



75th CIMAC WG 5 - Reports on Regularly Developments – Stationary Power Plants

Vaasa/Finland





EU Industrial Emissions Directive (IED) 2010/75/EU

Revision



EU IED 2010/75/EU Revision Process - List of Contents

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1. Abbreviations

- **AAQ** Ambient Air Quality
- **BAT** Best Available Techniques
- **BREF** Best Available Techniques Reference document
- **ELV** Emission Limit Value
- **EMS** Environmental Management System
- **ENVI** EU Parliament Environment, Public Health and Food Safety Committee
- **EU** European Union
- **IED** Industrial Emissions Directive
- **ITRE** EU Parliament Industry, Research and Energy Committee
- **LCP** Large Combustion Plant
- **LHV** Lower Heat Value
- **MW_{th}** MW fuel heat input (based on LHV)



2.0. General

- The IED directive aims to lower emissions from industrial production through an integrated approach.
- The directive uses a [polluter pays](#) to assign the cost of the updates to the plant.
- The plan to lower emissions is based on [Best available technology](#) to help reach the goals of the directive.
- It replaced 7 earlier Directives, e.g. [Waste Incineration Directive](#), [Large Combustion Plant Directive](#), etc.
- Regulates e.g. ≥ 50 MWth combustion plants aggregated of > 5 MWth units.
- Latest LCP BREF anno 2017 /1/. BAT ELVs in LCP BREF as emission spans.
- IED 2010/75/EU is currently under revision



3. Revision Proceedings

- Proposal publication by Commission 04.04 2022 /2/
- Stakeholder feedback on Commission Proposal, deadline 23.06 2022
 - *A main concern* expressed by many participants was the Article 15(3) proposal
- Euromot Position papers /3/, /4/ on the IED Revision Proposal issued on internet October -22 / February-23. Also submitted to ENVI, ITRE Rapporteurs.
- Council Compromise Text Proposal 16.03 2023 /5/
- ITRE Opinion 29.03 2023 /6/
- ENVI (lead Committee) Consolidated Amendments vote 24.05 2023
- **Next Step:** (Tentative) Parliament Plenary Voting 10th July 2023



3.1. Main concern in IED (Commission) revision proposal /2/ 1/2

Article 15(3), quote: “The competent authority shall set **the strictest possible emission limit values** that are consistent with the lowest emissions achievable by applying BAT in the installation, and that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the best available techniques (BAT-AELs) as laid down in **the** decisions on BAT conclusions referred to in Article 13(5). The emission limit values shall be based on an assessment by the operator analysing the feasibility of meeting the **strictest end of the BAT-AEL range** and demonstrating the **best performance** the installation can achieve by applying BAT as described in BAT conclusions. The emission limit values shall be set through either of the following:

- (a) setting emission limit values expressed for the same or shorter periods of time and under the same reference conditions as the emission levels associated with the best available techniques; **or**
- (b)** (b) setting different emission limit values than those referred to under point (a) in terms of values, periods of time and reference conditions. ..”



3.1. Main Concern in IED (Commission) revision proposal 2/2

Consequence(s):

- It is ***not clear/defined*** which kind of “proof” an operator has to provide to be able to justify an ELV different from the strictest BAT-AEL threshold level.

Note also proposed change to Article 25(1) “*Access to justice*” ..



- Will increase uncertainty and affect timing of issuance of permits
- Flexibility & Integrated approach key principles of the IED undermined (Annex 1)



3.2. Council IED Compromise Article 15(3) Amendment Proposal /5/ 1/2

Article 15(3), quote:

*“The competent authority shall set the strictest possible **achievable** emission limit values that are consistent with the lowest emissions achievable by applying BAT in the installation, **considering the entire range of the emission levels associated with the best available techniques (BAT-AELs)** and that **The emission limit values shall to** ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the best available techniques (BAT-AELs) as laid down in the decisions on BAT conclusions referred to in Article 13(5). The emission limit values shall be based on an assessment by the operator analysing the feasibility of meeting the strictest end of the BAT-AEL range and demonstrating the best performance the installation can achieve by applying BAT as described in BAT conclusions, **having regard to possible cross-media effects**. The emission limit values shall be set through either of the following: a) ... or b) ... cont.*



3.2. Council IED Compromise Article 15(3) Amendment Proposal 2/2

cont.:

.. General binding rules referred to in Article 6 may be applied while setting relevant emission limit values according to this article.

If general binding rules are adopted, the strictest possible achievable emission limit values achievable by applying BAT shall be set for categories of installations having similar characteristics that are relevant in determining the lowest emission levels achievable, considering the entire range of the BAT AELs. The general binding rules shall be based on an assessment made established by the Member State, based on the information in the BAT conclusions, analysing the feasibility of meeting the strictest end of the BAT-AEL range and demonstrating the best performance that those categories of installations can achieve by applying BAT as described in BAT conclusions. “



3.2.1. Council IED Compromise "Others" Amendment Proposal 1/2

Article 79 a) " Compensation": items Deleted

- "2) Member States shall ensure that, as part of the public concerned, non-governmental organisations promoting the protection of human health or the environment and meeting any requirements under national law are allowed to represent the individuals affected and bring collective actions for compensation. Member States shall ensure that a claim for a violation leading to a damage cannot be pursued twice, by the individuals affected and by the nongovernmental organisations referred to in this paragraph"

...

- "4) Where there is a claim for compensation in accordance with paragraph 1, supported by evidence from which a causality link may be presumed between the damage and the violation, Member States shall ensure that the onus is on the person responsible for the violation to prove that the violation did not cause or contribute to the damage"



3.2.1. Council IED Compromise "Others" Amendment Proposal 2/2

New ANNEX III (?)

"Principles to be complied with when granting a derogation referred to in Article 15(4)"

Derogations provided in accordance with Article 15(4) shall respect the following principles:

Costs ...

Environmental benefits ...

Disproportionality of costs compared to environmental benefits .."



3.3. ITRE IED Opinion Article 15(3) Amendment Proposal /6/

Article 15(3), quote:

”Following the publication of decisions on BAT reference documents derived pursuant to this Directive, the competent authority shall set emission limit values that are consistent with the lowest emissions achievable by applying BAT in the installation **and taking into account cross-media effects**, and that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the best available techniques (BAT-AELs) as laid down in **those** decisions on BAT conclusions referred to in Article 13(5). The emission limit values shall be based on an assessment by the operator analysing the feasibility of meeting the **whole** BAT-AEL range and demonstrating the **lowest emission limit** the installation can achieve under normal operating conditions by applying BAT as described in BAT conclusions. The emission limit values shall be set through either of the following: ...“



3.3.1. ITRE IED Opinion "Others" Amendment Proposal

Article 15 3(a), quote:

*" The competent authority shall set **indicative** environmental performance limit levels that ensure that, under normal operating conditions, such performance limits values do not exceed the environmental performance levels associated with BATs as laid down in the decisions on BAT conclusions referred to in Article 13(5)"*



3.4 ENVI Draft IED Article 15(3) Amendment proposal & Voting 24.05-23

- Leaked *ENVI Draft Preliminary Consolidated Amendments* May 2023 contained many similar changes as in the Council Amendments proposal..

Voting 24.05-23:

- Main focus on agriculture amendments:
 - e.g. targeting more commercial farms, increased threshold for cattle farms
- Amendment on people compensation for health damage
- Etc.



4. Sources 1/2

/1/ LCP BREF 2017 at web:

https://eippcb.jrc.ec.europa.eu/sites/default/files/2019-11/JRC_107769_LCPBref_2017.pdf

/2/ Commission Revision proposal of IED 2020/75/EU, 4th April 2022, at web:

https://environment.ec.europa.eu/publications/proposal-revision-industrial-emissions-directive_en

/3/ EUROMOT POSITION EUROMOT to a Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on industrial emissions (integrated pollution prevention and control) - 2022/0104(COD), 3rd of February 2023, at web: https://www.euromot.eu/wp-content/uploads/2023/02/2022_0104COD-IED-Revision-EUROMOT-Amendment-Proposal-2023_02_03.pdf



4. Sources 2/2

/4/ EUROMOT POSITION EUROMOT Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on industrial emissions (integrated pollution prevention and control - 2022/0104(COD) 28th of October 2022, at web: https://www.euromot.eu/wp-content/uploads/2022/11/2022_0104COD-IED-Revision-EUROMOT-Position-2022-10-28.pdf

/5/ EU Council, “2022/0104(COD) compromise text”, 16.03 2023 at web: <https://data.consilium.europa.eu/doc/document/ST-7537-2023-INIT/en/pdf>

/6/ EU ITRE “Amending Directive 2010/75/EU on industrial emissions and Council Directive 1999/31/EC on the landfill of waste”, 29.3 2023 at web: [link https://www.europarl.europa.eu/doceo/document/ITRE-AD-736732_EN.pdf](https://www.europarl.europa.eu/doceo/document/ITRE-AD-736732_EN.pdf)

/7/ “Summary of Directive 2008/1/EC concerning integrated pollution prevention and control (the IPPC Directive) “ at web <https://ec.europa.eu/environment/archives/air/stationary/ippc/summary.htm>



ANNEX 1: Pillars of the IED /7/

The IPPC Directive is based on several principles, namely (1) *an integrated approach*, (2) best available techniques, (3) *flexibility* and (4) public participation.

The ***integrated approach*** means that the permits *must take into account the whole environmental performance of the plant, covering e.g. emissions to air, water and land, generation of waste, use of raw materials, energy efficiency, noise, prevention of accidents, and restoration of the site upon closure*. The purpose of the Directive is to ensure a high level of protection of the environment taken as a whole. The permit conditions including emission limit values (ELVs) must be based on ***Best Available Techniques (BAT)*** , ...

The IPPC Directive contains elements of ***flexibility*** by allowing the licensing authorities, in determining permit conditions, to take into account: 1) the technical characteristics of the installation, 2) its geographical location and 3) the local environmental conditions



ANNEX 2: Other example topics in Commission IED revision prop. 1/2

Article 9(2) deletion – ETS plant exclusion from energy efficiency exclusion **deleted**

- **Article 14(ii)** :Compound list **enlarged (13 -> 91polluting substances)** –Authority might include emission limit on new compounds (despite no limit values in LCP BREF)!

- New Article 14 a –Implementation (content) of **EMS** requirements

- **Article 15 a(2)**“compliance assessment”: implementing act to **establish measuring methods** for assessing compliance with set emission limit values –”sudden” change in practising of uncertainty, limit value exceeding frequencies, etc.?

- **Article 15(3)(a)**: Environmental performance levels in BREF not to be exceeded ...

- **Article 15(4)** derogation limits must **not exceed Annex V** levels (**as the current approach!**). A **methodology for assessing** the disproportionality between the costs of implementation of the BAT conclusions and the potential environmental benefits will be worked out. Re-assessment to be done every 4th year of permits where a derogation was granted.

- **Article 18**; Revised AAQ might lead to stricter stack limits! Where stricter conditions than BAT included in the permit, regular AAQ measurements of relevant pollutants resulting from concerned installation are required!



ANNEX 2: Other example topics in Commission IED revision prop. 2/2

- Article 24 “Access to information and public participation in the permit procedure”
- **Article 25(1)** “Access to justice”: “*Standing in the review procedure may not be conditional on the role that the concerned member of the public played during a participatory phase of the decision making procedures under this Directive ..*”
- Article 27a, b, c: INCITE establishment & operation, testing (max 24 months) of emerging techniques, emission levels of emerging techniques might become mandatory 6 years after BREF publishing
- 27 d A transformation plan to be part of the operator EMS by 30 June 2030. Transformation plan (during 2031 -2050) to describe how transformation is done of the installation in order to contribute to the emergence of a sustainable, clean, circular and climate-neutral economy by 2050
- Article 73(1): IED to be revised every 5th year (start June 2028)
- **Article 79a(4)** “Compensation act” –“reversed burden”

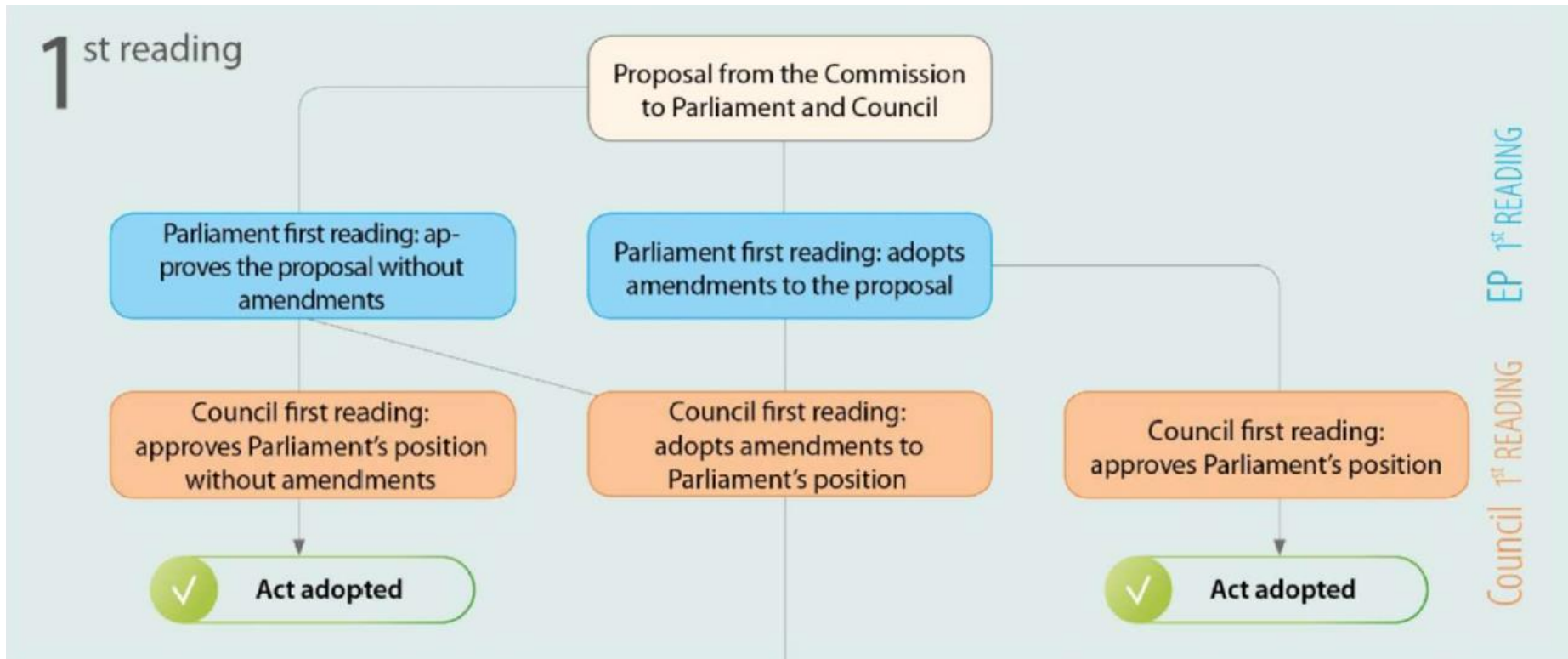


ANNEX 3: Current IED legislative procedure status

Key events		
05/04/2022	Legislative proposal published	<u>COM(2022)0156</u>
02/05/2022	Committee referral announced in Parliament, 1st reading	
20/10/2022	Referral to associated committees announced in Parliament	
24/05/2023	Vote in committee, 1st reading	

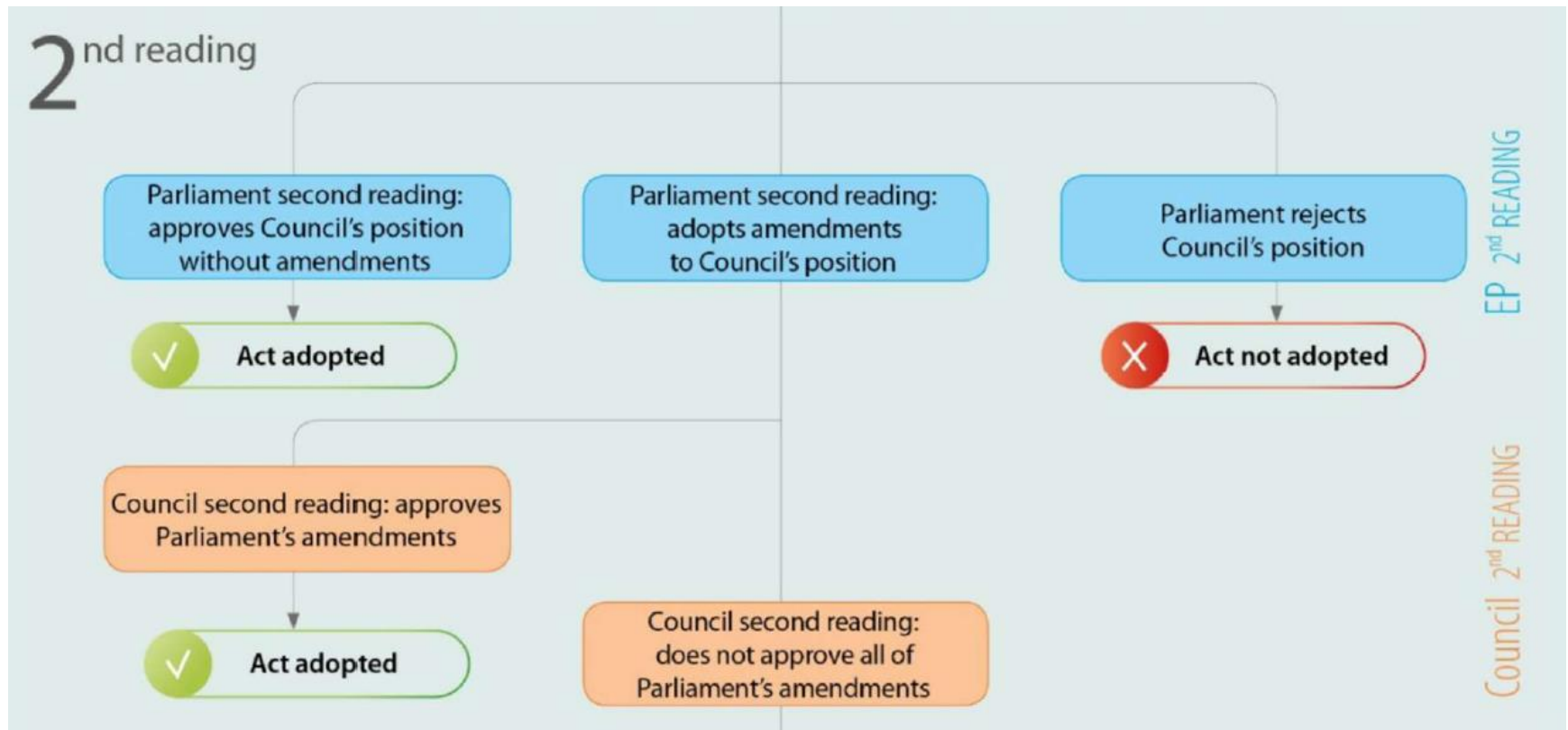


ANNEX 4: EU Ordinary Legislative procedure step by step 1/3



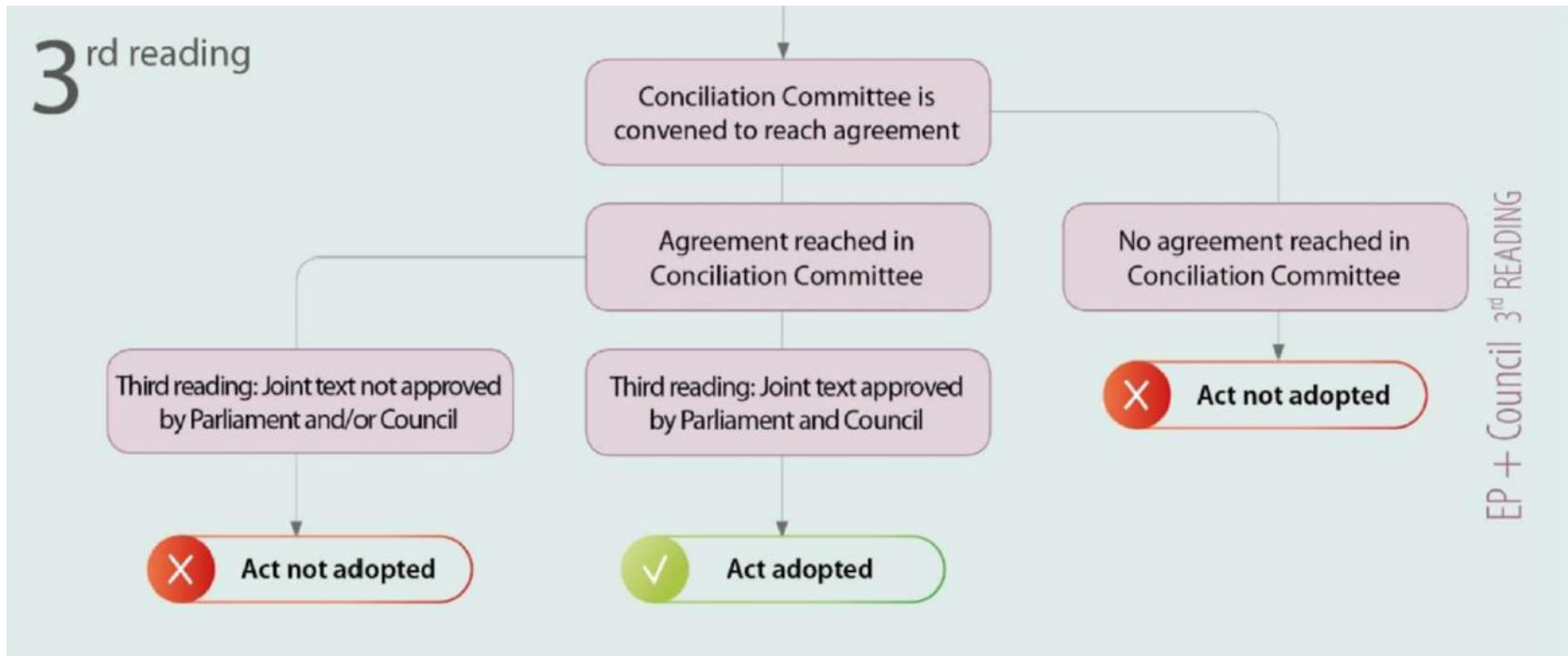


ANNEX 4: Ordinary Legislative procedure step by step 2/3





ANNEX 4: Ordinary Legislative procedure step by step 3/3





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