us dream of working in another European country at some point. An inquiry from the statistical office of the EU shows that no fewer than 80 million Europeans have that dream. Approximately 50 million people have already put it into effect. In 2014, around 15 million EU-citizens worked in another country than the one in which they were citizens.

This right is given to us by the EU rules on freedom of movement for the workforce. The rules are based on the principle of the four freedoms, which originated at the very beginning of cooperation in the EU after the Second World War. This principle means that capital, goods, services, and labour can move across national borders in the union. The EU countries wanted a big, common market where people trade and invest across borders, and where the workforce can move freely to the available jobs.

One thing is principles, another is practice. Even though the countries wanted the big, common market, there have been many obstacles and much opposition when outside competition had to be let in. Every country had their own rules and ways of doing business which in practice excluded others, and the population were often quite happy with this.

Sometimes those rules weren't even on a country but on a city level. And often representatives of certain industries or sectors argued that work there should only be carried out by people with very specific qualifications. That is why the realisation of the Single Market is a gradual process, and not an already accomplished fact. Some very big steps were taken in the 1980's and the decades following where the Commission and the EU Court put pressure on the member states to open up for each other's goods and services in practice, as they had already promised to do.

In order to work abroad, you normally need a special work permit, something which often comes with a weight of restrictions to anyone other than a country's own citizens. That work permit is no longer necessary in the EU – if you are an EU-citizen, that is!

It is an advantage for citizens in all EU countries that they may take up residence wherever they want. On the other hand, it can be a disadvantage if someone from a country with lower salaries offers to do your work for half your salary. Or if it turns out that your mechanic or dentist were trained in different standards than you are used to.

What are your rights?

If you are a citizen in a country covered by EU law, you can apply for a job, work and live in all EU/EEA-countries. It is generally prohibited to discriminate against you on the basis of you not being from the host country, and the legislation entitles you to the same terms as the country's own citizens on the following points:

- Access to jobs
- Work conditions
- Taxes
- Medical treatment
- Education and educational support for children
- Social benefits if you e.g. fall ill or become unemployed

If you have lived as a legal resident in another EU country for five years in a row, you are automatically entitled to remain there for as long as you like. The terms might of course be better or worse than those you are used to from your home country. Although all member states have agreed to treat each other's citizens the same, there are many examples of differential treatment in practice. In some cases, it is necessary to go to the EU Court in order to determine if there was an objective reason that one was denied a job or a right, or if it was due to unreasonable discrimination.

Social dumping and welfare tourism

The expression social dumping is normally used when a country lets foreign workers work under wage and working conditions below that country's usual level. This can put pressure on the native workforce to accept lesser terms as well, and it might drive down the wages in a country. When the EU expanded in 2003 to include a number of Eastern European countries with lower wages, many EU countries delayed possible immigration through a transitional arrangement. At the same time, trade unions have been very active in tracking down employers who take unreasonable advantage of foreign labour.

The expression welfare tourism is aimed at foreigners who are suspected of moving to other EU countries to exploit their favourable social systems. The expression is mainly used about people outside of the labour market, such as students. It is a controversial expression, because it might lead one to think that citizens from other EU-countries are an expense for welfare societies. In reality, they pay more in taxes than they receive in public services.

Who has the right?

The right to work in other EU countries applies to EU citizens and to citizens from the so-called EEA countries who comply with the basic rules of the EU Single Market (Norway, Iceland, Lichtenstein and Switzerland). If you are married and have children, the rights apply for them as well. If you are a citizen of a country outside of the EU/EEA, the rules do not apply, not even if you are a resident of an EU country as e.g. an asylum seeker.

The rules are designed for those who trade their labour. The fundamental idea is that you must be employed by someone to have the rights of freedom of movement. You must also receive real payments from your work. And you must be a part of the host country's labour market.

If, on the other hand, you are stationed by a company in another country, it is a different matter altogether. Problems and rules are also different if you wish to take up residence with your fortune or pension, or if you want to start a company in another EU country. And if you are unable to support yourself, you will have fewer rights in many ways.

The Court of Justice

The rules about freedom of movement have to take many different conditions in all of the EU into account. At the same time, they involve very serious issues for millions of people: livelihoods, working conditions, economy – and people's ability to take up a fight against big companies. There are very serious interests at stake, and they often run up against each other.

For that reason, the rules are very detailed and specific. In most cases, it is quite clear which rules apply, and if you do not get your rights automatically, you can file a lawsuit at the Court of Justice of the European Union. But doubts, grey areas and new problem areas continually arise, either because someone tests the boundaries or because the labour market changes. New cases may come up that no one expected at the time the rules were negotiated.

In cases like that the Court is often asked to interpret the rules, to let citizens of the EU and the national courts know which rules apply. Over time, this has led to some groundbreaking findings, which have typically strengthened and specified citizens' rights – but also stirred debate about how much the EU and the EU Court should in fact determine.

Who moves?

One can pursue happiness in another country for many reasons. In recent years, the main waves have gone from east to west and south to north. Since 2004, when 10 Eastern European countries joined the EU, the number of Eastern Europeans in other EU countries has tripled – from 2 million to more than 6 million. After the financial crisis in 2007, there has been a steady stream of not least job-seeking young people from the Southern European countries, where unemployment rose and opportunities narrowed.

The economic arguments for free movement

Economy is about using one's resources as efficiently as possible. Capital, knowledge and workforce need to go where they produce the most value at the lowest cost. Therefore, competition on free markets is good for the economy, and limitations on the market is usually bad for the economy (although they can be good or necessary for other reasons).

That basic economic principle also applies to the labour market. It is an economic advantage for the workforce to be where it can produce the most for its cost. There must be workforce where there is demand (that is, in areas and industries with a high growth). At the same time, it is important that employees have the right qualifications, because production in many sectors today is highly specialised. Getting just the right welder or lawyer can be very valuable.

But what's good for the economy is one thing – who benefits from a good economy is quite another. Economic progress for some may be a setback for others. For the best-skilled citizens to migrate to the economic growth-centres could hurt the development in the places they are leaving. And while the companies and the most sought-after workers in successful firms make a good living, others might lose their jobs or have their wages pushed down by cheap, foreign competition. Improved economy might therefore lead to increased inequality between societal groups, sectors or geographical areas.

Inequality can be mediated by investing in “neglected areas” and education of the workers that are under pressure. Some of the money can be found in the European Social Fund, ESF, which accounts for eight percent of the total EU budget.