

THE EUROPEAN PARLIAMENT'S SCRUTINY TOOLS FOR THE IMPLEMENTATION OF EU LAW

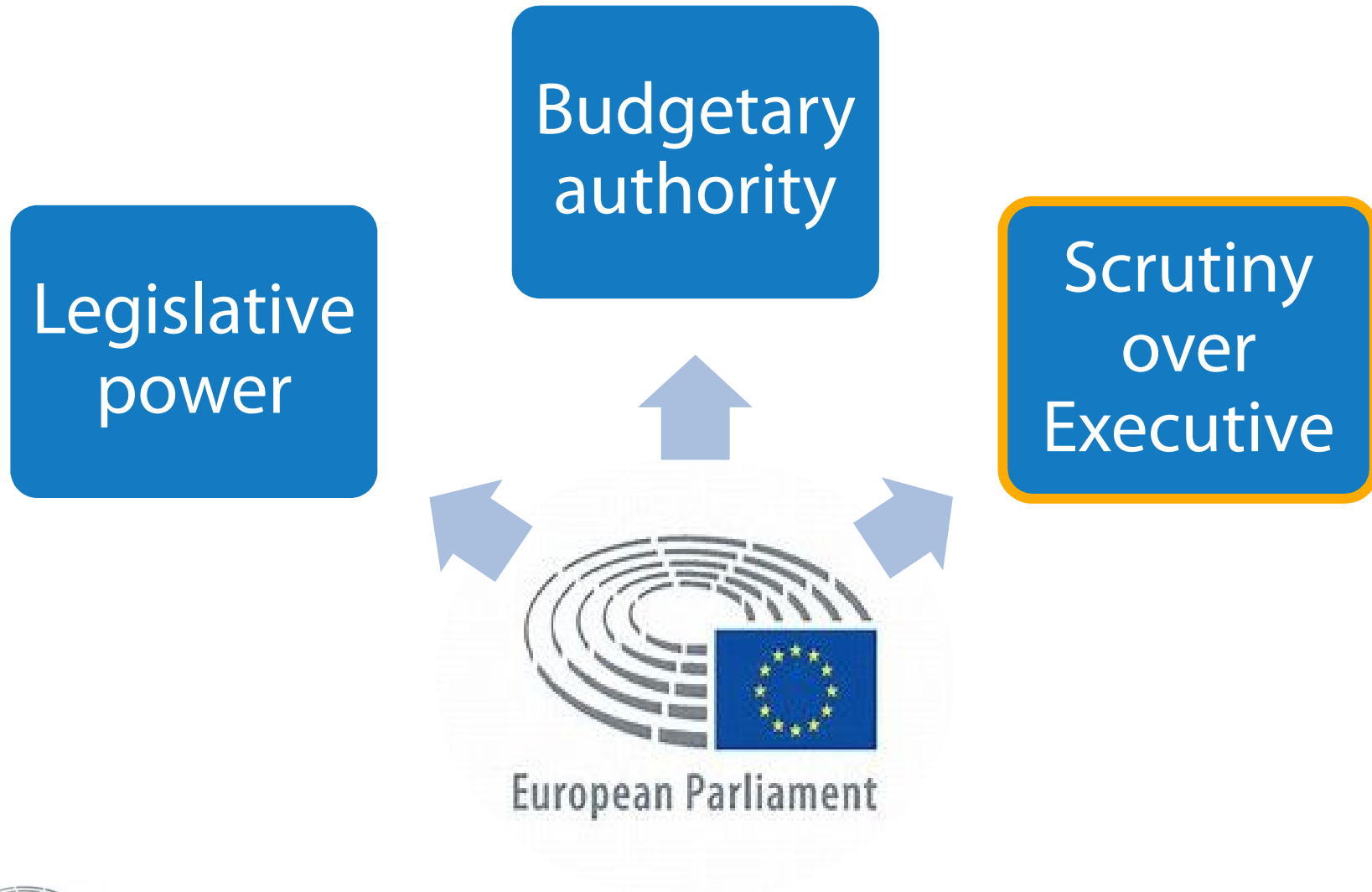
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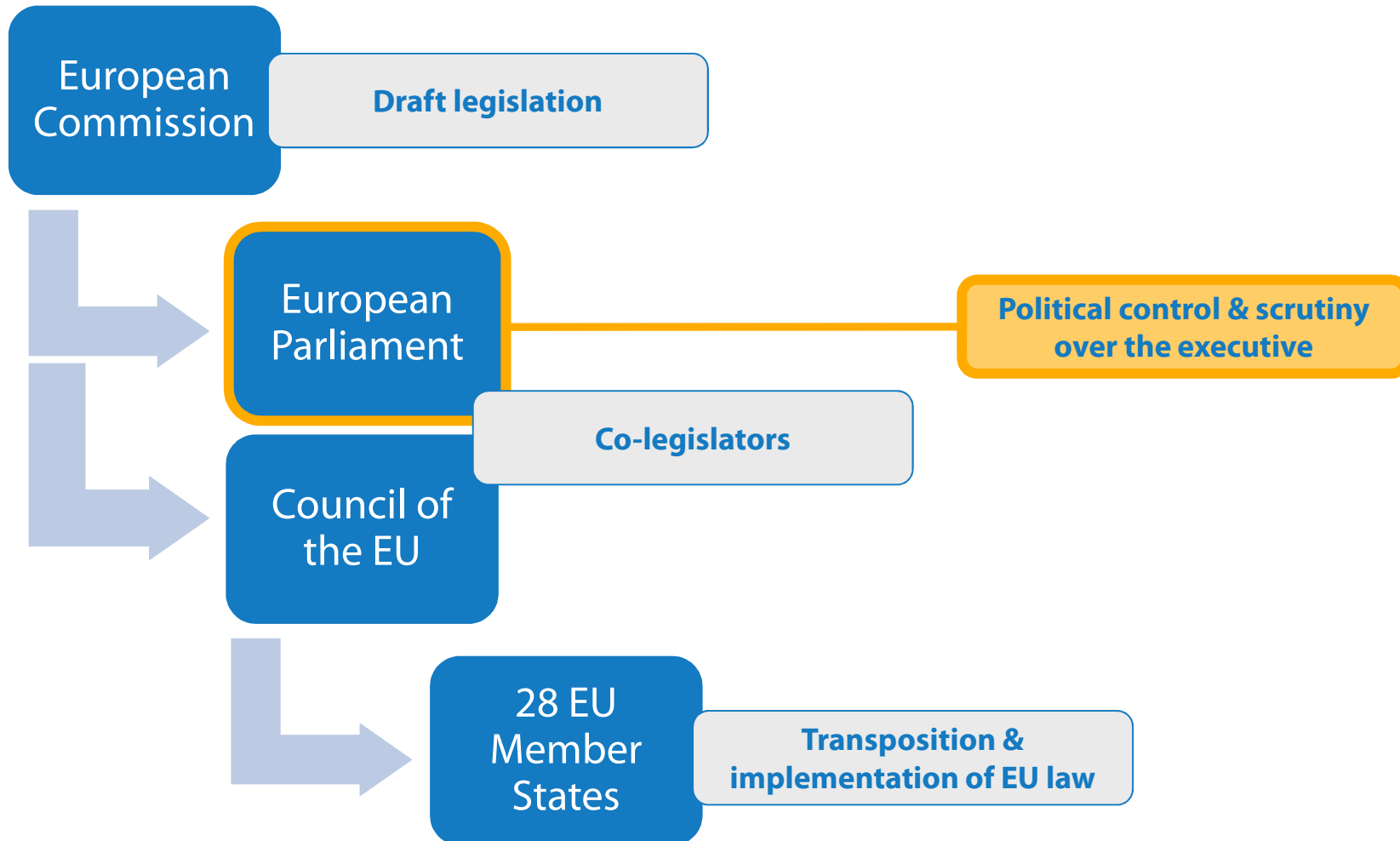
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The powers of the European Parliament



EU law-making: the main actors



Areas of European Parliamentary Oversight



Legal basis for EP scrutiny

CONSOLIDATED VERSION OF THE TREATY ON EUROPEAN UNION

Article 14

1. The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the Treaties. It shall elect the President of the Commission.

20.11.2010 EN Official Journal of the European Union L 304/47

INTERINSTITUTIONAL AGREEMENTS

Framework Agreement on relations between the European Parliament and the European Commission

THE EUROPEAN PARLIAMENT AND THE EUROPEAN COMMISSION (hereinafter referred to as 'the two Institutions'),

— having regard to the Treaty on European Union (TEU), the Treaty on the Functioning of the European Union (TFEU), in particular Article 295 thereof, and the Treaty establishing the European Atomic Energy Community (hereinafter referred to as 'the Treaties').

12.5.2016 EN Official Journal of the European Union

II
(Non-legislative acts)

INTERINSTITUTIONAL AGREEMENTS

INTERINSTITUTIONAL AGREEMENT BETWEEN THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION ON BETTER LAW-MAKING

INTERINSTITUTIONAL AGREEMENT
of 13 April 2016
on Better Law-Making

European Parliament
2014 - 2019

RULES OF PROCEDURE

The European Parliament's 'SCRUTINY TOOLBOX'



Scrutiny tools

At Committee & Plenary level

- Committees of inquiry
- Annual activity and monitoring reports
- Oral questions to the European Commission
- Inclusion of oversight tools into legislative acts (amendments)
- Committee implementation sessions
- Hearings, workshops, stakeholder consultation, research expertise
- Petitions
- Partnership with national parliaments
- ⇒ **Implementation reports: the most important tool**
separate presentation

Temporary committees of inquiry

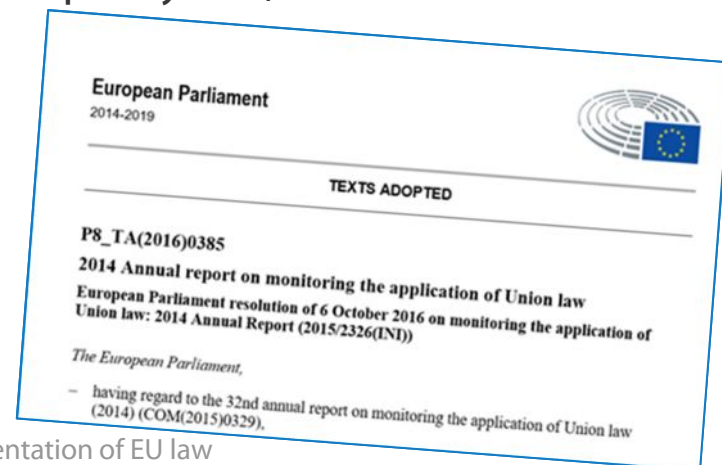
„to investigate alleged contraventions or maladministration in the implementation of Union law“ (Art. 226 TFEU)

- EP's strongest tool („heavy weapon in the EP's armoury')
- Rarely used: so far 5 x since its codification in the Treaties (1992)
- At present 2 ongoing
 - Panama papers
 - Car emissions measurement (final report issued on 28/02/2017)
- European Parliament's powers are rather weak
 - other parliaments have quasi-judicial rights
 - Parliament aims at reform



Annual activity and monitoring reports

- Currently 28 such reports authorised
- Some on Parliament's own performance and activities
 - Report of Petitions Committee
- Most drawn up in response to Commission reporting
 - Report on monitoring and application of EU law
 - Annual reports on the implementation of policies (human rights, foreign and security policy, common commercial policy etc.)
- Adopted resolutions = Parliament's position



Oral questions to the Commission

- 2 purposes:
 - To hold the executive to account
 - To request information from the executive
- Parliamentary questions may address any policy issue, incl. transposition and implementation of EU law
- The Commission is required to reply in writing or orally
- Questions for oral answer with debate figure on the plenary agenda; they may be followed by a resolution

Inclusion of oversight tools into legislative acts

- Inclusion of
 - reporting, monitoring and evaluation requirements
 - data collection specifications (‘measurable indicators’)
- ... facilitates future evaluation of a legislative act

- advocated in the Commission’s Better Regulation Guidelines (2015)
- emphasised in the IIA on Better Law-Making (2016)

- Parliament attaches great importance to such clauses (amendments)

Petitions

- Petitions can serve as indicator of potential flaws in Member States' compliance with EU law
- Parliament deals with 1,000 to 2,000 per year
- Most petitions lodged in the areas of environment, justice and fundamental rights, and internal market
- Standard committee tools: debates, hearings, background studies, fact-finding missions
- May trigger infringement procedures

Scrutiny tools by EP Research Service

— European Implementation Assessments

- comprehensive background analysis drawn up for committees in support of, implementation reports'
- ⇒ separate presentation

— Implementation Appraisals

- succinct briefings summarising the state of implementation of legislative acts the European Commission has put for revision in its Annual Work Programme



Mining Waste Directive 2006/21/EC

European Implementation Assessment

STUDY

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PE 593.788 - January 2017

Review of the EU copyright framework

European Implementation Assessment

Implementation of the Energy Efficiency Directive (2012/27/EU): Energy Efficiency Obligation Schemes

European Implementation Assessment

Trafficking in Human Beings from a Gender Perspective Directive 2011/36/EU

European Implementation Assessment

EU Implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD)

European Implementation Assessment



Briefing Implementation Appraisal

December 2016

Controls of cash movements

Regulation (EC) No 1889/2005 on controls of cash entering or leaving the European Community

This briefing is one in a series of 'Implementation Appraisals' on the operation of existing EU legislation in practice. Each such briefing focuses on a specific EU law, which is likely to be amended or reviewed, as envisaged in the European Commission's annual work programme. Implementation appraisals aim to provide a succinct overview of publicly available material on the implementation, application and effectiveness of an EU law to date – drawing on input from EU institutions and external organisations. They are provided to assist parliamentary committees in their consideration of the new proposals, once tabled.

EP committee responsible at time of adoption of the EU legislation: Committee on Civil Liberties, Justice and Home Affairs (LIBE)

Date of adoption of original legislation in plenary: 8 June 2005

Entry into force of original legislation: 15 December 2005

Planned date for review of legislation: According to Article 10 of Regulation 1889/2005, the European Commission is obliged to submit a report on the application of this regulation to the European Parliament and the Council four years after its entry into force, i.e. in December 2009.

Timeline for new amending legislation: The amendment of Regulation (EC) No 1889/2005 is included in Article 2 of the *Commission work programme 2012-2017*. It is linked with the European Commission's intention to tackle illicit cash movements (point 14, Annex 1, CWP 2017). According to the CWP 2017, the Commission intends to submit its proposal in the fourth quarter of 2016.¹

1. Background

In spite of a steady growth in non-cash payment methods, cash remains an important means of payment in daily life, mainly for payments of small amounts. Cash is, however, also widely used in the criminal economy and it remains the raw material of most criminal activity², including money laundering and terrorist financing. As these criminal activities often have a global impact, there are various international bodies, such as the rules of the UN Security Council, the Financial Action Task Force (FATF) or the Council of Europe, which have put rules in place targeting money laundering and terrorist financing. The European Union has also adopted regulations regarding money laundering and terrorist financing, including *Directive (EU) 2015/849* on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. The EU rules in the area of combating money laundering and the financing of terrorism are largely based on international standards adopted by the FATF. The present briefing covers the European legislation on controls of cash entering or leaving the European Community – Regulation (EC) No 1889/2005. Currently, several

¹The proposal was the subject of the Commission meeting on 23 December 2016 (http://ec.europa.eu/press/2016/12/23/161223_01)

²For further information, see the *Annual Report of the Board of Economic and Financial Officers of the President of the Council* (2015), the UN Security Council *Sanctions List* (2015), or the FATF *Recommendations* (2012).

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Briefing Implementation Appraisal

July 2016

Publishing corporate tax information

A proposal to amend Directive 2013/34 on the disclosure of income tax information by certain undertakings and branches

This briefing is one in a series of 'Implementation Appraisals' on the operation of existing EU legislation in practice. Each such briefing focuses on a specific EU law which is likely to be amended or reviewed, as foreseen in the European Commission's Annual Work Programme. Implementation Appraisals aim to provide a succinct overview of material publicly available on the implementation, application and effectiveness of an EU law to date – drawing on available input from the EU institutions and external organisations. They are provided to assist parliamentary committees in their consideration of the new proposals, once tabled.

EP committee responsible at time of adoption of the EU legislation: Committee on Legal Affairs (JUR)

Date of adoption of original legislation in plenary: 12 June 2013

Deadline for transposition: 20 July 2015 (Art 15)

Planned date for review of legislation: By 23 July 2018 (Art 46)

Timeline for new amending legislation: A [proposal](http://ec.europa.eu/press/2016/07/27/160727_01) was published on 12 April 2016

1. Background

1.1 Overview of recent developments

Following the economic recession, and several tax related revelations such as 'Luxleaks', the amount of tax paid by large businesses is coming under increasing scrutiny. To estimate the amount of tax revenue lost as a result of tax avoidance is, however, difficult and figures vary depending on the methodology used. A European Parliament study has estimated that around 50 to 70 billion euros per year is lost on account of corporate tax avoidance.¹

In 2013, G20 Leaders endorsed a plan put forward by the Organisation for Economic Cooperation and Development (OECD) for a series of measures to ensure that tax is paid where profits are made. The *Global Action and Profit Shifting* (EPS) Action Plan outlines 15 key priorities to tackle tax planning strategies. These will be addressed by OECD members that have signed up to the plan. The action plan was supported by G20 leaders at their meeting in late 2013. The 15 action points are wide-ranging but BEPS Action 13, which relates to transfer pricing and country-by-country reporting, is particularly relevant here.²

¹European Parliamentary Research Service *Europe's transparency, coordination and convergence in corporate tax policies in the European Union*. Assessment of the magnitude of aggressive corporate tax planning, September 2015.

²European Parliamentary Research Service *Global Action and Profit Shifting: The 2013 tax plan in action*. http://ec.europa.eu/press/2016/07/27/160727_01, April 2016.

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Briefing Implementation Appraisal

November 2016

Rail passenger rights and obligations

Regulation (EC) 1371/2007 of the European Parliament and of the Council on rail passengers' rights and obligations

This briefing is one in a series of 'Implementation Appraisals' on the operation of existing EU legislation in practice. Each such briefing focuses on a specific EU law, which is likely to be amended or reviewed, as foreseen in the European Commission's Annual Work Programme. Implementation Appraisals aim to provide a succinct overview of material publicly available on the implementation, application and effectiveness of an EU law to date – drawing on available input from the EU institutions and external organisations. They are provided to assist parliamentary committees in their consideration of the new proposals, once tabled.

EP committee responsible at time of adoption of the EU legislation: The Committee on Transport and Tourism (TRAN)

Date of adoption of original legislation in plenary: 25 September 2007

Entry into force of original legislation: 3 December 2009 (Article 17, Regulation (EC) 1371/2007)

Planned date for review of legislation:

- 1. According to Article 12 (2) of the regulation, the Commission was obliged to report to the European Parliament and the Council on the setting of a minimum amount of insurance for railway undertakings by 3 December 2010.¹
- 2. According to Article 36 of the regulation, the Commission was obliged to report to the European Parliament and the Council on the implementation and the results of the regulation by 3 December 2012.²
- 3. According to Article 20(7) of the regulation, the Commission was obliged to report to the European Parliament and the Council on the implementing protocol pursuant to the regulation, by 3 December 2014.³

Timeline for new amending legislation:

- The amendment of Regulation (EC) 1371/2007 is neither included in the *Commission Work Programme 2016 (CWP 2016)* nor in the *Commission Work Programme 2017 (CWP 2017)*. However, according to the *list of proposed Commission Initiatives* (dated 1 September 2016), such an amendment is supposed to be submitted in December 2016 as an 'other legislative initiative'.

¹The European Commission did not present an individual report to Parliament on the issue of the minimum amount of insurance for railway undertakings. However, the issue was covered in reports COM (2010) 687 final and COM (2010) 617 final in November 2010. The Commission also acknowledged the absence of a report (http://ec.europa.eu/press/2016/07/27/160727_01)

²For further information, see the *Annual Report of the Board of Economic and Financial Officers of the President of the Council* (2012), the UN Security Council *Sanctions List* (2012), or the FATF *Recommendations* (2012).

³The European Commission presented this report in August 2013. See COM (2013) 687 final.

⁴The European Commission presented this report in March 2010. See COM (2010) 617 final.

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N-DEPTH ANALYSIS



Scrutiny tools by EP Research Service

— Rolling check-lists

- Review clauses in EU legislation
- Evaluation planning of the Commission
- Performance audits by the European Court of Auditors
- Review/monitoring clauses in international agreements
- Delivery of European Council commitments

