

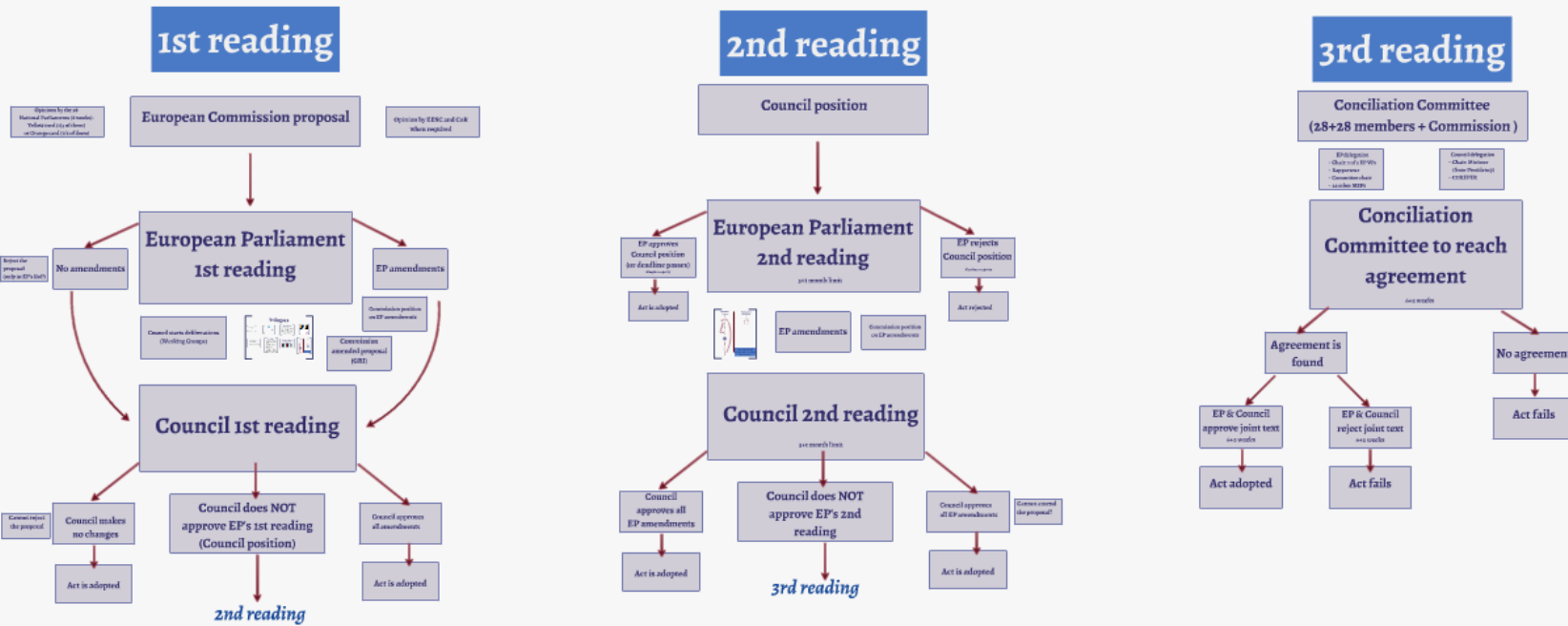


Andrés Baneth  
abaneth[at]pac.org  
www.pac.org/europe

Public Affairs Council

Questions?  
Comments?

# The Ordinary Legislative Procedure



## Ordinary Legislative Procedure



# EU Decision-Making: Ordinary Legislative Procedure & Trilogues



**András Baneth**

abaneth [at] pac.org

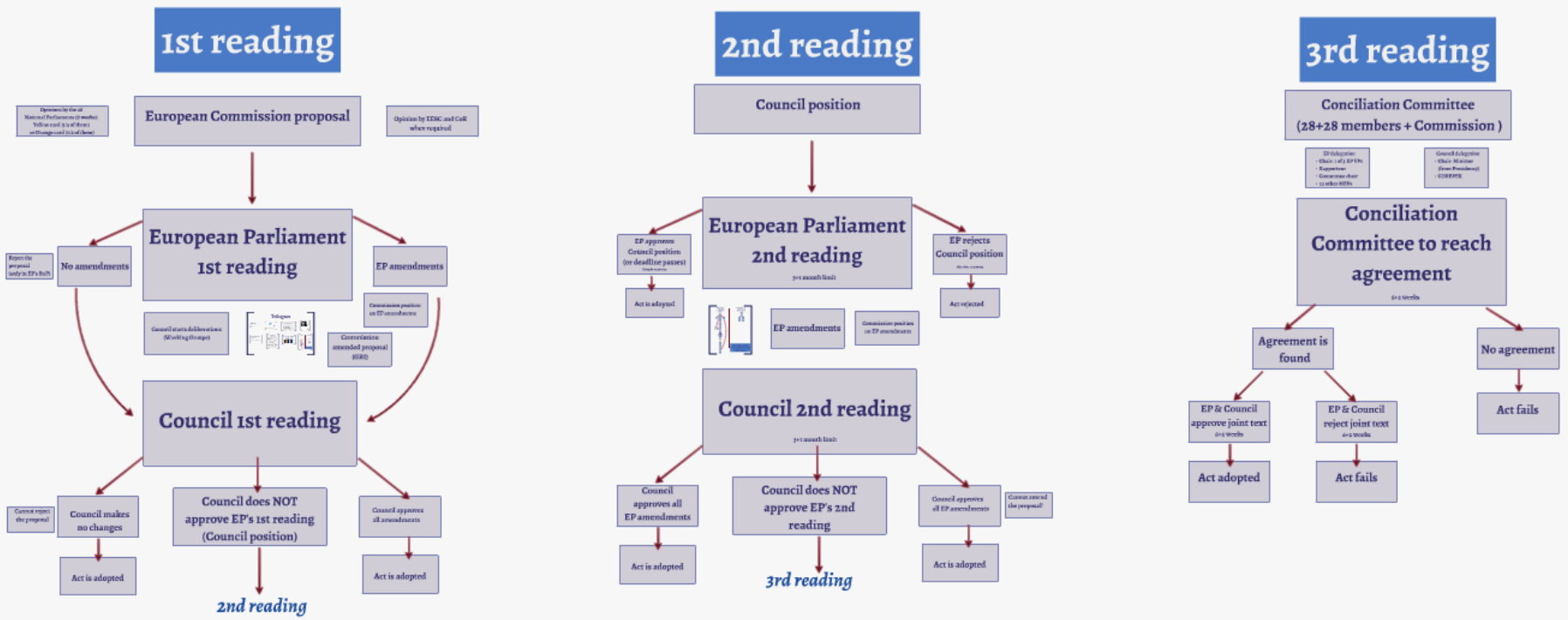
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Brussels, September 2014



# The Ordinary Legislative Procedure

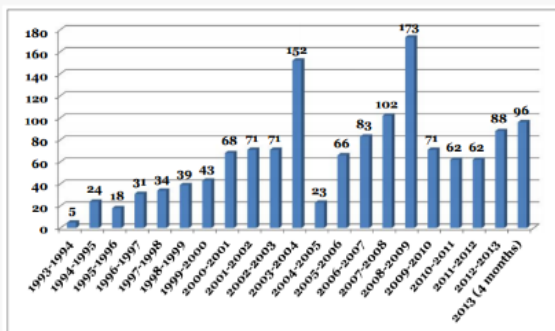


## Ordinary Legislative Procedure

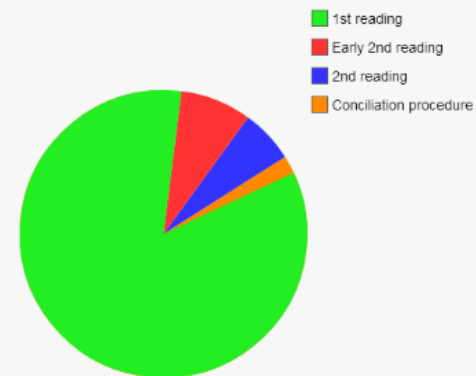


# Ordinary Legislative Procedure

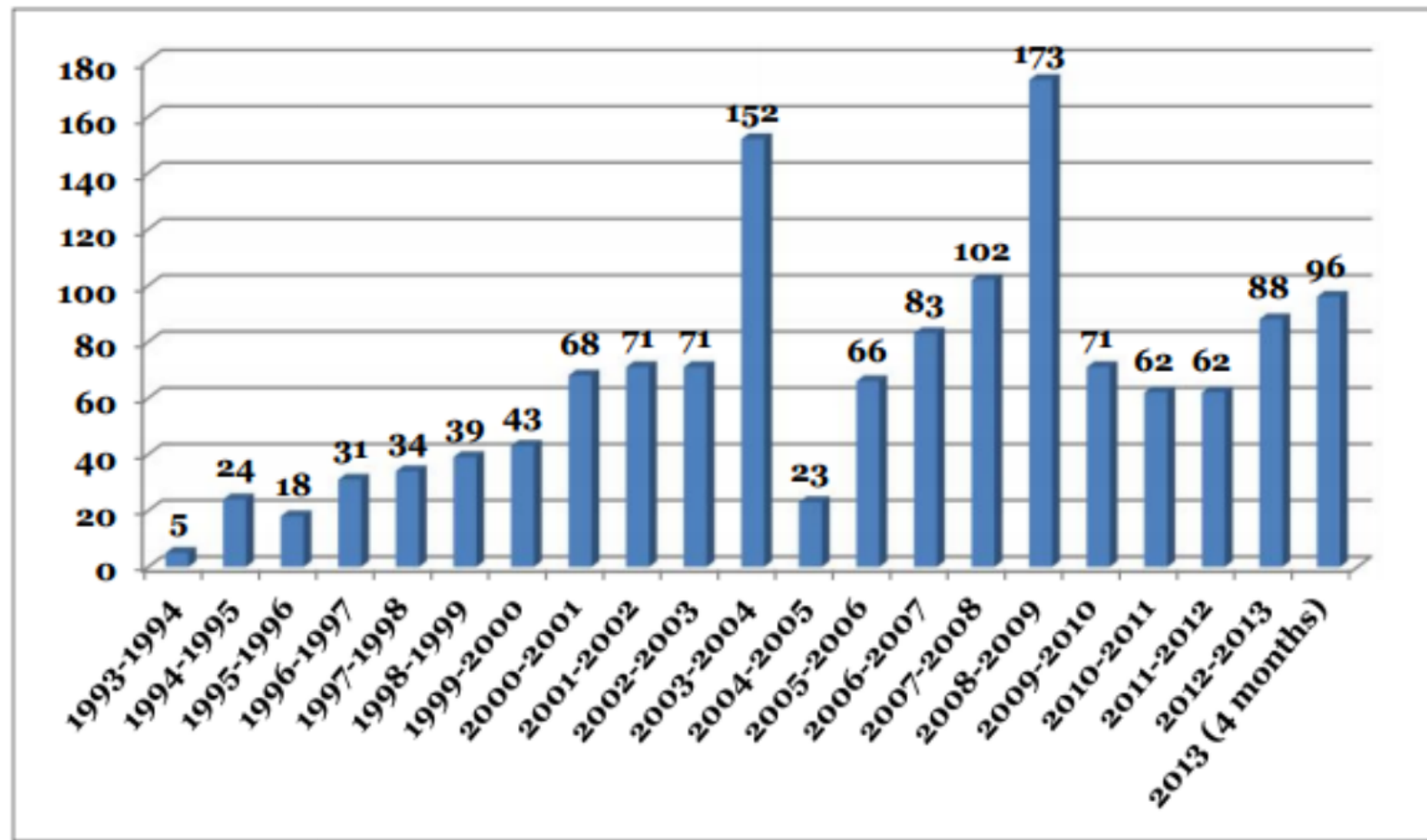
Number of co-decision files 1993-2013



Ordinary Legislative Procedure



## Number of co-decision files 1993-2013



# Ordinary Legislative Procedure



# Hierarchy of EU legal norms

Soft law (recommendations, guidelines, inter-institutional agreements, rules of procedure, code of conduct)

Implementing & Delegated Acts  
(Regulation, Directive, Decision)

Legislation (Regulation, Directive, Decision)

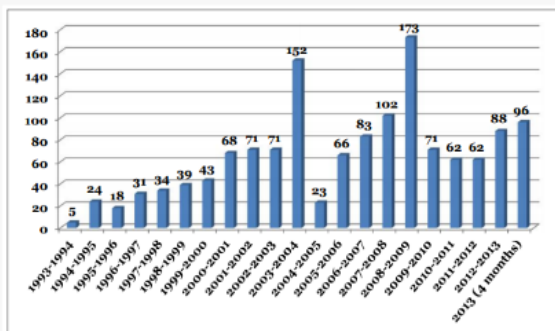
Treaties (TEU, TFEU, as amended by ToL)

Treaty on European Union, Treaty on the Functioning of the European Union, Treaty of Lisbon

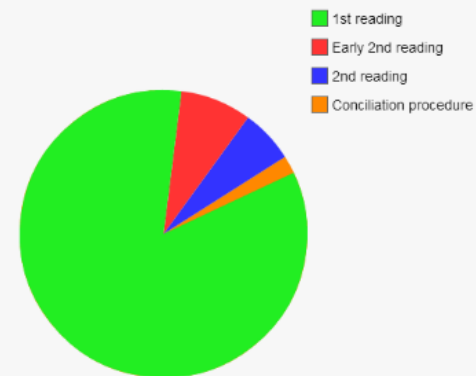


# Ordinary Legislative Procedure

Number of co-decision files 1993-2013

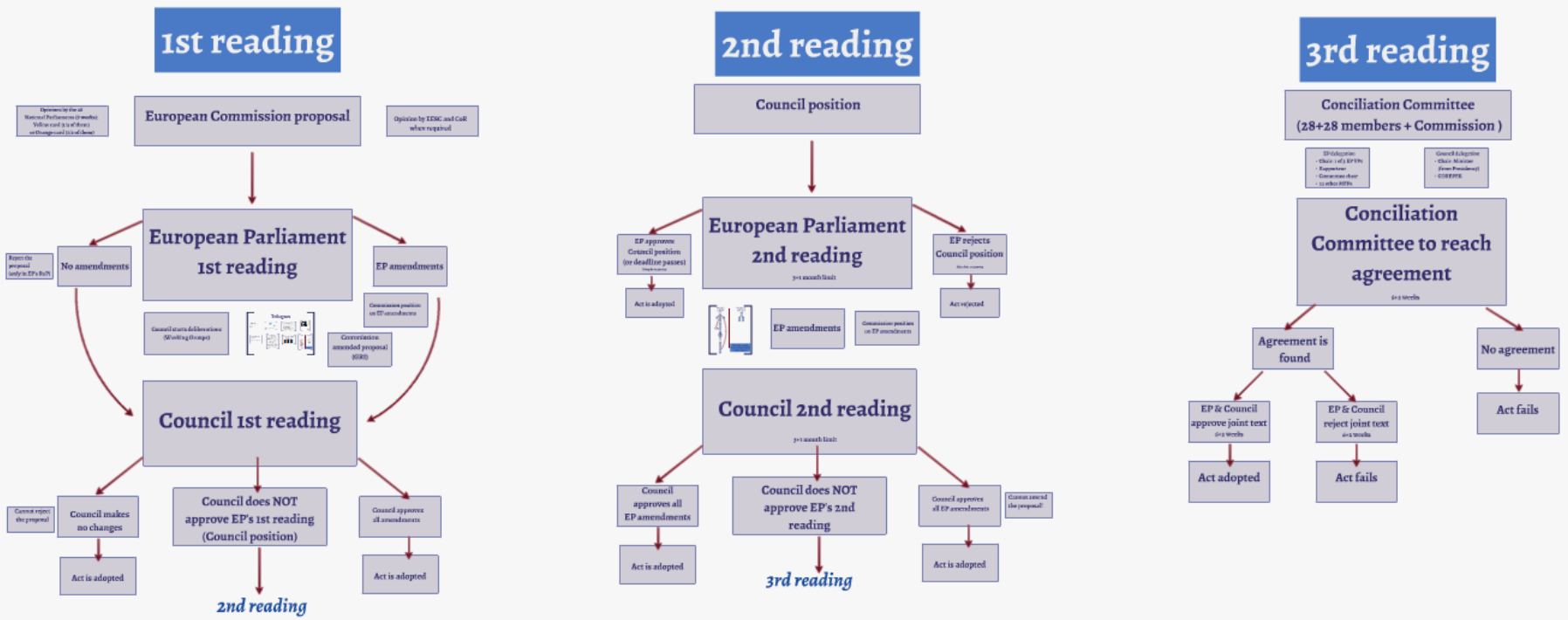


Ordinary Legislative Procedure





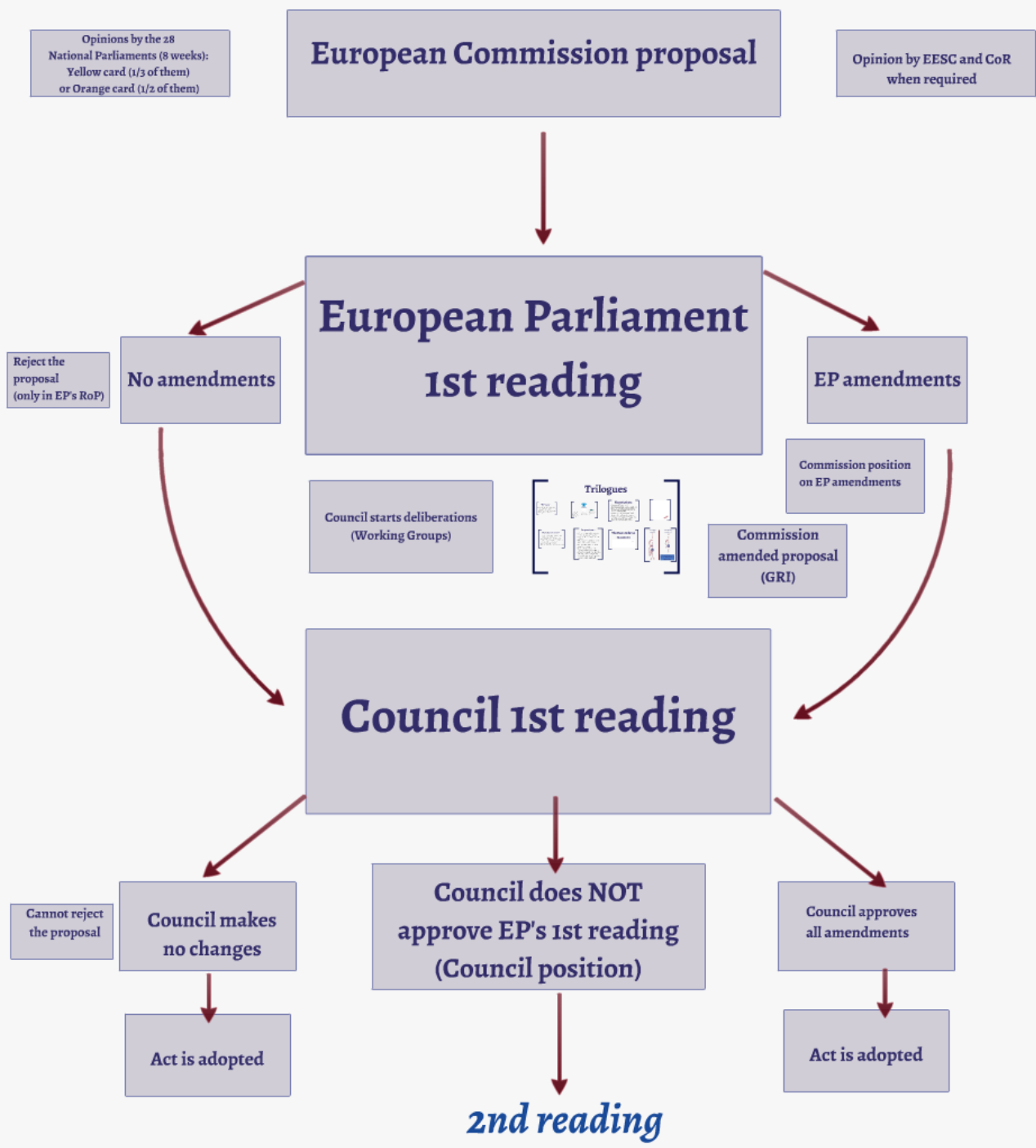
# The Ordinary Legislative Procedure



## Ordinary Legislative Procedure



# 1st reading



**European Commission proposal**

Opinions by the 28 National Parliaments (8 weeks):  
Yellow card (1/3 of them)  
or Orange card (1/2 of them)

Opinion by EESC and CoR when required

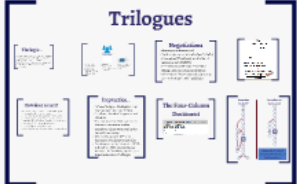
**European Parliament  
1st reading**

**No amendments**

**EP amendments**

Reject the proposal (only in EP's RoP)

Council starts deliberations (Working Groups)



Commission position on EP amendments

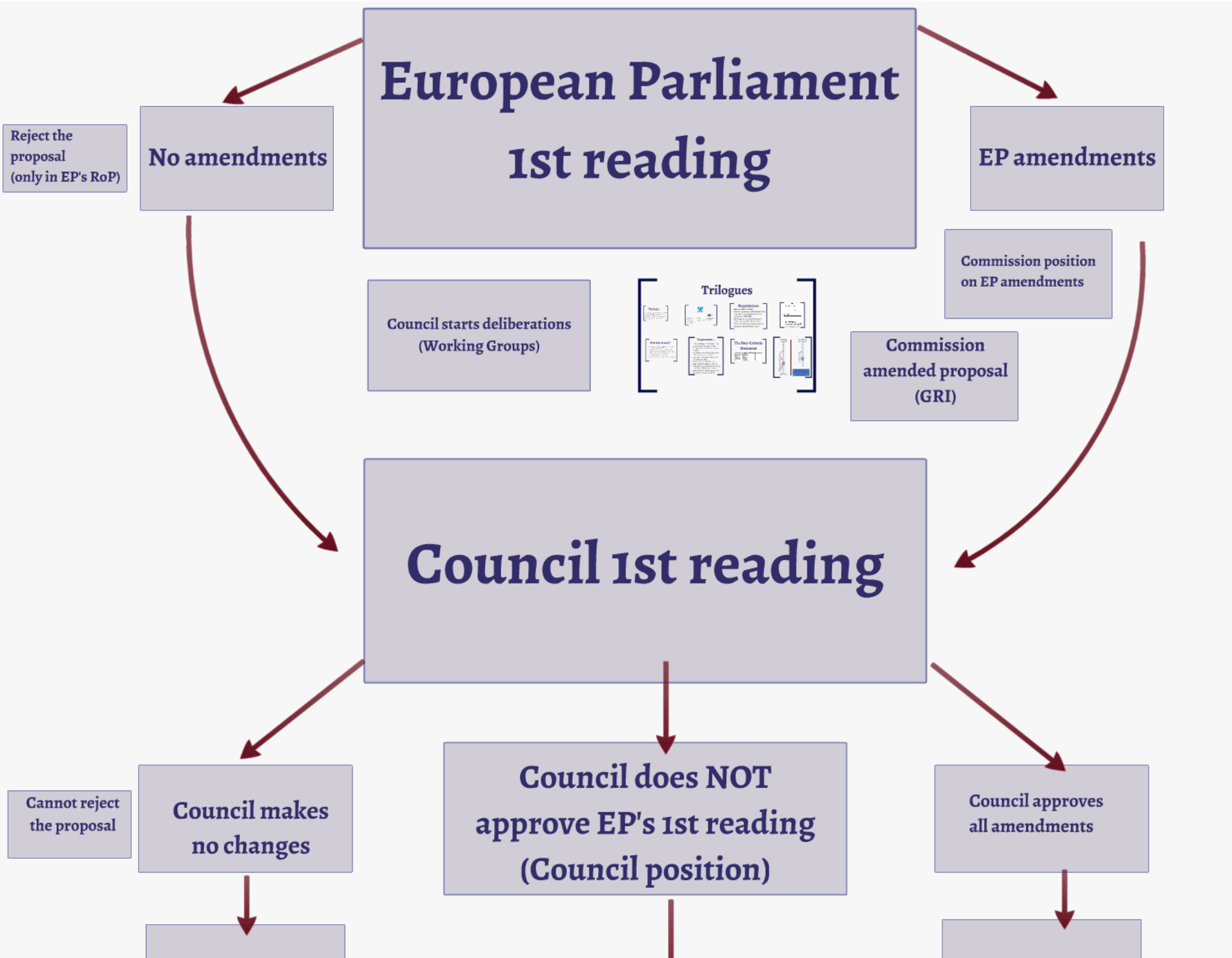
Commission amended proposal (GRI)

**Council 1st reading**

# 1st reading

**European Commission proposal**





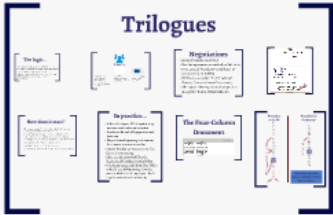
# European Parliament 1st reading

Amendments

EP amendments

Council starts deliberations  
(Working Groups)

### Trilogues



Commission position  
on EP amendments

Commission  
amended proposal  
(GRI)

# Council 1st reading

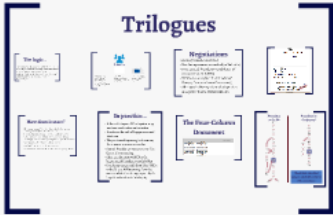
# European Parliament 1st reading

Amendments

EP amendments

Council starts deliberations  
(Working Groups)

### Trilogues



Commission position  
on EP amendments

Commission  
amended proposal  
(GRI)

# Council 1st reading



# Trilogues

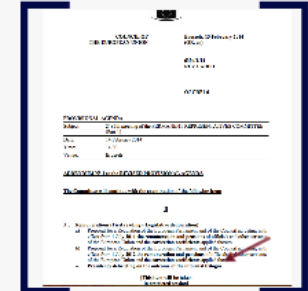
## The logic...

1. What is the official position of each of the three institutions?
2. Once the position is finalized (internally), it needs to be mandated.
3. How can the three positions be reconciled?
4. When all three have 'cleared' it, it needs political approval.
5. When both (de facto all three) have 'cleared' it, the act is adopted.



## Negotiations

- As many rounds as needed
- Until an agreement is reached (or lack of it)
- Once agreed, Presidency sends letter of assurance via COREPER
- If EP votes on it (first the EP Political Groups, then in relevant Committee)
- After vote in Plenary, Council adopts it as an A point (that is, without debate)



## How does it start?

- The committee responsible reaches a decision by absolute majority before negotiations (Rule 70, introduced in 2012)
- Opening of negotiations: broad consensus or vote for Rapporteur
- Negotiating mandate: amendments in the committee or Plenary, including priorities, time limits, general guidance or just 'orientation vote'
- Organisation: to be based on four-column document
- Feedback: delegation to report back to committee
- If there is a deal: committee to be consulted again before going to Plenary

## In practice...

- Informal trilogues: EP delegation may not have such a clear-cut mandate
- Reinforces the role of Rapporteurs and Shadows
- The practice of reporting back can vary from one committee to another
- Council Presidency: wants to close files fast and in 1st reading
- Close coordination with EP at the beginning of Presidency on COD files
- Presidency can get info from 'their' MEPs in the EP (i.e. MEPs coming from the country of the Presidency, especially if a large Member State is holding it)

## The Four-Column Document

| EUROPEAN PARLIAMENT   | EUROPEAN COUNCIL   | EUROPEAN COMMISSION   | Compromise  |
|---|--|---|---|
| <p>1. The Commission proposes a legislative act in accordance with Article 17(1) of the Treaty on European Union (TEU) and Article 18(1) of the Treaty on the Functioning of the European Union (TFEU).</p> <p>2. The Commission proposes a legislative act in accordance with Article 17(1) of the Treaty on European Union (TEU) and Article 18(1) of the Treaty on the Functioning of the European Union (TFEU).</p> <p>3. The Commission proposes a legislative act in accordance with Article 17(1) of the Treaty on European Union (TEU) and Article 18(1) of the Treaty on the Functioning of the European Union (TFEU).</p> | <p>1. The Council represents the governments of the Member States.</p> <p>2. The Council represents the governments of the Member States.</p> <p>3. The Council represents the governments of the Member States.</p> | <p>1. The Commission proposes a legislative act in accordance with Article 17(1) of the Treaty on European Union (TEU) and Article 18(1) of the Treaty on the Functioning of the European Union (TFEU).</p> <p>2. The Commission proposes a legislative act in accordance with Article 17(1) of the Treaty on European Union (TEU) and Article 18(1) of the Treaty on the Functioning of the European Union (TFEU).</p> <p>3. The Commission proposes a legislative act in accordance with Article 17(1) of the Treaty on European Union (TEU) and Article 18(1) of the Treaty on the Functioning of the European Union (TFEU).</p> | <p>1. The Commission proposes a legislative act in accordance with Article 17(1) of the Treaty on European Union (TEU) and Article 18(1) of the Treaty on the Functioning of the European Union (TFEU).</p> <p>2. The Commission proposes a legislative act in accordance with Article 17(1) of the Treaty on European Union (TEU) and Article 18(1) of the Treaty on the Functioning of the European Union (TFEU).</p> <p>3. The Commission proposes a legislative act in accordance with Article 17(1) of the Treaty on European Union (TEU) and Article 18(1) of the Treaty on the Functioning of the European Union (TFEU).</p> |

## Procedure in the EP



## Procedure in the Council



Zoomable, detailed version available only for PAC members

# The logic...

1. What is the official position of each of the three institutions?
2. Once the position is finalized internally, it needs to be mandated.
3. How can the three positions be reconciled?
4. When all three have 'cleared' it, it needs political approval.
5. When both (de facto all three) have 'cleared' it, the act is adopted



## Delegations



- Presidency (chair of Working Group)
- Or: COREPER chair
- Council Secretariat (Policy Unit + Legal Service + Co-Decision Unit)



- Rapporteur
- Shadow rapporteurs (or staff from political groups)
- EP Secretariat



- Head of Unit or Director
- Secretariat General
- Legal service

# Negotiations

- As many rounds as needed
- Until an agreement is reached (or lack of it)
- Once agreed, Presidency sends letter of assurance via COREPER
- If EP votes on it (first the EP Political Groups, then in relevant Committee)
- After vote in Plenary, Council adopts it as an A point (that is, without debate)



COUNCIL OF  
THE EUROPEAN UNION

Brussels, 13 February 2014  
(OR. en)

6304/1/14  
REV 1 ADD 1

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**PROVISIONAL AGENDA**

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|          |   |
|----------|---|
| Subject: | 2485th meeting of the PERMANENT REPRESENTATIVES COMMITTEE<br>(Part 1) |
| Date:    | 14 February 2014  |
| Time:    | 14.30   |
| Venue:   | Brussels  |

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**ADDENDUM N° 1 to the REVISED PROVISIONAL AGENDA**

**The Committee will continue with the examination of the following item:**

**II**

31. **Remunerations (First reading) (Legislative deliberation)**
- a) Proposal for a Regulation of the European Parliament and of the Council adjusting with effect from 1 July 2011 the remuneration and pensions of officials and other servants of the European Union and the correction coefficients applied thereto
  - b) Proposal for a Regulation of the European Parliament and of the Council adjusting with effect from 1 July 2012 the remuneration and pensions of officials and other servants of the European Union and the correction coefficients applied thereto
  - **Presidency debriefing on the outcome of the informal trilogue**

[This item will be taken  
in restricted session]

# How does it start?

- The committee responsible reaches a decision by absolute majority before negotiations (Rule 70, introduced in 2012)
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# The Four-Column Document

| COMMISSION PROPOSAL<br>COM(2013) 245 final<br>(22 April 2013)  | EP Plenary Position<br>(Doc P7_TA-PROV(2013)0437 of 23<br>October 2013)   | COUNCIL GENERAL APPROACH<br>(Doc 15458/1/12 REV 1 of 22 July 2013) | Compromise |
|--|---|--|------------|
| transparent decision-making in relation to the policies affecting the oceans, seas, islands, coastal and outermost regions and maritime sectors, in accordance with the Commission Communication "An Integrated Maritime Policy of the European Union" <sup>28</sup> . | transparent decision-making in relation to the policies affecting the oceans, seas, islands, coastal and outermost regions and maritime sectors, in accordance with the Commission Communication "An Integrated Maritime Policy of the European Union" <sup>29</sup> .  |  |            |
| (76) Sustained funding is needed for the implementation and further development of the Integrated Maritime Policy for the European Union as reflected in the statements of the Council, the European Parliament and the Committee of the Regions <sup>30</sup> .       | (76) Sustained funding is needed for the implementation and further development of the Integrated Maritime Policy for the European Union as reflected in <i>Regulation (EU) No 1255/2011 of the European Parliament and of the Council of 30 November 2011 establishing a Programme to support the further development of an Integrated Maritime Policy<sup>1</sup> and the</i> |  |            |





# Trilogues

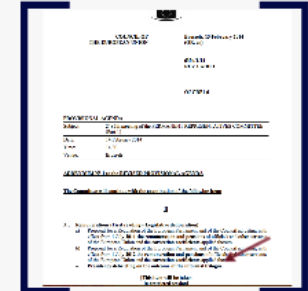
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| EUROPEAN PARLIAMENT  | EUROPEAN COUNCIL  | EUROPEAN COMMISSION   | Compromise  |
|--|---|---|---|
| <p>1. The Commission proposes a legislative act in the form of a proposal for a Directive of the Council of the European Union, in accordance with Article 17(1) of the Treaty on European Union and Article 18(1) of the Treaty on the Functioning of the European Union.</p> <p>2. The Commission proposes a legislative act in the form of a proposal for a Regulation of the Council of the European Union, in accordance with Article 17(1) of the Treaty on European Union and Article 18(1) of the Treaty on the Functioning of the European Union.</p> | <p>1. The Council of the European Union shall examine the proposal and may: (a) approve it with amendments; (b) reject it; (c) refer it back to the Commission with amendments; (d) refer it to the Conciliation Committee, in accordance with Article 73(1) of the Treaty on the Functioning of the European Union.</p> <p>2. The Council of the European Union shall examine the proposal and may: (a) approve it with amendments; (b) reject it; (c) refer it back to the Commission with amendments; (d) refer it to the Conciliation Committee, in accordance with Article 73(1) of the Treaty on the Functioning of the European Union.</p> | <p>1. The Commission shall examine the proposal and may: (a) approve it with amendments; (b) reject it; (c) refer it back to the Council of the European Union with amendments; (d) refer it to the Conciliation Committee, in accordance with Article 73(1) of the Treaty on the Functioning of the European Union.</p> <p>2. The Commission shall examine the proposal and may: (a) approve it with amendments; (b) reject it; (c) refer it back to the Council of the European Union with amendments; (d) refer it to the Conciliation Committee, in accordance with Article 73(1) of the Treaty on the Functioning of the European Union.</p> | <p>1. The Council of the European Union shall examine the proposal and may: (a) approve it with amendments; (b) reject it; (c) refer it back to the Commission with amendments; (d) refer it to the Conciliation Committee, in accordance with Article 73(1) of the Treaty on the Functioning of the European Union.</p> <p>2. The Council of the European Union shall examine the proposal and may: (a) approve it with amendments; (b) reject it; (c) refer it back to the Commission with amendments; (d) refer it to the Conciliation Committee, in accordance with Article 73(1) of the Treaty on the Functioning of the European Union.</p> |

## Procedure in the EP



## Procedure in the Council



Zoomable, detailed version available only for PAC members

**European Commission proposal**

Opinions by the 28 National Parliaments (8 weeks):  
Yellow card (1/3 of them)  
or Orange card (1/2 of them)

Opinion by EESC and CoR when required

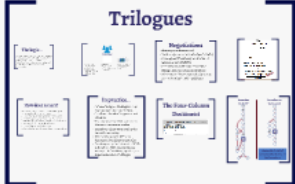
**European Parliament  
1st reading**

**No amendments**

**EP amendments**

Reject the proposal (only in EP's RoP)

Council starts deliberations (Working Groups)

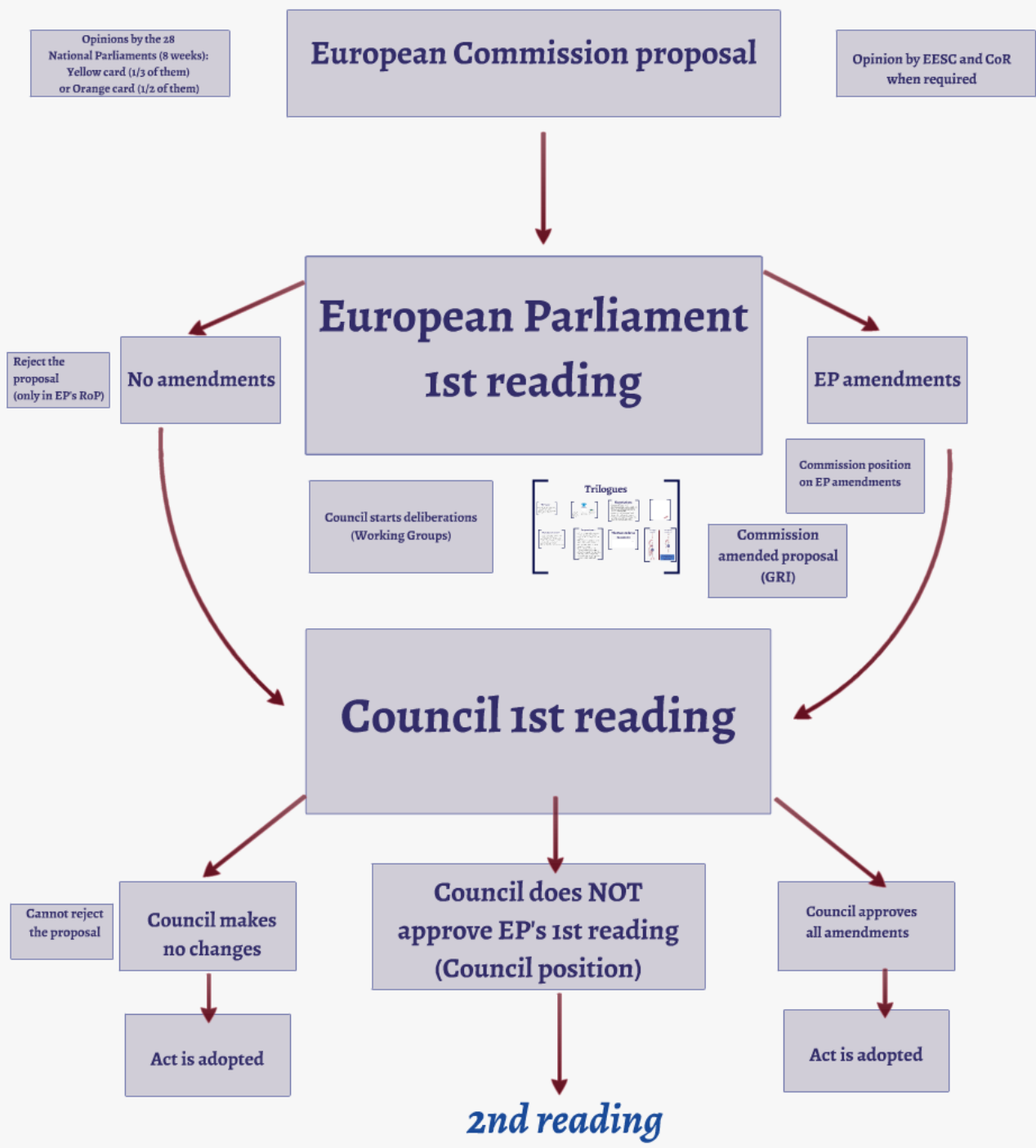


Commission position on EP amendments

Commission amended proposal (GRI)

**Council 1st reading**

# 1st reading



# 2nd reading

Council position

European Parliament  
2nd reading

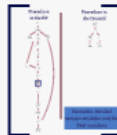
3+1 month limit

EP approves  
Council position  
(or deadline passes)  
Simple majority

Act is adopted

EP rejects  
Council position  
Absolute majority

Act rejected



EP amendments

Commission position  
on EP amendments

Council 2nd reading

3+1 month limit

Council  
approves all  
EP amendments

Act is adopted

Council does NOT  
approve EP's 2nd  
reading

3rd reading

Council approves  
all EP amendments

Act is adopted

Cannot amend  
the proposal!

Opinion by EESC and CoR  
when required

Amendments

Council position  
on amendments

Council approves  
amendments

Act adopted

# 2nd reading

Council position

European Parliament  
2nd reading

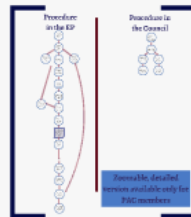
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EP approves  
Council position  
(or deadline passes)  
Simple majority

Act is adopted

EP rejects  
Council position  
Absolute majority

Act rejected



EP amendments

Commission position  
on EP amendments

Council 2nd reading

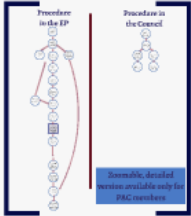
(or deadline passes)  
Simple majority

Act is adopted

**2nd Reading**  
3+1 month limit

Absolute majority

Act rejected



EP amendments

Commission position on EP amendments

**Council 2nd reading**  
3+1 month limit

Council approves all EP amendments

Act is adopted

Council does NOT approve EP's 2nd reading

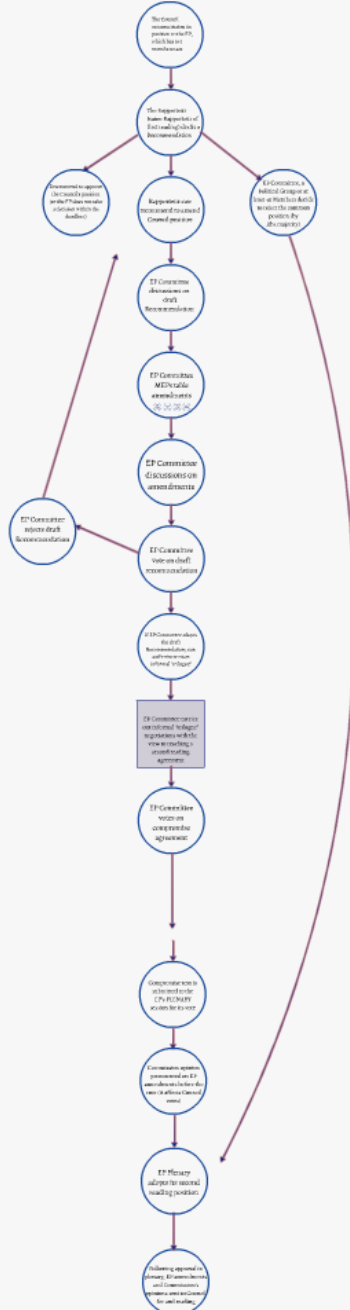
*3rd reading*

Council approves all EP amendments

Act is adopted

Cannot amend the proposal

## Procedure in the EP



## Procedure in the Council



Zoomable, detailed version available only for PAC members



# European Parliament 2nd reading

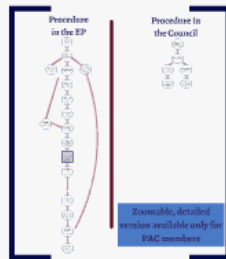
3+1 month limit

EP approves  
Council position  
(or deadline passes)  
Simple majority

Act is adopted

EP rejects  
Council position  
Absolute majority

Act rejected



EP amendments

Commission position  
on EP amendments

# Council 2nd reading

3+1 month limit

# 2nd reading

Council position

European Parliament  
2nd reading

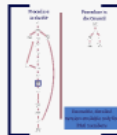
3+1 month limit

EP approves  
Council position  
(or deadline passes)  
Simple majority

Act is adopted

EP rejects  
Council position  
Absolute majority

Act rejected



EP amendments

Commission position  
on EP amendments

Council 2nd reading

3+1 month limit

Council  
approves all  
EP amendments

Act is adopted

Council does NOT  
approve EP's 2nd  
reading

3rd reading

Council approves  
all EP amendments

Act is adopted

Cannot amend  
the proposal!

Opinion by EESC and CoR  
when required

Amendments

Council position  
on amendments

Council approves  
amendments

Act adopted

# 3rd reading

**Conciliation Committee**  
(28+28 members + Commission )

EP delegation  
• Chair: 1 of 3 EP VPs  
• Rapporteur  
• Committee chair  
• 22 other MEPs

Council delegation  
• Chair: Minister  
(from Presidency)  
• COREPER

**Conciliation  
Committee to reach  
agreement**

6+2 weeks

**Agreement is  
found**

**No agreement**

**EP & Council  
approve joint text**  
6+2 weeks

**EP & Council  
reject joint text**  
6+2 weeks

**Act fails**

**Act adopted**

**Act fails**

# Conciliation Committee (28+28 members + Commission )

## EP delegation

- Chair: 1 of 3 EP VPs
- Rapporteur
- Committee chair
- 22 other MEPs

## Council delegation

- Chair: Minister  
(from Presidency)
- COREPER

# Conciliation Committee to reach agreement

6+2 weeks



**agreement**

6+2 weeks

**Agreement is  
found**

**EP & Council  
approve joint text**  
6+2 weeks

**Act adopted**

**EP & Council  
reject joint text**  
6+2 weeks

**Act fails**

**No agreement**

**Act fails**

# 3rd reading

**Conciliation Committee**  
(28+28 members + Commission )

EP delegation  
• Chair: 1 of 3 EP VPs  
• Rapporteur  
• Committee chair  
• 22 other MEPs

Council delegation  
• Chair: Minister  
(from Presidency)  
• COREPER

**Conciliation  
Committee to reach  
agreement**

6+2 weeks

**Agreement is  
found**

**No agreement**

**EP & Council  
approve joint text**  
6+2 weeks

**EP & Council  
reject joint text**  
6+2 weeks

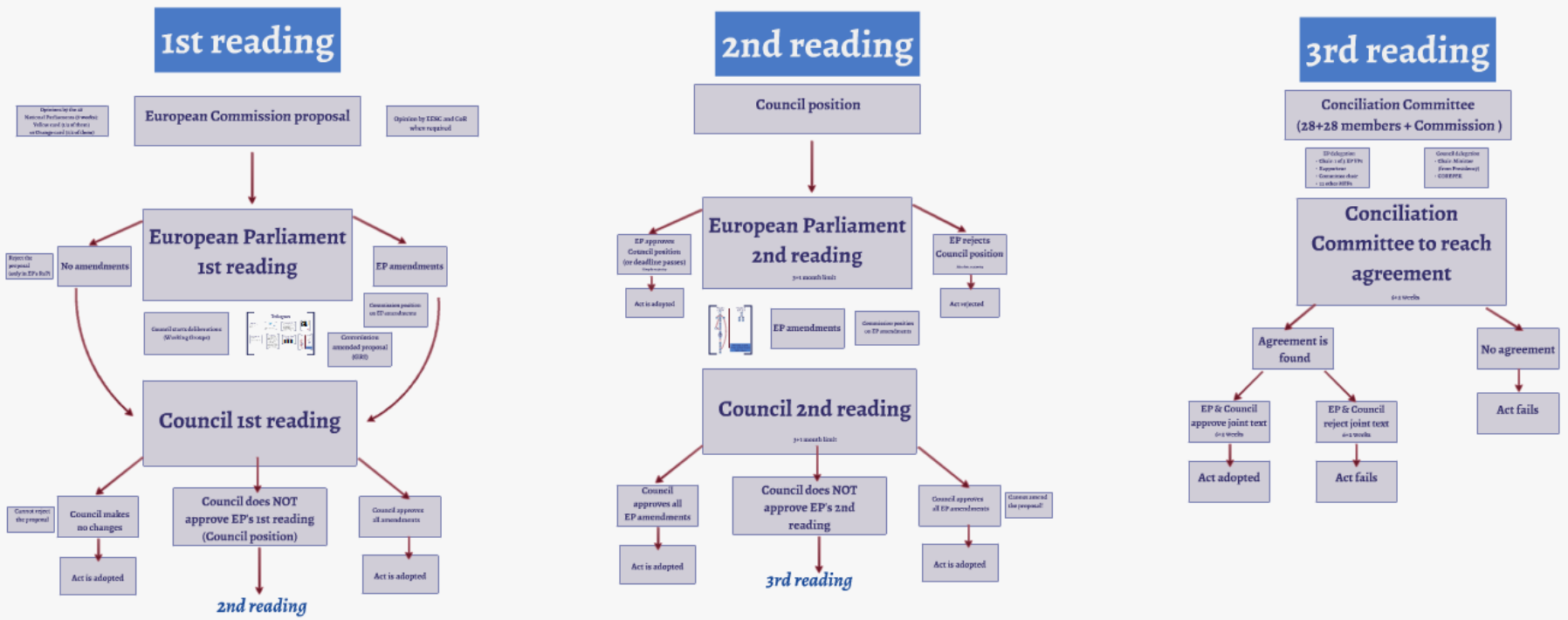
**Act fails**

**Act adopted**

**Act fails**



# The Ordinary Legislative Procedure



## Ordinary Legislative Procedure



# Questions? Comments?

[abaneth@pac.org](mailto:abaneth@pac.org) (+32) 496-201416

[www.pac.org/europe](http://www.pac.org/europe)