

# § 9 The making and the execution of European Union law

## I. Making and amendments of primary law

- 1) **As a rule: Ordinary revision procedure** (art. 48(2-5) EU Treaty)
  - with *convention* procedure (art. 48(3)), *intergovernmental conference* and *ratification* by the member states (art. 48(4))
- 2) **Exception: Simplified revision procedure** (at. 48(6, 7) EU Treaty)
  - simplified amendment of the provisions on the internal policies (art. 48(6))
  - simplified transition from qualified to simple majority in the Council or from a special to the ordinary legislative procedure (art. 48(7))
- 3) **Exception: autonomous treaty revision on the basis of special provisions**
  - without ratification by the member states
- 4) **Special case: Adjustment of the Treaties in the Accession Treaty at the occasion of the admittance of new member states**

## II. Making and amendments of secondary law

- the *legislative initiative* is in general *reserved to the Commission* (art.17(2) EU Treaty)
  - legal acts must be reasoned (art. 296 sub-sect. 2 FEU Treaty)
- 1) **Ordinary legislative procedure** (art. 289(1), 294 FEU Treaty)
    - the standard procedure
    - *joint legislation by the European Parliament and the Council*
      - EP can prevent but not carry through the adoption of the legal act
    - complicated procedure regulated in detail (art. 294 FEU Treaty):  
proposal by the Commission - first reading - second reading - conciliation procedure at the Conciliation Committee - third reading
  - 2) **Special legislative procedures** (art. 289(2) FEU Treaty)
    - a) **Legislation by the Council with consent or after consultation of the EP**
      - in numerous cases provided for by the Treaties
    - b) **Legislation by the EP with approval/consent of the Council**
      - only in some exceptional cases
    - c) **Budgetary procedure** (art. 314 FEU Treaty)
      - only in this procedure can the EP push its will through against the will of the Council (cf. art, 314(7) FEU Treaty)
  - 3) **Procedures in the case of non-legislative acts**
    - a) **Making of delegated legal acts** (art. 290 FEU Treaty)
      - by the Commission
    - b) **Making of implementing acts** (art. 291 FEU Treaty, Comitology Regulation no. 182/2011)
      - participation of *committees* composed of *representatives of the member states*
  - 4) **Preparation and conclusion of international treaties by the Union** (art. 218 FEU Treaty)

### **III. The (general) execution of Union law by the member states**

#### **1) Indirect execution by the member states**

- in particular of directives

#### **2 Direct execution by the member states**

- in particular of regulations and decisions
- no intermediate national law!

### **IV. The (exceptional) execution of Union law by the Union**

- in particular in the field of competition law, when monitoring state aids or when managing funds