

The Council of Bars and Law Societies of Europe

CCBE

Rue Joseph II, 40 – 1000 Bruxelles – Belgique

www.ccbe.eu

The CCBE

The Council of Bars and Law Societies of Europe

- ✓ 23 Committees and Working Groups
- ✓ 32 full members and 13 observer members
- ✓ 11 full-time staff

The CCBE

Committees and Working Groups

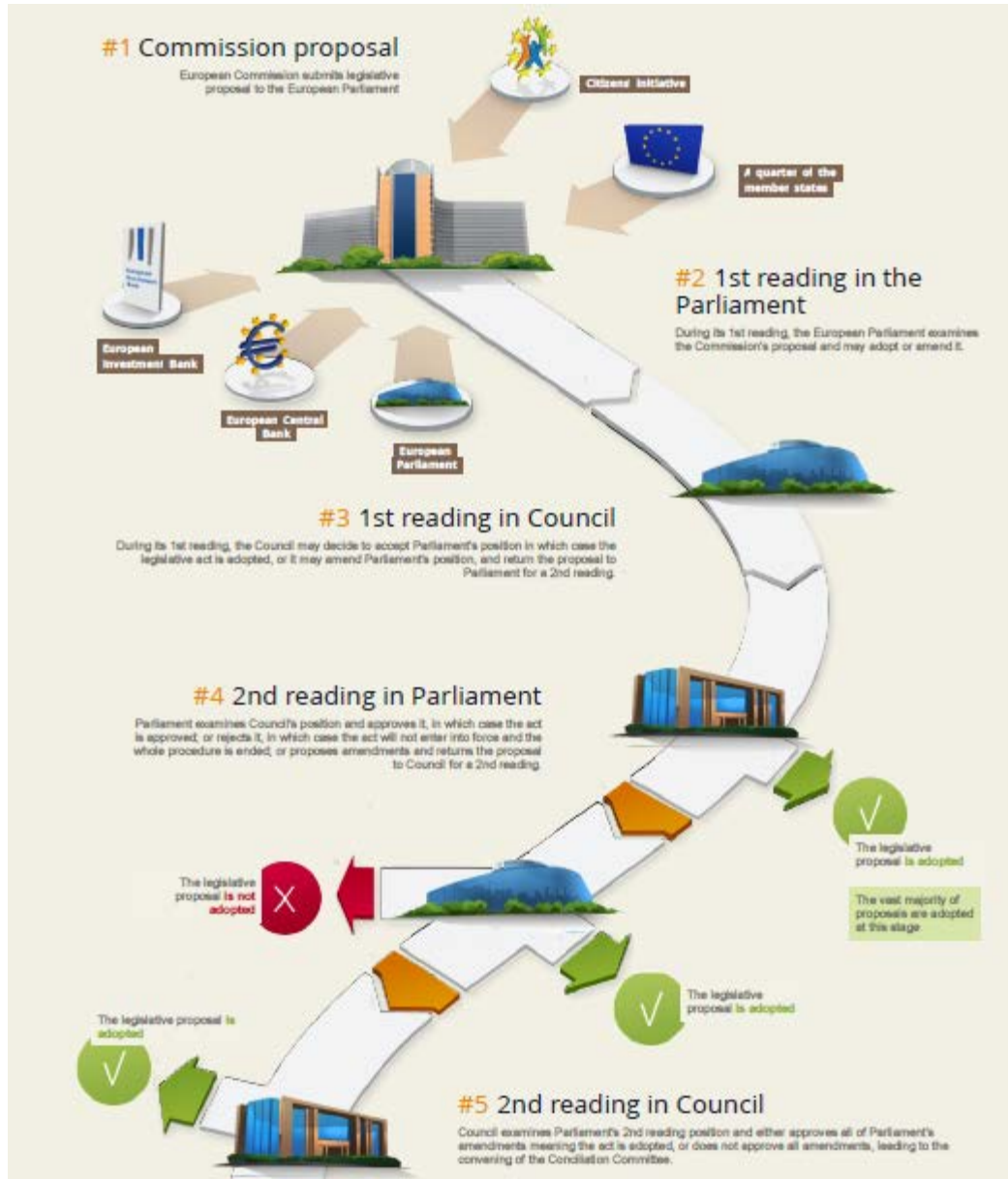
Access to Justice Committee
Company Law Committee
Corporate Social Responsibility Committee
Criminal Law Committee
Deontology Committee
EU Lawyers Committee
European Private Law Committee
European Training Platform sub-group
European Transparency Register Working
Group
Family & Succession Law Committee
Future of the Legal Profession and Legal
Services
Human Rights Committee

Insurance Working Group
International Legal Services Committee
IT Law Committee
Migration Committee
PECO Committee
Patents
Permanent Delegation to the Court of
Justice and the General Court of the
European Union and the EFTA Court
Permanent Delegation to the European
Court of Human Rights
Surveillance Working Group
Towards a Model Code of Conduct
Committee
Training Committee

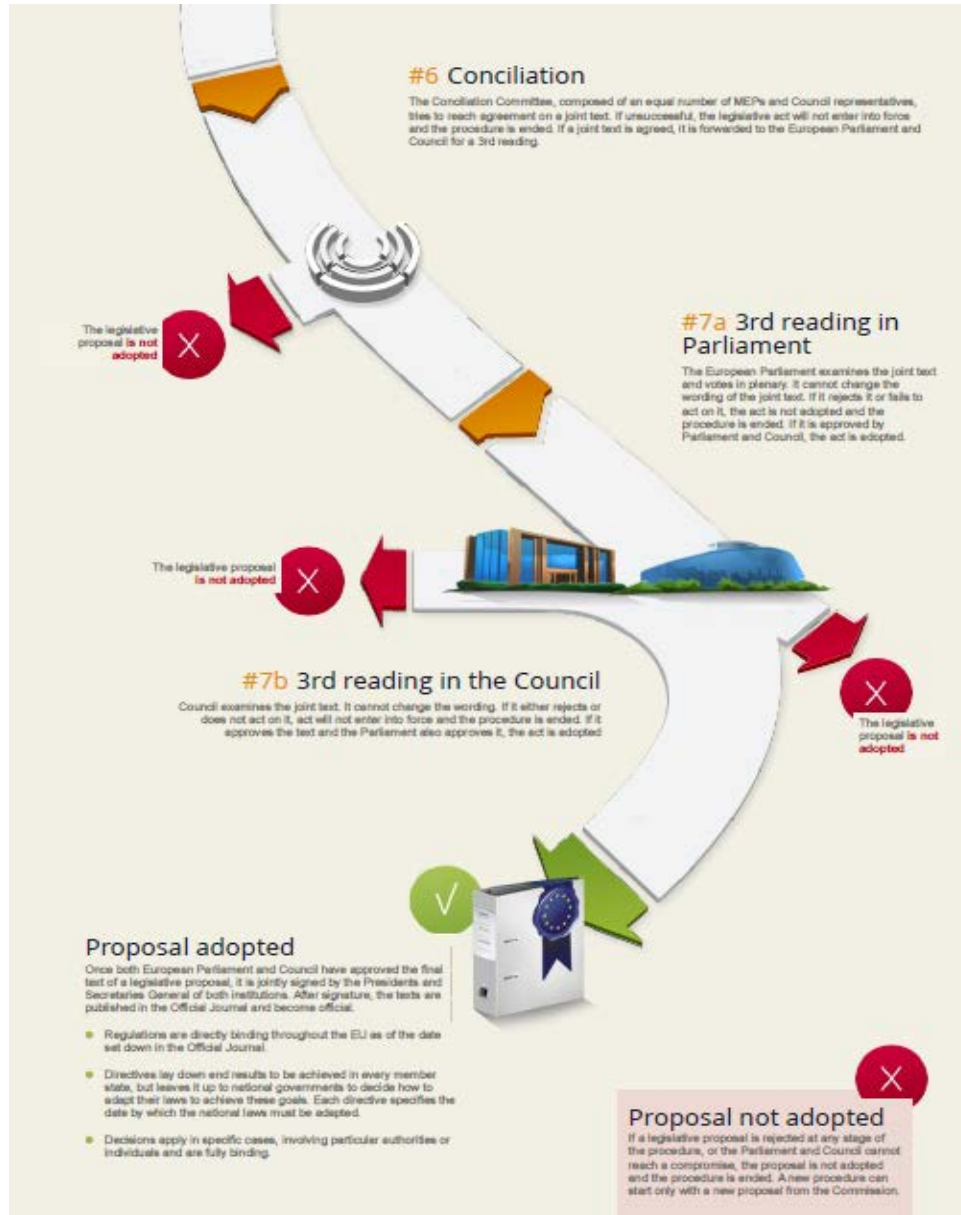
Part I

The EU Legislative Process

How EU Laws are made



How EU Laws are made



How EU Laws are made



Three Main Institutions

There are 3 main institutions involved in EU legislation:

The **European Commission**, which represents the interests of the Union as a whole.

The **European Parliament**, which represents the EU's citizens and is directly elected by them;

The **Council of the European Union**, which represents the governments of the individual member countries. The Presidency of the Council is shared by the member states on a rotating basis.

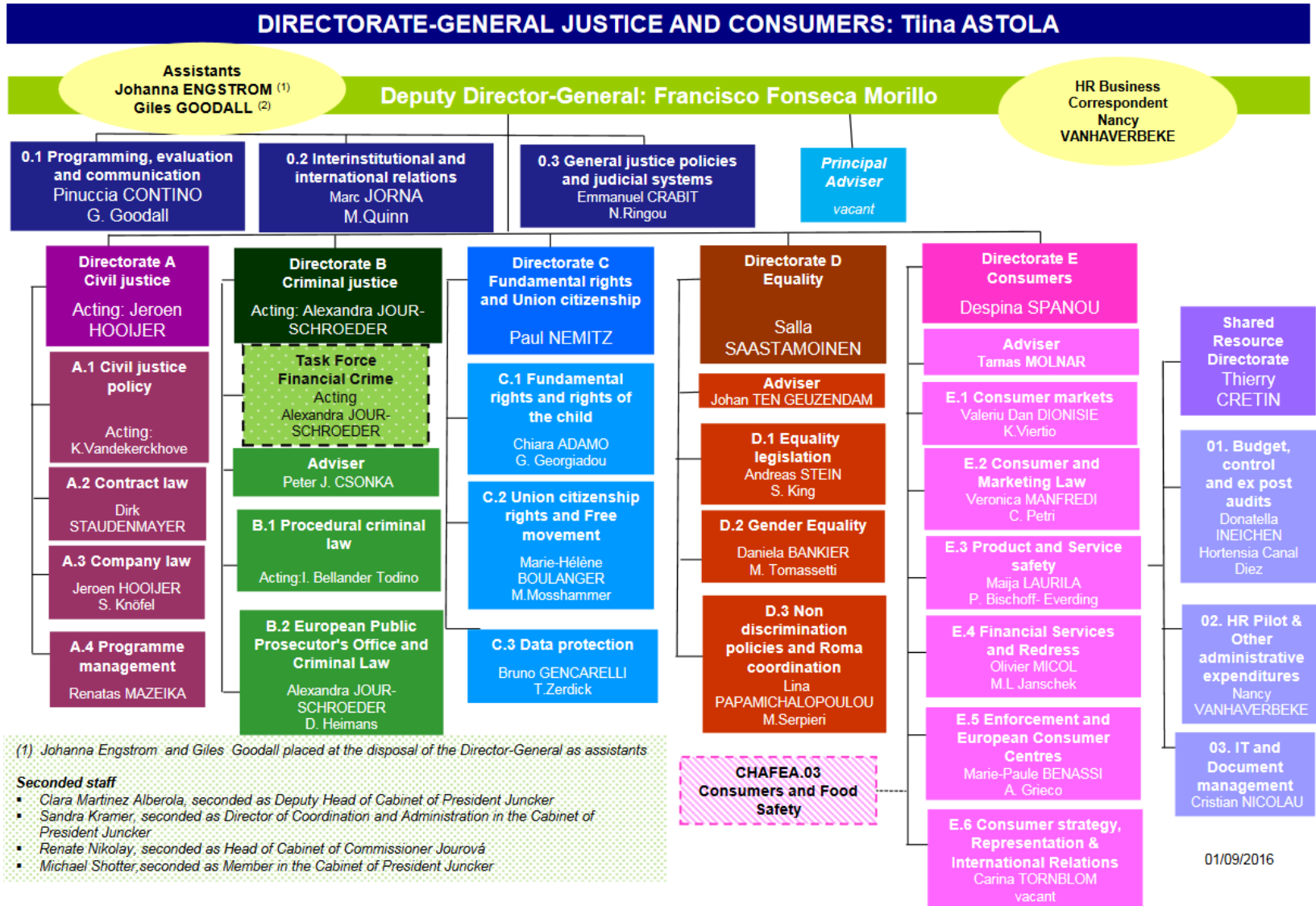


Commission Departments (DGs)

Agriculture and Rural Development (AGRI)
Budget (BUDG)
Climate Action (CLIMA)
Communication (COMM)
Communications Networks, Content and Technology (CNECT)
Competition (COMP)
Economic and Financial Affairs (ECFIN)
Education and Culture (EAC)
Employment, Social Affairs and Inclusion (EMPL)
Energy (ENER)
Environment (ENV)
European Civil Protection and Humanitarian Aid Operations (ECHO)
Eurostat (ESTAT)
Financial Stability, Financial Services and Capital Markets Union (FISMA)
Health and Food Safety (SANTE)
Human Resources and Security (HR)
Informatics (DIGIT)

Internal Market, Industry, Entrepreneurship and SMEs (GROW)
International Cooperation and Development (DEVCO)
Interpretation (SCIC)
Joint Research Centre (JRC)
Justice and Consumers (JUST)
Maritime Affairs and Fisheries (MARE)
Migration and Home Affairs (HOME)
Mobility and Transport (MOVE)
Neighbourhood and Enlargement Negotiations (NEAR)
Regional and urban Policy (REGIO)
Research and Innovation (RTD)
Secretariat-General (SG)
Service for Foreign Policy Instruments (FPI)
Taxation and Customs Union (TAXUD)
Trade (TRADE)
Translation (DGT)

Commission Departments (DGs)





European Parliament



European Parliament Committees

The European Parliament currently has 20 parliamentary committees:

Foreign Affairs (AFET) which includes two sub-committees:
Human Rights and Security and Defence Development (DEVE)
International Trade (INTA)
Budgets (BUDG)
Budgetary Control (CONT)
Economic and Monetary Affairs (ECON)
Employment and Social Affairs (EMPL)
Environment, Public Health and Food Safety (ENVI)
Industry, Research and Energy (ITRE)

Internal Market and Consumer Protection (IMCO)
Transport and Tourism (TRAN)
Regional Development (REGI)
Agriculture and Rural Development (AGRI)
Fisheries (PECH)
Culture and Education (CULT)
Legal Affairs (JURI)
Civil Liberties, Justice and Home Affairs (LIBE)
Constitutional Affairs (AFCO)
Women's Rights and Gender Equality (FEMM)
Petitions (PETI)



European Parliament Committees

A Committee has about 70 full members and equivalent number of substitutes.

A lead Rapporteur (there are shadow rapporteurs from other Committees)

The parliamentary committee usually meets several times to examine the draft report. On controversial or "technical" dossiers, it is not unusual to organise hearings with experts or to commission studies or impact assessments.

During committee debates, the Commission may defend or explain its proposal and answer questions from members of the committee. The Committee votes on this report and any amendments to it tabled by other members.

The European Parliament then discusses and votes on the legislative proposal in plenary on the basis of the committee report and amendments.

The result is the Parliament's position.



CONSILIUM



Council of Ministers

Agriculture
Budget
Consumer protection
Culture
Economy and finance
Education and training
Employment
Energy
Enlargement
Enterprise and industry
Environment
Euro area
Fisheries
Foreign affairs and international relations

Health
Home affairs
Institutional affairs
International trade and customs
Justice
Regional development
Research and technological development
Security and defence
Single market
Social affairs
Telecommunications
Transport



CONSILIUM



Council of Ministers

Council meetings are attended by representatives from each member state at a ministerial level. Participants can therefore be ministers or state secretaries. They have the right to commit the government of their country and cast its vote. European Commissioners responsible for the areas concerned are also invited to Council meetings.

The Council's standard voting method is qualified majority, used for about 80% of EU legislation.

Meetings are **chaired** by the minister of the member state holding the 6-month Council presidency (the exception is the Foreign Affairs Council).

The Council takes its decisions by a **simple majority, qualified majority or unanimous vote**, depending on the decision that needs to be taken.

Usually it is at the end of the process that points reach Minister level.

Council of Ministers

150 Working Groups

The Council is supported by the Committee of Permanent Representatives of the Governments of the Member States to the European Union (**Coreper**) and more than **150 highly specialised working parties and committees**, known as the 'Council preparatory bodies'.

Numerous meetings at Working Group level.

When the Council reaches its position, this is a “**General Approach**” which is communicated to the Parliament.

Three institutions



We therefore have the Parliament position and the Council position, and as it can be expected, these are rarely the same positions.

What happens next? Trilogues!

When the co-legislators are aiming for a 1st reading agreement, they often organise informal meetings attended by representatives of the Parliament, the Council, and the Commission, so-called "**trilogues**".

The aim is to reach a compromise text. The Commission frequently plays a mediating and editorial role in respect of these compromise texts.

Once both European Parliament and Council have approved the final text of a legislative proposal, it is jointly signed by the Presidents and Secretaries General of both institutions. After signature, the texts are published in the Official Journal and become official.

Different Actors

- ✓ Role of the Commission
- ✓ Role of the Council Presidency
- ✓ Role of the Rapporteur

Role of the CCBE

- ✓ Continuous contact with all players from start to finish
- ✓ Meet relevant representatives
- ✓ Develop positions within our membership
- ✓ Communicate our positions

Same Legislation, Different Results



Conclusion

The aforementioned is just a brief overview of the players involved and their interplay.

I have not gone into the technicalities of 2nd readings , third readings, the relevant time periods, rejection of Committee reports, conciliations, etc.

When a Directive is agreed Member States must then implement it and can exceed the provisions of the Directive, but cannot go below it (Member States usually have 18- 30 months or so to implement the legislation).

The Commission then reviews the implementing measures to see that Member States are in compliance with the provisions of the Directive.

There are also Regulations and Decisions as other forms of EU legislative Acts.

Part II

EAW-Rights: Analysis of the implementation and operation of the European Arrest Warrant from the point of view of defence practitioners

The partners

Two organisations, one solid project

Council of Bars and Law Societies of Europe (Belgium):

- 32 full members and 13 observer members
- Over 1,000,000 European lawyers
- HQ in Brussels

European Lawyers Foundation (The Netherlands) :

- Organisation specialised in the implementation of legal projects
- Working areas: e-Justice, EU substantial law, training of lawyers, human rights and rule of Law
- HQ in The Hague



EAW-Rights in a nutshell

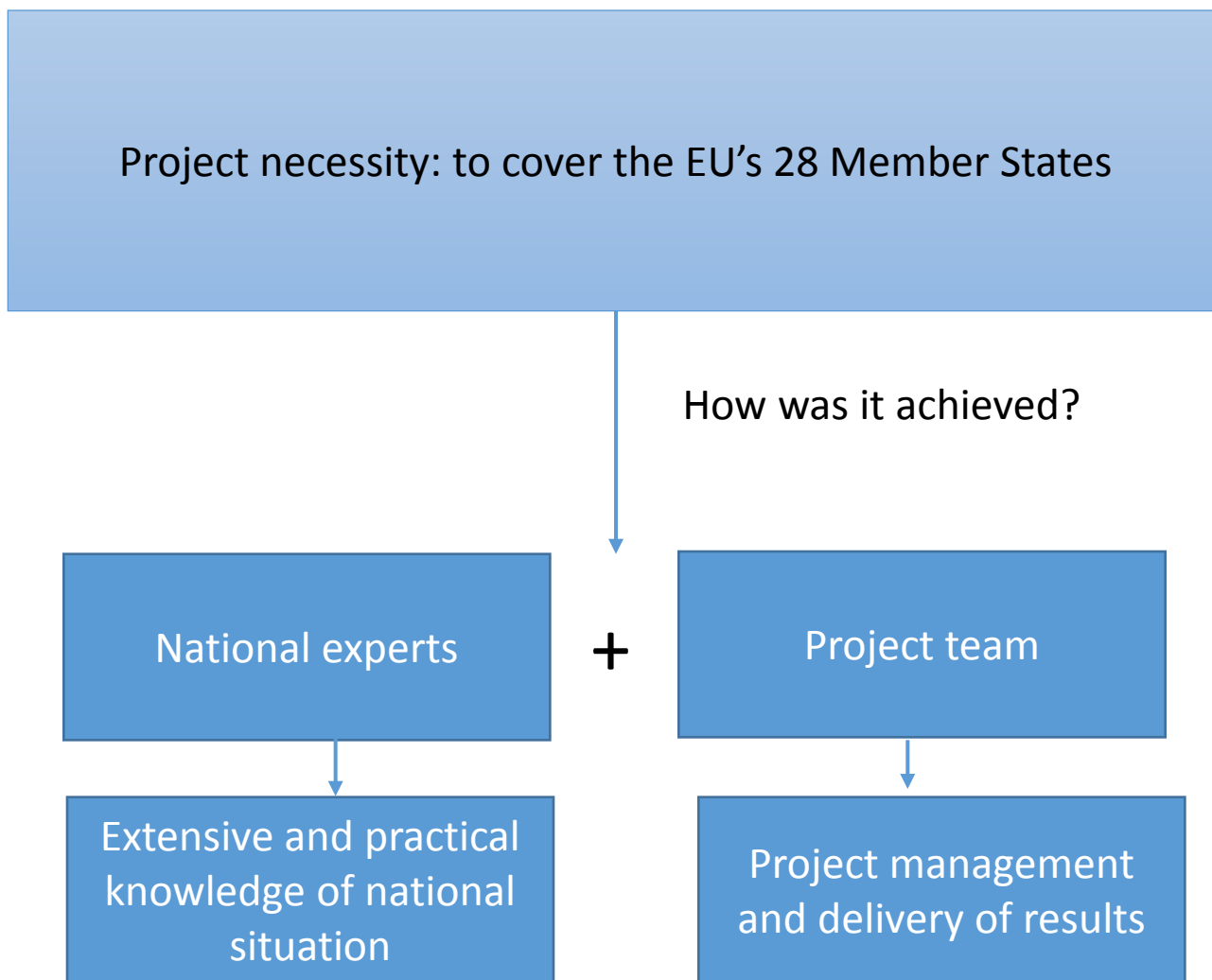
Period of implementation: 12 months starting on 3 November 2015

Objectives:

1. Identification of the **implementation** at a national level of the Framework Decision 2002/584/JHA on the European Arrest Warrant in all EU Member States.
2. Identification of **good practices** carried out in the 28 Member States in order to ensure defence rights
3. Presentation of **recommendations** focused on the improvement of defence rights in EAW cases

All assessed from the perspective of defence practitioners

How the work was structured



State of play

DATE	MAIN MILESTONE
03/11/2015	Project commences
29/01/2016	First meeting with experts - evaluation of questionnaire setting-out project goals
01/03/2016-16/05/2016	Experts to complete the three questionnaires (including obtaining national feedback)
17/05/2016-31/08/2016	Project team draft study based on experts' answers to questionnaire
September 2016	Brainstorming on recommendations with CCBE Criminal Law Committee and first submission of the draft study to the CCBE Standing Committee (16/09/2016) for discussion
October 2016	Project team work on consolidation, recommendations and final draft study to be sent to the Standing Committee (20/10/2016) for approval
03/11/2016	Submission to the EC

Main Recommendations

- Proportionality
- Is the case trial ready?
- Detention lengths
- Detention – conditions
- Relationship with existing fundamental rights

Main Recommendations

- Dual representation
- Lawyer's criminal law experience
- Rate of lawyer remuneration
- Right of appeal against the EAW decision
- Variations in sending a translated European Arrest Warrant

Main Recommendations

- What kind of additional information may be requested by the executing authority? Is all the relevant information always requested?
- Compensation for unjustified detention
- SIS alerts remaining active
- Multiple requests for EAW for the same person
- Surrender for an offence punishable by a lower sanction than the EAW threshold, when it is accessory to another offence which does comply with the threshold

Thank you for your attention

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