

# LISBON TREATY

## COMMENTS AND PREPARATORY WORKS FOR THE EU REFORM TREATY

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## **Lisbon Treaty - the Reform Treaty of the European Union**

Director, Lexnet European Information

Associate professor, Riga Graduate School of Law

### **Introduction**

The Lisbon Treaty, which has also been referred to as the Reform Treaty of the European Union, was first ratified by Hungary on 17 December 2007, and only finally ratified by the Czech Republic on 13 November 2009, following a second referendum in Ireland as well as constitutional court challenges in the Czech Republic, Germany and Latvia. According to article 6 of the Lisbon Treaty, it will enter into force on 1 December 2009.

### **Treaty basis**

The European Communities have now existed since 1951 on the basis of the original treaties, which during the years have been amended and supplemented.

Especially, the Maastricht Treaty in 1991 introduced a superstructure in the format of the European Union, which in addition to the Communities, with notably the Internal Market, also included cooperation on Home and Justice matters as well as Foreign and Security policies.

The new areas of cooperation were characterised by being established on an intergovernmental basis, which implied that contrary to the situation within the Communities, it was not possible to adopt supranational rules with direct effect for the legal systems of the Member States. However, this did not remove from the new areas the basic character of being cooperation with binding legal obligations.

With the Amsterdam Treaty in 1997, the civil law part of Home and Justice matters were transferred to the Communities, whereas the criminal law part remained subject to the intergovernmental procedure. At the same time, the European Court of Justice was granted jurisdiction over the entire field of Home and Justice matters, albeit with a limited

competence. The cooperation on Foreign and Security policies remained outside the scope of Court jurisdiction.

This treaty basis presents several problems, as the same treaties regulate at several levels, reaching from constitutional issues to detailed market regulations and complicated procedural provisions. One of the possible explanations for the quite common objections to the EU has been that the individual citizen was not in any reasonable way able to read and understand the treaties, and especially not able to overview the implications of the treaties for the life of the individual citizen.

### **Referenda**

This problem was clearly visible in the case of the Maastricht Treaty, which was presented mainly as a collection of amendments and supplements to the existing treaties, which could be read only with great difficulty by any reader that did not have a thorough knowledge of the existing treaties. Apart from this technical problem, there was a real political issue as to how much the European citizens wished to have an expansion from the Communities to the Union. However, it seems clear that choice of a complicated amendment format did not support efforts to have a reasonable discussion about the political issue.

In Denmark, following the first rejection by referendum in 1992, the solution was the adoption by a majority of the parties represented in the Parliament of national compromise. This implied that Denmark would in advance abstain from participating in the use of the expansion clauses that were introduced by the Maastricht Treaty. The so called four Danish reservations included the Euro, the transfer of Home and Justice competence to the Communities, the development of a Defence aspect of Foreign and Security policies, and also the understanding of the EU citizenship.

These reservations were approved by the other Member States in the so called Edinburgh Agreement, which became the foundation for the second and successful referendum in 1993, and which subsequently was integrated into protocols of the Amsterdam Treaty.

Together with the expected enlargement of the EU to comprise the Central and East European countries, the wish to establish a more transparent treaty basis led to the convening of a convention, with participation from national Parliaments and EU institutions, which worked on a

new draft treaty that was adopted in 2004. The ambition was to establish a brief and clear text that could gain a broad acceptance from the European citizens, whilst the technical rules were to be relocated in appendices.

However, the drafting encountered two serious problems. The final text became substantially longer than the existing treaties. In addition, the level of ambition rose so as to produce a Constitutional Treaty, which although it has little real constitutional content, managed to touch upon on number of issues in a way that offended the feeling of national sovereignty held by many people.

Furthermore, the debate about the Constitutional Treaty was in many cases diverted into other issues, and as an example the debate in France was to a wide extent concerned with the issue of the possible negative impact of the Internal Market on French national interests, although the Constitutional Treaty did not in any way modify the rules of the Internal Market.

The referenda in France and the Netherlands went against the Constitutional Treaty, as it had previously happened in Denmark with the Maastricht Treaty and in Ireland with the Nice Treaty. However, different from these previous occasions, there was no initiative towards new referenda in France or the Netherlands. Instead, the ratification stopped also in other countries, including the United Kingdom and Denmark, and it became clear that there was no future for the Constitutional Treaty.

This development caused irritation amongst the Member States that had already ratified the Constitutional Treaty, and it thus also became clear that it would be difficult to continue the Union based only on the existing treaties. The solution became the initiation of a reflection period that was to be followed by a new initiative.

### **New initiative**

The new initiative developed during the summer of 2007 to become the draft Reform Treaty, which after a number of adjustments was adopted on 18 October 2007. It was subsequently signed on 13 December 2007 and is now referred to as the Lisbon Treaty. It was for each Member State to decide whether the new treaty should be submitted to a referendum, and in Denmark, under article 20 of the Constitution, this depended on whether any additional competence is transferred from Danish authorities to the Union.

In the same manner as the Maastricht Treaty, the Lisbon Treaty has been drafted only as an amendment treaty, and it is therefore difficult to read on its own. However, several initiatives on the internet supply consolidated and comparative texts, including now also the Official Journal of the European Union.

As a point of departure, provisions on institutional issues within the EU therefore will not require a referendum under Danish constitutional law, whereas an extension of the legislative competence of the EU will do so. Formally, a move from unanimity to majority voting will not entail a transfer of competence, but many will perceive it this way, as majority voting will leave less room for Denmark to exercise control of the EU legislation.

Based on advice from the Danish Ministry of Justice, the Danish government found that the Lisbon treaty did not entail any transfer of competence to the EU for Denmark, and accordingly that a referendum would not be required.

In Ireland, a first referendum was unsuccessful in 2008, but a second referendum was successful in 2009, as was previously the case with the Nice Treaty.

## **Treaties**

A main point of the new treaty is that the concept of the Communities will be entirely replaced by the Union, and that the existing EC Treaty becomes the FEU Treaty (the Treaty on the Functioning of the European Union). The entire remaining section on Home and Justice matters is transferred from the EU to the FEU Treaty, whilst the main provisions on the policies, principles and institutions of the Union are transferred from the FEU to the EU Treaty.

In this manner the desired separation is achieved, between a short treaty that in main points sets out the Union, and a technical treaty that describes the cooperation in more detail. However, the cooperation on Foreign and Security policies is kept in the EU Treaty, so as to underline its special intergovernmental character.

Thus, it is still not possible to adopt legislation as such within the area of Foreign and Security policies. On the other hand, the possibilities of defence cooperation are strengthened for the

Member States that may wish to so engage. In this relation, a special agency is established for defence capabilities development, research, acquisition and armaments (European Defence Agency), in order to support the activities of the Member States concerned.

The EU is now explicitly granted legal personality, in the same manner as previously was the case for the Communities. In the general debate, much emphasis has been placed on this point. However, it seems clear that the EU already implicitly had legal personality according to international public law. In order to cut short any negative debate on this issue, the Lisbon Treaty explicitly stipulates that the legal personality does not entail any increased competence for the EU.

For the cooperation on Home and Justice matters, a transfer takes place to the supranational cooperation so that legislation with direct effect may now be adopted within the entire field of cooperation. At the same time, the National Parliaments are given an oversight competence in this field, which is to be further regulated through the later adoption of a legislative act. The entire field is also subjected to the ordinary jurisdiction of the European Court, although a reservation is upheld for actions undertaken by the police forces of the Member States. Likewise, a five year transition period will apply for the transfer of competence in the field of penal law.

### **Institutions**

For the European Court, it is now formalised that it constitutes the Court of the entire Union, and it will be referred to as the Court of the EU, whilst the Court of First Instance will be change name to the General Court. At the same time, a special panel will be established to propose candidates to the Council, as was already the case at the establishment of the Administrative Court in 2005. The number of judges is unchanged, but it is foreseen that the number of Advocates General will rise from 8 to 11. In this case, a declaration to the treaty stipulates that Poland shall have a permanent Advocate General.

Presently, Member States may be subjected to a fine in case they fail to respect a ruling from the European Court, in which it is established that they have violated EU law. The Lisbon Treaty expands this competence as far as lacking implementation of EU law is concerned. In such cases, the Commission may already in main case demand that a fine be issued by the Court.

For the Commission, the present working name will be formalised so that it will be referred to as the European Commission, but at the same time an official abbreviation is introduced so that the treaty text will refer only to the Commission. From 2014, the number of Commissioners will be reduced to 2/3 of the number of Member States, and at the same time a system will be introduced for rotation amongst the Member States of the right to have a Commissioner.

It would appear to be a limited advantage to reduce the number of Commissioners, as most Member States have strong feelings about representation in the Commission, and a fear that the larger Member States will achieve overrepresentation. To counter this fear, the Lisbon Treaty is very explicit in stipulating that absolute equal treatment shall apply in the rotational system.

The European Parliament has for a long time wished to have the right to approve the members of the Commission individually. However, it will still only be the President of the Commission who will need individual approval, and only the entire Commission that may be forced to resign by the Parliament. In addition, a new practice is codified, whereby the President may force an individual member of the Commission to resign.

The European Council, consisting of the heads of state and government, which decides the EU policy without being able to adopt legislation, will in the future have a permanent President for a 2½ year period. The President will represent the Union externally and may to a certain extent be regarded as a common European head of state, but will have very limited competences.

In the normal Council, referred to as the Council of Ministers, which does adopt legislation, the presidency will continue to rotate amongst the Member States on a 6 month basis, but in the future so that three Member States will cooperate on an 18 month period. This will give continuity to the presidency and may lighten the presidency burden for smaller countries.

However, the Council for external affairs will have a permanent presidency in the form of the High Representative for Foreign Affairs and Security Policy. This person will be appointed separately, as will the new President of the European Council. However, the High

Representative is an existing function, for which the competences are expanded, also by having charge within the Commission of all external affairs. In addition, a special secretariat for the external representation will be created so as to support the High Representative.

For the European Parliament a maximum number of members is set at 750. A single Member state will at most have 96 and at least 6 members. During a final meeting, Italy secured an extra member of the Parliament, as the President will not be counted in the membership, which will thus effectively be 751. At the coming election, Denmark is expected to have 13 seats, but the final distribution of seats between the Member States has not yet been determined.

## **Procedures**

In the existing treaties a distinction was made between obligatory and non-obligatory expenditures, but this distinction is now discontinued. In the future, the Parliament will have final say over the entire budget, and not only as presently over the non-obligatory expenditures. At the same time, the procedure for adopting the budget is simplified, so as to follow the likewise simplified procedure for co-legislation by the Council and Parliament.

For legislation, the present terminology is maintained with regulations and directives. However, a new classification is introduced comprising respectively legislative and non-legislative procedures and acts. The purpose is to allow for general reference to activities, as for example a new principle of public access to Council meetings is introduced, but only in relation to legislative procedures.

The terminology is not very well chosen, as non-legislative acts also include acts of implementation and delegated acts, which for example the Commission may adopt on the basis of a delegation from the Council and Parliament. In spite of the new terminology, a non-legislative act may thus constitute a legislative act in a traditional sense.

The main procedure will now be, as it has in fact been since the Amsterdam Treaty, co-legislation by the Council and Parliament, using qualified majority in the Council. This is now referred to as the ordinary legislative procedure, and in addition there will be special legislative procedures, which as an example may only include a hearing of the Parliament or use of unanimity in the Council.



However, the number of areas subject to the use of qualified majority in the Council are expanded, but only a smaller portion relate to areas of substance, whilst the other concern more technical issues. At the same time, the definition of qualified majority will change, but only from 2014 where a transition period is introduced until 2017.

This entails abolition of the weights that are presently assigned to the individual Member States, and which have been the subject of much discussion, both before and after the Nice Treaty. Instead, qualified majority will be constituted by 55% of the Member States that must represent 65% of the European population. A blocking minority must include at least 4 Member States.

In this connection, it is important to consider the so called Luxembourg compromise, which allows an individual Member State to lay down a veto if it felt that vital national interests were concerned. This right of veto has never been codified, nor repudiated, but continues to exist as an informal agreement amongst the participating countries who may thus constitute a blocking minority.

At a more formal level, the European Council meeting at Ioannina reached an agreement under which the Council should continue the negotiation concerning a proposal, if a blocking minority was almost established. This practice is continued in the Lisbon Treaty, but only at the level of a declaration, which foresees the adoption in 2014 of a legislative act to regulate the mechanism. It is foreseen that the threshold for continued negotiation will be 75% of the Member States necessary for a blocking minority. In 2017 this is to be reduced to 55%.

Other limiting mechanisms are introduced in special areas. This includes consideration of the National Parliaments, who will have the possibility of blocking proposed legislation, which is found to violate the principle of proportionality. However, this requires that a third of the National Parliaments submit a statement on this issue within the deadline of 8 weeks set in the treaty. More generally, half the National Parliaments may require the Commission to reconsider a proposal for new legislation.

Future amendments of the treaties will in general require the convening of a convention, as was done for the Constitutional Treaty. However, it will also be possible to proceed without a

convent. Furthermore, certain parts of the treaties may be amended by the Council, but this applies only to provisions that do not entail an extension of EU competence, and will in any case require national ratification, so that provisions such as Article 20 of the Danish constitution may find application.

In a more simplified manner, provisions have been inserted that allow the transition in certain areas from unanimity to qualified majority or from special to ordinary legislative procedure. This will not be subject to national ratification, but each of the National Parliaments will have a right of veto.

Finally, the Lisbon Treaty takes a very clear stand on the division of competences between the EU and the Member States, in distinguishing between exclusive competences and shared competences, as well as supporting competences, where the EU may only adopt measures that cannot replace national law. The individual fields of competence are listed for each category and correspond to the distribution that was previously implicit in the treaties as well as regulated by the jurisprudence of the European Court.

## **Citizens**

For the individual citizen, legal protection of fundamental rights is enhanced through the integration of the European Charter in the treaties. In this connection, it is explicitly stipulated that the Charter, comprising a restatement of rights from international conventions and national constitutions, does not constitute any extension of EU competence. At the same time, the EU is obliged to seek membership in the European Convention on Human Rights.

At a more formal level, a new possibility is opened for a citizens' initiative, as 1 million citizens out of the European total of 488 million may request that the Commission submit a proposal for new legislation. However, this only applies if the citizens represent a substantial number of Member States, and the Commission is not bound by the request. The practical value of the citizens' initiative would appear to be limited.

## Conclusion

For Denmark, the new Lisbon treaty does not entail any limitation of the reservations approved by the Amsterdam Treaty. To the contrary, Denmark has been granted the right of sector-wise opt-in, in the same manner as Ireland and United Kingdom, whereas previously Denmark could only in general decide to opt in. However, it will still require the use of Article 20 in the Danish constitution, as set out in the National Compromise.

Ireland, Poland, and United Kingdom have been granted new opt-outs in the Lisbon treaty, in relation to different aspects of the European Charter and the change to majority voting on criminal law matters. At the last moment before ratification, a political agreement was reached to extend the opt-out for the European Charter also to the Czech Republic, but at the treaty level this opt-out will be formalised only at the time of the next treaty of accession to the EU.

In general, the evaluation of the Lisbon Treaty should be very positive. The existing system for EU cooperation has been trimmed and made more effective, without any setting aside of national interests, and from a presentational point of view, the consolidated text will be much easier to approach.

However, there are still a number of areas that have not been codified. This includes for example the issues of constitutional supremacy, direct effect, and for the internal market, the principle of mutual recognition. A reading of the treaties therefore continues to need to be supplemented by a thorough knowledge of principles of EU law.

**NOTE**

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from: Presidency of the IGC  
dated: 5 October 2007  
to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**  
Draft Treaty amending the Treaty on European Union and the Treaty establishing the European Community – Draft Preamble

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**DRAFT  
TREATY AMENDING  
THE TREATY ON EUROPEAN UNION AND  
THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY**

**DRAFT PREAMBLE**

The Presidency herewith forwards to the Intergovernmental Conference the full text of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, including the Protocols, and the Declarations for the Final Act, as these texts emerged from the proceedings of the Working Party of Legal Experts.

The Presidency will submit this text to the Intergovernmental Conference (Foreign Ministers) meeting in Luxembourg on 15 October 2007, with a view to its final adoption at the Intergovernmental Conference (Heads of State or of Government) meeting in Lisbon on 18 October 2007.

All the language versions of this text are being forwarded to the delegations today, 5 October 2007. In accordance with normal practice, each language version will be finalised by the Council's legal/linguistic experts before the Treaty is signed.

DESIRING to complete the process started by the Treaty of Amsterdam and by the Treaty of Nice with a view to enhancing the efficiency and democratic legitimacy of the Union and to improving the coherence of its action,

HAVE RESOLVED to amend the Treaty on European Union, the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community,

and to this end have designated as their Plenipotentiaries:

(...)

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

(...)

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**CONFERENCE  
OF THE REPRESENTATIVES OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 5 October 2007  
(OR. fr)**

**CIG 1/1/07  
REV 1**

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**DRAFT  
TREATY AMENDING  
THE TREATY ON EUROPEAN UNION AND  
THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY**

Articles 1 to 7 of the Reform Treaty

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## Article 1

The Treaty on European Union shall be amended in accordance with the provisions of this Article.

### **Preamble**

1) The preamble shall be amended as follows:

(a) the following text shall be inserted as the second recital:

"DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,";

(b) In the eighth recital, the words "of this Treaty" shall be replaced by "of this Treaty and of the Treaty on the Functioning of the European Union,";

(c) In the twelfth recital, the words "of this Treaty" shall be replaced by "of this Treaty and of the Treaty on the Functioning of the European Union,".

### **General provisions**

2) Article 1 shall be amended as follows:

(a) the following words shall be inserted at the end of the first paragraph:

"on which the Member States confer competences to attain objectives they have in common.";

(b) the third paragraph shall be replaced by the following:

"The Union shall be founded on the present Treaty and on the Treaty on the Functioning of the European Union (hereinafter referred to as "the Treaties"). Those two Treaties shall have the same legal value. The Union shall replace and succeed the European Community.".



- 3) An Article 2 shall be inserted and the existing Article 2 shall be renumbered Article 3:

"Article 2

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."

- 4) Article 2, renumbered 3, shall be replaced by the following:

"Article 3

1. The Union's aim is to promote peace, its values and the well-being of its peoples.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

It shall promote economic, social and territorial cohesion, and solidarity among Member States.

It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

4. The Union shall establish an economic and monetary union whose currency is the euro.

5. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.

6. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties."

5) Article 3, renumbered 4, shall be replaced by the following:

"Article 4

1. In accordance with Article 5, competences not conferred upon the Union in the Treaties remain with the Member States.

2. The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.

3. Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties.

The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union.

The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives."

- 6) Article 4, renumbered 5, shall be replaced by the following:

"Article 5

1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.

2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.

3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments shall ensure compliance with that principle in accordance with the procedure set out in that Protocol.

4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.

The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality."

- 7) Article 5 shall be repealed.

- 8) Article 6 shall be replaced by the following:

"Article 6

1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of 7 December 2000, as adapted [at..., on... 2007], which shall have the same legal value as the Treaties.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions.

2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law."

9) Article 7 shall be amended as follows:

(a) throughout the Article, the word "assent" shall be replaced by "consent", the reference to breach "of principles mentioned in Article 6(1)" shall be replaced by a reference to breach "of the values referred to in Article 2" and the words "of this Treaty" shall be replaced by "of the Treaties";

(b) at the end of the first sentence of the first subparagraph of paragraph 1, the words "and address appropriate recommendations to that State" shall be deleted; at the end of the last sentence, the words "and, acting in accordance with the same procedure, may call on independent persons to submit within a reasonable time limit a report on the situation in the Member State in question" shall be replaced by "and may address recommendations to it, acting in accordance with the same procedure.";

(c) in paragraph 2, the words "the Council, meeting in the composition of the Heads of State or Government and acting by unanimity" shall be replaced by "the European Council, acting by unanimity" and the words "the government of the Member State in question" shall be replaced by "the Member State in question";

(d) paragraphs 5 and 6 shall be replaced by the following:

"5. The voting arrangements applying to the European Parliament, the European Council and the Council for the purposes of this Article are laid down in Article 309 of the Treaty on the Functioning of the European Union."

10) The following new Article 7a shall be inserted:

"Article 7a

1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.
2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation."

11) The provisions of Title II of the EU Treaty shall be incorporated into the Treaty establishing the European Community, as amended elsewhere, which shall become the Treaty on the Functioning of the European Union.

### **Democratic principles**

12) Title II and Article 8 shall be replaced by the following new heading and new articles:

"TITLE II  
PROVISIONS ON DEMOCRATIC PRINCIPLES

Article 8

In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.

Article 8a

1. The functioning of the Union shall be founded on representative democracy.
2. Citizens are directly represented at Union level in the European Parliament.

Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.

4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

#### Article 8b

1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.

2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

3. The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.

4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.

The procedures and conditions required for such a citizens' initiative shall be determined in accordance with the first paragraph of Article 21 of the Treaty on the Functioning of the European Union.

#### Article 8c

National Parliaments shall contribute actively to the good functioning of the Union:

(a) through being informed by the institutions of the Union and having draft European legislative acts forwarded to them in accordance with the Protocol on the role of national Parliaments in the European Union;

(b) by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;

- (c) by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with Article 64 of the Treaty on the Functioning of the European Union, and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles 69k and 69h of that Treaty;
- (d) by taking part in the revision procedures of the Treaties, in accordance with Article 33 of this Treaty;
- (e) by being notified of applications for accession to the Union, in accordance with Article 34 of this Treaty;
- (f) by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national Parliaments in the European Union."

## **Institutions**

- 13) The provisions of Title III of the EU Treaty shall be repealed. Title III shall be replaced by the following heading:

"TITLE III  
PROVISIONS ON THE INSTITUTIONS".

- 14) Article 9 shall be replaced by the following:

"Article 9

1. The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.

The Union's institutions shall be:

- the European Parliament,
- the European Council,
- the Council,
- the European Commission (hereinafter referred to as the "Commission"),
- the Court of Justice of the European Union,
- the European Central Bank,
- the Court of Auditors.

2. Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them. The institutions shall practice mutual sincere cooperation.

3. The provisions relating to the European Central Bank and the Court of Auditors and detailed provisions on the other institutions are set out in the Treaty on the Functioning of the European Union.

4. The European Parliament, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity."

**15)** An Article 9a shall be inserted:

"Article 9a

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.

2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph.

3. The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.

4. The European Parliament shall elect its President and its officers from among its members."

**16)** An Article 9b shall be inserted:

"Article 9b

1. The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.



2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The High Representative of the Union for Foreign Affairs and Security Policy shall take part in its work.

3. The European Council shall meet twice every six months, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.

4. Except where the Treaties provide otherwise, decisions of the European Council shall be taken by consensus.

5. The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end his or her term of office in accordance with the same procedure.

6. The President of the European Council:

- (a) shall chair it and drive forward its work;
- (b) shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;
- (c) shall endeavour to facilitate cohesion and consensus within the European Council;
- (d) shall present a report to the European Parliament after each of the meetings of the European Council.

The President of the European Council shall, at his or her level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.

The President of the European Council shall not hold a national office."

17) An Article 9c shall be inserted:

"Article 9c

1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Treaties.

2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.

3. The Council shall act by a qualified majority except where the Treaties provide otherwise.

4. As from 1 November 2014, a qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union.

A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.

The other arrangements governing the qualified majority are laid down in Article 205(2) of the Treaty on the Functioning of the European Union.

5. The transitional provisions relating to the definition of the qualified majority which shall be applicable until 31 October 2014 and those which shall be applicable from 1 November 2014 to 31 March 2017 are laid down in the Protocol on transitional provisions.

6. The Council shall meet in different configurations, the list of which shall be adopted in accordance with Article 201b(a), of the Treaty on the Functioning of the European Union.

The General Affairs Council shall ensure consistency in the work of the different Council configurations. It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.

The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.

7. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.

8. The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.

9. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established in accordance with Article 201b(b), of the Treaty on the Functioning of the European Union."

18) An Article 9d shall be inserted:

"Article 9d

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

2. Union legislative acts may be adopted only on the basis of a Commission proposal, except where the Treaties provide otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Treaties so provide.

3. The Commission's term of office shall be five years.

The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.

In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article 9e(2), the members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

4. The Commission appointed between the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and 31 October 2014 shall consist of one national of each Member State, including its President and the High Representative of the Union for Foreign Affairs and Security Policy who shall be one of its Vice-Presidents.

5. As from 1 November 2014, the Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.

The members of the Commission shall be chosen from among the nationals of the Member States on the basis of a system of strictly equal rotation between the Member States, reflecting the demographic and geographical range of all the Member States. This system shall be established unanimously by the European Council in accordance with Article 211 of the Treaty on the Functioning of the European Union.

6. The President of the Commission shall:

- (a) lay down guidelines within which the Commission is to work;
- (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;
- (c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The High Representative of the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article 9e(1), if the President so requests.

7. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he or she does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in paragraph 3, second subparagraph, and paragraph 5, second subparagraph.

The President, the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

8. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article 201 of the Treaty on the Functioning of the European Union, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from the duties that he or she carries out in the Commission."

19) The following new Article 9e shall be inserted:

"Article 9e

1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High Representative of the Union for Foreign Affairs and Security Policy. The European Council may end his or her term of office by the same procedure.
2. The High Representative shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.
3. The High Representative shall preside over the Foreign Affairs Council.
4. The High Representative shall be one of the Vice-Presidents of the Commission. He or she shall ensure the consistency of the Union's external action. He or she shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the High Representative shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3."

20) An Article 9f shall be inserted:

"Article 9f

1. The Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the Treaties the law is observed.

Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

2. The Court of Justice shall consist of one judge from each Member State. It shall be assisted by Advocates-General.

The General Court shall include at least one judge per Member State.

The judges and the Advocates-General of the Court of Justice and the judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles 223 and 224 of the Treaty on the Functioning of the European Union. They shall be appointed by common accord of the governments of the Member States for six years. Retiring judges and Advocates-General may be reappointed.

3. The Court of Justice of the European Union shall in accordance with the Treaties:

- (a) rule on actions brought by a Member State, an institution or a natural or legal person;
- (b) give preliminary rulings, at the request of courts or tribunals of the Member States, on the interpretation of Union law or the validity of acts adopted by the institutions;
- (c) rule in other cases provided for in the Treaties."

21) The provisions of Title IV of the EU Treaty shall be incorporated into the Treaty establishing the European Atomic Energy Community, as amended elsewhere.

### **Enhanced cooperation**

22) Title IV shall take over the heading of Title VII "PROVISIONS ON ENHANCED COOPERATION" and Articles 27a to 27e, Articles 40 to 40b and Articles 43 to 45 shall be replaced by the following Article 10:

#### "Article 10

1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Treaties, subject to the limits and in accordance with the procedures laid down in this Article and in Articles 280a to 280i of the Treaty on the Functioning of the European Union.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article 280c of the Treaty on the Functioning of the European Union.

2. The decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least nine Member States participate in it. The Council shall act in accordance with the procedure laid down in Article 280d of the Treaty on the Functioning of the European Union.

3. All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. The voting rules are set out in Article 280e of the Treaty on the Functioning of the European Union.

4. Acts adopted in the framework of enhanced cooperation shall bind only participating Member States. They shall not be regarded as part of the *acquis* which has to be accepted by candidate States for accession to the Union."

- 23) Title V of the EU Treaty shall be renamed as follows: "GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION AND SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY".

### **General provisions on the Union's external action**

- 24) The following new chapter shall be inserted:

"CHAPTER 1  
GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION

Article 10a

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (a) safeguard its values, fundamental interests, security, independence and integrity;
- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law;
- (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;
- (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;
- (e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;
- (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;
- (g) assist populations, countries and regions confronting natural or man-made disasters; and
- (h) promote an international system based on stronger multilateral cooperation and good global governance.

3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and Part Five of the Treaty on the Functioning of the European Union, and of the external aspects of its other policies.

The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.



## Article 10b

1. On the basis of the principles and objectives set out in Article 10a, the European Council shall identify the strategic interests and objectives of the Union.

Decisions of the European Council on the strategic interests and objectives of the Union shall relate to the common foreign and security policy and to other areas of the external action of the Union. Such decisions may concern the relations of the Union with a specific country or region or may be thematic in approach. They shall define their duration, and the means to be made available by the Union and the Member States.

The European Council shall act unanimously on a recommendation from the Council, adopted by the latter under the arrangements laid down for each area. Decisions of the European Council shall be implemented in accordance with the procedures provided for in the Treaties.

2. The High Representative of the Union for Foreign Affairs and Security Policy, for the area of common foreign and security policy, and the Commission, for other areas of external action, may submit joint proposals to the Council."

### **The common foreign and security policy**

25) The following headings shall be inserted:

"CHAPTER 2  
SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY

SECTION 1  
COMMON PROVISIONS".

26) The following new Article 10c shall be inserted:

"Article 10c

The Union's action on the international scene, pursuant to this Chapter, shall be guided by the principles, shall pursue the objectives of, and be conducted in accordance with, the general provisions laid down in Chapter 1."

27) Article 11 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following two paragraphs:

"1. The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.

The common foreign and security policy is subject to specific rules and procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. The Court of Justice of the European Union shall not have jurisdiction with respect to these provisions, with the exception of its jurisdiction to monitor the compliance with Article 25 of this Treaty and to review the legality of certain decisions as provided for by the second paragraph of Article 240a of the Treaty on the Functioning of the European Union.

2. Within the framework of the principles and objectives of its external action, the Union shall conduct, define and implement a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.";

(b) paragraph 2, renumbered 3, shall be amended as follows:

(i) The following words shall be added at the end of the first subparagraph:

"... and shall comply with the Union's action in this area.";

(ii) the third subparagraph shall be replaced by "The Council and the High Representative shall ensure that these principles are complied with.".

28) Article 12 shall be replaced by the following:

"The Union shall conduct the common foreign and security policy by:

(a) defining the general guidelines;

- (b) adopting decisions defining:
  - (i) actions to be undertaken by the Union;
  - (ii) positions to be taken by the Union;
  - (iii) arrangements for the implementation of the decisions referred to in points (i) and (ii);
- (c) strengthening systematic cooperation between Member States in the conduct of policy."

**29)** Article 13 shall be amended as follows:

- (a) in paragraph 1, the words "define the principles of and general guidelines for" shall be replaced by "shall identify the Union's strategic interests, determine the objectives of and define general guidelines for" and the following sentence shall be added: "It shall adopt the necessary decisions.". The following subparagraph shall be inserted:

"If international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy in the face of such developments.";

- (b) paragraph 2 shall be deleted and paragraph 3 shall be renumbered 2. The first subparagraph shall be replaced by the following: "The Council shall frame the common foreign and security policy and take the decisions necessary for defining and implementing it on the basis of the general guidelines and strategic lines defined by the European Council." The second subparagraph shall be deleted. In the third subparagraph, which shall become the second, the words "shall ensure" shall be replaced by "and the High Representative of the Union for Foreign Affairs and Security Policy shall ensure";

- (c) the following new paragraph shall be inserted:

"3. The common foreign and security policy shall be put into effect by the High Representative and by the Member States, using national and Union resources.

**30)** The following new Article 13a shall be inserted:

"Article 13a

1. The High Representative of the Union for Foreign Affairs and Security Policy, who shall chair the Foreign Affairs Council, shall contribute through his or her proposals towards the preparation of the common foreign and security policy and shall ensure implementation of the decisions adopted by the European Council and the Council.

2. The High Representative shall represent the Union for matters relating to the common foreign and security policy. He or she shall conduct political dialogue with third parties on the Union's behalf and shall express the Union's position in international organisations and at international conferences.

3. In fulfilling his or her mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission."

31) Article 14 shall be amended as follows:

- (a) in paragraph 1, the first two sentences shall be replaced by the following sentence:  
"Where the international situation requires operational action by the Union, the Council shall adopt the necessary decisions.";
- (b) in paragraph 2, first sentence, the words "to joint action," shall be replaced by "to a decision as referred to in paragraph 1," and the words "that action" shall be replaced by "that decision". The last sentence shall be deleted;
- (c) in paragraph 3, the words "Joint actions" shall be replaced by "Decisions referred to in paragraph 1";
- (d) paragraph 4 shall be deleted and the remaining paragraphs shall be renumbered accordingly;
- (e) in the first sentence of paragraph 5, renumbered 4, the words "pursuant to a joint action, information shall be provided in time to allow," shall be replaced by "pursuant to a decision as referred to in paragraph 1, information shall be provided by the Member State concerned in time to allow,";
- (f) in the first sentence of paragraph 6, renumbered 5, the words "failing a Council decision," shall be replaced by "failing a review of the Council decision as referred to in paragraph 1," and the words "of the joint action" shall be replaced by "of that decision";
- (g) in paragraph 7, renumbered 6, the words "joint action" in the first sentence shall be replaced by "decision as referred to in this Article" and in the second sentence by "decision referred to in paragraph 1".

- 32) At the beginning of Article 15, the words "The Council shall adopt common positions. Common positions shall define" shall be replaced by "The Council shall adopt decisions which shall define" and at the end of the Article the words "common positions" shall be replaced by "Union positions".
- 33) The text of Article 16, with the amendments set out in point 35 below, shall become Article 17a. The text of Article 22, with the following amendments, shall become Article 16:
- (a) in paragraph 1, the words "Any Member State or the Commission may refer to the Council any question relating to the common foreign and security policy" shall be replaced by "Any Member State, the High Representative of the Union for Foreign Affairs and Security Policy, or the High Representative with the Commission's support, may refer any question relating to the common foreign and security policy to the Council" and the words "submit proposals to the Council" shall be replaced by "submit to it initiatives or proposals as appropriate";
  - (b) in paragraph 2, the words "the Presidency, of its own motion," shall be replaced by "the High Representative, of his or her own motion" and the words ", or at the request of the Commission or a Member State," shall be replaced by ", or at the request of a Member State,".
- 34) The text of Article 17 shall become Article 27, with the amendments set out in point 48 below. The text of Article 23, with the following amendments, shall become Article 17:
- (a) in paragraph 1, the first subparagraph shall be replaced by the following: "Decisions under this Chapter shall be taken by the European Council and the Council acting unanimously, except where this Chapter provides otherwise. The adoption of legislative acts shall be excluded." and the last sentence in the second subparagraph shall be replaced by the following: "If the members of the Council qualifying their abstention in this way represent at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted.";
  - (b) paragraph 2 shall be amended as follows:
    - (i) the first indent shall be replaced by the following two indents:
      - "- when adopting a decision defining a Union action or position on the basis of a decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article 10b(1),
      - when adopting a decision defining a Union action or position, on a proposal which the High Representative of the Union for Foreign Affairs and Security Policy has presented following a specific request to him or her from the European Council, made on its own initiative or that of the High Representative,";

- (ii) in the second indent, which shall become the third indent, the words "a joint action or a common position," shall be replaced by "a decision defining a Union action or position,";
- (iii) in the second subparagraph, first sentence, the word "important" shall be replaced by "vital"; the last sentence shall be replaced by the following: "The High Representative will, in close consultation with the Member State involved, search for a solution acceptable to it. If he or she does not succeed, the Council may, acting by a qualified majority, request that the matter be referred to the European Council for a decision by unanimity.";
- (iv) the third subparagraph shall be replaced by the following new paragraph 3, the last subparagraph shall become paragraph 4 and paragraph 3 shall be renumbered 5:

"3. The European Council may unanimously adopt a decision stipulating that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2 of this Article.";

- (c) in the paragraph now numbered 4, the words "This paragraph shall not apply" shall be replaced by "Paragraphs 2 and 3 shall not apply".

**35)** An Article 17a shall be inserted, with the wording of Article 16; it shall be amended as follows:

- (a) the words "inform and" shall be deleted, the words "within the Council" shall be replaced by "within the European Council and the Council" and the words "in order to ensure that the Union's influence is exerted as effectively as possible by means of concerted and convergent action" shall be replaced by "in order to determine a common approach";
- (b) the following sentence shall be added after the first sentence: "Before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity.";
- (c) the following two paragraphs shall be inserted:

"When the European Council or the Council has defined a common approach of the Union within the meaning of the first paragraph, the High Representative of the Union for Foreign Affairs and Security Policy and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council.

The diplomatic missions of the Member States and the Union delegations in third countries and at international organisations shall cooperate and shall contribute to formulating and implementing the common approach."

**36)** Article 18 shall be amended as follows:

- (a) paragraphs 1 to 4 shall be deleted;
- (b) in paragraph 5, which shall not be numbered, the words "whenever it deems it necessary," shall be replaced by "on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy" and the following sentence shall be added at the end: "The special representative shall carry out his or her mandate under the authority of the High Representative."

**37)** Article 19 shall be amended as follows:

- (a) in paragraph 1, the words "the common positions" shall be replaced by "the Union's positions" in the first and second subparagraphs and the following sentence shall be added at the end of the first subparagraph: "The High Representative of the Union for Foreign Affairs and Security Policy shall organise this coordination.";
- (b) paragraph 2 shall be amended as follows:
  - (i) in the first subparagraph, the words "Without prejudice to paragraph 1 and Article 14(3)," shall be replaced by "In accordance with Article 11(3)," and ", as well as the High Representative," shall be inserted after "keep the latter";
  - (ii) in the second subparagraph, first sentence, the words "and the High Representative" shall be inserted after "the other Member States"; in the second sentence, the word "permanent" shall be deleted and the words "ensure the defence of the positions" shall be replaced by "defend the positions";
  - (iii) the following new third subparagraph shall be inserted:

"When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the High Representative be asked to present the Union's position."

**38)** Article 20 shall be amended as follows:

- (a) in the first paragraph, the words "Commission delegations" shall be replaced by "Union delegations" and the words "the common positions and joint actions adopted by the Council" shall be replaced by "decisions defining Union positions and actions adopted pursuant to this Chapter";

- (b) in the second paragraph, the words "information, carrying out joint assessments" shall be replaced by "information and carrying out joint assessments" and the words "and contributing to the implementation of the provisions referred to in Article 20 of the Treaty establishing the European Community" shall be deleted;
- (c) the following new paragraph shall be inserted:

"They shall contribute to the implementation of the right of citizens of the Union to protection in the territory of third countries as referred to in Article 17b(2)(c) of the Treaty on the Functioning of the European Union and of the measures adopted pursuant to Article 20 of that Treaty."

**39)** Article 21 shall be amended as follows:

- (a) the first paragraph shall be replaced by the following:

"The High Representative of the Union for Foreign Affairs and Security Policy shall regularly consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and the common security and defence policy and inform it of how those policies evolve. He or she shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.";

- (b) in the second paragraph, first sentence, the words "and the High Representative of the Union" shall be inserted at the end; in the second sentence, the words "It shall hold an annual debate" shall be replaced by "Twice a year it shall hold a debate" and the words ", including the common security and defence policy" shall be inserted at the end.

**40)** The text of Article 22 shall become Article 16; it shall be amended as set out above in point 33.

**41)** The text of Article 23 shall become Article 17; it shall be amended as set out above in point 34.

**42)** Article 24, renumbered 22, shall be replaced by the following:

"The Union may conclude agreements with one or more States or international organisations in areas covered by this Chapter."



- 43) Article 25, renumbered 23, shall be amended as follows:
- (a) in the first paragraph, first sentence, the reference to the Treaty establishing the European Community shall be replaced by a reference to the Treaty on the functioning of the European Union and the words "or of the High Representative of the Union for Foreign Affairs and Security Policy" shall be inserted after "at the request of the Council"; in the second sentence, the words "without prejudice to the responsibility of the Presidency and the Commission" shall be replaced by "without prejudice to the powers of the High Representative";
  - (b) the text of the second paragraph shall be replaced by the following: "Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council and of the High Representative, the political control and strategic direction of the crisis management operations referred to in Article 28.";
  - (c) in the third paragraph, the reference to Article 47 shall be deleted.
- 44) Articles 26 and 27, renumbered 24 and 25, shall be replaced by the following two articles, with Article 25 replacing Article 47:

"Article 24

In accordance with Article 15a of the Treaty on the Functioning of the European Union and by way of derogation from paragraph 2 thereof, the Council shall adopt a decision laying down the rules relating to the protection of individuals with regard to the processing of personal data by the Member States when carrying out activities which fall within the scope of this Chapter, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

Article 25

The implementation of the common foreign and security policy shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Treaties for the exercise of the Union competences referred to in Articles 3 to 6 of the Treaty on the Functioning of the European Union.

Similarly, the implementation of the policies listed in those Articles shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Treaties for the exercise of the Union competences under this Chapter."

- 45) Articles 27a to 27e, on enhanced cooperation, shall be replaced by Article 10 in accordance with point 22 above.

46) Article 28, renumbered 26, shall be amended as follows:

- (a) paragraph 1 shall be deleted and the remaining paragraphs shall be renumbered accordingly; throughout the Article the words "budget of the European Communities" shall be replaced by "Union budget";
- (b) in paragraph 2, renumbered 1, the words "which the provisions relating to the areas referred to in this Title entail" shall be replaced by "to which the implementation of this Chapter gives rise";
- (c) in paragraph 3, renumbered 2, the words "the implementation of those provisions" in the first subparagraph shall be replaced by "the implementation of this Chapter" and in the second subparagraph the reference to Article 23 shall be replaced by a reference to Article 17;
- (d) the following new paragraph 3 shall be inserted and paragraph 4 deleted:

"3. The Council shall adopt a decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article 27(1) and Article 28. It shall act after consulting the European Parliament.

Preparatory activities for the tasks referred to in Article 27(1) and Article 28 which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

The Council shall adopt by a qualified majority, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, decisions establishing:

- (a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;
- (b) the procedures for administering the start-up fund;
- (c) the financial control procedures.

When the task planned in accordance with Article 27(1) and Article 28 cannot be charged to the Union budget, the Council shall authorise the High Representative to use the fund. The High Representative shall report to the Council on the implementation of this remit."

## **The common security and defence policy**

47) The following new section shall be inserted:

"SECTION 2  
PROVISIONS ON THE COMMON SECURITY AND DEFENCE POLICY".

48) Article 27 shall take over the wording of Article 17, with the following amendments:

- (a) the following new paragraph 1 shall be inserted and the next paragraph shall be renumbered 2:

"1. The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civil and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.";

- (b) paragraph 1, renumbered 2, shall be amended as follows:

- (i) the first subparagraph shall be replaced by the following:

"The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.";

- (ii) in the second subparagraph, the words "in accordance with this Article" shall be replaced by "in accordance with this Section";

- (iii) the third subparagraph shall be deleted.

- (c) paragraph 2, renumbered 3, to paragraph 5 shall be replaced by the following paragraphs:

"3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the common security and defence policy.

Member States shall undertake progressively to improve their military capabilities. The Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) shall identify operational requirements, shall promote measures to satisfy those requirements, shall contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, shall participate in defining a European capabilities and armaments policy, and shall assist the Council in evaluating the improvement of military capabilities.

4. Decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate.

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article 29.

6. Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article 31. It shall not affect the provisions of Article 28.

7. If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.

Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation."

49) The following new Articles 28 to 31 shall be inserted:

"Article 28

1. The tasks referred to in Article 27(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

2. The Council shall adopt decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation. The High Representative of the Union for Foreign Affairs and Security Policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

Article 29

1. Within the framework of the decisions adopted in accordance with Article 28, the Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the High Representative of the Union for Foreign Affairs and Security Policy, shall agree among themselves on the management of the task.

2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary decisions.

Article 30

1. The European Defence Agency referred to in Article 27(3), subject to the authority of the Council, shall have as its task to:

(a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;

- (b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;
- (c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;
- (d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;
- (e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

2. The European Defence Agency shall be open to all Member States wishing to be part of it. The Council, acting by a qualified majority, shall adopt a decision defining the Agency's statute, seat and operational rules. That decision should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.

#### Article 31

1. Those Member States which wish to participate in the permanent structured cooperation referred to in Article 27(6), which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation, shall notify their intention to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy.

2. Within three months following the notification referred to in paragraph 1 the Council shall adopt a decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by a qualified majority after consulting the High Representative.

3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the High Representative.

The Council shall adopt a decision confirming the participation of the Member State concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation. The Council shall act by a qualified majority after consulting the High Representative. Only members of the Council representing the participating Member States shall take part in the vote.

A qualified majority shall be defined in accordance with Article 205(3)(a) of the Treaty on the Functioning of the European Union.

4. If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation, the Council may adopt a decision suspending the participation of the Member State concerned.

The Council shall act by a qualified majority. Only members of the Council representing the participating Member States, with the exception of the Member State in question, shall take part in the vote.

A qualified majority shall be defined in accordance with Article 205(3)(a) of the Treaty on the Functioning of the European Union.

5. Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate.

6. The decisions and recommendations of the Council within the framework of permanent structured cooperation, other than those provided for in paragraphs 2 to 5, shall be adopted by unanimity. For the purposes of this paragraph, unanimity shall be constituted by the votes of the representatives of the participating Member States only."

- 50)** Articles 29 to 39 of Title VI of the EU Treaty, which relate to judicial cooperation in criminal matters and to police cooperation, shall be replaced by Articles 61 to 68 and 69e to 69l of the Treaty on the Functioning of the European Union; they shall be amended as set out in Article 2, points 64, 67 and 68, of this Treaty. The heading of the Title shall be deleted and its number shall become the number of the Title on final provisions.
- 51)** Articles 40 to 40b of Title VI of the EU Treaty and Articles 43 to 45, relating to enhanced cooperation, shall be replaced by Article 10 in accordance with point 22 above.
- 52)** Articles 41 and 42 of the EU Treaty shall be repealed.

## **Final provisions**

53) Title VIII, on final provisions, shall be renumbered VI; this Title and Articles 48, 49, 51, 52 and 53 shall be amended as set out respectively in points 55, 56, 60, 61 and 62 below. Article 47 shall be replaced by Article 25, as indicated above in point 44, and Articles 46 and 50 shall be repealed.

54) The following new Article 32 shall be inserted:

"Article 32

The Union shall have legal personality."

55) An Article 33 shall be inserted to replace Article 48:

"Article 33

1. The Treaties may be amended in accordance with an ordinary revision procedure. They may also be amended in accordance with simplified revision procedures.

### *Ordinary revision procedure*

2. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of the Treaties. These proposals may, inter alia, serve either to increase or to reduce the competences conferred on the Union in the Treaties. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.

3. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in paragraph 4.



The European Council may decide by a simple majority, after obtaining the consent of the European Parliament, not to convene a Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for a conference of representatives of the governments of the Member States.

4. A conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaties.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

5. If, two years after the signature of a treaty amending the Treaties, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.

#### *Simplified revision procedures*

6. The Government of any Member State, the European Parliament or the Commission may submit to the European Council proposals for revising all or part of the provisions of Part Three of the Treaty on the Functioning of the European Union relating to the internal policies and action of the Union.

The European Council may adopt a decision amending all or part of the provisions of Part Three of the Treaty on the Functioning of the European Union. The European Council shall act by unanimity after consulting the European Parliament and the Commission, and the European Central Bank in the case of institutional changes in the monetary area. That decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

The decision referred to in the second subparagraph shall not increase the competences conferred on the Union in the Treaties.

7. Where the Treaty on the Functioning of the European Union or Title V of this Treaty provides for the Council to act by unanimity in a given area or case, the European Council may adopt a decision authorising the Council to act by a qualified majority in that area or in that case. This subparagraph shall not apply to decisions with military implications or those in the area of defence.

Where the Treaty on the Functioning of the European Union provides for legislative acts to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a decision allowing for the adoption of such acts in accordance with the ordinary legislative procedure.

Any initiative taken by the European Council on the basis of the first or the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision referred to in the first or the second subparagraph shall not be adopted. In the absence of opposition, the European Council may adopt the decision.

For the adoption of the decisions referred to in the first and second subparagraphs, the European Council shall act by unanimity after obtaining the consent of the European Parliament, which shall be given by a majority of its component members."

- 56) An Article 34 shall be inserted, with the wording of Article 49; the first paragraph shall be amended as follows:
- (a) in the first sentence, the words "which respects the principles set out in Article 6(1) may apply" shall be replaced by "which respects the values referred to in Article 2 and is committed to promoting them may apply";
  - (b) in the second sentence, the words "It shall address its application to the Council, which shall act unanimously" shall be replaced by "The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously"; the word "assent" shall be replaced by "consent" and the words "an absolute majority" shall be replaced by "a majority";
  - (c) the following new third sentence shall be inserted: "The conditions of eligibility agreed upon by the European Council shall be taken into account."

- 57) The following new Article 35 shall be inserted:

"Article 35

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.
2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 188n(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

A qualified majority shall be defined in accordance with Article 205(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 34."

**58)** An Article 36 shall be inserted:

"Article 36

The Protocols and Annexes to the Treaties shall form an integral part thereof."

**59)** An Article 37 shall be inserted:

"Article 37

1. The Treaties shall apply to the Kingdom of Belgium, Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

2. The territorial scope of the Treaties is specified in Article 311 of the Treaty on the Functioning of the European Union."

- 60) An Article 38 shall be inserted, with the wording of Article 51.
- 61) An Article 39 shall be inserted, with the wording of Article 52.
- 62) An Article 40 shall be inserted, with the wording of Article 53; it shall be amended as follows:
- (a) the first paragraph shall be numbered 1, the languages listed in the second paragraph of the current Article 53 of the Treaty on European Union shall be added to the list in this paragraph and the second paragraph shall be deleted;
  - (b) the following new paragraph 2 shall be inserted:  
  
"2. This Treaty may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council."



## Article 2

- 1) The Treaty establishing the European Community shall be amended in accordance with the provisions of this Article.
- 2) The title of the Treaty shall be replaced by "Treaty on the Functioning of the European Union".

### **A. HORIZONTAL AMENDMENTS**

- 3) Throughout the Treaty:
  - (a) the words "Community" and "European Community" shall be replaced by "Union", the words "European Communities" shall be replaced by "European Union";
  - (b) the words "this Treaty" and "the present Treaty" shall be replaced by "the Treaties" and the verb, where applicable, shall be put in the plural; this point shall not apply to Articles 312 and 313;
  - (c) the words "the Council [shall], acting in accordance with the procedure referred to in Article 251" shall be replaced by "the European Parliament and the Council [shall], acting in accordance with the ordinary legislative procedure", and the words "procedure referred to in Article 251" shall be replaced by "ordinary legislative procedure";
  - (d) the words "acting by a qualified majority" and "by a qualified majority" shall be deleted;
  - (e) the words "Council meeting in the composition of the Heads of State or Government" shall be replaced by "European Council";
  - (f) the words "institutions or bodies" and "institutions and bodies" shall be replaced by "institutions, bodies, offices or agencies", except in the first paragraph of Article 193;
  - (g) the words "common market" shall be replaced by "internal market";
  - (h) the word "ecu" shall be replaced by "euro";
  - (i) the words "Member States without a derogation" shall be replaced by "Member States whose currency is the euro";

- (j) the abbreviation "ECB" shall be replaced by "European Central Bank";
  - (k) the words "Statute of the ESCB" shall be replaced by "Statute of the ESCB and of the ECB";
  - (l) The words "Committee provided for in Article 114" and "Committee referred to in Article 114" shall be replaced by "Economic and Financial Committee";
  - (m) the words "Statute of the Court of Justice" shall be replaced by "Statute of the Court of Justice of the European Union";
  - (n) the words " Court of First Instance" shall be replaced by "General Court";
  - (o) the words "judicial panel" and "judicial panels" shall be replaced by "specialised court" and "specialised courts" respectively and any necessary grammatical changes shall be made.
- 4) In the following Articles, the words "on a proposal from the Commission" shall be replaced by "in accordance with a special legislative procedure":
- |                                |  |
|--------------------------------|--|
| - Article 17a(1)               | - Article 95                           |
| - Article 19(1)                | - Article 104(14), second subparagraph |
| - Article 19(2)                | - Article 166(4)                       |
| - Article 22, second paragraph | - Article 175(2), first subparagraph   |
| - Article 93.                  |  |
- 5) In the following Articles, the words "acting by a simple majority" shall be inserted after "the Council":
- |                                |   |
|--------------------------------|---|
| - Article 130, first paragraph | - Article 213, second paragraph, third sentence |
| - Article 144, first paragraph |   |
| - Article 208                  | - Article 216                                   |
| - Article 209                  | - Article 284.                                  |
- 6) In the following Articles, the words "consulting the European Parliament" shall be replaced by "obtaining the consent of the European Parliament":
- Article 17a(1)
  - Article 22, second paragraph.

7) In the following Articles, the word "institution" or "institutions" shall be replaced by "institution, body, office or agency" or "institutions, bodies, offices or agencies", as appropriate, and any grammatical changes necessary shall be made:

- Article 195(1), second subparagraph
- Article 232, second paragraph
- Article 233, first paragraph:
- Article 234, point (b)
- Article 255(3) which shall become Article 15(3), third subparagraph.

8) In the following Articles, the words "Court of Justice" shall be replaced by "Court of Justice of the European Union".

- |   |   |
|---|---|
| - Article 83(2)(d)                                | - Article 234, first, second and third paragraphs     |
| - Article 88(2), second subparagraph              | - Article 235   |
| - Article 94(9)                                   | - Article 236   |
| - Article 195(1)                                  | - Article 237, introductory sentence and point (d)    |
| - Article 225a, sixth paragraph                   | - Article 238   |
| - Article 226, second paragraph                   | - Article 240   |
| - Article 227, first paragraph                    | - Article 242   |
| - Article 228(1)                                  | - Article 243   |
| - Article 229                                     | - Article 244   |
| - Article 229a                                    | - Article 247(8)                                      |
| - Article 230, first, second and third paragraphs | - Article 256, second paragraph and fourth paragraph. |
| - Article 231, first paragraph                    |   |
| - Article 232, first paragraph                    |   |
| - Article 233, first paragraph                    |   |

9) In the following Articles, the reference to another Article of the Treaty shall be replaced by the following reference to an Article of the Treaty on European Union:

- |                                 |   |
|---------------------------------|---|
| - Article 21, fourth paragraph  | reference to Article 9 (first reference) and Article 40(1) (second reference) |
| - Article 97b                   | reference to Article 3  |
| - Article 98                    | reference to Article 3 (first reference)                                      |
| - Article 105(1)                | reference to Article 3  |
| - Article 125                   | reference to Article 3  |
| - Article 215, fourth paragraph | reference to Article 9d(7), first subparagraph.                               |



## **B. SPECIFIC AMENDMENTS**

### **Preamble**

- 10) In the second recital, the word "countries" shall be replaced by "States" and in the last recital, the words "HAVE DECIDED to create a EUROPEAN COMMUNITY and to this end have designated ..." shall be replaced by "and to this end HAVE DESIGNATED ...".

### **Common provisions**

- 11) Article 1 shall be replaced by the following:

#### "Article 1

1. This Treaty organises the functioning of the Union and determines the areas, delimitation of, and arrangements for exercising its competences.

2. This Treaty and the Treaty on European Union constitute the Treaties on which the Union is founded. These two Treaties, which have the same legal value, shall be referred to as "the Treaties".

- 12) Article 3(1) shall be repealed. Paragraph 2 thereof shall become Article 8; it shall be amended as set out below in point 21.
- 13) The text of Article 4 shall become Article 97b. It shall be amended as set out below in point 85.
- 14) The text of Article 12 shall become Article 17.
- 15) The text of Article 13 shall become Article 17a. It shall be amended as set out below in point 33.

- 16) The text of Article 14 shall become Article 22a. It shall be amended as set out below in point 41.
- 17) The text of Article 15 shall become Article 22b. It shall be amended as set out below in point 42.
- 18) The text of Article 16 shall become Article 14. It shall be amended as set out in point 27.

## **Categories and areas of competence**

- 19) Articles 2 to 6 shall be replaced by the following new Title and new Articles:

"TITLE I  
CATEGORIES AND AREAS OF UNION COMPETENCE

Article 2

1. When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.
2. When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised its competence. The Member States shall again exercise their competence to the extent that the Union has decided to cease exercising its competence.
3. The Member States shall coordinate their economic and employment policies within arrangements as determined by this Treaty, which the Union shall have competence to provide.
4. The Union shall have competence, in accordance with the provisions of the Treaty on European Union, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.
5. In certain areas and under the conditions laid down in the Treaties, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.

Legally binding acts of the Union adopted on the basis of the provisions of the Treaties relating to these areas shall not entail harmonisation of Member States' laws or regulations.

6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions of the Treaties relating to each area.

### Article 3

1. The Union shall have exclusive competence in the following areas:

- (a) customs union;
- (b) the establishing of the competition rules necessary for the functioning of the internal market;
- (c) monetary policy for the Member States whose currency is the euro;
- (d) the conservation of marine biological resources under the common fisheries policy;
- (e) common commercial policy.

2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.

### Article 4

1. The Union shall share competence with the Member States where the Treaties confer on it a competence which does not relate to the areas referred to in Articles 3 and 6.

2. Shared competence between the Union and the Member States applies in the following principal areas:

- (a) internal market;
- (b) social policy, for the aspects defined in this Treaty;
- (c) economic, social and territorial cohesion;
- (d) agriculture and fisheries, excluding the conservation of marine biological resources;
- (e) environment;
- (f) consumer protection;
- (g) transport;

- (h) trans-European networks;
- (i) energy;
- (j) area of freedom, security and justice;
- (k) common safety concerns in public health matters, for the aspects defined in this Treaty.

3. In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

4. In the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

#### Article 5

1. The Member States shall coordinate their economic policies within the Union. To this end, the Council shall adopt measures, in particular broad guidelines for these policies.

Specific provisions shall apply to those Member States whose currency is the euro.

2. The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.

3. The Union may take initiatives to ensure coordination of Member States' social policies.

#### Article 6

The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be:

- (a) protection and improvement of human health;
- (b) industry;
- (c) culture;
- (d) tourism;

- (e) education, vocational training, youth and sport;
- (f) civil protection;
- (g) administrative cooperation."

## **Provisions having general application**

- 20) Article 7 shall be replaced by the following title and article:

"TITLE II  
PROVISIONS HAVING GENERAL APPLICATION

Article 7

The Union shall ensure consistency between its policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers."

- 21) Article 8 shall be replaced by the wording of Article 3(2). The words "the activities referred to in this Article," shall be replaced by "its activities, "

- 22) Article 9 shall be replaced by the following:

"In defining and implementing its policies and actions, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health."

- 23) Article 10 shall be replaced by the following:

"In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."

- 24) Article 11 shall be replaced by the wording of Article 6, with the deletion of "referred to in Article 3", and Article 11a shall be repealed.

- 25)** Article 12 shall be replaced by the wording of Article 153(2).
- 26)** Article 13 shall be replaced by the wording of the enacting terms of the Protocol on the protection and welfare of animals; the word "fisheries" shall be inserted after "agriculture", the words "and research" shall be replaced by "research and technological development and space", and the words ", since animals are sentient beings," shall be inserted after "Member States shall".
- 27)** Article 14 shall be replaced by the wording of Article 16; it shall be amended as follows:
- (a) a reference to Article 4 of the Treaty on European Union shall be inserted in the list of articles at the beginning;
  - (b) at the end of the first sentence, the words "and conditions which enable them to fulfil their missions" shall be replaced by "and conditions, particularly economic and financial conditions, which enable them to fulfil their missions.";
  - (c) the following new sentence shall be added:  
  
"The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Treaties, to provide, to commission and to fund such services."
- 28)** Article 15 shall be replaced by the wording of Article 255; it shall be amended as follows:
- (a) paragraph 1 shall be preceded by the following text, paragraph 1 being renumbered 3 and paragraphs 2 and 3 becoming subparagraphs:  
  
"1. In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible.  
  
2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.";
  - (b) in paragraph 1, renumbered 3, first subparagraph, a change shall be made to the French which does not concern the English version, the words "European Parliament, Council and Commission documents" shall be replaced by "documents of the Union institutions, bodies, offices and agencies, whatever their medium" and the reference to paragraphs 2 and 3 shall be replaced by a reference to this paragraph;

- (c) in paragraph 2, which shall become the second subparagraph of paragraph 3, the words "by means of regulations" shall be inserted after "shall be determined by the Council" and the words "within two years of the entry into force of the Treaty of Amsterdam" shall be deleted;
- (d) in paragraph 3, which shall become the third subparagraph of paragraph 3, the words "referred to above shall elaborate" shall be replaced by "shall ensure that its proceedings are transparent and shall elaborate", the words ", in accordance with the legislative act referred to in the second subparagraph" shall be inserted at the end of the subparagraph and the following two new subparagraphs shall be added:

"The Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to this paragraph only when exercising their administrative tasks.

The European Parliament and the Council shall ensure publication of the documents relating to the legislative procedures under the terms laid down by the regulation referred to in the second subparagraph."

**29)** An Article 15a shall be inserted:

"Article 15a

1. Everyone has the right to the protection of personal data concerning him or her.
2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

The rules adopted on the basis of this Article shall be without prejudice to the specific rules laid down in Article 24 of the Treaty on European Union."

**30)** The following new Article 15b shall be inserted:

" Article 15b

1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.

2. The Union equally respects the status under national law of philosophical and non-confessional organisations.

3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations."

## **NON-DISCRIMINATION AND CITIZENSHIP**

31) The heading of Part Two shall be replaced by the following heading: "NON-DISCRIMINATION AND CITIZENSHIP OF THE UNION".

32) Article 17 shall be replaced by the text of Article 12.

33) An Article 17a shall be inserted, with the wording of Article 13; in paragraph 2, the words "when the Council adopts" shall be replaced by "the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt the basic principles" and the words at the end of the paragraph "it shall act in accordance with the procedure referred to in Article 251" shall be deleted.

34) An Article 17b shall be inserted, with the wording of Article 17; it shall be amended as follows:

(a) in paragraph 1, the word "complement" shall be replaced by "be additional to";

(b) paragraph 2 shall be replaced by the following:

"2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have, inter alia:

(a) the right to move and reside freely within the territory of the Member States;

(b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;

(c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;



- (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language.

These rights shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder."

**35)** Article 18 shall be amended as follows:

- (a) in paragraph 2, the words "the Council may adopt" shall be replaced by "the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt" and the last sentence shall be deleted;
- (b) paragraph 3 shall be replaced by the following:

"3. For the same purposes as those referred to in paragraph 1 and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament."

**36)** In Article 20, the words "establish the necessary rules among themselves and" shall be replaced by "adopt the necessary provisions and". The following new paragraph shall be added:

"The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament, may adopt directives establishing the coordination and cooperation measures necessary to facilitate such protection."

**37)** In Article 21, the following new first paragraph shall be inserted:

"The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall adopt the provisions for the procedures and conditions required for a citizens' initiative within the meaning of Article 8b of the Treaty on European Union, including the minimum number of Member States from which such citizens must come."

- 38) In Article 22, second paragraph, the words "the rights laid down in this Part, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements" shall be replaced by "the rights listed in Article 17b(2). These provisions shall enter into force after their approval by the Member States in accordance with their respective constitutional requirements."
- 39) In the heading of Part Three, the words "AND INTERNAL ACTIONS" shall be inserted after "POLICIES".

### **Internal market**

- 40) A Title I, with the heading "THE INTERNAL MARKET" shall be inserted at the beginning of Part Three.
- 41) An Article 22a shall be inserted, with the wording of Article 14. Paragraph 1 shall be replaced by the following:
- "1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Treaties."
- 42) An Article 22b shall be inserted, with the wording of Article 15. In the first paragraph, the words "during the period of establishment" shall be replaced by "for the establishment".
- 43) Title I on the free movement of goods shall become Title Ia.
- 44) In Article 23(1), the words "shall be based upon" shall be replaced by "shall comprise".
- 45) A Chapter Ia shall be inserted after Article 27, entitled "CUSTOMS COOPERATION", and an Article 27a shall be inserted with the wording of Article 135, the last sentence of that Article being deleted.

## **Agriculture and fisheries**

46) In the heading of Title II, the words "AND FISHERIES" shall be added.

47) Article 32 shall be amended as follows:

- (a) in paragraph 1, the following new first subparagraph shall be inserted: "The Union shall define and implement a common agriculture and fisheries policy.", the current text of paragraph 1 shall become the second subparagraph.

In the second subparagraph, the word ", fisheries" shall be inserted after "agriculture" in the first sentence and the following sentence shall be added as the last sentence of the subparagraph: "References to the common agricultural policy or to agriculture, and the use of the term "agricultural", shall be understood as also referring to fisheries, having regard to the specific characteristics of this sector."

- (b) in paragraph 2, the words "and functioning" shall be inserted after the word "establishment".

48) Article 36 shall be amended as follows:

- (a) in the first paragraph, the words "the European Parliament and" shall be inserted before "the Council" and the words "and 3" shall be deleted;
- (b) in the second paragraph, the introductory sentence shall be replaced by the following: "The Council, on a proposal from the Commission, may authorise the granting of aid:".

49) Article 37 shall be amended as follows:

- (a) paragraph 1 shall be deleted;
- (b) paragraph 2 shall be renumbered 1; the words "Having taken into account the work of the Conference provided for in paragraph 1, after consulting the Economic and Social Committee and within two years of the entry into force of the Treaty, the Commission shall submit proposals" shall be replaced by "The Commission shall submit proposals", and the third subparagraph shall be deleted;

- (c) the following paragraphs shall be inserted as new paragraphs 2 and 2a:

"2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the common organisation of agricultural markets provided for in Article 34(1) and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy.

2a. The Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.";

- (d) in the first subparagraph of paragraph 3, the words "The Council may, acting by a qualified majority and in accordance with paragraph 2, replace the national market organisations by the common organisation" shall be replaced by "In accordance with paragraph 2, the national market organisations may be replaced by the common organisation";
- (e) at the beginning of paragraph 4, a change shall be made to the French which does not concern the English version.

### **Free movement of workers**

**50)** In Article 39(3)(d), the word "implementing" shall be deleted.

**51)** Article 42 shall be amended as follows:

- (a) in the first paragraph, the words "migrant workers and their dependants:" shall be replaced by "employed and self-employed migrant workers and their dependants:";
- (b) the last paragraph shall be replaced by the following:

"Where a member of the Council declares that a draft legislative act referred to in the first subparagraph would affect important aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- (a) refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure; or
- (b) take no action or request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted."

## **Freedom of establishment**

- 52) In Article 44(2), the words "The European Parliament," shall be inserted at the beginning of the paragraph.
- 53) In Article 45, second paragraph, the words "The Council may, acting by a qualified majority on a proposal from the Commission," shall be replaced by "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may".
- 54) Article 47 shall be amended as follows:
  - (a) the following phrase shall be added at the end of paragraph 1: "and for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons.";
  - (b) paragraph 2 shall be deleted and paragraph 3 shall be renumbered 2; a change shall be made to the French which does not concern the English version.
- 55) An Article 48a shall be inserted, with the wording of Article 294.

## **Services**

- 56) Article 49 shall be amended as follows:
  - (a) in the first paragraph, the words "State of the Community" shall be replaced by "Member State";
  - (b) in the second paragraph, the words "The Council may, acting by a qualified majority on a proposal from the Commission, extend" shall be replaced by "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may extend".

- 57) In Article 50, third paragraph, the words "the State" shall be replaced by "the Member State".
- 58) In Article 52(1), the words "the Council shall, on a proposal from the Commission and after consulting the Economic and Social Committee and the European Parliament, issue" shall be replaced by "the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall issue".
- 59) In Article 53, the words "declare their readiness to" shall be replaced by "shall endeavour to".

## **Capital**

- 60) In Article 57(2), the words "the Council may, acting by a qualified majority on a proposal from the Commission, adopt measures" shall be replaced by "the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures" and the last sentence of paragraph 2 shall become paragraph 3, reading as follows:

"3. Notwithstanding paragraph 2, only the Council, acting in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament, adopt measures which constitute a step backwards in Union law as regards the liberalisation of the movement of capital to or from third countries."

- 61) In Article 58, the following new paragraph 4 shall be added:

"4. In the absence of measures pursuant to Article 57(3), the Commission or, in the absence of a Commission decision within three months from the request of the Member State concerned, the Council, may adopt a decision stating that restrictive tax measures adopted by a Member State concerning one or more third countries are to be considered compatible with the Treaties insofar as they are justified by one of the objectives of the Union and compatible with the proper functioning of the internal market. The Council shall act unanimously on application by a Member State."

- 62) Article 60 shall become Article 67a. It shall be amended as set out below in point 64.

## **Area of freedom, security and justice;**

63) A Title IV, with the heading "AREA OF FREEDOM, SECURITY AND JUSTICE", shall replace the Title IV on visas, asylum, immigration, and other policies related to free movement of persons. Title IV shall contain the following Chapters:

- Chapter 1: General provisions
- Chapter 2: Policies on border checks, asylum and immigration
- Chapter 3: Judicial cooperation in civil matters
- Chapter 4: Judicial cooperation in criminal matters
- Chapter 5: Police cooperation.

## **General provisions**

64) Article 61 shall be replaced by the following chapter and articles:

"CHAPTER 1  
GENERAL PROVISIONS

Article 61

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.
2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.
3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.

4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.

#### Article 62

The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice.

#### Article 63

National Parliaments shall ensure that the proposals and legislative initiatives submitted under Chapters 4 and 5 comply with the principle of subsidiarity, in accordance with the arrangements laid down by the Protocol on the application of the principles of subsidiarity and proportionality.

#### Article 64

Without prejudice to Articles 226 to 228, the Council may, on a proposal from the Commission, adopt measures laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Title by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament and national Parliaments shall be informed of the content and results of the evaluation.

#### Article 65

A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article 207, it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.

#### Article 66

This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.



#### Article 66a

It shall be open to Member States to organise between themselves and under their responsibility such forms of cooperation and coordination as they deem appropriate between the competent departments of their administrations responsible for safeguarding national security.

#### Article 67

The Council shall adopt measures to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Title, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article 68, and after consulting the European Parliament.

#### Article 67a

Where necessary to achieve the objectives set out in Article 61, as regards preventing and combating terrorism and related activities, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.

The Council, on a proposal from the Commission, shall adopt measures to implement the framework referred to in the first paragraph.

The acts referred to in this Article shall include necessary provisions on legal safeguards.

#### Article 68

The acts referred to in Chapters 4 and 5, together with the measures referred to in Article 67 which ensure administrative cooperation in the areas covered by these Chapters, shall be adopted:

- (a) on a proposal from the Commission, or
- (b) on the initiative of a quarter of the Member States."

## **Border checks, asylum and immigration**

65) Articles 62 to 64 shall be replaced by the following chapter and articles:

"CHAPTER 2  
POLICIES ON BORDER CHECKS,  
ASYLUM AND IMMIGRATION

Article 69

1. The Union shall develop a policy with a view to:
  - (a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;
  - (b) carrying out checks on persons and efficient monitoring of the crossing of external borders;
  - (c) the gradual introduction of an integrated management system for external borders.
2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:
  - (a) the common policy on visas and other short-stay residence permits;
  - (b) the checks to which persons crossing external borders are subject;
  - (c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;
  - (d) any measure necessary for the gradual establishment of an integrated management system for external borders;
  - (e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.

3. If action by the Union should prove necessary to facilitate the exercise of the right referred to in Article 17b(2)(a), and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt provisions concerning passports, identity cards, residence permits or any other such document. The Council shall act unanimously after consulting the European Parliament.

4. This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.

#### Article 69a

1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:

- (a) a uniform status of asylum for nationals of third countries, valid throughout the Union;
- (b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;
- (c) a common system of temporary protection for displaced persons in the event of a massive inflow;
- (d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
- (e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
- (f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
- (g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.

#### Article 69b

1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas:

- (a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;
- (b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;
- (c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;
- (d) combating trafficking in persons, in particular women and children.

3. The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States.

4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.

5. This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.

## Article 69c

The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle."

### **Judicial cooperation in civil matters**

66) Article 65 shall be replaced by the following chapter and article:

#### "CHAPTER 3

#### JUDICIAL COOPERATION IN CIVIL MATTERS

##### Article 69d

1. The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and decisions in extrajudicial cases. Such cooperation may include the adoption of measures for the approximation of the laws and regulations of the Member States.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures, particularly when necessary for the proper functioning of the internal market, aimed at ensuring:

- (a) the mutual recognition and enforcement between Member States of judgments and decisions in extrajudicial cases;
- (b) the cross-border service of judicial and extrajudicial documents;
- (c) the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction;
- (d) cooperation in the taking of evidence;
- (e) effective access to justice;

- (f) the elimination of obstacles to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;
- (g) the development of alternative methods of dispute settlement;
- (h) support for the training of the judiciary and judicial staff.

3. Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The proposal referred to in the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision shall not be adopted. In the absence of opposition, the Council may adopt the decision."

## **Judicial cooperation in criminal matters**

67) Articles 66 and 67 shall be replaced by the following chapter and articles:

### "CHAPTER 4

#### JUDICIAL COOPERATION IN CRIMINAL MATTERS

##### Article 69e

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article 69f.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures to:

- (a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;

- (b) prevent and settle conflicts of jurisdiction between Member States;
- (c) support the training of the judiciary and judicial staff;
- (d) facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

They shall concern:

- (a) mutual admissibility of evidence between Member States;
- (b) the rights of individuals in criminal procedure;
- (c) the rights of victims of crime;
- (d) any other specific aspects of criminal procedure which the Council has identified in advance by a decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the consent of the European Parliament.

Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles 10(2) of the Treaty on European Union and Article 280d(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

## Article 69f

1. The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

On the basis of developments in crime, the Council may adopt a decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.

2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such directives shall be adopted by the same ordinary or special legislative procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article 68.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles 10(2) of the Treaty on European Union and Article 208d(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.



#### Article 69g

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States.

#### Article 69h

1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

In this context, the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Eurojust's structure, operation, field of action and tasks. These tasks may include:

- (a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions, conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;
- (b) the coordination of investigations and prosecutions referred to in point (a);
- (c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

These regulations shall also determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.

2. In the prosecutions referred to in paragraph 1, and without prejudice to Article 69i, formal acts of judicial procedure shall be carried out by the competent national officials.

#### Article 69i

1. In order to combat crimes affecting the financial interests of the Union, the Council, by means of regulations adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.

In the absence of unanimity in the Council, a group of at least nine Member States may request that the draft regulation be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft regulation concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Article 10(2) of the Treaty on European Union and Article 280d(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offences against the Union's financial interests, as determined by the regulation provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.

3. The regulation referred to in paragraph 1 shall determine the general rules applicable to the European Public Prosecutor's Office, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions.

4. The European Council may, at the same time or subsequently, adopt a decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor's Office to include serious crime having a cross-border dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission."

## **Police cooperation**

68) Articles 68 and 69 shall be replaced by the following chapter and articles:

### "CHAPTER 5 POLICE COOPERATION

#### Article 69j

1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.
2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures concerning:
  - (a) the collection, storage, processing, analysis and exchange of relevant information;
  - (b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;
  - (c) common investigative techniques in relation to the detection of serious forms of organised crime.
3. The Council, acting in accordance with a special legislative procedure, may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

In case of the absence of unanimity in the Council, a group of at least nine Member States may request that the draft measures be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft measures concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Article 10(2) of the Treaty on European Union and Article 280d(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

The specific procedure provided for in the second and third subparagraphs shall not apply to acts which constitute a development of the Schengen *acquis*.

#### Article 69k

1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

2. In this context, the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Europol's structure, operation, field of action and tasks. These tasks may include:

- (a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;
- (b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.

These regulations shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

#### Article 69l

The Council, acting in accordance with a special legislative procedure, shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles 69e and 69j may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament."

## **Transports**

- 69)** In Article 70, the words "of this Treaty" shall be replaced by "of the Treaties" and the words "by Member States" shall be deleted.
- 70)** In Article 71, paragraph 2 shall be replaced by the following:
- "2. When the measures referred to in paragraph 1 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities."
- 71)** At the beginning of Article 72, the words ", without the unanimous approval of the Council," shall be replaced by ", unless the Council has unanimously adopted a measure granting a derogation,".
- 72)** Article 75 shall be amended as follows:
- (a) in paragraph 1, the words "within the Community" shall be replaced by "within the Union" and the words "shall be abolished" shall be replaced by "shall be prohibited".
  - (b) in paragraph 2, the words "the Council" shall be replaced by "the European Parliament and the Council".
  - (c) in the first sentence of paragraph 3, the words "the Economic and Social Committee" shall be replaced by "the European Parliament and the Economic and Social Committee".
- 73)** In Article 78, the following sentence shall be added:
- "Five years after the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, the Council, acting on a proposal from the Commission, may adopt a decision repealing this Article."
- 74)** In Article 79, the phrase "without prejudice to the powers of the Economic and Social Committee" shall be deleted.

75) In Article 80, paragraph 2 shall be replaced by the following:

"2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport. They shall act after consulting the Committee of the Regions and the Economic and Social Committee."

### **Rules on competition**

76) In Article 85, the following new paragraph 3 shall be added:

"3. The Commission may adopt regulations relating to the categories of agreement in respect of which the Council has adopted a regulation or a directive pursuant to Article 83(2)(b)."

77) Article 87 shall be amended as follows:

(a) in paragraph 2, the following sentence shall be added at the end of point (c):

"Five years after the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point.";

(b) in paragraph 3, the following words shall be added at the end of point (a): ", and of the regions referred to in Article 299, in view of their structural, economic and social situation;"

78) In Article 88, the following new paragraph 4 shall be added:

"4. The Commission may adopt regulations relating to the categories of State aid that the Council has, pursuant to Article 89, determined may be exempted from the procedure provided for by paragraph 3 of this Article."

### **Fiscal provisions**

79) At the end of Article 93, the words "within the time limit laid down in Article 14" shall be replaced by "and to avoid distortion of competition."

## **Approximation of laws**

- 80)** The order of Articles 94 and 95 shall be reversed. Article 94 shall be renumbered 95 and Article 95 shall be renumbered 94.
- 81)** Article 95, renumbered 94, shall be amended as follows:
- (a) at the beginning of paragraph 1, the words "By way of derogation from Article 94 and" shall be deleted and the reference to Article 14 shall be replaced by a reference to Articles 22a and 22b;
  - (b) at the beginning of paragraph 4, the words "If, after the adoption by the Council or by the Commission of a harmonisation measure,..." shall be replaced by "If, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, ...";
  - (c) at the beginning of paragraph 5, the words "Moreover, without prejudice to paragraph 4, if, after the adoption by the Council or by the Commission of a harmonisation measure, ..." shall be replaced by "Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, ...";
  - (d) in paragraph 10, the words "Community control procedure" shall be replaced by "Union control procedure".
- 82)** In Article 94, renumbered 95, the words "Without prejudice to Article 94, ..." shall be inserted at the beginning.
- 83)** In Article 96, second paragraph, first sentence, the words ", the Council shall, on a proposal from the Commission, acting by a qualified majority, issue" shall be replaced by ", the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall issue...". The second sentence shall be replaced by "Any other appropriate measures provided for in the Treaties may be adopted."

## **Intellectual property**

84) The following new Article 97a shall be inserted:

### "Article 97a

In the context of the establishment and functioning of the internal market, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish measures for the creation of European intellectual property rights to provide uniform intellectual property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements.

The Council, acting in accordance with a special legislative procedure, shall by means of regulations establish language arrangements for the European intellectual property rights. The Council shall act unanimously after consulting the European Parliament."

## **Economic and monetary policy**

85) An Article 97b shall be inserted, with the wording of Article 4; it shall be amended as follows:

- (a) in paragraph 1, the words "and in accordance with the timetable set out therein" shall be deleted;
- (b) in paragraph 2, the words "Concurrently with the foregoing, and as provided in this Treaty and in accordance with the timetable and the procedures set out therein, these activities shall include the irrevocable fixing of exchange rates leading to the introduction of a single currency, the ecu,..." shall be replaced by " Concurrently with the foregoing, and as provided in the Treaties and in accordance with the procedures set out therein, these activities shall include a single currency, the euro, ...".

86) Article 99 shall be amended as follows:

- (a) in paragraph 4, the first sentence of the first subparagraph shall be replaced by the following two sentences:

"Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned.";



(b) the second subparagraph of paragraph 4 shall be renumbered paragraph 5 and paragraph 5 shall be renumbered 6;

(c) the following two new subparagraphs shall be inserted in paragraph 4:

"Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a).";

(d) in paragraph 6, the words "The Council, acting in accordance with the procedure referred to in Article 252, may adopt detailed rules" shall be replaced by the following: "The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, may adopt detailed rules".

### **Difficulties in the supply of certain products (energy)**

87) In Article 100, paragraph 1 shall be replaced by the following:

"1. Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy."

### **Other provisions - economic and monetary policy**

88) In Article 102, paragraph 2 shall be deleted and paragraph 1 shall not be numbered;

89) In Article 103, paragraph 2 shall be replaced by the following:

"The Council, on a proposal from the Commission and after consulting the European Parliament, may, as required, specify definitions for the application of the prohibitions referred to in Articles 101 and 102 and in this Article."

## **Excessive deficit procedure**

90) Article 104 shall be amended as follows:

(a) paragraph 5 shall be replaced by the following:

"5. If the Commission considers that an excessive deficit in a Member State exists or may occur, it shall address an opinion to the Member State concerned and shall inform the Council accordingly.";

(b) in paragraph 6, the word "recommendation" shall be replaced by "proposal";

(c) in paragraph 7, the first sentence shall be replaced by "Where the Council decides, in accordance with paragraph 6, that an excessive deficit exists, it shall adopt, without undue delay, on a recommendation from the Commission, recommendations addressed to the Member State concerned with a view to bringing that situation to an end within a given period.";

(d) in the introductory words of the first subparagraph of paragraph 11, there is a change to the French which does not affect the English version;

(e) in paragraph 12, at the beginning of the first sentence, the words "its decisions" shall be replaced by "its decisions or recommendations";

(f) paragraph 13 shall be replaced by the following:

"13. When taking the decisions referred to in paragraphs 8, 9, 11 and 12, the Council shall act on a recommendation from the Commission.

When the Council adopts the measures referred to in paragraphs 6 to 9 and 11 and 12, it shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a).";

(g) in paragraph 14, third subparagraph, the words ", before 1 January 1994" shall be deleted.

## **Monetary policy**

**91)** Article 105 shall be amended as follows:

- (a) in the first sentence of paragraph 1, "ESCB" shall be replaced by "European System of Central Banks, hereinafter referred to as "ESCB",";
- (b) The text of paragraph 6 shall be replaced by the following:

"6. The Council, acting by means of regulations in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament and the European Central Bank, confer specific tasks upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings."

**92)** Article 106 shall be amended as follows:

- (a) in paragraph 1, first sentence, the word "euro" shall be inserted before "banknotes";
- (b) in paragraph 2, first sentence, the word "euro" shall be inserted before "coins"; at the beginning of the second sentence, the words "The Council may, acting in accordance with the procedure referred to in Article 252 and after consulting the ECB" shall be replaced by: "The Council, on a proposal from the Commission and after consulting the European Parliament and the European Central Bank, may".

**93)** Article 107 shall be amended as follows:

- (a) paragraphs 1 and 2 shall be deleted and paragraphs 3, 4, 5 and 6 shall be renumbered 1, 2, 3 and 4 respectively;
- (b) in paragraph 4, renumbered 2, the words "Statute of the ESCB" shall be replaced by the following: "Statute of the European System of Central Banks and of the European Central Bank, hereinafter referred to as 'Statute of the ESCB and of the ECB'";

(c) paragraph 5, renumbered 3, shall be replaced by the following:

"3. Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the ESCB may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure. They shall act either on a recommendation from the European Central Bank and after consulting the Commission or on a proposal from the Commission and after consulting the European Central Bank."

94) In Article 109, the words ", at the latest at the date of the establishment of the ESCB," shall be deleted.

95) In Article 110, the first four subparagraphs of paragraph 2 shall be deleted.

### **Measures relating to use of the euro**

96) In Article 111, paragraphs 1 to 3 and 5 shall become, respectively, paragraphs 1 to 4 of Article 188o; they shall be amended as set out below in point 174. The text of paragraph 4 shall become paragraph 1 of Article 115a; it shall be amended as set out below in point 100.

Article 111 shall be replaced by the following:

"Without prejudice to the powers of the European Central Bank, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the measures necessary for use of the euro as the single currency. Such measures shall be adopted after consultation of the European Central Bank."

### **Institutional provisions (EMU)**

97) Articles 112 and 113 shall become Articles 245b and 245c respectively; they shall be amended as set out below in points 228 and 229.

- 98) Article 114 shall be renumbered 112; it shall be amended as follows:
- (a) in paragraph 1, first subparagraph, the words "Monetary Committee with advisory status" shall be replaced by "Economic and Financial Committee";
  - (b) in paragraph 1, the second and third subparagraphs shall be deleted;
  - (c) in paragraph 2, the first subparagraph shall be deleted.
- 99) Article 115 shall be renumbered 113.

### **Provisions specific to Member States whose currency is the euro**

- 100) The following new Chapter 3a and new Articles 114, 115 and 115a shall be inserted:

#### "CHAPTER 3a

#### PROVISIONS SPECIFIC TO MEMBER STATES WHOSE CURRENCY IS THE EURO

#### Article 114

1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Treaties, the Council shall, in accordance with the relevant procedure from among those referred to in Articles 99 and 104, with the exception of the procedure set out in Article 104(14), adopt measures specific to those Member States whose currency is the euro:

- (a) to strengthen the coordination and surveillance of their budgetary discipline;
- (b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.

2. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 205(3)(a).

## Article 115

Arrangements for meetings between ministers of those Member States whose currency is the euro are laid down by the Protocol on the Euro Group.

## Article 115a

1. In order to secure the euro's place in the international monetary system, the Council, on a proposal from the Commission, shall adopt a decision establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

2. The Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

3. For the measures referred to in paragraphs 1 and 2, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 205(3)(a)."

## **Transitional provisions relating to Member States with a derogation**

**101)** Article 116 shall be replaced by the following:

### "Article 116

1. Member States in respect of which the Council has not decided that they fulfil the necessary conditions for the adoption of the euro shall hereinafter be referred to as "Member States with a derogation".

2. The following provisions of the Treaties shall not apply to Member States with a derogation:

(a) adoption of the parts of the broad economic policy guidelines which concern the euro area generally (Article 99(2));

- (b) coercive means of remedying excessive deficits (Article 104(9) and (11));
- (c) the objectives and tasks of the European System of Central Banks (Article 105(1), (2), (3) and (5));
- (d) issue of the euro (Article 106);
- (e) acts of the European Central Bank (Article 110);
- (f) measures governing the use of the euro (Article 111);
- (g) monetary agreements and other measures relating to exchange-rate policy (Article 188o);
- (h) appointment of members of the Executive Board of the European Central Bank (Article 245b(2));
- (i) decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences (Article 115a(1));
- (j) measures to ensure unified representation within the international financial institutions and conferences (Article 115a(2)).

In the Articles referred to in points (a) to (j), "Member States" shall therefore mean Member States whose currency is the euro.

3. Under Chapter IX of the Statute of the European System of Central Banks and of the European Central Bank, Member States with a derogation and their national central banks are excluded from rights and obligations within the European System of Central Banks.

4. The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in paragraph 2, and in the following instances:

- (a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings (Article 99(4));
- (b) measures relating to excessive deficits concerning those Member States whose currency is the euro (Article 104(6), (7), (8), (12) and (13)).

A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a)."

**102)** Article 117 shall be amended as follows:

- (a) paragraph 1 shall be replaced by Article 121(1), with the following amendments:
  - (i) at the beginning of the paragraph, the following shall be inserted: "At least once every two years, or at the request of a Member State with a derogation,";
  - (ii) throughout the paragraph, the words "the EMI" shall be replaced by "the European Central Bank";
  - (iii) in the first subparagraph, first sentence, the words "the progress made in the fulfilment by the Member States of their obligations" shall be replaced by "the progress made by the Member States with a derogation in fulfilling their obligations";
  - (iv) in the first subparagraph, second sentence, the words "each Member State's national legislation" shall be replaced by "the national legislation of each of these Member States" and the words "of this Treaty" shall be deleted;
  - (v) in the third indent, the words "against the currency of any other Member State" shall be replaced by "against the euro,";
  - (vi) in the fourth indent, the words "the Member State" shall be replaced by "the Member State with a derogation" and the words "of the European Monetary System" shall be deleted;
  - (vii) in the second subparagraph, the words "the development of the ecu" shall be deleted;
- (b) paragraph 2 shall be amended as follows:
  - (i) the first five indents shall become the first five indents of the second paragraph of Article 118; they shall be amended as set out below in point 103. The sixth indent shall be repealed;



- (ii) Article 117(2) shall be replaced by the second sentence of Article 122(2); at the end of the first subparagraph, the words "laid down in Article 121(1)" shall be replaced by "laid down in paragraph 1" and the following new second and third subparagraphs shall be added:

"The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.

The qualified majority of the said members, as referred to in the second subparagraph, shall be defined in accordance with Article 205(3)(a).";

- (c) paragraph 3 shall be replaced by Article 123(5); it shall be amended as follows:
  - (i) at the beginning of the paragraph, the words "If it is decided, according to the procedure set out in Article 122(2), to abrogate a derogation," shall be replaced by "If it is decided, in accordance with the procedure set out in paragraph 2, to abrogate a derogation,";
  - (ii) the words "adopt the rate" shall be replaced by "irrevocably fix the rate";
- (d) paragraphs 4 to 9 shall be repealed.

**103)** Article 118 shall be amended as follows:

- (a) the first subparagraph shall be numbered paragraph 1 and shall be replaced by the text of Article 123(3); the words "of this Treaty" shall be deleted;
- (b) the second subparagraph shall be numbered paragraph 2 and shall be replaced by the first five indents of Article 117(2); the five indents shall be amended as set out below and shall be preceded by the following introductory words:

"If and as long as there are Member States with a derogation, the European Central Bank shall, as regards those Member States:"

- (i) in the third indent, the words "European Monetary System" shall be replaced by "exchange-rate mechanism";
- (ii) the fifth indent shall be replaced by the following: "carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute."

**104)** An Article 118a shall be inserted, with the wording of Article 124(1); it shall be amended as follows:

- (a) the words "Until the beginning of the third stage, each Member State shall treat" shall be replaced by "Each Member State with a derogation shall treat";
- (b) the words "of the European Monetary System (EMS) and in developing the ecu, and shall respect existing powers in this field" shall be replaced by "of the exchange-rate mechanism."

**105)** Article 119 shall be amended as follows:

- (a) in paragraph 1, the words "with a derogation" shall be inserted after "Member State" in the first and second subparagraphs and the word "progressive" in the first subparagraph shall be deleted;
- (b) in paragraph 2(a), the words "with a derogation" shall be inserted after "Member States" and in paragraph 2(b), the words "the State which is in difficulties" shall be replaced by "the Member State with a derogation which is in difficulties,";
- (c) in paragraph 3, the words "the Commission shall authorise the State which is in difficulties" shall be replaced by "the Commission shall authorise the Member State with a derogation, which is in difficulties,";
- (d) paragraph 4 shall be deleted.

**106)** Article 120 shall be amended as follows:

- (a) in paragraph 1, the words "the Member State concerned" shall be replaced by "a Member State with a derogation";
- (b) in paragraph 3, the words "an opinion" shall be replaced by "a recommendation" and the word "Member" shall be inserted before "State";
- (c) paragraph 4 shall be deleted.

**107)** Article 121(1) shall become Article 117(1); it shall be amended as set out above in point 102. The rest of Article 121 shall be repealed.

- 108)** In Article 122(2), the second sentence shall become the first subparagraph of Article 117(2); it shall be amended as set out above in point 102. The rest of Article 122 shall be repealed.
- 109)** Article 123(3) shall become Article 118(1) and Article 123(5) shall become Article 117(3); they shall be amended as set out above in points 103 and 102 respectively. The rest of Article 123 shall be repealed.
- 110)** Article 124(1) shall become the new Article 118a; it shall be amended as set out above in point 104. The rest of Article 124 shall be repealed.

## **Employment**

- 111)** In Article 125, the words "and in Article 2 of this Treaty" shall be deleted.

## **Titles which have been moved**

- 112)** Title IX "COMMON COMMERCIAL POLICY" shall become Title II in Part Five on the Union's external action and Articles 131 and 133 shall become Articles 188b and 188c respectively. Article 131 shall be amended as set out below in point 157 and Article 133 shall be replaced by Article 188c.

Articles 132 and 134 shall be repealed.

- 113)** Title X "CUSTOMS COOPERATION" shall become Chapter 1a in Title Ia, "Free movement of goods" and Article 135 shall become Article 27a, as set out above in point 45.

## **Social policy**

- 114)** The heading of Title XI "SOCIAL POLICY, EDUCATION, VOCATIONAL TRAINING AND YOUTH" shall be replaced by the heading "SOCIAL POLICY", renumbered IX; the heading "Chapter 1 – Social provisions" shall be deleted.

**115)** The following new Article 136a shall be inserted:

"Article 136a

The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.

The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue."

**116)** Article 137 shall be amended as follows:

- (a) in paragraph 2, in the introductory words of the first subparagraph, the words "the Council:" shall be replaced by "the European Parliament and the Council:" and the first sentence of the second subparagraph shall be split into two subparagraphs which shall read as follows:

"The European Parliament and the Council shall act in accordance with the ordinary legislative procedure after consulting the Economic and Social Committee and the Committee of the Regions.

In the fields referred to in paragraph 1(c), (d), (f) and (g) of this Article, the Council shall act unanimously, in accordance with a special legislative procedure, after consulting the European Parliament and the said Committees."

The second sentence of the second subparagraph shall become the last subparagraph;

- (b) in paragraph 3, at the end of the first subparagraph, the following words shall be added "or, where appropriate, with the implementation of a Council decision adopted in accordance with Article 139"; in the second subparagraph, the words "a directive must be transposed in accordance with Article 249" shall be replaced by "a directive or a decision must be transposed or implemented," and the words "or that decision" shall be added at the end of the subparagraph.

**117)** In Article 138(4), first sentence, the words "On the occasion of such consultation," shall be replaced by "On the occasion of the consultation referred to in paragraphs 2 and 3," and, in the second sentence, the words "the procedure" shall be replaced by "this process".

**118)** Article 139(2) shall be amended as follows:

- (a) at the end of the first subparagraph, the following sentence shall be added: "The European Parliament shall be informed.";
- (b) in the second subparagraph, at the beginning of the first sentence, "The Council shall act by qualified majority, except where the agreement" shall be replaced by "The Council shall act unanimously where the agreement" and the second sentence shall be deleted.

**119)** In Article 140, the following words shall be added at the end of the second subparagraph: ", in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed."

**120)** In Article 143, the second paragraph shall be deleted.

## **European Social Fund**

**121)** Chapter 2 shall be renumbered TITLE X.

**122)** In Article 148, the words "implementing decisions" shall be replaced by "implementing regulations".

## **Education, vocational training, youth and sport**

**123)** Chapter 3 shall be renumbered TITLE XI and the words "AND YOUTH" at the end of the heading shall be replaced by ", YOUTH AND SPORT".

**124)** Article 149 shall be amended as follows:

- (a) in paragraph 1, the following subparagraph shall be inserted:

"The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.";

- (b) in paragraph 2, fifth indent, the words "and encouraging the participation of young people in democratic life in Europe" shall be added at the end; the following shall be inserted as the last indent:

"- developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially the youngest sportsmen and sportswomen.";

- (c) in paragraph 3, the words "and sport" shall be added after "in the field of education";
- (d) in paragraph 4, the words "the Council" shall be deleted from the introductory phrase and the first indent shall begin with the words "the European Parliament and the Council, acting"; the second indent shall begin with the words "the Council, on a proposal".

**125)** In Article 150(4), the following words shall be added at the end: "and the Council, on a proposal from the Commission, shall adopt recommendations".

## **Culture**

**126)** Article 151(5) shall be amended as follows:

- (a) in the introductory phrase, the words "the Council" shall be deleted;
- (b) the first sentence of the first indent shall begin with the words "the European Parliament and the Council, acting", and the second sentence of the first indent shall be deleted;
- (c) in the second indent, the words "acting unanimously" shall be deleted and the indent shall begin with the words "the Council, on a proposal".

## **Public Health**

127) Article 152 shall be amended as follows:

- (a) in paragraph 1, second subparagraph, the word "human" shall be replaced by "physical and mental" and, at the end of that subparagraph, the following shall be added: ", and monitoring, early warning of and combating serious cross-border threats to health";
- (b) in paragraph 2, at the end of the first subparagraph, the following sentence shall be added: "It shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.";
- (c) In paragraph 2, the following shall be added at the end of the second subparagraph: ", in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.";
- (d) paragraph 4 shall be amended as follows:
  - (i) in the introductory wording, the following words shall be inserted at the beginning: "By way of derogation from Article 2(5) and Article 6(a) and in accordance with Article 4(2)(k)" and the following shall be added at the end: "in order to meet common safety concerns:";
  - (ii) in point (b), the words "by way of derogation from Article 37," shall be deleted;
  - (iii) the following new point (c) shall be inserted:
    - "(c) measures setting high standards of quality and safety for medicinal products and devices for medical use.";

- (iv) the current point (c) shall be renumbered paragraph 5 and replaced by the following:

"5. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Committee of the Regions and the Economic and Social Committee, may also adopt incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, measures concerning monitoring, early warning of and combating serious cross-border threats to health, and measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States.";

- (e) the last subparagraph of the current paragraph 4 shall become paragraph 6 and paragraph 5, renumbered 7, shall be replaced by the following:

"7. Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care. The responsibilities of the Member States shall include the management of health services and medical care and the allocation of the resources assigned to them. The measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.".

## **Consumer protection**

- 128)** Article 153(2) shall become Article 12; paragraph 2 shall be deleted and paragraphs 3, 4 and 5 shall be renumbered 2, 3 and 4 respectively.



## **Industry**

**129)** Article 157 shall be amended as follows:

- (a) at the end of paragraph 2, the following words shall be added: ", in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.";
- (b) in paragraph 3, first subparagraph, the following phrase shall be added at the end of the second sentence: ", excluding any harmonisation of the laws and regulations of the Member States".

## **Economic, social and territorial cohesion**

**130)** The heading of Title XVII shall be replaced by: "ECONOMIC, SOCIAL AND TERRITORIAL COHESION".

**131)** Article 158 shall be amended as follows:

- (a) in the first paragraph, the words "economic and social cohesion" shall be replaced by "economic, social and territorial cohesion";
- (b) in the second paragraph, the words "or islands, including rural areas" shall be deleted;
- (c) the following new paragraph shall be added: "Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.".

**132)** In Article 159, second paragraph, the words "economic and social" shall be replaced by "economic, social and territorial".

**133)** Article 161 shall be amended as follows:

- (a) at the beginning of the first paragraph, first sentence, the words "Without prejudice to Article 162, the Council, acting unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament" shall be replaced by "Without prejudice to Article 162, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure" and in the second sentence the words "The Council, acting by the same procedure, shall also define" shall be deleted at the beginning and the words "shall also be defined by the same procedure" added at the end;
- (b) in the second paragraph the words "by the Council " shall be deleted;
- (c) the third paragraph shall be deleted.

**134)** In Article 162, first paragraph, the words "implementing decisions" shall be replaced by "implementing regulations".

## **Research and technological development**

**135)** The words "AND SPACE" shall be added to the heading of Title XVIII.

**136)** Article 163 shall be amended as follows:

- (a) paragraph 1 shall be replaced by the following:

"1. The Union shall have the objective of strengthening its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encouraging it to become more competitive, including in its industry, while promoting all the research activities deemed necessary by virtue of other Chapters of the Treaties.";

- (b) in paragraph 2, the words "enabling undertakings to exploit the internal market potential to the full," shall be replaced by "permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential,".

- 137)** The following words shall be added at the end of Article 165(2): ", in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed."
- 138)** In Article 166, the following new paragraph 5 shall be added:
- "5. As a complement to the activities planned in the multiannual framework programme, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the measures necessary for the implementation of the European research area."
- 139)** In Article 167, the words "the Council" shall be replaced by "the Union".
- 140)** In Article 168, second paragraph, the words "the Council" shall be replaced by "the Union".
- 141)** In Article 170, the last phrase ", which shall be negotiated and concluded in accordance with Article 300" shall be deleted.

## **Space**

- 142)** The following new Article 172a shall be inserted:

### "Article 172a

1. To promote scientific and technical progress, industrial competitiveness and the implementation of its policies, the Union shall draw up a European space policy. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space.
2. To contribute to attaining the objectives referred to in paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures, which may take the form of a European space programme, excluding any harmonisation of the laws and regulations of the Member States.

3. The Union shall establish any appropriate relations with the European Space Agency.
4. This Article shall be without prejudice to the other provisions of this Title."

### **Environment (climate change)**

**143)** Article 174 shall be amended as follows:

- (a) in paragraph 1, the fourth indent shall be replaced by the following:

"- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.";
- (b) in paragraph 2, second subparagraph, the words "Community inspection procedure" shall be replaced by "a procedure of inspection by the Union";
- (c) in paragraph 4, first subparagraph, the last phrase ", which shall be negotiated and concluded in accordance with Article 300" shall be deleted.

**144)** Article 175 shall be amended as follows:

- (a) in paragraph 2, the second subparagraph shall be replaced by the following:

"The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, may make the ordinary legislative procedure applicable to the matters referred to in the first subparagraph.";
- (b) in the first subparagraph of paragraph 3, the words "In other areas," shall be deleted and the second subparagraph shall be replaced by the following:

"The measures necessary for the implementation of these programmes shall be adopted under the terms of paragraph 1 or 2, as the case may be.";
- (c) in paragraph 4, the words "certain measures of a Community nature," shall be replaced by "certain measures adopted by the Union";

- (d) in paragraph 5, the words "the Council shall, in the act adopting that measure, lay down" shall be replaced by "such measure shall lay down".

### **Titles which have been moved**

- 145)** Title XX "DEVELOPMENT COOPERATION" shall become Chapter I of Title III of Part Five on the Union's external action, and Articles 177 and 179 to 181 shall become Articles 188d to 188g respectively; those articles shall be amended as set out below in points 161 to 164. Article 178 shall be repealed.
- 146)** Title XXI "ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES" shall become Chapter 2 of Title III of Part Five on the Union's external action and Article 181a shall become the new Article 188h; that Article shall be amended as set out below in point 166.

### **Energy**

- 147)** Title XX shall be replaced by the following new Title and new Article 176a:

"TITLE XX  
ENERGY

Article 176a

1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to:
- (a) ensure the functioning of the energy market;
  - (b) ensure security of energy supply in the Union; and
  - (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and
  - (d) promote the interconnection of energy networks.

2. Without prejudice to the application of other provisions of the Treaties, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to achieve the objectives in paragraph 1. Such measures shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article 175(2)(c).

3. By way of derogation from paragraph 2, the Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament, establish the measures referred to therein when they are primarily of a fiscal nature."

## **Tourism**

**148)** Title XXI shall be replaced by the following new Title and new Article 176b:

"TITLE XXI  
TOURISM

Article 176b

1. The Union shall complement the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector.

To that end, Union action shall be aimed at:

- (a) encouraging the creation of a favourable environment for the development of undertakings in this sector;
- (b) promoting cooperation between the Member States, particularly by the exchange of good practice.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish specific measures to complement actions within the Member States to achieve the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States."

## **Civil protection**

149) The following new Title XXII and new Article 176c shall be inserted:

### "TITLE XXII CIVIL PROTECTION

#### Article 176c

1. The Union shall encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters.

Union action shall aim to:

- (a) support and complement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or man-made disasters within the Union;
- (b) promote swift, effective operational cooperation within the Union between national civil-protection services;
- (c) promote consistency in international civil-protection work.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to help achieve the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States."

## **Administrative cooperation**

**150)** The following new Title XXIII and new Article 176d shall be inserted:

"TITLE XXIII  
ADMINISTRATIVE COOPERATION

Article 176d

1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.
2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.
3. This Article shall be without prejudice to the obligations of the Member States to implement Union law or to the prerogatives and duties of the Commission. It shall also be without prejudice to other provisions of the Treaties providing for administrative cooperation among the Member States and between them and the Union."

## **Association of the overseas countries and territories**

- 151)** At the end of Article 182, first paragraph, the words "to this Treaty" shall be deleted.
- 152)** At the end of Article 186, the words "shall be governed by agreements to be concluded subsequently with the unanimous approval of Member States" shall be replaced by "shall be regulated by acts adopted in accordance with Article 187".
- 153)** In Article 187, the words "acting unanimously" shall be replaced by "acting unanimously on a proposal from the Commission" and the following sentence shall be added at the end of the Article: "Where the provisions in question are adopted by the Council in accordance with a special legislative procedure, it shall act unanimously on a proposal from the Commission and after consulting the European Parliament."



## **External action by the Union**

**154)** A new Part Five shall be inserted. Its heading shall be "EXTERNAL ACTION BY THE UNION" and it shall contain the following Titles and Chapters:

- Title I: General provisions on the Union's external action
- Title II: Common commercial policy
- Title III: Cooperation with third countries and humanitarian aid
  - Chapter 1: Development cooperation
  - Chapter 2: Economic, financial and technical cooperation with third countries
  - Chapter 3: Humanitarian aid
- Title IV: Restrictive measures
- Title V: International agreements
- Title VI: The Union's relations with international organisations and third countries and Union delegations
- Title VII: Solidarity clause.

## **General provisions**

**155)** The following new Title I and new Article 188a shall be inserted:

"TITLE I  
GENERAL PROVISIONS ON  
THE UNION'S EXTERNAL ACTION

Article 188a

The Union's action on the international scene, pursuant to this Part, shall be guided by the principles, pursue the objectives and be conducted in accordance with the general provisions laid down in Chapter 1 of Title V of the Treaty on European Union."

## **Common commercial policy**

**156)** A Title II "COMMON COMMERCIAL POLICY" shall be inserted, taking over the heading of Title IX of Part 3.

**157)** An Article 188b shall be inserted, with the wording of Article 131; it shall be amended as follows:

(a) the first paragraph shall be replaced by the following:

"By establishing a customs union in accordance with Articles 23 to 27, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.";

(b) the second paragraph shall be deleted.

**158)** An Article 188c shall be inserted, replacing Article 133:

"Article 188c

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

2. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall adopt the measures defining the framework for implementing the common commercial policy.

3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article 188n shall apply, subject to the special provisions of this Article.

The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by a qualified majority.

For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

The Council shall also act unanimously for the negotiation and conclusion of agreements:

- (a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity;
- (b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to Section 7 of Chapter III of Title III and to Article 188n.

6. The exercise of the competences conferred by this Article in the field of the common commercial policy shall not affect the delimitation of competences between the Union and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of the Member States insofar as the Treaties exclude such harmonisation."

## **Development cooperation**

**159)** A Title III "COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID" shall be inserted.

**160)** A Chapter 1 "DEVELOPMENT COOPERATION" shall be inserted, taking over the heading of Title XX of Part 3.

**161)** An Article 188d shall be inserted, with the wording of Article 177; it shall be amended as follows:

(a) paragraphs 1 and 2 shall be replaced by the following:

"1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States complement and reinforce each other.

Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.";

(b) Paragraph 3 shall be renumbered "2".

**162)** An Article 188e shall be inserted, with the wording of Article 179; it shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

"1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.";

(b) the following new paragraph 2 shall be inserted:

"2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Article 10a of the Treaty on European Union and Article 188d of this Treaty.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.";

(c) the current paragraph 2 shall be renumbered "3" and the current paragraph 3 shall be deleted.

**163)** An Article 188f shall be inserted, with the wording of Article 180; it shall be amended as follows:

At the beginning of paragraph 1, the following words shall be inserted: "In order to promote the complementarity and efficiency of their action, the Union".

**164)** An Article 188g shall be inserted, with the wording of Article 181; the second sentence of the first paragraph and the second paragraph shall be deleted.

### **Economic, financial and technical cooperation with third countries**

**165)** A Chapter 2 "ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES" shall be inserted, taking over the heading of Title XXI of Part 3.

**166)** An Article 188h shall be inserted, with the wording of Article 181a; it shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

"1. Without prejudice to the other provisions of the Treaties, and in particular Articles 188d to 188g, the Union shall carry out economic, financial and technical cooperation measures, including assistance, in particular financial assistance, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The Union's operations and those of the Member States shall complement and reinforce each other.";

(b) paragraph 2 shall be replaced by the following:

"The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of paragraph 1.";

(c) at the end of the second sentence of the first subparagraph of paragraph 3, the words ", which shall be negotiated and concluded in accordance with Article 300" shall be deleted.

**167)** The following new Article 188i shall be inserted:

"Article 188i

When the situation in a third country requires urgent financial assistance from the Union, the Council shall adopt the necessary decisions on a proposal from the Commission."

## **Humanitarian aid**

168) The following new Chapter 3 and new Article 188j shall be inserted:

### "CHAPTER 3 HUMANITARIAN AID

#### Article 188j

1. The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union. Such operations shall be intended to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations. The Union's measures and those of the Member States shall complement and reinforce each other.

2. Humanitarian aid operations shall be conducted in compliance with the principles of international law and with the principles of impartiality, neutrality and non-discrimination.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures defining the framework within which the Union's humanitarian aid operations shall be implemented.

4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in paragraph 1 and in Article 10a of the Treaty on European Union.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.

5. In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall determine the rules and procedures for the operation of the Corps.

6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures.

7. The Union shall ensure that its humanitarian aid operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations system."

## **Restrictive measures**

**169)** The following Title IV and Article 188k shall be inserted, replacing Article 301:

### "TITLE IV RESTRICTIVE MEASURES

#### Article 188k

1. Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European Parliament thereof.
2. Where a decision adopted in accordance with Chapter 2 of Title V of the Treaty on European Union so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.
3. The acts referred to in this Article shall include necessary provisions on legal safeguards."

## **International agreements**

**170)** A Title V "INTERNATIONAL AGREEMENTS" shall be inserted.

**171)** The following Article 188 shall be inserted:

#### "Article 188l

1. The Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.
2. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States."

172) An Article 188m shall be inserted, with the wording of Article 310. The word "States" shall be replaced by "third countries".

173) An Article 188n shall be inserted, replacing Article 300:

"Article 188n

1. Without prejudice to the specific provisions laid down in Article 188c, agreements between the Union and third countries or international organisations shall be negotiated and concluded in accordance with the following procedure.

2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.

3. The Commission, or the High Representative of the Union for Foreign Affairs and Security Policy where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall submit recommendations to the Council, which shall adopt a decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or head of the Union's negotiating team.

4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

5. The Council, on a proposal by the negotiator, shall adopt a decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force.

6. The Council, on a proposal by the negotiator, shall adopt a decision concluding the agreement.

Except where agreements relate exclusively to the common foreign and security policy, the Council shall adopt the decision concluding the agreement:

(a) after obtaining the consent of the European Parliament in the following cases:

(i) association agreements;

(ii) agreement on Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;

(iii) agreements establishing a specific institutional framework by organising cooperation procedures;



- (iv) agreements with important budgetary implications for the Union;
- (v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required.

The European Parliament and the Council may, in an urgent situation, agree upon a time-limit for consent.

- (b) after consulting the European Parliament in other cases. The European Parliament shall deliver its opinion within a time-limit which the Council may set depending on the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

7. When concluding an agreement, the Council may, by way of derogation from paragraphs 5, 6 and 9, authorise the negotiator to approve on the Union's behalf modifications to the agreement where it provides for them to be adopted by a simplified procedure or by a body set up by the agreement. The Council may attach specific conditions to such authorisation.

8. The Council shall act by a qualified majority throughout the procedure.

However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements and the agreements referred to in Article 188h with the States which are candidates for accession. The Council shall also act unanimously for the agreement on accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms; the decision concluding this agreement shall enter into force after it has been approved by the Member States in accordance with their respective constitutional requirements.

9. The Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a decision suspending application of an agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.

10. The European Parliament shall be immediately and fully informed at all stages of the procedure.

11. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the Treaties. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless it is amended or the Treaties are revised."

**174)** An Article 188o shall be inserted, with the wording of paragraphs 1 to 3 and 5 of Article 111 and paragraph 1 shall be split into two subparagraphs, the last two sentences becoming the second subparagraph; the Article shall be amended as follows:

(a) paragraph 1, first subparagraph, shall be replaced by the following:

"By way of derogation from Article 188n, the Council, either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may conclude formal agreements on an exchange-rate system for the euro in relation to the currencies of third States. The Council shall act unanimously after consulting the European Parliament and in accordance with the procedure provided for in paragraph 3."

In the second subparagraph, the words "on a recommendation from the ECB or from the Commission and after consulting the ECB in an endeavour to" shall be replaced by the following: "either on a recommendation from the European Central Bank or on a recommendation from the Commission, and after consulting the European Central Bank, in an endeavour to";

(b) in paragraph 2, the words "non-Community currencies" shall be replaced by "currencies of third States";

(c) in paragraph 3, in the first sentence of the first subparagraph the word "States" shall be replaced by "third States", and the second subparagraph shall be deleted;

(d) paragraph 5 shall be renumbered "4".

## **The Union's relations with international organisations and third countries and Union delegations**

**175)** The following Title VI and Articles 188p and 188q shall be inserted, with Article 188p replacing Articles 302 to 304:

### "TITLE VI

#### THE UNION'S RELATIONS WITH INTERNATIONAL ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS

##### Article 188p

1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.

The Union shall also maintain such relations as are appropriate with other international organisations.

2. The High Representative of the Union for Foreign Affairs and Security Policy and the Commission shall be instructed to implement this Article.

#### Article 188q

1. Union delegations in third countries and at international organisations shall represent the Union.
2. Union delegations shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy. They shall act in close cooperation with Member States' diplomatic and consular missions."

### **Solidarity clause**

176) The following new Title VII and new Article 188r shall be inserted:

#### "TITLE VII SOLIDARITY CLAUSE

##### Article 188r

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:
  - (a) - prevent the terrorist threat in the territory of the Member States;  
- protect democratic institutions and the civilian population from any terrorist attack;  
- assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;
  - (b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.
2. Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

3. The arrangements for the implementation by the Union of the solidarity clause shall be defined by a decision adopted by the Council acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy. The Council shall act in accordance with Article 17(1) of the Treaty on European Union where this decision has defence implications. The European Parliament shall be informed.

For the purposes of this paragraph and without prejudice to Article 207, the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article 65; the two committees shall, if necessary, submit joint opinions.

4. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action."

### **Institutional and budgetary provisions**

177) Part Five shall be renumbered "Part Six" and its heading shall be replaced by "INSTITUTIONAL AND BUDGETARY PROVISIONS".

### **European Parliament**

178) Article 189 shall be repealed.

179) Article 190 shall be amended as follows:

- (a) paragraphs 1, 2 and 3 shall be deleted and paragraphs 4 and 5 shall be renumbered 1 and 2 respectively;
- (b) paragraph 4, renumbered 1, shall be amended as follows:
  - (i) in the first subparagraph, the words "for elections by direct universal suffrage" shall be replaced by the following: "to lay down the provisions necessary for the election of its members by direct universal suffrage";

(ii) the second subparagraph shall be replaced by the following:

"The Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, which shall act by a majority of its component members, shall lay down the necessary provisions. These provisions shall enter into force following their approval by the Member States in accordance with their respective constitutional requirements.";

(c) in paragraph 5, renumbered 2, the words ", acting by means of regulations on its own initiative in accordance with a special legislative procedure" shall be inserted after "The European Parliament".

**180)** In Article 191, the first paragraph shall be deleted; in the second paragraph, the words "acting in accordance" shall be replaced by "acting by means of regulations in accordance" and the words "referred to in Article 8a(4) of the Treaty on European Union" shall be inserted after "at European level".

**181)** In Article 192, the first paragraph shall be deleted; in the second paragraph, the words "of its Members" shall be replaced by "of its component members" and the following sentence shall be added at the end of the paragraph: "If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons".

**182)** Article 193 shall be amended as follows:

(a) in the first paragraph, the words "of its Members" shall be replaced by "of its component Members";

(b) the third paragraph shall be replaced by the following:

"The detailed provisions governing the exercise of the right of inquiry shall be determined by the European Parliament, acting by means of regulations on its own initiative in accordance with a special legislative procedure, after obtaining the consent of the Council and the Commission.".

**183)** Article 195 shall be amended as follows:

(a) in the first subparagraph of paragraph 1, the words at the beginning "The European Parliament shall appoint an Ombudsman, empowered to receive complaints" shall be replaced by "A European Ombudsman, elected by the European Parliament, shall be empowered to receive complaints"; in the last part of the sentence, the words "and the Court of First Instance acting in their judicial role" shall be replaced by: "acting in its judicial role" and the following final sentence shall be added: "He or she shall examine such complaints and report on them.";

- (b) in the first subparagraph of paragraph 2, the word "appointed" shall be replaced by "elected";
- (c) in paragraph 3, the words "from any body" shall be replaced by "from any institution, body, office or agency";
- (d) in paragraph 4, the words "acting by means of regulations on its own initiative in accordance with a special legislative procedure" shall be inserted after "The European Parliament ...".

**184)** In the second paragraph of Article 196, the words "in extraordinary session" shall be replaced by "in extraordinary part-session" and the words "of its Members" shall be replaced by "of its component members".

**185)** Article 197 shall be amended as follows:

- (a) the first paragraph shall be deleted;
- (b) the second paragraph shall be replaced by the following: "The Commission may attend all the meetings and shall, at its request, be heard.";
- (c) the fourth paragraph shall be replaced by the following: "The European Council and the Council shall be heard by the European Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council and those of the Council."

**186)** In the first paragraph of Article 198, the word "absolute" shall be deleted.

**187)** In the second paragraph of Article 199, the words "... manner laid down in its Rules of Procedure" shall be replaced by "manner laid down in the Treaties and in its Rules of Procedure".

**188)** In Article 201, the second paragraph shall be replaced by the following:

"If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the component members of the European Parliament, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from duties that he or she carries out in the Commission. They shall remain in office and continue to deal with current business until they are replaced in accordance with Article 9d of the Treaty on European Union. In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired."

## **European Council**

**189)** The following new Section 1a and new Articles 201a and 201b shall be inserted:

### "SECTION 1a THE EUROPEAN COUNCIL

#### Article 201a

1. Where a vote is taken, any member of the European Council may also act on behalf of not more than one other member.

Paragraph 4 of Article 9c of the Treaty on European Union and paragraph 2 of Article 205 of this Treaty shall apply to the European Council when it is acting by a qualified majority. Where the European Council decides by vote, its President and the President of the Commission shall not take part in the vote.

Abstentions by members present in person or represented shall not prevent the adoption by the European Council of acts which require unanimity.

2. The President of the European Parliament may be invited to be heard by the European Council.

3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.

4. The European Council shall be assisted by the General Secretariat of the Council.

#### Article 201b

The European Council shall adopt by a qualified majority:

- (a) a decision establishing the list of Council configurations other than those referred to in second and third subparagraphs of Article 9c(6) of the Treaty on European Union;
- (b) a decision on the Presidency of Council configurations, other than that of Foreign Affairs, in accordance with Article 9c(9) of the Treaty on European Union."

## **Council**

**190)** Articles 202 and 203 shall be repealed.

**191)** Article 205 shall be amended as follows:

(a) paragraphs 1 and 2 shall be replaced by the following:

"1. Where it is required to act by a simple majority, the Council shall act by a majority of its component members.

2. By way of derogation from paragraph 4 of Article 9c of the Treaty on European Union, as from 1 November 2014 and subject to the provisions laid down in the Protocol on transitional provisions, where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council, representing Member States comprising at least 65 % of the population of the Union.

3. As from 1 November 2014 and subject to the provisions laid down in the Protocol on transitional provisions, in cases where not all the members of the Council participate in voting, a qualified majority shall be defined as follows:

(a) A qualified majority shall be defined as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained;

(b) By way of derogation from point (a), where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States."

(b) paragraph 4 shall be deleted and paragraph 3 shall be renumbered 4.



**192)** Article 207 shall be replaced by the following:

"Article 207

1. A committee consisting of the Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the latter. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.

2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council.

The Council shall decide on the organisation of the General Secretariat by a simple majority.

3. The Council shall act by a simple majority regarding procedural matters and for the adoption of its Rules of Procedure."

**193)** In Article 208, the following sentence shall be added at the end of the Article: "If the Commission does not submit a proposal, it shall inform the Council of the reasons."

**194)** In Article 209, the words "receiving an opinion from" shall be replaced by "consulting".

**195)** Article 210 shall be replaced by the following:

"The Council shall determine the salaries, allowances and pensions of the President of the European Council, the President of the Commission, the High Representative of the Union for Foreign Affairs and Security Policy, the members of the Commission, the Presidents, members and Registrars of the Court of Justice of the European Union, and the Secretary-General of the Council. It shall also determine any payment to be made instead of remuneration."

## **Commission**

**196)** Article 211 shall be replaced by the following:

"In accordance with Article 9d(5) of the Treaty on European Union, the members of the Commission shall be chosen on the basis of a system of rotation established unanimously by the European Council and on the basis of the following principles:

- (a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;
- (b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States."

**197)** Article 212 shall become a new paragraph 2 of Article 218.

**198)** In Article 213, paragraph 1 shall be deleted and paragraph 2 shall not be numbered; its first two paragraphs shall be merged and shall read as follows:

"The Members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks."

**199)** Article 214 shall be repealed.

**200)** Article 215 shall be amended as follows:

- (a) the second paragraph shall be replaced by the following two paragraphs:

"A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the member's term of office by a new member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in the second subparagraph of Article 9d(3) of the Treaty on European Union.

The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not be filled, in particular when the remainder of the member's term of office is short.";

(b) the following new fifth paragraph shall be inserted:

"In the event of resignation, compulsory retirement or death, the High Representative of the Union for Foreign Affairs and Security Policy shall be replaced, for the remainder of his or her term of office, in accordance with Article 9e(1) of the Treaty on European Union";

(c) the last paragraph shall be replaced by the following:

"In the case of the resignation of all the members of the Commission, they shall remain in office and continue to deal with current business until they have been replaced, for the remainder of their term of office, in accordance with Article 9d of the Treaty on European Union.".

**201)** In Article 217, paragraphs 1, 3 and 4 shall be deleted and paragraph 2 shall not be numbered. Its first sentence shall be replaced by the following: "Without prejudice to Article 9e(4) of the Treaty on European Union, the responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President, in accordance with Article 9d(6) of that Treaty".

**202)** In Article 218, paragraph 1 shall be deleted; paragraph 2 shall be renumbered 1 and the words "in accordance with the provisions of this Treaty" shall be deleted. A paragraph 2 shall be inserted, with the wording of Article 212.

**203)** In Article 219, first paragraph, the words "of the number of Members provided for in Article 213" shall be replaced by "of its members" and the second paragraph shall be replaced by "Its Rules of Procedure shall determine the quorum.".

## **Court of Justice**

- 204)** In the heading of Section 4, the words "OF THE EUROPEAN UNION" shall be added.
- 205)** Article 220 shall be repealed.
- 206)** In Article 221, the first paragraph shall be deleted.
- 207)** In Article 223, the words ", after consultation of the panel provided for in Article 224a" shall be added at the end of the first paragraph.
- 208)** In Article 224, first paragraph, the first sentence shall be deleted and the words "of the Court" shall be inserted after "The number of Judges". In the second paragraph, the words ", after consultation of the panel provided for in Article 224a" shall be inserted at the end of the second sentence.
- 209)** The following new Article 224a shall be inserted:

### "Article 224a

A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles 223 and 224.

The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament. The Council shall adopt a decision establishing the panel's operating rules and a decision appointing its members. It shall act on the initiative of the President of the Court of Justice."

- 210)** In Article 225, paragraph 1, first subparagraph, first sentence, the words "assigned to a judicial panel and those" shall be replaced by "assigned to a specialised court set up under Article 225a and those" and in paragraph 2, first subparagraph, the words "set up under Article 225a" shall be deleted.

**211)** Article 225a shall be amended as follows:

- (a) the first paragraph shall be replaced by the following text: "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish specialised courts attached to the General Court to hear and determine at first instance certain classes of action or proceeding brought in specific areas. The European Parliament and the Council shall act by means of regulations either on a proposal from the Commission after consultation of the Court of Justice or at the request of the Court of Justice after consultation of the Commission.";
- (b) in the second paragraph, the words "the decision" shall be replaced by "the regulation" and the words "the panel" shall be replaced by "the court";
- (c) in the third paragraph, the words "the panel" shall be replaced by "the specialised court";
- (d) in the sixth paragraph, the words "the decision" shall be replaced by "the regulation" and the following sentence shall be added at the end: "Title I of the Statute and Article 64 thereof shall in any case apply to the specialised courts."

**212)** Article 228 shall be amended as follows:

- (a) in paragraph 2, the first and second subparagraphs shall be replaced by the following wording, which shall become the first subparagraph:

"If the Commission considers that the Member State concerned has not taken the necessary measures to comply with judgment of the Court, it may bring the case before the Court of Justice of the European Union after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances."

In the third subparagraph, which shall become the second, the words "of Justice" shall be deleted after "Court";

- (b) the following new paragraph 3 shall be added:

"3. When the Commission brings a case before the Court of Justice of the European Union pursuant to Article 226 on the grounds that the Member State concerned has failed to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure, it may, when it deems appropriate, specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that there is an infringement it may impose a lump sum or penalty payment on the Member State concerned not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment."

**213)** In Article 229a, the words "the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament," shall be replaced by "the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament," and the words "Community industrial property rights" shall be replaced by "European intellectual property rights". The last sentence shall be replaced by the following: "These provisions shall enter into force after their approval by the Member States in accordance with their respective constitutional requirements."

**214)** Article 230 shall be amended as follows:

(a) in the first paragraph, the words "acts adopted jointly by the European Parliament and the Council," shall be replaced by "legislative acts," the words "and of the European Council" shall be inserted after "European Parliament" and the following sentence shall be added at the end: "It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects vis-à-vis third parties.";

(b) in the third paragraph, the words "by the Court of Auditors and by the ECB for the purpose of protecting their prerogatives" shall be replaced by "by the Court of Auditors, by the European Central Bank and by the Committee of the Regions for the purpose of protecting their prerogatives";

(c) the fourth paragraph shall be replaced by the following:

"Any natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that person or which is of direct and individual concern to him or her, and against a regulatory act which is of direct concern to him or her and does not entail implementing measures.";

(d) the following new fifth paragraph shall be inserted, and the present fifth paragraph shall become the sixth paragraph:

"Acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them."

**215)** In Article 231, the second paragraph shall be replaced by the following: "However, the Court shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive."

**216)** Article 232 shall be amended as follows:

- (a) in the first paragraph, the words "the European Council," shall be inserted after "European Parliament", the words "or the European Central Bank" shall be inserted after "Commission", the word "or" before "the Commission" shall be replaced by a comma and the following sentence shall be added at the end of the paragraph: "This Article shall apply, under the same conditions, to bodies, offices and agencies of the Union which fail to act.";
- (b) in the third paragraph, the words ", body, office or agency" shall be inserted after "an institution";
- (c) the fourth paragraph shall be deleted.

**217)** In Article 233, first paragraph, the words "or institutions" shall be deleted; the third paragraph shall be deleted.

**218)** In Article 234, first paragraph, point (b), the words "and of the ECB" shall be deleted and point (c) shall be deleted. The following paragraph shall be added at the end of the Article: "If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court of Justice of the European Union shall act with the minimum of delay."

**219)** In Article 235, the reference to the second paragraph of Article 288 shall be replaced by a reference to the second and third paragraphs of Article 288.

**220)** The following new Article 235a shall be inserted:

"Article 235a

The Court of Justice shall have jurisdiction to decide on the legality of an act adopted by the European Council or by the Council pursuant to Article 7 of the Treaty on European Union solely at the request of the Member State concerned by a determination of the European Council or of the Council and in respect solely of the procedural stipulations contained in that Article.

Such a request must be made within one month from the date of such determination. The Court shall rule within one month from the date of the request."

- 221)** In Article 236, the words "in the Staff Regulations or the Conditions of employment" shall be replaced by "in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union".
- 222)** In Article 237(d), at the beginning of the second sentence, the word "Governing" shall be inserted before "Council" and the words "of Justice" shall be deleted at the end, after the word "Court".
- 223)** The following two new Articles 240a and 240b shall be inserted:

"Article 240a

The Court of Justice of the European Union shall not have jurisdiction with respect to the provisions relating to the common foreign and security policy nor with respect to acts adopted on the basis of those provisions.

However, the Court shall have jurisdiction to monitor compliance with Article 25 of the Treaty on European Union and to rule on proceedings, brought in accordance with the conditions laid down in the fourth paragraph of Article 230 of this Treaty, reviewing the legality of decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter 2 of Title V of the Treaty on European Union.

Article 240b

In exercising its powers regarding the provisions of Sections 4 and 5 of Chapter IV of Title III relating to the area of freedom, security and justice, the Court of Justice of the European Union shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security."

- 224)** Article 241 shall be replaced by the following:

"Article 241

Notwithstanding the expiry of the period laid down in Article 230, fifth paragraph, any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the Union is at issue, plead the grounds specified in Article 230, second paragraph, in order to invoke before the Court of Justice of the European Union the inapplicability of that act."



225) In Article 242, second sentence, the words "of Justice" after "Court" shall be deleted.

226) In Article 245, the second paragraph shall be replaced by the following:

"The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may amend the provisions of the Statute, with the exception of Title I and Article 64. The European Parliament and the Council shall act either at the request of the Court of Justice and after consultation of the Commission, or on a proposal from the Commission and after consultation of the Court of Justice."

### **European Central Bank**

227) The following Section 4a and Article 245a shall be inserted:

"SECTION 4a

THE EUROPEAN CENTRAL BANK

Article 245a

1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks. The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.

2. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives.

3. The European Central Bank shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.

4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles 105 to 111 and Article 115a, and with the conditions laid down in the Statute of the ESCB and of the ECB. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.

5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion."

**228)** An Article 245b shall be inserted, with the wording of Article 112; it shall be amended as follows:

- (a) in paragraph 1, the words "of the Member States whose currency is the euro" shall be inserted at the end after "national central banks";
- (b) in paragraph 2 the numbering (a) and (b) shall be deleted, the present point (a) shall become the first subparagraph and the three subparagraphs of the present point (b) shall respectively become the second, third and fourth subparagraphs of the paragraph; in the second subparagraph, the words "from among persons of recognised standing and professional experience in monetary or banking matters by common accord of the governments of the Member States at the level of Heads of State or Government," shall be replaced by "by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters,".

**229)** An Article 245c shall be inserted, with the wording of Article 113.

## **Court of Auditors**

**230)** In Article 246, the word "Union's" shall be inserted before "audit" and the following new paragraph shall be added as a second paragraph:

It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest."

**231)** Article 247 shall be amended as follows:

- (a) paragraph 1 and the first subparagraph of paragraph 4 shall be deleted. Paragraphs 2 to 9 shall be renumbered 1 to 8 respectively;
- (b) in paragraph 2, renumbered 1, the word "countries" shall be replaced by "States";
- (c) in paragraph 4, renumbered 3, the word "they" shall be replaced by "the Members of the Court of Auditors".

232) In Article 248, the word "bodies" shall be replaced by "bodies, offices or agencies", singular or plural as the case may be.

### **Legal acts of the Union**

233) The heading of Chapter 2 shall be replaced by the following "LEGAL ACTS OF THE UNION, ADOPTION PROCEDURES AND OTHER PROVISIONS".

234) A Section 1 shall be inserted above Article 249:

"SECTION 1  
THE LEGAL ACTS OF THE UNION".

235) Article 249 shall be amended as follows:

(a) the first paragraph shall be replaced by the following:

"To exercise the Union's competences, the institutions shall adopt regulations, directives, recommendations and opinions.";

(b) the fourth paragraph shall be replaced by the following:

"A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.".

236) The following new Articles 249a to 249d shall be inserted:

"Article 249a

1. The ordinary legislative procedure shall consist in the joint adoption by the European Parliament and the Council of a regulation, directive or decision on a proposal from the Commission. This procedure is defined in Article 251.

2. In the specific cases provided for by the Treaties, the adoption of a regulation, directive or decision by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament, shall constitute a special legislative procedure.

3. Legal acts adopted by legislative procedure shall constitute legislative acts.

4. In the specific cases provided for by the Treaties, legislative acts may be adopted on the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.

#### Article 249b

1. A legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act.

The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts. The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power.

2. Legislative acts shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

- (a) the European Parliament or the Council may decide to revoke the delegation;
- (b) the delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

3. The adjective "delegated" shall be inserted in the title of delegated acts.

#### Article 249c

1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.

2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Articles 11 and 13 of the Treaty on European Union, on the Council.

3. For the purposes of paragraph 2, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

4. The word "implementing" shall be inserted in the title of implementing acts.

#### Article 249d

The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the Treaties provide that it shall adopt acts on a proposal from the Commission. It shall act unanimously in those areas in which unanimity is required for the adoption of a Union act. The Commission, and the European Central Bank in the specific cases provided for in the Treaties, shall adopt recommendations."

### **Procedures for the adoption of acts and other provisions**

237) A Section 2 "PROCEDURES FOR THE ADOPTION OF ACTS AND OTHER PROVISIONS" shall be inserted before Article 250.

238) In Article 250, paragraph 1 shall be replaced by the following:

"1. Where, pursuant to the Treaties, the Council acts on a proposal from the Commission, the Council may amend that proposal only by acting unanimously, except in the cases referred to in Articles 270a and 268, Article 251(10) and (13), Article 272 and the second paragraph of Article 273."

239) Article 251 shall be amended as follows:

- (a) in paragraph 1 the words "to this Article" shall be replaced by "to the ordinary legislative procedure";
- (b) as from the second subparagraph of paragraph 2, the wording of the Article shall be replaced by the following:

*"First reading*

3. The European Parliament shall adopt its position at first reading and communicate it to the Council.

4. If the Council approves the European Parliament's position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.

5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.

6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

#### *Second reading*

7. If, within three months of such communication, the European Parliament:

- (a) approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;
- (b) rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;
- (c) proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.

8. If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:

- (a) approves all those amendments, the act in question shall be deemed to have been adopted;
- (b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.

#### *Conciliation*

10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.

11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

*Third reading*

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.

14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

*Special provisions*

15. Where, in the cases provided for in the Treaties, a legislative act is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the opinion of the Commission throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee in accordance with paragraph 11."

**240)** Article 252 shall be replaced by the following:

"The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature."

**241)** Article 253 shall be replaced by the following:

"Where the Treaties do not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality.

Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Treaties.

When considering draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the relevant legislative procedure in the area in question."

**242)** Article 254 shall be replaced by the following:

"1. Legislative acts adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

Legislative acts adopted under a special legislative procedure shall be signed by the President of the institution which adopted them.

Legislative acts shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

2. Non-legislative acts adopted in the form of regulations, directives or decisions, when the latter do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

Regulations and directives which are addressed to all Member States, as well as decisions which do not specify to whom they are addressed, shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

Other directives, and decisions which specify to whom they are addressed, shall be notified to those to whom they are addressed and shall take effect upon such notification."

**243)** The following new Article 254a shall be inserted:

"Article 254a

1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.



2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of Article 283, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish provisions to that end."

244) Article 255 shall become Article 15; it shall be amended as set out above in point 28.

245) In Article 256, first paragraph, the words "Decisions of the Council or of the Commission which impose" shall be replaced by "Acts of the Council, the Commission or the European Central Bank which impose".

### **Advisory bodies**

246) The following new Chapter 3 and Article shall be inserted; Chapters 3 and 4 shall become Section 1 and Section 2 respectively and Chapter 5 shall be renumbered 4:

#### "CHAPTER 3 THE UNION'S ADVISORY BODIES

##### Article 256a

1. The European Parliament, the Council and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee, exercising advisory functions.
2. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.
3. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas.
4. The members of the Committee of the Regions and the Economic and Social Committee shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the Union's general interest.
5. The rules referred to in paragraphs 2 and 3 governing the nature of the composition of the Committees shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union. The Council, on a proposal from the Commission, shall adopt decisions to that end."

## **Economic and Social Committee**

**247)** Articles 257 and 261 shall be repealed.

**248)** In Article 258, the second and third paragraphs shall be replaced by the following paragraph:

"The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition."

**249)** Article 259 shall be amended as follows:

(a) in paragraph 1, the first sentence shall be replaced by the following sentence: "The members of the Committee shall be appointed for five years.";

(b) paragraph 2 shall be replaced by the following:

"2. The Council shall act after consulting the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors and of civil society to which the Union's activities are of concern."

**250)** In Article 260, in the first paragraph, the words "two years" shall be replaced by "two and a half years" and in the third paragraph, the words "of the European Parliament," shall be inserted before "of the Council".

**251)** Article 262 shall be amended as follows:

(a) a reference to the European Parliament shall be inserted before the reference to the Council in the first, second and third paragraphs;

(b) in the first paragraph, the word "must" shall be replaced by "shall";

(c) in the third paragraph, the words "and that of the specialised section" shall be deleted.

(d) the fourth paragraph shall be deleted.

## **Committee of the Regions**

**252)** Article 263 shall be amended as follows:

- (a) the first paragraph shall be deleted;
- (b) the third paragraph, which shall become the second, shall be replaced by the following:  

"The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition.";
- (c) in the fourth paragraph, which shall become the third, in the first sentence, the words "on proposals from the respective Member States" shall be deleted and the figure "four" shall be replaced by "five"; in the fourth sentence, the reference to "the first paragraph" shall be replaced by a reference to "Article 256a(2),";
- (d) the last paragraph shall be deleted.

**253)** In Article 264, first paragraph, the words "two years" shall be replaced by "two and a half years" and in the third paragraph, the words "of the European Parliament," shall be inserted before "of the Council".

**254)** Article 265 shall be amended as follows:

- (a) in the first paragraph, the word "two" shall be deleted;
- (b) the fourth paragraph shall be deleted;
- (c) a reference to the European Parliament shall be inserted before the reference to the Council in the first, second, third and last paragraphs;

## **European Investment Bank**

**255)** In Article 266, third paragraph, the words "at the request of the Commission" shall be replaced by "on a proposal from the Commission" and the words "in accordance with a special legislative procedure" shall be inserted after "unanimously" and the reference to Articles 4, 11, and 12 and Article 18(5) of the Statute of the Bank shall be deleted.

**256)** In Article 267(b), the word "progressive" shall be deleted and the words "or functioning" shall be inserted after "establishment".

## **Financial provisions**

**257)** Article 268 shall be amended as follows:

(a) in the first paragraph, the words "..., including those relating to the European Social Fund, ..." shall be deleted and the three paragraphs shall become paragraph 1;

(b) the second subparagraph shall be replaced by the following:

"The Union's annual budget shall be established by the European Parliament and the Council in accordance with Article 272.";

(c) the following new paragraphs shall be inserted:

2. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the regulation referred to in Article 279.

3. The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the regulation referred to in Article 279, except in cases for which that law provides.

4. With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union's own resources and in compliance with the multiannual financial framework referred to in Article 270a.

5. The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.

6. The Union and the Member States, in accordance with Article 280, shall counter fraud and any other illegal activities affecting the financial interests of the Union."

## **The Union's own resources**

**258)** A Chapter 1 "THE UNION'S OWN RESOURCES" shall be inserted before Article 269.

**259)** Article 269 shall be amended as follows:

(a) the following new first paragraph shall be inserted:

"The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.";

(b) the last paragraph shall be replaced by the following two paragraphs:

"The Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament adopt a decision laying down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. That decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

The Council, acting by means of regulations in accordance with a special legislative procedure, shall lay down implementing measures for the Union's own resources system insofar as this is provided for in the decision adopted on the basis of the third paragraph. The Council shall act after obtaining the consent of the European Parliament."

**260)** Article 270 shall be repealed.

## **Multiannual financial framework**

261) The following new Chapter 2 and new Article 270a shall be inserted:

### "CHAPTER 2 THE MULTIANNUAL FINANCIAL FRAMEWORK

#### Article 270a

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources.

It shall be established for a period of at least five years.

The annual budget of the Union shall comply with the multiannual financial framework.

2. The Council, acting in accordance with a special legislative procedure, shall adopt a regulation laying down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

The European Council may, unanimously, adopt a decision authorising the Council to act by a qualified majority when adopting the regulation referred to in the first paragraph.

3. The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity.

The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly.

4. Where no Council regulation determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that act is adopted.

5. Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate its adoption."

## **The Union's annual budget**

**262)** A Chapter 3 "THE UNION'S ANNUAL BUDGET" shall be inserted after Article 270a.

**263)** An Article 270b shall be inserted, with the wording of Article 272(1).

**264)** Article 271 shall become the new Article 273a; it shall be amended as set out below in point 267.

**265)** Article 272(1) shall become Article 270b and paragraphs 2 to 10 shall be replaced by the following:

"The European Parliament and the Council, acting in accordance with a special legislative procedure, shall establish the Union's annual budget in accordance with the following provisions.

1. With the exception of the European Central Bank, each institution shall, before 1 July, draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget which may contain different estimates.

The draft budget shall contain an estimate of revenue and an estimate of expenditure.

2. The Commission shall submit a proposal containing the draft budget to the European Parliament and to the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Commission may amend the draft budget during the procedure until such time as the Conciliation Committee, referred to in paragraph 5, is convened.

3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1 October of the year preceding that in which the budget is to be implemented. The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.

4. If, within forty-two days of such communication, the European Parliament:

(a) approves the position of the Council, the budget shall be adopted;

(b) has not taken a decision, the budget shall be deemed to have been adopted;

- (c) adopts amendments by a majority of its component members, the amended draft shall be forwarded to the Council and to the Commission. The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the draft being forwarded the Council informs the European Parliament that it has approved all its amendments, the Conciliation Committee shall not meet.

5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council.

The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

6. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.

7. If, within the period of fourteen days referred to in paragraph 6:

- (a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the budget shall be deemed to be definitively adopted in accordance with the joint text; or
- (b) the European Parliament, acting by a majority of its component members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission; or
- (c) the European Parliament, acting by a majority of its component members, rejects the joint text while the Council approves it, a new draft budget shall be submitted by the Commission; or



(d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation committee on the budget heading which is the subject of the amendment shall be retained. The budget shall be deemed to be definitively adopted on this basis.

8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.

9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the budget has been definitively adopted.

10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Treaties and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure."

**266)** Article 273 shall be amended as follows:

(a) in the first paragraph, the word "voted" shall be replaced by "definitively adopted", the words "or other subdivision" shall be deleted and, at the end of the sentence, the words "this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one twelfth of those provided for in the draft budget in course of preparation" shall be replaced by "that sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget.";

(b) in the second paragraph, the words "on a proposal from the Commission," shall be inserted after "The Council" and the following shall be added at the end:"in accordance with the Regulations made pursuant to Article 279. The Council shall forward the decision immediately to the European Parliament.";

(c) the third paragraph shall be deleted;

- (d) the last paragraph shall be replaced by the following:

"The decision referred to in the second paragraph shall lay down the necessary measures relating to resources to ensure application of this Article, in accordance with the acts referred to in Article 269.

It shall enter into force thirty days following its adoption if the European Parliament, acting by a majority of its component members, has not decided to reduce this expenditure within that time-limit."

- 267)** An Article 273a shall be inserted, with the wording of Article 271; it shall be amended as follows:

- (a) the first paragraph shall be deleted;
- (b) In the third paragraph, which has become the second, the words "as far as may be necessary" shall be deleted;
- (c) in the last paragraph, the words "the Council, the Commission and the Court of Justice" shall be replaced by "the European Council and the Council, the Commission and the Court of Justice of the European Union".

### **Implementation of the budget and discharge**

- 268)** A Chapter 4 "IMPLEMENTATION OF THE BUDGET AND DISCHARGE", shall be inserted before Article 274, which shall be amended as follows:

- (a) in the first paragraph, the words at the beginning "The Commission shall implement the budget" shall be replaced by "The Commission shall implement the budget in cooperation with the Member States";
- (b) the second paragraph shall be replaced by the following: "The regulations shall lay down the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities. They shall also lay down the responsibilities and detailed rules for each institution concerning its part in effecting its own expenditure."

**269)** In Article 275, first paragraph, the order of the Council and the European Parliament shall be reversed. The following new second paragraph shall be inserted:

"The Commission shall also submit to the European Parliament and to the Council an evaluation report on the Union's finances based on the results achieved, in particular in relation to the indications given by the European Parliament and the Council pursuant to Article 276".

**270)** In Article 276(1), the words "the accounts and the financial statement referred to in Article 275" shall be replaced by "the accounts, the financial statement and the evaluation report referred to in Article 275.".

### **Common financial provisions**

**271)** A Chapter 5 "COMMON PROVISIONS" shall be inserted before Article 277.

**272)** Article 277 shall be replaced by the following: "The multiannual financial framework and the annual budget shall be drawn up in euro.".

**273)** Article 279 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

"1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Court of Auditors, shall adopt by means of regulations:

(a) the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;

(b) rules providing for checks on the responsibility of financial actors, in particular authorising officers and accounting officers.";

(b) in paragraph 2, the word "unanimously" and the words "obtaining the opinion of" shall be deleted.

274) The following new Articles 279a and 279b shall be inserted:

"Article 279a

The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.

Article 279b

Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened, on the initiative of the Commission, under the budgetary procedures referred to in this Chapter. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the institutions over which they preside in order to facilitate the implementation of this Title."

### **Combating fraud**

275) A Chapter 6 "COMBATING FRAUD" shall be inserted before Article 280.

276) Article 280 shall be amended as follows:

- (a) the following words shall be added at the end of paragraph 1: ", and in all the Union's institutions, bodies, offices and agencies.";
- (b) the following words: "and in all the Union's institutions, bodies, offices and agencies" shall be inserted in paragraph 4, after the words: "in the Member States" and the last sentence in the paragraph shall be deleted.

### **Enhanced cooperation**

277) A Title III "ENHANCED COOPERATION" shall be inserted after Article 280.

278) The following new Articles 280a to 280i shall be inserted:

"Article 280a

Any enhanced cooperation shall comply with the Treaties and the law of the Union.

Such cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.

Article 280b

Any enhanced cooperation shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.

Article 280c

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the authorising decision. It shall also be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to those conditions.

The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.

2. The Commission and, where appropriate, the High Representative of the Union for Foreign Affairs and Security Policy shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.

Article 280d

1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Treaties, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

Authorisation to proceed with the enhanced cooperation referred to in the first subparagraph shall be granted by the Council, on a proposal from the Commission and after obtaining the consent of the European Parliament.

2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the High Representative of the Union for Foreign Affairs and Security Policy, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information.

Authorisation to proceed with enhanced cooperation shall be granted by a decision of the Council acting unanimously.

#### Article 280e

All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote.

Unanimity shall be constituted by the votes of the representatives of the participating Member States only.

A qualified majority shall be defined in accordance with Article 205(3).

#### Article 280f

1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article 280d(1) shall notify its intention to the Council and the Commission. The Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. It shall note where necessary that the conditions of participation have been fulfilled and shall adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request. On the expiry of that deadline, it shall re-examine the request, in accordance with the procedure set out in the second subparagraph. If the Commission considers that the conditions of participation have still not been met, the Member State concerned may refer the matter to the Council, which shall decide on the request. The Council shall act in accordance with Article 280e. It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, the High Representative of the Union for Foreign Affairs and Security Policy and the Commission.

The Council shall confirm the participation of the Member State concerned, after consulting the High Representative of the Union for Foreign Affairs and Security Policy and after noting, where necessary, that the conditions of participation have been fulfilled. The Council, on a proposal from the High Representative, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request for participation.

For the purposes of this paragraph, the Council shall act unanimously and in accordance with Article 280e.

#### Article 280g

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.

#### Article 280h

1. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article 280e, may adopt a decision stipulating that it will act by a qualified majority.

2. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt acts under a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article 280e, may adopt a decision stipulating that it will act under the ordinary legislative procedure. The Council shall act after consulting the European Parliament.

3. Paragraphs 1 and 2 shall not apply to decisions having military or defence implications.

## Article 280i

The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end."

### **General and final provisions**

- 279)** Part Six shall be renumbered "Part Seven".
- 280)** Articles 281, 286, 293 and 305 shall be repealed.
- 281)** In Article 282, the following sentence shall be added at the end: "However, the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation."
- 282)** At the beginning of Article 283, the words "The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting" shall be replaced by "The European Parliament and the Council shall, acting by means of regulations in accordance with the ordinary legislative procedure on a proposal from the Commission and after consulting" and at the end the words "servants of those Communities" shall be replaced by the words "servants of the Union".
- 283)** In Article 288, the third paragraph shall be replaced by the following:
- "Notwithstanding the second paragraph, the European Central Bank shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties."
- 284)** In Article 290, the words "by means of regulations" shall be added at the end.
- 285)** In Article 291, the words ", the European Monetary Institute" shall be deleted.
- 286)** Article 294 shall become Article 48a.



**287)** Article 299 shall be amended as follows:

- (a) paragraph 1 shall be deleted. The first subparagraph of paragraph 2 and paragraphs 3 to 6 shall become Article 311; they shall be amended as set out below in point 293.

Paragraph 2 shall not be numbered;

- (b) at the beginning of the first paragraph, the word "However," shall be deleted and the words "the French overseas departments" shall be replaced by "Guadeloupe, French Guiana, Martinique, Réunion, Saint Barthélemy, Saint Martin"; the following sentence shall be added at the end of the paragraph: "Where the specific measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act on a proposal from the Commission and after consulting the European Parliament.";
- (c) at the beginning of the second paragraph, the words "The Council shall, when adopting the relevant measures referred to in the second subparagraph, take into account areas such as" shall be replaced by "The measures referred to in the first paragraph concern in particular areas such as";
- (d) at the beginning of the third paragraph, the reference to the second subparagraph shall be replaced by a reference to the first paragraph.

**288)** Articles 300 and 301 shall be replaced by Articles 188n and 188k respectively and Articles 302 to 304 shall be replaced by Article 188p.

**289)** Article 308 shall be replaced by the following:

"Article 308

1. If action by the Union should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures. Where the measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament.

2. Using the procedure for monitoring the subsidiarity principle referred to in Article 5(3) of the Treaty on European Union, the Commission shall draw national Parliaments' attention to proposals based on this Article.

3. Measures based on this Article shall not entail harmonisation of Member States' laws or regulations in cases where the Treaties exclude such harmonisation.

4. This Article cannot serve as a basis for attaining objectives pertaining to the common foreign and security policy and shall respect the limits set out in Article 25, second paragraph, of the Treaty on European Union."

**290)** The following new Article 308a shall be inserted:

"Article 308a

Article 33 of the Treaty on European Union shall not apply to the following Articles:

- 269, third and fourth paragraphs,
- 270a(2), first subparagraph,
- 308, and
- 309."

**291)** Article 309 shall be replaced by the following:

"Article 309

For the purposes of Article 7 of the Treaty on European Union on the suspension of certain rights resulting from Union membership, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2 of that Article. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2 of that Article.

For the adoption of the decisions referred to in paragraphs 3 and 4 of that Article, a qualified majority shall be defined in accordance with Article 205(3)(b).

Where, following a decision to suspend voting rights adopted pursuant to paragraph 3 of that Article, the Council acts by a qualified majority on the basis of a provision of the Treaties, that qualified majority shall be defined in accordance with Article 205(3)(b), or, where the Council acts on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, in accordance with Article 205(3)(a).

For the purposes of that Article, the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component members."

**292)** Article 310 shall become Article 188m.

**293)** Article 311 shall be replaced by a text combining Article 299(2), first subparagraph, and Article 299(3) to (6); the text shall be amended as follows:

- (a) the first subparagraph of paragraph 2 and paragraphs 3 to 6 shall be renumbered 1 to 5 and the following new introductory wording shall be inserted at the beginning of the Article:

"In addition to the provisions of Article 37 of the Treaty on European Union relating to the territorial scope of the Treaties, the following provisions shall apply:";

- (b) at the beginning of the first subparagraph of paragraph 2, renumbered 1, the words "the French overseas departments, ..." shall be replaced by "Guadeloupe, French Guiana, Martinique, Réunion, Saint Barthélemy, Saint Martin" and the words "in accordance with Article 299" shall be added at the end;
- (c) in paragraph 3, renumbered 2, the words "of this Treaty" shall be deleted;
- (d) in paragraph 6, renumbered 5, the introductory words "Notwithstanding the preceding paragraphs:" shall be replaced by "Notwithstanding Article 37 of the Treaty on European Union and paragraphs 1 to 4:";
- (e) the following new paragraph shall be inserted at the end of the Article:

"6. The European Council may, on the initiative of the Member State concerned, adopt a decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 1 and 2. The European Council shall act unanimously after consulting the Commission."

**294)** Article 314 shall be replaced by the following:

"The provisions of Article 40 of the Treaty on European Union shall apply to this Treaty."

## FINAL PROVISIONS

### Article 3

This Treaty is concluded for an unlimited period.

### Article 4

1. Protocol No 11 annexed to this Treaty contains the amendments to the Protocols annexed to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community.
2. Protocol No 12 annexed to this Treaty contains the amendments to the Treaty establishing the European Atomic Energy Community.

### Article 5

1. The articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the European Union, as amended by this Treaty, shall be renumbered in accordance with the tables of equivalences set out in the Annex to this Treaty.
2. The cross references to the articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the European Union, as well as between them, shall be adapted accordingly. The same shall apply as regards references to the articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the European Union contained in the other treaties and acts of primary legislation on which the Union is founded.
3. The references to the articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the European Union contained in other instruments or acts shall be understood as referring to the articles, parts, titles, chapters and sections of those Treaties as renumbered pursuant to paragraph 1 and, respectively, to the paragraphs of the said articles, as renumbered by certain provisions of this Treaty.

### Article 6

1. This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

2. This Treaty shall enter into force on 1 January 2009, provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.

#### Article 7

This Treaty, drawn up in a single original in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

Done at, ...

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**CONFERENCE  
OF THE REPRESENTATIVES OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 22 October 2007 (23.10)  
(OR. fr)**

**CIG 1/1/07  
REV 1 COR 1**

**CORRIGENDUM TO NOTE**

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from: Presidency of the IGC  
date: 22 October 2007  
to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**  
Draft Treaty amending the Treaty on European Union and the Treaty establishing  
the European Community

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The following corrections have been made to the text.

Page 11, point 15: paragraph 2 should be replaced by the following text:

"2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number, plus the President. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph."

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**NOTE**

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from: Presidency of the IGC  
dated: 5 October 2007  
to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**  
Draft Treaty amending the Treaty on European Union and the Treaty establishing the European Community – Protocols

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**DRAFT**  
**TREATY AMENDING**  
**THE TREATY ON EUROPEAN UNION AND**  
**THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY**

**PROTOCOLS**

- Protocols 1 to 10 to be annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and, where applicable, to the Treaty establishing the European Atomic Energy Community
- Protocols 11 and 12 to be annexed to the Treaty amending the Treaty on European Union and the Treaty establishing the European Community

The Presidency herewith forwards to the Intergovernmental Conference the full text of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, including the Protocols, and the Declarations for the Final Act, as these texts emerged from the proceedings of the Working Party of Legal Experts.

The Presidency will submit this text to the Intergovernmental Conference (Foreign Ministers) meeting in Luxembourg on 15 October 2007, with a view to its final adoption at the IGC/ (Heads of State or Government) meeting in Lisbon on 18 October 2007.

All the language versions of this text are being forwarded to the delegations today, 5 October 2007. In accordance with normal practice, each language version will be finalised by the Council's legal/linguistic experts before the Treaty is signed.





**A. PROTOCOLS TO BE ANNEXED TO THE TREATY ON EUROPEAN UNION, TO THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION AND, WHERE APPLICABLE, TO THE TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY**

**PROTOCOL (No 1)**

**ON THE ROLE OF NATIONAL PARLIAMENTS  
IN THE EUROPEAN UNION**

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which national Parliaments scrutinise their governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State;

DESIRING to encourage greater involvement of national Parliaments in the activities of the European Union and to enhance their ability to express their views on draft legislative acts of the Union as well as on other matters which may be of particular interest to them,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community:

TITLE I  
INFORMATION FOR NATIONAL PARLIAMENTS

Article 1

Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to national Parliaments upon publication. The Commission shall also forward the annual legislative programme as well as any other instrument of legislative planning or policy to national Parliaments, at the same time as to the European Parliament and the Council.

Article 2

Draft legislative acts sent to the European Parliament and to the Council shall be forwarded to national Parliaments.

For the purposes of this Protocol, "draft legislative acts" shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

Draft legislative acts originating from the Commission shall be forwarded to national Parliaments directly by the Commission, at the same time as to the European Parliament and the Council.

Draft legislative acts originating from the European Parliament shall be forwarded to national Parliaments directly by the European Parliament.

Draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank shall be forwarded to national Parliaments by the Council.

Article 3

National Parliaments may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion on whether a draft legislative act complies with the principle of subsidiarity, in accordance with the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the reasoned opinion or opinions to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the reasoned opinion or opinions to the institution or body concerned.

#### Article 4

An eight-week period shall elapse between a draft legislative act being made available to national Parliaments in the official languages of the Union and the date when it is placed on a provisional agenda for the Council for its adoption or for adoption of a position under a legislative procedure. Exceptions shall be possible in cases of urgency, the reasons for which shall be stated in the act or position of the Council. Save in urgent cases for which due reasons have been given, no agreement may be reached on a draft legislative act during those eight weeks. Save in urgent cases for which due reasons have been given, a ten-day period shall elapse between the placing of a draft legislative act on the provisional agenda for the Council and the adoption of a position.

#### Article 5

The agendas for and the outcome of meetings of the Council, including the minutes of meetings where the Council is deliberating on draft legislative acts, shall be forwarded directly to national Parliaments, at the same time as to Member States' governments.

#### Article 6

When the European Council intends to make use of Article 33(1) or (2) of the Treaty on European Union, national Parliaments shall be informed of the initiative of the European Council at least six months before any decision is adopted.

#### Article 7

The Court of Auditors shall forward its annual report to national Parliaments, for information, at the same time as to the European Parliament and to the Council.

## Article 8

Where the national Parliamentary system is not unicameral, Articles 1 to 7 shall apply to the component chambers.

## TITLE II

### INTERPARLIAMENTARY COOPERATION

## Article 9

The European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular interparliamentary cooperation within the Union.

## Article 10

A conference of Parliamentary Committees for Union Affairs may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the conference shall not bind national Parliaments and shall not prejudice their positions.

**PROTOCOL (No 2)**  
**ON THE APPLICATION OF THE PRINCIPLES**  
**OF SUBSIDIARITY AND PROPORTIONALITY**

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the Union,

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as laid down in Article 5 of the Treaty on European Union, and to establish a system for monitoring the application of those principles,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

Article 1

Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article 5 of the Treaty on European Union.

Article 2

Before proposing legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for its decision in its proposal.

Article 3

For the purposes of this Protocol, "draft legislative acts" shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

#### Article 4

The Commission shall forward its draft legislative acts and its amended drafts to national Parliaments at the same time as to the Union legislator.

The European Parliament shall forward its draft legislative acts and its amended drafts to national Parliaments.

The Council shall forward draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank and amended drafts to national Parliaments.

Upon adoption, legislative resolutions of the European Parliament and positions of the Council shall be forwarded by them to national Parliaments.

#### Article 5

Draft legislative acts shall be justified with regard to the principles of subsidiarity and proportionality. Any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level shall be substantiated by qualitative and, wherever possible, quantitative indicators. Draft legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

#### Article 6

Any national Parliament or any chamber of a national Parliament may, within eight weeks from the date of transmission of a draft legislative act, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the opinion to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the opinion to the institution or body concerned.

## Article 7

1. The European Parliament, the Council and the Commission, and, where appropriate, the group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, shall take account of the reasoned opinions issued by national Parliaments or by a chamber of a national Parliament.

Each national Parliament shall have two votes, shared out on the basis of the national Parliamentary system. In the case of a bicameral Parliamentary system, each of the two chambers shall have one vote.

2. Where reasoned opinions on a draft legislative act's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the draft must be reviewed. This threshold shall be a quarter in the case of a draft legislative act submitted on the basis of Article 68 of the Treaty on the Functioning of the European Union on the area of freedom, security and justice.

After such review, the Commission or, where appropriate, the group of Member States, the European Parliament, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, may decide to maintain, amend or withdraw the draft. Reasons must be given for this decision.

3. Furthermore, under the ordinary legislative procedure, where reasoned opinions on the non-compliance of a proposal for a legislative act with the principle of subsidiarity represent at least a simple majority of the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the proposal must be reviewed. After such review, the Commission may decide to maintain, amend or withdraw the proposal.

If it chooses to maintain the proposal, the Commission will have, in a reasoned opinion, to justify why it considers that the proposal complies with the principle of subsidiarity. This reasoned opinion, as well as the reasoned opinions of the national Parliaments, will have to be submitted to the Union legislator, for consideration in the procedure:

- (a) before concluding the first reading, the legislator (Council and European Parliament) shall consider whether the legislative proposal is compatible with the principle of subsidiarity, taking particular account of the reasons expressed and shared by the majority of national Parliaments as well as the reasoned opinion of the Commission;

- (b) if, by a majority of 55 % of the members of the Council or a majority of the votes cast in the European Parliament, the legislator is of the opinion that the proposal is not compatible with the principle of subsidiarity, the legislative proposal shall not be given further consideration.

#### Article 8

The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act, brought in accordance with the rules laid down in Article 230 of the Treaty on the Functioning of the European Union by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber of it.

In accordance with the rules laid down in the said Article, the Committee of the Regions may also bring such actions against legislative acts for the adoption of which the Treaty on the Functioning of the European Union provides that it be consulted.

#### Article 9

The Commission shall submit each year to the European Council, the European Parliament, the Council and national Parliaments a report on the application of Article 5 of the Treaty on European Union. This annual report shall also be forwarded to the Committee of the Regions and to the Economic and Social Committee.



**PROTOCOL (No 3)**  
**ON THE EURO GROUP**

THE HIGH CONTRACTING PARTIES,

DESIRING to promote conditions for stronger economic growth in the European Union and, to that end, to develop ever-closer coordination of economic policies within the euro area,

CONSCIOUS of the need to lay down special provisions for enhanced dialogue between the Member States whose currency is the euro, pending the euro becoming the currency of all Member States of the Union,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

Article 1

The Ministers of the Member States whose currency is the euro shall meet informally. Such meetings shall take place, when necessary, to discuss questions related to the specific responsibilities they share with regard to the single currency. The Commission shall take part in the meetings. The European Central Bank shall be invited to take part in such meetings, which shall be prepared by the representatives of the Ministers with responsibility for finance of the Member States whose currency is the euro and of the Commission.

Article 2

The Ministers of the Member States whose currency is the euro shall elect a president for two and a half years, by a majority of those Member States.



**PROTOCOL (No 4)**  
**ON PERMANENT STRUCTURED COOPERATION**  
**ESTABLISHED BY ARTICLE 27 OF THE TREATY ON EUROPEAN UNION**

THE HIGH CONTRACTING PARTIES,

HAVING REGARD TO Article 27(6) and Article 31 of the Treaty on European Union,

RECALLING that the Union is pursuing a common foreign and security policy based on the achievement of growing convergence of action by Member States;

RECALLING that the common security and defence policy is an integral part of the common foreign and security policy; that it provides the Union with operational capacity drawing on civil and military assets; that the Union may use such assets in the tasks referred to in Article 28 of the Treaty on European Union outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter; that the performance of these tasks is to be undertaken using capabilities provided by the Member States in accordance with the principle of a single set of forces;

RECALLING that the common security and defence policy of the Union does not prejudice the specific character of the security and defence policy of certain Member States;

RECALLING that the common security and defence policy of the Union respects the obligations under the North Atlantic Treaty of those Member States which see their common defence realised in the North Atlantic Treaty Organisation, which remains the foundation of the collective defence of its members, and is compatible with the common security and defence policy established within that framework;

CONVINCED that a more assertive Union role in security and defence matters will contribute to the vitality of a renewed Atlantic Alliance, in accordance with the Berlin Plus arrangements;

DETERMINED to ensure that the Union is capable of fully assuming its responsibilities within the international community;

RECOGNISING that the United Nations Organisation may request the Union's assistance for the urgent implementation of missions undertaken under Chapters VI and VII of the United Nations Charter;

RECOGNISING that the strengthening of the security and defence policy will require efforts by Member States in the area of capabilities;

CONSCIOUS that embarking on a new stage in the development of the European security and defence policy involves a determined effort by the Member States concerned;

RECALLING the importance of the High Representative of the Union for Foreign Affairs and Security Policy being fully involved in proceedings relating to permanent structured cooperation,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

#### Article 1

The permanent structured cooperation referred to in Article 27(6) of the Treaty on European Union shall be open to any Member State which undertakes, from the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, to:

- (a) proceed more intensively to develop its defence capacities through the development of its national contributions and participation, where appropriate, in multinational forces, in the main European equipment programmes, and in the activity of the Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency), and
- (b) have the capacity to supply by 2010 at the latest, either at national level or as a component of multinational force groups, targeted combat units for the missions planned, structured at a tactical level as a battle group, with support elements including transport and logistics, capable of carrying out the tasks referred to in Article 28 of the Treaty on European Union, within a period of 5 to 30 days, in particular in response to requests from the United Nations Organisation, and which can be sustained for an initial period of 30 days and be extended up to at least 120 days.

#### Article 2

To achieve the objectives laid down in Article 1, Member States participating in permanent structured cooperation shall undertake to:

- (a) cooperate, as from the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, with a view to achieving approved objectives concerning the level of investment expenditure on defence equipment, and regularly review these objectives, in the light of the security environment and of the Union's international responsibilities;

- (b) bring their defence apparatus into line with each other as far as possible, particularly by harmonising the identification of their military needs, by pooling and, where appropriate, specialising their defence means and capabilities, and by encouraging cooperation in the fields of training and logistics;
- (c) take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces, in particular by identifying common objectives regarding the commitment of forces, including possibly reviewing their national decision-making procedures;
- (d) work together to ensure that they take the necessary measures to make good, including through multinational approaches, and without prejudice to undertakings in this regard within the North Atlantic Treaty Organisation, the shortfalls perceived in the framework of the "Capability Development Mechanism";
- (e) take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency.

### Article 3

The European Defence Agency shall contribute to the regular assessment of participating Member States' contributions with regard to capabilities, in particular contributions made in accordance with the criteria to be established, inter alia, on the basis of Article 2, and shall report thereon at least once a year. The assessment may serve as a basis for Council recommendations and decisions adopted in accordance with Article 31 of the Treaty on European Union.



**PROTOCOL (No 5)**  
**RELATING TO ARTICLE 6(2)**  
**OF THE TREATY ON EUROPEAN UNION**  
**ON THE ACCESSION OF THE UNION TO THE EUROPEAN CONVENTION**  
**ON THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

THE HIGH CONTRACTING PARTIES,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

Article 1

The agreement relating to the accession of the Union to the European Convention on the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the "European Convention") provided for in Article 6(2) of the Treaty on European Union shall make provision for preserving the specific characteristics of the Union and Union law, in particular with regard to:

- (a) the specific arrangements for the Union's possible participation in the control bodies of the European Convention;
- (b) the mechanisms necessary to ensure that proceedings by non-Member States and individual applications are correctly addressed to Member States and/or the Union as appropriate.

Article 2

The agreement referred to in Article 1 shall ensure that accession of the Union shall not affect the competences of the Union or the powers of its institutions. It shall ensure that nothing therein affects the situation of Member States in relation to the European Convention, in particular in relation to the Protocols thereto, measures taken by Member States derogating from the European Convention in accordance with Article 15 thereof and reservations to the European Convention made by Member States in accordance with Article 57 thereof.

Article 3

Nothing in the agreement referred to in Article 1 shall affect Article 292(2) of the Treaty on the Functioning of the European Union.





**PROTOCOL (No 6)**  
**ON THE INTERNAL MARKET AND COMPETITION**

THE HIGH CONTRACTING PARTIES,

CONSIDERING that the internal market as set out in Article 3 of the Treaty on European Union includes a system ensuring that competition is not distorted,

HAVE AGREED that

to that end, the Union shall, if necessary, take action under the provisions of the Treaties, including under Article 308 of the Treaty on the Functioning of the European Union.

This Protocol shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.



## **PROTOCOL (No 7)**

### **ON THE APPLICATION OF THE CHARTER OF FUNDAMENTAL RIGHTS TO POLAND AND TO THE UNITED KINGDOM**

THE HIGH CONTRACTING PARTIES,

WHEREAS in Article 6 of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights;

WHEREAS the Charter is to be applied in strict accordance with the provisions of the aforementioned Article 6 and Title VII of the Charter itself;

WHEREAS the aforementioned Article 6 requires the Charter to be applied and interpreted by the courts of Poland and of the United Kingdom strictly in accordance with the explanations referred to in that Article;

WHEREAS the Charter contains both rights and principles;

WHEREAS the Charter contains both provisions which are civil and political in character and those which are economic and social in character;

WHEREAS the Charter reaffirms the rights, freedoms and principles recognised in the Union and makes those rights more visible, but does not create new rights or principles;

RECALLING the obligations devolving upon Poland and the United Kingdom under the Treaty on European Union, the Treaty on the Functioning of the European Union, and Union law generally;

NOTING the wish of Poland and the United Kingdom to clarify certain aspects of the application of the Charter;

DESIROUS therefore of clarifying the application of the Charter in relation to the laws and administrative action of Poland and of the United Kingdom and of its justiciability within Poland and within the United Kingdom;

REAFFIRMING that references in this Protocol to the operation of specific provisions of the Charter are strictly without prejudice to the operation of other provisions of the Charter;

REAFFIRMING that this Protocol is without prejudice to the application of the Charter to other Member States;

REAFFIRMING that this Protocol is without prejudice to other obligations devolving upon Poland and the United Kingdom under the Treaty on European Union, the Treaty on the Functioning of the European Union, and Union law generally,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

#### Article 1

1. The Charter does not extend the ability of the Court of Justice of the European Union, or any court or tribunal of Poland or of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of Poland or of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms.
2. In particular, and for the avoidance of doubt, nothing in Title IV of the Charter creates justiciable rights applicable to Poland or the United Kingdom except in so far as Poland or the United Kingdom has provided for such rights in its national law.

#### Article 2

To the extent that a provision of the Charter refers to national laws and practices, it shall only apply to Poland or the United Kingdom to the extent that the rights or principles that it contains are recognised in the law or practices of Poland or of the United Kingdom.

**PROTOCOL (No 8)**  
**ON THE EXERCISE OF SHARED COMPETENCE**

THE HIGH CONTRACTING PARTIES,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

Sole Article

With reference to Article 2(2) of the Treaty on the Functioning of the European Union on shared competence, when the Union has taken action in a certain area, the scope of this exercise of competence only covers those elements governed by the Union act in question and therefore does not cover the whole area.



**PROTOCOL (No 9)**  
**ON SERVICES OF GENERAL INTEREST**

THE HIGH CONTRACTING PARTIES,

WISHING to emphasise the importance of services of general interest,

HAVE AGREED UPON the following interpretative provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

Article 1

The shared values of the Union in respect of services of general economic interest within the meaning of Article 14 of the Treaty on the Functioning of the European Union include in particular:

- the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users;
- the diversity between various services of general economic interest and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations;
- a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights.

Article 2

The provisions of the Treaties do not affect in any way the competence of Member States to provide, commission and organise non-economic services of general interest.





**PROTOCOL (No 10)**  
**ON TRANSITIONAL PROVISIONS**

THE HIGH CONTRACTING PARTIES,

WHEREAS, in order to organise the transition from the institutional provisions of the Treaties applicable prior to the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community to the provisions contained in that Treaty, it is necessary to lay down transitional provisions,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community:

Article 1

In this Protocol, the words "the Treaties" shall mean the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community.

TITLE I  
PROVISIONS CONCERNING THE EUROPEAN PARLIAMENT

Article 2

In accordance with the second subparagraph of Article 9a(2) of the Treaty on European Union, the European Council shall adopt a decision determining the composition of the European Parliament in good time before the 2009 European Parliament elections.

Until the end of the 2004-2009 parliamentary term, the composition and the number of representatives elected to the European Parliament shall remain the same as on the date of the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community.

TITLE II  
PROVISIONS CONCERNING THE QUALIFIED MAJORITY

Article 3

1. In accordance with Article 9c(4) of the Treaty on European Union, the provisions of that paragraph and of Article 205(2) of the Treaty on the Functioning of the European Union relating to the definition of the qualified majority in the European Council and the Council shall take effect on 1 November 2014.

2. Between 1 November 2014 and 31 March 2017, when an act is to be adopted by qualified majority, a member of the Council may request that it be adopted in accordance with the qualified majority as defined in paragraph 3. In that case, paragraphs 3 and 4 shall apply.

3. Until 31 October 2014, the following provisions shall remain in force, without prejudice to the second subparagraph of Article 201a(1) of the Treaty on the Functioning of the European Union.

For acts of the European Council and of the Council requiring a qualified majority, members' votes shall be weighted as follows:

Belgium	12
Bulgaria	10
Czech Republic	12
Denmark	7
Germany	29
Estonia	4
Ireland	7
Greece	12
Spain	27
France	29
Italy	29
Cyprus	4
Latvia	4
Lithuania	7
Luxembourg	4
Hungary	12
Malta	3
Netherlands	13
Austria	10
Poland	27
Portugal	12
Romania	14
Slovenia	4
Slovakia	7
Finland	7
Sweden	10
United Kingdom	29

Acts shall be adopted if there are at least 255 votes in favour representing a majority of the members where, under the Treaties, they must be adopted on a proposal from the Commission. In other cases decisions shall be adopted if there are at least 255 votes in favour representing at least two thirds of the members.

A member of the European Council or the Council may request that, where an act is adopted by the European Council or the Council by a qualified majority, a check is made to ensure that the Member States comprising the qualified majority represent at least 62 % of the total population of the Union. If that proves not to be the case, the act shall not be adopted.

4. Until 31 October 2014, the qualified majority shall, in cases where not all the members of the Council participate in voting, namely in the cases where reference is made to the qualified majority as defined in Article 205(3) of the Treaty on the Functioning of the European Union, be defined as the same proportion of the weighted votes and the same proportion of the number of the Council members and, if appropriate, the same percentage of the population of the Member States concerned as laid down in paragraph 3.

### TITLE III PROVISIONS CONCERNING THE CONFIGURATIONS OF THE COUNCIL

#### Article 4

Until the entry into force of the decision referred to in the first subparagraph of Article 9c(6) of the Treaty on European Union, the Council may meet in the configurations laid down in the second and third subparagraphs of that paragraph and in the other configurations on the list established by a decision of the General Affairs Council, acting by a simple majority.

### TITLE IV PROVISIONS CONCERNING THE COMMISSION, INCLUDING THE HIGH REPRESENTATIVE OF THE UNION FOR FOREIGN AFFAIRS AND SECURITY POLICY

#### Article 5

The members of the Commission in office on the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community shall remain in office until the end of their term of office. However, on the day of the appointment of the High Representative of the Union for Foreign Affairs and Security Policy, the term of office of the member having the same nationality as the High Representative shall end.

TITLE V  
PROVISIONS CONCERNING THE SECRETARY-GENERAL OF THE COUNCIL, HIGH  
REPRESENTATIVE FOR THE COMMON FOREIGN AND SECURITY POLICY, AND  
THE DEPUTY SECRETARY-GENERAL OF THE COUNCIL

Article 6

The terms of office of the Secretary-General of the Council, High Representative for the common foreign and security policy, and the Deputy Secretary-General of the Council shall end on the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community. The Council shall appoint a Secretary-General in conformity with Article 207(2) of the Treaty on the Functioning of the European Union.

TITLE VI  
PROVISIONS CONCERNING ADVISORY BODIES

Article 7

Until entry into force of the decision referred to in Article 263 of the Treaty on the Functioning of the European Union, the allocation of members of the Committee of the Regions shall be as follows:

Belgium	12	Luxembourg	6
Bulgaria	12	Hungary	12
Czech Republic	12	Malta	5
Denmark	9	Netherlands	12
Germany	24	Austria	12
Estonia	7	Poland	21
Ireland	9	Portugal	12
Greece	12	Romania	15
Spain	21	Slovenia	7
France	24	Slovakia	9
Italy	24	Finland	9
Cyprus	6	Sweden	12
Latvia	7	United Kingdom	24
Lithuania	9		

## Article 8

Until entry into force of the decision referred to in Article 258 of the Treaty on the Functioning of the European Union, the allocation of members of the Economic and Social Committee shall be as follows:

Belgium	12	Luxembourg	6
Bulgaria	12	Hungary	12
Czech Republic	12	Malta	5
Denmark	9	Netherlands	12
Germany	24	Austria	12
Estonia	7	Poland	21
Ireland	9	Portugal	12
Greece	12	Romania	15
Spain	21	Slovenia	7
France	24	Slovakia	9
Italy	24	Finland	9
Cyprus	6	Sweden	12
Latvia	7	United Kingdom	24
Lithuania	9		

## TITLE VII

### TRANSITIONAL PROVISIONS CONCERNING ACTS ADOPTED ON THE BASIS OF TITLES V AND VI OF THE TREATY ON EUROPEAN UNION PRIOR TO THE ENTRY INTO FORCE OF THE TREATY AMENDING THE TREATY ON EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

## Article 9

The legal effects of the acts of the institutions, bodies, offices and agencies of the Union adopted on the basis of the Treaty on European Union prior to the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community shall be preserved until those acts are repealed, annulled or amended in implementation of the Treaties. The same shall apply to agreements concluded between Member States on the basis of the Treaty on European Union.

## Article 10

1. As a transitional measure, and with respect to acts of the Union in the field of police cooperation and judicial cooperation in criminal matters which have been adopted before the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, the powers of the institutions shall be the following at the date of entry into force of that Treaty: the powers of the Commission under Article 226 of the Treaty on the Functioning of the European Union shall not be applicable and the powers of the Court of Justice of the European Union under Title VI of the Treaty on European Union, in the version in force before the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, shall remain the same, including where they have been accepted under Article 35(2) of the said Treaty on European Union.
2. The amendment of an act referred to in paragraph 1 shall entail the applicability of the powers of the institutions referred to in that paragraph as set out in the Treaties with respect to the amended act for those Member States to which that amended act shall apply.
3. In any case, the transitional measure mentioned in paragraph 1 shall cease to have effect five years after the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community.
4. At the latest six months before the expiry of the transitional period referred to in paragraph 3, the United Kingdom may notify to the Council that it does not accept, with respect to the acts referred to in paragraph 1, the powers of the institutions referred to in paragraph 1 as set out in the Treaties. In case the United Kingdom has made that notification, all acts referred to in paragraph 1 shall cease to apply to it as from the date of expiry of the transitional period referred to in paragraph 3. This subparagraph shall not apply with respect to the amended acts which are applicable to the United Kingdom as referred to in paragraph 2.

The Council, acting by a qualified majority on a proposal from the Commission, shall determine the necessary consequential and transitional arrangements. The United Kingdom shall not participate in the adoption of this decision. A qualified majority of the Council shall be defined in accordance with Article 205(3)(a) of the Treaty on the Functioning of the European Union.

The Council, acting by a qualified majority on a proposal from the Commission, may also adopt a decision determining that the United Kingdom shall bear the direct financial consequences, if any, necessarily and unavoidably incurred as a result of the cessation of its participation in those acts.

5. The United Kingdom may, at any time afterwards, notify the Council of its wish to participate in acts which have ceased to apply to it pursuant to paragraph 4, first subparagraph. In that case, the relevant provisions of the Protocol on the Schengen acquis integrated into the framework of the European Union or of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, as the case may be, shall apply. The powers of the institutions with regard to those acts shall be those set out in the Treaties. When acting under the relevant Protocols, the Union institutions and the United Kingdom shall seek to reestablish the widest possible measure of participation of the United Kingdom in the acquis of the Union in the area of freedom, security and justice without seriously affecting the practical operability of the various parts thereof, while respecting their coherence.





**B. PROTOCOLS TO BE ANNEXED TO THE TREATY AMENDING THE TREATY ON EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY**

**PROTOCOL (No 11)**

**AMENDING THE PROTOCOLS ANNEXED TO THE TREATY ON EUROPEAN UNION,  
TO THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY  
AND/OR TO THE TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY  
COMMUNITY**

THE HIGH CONTRACTING PARTIES,

DESIRING to amend the Protocols annexed to the Treaty on European Union, to the Treaty establishing the European Community and/or to the Treaty establishing the European Atomic Energy Community, in order to adapt them to the new rules laid down by the Treaty amending the Treaty on European Union and the Treaty establishing the European Community,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty establishing the European Community:

Sole Article

1) The protocols in force on the date of entry into force of this Treaty and annexed to the Treaty on European Union and/or to the Treaty establishing the European Community and/or to the Treaty establishing the European Atomic Energy Community shall be amended in accordance with the provisions of this Article.

## **A. HORIZONTAL AMENDMENTS**

- 2) The horizontal amendments laid down in Article 2(3) of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community shall apply to the Protocols referred to in this Article, with the exception of points (d), (e), (j) and (k).
- 3) In the Protocols referred to in point 1 of this Article:
- (a) the last paragraph of their respective preambles, referring to the Treaty or Treaties to which the Protocol in question is annexed, shall be replaced by "HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union". This subparagraph shall not apply to the Protocol on economic and social cohesion.
- The Protocol on the Statute of the Court of Justice of the European Union, the Protocol on the location of the seats of the institutions and of certain bodies, offices, agencies and departments of the European Union, the Protocol on Article 40.3.3 of the Constitution of Ireland and the Protocol on the privileges and immunities of the European Union shall also be annexed to the Treaty establishing the European Atomic Energy Community;
- (b) the word "Communities" shall be replaced by "Union" and grammatical changes shall be made where necessary.
- 4) In the following Protocols, the words "the Treaty" and "this Treaty" shall be replaced by "the Treaties" and "these Treaties" respectively, and references to the Treaty on European Union and/or to the Treaty establishing the European Community shall be replaced by a reference to the Treaties:
- (a) Protocol on the Statute of the Court of Justice of the European Union:
- Article 1;
- (b) Protocol on the Statute of the European System of Central Banks and of the European Central Bank:
- Article 1.1, new second subparagraph;
  - Article 12.1, first subparagraph;
  - Article 14.1;
  - Article 14.2, second subparagraph;
  - Article 34.1, second indent;
  - Article 35.1;

- (c) Protocol on the excessive deficit procedure:
    - Article 3, second sentence;
  - (d) Protocol on certain provisions relating to Denmark:
    - point 2, renumbered 1, second sentence;
  - (e) Protocol on the Schengen *acquis*:
    - sixth recital;
    - Article 1;
  - (f) Protocol on asylum for nationals of Member States of the European Union:
    - seventh recital;
  - (g) Protocol on the acquisition of property in Denmark:
    - sole provision;
  - (h) Protocol on the system of public broadcasting in the Member States:
    - sole provision;
  - (i) Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel:
    - Article 3.
- 5) In the following Protocols and Annexes, references to "this Treaty" and "the Treaty" shall be replaced by references to "the Treaty on the Functioning of the European Union":
- (a) Protocol on the excessive deficit procedure:
    - Article 1, introductory phrase;
  - (b) Protocol on the convergence criteria referred to in Article 121 of the Treaty establishing the European Community:
    - Article 1, first sentence;
  - (c) Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland:
    - paragraph 6, renumbered 5, second subparagraph;
    - paragraph 9, renumbered 8, introductory phrase;
    - paragraph 10, renumbered 9, second sentence of (a);
    - paragraph 11, renumbered 10;
  - (d) Annexes I and II:
    - titles of both Annexes.

- 6) In the following Protocols, the words "of this Treaty" shall be replaced by "of the said Treaty":
- (a) Protocol on the excessive deficit procedure:
    - Article 2, introductory phrase;
  - (b) Protocol on the convergence criteria referred to in Article 121 of the Treaty establishing the European Community:
    - Article 2; Article 4, first sentence;
    - Article 3; Article 6;
  - (c) Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland:
    - paragraph 7, renumbered 6, second subparagraph;
    - paragraph 10, renumbered 9, point (c).
- 7) In the following Protocols, the words "acting by a simple majority" shall be inserted after "the Council":
- (a) Protocol on the Statute of the Court of Justice:
    - Article 4, second paragraph;
    - Article 13, second paragraph;
  - (b) Protocol on the privileges and immunities of the European Union:
    - Article 7, renumbered 6, paragraph 1, first subparagraph, first sentence.
- 8) In the following Protocols, the words "Court of Justice of the European Communities", "Court of Justice" or "Court" shall be replaced by "Court of Justice of the European Union":
- (a) Protocol on the Statute of the Court of Justice of the European Union:
    - title of the Protocol
    - preamble, first recital
    - Article 1;
    - Article 3, fourth paragraph;
    - Article 1 of the Annex;
    - Article 5, first paragraph, of the Annex;
    - Article 7(1) of the Annex;
  - (b) Protocol on the Statute of the European System of Central Banks and of the European Central Bank:
    - Article 35.1, 35.2, 35.4, 35.5 and 35.6;
    - Article 36.2;
  - (c) Protocol on the location of the seats of the institutions and of certain bodies, offices, agencies and departments of the European Union:
    - Sole Article, point (d);

- (d) Protocol on the privileges and immunities of the European Union:
  - Article 12, renumbered 11, point (a);
  - Article 21, renumbered 20;
- (e) Protocol on the position of Denmark:
  - Article 2, first sentence;
- (f) Protocol on asylum for nationals of Member States of the European Union:
  - second recital.

## **B. SPECIFIC AMENDMENTS**

### **Protocols repealed**

- 9) The following Protocols shall be repealed:
- (a) Protocol on Italy (1957);
  - (b) Protocol on goods originating in and coming from certain countries and enjoying special treatment when imported into a Member State (1957);
  - (c) Protocol on the Statute of the European Monetary Institute (1992);
  - (d) Protocol on the transition to the third stage of economic and monetary union (1992);
  - (e) Protocol on Portugal (1992);
  - (f) Protocol on the role of national parliaments in the European Union (1997), which shall be replaced by a new Protocol with the same title;
  - (g) Protocol on the application of the principles of subsidiarity and proportionality (1997), which shall be replaced by a new Protocol with the same title;
  - (h) Protocol on protection and welfare of animals (1997), the text of which shall become Article 13 of the Treaty on the Functioning of the European Union;
  - (i) Protocol on the enlargement of the European Union (2001);
  - (j) Protocol on Article 67 of the Treaty establishing the European Community (2001).

## Statute of the Court of Justice of the European Union

10) The Protocol on the Statute of the Court of Justice shall be amended as follows:

- (a) in the preamble, first recital, the reference to the Treaty establishing the European Community shall be replaced by a reference to the Treaty on the Functioning of the European Union;
- (b) in the following Articles, the word "Court", where it refers specifically to the Court of Justice, shall be replaced by "Court of Justice":
  - Article 3, second paragraph, beginning of the sentence;
  - Article 4, fourth paragraph
  - Article 5, second paragraph;
  - Article 6, first paragraph;
  - Articles 10 to 15;
  - Article 16, first paragraph;
  - Article 17, first paragraph;
  - Article 18, third paragraph;
  - Article 19, first paragraph;
  - Article 20, first paragraph;
  - Article 21, first paragraph;
  - Article 22, first paragraph;
  - Article 23, first paragraph;
  - Article 24, first paragraph, beginning of the sentence;
  - Articles 25 and 27;
  - Article 29, first paragraph;
  - Articles 30 to 32, 35, 38 to 41 and 43;
  - Article 44, first paragraph;
  - Article 46, first paragraph;
  - Article 51: does not apply to the English version;
  - Article 52: does not apply to the English version;
  - Article 54: does not apply to the English version;
  - Article 56: does not apply to the English version;
  - Article 57: does not apply to the English version;
  - Article 58: does not apply to the English version;
  - Article 59: does not apply to the English version;
  - Article 60: does not apply to the English version;
  - Article 61: does not apply to the English version;
  - Article 62: does not apply to the English version;
  - Article 62a: does not apply to the English version;
  - Article 62b: does not apply to the English version;
  - Article 63: does not apply to the English version;
  - Article 64: does not apply to the English version;
  - Article 6(1) of the Annex: does not apply to the English version;
  - Article 8(1) of the Annex: does not apply to the English version;
- (c) in Article 2, the words "in open court" shall be replaced by "before the Court of Justice sitting in open court";
- (d) in Article 3, second paragraph, and Article 4, fourth paragraph, the following sentence shall be added: "If the decision concerns a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.";
- (e) in Article 6, first paragraph, the following sentence shall be added: "If the person concerned is a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.";

- (f) in the heading of Title II, the words "of the Court of Justice" shall be added;
- (g) in Article 13, first paragraph, first sentence, the words "On a proposal from" shall be replaced by "At the request of", and the words "the Council may, acting unanimously, provide for" shall be replaced by "the European Parliament and the Council may, acting in accordance with the ordinary legislative procedure, provide for";
- (h) in the heading of Title III, the words "before the Court of Justice" shall be added;
- (i) Article 23 shall be amended as follows:
  - (i) in the first paragraph, second sentence, the words "and also to the Council or to the European Central Bank if the act the validity or interpretation of which is in dispute originates from one of them, and to the European Parliament and the Council if the act the validity or interpretation of which is in dispute was adopted jointly by those two institutions" shall be replaced by "and to the institution, body, office or agency of the Union which adopted the act the validity or interpretation of which is in dispute";
  - (ii) in the second paragraph, the words "and, where appropriate, the European Parliament, the Council and the European Central Bank, shall be entitled" shall be replaced by "and, where appropriate, the institution, body, office or agency which adopted the act the validity or interpretation of which is in dispute, shall be entitled";
- (j) in Article 24, second paragraph, the words ", bodies, offices and agencies" shall be inserted after "institutions";
- (k) in Article 40 the second paragraph shall be replaced by the following:

"The same right shall be open to the bodies, offices and agencies of the Union and to any other person which can establish an interest in the result of a case submitted to the Court of Justice. Natural or legal persons shall not intervene in cases between Member States, between institutions of the Union or between Member States and institutions of the Union.";
- (l) in Article 46, the following new paragraph shall be added: "This Article shall also apply to proceedings against the European Central Bank regarding non-contractual liability.";
- (m) the heading of Title IV shall be replaced by "GENERAL COURT";
- (n) in Article 47, the first paragraph shall be replaced by "The first paragraph of Article 9, Articles 14 and 15, the first, second, fourth and fifth paragraphs of Article 17 and Article 18 shall apply to the General Court and its members.";

- (o) in Article 51, second paragraph, the words "or by the European Central Bank" shall be deleted;
- (p) Article 64 shall be amended as follows:
  - (i) the following new first paragraph shall be inserted:

"The rules governing the language arrangements applicable at the Court of Justice of the European Union shall be laid down by a regulation of the Council acting unanimously. This regulation shall be adopted either at the request of the Court of Justice and after consultation of the Commission and the European Parliament, or on a proposal from the Commission and after consultation of the Court of Justice and of the European Parliament."
  - (ii) in the first sentence of the paragraph which shall become the second paragraph, the words "Until the rules governing the language arrangements applicable at the Court of Justice and the Court of First Instance have been adopted in this Statute" shall be replaced by "Until those rules have been adopted"; the second sentence shall be replaced by the following: "By way of derogation from Articles 195 and 224 of the Treaty on the Functioning of the European Union, those provisions may only be amended or repealed with the unanimous consent of the Council.";
- (q) in Annex I to the Protocol, Article 3(1), second sentence, the words "Civil Service" shall be inserted before "Tribunal".

### **Statute of the ESCB and of the ECB**

- 11) The Protocol on the Statute of the European System of Central Banks and of the European Central Bank shall be amended as follows:
  - (a) in the preamble, first recital, the reference to the Treaty establishing the European Community shall be replaced by a reference to the Treaty on the Functioning of the European Union;
  - (a<sup>a</sup>) Article 1.1 shall be split at the semi-colon into two unnumbered paragraphs. The first paragraph shall be replaced by the following: "In accordance with Article 245a(1) of the Treaty on European Union, the European Central Bank (ECB) and the national central banks shall constitute the European System of Central Banks (ESCB). The ECB and the national central banks of those Member States whose currency is the euro shall constitute the Eurosystem."; at the beginning of the second paragraph, the words "they shall perform" shall be replaced by "The ESCB and the ECB shall perform";
  - (b) Article 1.2 shall be deleted;



- (b<sup>a</sup>) at the beginning of Article 2, the words "In accordance with Article 105(1) of this Treaty" shall be replaced by "In accordance with Article 105(1) and Article 245a(2) of the Treaty on the Functioning of the European Union";
- (c) in Article 4, point (b), the word "appropriate" shall be deleted;
- (c<sup>a</sup>) at the beginning of Article 9.1, the words "in accordance with Article 107(2) of this Treaty" shall be replaced by "In accordance with Article 107(2) and Article 245a(3) of the Treaty on the Functioning of the European Union";
- (d) Article 10 shall be amended as follows:
  - (i) in Article 10.1, the words "of the Member States whose currency is the euro" shall be inserted at the end;
  - (ii) in Article 10.2, first indent, at the end of the first sentence, the words "Member States which have adopted the euro" shall be replaced by "Member States whose currency is the euro"; in the third subparagraph, the reference to Article 41.2 shall be replaced by a reference to Article 41.1, second subparagraph, and Article 41.2, renumbered 40.2 and 40.3 respectively;
  - (iii) Article 10.6 shall be deleted;
- (e) in Article 11.2, first subparagraph, the words "shall be appointed from among persons of recognised standing and professional experience in monetary or banking matters by common accord of the governments of the Member States at the level of Heads of State or Government" shall be replaced by "shall be appointed by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters";
- (f) in Article 14.1, the words ", at the latest at the date of the establishment of the ESCB," shall be deleted;
- (f<sup>a</sup>) in Article 16, first sentence, the word "euro" shall be inserted before "banknotes";
- (g) in Article 18.1, first indent, the words "whether in Community or non-Community currencies" shall be replaced by "whether in euro or other currencies";
- (g<sup>a</sup>) in Article 25.2, the words "any decision of the Council" shall be replaced by "any regulation of the Council";
- (h) in Article 28.1, the words ", which shall become operational upon its establishment," shall be deleted;

- (i) in Article 29.1, the introductory wording shall be replaced by the following: "The key for subscription of the ECB's capital, fixed for the first time in 1998 when the ESCB was established, shall be determined by assigning to each national central bank a weighting in this key equal to the sum of:"; the second subparagraph shall be replaced by the following: "The percentages shall be rounded up or down to the nearest multiple of 0,0001 percentage points.";
- (j) in Article 32.2, the words "Subject to Article 32.3," shall be deleted and in Article 32.3 the words ", after the start of the third stage," shall be replaced by "after the introduction of the euro";
- (k) in Article 34.2, the first four subparagraphs shall be deleted;
- (l) in Article 35.6, first sentence, the words "the Treaties and" shall be inserted before "this Statute";
- (m) Article 37 shall be repealed and the remaining Articles shall be renumbered accordingly;
- (n) Article 41, renumbered 40, shall be amended as follows:
  - (i) in Article 41.1, renumbered 40.1, the words "may be amended by the Council, acting either" shall be replaced by "may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure either" and the last sentence shall be deleted;
  - (ii) the following new Article 40.2 shall be inserted: "40.2. Article 10(2) may be amended by a decision of the European Council, acting unanimously, either on a recommendation from the European Central Bank and after consulting the European Parliament and the Commission, or on a recommendation from the Commission and after consulting the European Parliament and the European Central Bank. These amendments shall not enter into force until they are approved by the Member States in accordance with their respective constitutional requirements." and the current paragraph 40.2 shall be renumbered 40.3;
- (o) in Article 42, renumbered 41, the words "immediately after the decision on the date for the beginning of the third stage," shall be deleted;
- (p) in Article 43.3, renumbered 42.3, the reference to Articles 34.2 and 50 shall be deleted;
- (q) in Article 44, renumbered 43, first paragraph, the words "those tasks of the EMI" shall be replaced by "the former tasks of the EMI referred to in Article 118(2) of the Treaty on the Functioning of the European Union" and the words "in the third stage" shall be replaced by "after the introduction of the euro";

- (r) in Article 47.3, renumbered 46.3, the words "against the currencies, or the single currency, of the Member States without a derogation," shall be replaced by "against the euro";
- (s) Articles 50 and 51 shall be repealed and the remaining Articles shall be renumbered accordingly;
- (t) in Article 52, renumbered 49, the words "in accordance with Article 116(3) of the Treaty on the Functioning of the European Union" shall be inserted after the words "Following the irrevocable fixing of exchange rates".

## **Statute of the EIB**

**12)** The Protocol on the Statute of the European Investment Bank shall be amended as follows:

- (a) throughout the Protocol, references to an Article of "the Treaty" shall be replaced by references to an Article of "the Treaty on the Functioning of the European Union";
- (b) at the end of the preamble, the words "to this Treaty" shall be replaced by "to the Treaty on European Union and to the Treaty on the Functioning of the European Union";
- (c) in Article 1, the second paragraph shall be deleted;
- (d) in Article 3, the introductory phrase shall be replaced by "In accordance with Article 266 of the Treaty on the Functioning of the European Union, the Bank's members shall be the Member States" and the list of States shall be deleted;
- (e) in Article 4(1), the figure for the capital of the Bank shall be replaced by "EUR 164 808 169 000" and the figures for the following Member States shall read as follows and the second subparagraph shall be deleted;

Poland	3411263500	Bulgaria	290917500
Czech Republic	1258785500	Lithuania	249617500
Hungary	1190868500	Cyprus	183382000
Romania	863514500	Latvia	152335000
Slovakia	428490500	Estonia	117640000
Slovenia	397815000	Malta	69804000

- (f) Article 5 shall be amended as follows:
- (i) in paragraph 2, the following new sentence shall be added: "Cash payments shall be made exclusively in euro.";
  - (ii) in paragraph 3, first subparagraph, the words "towards those who have made loans to it" shall be deleted, and in the second subparagraph the words "in the currencies required by the Bank to meet these obligations" shall be deleted;
- (g) Articles 6 and 7 shall be repealed and the remaining Articles shall be renumbered accordingly;
- (h) Article 9, renumbered 7, shall be amended as follows:
- (i) in paragraph 2, the words "with particular reference to the objectives to be pursued as progress is made in the attainment of the common market" shall be replaced by "in accordance with the Union's objectives";
  - (ii) in paragraph 3, the text of point (b) shall be replaced by "(b) for the purposes of Article 9(1), determine the principles applicable to financing operations undertaken within the framework of the Bank's task"; the text of point (d) shall be replaced by "take decisions in respect of the granting of finance for investment operations to be carried out, in whole or in part, outside the territories of the Member States in accordance with Article 16(1);" and, in point (g), the word "other" shall be inserted before "powers" and the words "provided in Articles 4, 7, 14, 17, 26 and 27" shall be replaced by "conferred by this Statute";
- (i) Article 10, renumbered 8, shall be amended as follows:
- (i) the third sentence shall be deleted;
  - (ii) the following two new paragraphs shall be inserted:

"A qualified majority shall require eighteen votes in favour and 68 % of the subscribed capital.

Abstentions by members present in person or represented shall not prevent the adoption of decisions requiring unanimity."

(j) Article 11, renumbered 9, shall be amended as follows:

(i) paragraph 1, first subparagraph, shall be replaced by the following:

"1. The Board of Directors shall take decisions in respect of granting finance, in particular in the form of loans and guarantees, and raising loans; it shall fix the interest rates on loans granted and the commission and other charges. It may, on the basis of a decision taken by a qualified majority, delegate some of its functions to the Management Committee. It shall determine the terms and conditions for such delegation and shall supervise its execution.

The Board of Directors shall see that the Bank is properly run; it shall ensure that the Bank is managed in accordance with the provisions of the Treaty and of this Statute and with the general directives laid down by the Board of Governors.";

(ii) in paragraph 2, the sixth subparagraph shall be replaced by the following:

"The Rules of Procedure shall lay down the arrangements for participating in the meetings of the Board of Directors and the provisions applicable to alternates and co-opted experts."

(iii) in paragraph 5, second sentence, the words ", acting unanimously," shall be deleted.

(k) Article 13, renumbered 11, shall be amended as follows:

(i) in paragraph 3, second subparagraph, the words "the granting of loans" shall be replaced by "the granting of finance, in particular in the form of loans";

(ii) in paragraph 4, the words "on proposals for raising loans or granting loans and guarantees" shall be replaced by "on proposals for raising loans or granting finance, in particular in the form of loans and guarantees";

(iii) in paragraph 7, first sentence, the words "officials and other employees" shall be replaced by "staff". The following sentence shall be added at the end: "The Rules of Procedure shall determine which organ is competent to adopt the provisions applicable to staff.";

(l) Article 14, renumbered 12, shall be amended as follows:

(i) in paragraph 1, the words "three members" shall be replaced by "six members" and the words "shall annually verify that the operations of the Bank have been conducted and its books kept in a proper manner" shall be replaced by "shall verify that the activities of the Bank conform to best banking practice and shall be responsible for the auditing of its accounts";

- (ii) paragraph 2 shall be replaced by the following three new paragraphs:

"2. The Committee referred to in paragraph 1 shall annually ascertain that the operations of the Bank have been conducted and its books kept in a proper manner. To this end, it shall verify that the Bank's operations have been carried out in compliance with the formalities and procedures laid down by this Statute and the Rules of Procedure.

3. The Committee referred to in paragraph 1 shall confirm that the financial statements, as well as any other financial information contained in the annual accounts drawn up by the Board of Directors, give a true and fair view of the financial position of the Bank in respect of its assets and liabilities, and of the results of its operations and its cash flows for the financial year under review.

4. The Rules of Procedure shall specify the qualifications required of the members of the Committee and lay down the terms and conditions for the Committee's activity."

- (m) in Article 15, renumbered 13, the words "the bank of issue" shall be replaced by "the national central bank";

- (n) Article 18, renumbered 16, shall be amended as follows:

- (i) in the first subparagraph of paragraph 1, the words "shall grant loans" shall be replaced by "shall grant finance, in particular in the form of loans and guarantees", the words "investment projects" shall be replaced by "investments" and the word "European" shall be deleted; in the second subparagraph, the words "by way of derogation authorised by the Board of Governors, acting unanimously" shall be replaced by "by decision of the Board of Governors, acting by a qualified majority", the words "loans for investment projects" shall be replaced by "financing for investment" and the word "European" shall be deleted;

- (ii) in paragraph 3, the words "the project" shall be replaced by "the investment", the following shall be added at the end of the sentence: ", or on the financial strength of the debtor" and the following new second subparagraph shall be inserted:

"Furthermore, in accordance with the principles established by the Board of Governors pursuant to Article 7(3)(b), and where the implementation of projects provided for in Article 267 of the Treaty on the Functioning of the European Union so requires, the Board of Directors shall, acting by a qualified majority, lay down the terms and conditions of any financing operation presenting a specific risk profile and thus considered to be a special activity."

(iii) paragraph 5 shall be replaced by the following:

"5. The aggregate amount outstanding at any time of loans and guarantees granted by the Bank shall not exceed 250 % of its subscribed capital, reserves, non-allocated provisions and profit and loss account surplus. The latter aggregate amount shall be reduced by an amount equal to the amount subscribed (whether or not paid in) for any equity participation of the Bank.

The amount of the Bank's disbursed equity participations shall not exceed at any time an amount corresponding to the total of its paid-in subscribed capital, reserves, non-allocated provisions and profit and loss account surplus.

By way of exception, the special activities of the Bank, as decided by the Board of Governors and the Board of Directors in accordance with paragraph 3, will have a specific allocation of reserve.

This paragraph shall also apply to the consolidated accounts of the Bank."

(o) in paragraph 1 of Article 19, renumbered 17, the words "commission on guarantees" shall be replaced by "commission and other charges" and the words "and risks" shall be inserted after "to cover its expenses"; in paragraph 2, the words "the project" shall be replaced by "the investment";

(p) Article 20, renumbered 18, shall be amended as follows:

(i) in the introductory phrase, the words "loan and guarantee operations" shall be replaced by "financing operations";

(ii) in paragraph 1, point (a), the words "projects carried out by" shall be replaced by "investments by", the words "in other cases" shall be replaced by "in the case of other investments" and the words "in which the project is carried out" shall be replaced by "in which the investment is made"; in point (b), the words "of the project" shall be replaced by "of the investment";

(iii) in paragraph 2, the following new second subparagraph shall be inserted:

"However, in accordance with the principles determined by the Board of Governors pursuant to Article 7(3)(b), and where the implementation of operations provided for in Article 267 of the Treaty on the Functioning of the European Union so requires, the Board of Directors shall, acting by a qualified majority, lay down the terms and conditions for taking an equity participation in a commercial undertaking, normally as a complement to a loan or a guarantee, insofar as this is required to finance an investment or programme."

(iv) in paragraph 6, the words "any project" shall be replaced by "any investment";

(v) the following new paragraph 7 shall be added:

"7. As a complement to its lending activity, the Bank may provide technical assistance services in accordance with the terms and conditions laid down by the Board of Governors, acting by a qualified majority, and in compliance with this Statute."

(q) Article 21, renumbered 19, shall be amended as follows:

(i) paragraph 1 shall be replaced by the following:

"1. Any undertaking or public or private entity may apply directly to the Bank for financing. Applications to the Bank may also be made either through the Commission or through the Member State on whose territory the investment will be carried out."

(i<sup>a</sup>) in paragraph 2, the words "the project" shall be replaced by "the investment";

(ii) in paragraph 3 and in the first sentence of paragraph 4, the words "applications for loans or guarantees" shall be replaced by "financing operations";

(iii) in paragraph 4, second sentence, the words "granting the loan or guarantee" shall be replaced by "the financing operation" and the words "draft contract" shall be replaced by "corresponding proposal"; in the last sentence, the words "loan or guarantee" shall be replaced by "finance";

(iv) in paragraphs 5, 6 and 7, the words "loan or guarantee" shall be replaced by "finance";

(v) the following new paragraph 8 shall be added:

"8. In the event that a financing operation relating to an approved investment has to be restructured in order to safeguard the Bank's rights and interests, the Management Committee shall take without delay the emergency measures which it deems necessary, subject to immediate reporting thereon to the Board of Directors."



- (r) in Article 22, renumbered 20, the word "international" shall be deleted from paragraph 1 and paragraph 2 shall be replaced by the following:

"2. The Bank may borrow on the capital markets of the Member States in accordance with the legal provisions applying to those markets.

The competent authorities of a Member State with a derogation within the meaning of Article 116(1) of the Treaty on the Functioning of the European Union may oppose this only if there is reason to fear serious disturbances on the capital market of that State.";

- (s) in paragraph 1(b) of Article 23, renumbered 21, the words "issued by itself or by those who have borrowed from it" shall be deleted and in paragraph 3 the words "the bank of issue" shall be replaced by "the national central bank";
- (t) in Article 25, renumbered 23, the words "a Member State whose currency is not the euro" shall be inserted to replace "one Member State" in paragraph 1, first sentence, and to replace "a Member State" in paragraph 2; in paragraph 1, first sentence, the words "into the currency of another Member State" shall be deleted, in paragraph 3 the words "in gold or convertible currency and" shall be deleted and in paragraph 4 the word "projects" shall be replaced by "investment";
- (u) in Article 26, renumbered 24, the words ", to grant its special loans" shall be deleted;
- (v) in paragraph 2 of Article 27, renumbered 25, the following sentence shall be added at the end: "It shall ensure that the rights of the members of staff are safeguarded.";
- (w) in the first paragraph of Article 29, renumbered 27, the words "of the European Union" shall be added at the end and the following sentence shall be added: "The Bank may provide for arbitration in any contract."; in the second paragraph the words "or provide for arbitration" shall be deleted;
- (x) Article 30, renumbered 28, shall be replaced by the following:

"1. The Board of Governors may, acting unanimously, decide to establish subsidiaries or other entities, which shall have legal personality and financial autonomy.

2. The Board of Governors shall establish the Statutes of the bodies referred to in paragraph 1. The Statutes shall define, in particular, their objectives, structure, capital, membership, the location of their seat, their financial resources, means of intervention and auditing arrangements, as well as their relationship with the organs of the Bank.

3. The Bank shall be entitled to participate in the management of these bodies and contribute to their subscribed capital up to the amount determined by the Board of Governors, acting unanimously.

4. The Protocol on the privileges and immunities of the European Union shall apply to the bodies referred to in paragraph 1 insofar as they are incorporated under Union law, to the members of their organs in the performance of their duties as such and to their staff, under the same terms and conditions as those applicable to the Bank.

Those dividends, capital gains or other forms of revenue stemming from such bodies to which the members, other than the European Union and the Bank, are entitled, shall however remain subject to the fiscal provisions of the applicable legislation.

5. The Court of Justice of the European Union shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning measures adopted by organs of a body incorporated under Union law. Proceedings against such measures may be instituted by any member of such a body in its capacity as such or by Member States under the conditions laid down in Article 230 of the Treaty on the Functioning of the European Union.

6. The Board of Governors may, acting unanimously, decide to admit the staff of bodies incorporated under Union law to joint schemes with the Bank, in compliance with the respective internal procedures."

### **Protocol on the location of seats**

- 13) The Protocol on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol shall be amended as follows:
- (a) in the title of the Protocol, the words ", offices, agencies" shall be inserted before "and departments" and the words "and of Europol" shall be deleted;
  - (b) in the first citation in the preamble, the reference to the Treaty establishing the European Community shall be replaced by a reference to the Treaty on the Functioning of the European Union and the reference to Article 77 of the Treaty establishing the European Coal and Steel Community shall be deleted; the second citation shall be deleted;
  - (c) in point (d), the reference to the Court of First Instance shall be deleted and the words "their seat" shall be replaced by "its seat";
  - (d) in point (i), the reference to the European Monetary Institute shall be deleted and the words "their seat" shall be replaced by "its seat".

## **Protocol on the privileges and immunities of the Union**

- 14) The Protocol on the privileges and immunities of the European Union shall be amended as follows:
- (a) in the first recital in the preamble, the reference to Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities shall be replaced by a reference to Article 291 of the Treaty on the Functioning of the European Union and to Article 191 of the Treaty establishing the European Atomic Energy Community, abbreviated as the EAEC, and the words "these Communities and the European Investment Bank" shall be replaced by "the European Union and the EAEC";
  - (b) Article 5 shall be repealed and the remaining Articles shall be renumbered accordingly;
  - (c) In Article 7, renumbered 6, paragraph 2 shall be deleted and paragraph 1 shall not be numbered;
  - (d) in Article 13, renumbered 12, the words "in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission" shall be replaced by "in accordance with the conditions and procedure laid down by the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned";
  - (e) in Article 15, renumbered 14, the opening words "The Council shall, acting unanimously on a proposal from the Commission, lay down" shall be replaced by "The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned, shall lay down";
  - (f) in Article 16, renumbered 15, the opening words "The Council shall, acting on a proposal from the Commission" shall be replaced by "The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall";
  - (g) in Article 21, renumbered 20, the words "and to the Members and Registrar of the Court of First Instance" shall be deleted;
  - (h) in Article 23, renumbered 22, the last paragraph shall be deleted;
  - (i) after the closing formula, "IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol", the date and the list of signatories shall be deleted.

## **Protocol on the convergence criteria**

- 15) The Protocol on the convergence criteria referred to in Article 121 of the Treaty establishing the European Community shall be amended as follows:
- (a) in the title of the Protocol, the words "referred to in Article 121 of the Treaty establishing the European Community" shall be deleted;
  - (b) in the first recital, the words "in taking decisions on the passage to the third stage of economic and monetary union" shall be replaced by "in taking decisions to end the derogations of those Member States with a derogation";
  - (c) in Article 3, second sentence, the words "against another Member State's currency" shall be replaced by "against the euro".

## **Protocol on certain provisions relating to the United Kingdom**

- 16) The Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland shall be amended as follows:
- (a) throughout the Protocol, the words "to move to the third stage of economic and monetary union" and "to move to the third stage" shall be replaced by "to adopt the euro"; the words "moves to the third stage" shall be replaced by "adopts the euro"; the words "in the third stage" shall be replaced by "after the introduction of the euro";
  - (b) in the preamble, the following new second recital shall be inserted:

"GIVEN that on 16 October 1996 and 30 October 1997 the United Kingdom government notified the Council of its intention not to participate in the third stage of economic and monetary union,";
  - (c) in paragraph 1, the first and third subparagraphs shall be deleted;
  - (d) paragraph 2 shall be replaced by the following:

"2. In view of the notice given to the Council by the United Kingdom government on 16 October 1996 and 30 October 1997, paragraphs 3 to 9 shall apply to the United Kingdom."

- (e) paragraph 3 shall be deleted and the remaining paragraphs shall be renumbered accordingly;
- (f) paragraph 5, renumbered 4, shall be amended as follows:
  - (i) in the first sentence, the list of Articles shall be replaced by "Articles 245a(2), with the exception of the first and last sentences thereof, 245a(5), 97b, second paragraph, 104(1), (9) and (10), 105(1) to (5), 106, 108, 109, 110 and 111, 115a, 117(3), 188o and 245b of the Treaty on the Functioning of the European Union";
  - (ii) The following new second sentence shall be inserted: "The same applies to Article 99(2) of this Treaty as regards the adoption of the parts of the broad economic policy guidelines which concern the euro area generally.";
- (g) in paragraph 6, renumbered 5, the following new first subparagraph shall be inserted: "The United Kingdom shall endeavour to avoid an excessive government deficit.";
- (h) the first subparagraph of paragraph 7, renumbered 6, shall be replaced by the following: "6. The voting rights of the United Kingdom shall be suspended in respect of acts of the Council referred to in the Articles listed in paragraph 4 and in the instances referred to in the first subparagraph of Article 116(4) of the Treaty on the Functioning of the European Union. For this purpose the second and third subparagraphs of Article 116(4) of the Treaty shall apply.";
- (i) in point (a) of paragraph 9, renumbered 8, the words "move to that stage" shall be replaced by "adopt the euro";
- (j) in paragraph 10, renumbered 9, the introductory subparagraph shall be replaced by "The United Kingdom may notify the Council at any time of its intention to adopt the euro. In that event:";
- (k) at the end of paragraph 11, renumbered 10, the words "does not move to the third stage" shall be replaced by "does not adopt the euro".

## **Protocol on certain provisions relating to Denmark**

- 17) The Protocol on certain provisions relating to Denmark shall be amended as follows:
- (a) in the preamble, the first recital shall be deleted, in the second recital, which shall become the first recital, the words "Danish participation in the third stage of economic and monetary union" shall be replaced by "Denmark renouncing its exemption", and the following new second recital shall be inserted: "GIVEN THAT, on 3 November 1993, the Danish Government notified the Council of its intention not to participate in the third stage of economic and monetary union,";
  - (b) points 1 and 3 shall be deleted and the remaining points shall be renumbered accordingly;
  - (c) in point 2, renumbered 1, the first sentence shall be replaced by "In view of the notice given to the Council by the Danish Government on 3 November 1993, Denmark shall have an exemption."

## **Schengen Protocol**

- 18) The Protocol integrating the Schengen *acquis* into the framework of the European Union shall be amended as follows:
- (a) in the title of the Protocol, the words "integrating the Schengen *acquis* into" shall be replaced by "on the Schengen *acquis* integrated into";
  - (b) the preamble shall be amended as follows:
    - (i) at the end of the first recital, the words "are aimed at enhancing European integration and, in particular, at enabling the European Union to develop more rapidly into an area of freedom, security and justice" shall be replaced by "have been integrated into the framework of the European Union by the Treaty of Amsterdam of 2 October 1997;"
    - (ii) the second recital shall be replaced by the following:

"DESIRING to preserve the Schengen *acquis*, as developed since the entry into force of the Treaty of Amsterdam, and to develop this *acquis* in order to contribute towards achieving the objective of offering citizens of the Union an area of freedom, security and justice without internal borders";

- (iii) the third recital shall be deleted;
  - (iv) in the fifth recital, which shall become the fourth recital, the words "are not parties to and have not signed the aforementioned agreements" shall be replaced by "do not participate in all the provisions of the Schengen *acquis*" and, at the end, the words "to accept some or all of the provisions thereof" shall be replaced by "to accept other provisions of this *acquis* in full or in part";
  - (v) at the end of the sixth recital, which shall become the fifth recital, the words "and that those provisions should only be used as a last resort" shall be deleted;
  - (vi) at the end of the seventh recital, which shall become the sixth recital, the words "both States having confirmed their intention to become bound by the provisions mentioned above, on the basis of the Agreement signed in Luxembourg on 19 December 1996" shall be replaced by "both States being bound by the provisions of the Nordic passport union, together with the Nordic States which are members of the European Union";
- (c) in Article 1, the first sentence shall be replaced by the following:
- "The Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden shall be authorised to establish closer cooperation among themselves in areas covered by provisions defined by the Council which constitute the Schengen *acquis*."
- (d) Article 2 shall be replaced by the following:
- "The Schengen *acquis* shall apply to the Member States referred to in Article 1, without prejudice to Article 3 of the Act of Accession of 16 April 2003 or to Article 4 of the Act of Accession of 25 April 2005. The Council will substitute itself for the Executive Committee established by the Schengen agreements."
- (e) Article 3 shall be replaced by the following:
- "The participation of Denmark in the adoption of measures constituting a development of the Schengen *acquis*, as well as the implementation of these measures and their application to Denmark, shall be governed by the relevant provisions of the Protocol on the position of Denmark."

- (f) in Article 4, first paragraph, the words "which are not bound by the Schengen *acquis*," shall be deleted;
- (g) Article 5 shall be replaced by the following:

"1. Proposals and initiatives to build upon the Schengen *acquis* shall be subject to the relevant provisions of the Treaties.

In this context, where either Ireland or the United Kingdom has not notified the Council in writing within a reasonable period that it wishes to take part, the authorisation referred to in Article 280d of the Treaty on the Functioning of the European Union shall be deemed to have been granted to the Member States referred to in Article 1 and to Ireland or the United Kingdom where either of them wishes to take part in the areas of cooperation in question.

2. Where either Ireland<sup>1</sup> or the United Kingdom is deemed to have given notification pursuant to a decision under Article 4, it may nevertheless notify the Council in writing, within 3 months, that it does not wish to take part in such a proposal or initiative. In that case, Ireland or the United Kingdom shall not take part in its adoption. As from the latter notification, the procedure for adopting the measure building upon the Schengen *acquis* shall be suspended until the end of the procedure set out in paragraphs 3 or 4 or until the notification is withdrawn at any moment during that procedure.

3. For the Member State having made the notification referred to in paragraph 2, any decision taken by the Council pursuant to Article 4 shall, as from the date of entry into force of the proposed measure, cease to apply to the extent considered necessary by the Council and under the conditions to be determined in a decision of the Council acting by a qualified majority on a proposal from the Commission. That decision shall be taken in accordance with the following criteria: the Council shall seek to retain the widest possible measure of participation of the Member State concerned without seriously affecting the practical operability of the various parts of the Schengen *acquis*, while respecting their coherence. The Commission shall submit its proposal as soon as possible after the notification referred to in paragraph 2. The Council shall, if needed after convening two successive meetings, act within four months of the Commission proposal.

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<sup>1</sup> Ireland will determine its position with regard to paragraphs 2 to 5 of this Article by 12 October 2007 at the latest.



4. If, by the end of the period of four months, the Council has not adopted a decision, a Member State may, without delay, request that the matter be referred to the European Council. In that case, the European Council shall, at its next meeting, acting by a qualified majority on a proposal from the Commission, take a decision in accordance with the criteria referred to in paragraph 3.

5. If, by the end of the procedure set out in paragraphs 3 or 4, the Council or, as the case may be, the European Council has not adopted its decision, the suspension of the procedure for adopting the measure building upon the Schengen *acquis* shall be terminated. If the said measure is subsequently adopted any decision taken by the Council pursuant to Article 4 shall, as from the date of entry into force of that measure, cease to apply for the Member State concerned to the extent and under the conditions decided by the Commission, unless the said Member State has withdrawn its notification referred to in paragraph 2 before the adoption of the measure. The Commission shall act by the date of this adoption. When taking its decision, the Commission shall respect the criteria referred to in paragraph 3."

- (h) at the end of the first sentence of the first paragraph of Article 6, the words "on the basis of the Agreement signed in Luxembourg on 19 December 1996" shall be deleted;
- (i) Article 7 shall be repealed and Article 8 shall be renumbered 7;
- (j) the Annex shall be repealed.

### **Protocol on the application of Articles 22a and 22b to the United Kingdom and to Ireland**

- 19) The Protocol on the application of certain aspects of Article 14 of the Treaty establishing the European Community to the United Kingdom and to Ireland shall be amended as follows:
- (a) in the title of the Protocol, the reference to Article 14 shall be replaced by a reference to Articles 22a and 22b of the Treaty on the Functioning of the European Union;
  - (b) in Article 1, first paragraph, point (a), the words "States which are Contracting Parties to the Agreement on the European Economic Area" shall be replaced by "Member States";
  - (c) in Article 1, first and second paragraphs, Article 2 and Article 3, second paragraph, the reference to Article 14 shall be replaced by a reference to Articles 22a, 22b and 69 of the Treaty on the Functioning of the European Union.

## **Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice**

- 20) The Protocol on the position of the United Kingdom and Ireland<sup>2</sup> shall be amended as follows:
- (a) at the end of the title of the Protocol, the words "in respect of the area of freedom, security and justice" shall be added;
  - (b) in the second recital of the preamble, the reference to Article 14 shall be replaced by a reference to Articles 22a and 22b of the Treaty on the Functioning of the European Union;
  - (c) in Article 1, first sentence, the words "pursuant to Title IV of the Treaty establishing the European Community" shall be replaced by "pursuant to Title IV of Part Three of the Treaty on the Functioning of the European Union"; the second sentence shall be deleted and the following paragraph shall be added:  
  
"For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the European Union.";
  - (d) at the beginning of Article 2 the words "provisions of Title IV of the Treaty establishing the European Community" shall be replaced by "provisions of Title IV of Part Three of the Treaty on the Functioning of the European Union"; at the end of the Article, the words "*acquis communautaire*" shall be replaced by "Community or Union *acquis*";
  - (e) Article 3(1) shall be amended as follows:
    - (i) in the first sentence of the first subparagraph, the words "pursuant to Title IV of the Treaty establishing the European Community" shall be replaced by "pursuant to Title IV of Part Three of the Treaty on the Functioning of the European Union" and the second sentence shall be deleted;

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<sup>2</sup> Ireland will determine its position with regard to the extension of the scope of this Protocol by 12 October 2007 at the latest.

(ii) the following new subparagraphs shall be added after the second subparagraph:

"Measures adopted pursuant to Article 64 of the Treaty on the Functioning of the European Union shall lay down the conditions for the participation of the United Kingdom and Ireland in the evaluations concerning the areas covered by Title IV of Part Three of that Treaty.

For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the European Union.";

- (f) in Articles 4, 5 and 6, the words "pursuant to Title IV of the Treaty" shall be replaced by "pursuant to Title IV of Part Three of the Treaty on the Functioning of the European Union";
- (g) in the second sentence of Article 4, the reference to Article 11(3) shall be replaced by a reference to Article 280f(1) of the Treaty on the Functioning of the European Union;
- (h) the following new Article 4a shall be inserted:

#### "Article 4a

1. The provisions of this Protocol apply for the United Kingdom and Ireland also to measures proposed or adopted pursuant to Title IV of Part III of the Treaty on the Functioning of the European Union amending an existing measure by which they are bound.

2. However, in cases where the Council, acting on a proposal from the Commission, determines that the non-participation of the United Kingdom or Ireland in the amended version of an existing measure makes the application of that measure inoperable for other Member States or the Union, it may urge them to make a notification under Article 3 or 4. For the purposes of Article 3 a further period of two months starts to run as from the date of such determination by the Council.

If at the expiry of that period of two months from the Council's determination the United Kingdom or Ireland has not made a notification under Article 3 or Article 4, the existing measure shall no longer be binding upon or applicable to it, unless the Member State concerned has made a notification under Article 4 before the entry into force of the amending measure. This shall take effect from the date of entry into force of the amending measure or of expiry of the period of two months, whichever is the later.

For the purpose of this paragraph, the Council shall, after a full discussion of the matter, act by a qualified majority of its members representing the Member States participating or having participated in the adoption of the amending measure. A qualified majority of the Council shall be defined in accordance with Article 205(3)(a) of the Treaty on the Functioning of the European Union.

3. The Council, acting by a qualified majority on a proposal from the Commission, may determine that the United Kingdom or Ireland shall bear the direct financial consequences, if any, necessarily and unavoidably incurred as a result of the cessation of its participation in the existing measure.

4. This Article shall be without prejudice to Article 4.";

(i) at the end of Article 5, the following shall be added: ", unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise";

(j) In Article 6, the words "the relevant provisions of that Treaty, including Article 68," shall be replaced by "the relevant provisions of the Treaties";

(k) the following new Article 6a shall be inserted:

"The United Kingdom and Ireland shall not be bound by the rules laid down on the basis of Article 15a of the Treaty on the Functioning of the European Union which relate to the processing of personal data by the Member States when carrying out activities which fall within the scope of Chapter 4 or Chapter 5 of Title IV of Part Three of that Treaty where the United Kingdom and Ireland are not bound by the rules governing the forms of judicial cooperation in criminal matters or police cooperation which require compliance with the provisions laid down on the basis of Article 15a."

(l) in Article 7, the words "Articles 3 and 4" shall be replaced by "Articles 3, 4 and 4a" and the words "Protocol integrating the Schengen *acquis* into" shall be replaced by "Protocol on the Schengen *acquis* integrated into"

(m) in Article 8, the words "the President of" shall be deleted.

## **Protocol on the position of Denmark**

21) The Protocol on the position of Denmark shall be amended as follows:

(a) the preamble shall be amended as follows:

(i) the following three new recitals shall be inserted after the second recital:

"CONSCIOUS of the fact that a continuation under the Treaties of the legal regime originating in the Edinburgh decision will significantly limit Denmark's participation in important areas of cooperation of the Union, and that it would be in the best interest of the Union to ensure the integrity of the *acquis* in the area of freedom, security and justice;

WISHING therefore to establish a legal framework that will provide an option for Denmark to participate in the adoption of measures proposed on the basis of Title IV of Part Three of the Treaty on the Functioning of the European Union and welcoming the intention of Denmark to avail itself of this option when possible in accordance with its constitutional requirements;

NOTING that Denmark will not prevent the other Member States from further developing their cooperation with respect to measures not binding on Denmark;"

(ii) in the penultimate recital, the words "Protocol integrating the Schengen *acquis* into" shall be replaced by "Protocol on the Schengen *acquis* integrated into";

(b) the heading "PART I" shall be inserted before Article 1;

(c) in Article 1, first sentence, and Article 2, first sentence, the words "Title IV of the Treaty establishing the European Community" shall be replaced by "Title IV of Part Three of the Treaty on the Functioning of the European Union";

(c) in Article 1, the second sentence of the first paragraph shall be deleted and the following new paragraph shall be added:

"For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the European Union."

- (d) Article 2 shall be replaced by the following:

"None of the provisions of Title IV of Part III of the Treaty on the Functioning of the European Union, no measure adopted pursuant to that Title, no provision of any international agreement concluded by the Union pursuant to that Title, and no decision of the Court of Justice of the European Union interpreting any such provision or measure or any measure amended or amendable pursuant to that Title shall be binding upon or applicable in Denmark; and no such provision, measure or decision shall in any way affect the competences, rights and obligations of Denmark; and no such provision, measure or decision shall in any way affect the Community or Union *acquis* nor form part of Union law as they apply to Denmark. In particular, acts of the Union in the field of police cooperation and judicial cooperation in criminal matters adopted before the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community which are amended shall continue to be binding upon and applicable to Denmark unchanged.";

- (e) the following new Article 2a shall be inserted:

"Article 2a

Article 2 of this Protocol shall also apply in respect of those rules laid down on the basis of Article 15a of the Treaty on the Functioning of the European Union which relate to the processing of personal data by the Member States when carrying out activities which fall within the scope of Chapter 4 or Chapter 5 of Title IV of Part Three of that Treaty."

- (f) Article 4 shall become Article 6;

- (g) Article 5, renumbered 4, shall be amended as follows:

- (i) throughout the Article, the word "decision" shall be replaced by "measure";
- (ii) in paragraph 1, the words "under the provisions of Title IV of the Treaty establishing the European Community" shall be replaced by "covered by this Part" and the words "Member States referred to in Article 1 of the Protocol integrating the Schengen *acquis* into the framework of the European Union as well as Ireland or the United Kingdom if those Member States take part in the areas of cooperation in question" shall be replaced by "Member States bound by the measure";

- (iii) in paragraph 2, the word "decision" shall be replaced by "measure" and the words "the Member States referred to in Article 1 of the Protocol integrating the Schengen *acquis* into the framework of the European Union will consider" shall be replaced by "the Member States bound by that measure and Denmark will consider";
- (h) the heading "PART II" shall be inserted before Article 6, renumbered 5;
- (i) Article 6, renumbered 5, shall be amended as follows:
  - (i) in the first sentence, the words "in the field of Articles 13(1) and 17 of the Treaty on European Union" shall be replaced by "pursuant to Article 27, Article 13(1) and Articles 28 to 31 of the Treaty on the Functioning of the European Union" and the closing words ", but will not prevent the development of closer cooperation between Member States in this area" shall be deleted;
  - (ii) the following new third sentence shall be inserted: "Denmark will not prevent the other Member States from further developing their cooperation in this area.";
  - (iii) at the end of the third sentence, the following shall be added: ", nor to make military capabilities available to the Union";
  - (iv) the following two new paragraphs shall be added:

"The unanimity of the members of the Council, with the exception of the representative of the government of Denmark, shall be necessary for the acts of the Council which must be adopted unanimously.

For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the European Union."
- (j) the heading "PART III" shall be inserted after Article 6, renumbered 5;
- (k) an Article 6 shall be inserted, with the wording of Article 4;
- (l) the heading "PART IV" shall be inserted before Article 7;

(m) the following new Article 8 shall be inserted:

"Article 8

1. At any time and without prejudice to Article 7, Denmark may, in accordance with its constitutional requirements, notify the other Member States that, with effect from the first day of the month following the notification, Part I shall consist of the provisions in the Annex. In that case Articles 5 to 8 shall be renumbered in consequence.

2. Six months after the date on which the notification referred to in paragraph 1 takes effect all Schengen *acquis* and measures adopted to build upon this *acquis*, which until then have been binding on Denmark as obligations under international law, shall be binding upon Denmark as Union law."

(n) the following new Annex shall be added to the Protocol:

"ANNEX

Article 1

Subject to Article 3, Denmark shall not take part in the adoption by the Council of measures proposed pursuant to Title IV of Part Three of the Treaty on the Functioning of the European Union. The unanimity of the members of the Council, with the exception of the representative of the government of Denmark, shall be necessary for the acts of the Council which must be adopted unanimously.

For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the European Union.

Article 2

Pursuant to Article 1 and subject to Articles 3, 4 and 6, none of the provisions in Title IV of Part Three of the Treaty on the Functioning of the European Union, no measure adopted pursuant to that Title, no provision of any international agreements concluded by the Union pursuant to that Title, no decision of the Court of Justice of the European Union interpreting any such provision or measure shall be binding upon or applicable in Denmark; and no such provision, measure or decision shall in any way affect the competences, rights and obligations of Denmark; and no such provision, measure or decision shall in any way affect the Community or Union *acquis* nor form part of Union law as they apply to Denmark.



### Article 3

1. Denmark may notify the President of the Council in writing, within three months after a proposal or initiative has been presented to the Council pursuant to Title IV of Part Three of the Treaty on the Functioning of the European Union, that it wishes to take part in the adoption and application of any such proposed measure, whereupon Denmark shall be entitled to do so.
2. If after a reasonable period of time a measure referred to in paragraph 1 cannot be adopted with Denmark taking part, the Council may adopt that measure referred to in paragraph 1 in accordance with Article 1 without the participation of Denmark. In that case Article 2 applies.

### Article 4

Denmark may at any time after the adoption of a measure pursuant to Title IV of Part Three of the Treaty on the Functioning of the European Union notify its intention to the Council and the Commission that it wishes to accept that measure. In that case, the procedure provided for in Article 280f(1) of that Treaty shall apply *mutatis mutandis*.

### Article 4a

1. The provisions of this Protocol apply for Denmark also to measures proposed or adopted pursuant to Title IV of Part III of the Treaty on the Functioning of the European Union amending an existing measure by which it is bound.
2. However, in cases where the Council, acting on a proposal from the Commission, determines that the non-participation of Denmark in the amended version of an existing measure makes the application of that measure inoperable for other Member States or the Union, it may urge it to make a notification under Article 3 or 4. For the purposes of Article 3 a further period of two months starts to run as from the date of such determination by the Council.

If at the expiry of that period of two months from the Council's determination Denmark has not made a notification under Article 3 or Article 4, the existing measure shall no longer be binding upon or applicable to it, unless it has made a notification under Article 4 before the entry into force of the amending measure. This shall take effect from the date of entry into force of the amending measure or of expiry of the period of two months, whichever is the later.

For the purpose of this paragraph, the Council shall, after a full discussion of the matter, act by a qualified majority of its members representing the Member States participating or having participated in the adoption of the amending measure. A qualified majority of the Council shall be defined in accordance with Article 205(3)(a) of the Treaty on the Functioning of the European Union.

3. The Council, acting by a qualified majority on a proposal from the Commission, may determine that Denmark shall bear the direct financial consequences, if any, necessarily and unavoidably incurred as a result of the cessation of its participation in the existing measure.

4. This Article shall be without prejudice to Article 4.

#### Article 5

1. Notification pursuant to Article 4 shall be submitted no later than six months after the final adoption of a measure if this measure builds upon the Schengen *acquis*.

If Denmark does not submit a notification in accordance with Articles 3 or 4 regarding a measure building upon the Schengen *acquis*, the Member States bound by that measure and Denmark will consider appropriate measures to be taken.

2. A notification pursuant to Article 3 with respect to a measure building upon the Schengen *acquis* shall be deemed irrevocably to be a notification pursuant to Article 3 with respect to any further proposal or initiative aiming to build upon that measure to the extent that such proposal or initiative builds upon the Schengen *acquis*.

#### Article 5a

Denmark shall not be bound by the rules laid down on the basis of Article 15a of the Treaty on the Functioning of the European Union which relate to the processing of personal data by the Member States when carrying out activities which fall within the scope of Chapter 4 or Chapter 5 of Title IV of Part Three of that Treaty where Denmark is not bound by the rules governing the forms of judicial cooperation in criminal matters or police cooperation which require compliance with the provisions laid down on the basis of Article 15a.

## Article 6

Where, in cases referred to in this Part, Denmark is bound by a measure adopted by the Council pursuant to Title IV of Part Three of the Treaty on the Functioning of the European Union, the relevant provisions of that Treaty shall apply to Denmark in relation to that measure.

## Article 7

Where Denmark is not bound by a measure adopted pursuant to Title IV of Part Three of the Treaty on the Functioning of the European Union, it shall bear no financial consequences of that measure other than administrative costs entailed for the institutions unless the Council, acting unanimously after consulting the European Parliament, decides otherwise."

### **Protocol on asylum for nationals of the Union**

22) The Protocol on asylum for nationals of Member States of the European Union shall be amended as follows:

(a) the preamble shall be amended as follows:

(i) the first recital shall be replaced by the following:

"WHEREAS, in accordance with Article 6(1) of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights;"

(ii) the following new second recital shall be inserted:

"WHEREAS pursuant to Article 6(3) of the Treaty on European Union, fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, constitute part of the Union's law as general principles;"

(iii) in the third and fourth recitals, which shall become the fourth and fifth recitals, the word "principles" shall be replaced by "values";

(iv) the seventh recital, which shall become the eighth recital, shall be deleted;

- (b) the Sole Article shall be amended as follows:
- (i) in point (b), the words ", or, where appropriate, the European Council," shall be inserted after "the Council" and the words "with regard to the Member State of which the applicant is a national" shall be added at the end;
  - (ii) point (c) shall be replaced by the following:
    - "(c) if the Council has adopted a decision in accordance with Article 7(1) of the Treaty on European Union in respect of the Member State of which the applicant is a national or if the European Council has adopted a decision in accordance with Article 7(2) of that Treaty in respect of the Member State of which the applicant is a national;"

### **Protocol on economic, social and territorial cohesion**

23) The Protocol on economic and social cohesion shall be amended as follows:

- (a) throughout the Protocol, the words "economic and social cohesion" shall be replaced by "economic, social and territorial cohesion";
- (b) the preamble shall be amended as follows:
  - (i) the first two recitals shall be replaced by following new first recital:

"RECALLING that Article 3 of the Treaty on European Union includes the objective of promoting economic, social and territorial cohesion and solidarity between Member States and that the said cohesion figures among the areas of shared competence of the Union listed in Article 4(2)(c) of that Treaty;"
  - (ii) the fourth recital, which shall become the third recital, shall be replaced by the following:

"RECALLING that the provisions of Article 161 of the Treaty on the Functioning of the European Union envisage setting up a Cohesion Fund;"
  - (iii) the fifth, sixth and fourteenth recitals shall be deleted;

- (iv) at the end of the eleventh recital, which shall become the eighth recital, the words "and underline the importance of the inclusion of economic and social cohesion in Articles 2 and 3 of this Treaty" shall be deleted;
- (v) in the fifteenth recital, which shall become the new eleventh recital, the words "to be set up before 31 December 1993" shall be deleted.
- (vi) in the last recital, the reference to the Treaty establishing the European Community shall be replaced by a reference to the Treaty on European Union and the Treaty on the Functioning of the European Union.

## **Other Protocols**

- 24) In the Protocol on France, the words "in its overseas territories" shall be replaced by "in New Caledonia, French Polynesia and Wallis and Futuna".
- 25) The Protocol on Article 17 of the Treaty on European Union shall be amended as follows:
  - (a) in the title of the Protocol, the reference to Article 17 shall be replaced by a reference to Article 27(2);
  - (b) in the enacting terms, the final words ", within a year from the entry into force of the Treaty of Amsterdam" shall be deleted.
- 26) In the second sentence of Article 3(3) of the Protocol concerning imports into the European Union of petroleum products refined in the Netherlands Antilles, the words "by a decision taken by a qualified majority" shall be deleted.
- 27) The Protocol concerning Article 141 of the Treaty establishing the European Community shall be amended as follows:
  - (a) in the title of the Protocol, the reference to the Treaty establishing the European Community shall be replaced by a reference to the Treaty on the Functioning of the European Union;
  - (b) in the sole provision, the words "of this Treaty" shall be replaced by "of the Treaty on the Functioning of the European Union".

- 28) Article 2 of the Protocol on special arrangements for Greenland shall be deleted.
- 29) The Protocol annexed to the Treaty on European Union and to the Treaties establishing the European Communities shall be amended as follows:
- (a) the title of the Protocol shall be replaced by "Protocol on Article 40.3.3 of the Constitution of Ireland";
  - (b) the words "Nothing in the Treaty on European Union, or in the Treaties establishing the European Communities" shall be replaced by "Nothing in the Treaties, or in the Treaty establishing the European Atomic Energy Community".
- 30) The Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel shall be amended as follows:
- (a) in the preamble, the first two recitals shall be replaced by following new first recital:

"RECALLING that all assets and liabilities of the European Coal and Steel Community, as they existed on 23 July 2002, were transferred to the European Community on 24 July 2002;"
  - (b) Article 1(1) shall be deleted and the two remaining paragraphs shall be renumbered accordingly;
  - (c) Article 2 shall be split into two paragraphs, the first of which shall end with the words "including essential principles.". Furthermore, that Article shall be amended as follows:
    - (i) in the first paragraph, the words "acting unanimously on a proposal from the Commission" shall be replaced by "acting in accordance with a special legislative procedure" and the word "consulting" shall be replaced by "obtaining the consent of";
    - (ii) in the second paragraph, the words "and proper decision-making procedures, in particular for the adoption of" shall be replaced by "The Council shall adopt, on a proposal from the Commission and after consulting the European Parliament, measures establishing";
  - (d) Article 4 shall be repealed.

**PROTOCOL (No 12)**  
**AMENDING THE TREATY ESTABLISHING**  
**THE EUROPEAN ATOMIC ENERGY COMMUNITY**

THE HIGH CONTRACTING PARTIES,

RECALLING the necessity that the provisions of the Treaty establishing the European Atomic Energy Community should continue to have full legal effect;

DESIRING to adapt that Treaty to the new rules laid down by the Treaty on European Union and by the Treaty on the Functioning of the European Union, in particular in the institutional and financial fields,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and which amend the Treaty establishing the European Atomic Energy Community as follows:

Article 1

This Protocol shall amend the Treaty establishing the European Atomic Energy Community (hereinafter referred to as the "EAEC Treaty") in its version in force at the time of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community.

Article 2

The heading of Title III of the EAEC Treaty "Institutional provisions" shall be replaced by the heading: "Institutional and financial provisions".

### Article 3

The following chapter shall be inserted at the beginning of Title III of the EAEC Treaty:

#### "CHAPTER I

#### APPLICATION OF CERTAIN PROVISIONS OF THE TREATY ON EUROPEAN UNION AND OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

#### Article 106a

1. Articles 9, 9a, 9b, 9c, 9d, 9e and 9f of the Treaty on European Union, Articles 246, 256a, 249, 249a 249d, 249b, 249c, 253 and 254, Articles 195 and 21a and Articles 268, 269 and 270a of the Treaty on the Functioning of the European Union, Articles 7, 34 and 35 of the Treaty on European Union, Articles 190 to 201, 201a, 204 to 209, 213 to 236 Articles 238, 239, 240, 292, Articles 241 to 245, Articles 248 and 247, Articles 258, 259, 260 and 262, 250, 251, 252, 254a, 21a, 247, 258, 210, 256, 270b, 272, 273, 273a, 274, 275, 276 and 277, Articles 279, 279a, 279b and 280, Articles 283 and 290 of the Treaty on the Functioning of the European Union and Article 33(2) and (5) of the Treaty on European Union and the Protocol on transitional provisions shall apply to this Treaty.
2. Within the framework of this Treaty, the references to the Union, to the "Treaty on European Union", to the "Treaty on the Functioning of the European Union" or to the "Treaties" in the provisions referred to in paragraph 1 and those in the protocols annexed both to those Treaties and to this Treaty shall be taken, respectively, as references to the European Atomic Energy Community and to this Treaty.
3. The provisions of the Treaty on European Union and of the Treaty on the Functioning of the European Union shall not derogate from the provisions of this Treaty."

### Article 4

Chapters I, II and III of Title III of the EAEC Treaty shall be renumbered II, III and IV.

### Article 5

Article 3, Articles 107 to 132, Articles 136 to 143, Articles 146 to 156, Articles 158 to 163, Articles 165 to 170, Articles 173 and 173A, Article 175, Articles 177 to 179a, and Articles 180b, 181, 183, 183A, 190 and 204 of the EAEC Treaty shall be repealed.



## Article 6

The heading of Title IV of the EAEC Treaty "Financial provisions" shall be replaced by the heading: "Specific financial provisions".

## Article 7

1. In the third paragraph of Article 38 and the third paragraph of Article 82 of the EAEC Treaty the references to Articles 141 and 142 shall be replaced by references to Articles 226 and 227 respectively of the Treaty on the Functioning of the European Union.

2. In Article 171(2) and Article 176(3) of the EAEC Treaty the references to Article 183 shall be replaced by references to Article 279 of the Treaty on the Functioning of the European Union.

3. In Article 172(4) of the EAEC Treaty the reference to Article 177(5) shall be replaced by a reference to Article 272 of the Treaty on the Functioning of the European Union.

4. In the EAEC Treaty the words "Court of Justice" shall be replaced by "Court of Justice of the European Union".

## Article 8

Article 191 of the EAEC Treaty shall be replaced by the following:

### "Article 191

The Community shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union."

## Article 9

Article 206 of the EAEC Treaty shall be replaced by the following:

### "Article 206

The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.

These agreements shall be concluded by the Council, acting unanimously after consulting the European Parliament.

Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article 33 of the Treaty on European Union."

## Article 10

The revenue and expenditure of the European Atomic Energy Community, except for those of the Supply Agency and Joint Undertakings, shall be shown in the budget of the Union.

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**CONFERENCE  
OF THE REPRESENTATIVES OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 12 October 2007**

**CIG 2/1/07  
REV 1 COR 1**

**CORRIGENDUM TO NOTE**

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from: Presidency of the IGC

date: 5 October 2007

to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**

Draft Treaty amending the Treaty on European Union and the Treaty establishing the European Community – Protocols

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The following corrections should be made to the text:

Page 58, point 18(g): delete footnote n° 1.

Page 60: point 20, introductory sentence: delete footnote n° 2.

Page 62: point 20: add to point 20, at the bottom of page 62, the following new subpoint (o), after subpoint (m):

"(o) the following new Article 9 shall be inserted:

"With regard to Ireland, this Protocol shall not apply to Article 67a of the Treaty on the Functioning of the European Union."

**CONFERENCE  
OF THE REPRESENTATIVES OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 22 October 2007 (23.10)  
(OR. fr)**

**CIG 2/1/07  
REV 1 COR 2**

**CORRIGENDUM TO NOTE**

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from: Presidency of the IGC  
date: 5 October 2007  
to: Intergovernmental Conference (IGC)  
Subject: **IGC 2007**  
Draft Treaty amending the Treaty on European Union and the Treaty establishing  
the European Community – Protocols

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The following corrections should be made to the text:

Page 26: insert the following new Protocol:

**"PROTOCOL (No 9a)**

**ON THE DECISION OF THE COUNCIL  
RELATING TO THE IMPLEMENTATION OF ARTICLE 9c(4) OF THE TREATY ON  
EUROPEAN UNION AND ARTICLE 205(2) OF THE TREATY ON THE FUNCTIONING  
OF THE EUROPEAN UNION BETWEEN 1 NOVEMBER 2014 AND 31 MARCH 2017 ON  
THE ONE HAND, AND AS FROM 1 APRIL 2017 ON THE OTHER**

THE HIGH CONTRACTING PARTIES,

TAKING INTO ACCOUNT the fundamental importance that agreeing on the Decision of the Council relating to the implementation of Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union between 1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other (hereinafter "the Decision"), had when approving the Treaty amending the Treaty on European Union and the Treaty establishing the European Community,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

#### Sole Article

Before the examination by the Council of any draft which would aim either at amending or abrogating the Decision or any of its provisions, or at modifying indirectly its scope or its meaning through the modification of another legal act of the Union, the European Council shall hold a preliminary deliberation on the said draft, acting by consensus in accordance with Article 9b(4) of the Treaty on European Union."

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**CONFERENCE  
OF THE REPRESENTATIVES OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 5 October 2007  
(OR. fr)**

**CIG 3/1/07  
REV 1**

**NOTE**

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from: Presidency of the IGC  
dated: 5 October 2007  
to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**  
Draft declarations

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**DRAFT  
DECLARATIONS**

The Presidency herewith forwards to the Intergovernmental Conference the full text of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, including the Protocols, and the Declarations for the Final Act, as these texts emerged from the proceedings of the Working Party of Legal Experts.

The Presidency will submit this text to the Intergovernmental Conference (Foreign Ministers) meeting in Luxembourg on 15 October 2007, with a view to its final adoption at the Intergovernmental Conference (Heads of State or of Government) meeting in Lisbon on 18 October 2007.

All the language versions of this text are being forwarded to the delegations today, 5 October 2007. In accordance with normal practice, each language version will be finalised by the Council's legal/linguistic experts before the Treaty is signed.



## A. DECLARATIONS CONCERNING PROVISIONS OF THE TREATIES

### 1. Declaration on Article 6(2) of the Treaty on European Union

The Conference agrees that the Union's accession to the European Convention on the Protection of Human Rights and Fundamental Freedoms should be arranged in such a way as to preserve the specific features of Union law. In this connection, the Conference notes the existence of a regular dialogue between the Court of Justice of the European Union and the European Court of Human Rights; such dialogue could be reinforced when the Union accedes to that Convention.

### 2. Declaration on Articles 9b(5) and (6), 9d(6) and (7) and 9e of the Treaty on European Union

In choosing the persons called upon to hold the offices of President of the European Council, President of the Commission and High Representative of the Union for Foreign Affairs and Security Policy, due account is to be taken of the need to respect the geographical and demographic diversity of the Union and its Member States.

### 3. Declaration on Article 9c(9) of the Treaty on European Union concerning the European Council decision on the exercise of the Presidency of the Council

The Conference declares that the Council should begin preparing the decision establishing the procedures for implementing the decision on the exercise of the Presidency of the Council as soon as the Treaty amending the Treaty on European Union and the Treaty establishing the European Community is signed, and should give its political approval within six months. A draft decision of the European Council, which will be adopted on the date of entry into force of the said Treaty, is set out below:

#### Draft decision of the European Council on the exercise of the Presidency of the Council

##### Article 1

1. The Presidency of the Council, with the exception of the Foreign Affairs configuration, shall be held by pre-established groups of three Member States for a period of 18 months. The groups shall be made up on a basis of equal rotation among the Member States, taking into account their diversity and geographical balance within the Union.



2. Each member of the group shall in turn chair for a six-month period all configurations of the Council, with the exception of the Foreign Affairs configuration. The other members of the group shall assist the Chair in all its responsibilities on the basis of a common programme. Members of the team may decide alternative arrangements among themselves.

#### Article 2

The Committee of Permanent Representatives of the Governments of the Member States shall be chaired by a representative of the Member State chairing the General Affairs Council.

The Chair of the Political and Security Committee shall be held by a representative of the High Representative of the Union for Foreign Affairs and Security Policy.

The chair of the preparatory bodies of the various Council configurations, with the exception of the Foreign Affairs configuration, shall fall to the member of the group chairing the relevant configuration, unless decided otherwise in accordance with Article 4.

#### Article 3

The General Affairs Council shall ensure consistency and continuity in the work of the different Council configurations in the framework of multiannual programmes in cooperation with the Commission. The Member States holding the Presidency shall take all necessary measures for the organisation and smooth operation of the Council's work, with the assistance of the General Secretariat of the Council.

#### Article 4

The Council shall adopt a decision establishing the measures for the implementation of this decision.

4. Declaration on Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union

The Conference declares that the decision relating to the implementation of Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union will be adopted by the Council within six months from the date of the signature of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and will enter into force on the day that Treaty enters into force. The draft decision is set out below:

Draft decision of the Council  
relating to the implementation of Article 9c(4) of the Treaty on European Union  
and Article 205(2) of the Treaty on the Functioning of the European Union between  
1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other

THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

- (1) Provisions should be adopted allowing for a smooth transition from the system for decision-making in the Council by a qualified majority as defined in Article 3(3) of the Protocol on the transitional provisions, which will continue to apply until 31 October 2014, to the voting system provided for in Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union, which will apply with effect from 1 November 2014, including, during a transitional period until 31 March 2017, specific provisions laid down in Article 3(2) of that Protocol.
- (2) It is recalled that it is the practice of the Council to devote every effort to strengthening the democratic legitimacy of decisions taken by a qualified majority.
- (3) It is judged appropriate to maintain this decision as long as is necessary to ensure smooth transition to the new voting system provided for in the Treaties,

HAS DECIDED AS FOLLOWS:

Section 1

Provisions to be applied from 1 November 2014 to 31 March 2017

Article 1

From 1 November 2014 to 31 March 2017, if members of the Council, representing:

- (a) at least three quarters of the population, or
- (b) at least three quarters of the number of Member States

necessary to constitute a blocking minority resulting from the application of Article 9c(4), first subparagraph, of the Treaty on European Union or Article 205(2) of the Treaty on the Functioning of the European Union, indicate their opposition to the Council adopting an act by a qualified majority, the Council shall discuss the issue.

## Article 2

The Council shall, in the course of these discussions, do all in its power to reach, within a reasonable time and without prejudicing obligatory time limits laid down by Union law, a satisfactory solution to address concerns raised by the members of the Council referred to in Article 1.

## Article 3

To this end, the President of the Council, with the assistance of the Commission and in compliance with the Rules of Procedure of the Council, shall undertake any initiative necessary to facilitate a wider basis of agreement in the Council. The members of the Council shall lend him or her their assistance.

## Section 2

Provisions to be applied as from 1 April 2017

## Article 4

As from 1 April 2017, if members of the Council, representing:

- (a) at least 55 % of the population, or
- (b) at least 55 % of the number of Member States

necessary to constitute a blocking minority resulting from the application of Article 9c(4), first subparagraph, of the Treaty on European Union or Article 205(2) of the Treaty on the Functioning of the European Union, indicate their opposition to the Council adopting an act by a qualified majority, the Council shall discuss the issue.

## Article 5

The Council shall, in the course of these discussions, do all in its power to reach, within a reasonable time and without prejudicing obligatory time limits laid down by Union law, a satisfactory solution to address concerns raised by the members of the Council referred to in Article 4.

## Article 6

To this end, the President of the Council, with the assistance of the Commission and in compliance with the Rules of Procedure of the Council, shall undertake any initiative necessary to facilitate a wider basis of agreement in the Council. The members of the Council shall lend him or her their assistance.

Section 3  
Entry into force and effect of the Decision

Article 7

This Decision shall enter into force on the date of the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community.

It shall take effect on 1 November 2014.

5. Declaration on Article 9d of the Treaty on European Union

The Conference considers that when the Commission no longer includes nationals of all Member States, the Commission should pay particular attention to the need to ensure full transparency in relations with all Member States. Accordingly, the Commission should liaise closely with all Member States, whether or not they have a national serving as member of the Commission, and in this context pay special attention to the need to share information and consult with all Member States.

The Conference also considers that the Commission should take all the necessary measures to ensure that political, social and economic realities in all Member States, including those which have no national serving as member of the Commission, are fully taken into account. These measures should include ensuring that the position of those Member States is addressed by appropriate organisational arrangements.

6. Declaration on Article 9d(6) and (7) of the Treaty on European Union

The Conference considers that, in accordance with the provisions of the Treaties, the European Parliament and the European Council are jointly responsible for the smooth running of the process leading to the election of the President of the European Commission. Prior to the decision of the European Council, representatives of the European Parliament and of the European Council will thus conduct the necessary consultations in the framework deemed the most appropriate. These consultations will focus on the backgrounds of the candidates for President of the Commission, taking account of the elections to the European Parliament, in accordance with the first subparagraph of Article 9d(7). The arrangements for such consultations may be determined, in due course, by common accord between the European Parliament and the European Council.

7. Declaration on Article 249b of the Treaty on the Functioning of the European Union

The Conference takes note of the Commission's intention to continue to consult experts appointed by the Member States in the preparation of draft delegated acts in the financial services area, in accordance with its established practice.

8. Declaration on Article 188r of the Treaty on the Functioning of the European Union

Without prejudice to the measures adopted by the Union to comply with its solidarity obligation towards a Member State which is the object of a terrorist attack or the victim of natural or man-made disaster, none of the provisions of Article 188r is intended to affect the right of another Member State to choose the most appropriate means to comply with its own solidarity obligation towards that Member State.

9. Declaration on Article 15a of the Treaty on the Functioning of the European Union

The Conference declares that, whenever rules on protection of personal data to be adopted on the basis of Article 15a could have direct implications for national security, due account will have to be taken of the specific characteristics of the matter. It recalls that the legislation presently applicable (see in particular Directive 95/46/EC) includes specific derogations in this regard.

10. Declaration on Article 7a of the Treaty on European Union

The Union will take into account the particular situation of small-sized countries which maintain specific relations of proximity with it.

11. Declaration on Article 8 of the Treaty on the Functioning of the European Union

The Conference agrees that, in its general efforts to eliminate inequalities between women and men, the Union will aim in its different policies to combat all kinds of domestic violence. The Member States should take all necessary measures to prevent and punish these criminal acts and to support and protect the victims.

12. Declaration on Articles 42 and 69b  
of the Treaty on the Functioning of the European Union

The Conference considers that in the event that a draft legislative act based on Article 69b(2) would affect important aspects of the social security system of a Member State, including its scope, cost or financial structure, or would affect the financial balance of that system as set out in the second paragraph of Article 42, the interests of that Member State will be duly taken into account.

13. Declaration on Articles 67a and 188k  
of the Treaty on the Functioning of the European Union

The Conference recalls that the respect for fundamental rights and freedoms implies, in particular, that proper attention is given to the protection and observance of the due process rights of the individuals or entities concerned. For this purpose and in order to guarantee a thorough judicial review of decisions subjecting an individual or entity to restrictive measures, such decisions must be based on clear and distinct criteria. These criteria should be tailored to the specifics of each restrictive measure.

14. Declaration on Article 87(2)(c)  
of the Treaty on the Functioning of the European Union

The Conference notes that Article 87(2)(c) shall be interpreted in accordance with the existing case law of the Court of Justice of the European Union regarding the applicability of the provisions to aid granted to certain areas of the Federal Republic of Germany affected by the former division of Germany.

15. Declaration on Article 104  
of the Treaty on the Functioning of the European Union

With regard to Article 104, the Conference confirms that raising growth potential and securing sound budgetary positions are the two pillars of the economic and fiscal policy of the Union and the Member States. The Stability and Growth Pact is an important tool to achieve these goals.

The Conference reaffirms its commitment to the provisions concerning the Stability and Growth Pact as the framework for the coordination of budgetary policies in the Member States.

The Conference confirms that a rule-based system is the best guarantee for commitments to be enforced and for all Member States to be treated equally.

Within this framework, the Conference also reaffirms its commitment to the goals of the Lisbon Strategy: job creation, structural reforms, and social cohesion.

The Union aims at achieving balanced economic growth and price stability. Economic and budgetary policies thus need to set the right priorities towards economic reforms, innovation, competitiveness and strengthening of private investment and consumption in phases of weak economic growth. This should be reflected in the orientations of budgetary decisions at the national and Union level in particular through restructuring of public revenue and expenditure while respecting budgetary discipline in accordance with the Treaties and the Stability and Growth Pact.

Budgetary and economic challenges facing the Member States underline the importance of sound budgetary policy throughout the economic cycle.

The Conference agrees that Member States should use periods of economic recovery actively to consolidate public finances and improve their budgetary positions. The objective is to gradually achieve a budgetary surplus in good times which creates the necessary room to accommodate economic downturns and thus contribute to the long-term sustainability of public finances.

The Member States look forward to possible proposals of the Commission as well as further contributions of Member States with regard to strengthening and clarifying the implementation of the Stability and Growth Pact. The Member States will take all necessary measures to raise the growth potential of their economies. Improved economic policy coordination could support this objective. This Declaration does not prejudge the future debate on the Stability and Growth Pact.

#### 16. Declaration on Article 140 of the Treaty on the Functioning of the European Union

The Conference confirms that the policies described in Article 140 fall essentially within the competence of the Member States. Measures to provide encouragement and promote coordination to be taken at Union level in accordance with this Article shall be of a complementary nature. They shall serve to strengthen cooperation between Member States and not to harmonise national systems. The guarantees and practices existing in each Member State as regards the responsibility of the social partners will not be affected.

This Declaration is without prejudice to the provisions of the Treaties conferring competence on the Union, including in social matters.

17. Declaration on Article 158  
of the Treaty on the Functioning of the European Union

The Conference considers that the reference in Article 158 to island regions can include island States in their entirety, subject to the necessary criteria being met.

18. Declaration on Article 78  
of the Treaty on the Functioning of the European Union

The Conference notes that the provisions of Article 78 shall be applied in accordance with the current practice. The terms "such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division" shall be interpreted in accordance with the existing case law of the Court of Justice of the European Union.

19. Declaration on Article 163  
of the Treaty on the Functioning of the European Union

The Conference agrees that the Union's action in the area of research and technological development will pay due respect to the fundamental orientations and choices of the research policies of the Member States.

20. Declaration on Article 176a  
of the Treaty on the Functioning of the European Union

The Conference believes that Article 176a does not affect the right of the Member States to take the necessary measures to ensure their energy supply under the conditions provided for in Article 297.

21. Declaration on Article 69(1), second subparagraph,  
of the Treaty on the Functioning of the European Union

The Conference considers that the regulations referred to in the second subparagraph of Article 69(1) of the Treaty on the Functioning of the European Union should take into account national rules and practices relating to the initiation of criminal investigations.



22. Declaration on Article 13a of the Treaty on European Union

The Conference declares that, as soon as the Treaty amending the Treaty on European Union and the Treaty establishing the European Community is signed, the Secretary-General of the Council, High Representative for the common foreign and security policy, the Commission and the Member States should begin preparatory work on the European External Action Service.

23. Declaration on Article 188n of the Treaty on the Functioning of the European Union concerning the negotiation and conclusion of international agreements by Member States relating to the area of freedom, security and justice

The Conference confirms that Member States may negotiate and conclude agreements with third countries or international organisations in the areas covered by Chapters 3, 4 and 5 of Title IV of Part Three insofar as such agreements comply with Union law.

24. Declaration on Article 280d of the Treaty on the Functioning of the European Union

The Conference declares that Member States may indicate, when they make a request to establish enhanced cooperation, if they intend already at that stage to make use of Article 280h providing for the extension of qualified majority voting or to have recourse to the ordinary legislative procedure.

25. Declaration on Article 311(6) of the Treaty on the Functioning of the European Union

The High Contracting Parties agree that the European Council, pursuant to Article 311(6), will take a decision leading to the modification of the status of Mayotte with regard to the Union in order to make this territory an outermost region within the meaning of Article 311(1) and Article 299, when the French authorities notify the European Council and the Commission that the evolution currently under way in the internal status of the island so allows.

26. Declaration on Article 40(2) of the Treaty on European Union

The Conference considers that the possibility of producing translations of the Treaties in the languages mentioned in Article 40(2) contributes to fulfilling the objective of respecting the Union's rich cultural and linguistic diversity as set forth in the fourth subparagraph of Article 3(3). In this context, the Conference confirms the attachment of the Union to the cultural diversity of Europe and the special attention it will continue to pay to these and other languages.

The Conference recommends that those Member States wishing to avail themselves of the possibility recognised in Article 40(2) communicate to the Council, within six months from the date of the signature of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, the language or languages into which translations of the Treaties will be made.

27. Declaration concerning primacy

The Conference recalls that, in accordance with well settled case law of the EU Court of Justice, the Treaties and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case law.

The Conference has also decided to attach as an Annex to this Final Act the Opinion of the Council Legal Service on the primacy of EC law as set out in 11197/07 (JUR 260):

*"Opinion of the Council Legal Service  
of 22 June 2007*

*It results from the case-law of the Court of Justice that primacy of EC law is a cornerstone principle of Community law. According to the Court, this principle is inherent to the specific nature of the European Community. At the time of the first judgment of this established case law (Costa/ENEL, 15 July 1964, Case 6/641<sup>1</sup>) there was no mention of primacy in the treaty. It is still the case today. The fact that the principle of primacy will not be included in the future treaty shall not in any way change the existence of the principle and the existing case-law of the Court of Justice."*

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<sup>1</sup> *"It follows (...) that the law stemming from the treaty, an independent source of law, could not, because of its special and original nature, be overridden by domestic legal provisions, however framed, without being deprived of its character as Community law and without the legal basis of the Community itself being called into question."*

## 28. Declaration in relation to the delimitation of competences

The Conference underlines that, in accordance with the system of division of competences between the Union and the Member States as provided for in the Treaty on European Union and the Treaty on the Functioning of the European Union, competences not conferred upon the Union in the Treaties remain with the Member States.

When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence. The latter situation arises when the relevant EU institutions decide to repeal a legislative act, in particular better to ensure constant respect for the principles of subsidiarity and proportionality. The Council may, at the initiative of one or several of its members (representatives of Member States) and in accordance with Article 208 of the Treaty on the Functioning of the European Union, request the Commission to submit proposals for repealing a legislative act.

Equally, the representatives of the governments of the Member States, meeting in an Intergovernmental Conference, in accordance with the ordinary revision procedure provided for in Article 33(2) to (5) of the Treaty on European Union, may decide to amend the Treaties, including either to increase or to reduce the competences conferred on the Union in the said Treaties.

## 29. Declaration concerning the Charter of Fundamental Rights

The Charter of Fundamental Rights, which has legally binding force, confirms the fundamental rights guaranteed by the European Convention on Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States.

The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined by the Treaties.

## 30. Declaration concerning the common foreign and security policy

The Conference underlines that the provisions in the Treaty on European Union covering the Common Foreign and Security Policy, including the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy and the establishment of an External Action Service, do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organisations.

The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States.

It stresses that the EU and its Member States will remain bound by the provisions of the Charter of the United Nations and, in particular, by the primary responsibility of the Security Council and of its Members for the maintenance of international peace and security.

31. Declaration concerning the common foreign and security policy

In addition to the specific rules and procedures referred to in paragraph 1 of Article 11 of the Treaty on European Union, the Conference underlines that the provisions covering the Common Foreign and Security Policy including in relation to the High Representative of the Union for Foreign Affairs and Security Policy and the External Action Service will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organisations, including a Member State's membership of the Security Council of the UN.

The Conference also notes that the provisions covering the Common Foreign and Security Policy do not give new powers to the Commission to initiate decisions nor do they increase the role of the European Parliament.

The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States.

32. Declaration concerning the legal personality of the European Union

The Conference confirms that the fact that the European Union has a legal personality will not in any way authorise the Union to legislate or to act beyond the competences conferred upon it by the Member States in the Treaties.

33. Declaration on the second paragraph of Article 42 of the Treaty on the Functioning of the European Union

The Conference recalls that in that case, in accordance with Article 9b(4), the European Council acts by consensus.

34. Declaration on the protection of personal data  
in the fields of judicial cooperation in criminal matters and police cooperation

The Conference acknowledges that specific rules on the protection of personal data and the free movement of such data in the fields of judicial cooperation in criminal matters and police cooperation based on Article 15a of the Treaty on the Functioning of the European Union may prove necessary because of the specific nature of these fields.

35. Declaration on Article 152(4)(c)  
of the Treaty on the Functioning of the European Union

The Conference declares that the measures to be adopted pursuant to Article 152(4)(c) must meet common safety concerns and aim to set high standards of quality and safety where national standards affecting the internal market would otherwise prevent a high level of human health protection being achieved.

36. Declaration on Article 308  
of the Treaty on the Functioning of the European Union

The Conference declares that the reference in Article 308(1) of the Treaty on the Functioning of the European Union to objectives of the Union refers to the objectives as set out in Article 3(2) and (3) of the Treaty on European Union and to the objectives of Article 3(5) with respect to external action under Title V of Part Three, of that Treaty. It is therefore excluded that an action based on Article 308 of the Treaty on the Functioning of the European Union would only pursue objectives set out in Article 3(1) of the Treaty on European Union. In this connection, the Conference notes that in accordance with Article 17(1) of the Treaty on European Union, legislative acts may not be adopted in the area of the Common Foreign and Security Policy.

37. Declaration on Article 308  
of the Treaty on the Functioning of the European Union

The Conference underlines that, in accordance with the settled case law of the Court of Justice of the European Union, Article 308 of the Treaty on the Functioning of the European Union, being an integral part of an institutional system based on the principle of conferred powers, cannot serve as a basis for widening the scope of Union powers beyond the general framework created by the provisions of the Treaties as a whole and, in particular, by those that define the tasks and the activities of the Union. In any event, this Article cannot be used as a basis for the adoption of provisions whose effect would, in substance, be to amend the Treaties without following the procedure which they provide for that purpose.

38. Declaration on practical measures to be taken upon the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community as regards the Presidency of the European Council and of the Foreign Affairs Council

In the event that the Treaty amending the Treaty on European Union and the Treaty establishing the European Community enters into force later than 1 January 2009, the Conference requests the competent authorities of the Member State holding the six-monthly Presidency of the Council at that time, on the one hand, and the person elected President of the European Council and the person appointed High Representative of the Union for Foreign Affairs and Security Policy, on the other hand, to take the necessary specific measures, in consultation with the following six-monthly Presidency, to allow an efficient handover of the material and organisational aspects of the Presidency of the European Council and of the Foreign Affairs Council.

39. Declaration on non-participation by a Member State in a measure based on Title IV of Part Three of the Treaty on the Functioning of the European Union

The Conference declares that, where a Member State opts not to participate in a measure based on Title IV of Part Three of the Treaty on the Functioning of the European Union, the Council will hold a thorough discussion on the possible implications and effects of that Member State's non-participation in the measure.

In addition, any Member State may ask the Commission to examine the situation on the basis of Article 96 of the Treaty on the Functioning of the European Union.

The above paragraphs are without prejudice to the entitlement of a Member State to refer the matter to the European Council.



B. DECLARATIONS CONCERNING  
PROTOCOLS ANNEXED TO THE TREATIES

39a. Declaration concerning Article 10 of the Protocol on transitional provisions

The Conference invites the European Parliament, the Council and the Commission, within their respective powers, to seek to adopt, in appropriate cases and as far as possible within the five-year period referred to in Article 10(3) of the Protocol on transitional provisions, legal acts amending or replacing the acts referred to in Article 10(1) of that Protocol.

39b. Declaration on Article 5 of the Protocol on the Schengen *acquis* integrated into the framework of the European Union

The Conference notes that where a Member State has made a notification under Article 5(2) of the Protocol on the Schengen *acquis* integrated into the framework of the European Union that it does not wish to take part in a proposal or initiative, that notification may be withdrawn at any moment before the adoption of the measure building upon the Schengen *acquis*.

39c. Declaration on Article 5(2) of the Protocol on the Schengen *acquis* integrated into the framework of the European Union

The Conference declares that whenever the United Kingdom or Ireland indicates to the Council its intention not to participate in a measure building upon a part of the Schengen *acquis* in which it participates, the Council will have a full discussion on the possible implications of the non-participation of that Member State in that measure. The discussion within the Council should be conducted in the light of the indications given by the Commission concerning the relationship between the proposal and the Schengen *acquis*.

39d. Declaration on Article 5(3) of the Protocol on the Schengen *acquis* integrated into the framework of the European Union

The Conference recalls that if the Council does not take a decision after a first substantive discussion of the matter, the Commission may present an amended proposal for a further substantive re-examination by the Council within the deadline of 4 months.



39e. Declaration on Article 5(3), (4) and (5) of the Protocol on the Schengen *acquis* integrated into the framework of the European Union

The Conference notes that the conditions to be determined in the decision referred to in paragraphs 3, 4 or 5 of Article 5 of the Protocol on the Schengen *acquis* integrated into the framework of the European Union may determine that the Member State concerned shall bear the direct financial consequences, if any, necessarily and unavoidably incurred as a result of the cessation of its participation in some or all of the *acquis* referred to in any decision taken by the Council pursuant to Article 4 of the said Protocol.

40. Declaration concerning the Protocol on the position of Denmark

The Conference notes that with respect to legal acts to be adopted by the Council acting alone or jointly with the European Parliament and containing provisions applicable to Denmark as well as provisions not applicable to Denmark because they have a legal basis to which Part I of the Protocol on the position of Denmark applies, Denmark declares that it will not use its voting right to prevent the adoption of the provisions which are not applicable to Denmark.

Furthermore, the Conference notes that on the basis of the Declaration by the Conference on Article 188r, Denmark declares that Danish participation in actions or legal acts pursuant to Article 188r will take place in accordance with Part I and Part II of the Protocol on the position of Denmark.

41. Declaration concerning Italy

The Conference notes that the Protocol on Italy annexed in 1957 to the Treaty establishing the European Economic Community, as amended upon adoption of the Treaty on European Union, stated that:

"THE HIGH CONTRACTING PARTIES,

DESIRING to settle certain particular problems relating to Italy,

HAVE AGREED UPON the following provisions, which shall be annexed to this Treaty:

THE MEMBER STATES OF THE COMMUNITY

TAKE NOTE of the fact that the Italian Government is carrying out a ten-year programme of economic expansion designed to rectify the disequilibria in the structure of the Italian economy, in particular by providing an infrastructure for the less developed areas in Southern Italy and in the Italian islands and by creating new jobs in order to eliminate unemployment;

RECALL that the principles and objectives of this programme of the Italian Government have been considered and approved by organisations for international cooperation of which the Member States are members;

RECOGNISE that it is in their common interest that the objectives of the Italian programme should be attained;

AGREE, in order to facilitate the accomplishment of this task by the Italian Government, to recommend to the institutions of the Community that they should employ all the methods and procedures provided in this Treaty and, in particular, make appropriate use of the resources of the European Investment Bank and the European Social Fund;

ARE OF THE OPINION that the institutions of the Community should, in applying this Treaty, take account of the sustained effort to be made by the Italian economy in the coming years and of the desirability of avoiding dangerous stresses in particular within the balance of payments or the level of employment, which might jeopardise the application of this Treaty in Italy;

RECOGNISE that in the event of Articles 109h and 109i being applied it will be necessary to take care that any measures required of the Italian Government do not prejudice the completion of its programme for economic expansion and for raising the standard of living of the population."



## C. DECLARATIONS BY MEMBER STATES

Furthermore, the Conference has noted the declarations listed hereafter and annexed to this Final Act:

### 42. Declaration by the Kingdom of the Netherlands on Article 270a of the Treaty on the Functioning of the European Union

The Kingdom of the Netherlands will agree to a decision as referred to in the second subparagraph of Article 270a(2) of the Treaty on the Functioning of the European Union once a revision of the European regulation referred to in the third paragraph of Article 269 of that Treaty has provided the Netherlands with a satisfactory solution for its excessive negative net payment position vis-à-vis the Union budget.

### 43. Declaration by the Kingdom of the Netherlands on Article 311 of the Treaty on the Functioning of the European Union

The Kingdom of the Netherlands declares that an initiative for a decision, as referred to in Article 311(6) aimed at amending the status of the Netherlands Antilles and/or Aruba with regard to the Union, will be submitted only on the basis of a decision taken in conformity with the Charter for the Kingdom of the Netherlands.

### 44. Declaration by the Federal Republic of Germany, Ireland, the Republic of Hungary, the Republic of Austria and the Kingdom of Sweden

Germany, Ireland, Hungary, Austria and Sweden note that the core provisions of the Treaty establishing the European Atomic Energy Community have not been substantially amended since its entry into force and need to be brought up to date. They therefore support the idea of a Conference of the Representatives of the Governments of the Member States, which should be convened as soon as possible.

### 45. Declaration by the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland

The Treaties apply to Gibraltar as a European territory for whose external relations a Member State is responsible. This shall not imply changes in the respective positions of the Member States concerned.

46. Declaration by the United Kingdom of Great Britain and Northern Ireland on the definition of the term "nationals"

In respect of the Treaties and the Treaty establishing the European Atomic Energy Community, and in any of the acts deriving from those Treaties or continued in force by those Treaties, the United Kingdom reiterates the Declaration it made on 31 December 1982 on the definition of the term "nationals" with the exception that the reference to "British Dependent Territories Citizens" shall be read as meaning "British overseas territories citizens".

47. Declaration by the Kingdom of Spain on the definition of the term "nationals"

Spain notes that, under Article 17b of the Treaty on the Functioning of the European Union, every national of a Member State shall be a citizen of the Union. Spain also notes that, under the current state of European integration reflected in the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, only nationals of Member States are entitled to the specific rights of European citizenship unless Union law expressly provides otherwise. In that respect, Spain notes, finally, that under Articles 9a and 8a of the Treaty on European Union, the European Parliament currently represents the citizens of the Union.

48. Declaration by the United Kingdom of Great Britain and Northern Ireland on the franchise for elections to the European Parliament

The United Kingdom notes that Article 9a of the Treaty on European Union and other provisions of the Treaties are not intended to change the basis for the franchise for elections to the European Parliament.

49. Declaration by the Kingdom of Belgium on national Parliaments

Belgium wishes to make clear that, in accordance with its constitutional law, not only the Chamber of Representatives and Senate of the Federal Parliament but also the parliamentary assemblies of the Communities and the Regions act, in terms of the competences exercised by the Union, as components of the national parliamentary system or chambers of the national Parliament.

50. Declaration by the Republic of Latvia and the Republic of Hungary  
on the spelling of the name of the single currency  
in the Treaties

Without prejudice to the unified spelling of the name of the single currency of the European Union referred to in the Treaties as displayed on the banknotes and on the coins, Latvia and Hungary declare that the spelling of the name of the single currency, including its derivatives as applied throughout the Latvian and Hungarian text of the Treaties, has no effect on the existing rules of the Latvian and the Hungarian languages.

51. Declaration by Poland on the Charter of Fundamental Rights of the European Union

The Charter does not affect in any way the right of Member States to legislate in the sphere of public morality, family law, as well as the protection of human dignity and respect for human physical and moral integrity.

52. Declaration by the United Kingdom on Article 67a of the Treaty  
on the Functioning of the European Union

The United Kingdom fully supports robust action with regard to adopting financial sanctions designed to prevent and combat terrorism and related activities. Therefore, the United Kingdom declares that it intends to exercise its right under Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice to take part in the adoption of all proposals made under Article 67a of the Treaty on the Functioning of the European Union.

53. Declaration by the Republic of Poland concerning the Protocol on the application of the  
Charter of Fundamental Rights in relation to Poland and the United Kingdom

The Republic of Poland declares that, having regard to the tradition of social movement of "Solidarity" and its significant contribution to the struggle for social and labour rights, it fully respects social and labour rights, as established by European Union law, and in particular those reaffirmed in Title IV of the Charter of Fundamental Rights of the European Union.

**CONFERENCE  
OF THE REPRESENTATIVES OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 12 October 2007**

**CIG 3/1/07  
REV 1 COR 1**

**CORRIGENDUM TO NOTE**

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from: Presidency of the IGC  
dated: 5 October 2007  
to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**  
Draft declarations

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The following Declaration should be added at the end of page 25:

"54. Declaration by Ireland on Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice

Ireland affirms its commitment to the Union as an area of freedom, security and justice respecting fundamental rights and the different legal systems and traditions of the Member States within which citizens are provided with a high level of safety.

Accordingly, Ireland declares its firm intention to exercise its right under Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice to take part in the adoption of measures pursuant to Title IV of Part Three of the Treaty on the Functioning of the European Union to the maximum extent it deems possible.

Ireland will, in particular, participate to the maximum possible extent in measures in the field of police cooperation.

Furthermore, Ireland recalls that in accordance with Article 8 of the Protocol it may notify the President of the Council in writing that it no longer wishes to be covered by the terms of the Protocol. Ireland intends to review the operation of these arrangements within three years of the entry into force of the Treaty."

**CORRIGENDUM TO NOTE**

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from: Presidency of the IGC  
dated: 22 October 2007  
to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**  
Draft declarations

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The following corrections have been made to the text.

**Pages 4 to 7: the text of Declaration No 4 should be replaced by the following:**

- "4. Declaration on Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union

The Conference declares that the decision relating to the implementation of Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union will be adopted by the Council on the date of the signature of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and will enter into force on the day that Treaty enters into force. The draft decision is set out below:

Draft decision of the Council  
relating to the implementation of Article 9c(4) of the Treaty on European Union  
and Article 205(2) of the Treaty on the Functioning of the European Union between  
1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other

THE COUNCIL OF THE EUROPEAN UNION,



Whereas:

- (1) Provisions should be adopted allowing for a smooth transition from the system for decision-making in the Council by a qualified majority as defined in Article 3(3) of the Protocol on the transitional provisions, which will continue to apply until 31 October 2014, to the voting system provided for in Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union, which will apply with effect from 1 November 2014, including, during a transitional period until 31 March 2017, specific provisions laid down in Article 3(2) of that Protocol.
- (2) It is recalled that it is the practice of the Council to devote every effort to strengthening the democratic legitimacy of decisions taken by a qualified majority,

HAS DECIDED AS FOLLOWS:

Section 1  
Provisions to be applied from 1 November 2014 to 31 March 2017

Article 1

From 1 November 2014 to 31 March 2017, if members of the Council, representing:

- (a) at least three quarters of the population, or
- (b) at least three quarters of the number of Member States

necessary to constitute a blocking minority resulting from the application of Article 9c(4), first subparagraph, of the Treaty on European Union or Article 205(2) of the Treaty on the Functioning of the European Union, indicate their opposition to the Council adopting an act by a qualified majority, the Council shall discuss the issue.

Article 2

The Council shall, in the course of these discussions, do all in its power to reach, within a reasonable time and without prejudicing obligatory time limits laid down by Union law, a satisfactory solution to address concerns raised by the members of the Council referred to in Article 1.

Article 3

To this end, the President of the Council, with the assistance of the Commission and in compliance with the Rules of Procedure of the Council, shall undertake any initiative necessary to facilitate a wider basis of agreement in the Council. The members of the Council shall lend him or her their assistance.

Section 2  
Provisions to be applied as from 1 April 2017

Article 4

As from 1 April 2017, if members of the Council, representing:

- (a) at least 55 % of the population, or
- (b) at least 55 % of the number of Member States

necessary to constitute a blocking minority resulting from the application of Article 9c(4), first subparagraph, of the Treaty on European Union or Article 205(2) of the Treaty on the Functioning of the European Union, indicate their opposition to the Council adopting an act by a qualified majority, the Council shall discuss the issue.

Article 5

The Council shall, in the course of these discussions, do all in its power to reach, within a reasonable time and without prejudicing obligatory time limits laid down by Union law, a satisfactory solution to address concerns raised by the members of the Council referred to in Article 4.

Article 6

To this end, the President of the Council, with the assistance of the Commission and in compliance with the Rules of Procedure of the Council, shall undertake any initiative necessary to facilitate a wider basis of agreement in the Council. The members of the Council shall lend him or her their assistance.

Section 3  
Entry into force and effect of the Decision

Article 7

This Decision shall enter into force on the date of the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community."

**Page 14: the text of Declaration No 28 should be replaced by the following:**

"28. Declaration in relation to the delimitation of competences

The Conference underlines that, in accordance with the system of division of competences between the Union and the Member States as provided for in the Treaty on European Union and the Treaty on the Functioning of the European Union, competences not conferred upon the Union in the Treaties remain with the Member States.

When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence. The latter situation arises when the relevant EU institutions decide to repeal a legislative act, in particular better to ensure constant respect for the principles of subsidiarity and proportionality. The Council may, at the initiative of one or several of its members (representatives of Member States) and in accordance with Article 208 of the Treaty on the Functioning of the European Union, request the Commission to submit proposals for repealing a legislative act. The Conference welcomes the Commission's declaration that it will devote particular attention to these requests.

Equally, the representatives of the governments of the Member States, meeting in an Intergovernmental Conference, in accordance with the ordinary revision procedure provided for in Article 33(2) to (5) of the Treaty on European Union, may decide to amend the Treaties, including either to increase or to reduce the competences conferred on the Union in the said Treaties."

**page 17: the following new declaration should be inserted between declaration No 38 and declaration No 39:**

"38a Declaration on Article 9e of the Treaty on European Union

1. The Conference declares that, in the course of the preparatory work preceding the appointment of the High Representative of the Union for Foreign Affairs and Security Policy which is due to take place on the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community in accordance with Article 9e of the Treaty on European Union and Article 5 of the Protocol on transitional provisions and whose term of office will be from that date until the end of the term of office of the Commission in office on that date, appropriate contacts will be made with the European Parliament.

2. Furthermore, the Conference recalls that, as regards the High Representative of the Union for Foreign Affairs and Security Policy whose term of office will start in November 2009 at the same time and for the same duration as the next Commission, he or she will be appointed in accordance with the provisions of Articles 9d and 9e of the Treaty on European Union."

**page 17: the following three new declarations should be inserted after declaration No 39:**

"Declaration on Article 222 of the Treaty on the Functioning of the European Union regarding the number of Advocates-General in the Court of Justice

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The Conference declares that if, in accordance with Article 222, first paragraph, of the Treaty on the Functioning of the European Union, the Court of Justice requests that the number of Advocates-General be increased by three (eleven instead of eight), the Council will, acting unanimously, agree on such an increase.

In that case, the Conference agrees that Poland will, as is already the case for Germany, France, Italy, Spain and the United Kingdom, have a permanent Advocate-General and no longer take part in the rotation system, while the existing rotation system will involve the rotation of five Advocates-General instead of three.

39b. Declaration on the composition of the European Parliament

The additional seat in the European Parliament will be attributed to Italy.

39c. Declaration on the political agreement by the European Council concerning the draft Decision on the composition of the European Parliament

The European Council will give its political agreement on the revised draft Decision on the composition of the European Parliament, based on the proposal from the European Parliament.

---

**Composition of the European Parliament**

1)

Article 9a of the TEU

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.

2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number, plus the President. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph.

3. (unchanged)

4. (unchanged)

\*

2) **Declaration on the composition of the European Parliament**

The additional seat in the European Parliament will be attributed to Italy.

\*

3) **Declaration on the political agreement by the European Council concerning the draft Decision on the composition of the European Parliament**

The European Council will give its political agreement on the revised draft Decision on the composition of the European Parliament, based on the proposal of the European Parliament.

\*

**Lisbon, 19 October 2007**

**DS 878/07**

**PROTOCOL (No 9bis)**

**ON THE DECISION OF THE COUNCIL  
RELATING TO THE IMPLEMENTATION OF ARTICLE 9c(4) OF THE TREATY ON  
EUROPEAN UNION AND ARTICLE 205(2) OF THE TREATY ON THE FUNCTIONING  
OF THE EUROPEAN UNION BETWEEN 1 NOVEMBER 2014 AND 31 MARCH 2017 ON  
THE ONE HAND, AND AS FROM 1 APRIL 2017 ON THE OTHER**

THE HIGH CONTRACTING PARTIES,

TAKING INTO ACCOUNT the fundamental importance that agreeing on the Decision of the Council relating to the implementation of Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union between 1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other (hereinafter "the Decision"), had when approving the Treaty amending the Treaty on European Union and the Treaty establishing the European Community;

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

Single Article

Before the examination by the Council of any draft which would aim either at amending or abrogating the Decision or any of its provisions, or at modifying indirectly its scope or its meaning through the modification of another legal act of the Union, the European Council shall hold a preliminary deliberation on the said draft, acting by consensus in accordance with Article 9b(4) of the Treaty on European Union.

**Lisbon, 19 October 2007**

**DS 871/07**

4. Declaration on Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union

The Conference declares that the decision relating to the implementation of Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union will be adopted by the Council on the date of the signature of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and will enter into force on the day that Treaty enters into force. The draft decision is set out below:

Draft decision of the Council  
relating to the implementation of Article 9c(4) of the Treaty on European Union  
and Article 205(2) of the Treaty on the Functioning of the European Union between  
1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other

THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

- (1) Provisions should be adopted allowing for a smooth transition from the system for decision-making in the Council by a qualified majority as defined in Article 3(3) of the Protocol on the transitional provisions, which will continue to apply until 31 October 2014, to the voting system provided for in Article 9c(4) of the Treaty on European Union and Article 205(2) of the Treaty on the Functioning of the European Union, which will apply with effect from 1 November 2014, including, during a transitional period until 31 March 2017, specific provisions laid down in Article 3(2) of that Protocol.
- (2) It is recalled that it is the practice of the Council to devote every effort to strengthening the democratic legitimacy of decisions taken by a qualified majority.

HAS DECIDED AS FOLLOWS:

Section 1  
Provisions to be applied from 1 November 2014 to 31 March 2017

Article 1

From 1 November 2014 to 31 March 2017, if members of the Council, representing:

- (a) at least three quarters of the population, or
- (b) at least three quarters of the number of Member States

necessary to constitute a blocking minority resulting from the application of Article 9c(4), first subparagraph, of the Treaty on European Union or Article 205(2) of the Treaty on the Functioning of the European Union, indicate their opposition to the Council adopting an act by a qualified majority, the Council shall discuss the issue.

Article 2

The Council shall, in the course of these discussions, do all in its power to reach, within a reasonable time and without prejudicing obligatory time limits laid down by Union law, a satisfactory solution to address concerns raised by the members of the Council referred to in Article 1.

Article 3

To this end, the President of the Council, with the assistance of the Commission and in compliance with the Rules of Procedure of the Council, shall undertake any initiative necessary to facilitate a wider basis of agreement in the Council. The members of the Council shall lend him or her their assistance.

Section 2  
Provisions to be applied as from 1 April 2017

Article 4

As from 1 April 2017, if members of the Council, representing:

- (a) at least 55 % of the population, or
- (b) at least 55 % of the number of Member States

necessary to constitute a blocking minority resulting from the application of Article 9c(4), first subparagraph, of the Treaty on European Union or Article 205(2) of the Treaty on the Functioning of the European Union, indicate their opposition to the Council adopting an act by a qualified majority, the Council shall discuss the issue.



## Article 5

The Council shall, in the course of these discussions, do all in its power to reach, within a reasonable time and without prejudicing obligatory time limits laid down by Union law, a satisfactory solution to address concerns raised by the members of the Council referred to in Article 4.

## Article 6

To this end, the President of the Council, with the assistance of the Commission and in compliance with the Rules of Procedure of the Council, shall undertake any initiative necessary to facilitate a wider basis of agreement in the Council. The members of the Council shall lend him or her their assistance.

## Section 3

### Entry into force and effect of the Decision

## Article 7

This Decision shall enter into force on the date of the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community.

---

**Lisbon, 18 October 2007**

**DS 865/07**

**Declaration ad Article 9e of the Treaty on European Union**

1. The Conference declares that, in the course of the preparatory work preceding the appointment of the High Representative of the Union for Foreign Affairs and Security Policy which is due to take place on the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community in accordance with Article 9e of the Treaty on European Union and Article 5 of the Protocol on transitional provisions and whose term of office will be from that date until the end of the term of office of the Commission in office on that date, appropriate contacts will be taken with the European Parliament.

2. Furthermore, the Conference recalls that, as regards the High Representative of the Union for Foreign Affairs and Security Policy whose term of office will start in November 2009 at the same time and for the same duration as the next Commission, he or she will be appointed in accordance with the provisions of Articles 9d and 9e of the Treaty on European Union.

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**Lisbon, 18 October 2007**

**DS 866/07**

**Declaration ad Article 222 of the Treaty on the Functioning of the European Union  
on the number of Advocates-General in the Court of Justice**

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The Conference declares that if, in accordance with Article 222, first subparagraph, of the Treaty on the Functioning of the European Union, the Court of Justice requests that the number of Advocates-General be increased by three (eleven instead of eight), the Council will, acting unanimously, agree on such an increase.

In that case, the Conference agrees that Poland will, as it is already the case for Germany, France, Italy, Spain and the United-Kingdom, have a permanent Advocate-General and no longer take part in the rotation system, while the existing rotation system will involve the rotation of five Advocates-General instead of three.

---

28. Declaration in relation to the delimitation of competences

The Conference underlines that, in accordance with the system of division of competences between the Union and the Member States as provided for in the Treaty on European Union and the Treaty on the Functioning of the European Union, competences not conferred upon the Union in the Treaties remain with the Member States.

When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence. The latter situation arises when the relevant EU institutions decide to repeal a legislative act, in particular better to ensure constant respect for the principles of subsidiarity and proportionality. The Council may, at the initiative of one or several of its members (representatives of Member States) and in accordance with Article 208 of the Treaty on the Functioning of the European Union, request the Commission to submit proposals for repealing a legislative act. The Conference welcomes that the Commission declares that it shall devote particular attention to these requests.

Equally, the representatives of the governments of the Member States, meeting in an Intergovernmental Conference, in accordance with the ordinary revision procedure provided for in Article 33(2) to (5) of the Treaty on European Union, may decide to amend the Treaties, including either to increase or to reduce the competences conferred on the Union in the said Treaties.

**CONFERENCE  
OF THE REPRESENTATIVES  
OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 11 October 2007**

**CIG 13/07**

**COVER NOTE**

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from: Presidency of the IGC

to: Delegations

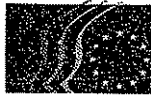
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Subject: **IGC 2007**

Letter from the European Economic and Social Committee, dated 3 October 2007

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Attached will be found the letter from the European Economic and Social Committee.



**European Economic and Social Committee**  
**The President**

Brussels, 3 October 2007  
DAG/SCO (07)D/

**Mr José Sócrates**  
**Prime Minister of the Portuguese Republic**

Dear Prime Minister,

The European Economic and Social Committee fully supports the efforts of the Council Presidency to secure agreement on the Reform Treaty by the European Council on 18 and 19 October, based on the mandate adopted on 23 June.

In my letter of 1 June 2007 sent to the presidents of the three main European institutions, I have already taken the opportunity to express my satisfaction on behalf of the Committee that the draft Reform Treaty preserves the substance of the Constitutional Treaty and in particular that the provisions on the democratic life of the European Union, including those on participatory democracy, have been retained.

While acknowledging that the intergovernmental method of revising treaties is the only possible legitimate approach to reaching swift agreement, the Committee nevertheless feels that this is very much less satisfactory in terms of democratic participation and involvement of citizens than the conventional path. Besides, the fact that the substance of the Constitutional Treaty has been preserved shows that the Convention has proved its worth and represents a model for future reform of the Treaties.

In this context, the European Economic and Social Committee held a conference on *Organised civil society has its say on the future of Europe* on 27-28 September in Brussels, in order to establish a platform for the democratic participation and involvement of citizens. It thanks the Council Presidency, as well as the Commission, for their contribution in this conference via the presence of their representatives.

One of the debates' conclusions is the suggestion by the participants to **provide structures and a legal framework for the accomplishment of participatory democracy.**

.../...

**TOGETHER**  
SINCE 1957

99 rue Belliard - B-1040 Brussels - Tel. +32 (0)2 546 92 42 - Fax +32 (0)2 546 97 52 - Internet <http://www.eesc.europa.eu>

The EESC is eager to take part in this complex process in a pro-active way, thanks to its permanent connection and dialogue with national and European civil society intermediary bodies. The EESC therefore asks **to include such a role in one of the final declarations of the Intergovernmental Conference**, likewise to what has been done in the framework of the implementation of the Lisbon Strategy.

Participants in the Conference also stressed the fact that citizens feel **distant from the European institutions and not sufficiently informed** about the European integration process: the European jargon, the complexity of the Treaties, the information provided by national governments and the press present the European Union under a negative and unclear light.

Concerning the relations with the national press, on 12 November the Committee will hold on a seminar on *Communicating Europe: What role does civil society wish to play?* gathering together spokespersons and press officers of Economic and Social Councils, organisations of EESC members, EU institutions and Permanent Representations of 27 EU Member States as well as representatives of media organisations and editors of publications issued by European and national civil society organisations. One of the aims of the seminar is to create a platform for communication for better communication and more effective cooperation with European civil society organisations.

In this framework, **the Committee is ready to receive the mandate to continue playing such an active role on a higher scale and with improved means of action, in cooperation with all European institutions.**

Other, more general conclusions of the conference were:

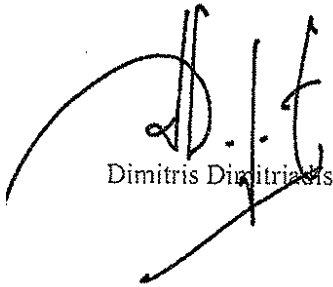
- A critical but positive analysis of the draft Reform Treaty
- The danger and the risk of becoming further away from the citizens
- The desire of participation and the wish of a greater clarity and transparency regarding the global European project
- The real necessity and urgency of publicising the Treaty text
- A clarification of the channels of consultation that are used
- The need to strengthen ties with the national Economic and Social Councils
- An intensification of the dialogue and communication with citizens and between the European institutions
- A follow-up of the ratification process.

.../...

I take this opportunity of submitting some **concrete proposals** for Your (and the other members of the Intergovernmental Conference) consideration in the frame of the ongoing negotiations of the Conference which I have listed in an annex to this letter.

Thanking you in anticipation,

Yours faithfully,



Dimitris Dimitriadis

Copies to:

- The Members of the European Council
- The President of the European Parliament and Members of the European Parliament participating in the IGC
- The President of the European Commission
- The President of the Committee of the Regions



## ANNEX

To the letter addressed by President DIMITRIADIS to Mr José SOCRATES, Prime Minister of the Portuguese Republic, regarding the Intergovernmental Conference

- I. Let me first of all emphasise that the consultative bodies, i.e. the European Economic and Social Committee and the Committee of the Regions are important instruments for strengthening the democratic legitimacy of the European Union and contribute to rational ownership of the European venture by ordinary citizens. I therefore fully support the request submitted to you by the President of the Committee of the Regions, Michel Delebarre, on 28 August, for the **insertion into the Treaty on European Union of a provision acknowledging the status and role of these consultative bodies in the institutional architecture of the EU** of which they form an integral part.
- II. In this connection, I would also like to stress that the two consultative bodies should be treated on an equal footing and enjoy the same rights as are conferred by their prerogatives. Two different dimensions - organised civil society and local and regional authorities - are represented by the European Economic and Social Committee and the Committee of the Regions; however both of these are of equal importance in terms of European reality and the democratic life of the Union. I would therefore like to draw your attention to a provision of the draft Reform Treaty of 23 July which, if not amended, could contradict the principle of equal treatment of the two consultative bodies. The **amendment to Article 230(3) of the Treaty establishing the European Community** gives the Committee of the Regions the right to institute proceedings at the Court of Justice in order to defend its prerogatives. For the same reasons, I feel it would be legitimate to include the European Economic and Social Committee in the above provision.
- III. Likewise, given that the protocol on the application of the subsidiarity principle will be retained in the Reform Treaty, I have the honour and the duty to ask you, on behalf of the European and Economic and Social Committee to give our Committee a **similar right to institute proceedings to that which has been granted to the Committee of the Regions in Article 8 (2) of the protocol**. This right would not necessarily apply to the subsidiarity principle, which is of particular interest to the Committee of the Regions, but could for example cover aspects of citizens' fundamental rights and the social clauses of the Treaty.
- IV. Finally, I would like to submit the suggestion to **associate the European Economic and Social Committee pro-actively in the evaluation of the impact of Community legislation** and to include such a role in one of the final declarations of the Intergovernmental Conference.

**CONFÉRENCE  
DES REPRÉSENTANTS  
DES GOUVERNEMENTS  
DES ÉTATS MEMBRES**

**Bruxelles, le 3 septembre 2007**

**CIG 12/07**

**NOTE DE TRANSMISSION**

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de: Présidence de la CIG

à: Délégations

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Objet: **CIG 2007**

Lettre du Comité des Régions, en date du 28 août 2007

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Veillez trouver en annexe la lettre du Comité des Régions.



Comité  
des  
Régions

Le Président

Bruxelles 28.08.2007  
Pcab/D/1693/07

1276

Monsieur le Premier Ministre,

Dans un courrier que je vous avais adressé au début de votre Présidence de l'Union européenne, je m'étais félicité du fait que le mandat de négociation pour la CIG reprenait explicitement un certain nombre des éléments considérés par le Comité des régions (CdR) comme des avancées fondamentales du projet de Traité constitutionnel pour la reconnaissance de la place et de la contribution des collectivités territoriales dans le processus d'intégration européenne.

Au nom du Comité des régions, je ne peux donc que me réjouir que le Projet de traité modifiant le traité sur l'Union européenne et le traité instituant la Communauté européenne tel que soumis à la réunion de la Conférence intergouvernementale du 23 juillet dernier (document CIG 1/07) confirme ces avancées, dont en particulier la reconnaissance du respect de l'autonomie locale et régionale par l'Union, le maintien du protocole sur l'application des principes de subsidiarité et de proportionnalité, l'introduction de la cohésion territoriale et de la diversité culturelle et linguistique parmi les objectifs de l'Union ainsi que la reconnaissance d'un statut spécifique pour les régions ultrapériphériques.

Néanmoins, après avoir pris connaissance des documents soumis à la CIG et après lecture d'une version consolidée des futurs traités, je me permets d'attirer votre attention sur un élément dans les textes actuellement soumis à négociation qui, s'il n'était pas corrigé, risquerait de représenter un recul significatif non seulement pour le Comité des régions et l'ensemble des collectivités territoriales qu'il a vocation de représenter mais aussi pour l'ambition commune des acteurs de l'intégration européenne de promouvoir plus de démocratie de proximité et plus de démocratie participative au niveau européen.

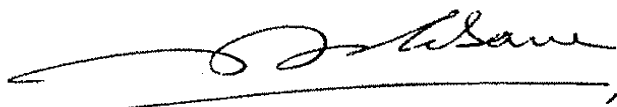
**En effet, il apparaît dans le document CIG 1/07 que ne serait pas repris dans le projet de traité modifiant le traité sur l'Union européenne l'article I-32 du projet de traité constitutionnel qui opérait dans le titre de la première partie du projet de traité constitutionnel consacré aux "institutions et organes de l'Union" une reconnaissance du statut et du rôle des organes consultatifs de l'Union, à savoir le Comité des régions et le Comité économique et social européen. Dans l'état actuel des choses, les organes consultatifs de l'Union ne seraient d'ailleurs pas du tout**

▼  
Rue Belliard 101 - 1040 Bruxelles  
Tél. +32 (0)2/282 23 14 - Fax +32 (0)2/282 23 18  
▲

**mentionnés dans le projet de traité modifiant le traité sur l'Union européenne.**

Cette omission serait à notre avis dommageable en termes de symbolique et de lisibilité de la construction européenne. Elle serait également vécue par le Comité des régions et les collectivités territoriales comme un pas en arrière et une absence de reconnaissance de leurs efforts investis, en particulier depuis les travaux de la Convention, en faveur d'une réforme des traités qui ouvre la voie à une intégration européenne plus poussée, mais aussi plus démocratique et plus solidaire.

Vous remerciant de toute la bienveillance que vous accorderez à ma démarche, je vous prie d'agréer, Monsieur le Premier Ministre, l'expression de ma très haute considération.



Michel Delebarre  
Ancien Ministre d'Etat

M. José Sócrates Carvalho Pinto de Sousa  
Premier Ministre  
Rua da Imprensa à Estrela, 4  
PT-1200-888 Lisboa

Fax: +351 213 951 616  
E-mail : [pm@pm.gov.pt](mailto:pm@pm.gov.pt)

**CONFERENCE  
OF THE REPRESENTATIVES  
OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 3 September 2007**

**CIG 11/07**

**COVER NOTE**

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from: Presidency of the IGC

to: Delegations

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Subject: **IGC 2007**

Letter from the European Court of Auditors, dated 10 August 2007

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Attached will be found the letter from the European Court of Auditors, received on 16 August 2007.



Hubert WEBER  
PRESIDENT  
EUROPEAN  
COURT OF AUDITORS

SECRETARIAT DU CONSEIL  
DE L'UNION EUROPEENNE  
SGE77 8322  
REQU LE: 16. 08. 2007  
DEST. PRINC.: .....  
DEST. SERVICE JURIDIQUE  
M. BROUHNS  
M. GILBERS

Luxembourg, 10<sup>e</sup> AOUT 2007  
CAT008460EN03-07PP-OR.doc

Mr José Sócrates,  
President of the Council of the EU  
Justus Lipsius Building,  
175 Rue de la Loi  
B-1048 BRUXELLES

*Dear President,*

Further to my letter of 16 July last, the Court has now seen the Draft Reform Treaty circulated by the Presidency of the Intergovernmental Conference (IGC) on 23 July. We note with satisfaction that in the Draft Treaty, the amended Article 9 TEU, headed "The Union's institutions", the Court of Auditors is included in the list of those institutions. This drafting fully allays the concerns of the Court concerning its institutional status expressed in my aforementioned letter.

I was therefore surprised to receive a copy of the letter dated 2 August 2007 from Mr. Jean-Claude Trichet, President of the European Central Bank (ECB), to Mr Lobo Antunes, Secretary of State Assistant to the Minister and for European Affairs. That letter includes a revised draft of Article 9 TEU prepared by the ECB in which the Court of Auditors is mentioned in square brackets both in paragraph 1 and in paragraph 3. The Bank did not consult the Court regarding that proposal.

I do not seek to comment upon, or in any way to prejudice, the ECB's request to relating to its own institutional position. However, in order to avoid any ambiguity as to the institutional position of the Court of Auditors, I would like to reaffirm strongly our view, expressed in my letter to you of 16 July 2007, that the Court should remain an "institution" as it has been since the Treaty of Maastricht came into force, a position confirmed by the present drafting of the Reform Treaty.

*Yours sincerely,  
Hubert Weber*

12, rue Alcide De Gasperi  
L-1615 Luxembourg

Phone number (352) 4398-45951  
Fax number (352) 4398-46957  
E-mail: hubert.weber@eca.eu.int

**CONFERENCE  
OF THE REPRESENTATIVES  
OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 3 September 2007**

**CIG 10/07**

**COVER NOTE**

---

from: Presidency of the IGC

to: Delegations

---

Subject: **IGC 2007**

Letter from the European Central Bank, dated 2 August 2007

---

Attached will be found the letter from the European Central Bank.



EUROPEAN CENTRAL BANK  
EUROSYSTEM

Jean-Claude TRICHET  
President

Mr. Manuel Lobo Antunes  
President of the Council of the European Union  
Palácio da Cova da Moura,  
1 – 1350 – 115  
Lisbon

2 August 2007  
LS/JCT/07/1080

Dear Mr. Lobo Antunes

#### **Clarification of the institutional status of the ECB**

I am delighted that the work of the Intergovernmental Conference (IGC) has begun and that the prospects for finalising this important work under the Portuguese Presidency are good.

The ECB has taken note of the first draft text of the Reform Treaty that was presented to the IGC on 23 July 2007, as published on the Council Secretariat's website.

Based on a first assessment, the ECB considers that, as set out in its Opinion of 5 July 2007<sup>1</sup>, the changes to be introduced to the text of the current Treaties are limited to and comprise all the innovations agreed at the 2004 IGC. However, this does not appear to be the case on the question of the institutional status of the ECB.

In the draft text, the ECB first appears in what would become the new Article 9(1) of the Treaty on European Union (TEU), where it is included in the list of the Union's institutions. The main provisions on the ECB then appear in what would become the new Article 245a of the Treaty on the Functioning of the European Union (TFEU), which mirrors the former Article I-30 of the text agreed at the 2004 IGC. However, the sentence "The European Central Bank is an institution" has been removed in the context of including the ECB in the list of institutions in Article 9(1).

<sup>1</sup> [http://www.ecb.int/press/pr/date/2007/html/pr070705\\_1.en.html](http://www.ecb.int/press/pr/date/2007/html/pr070705_1.en.html)



At the time of the 2004 IGC, the ECB, in its Opinion of September 2003, expressed a strong view that, because of its specific institutional features, the ECB needs to be differentiated from the “Union’s institutions”. This was accepted by the 2004 IGC and formed the basis of the text agreed at the 2004 IGC, where the ECB was not included in Chapter I [of Title IV], “the institutional framework” but instead appeared in Chapter II covering the “other Union institutions”.

The ECB understands that, except where indicated otherwise by the IGC’s Mandate, as provided by the European Council at its Summit of June 2007, the text of the Reform Treaty should introduce into the Treaty the innovations resulting from the 2004 IGC.

The ECB would therefore like to request that the IGC amend the draft text as follows:

- the reference to the ECB in the new Article 9 TEU should be moved from Article 9(1) to Article 9(3), under the rubric, “The other institutions are:”. Moreover, in Article 9(1), the rubric “The Union’s institutions shall be” should be replaced by “The Union’s institutional framework shall comprise” in order to bring it into line with Article I-19 of the text agreed at the 2004 IGC; and
- the sentence “The European Central Bank is an institution” should be reintroduced into Article 245a of the TFEU.

Moreover, as in the current Treaties, the text agreed at the 2004 IGC referred in Part I not only to the ECB but also to the ESCB, the European System of Central Banks.

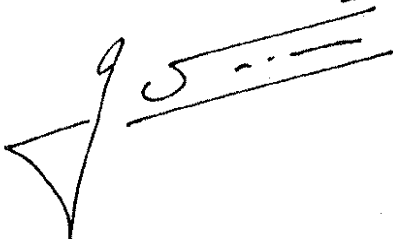
The ECB would like to maintain mention of the ESCB, as well as the ECB, in the TEU and would therefore like to request the inclusion of a corresponding reference to the ESCB in Article 9(3).

These suggestions are elaborated precisely in the attached Annex.

I would appreciate it very much if you could ensure that these requests are addressed by the IGC.

The ECB of course stands ready to contribute further to the IGC at any time during its work.

Yours sincerely, *With my best personal regards,*

A handwritten signature in black ink, appearing to be 'J. Vitorino', written over a horizontal line. The signature is stylized and includes a large initial 'J'.

[TEU] Article 9 The Union's institutions

1. The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.

The Union's institutional **framework shall comprise** ~~s shall be~~:

- the European Parliament,
- the European Council,
- the Council,
- the European Commission (hereinafter referred to as the "Commission"),
- the Court of Justice of the European Union,
- ~~- the European Central Bank,~~
- [ - the Court of Auditors.]

2. Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures and conditions set out in them. The institutions shall practise mutual sincere cooperation.

3. **The other Union institution(s) shall be:**

- ~~- the European Central Bank,~~
- [ - the Court of Auditors.]

The provisions relating to the European Central Bank, **which, together with the National Central Banks, shall constitute the European System of Central Banks**, and the Court of Auditors are set out in the Treaty on the Functioning of the Union."

[TFU] SECTION 4a

THE EUROPEAN CENTRAL BANK

Article 245a

...

3. The European Central Bank **is an institution**. It shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.

**CONFERENCE  
OF THE REPRESENTATIVES  
OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 24 July 2007 (26.07)  
(OR. fr)**

**CIG 6/07**

**NOTE**

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from: Presidency of the IGC  
dated: 24 July 2007  
to: Intergovernmental Conference (IGC)

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Subject: **2007 IGC**  
Indicative and forward timetable of the Working Party of Legal Experts

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Attached will be found the indicative and forward timetable of the Working Party of Legal Experts.

**2007 IGC**  
**WORKING PARTY OF LEGAL EXPERTS**  
**INDICATIVE AND FORWARD TIMETABLE**

<b>Meeting</b>	<b>Estimated dates</b>	<b>Indicative times</b>	<b>Forward programme</b>
1	Tuesday 24 July 2007 (p.m.)	15.00	Explanations, method, organisation of proceedings, preliminary questions
2	Wednesday 25 July 2007	10.00 to 13.00	
3	Wednesday 29 August 2007	from 15.00	Amendments to the TEU
4	Thursday 30 August 2007	10.00 to 13.00	
5		from 15.00	
6	Friday 31 August 2007	10.00 to 13.00	Amendments to the TEC
7	Monday 3 September 2007	from 15.00	Amendments to the TEC
8	Tuesday 4 September 2007	10.00 to 13.00	
9		from 15.00	
10	Wednesday 5 September 2007	10.00 to 13.00	Protocols and Declarations
11		from 15.00	
12	Thursday 6 September 2007	10.00 to 13.00	
13	Monday 10 September 2007	from 15.00	Possible second reading
14	Tuesday 11 September 2007	10.00 to 13.00	
15		from 15.00	
16		Wednesday 12 September 2007	
17	from 15.00		
18	Thursday 13 September 2007	10.00 to 13.00	

**NOTE**

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from : Polish Delegation  
dated : 24 July 2007  
to : Intergovernmental Conference (IGC)  
Subject : **IGC 2007**  
Statement by Ms Anna E. Fotyga, Polish Minister for Foreign Affairs,  
on the occasion of the opening of the Intergovernmental Conference

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**Statement  
by Ms Anna E. Fotyga, Minister for Foreign Affairs,  
on the occasion of the opening of the Intergovernmental Conference**

**(Brussels, 23 July 2007)**

1. Poland welcomes the compromise reached at the meeting of the European Council on 21 to 23 June 2007. I would stress that it was Poland's aim to streamline procedures. The results achieved will enable the EU's ambitious objectives to be fully realised.
2. Poland fully accepts the draft mandate adopted and expects the Intergovernmental Conference (IGC) to be conducted smoothly in its fullest possible dimension in accordance with the principles laid down in the Vienna Convention on the Law of Treaties. In particular, Poland expects the text of the Reform Treaty to be finally adopted at a separate meeting of the Conference to be attended by Member States' delegations at the level of Heads of State or Government.
3. Poland takes the view that the smooth conduct of the IGC requires the full implementation of the mandate. By this we mean that the transfer of the mechanism provided for in Declaration No 5 annexed to the Final Act of the 2004 Intergovernmental Conference should also be applied, as specified in paragraph 13 of the mandate, by being included in the text of the Treaty.

4. At the same time we would point out that, in Poland's opinion, the term "reasonable time", as used in the text of the aforementioned Declaration, and which was suggested in the course of negotiations to refer to a period of two years, will, following analyses, be interpreted as the time required to reach a consensus. I would stress that Poland considers that the retention in the Treaty of the reinforced Ioannina mechanism constitutes a common achievement which will help Member States to reach better decisions. Account should be taken not only of the fact that procedures ought to be effective, but also of the idea that the reinforced Ioannina mechanism should enable deeper consideration to be given to the doubts expressed by Member States, allow agreement to be reached, display a degree of flexibility and encourage decisions to be adopted rationally.
5. With reference to the first subparagraph of paragraph 13 of the mandate, I would point out that Poland interprets this provision of the mandate as meaning that the relevant article of the Treaty will clarify without doubt that, from 2014 to 2017, in the event of a request for a recalculation of votes and the application of the procedure in accordance with the system as currently defined in Article 205(2) TEC, such a request will be granted automatically without the need for separate decisions in that connection.
6. With reference to the Charter of Fundamental Rights, Poland abides by its statement concerning the possibility of joining the United Kingdom of Great Britain and Northern Ireland in the- Protocol. A final decision will be taken during the Intergovernmental Conference following completion of an analysis of the possible consequences of the provisions of the Charter for Poland's national law.

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**CONFERENCE  
OF THE REPRESENTATIVES  
OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 3 September 2007**

**CIG 9/07**

**COVER NOTE**

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from: Presidency of the IGC

to: Delegations

---

Subject: **IGC 2007**

Letter from the European Data Protection Supervisor, dated 23 July 2007

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Attached will be found the letter from the European Data Protection Supervisor, received on 25 July 2007.



EUROPEAN DATA  
PROTECTION SUPERVISOR

PETER HUSTINX  
SUPERVISOR

SECRETARIAT DU CONSEIL  
DE L'UNION EUROPÉENNE

SCE77 7674

REQU LE 25.07.2007

D. M. BIZJAK

DE. COG. SERVICE JURIDIQUE

M. VERNHES

M. CLOOS

The Presidency of the Intergovernmental  
Conference,  
c.o. Secretariat-General of the Council of the EU  
Rue de la Loi 175  
B-1048 Brussels

Brussels, 23 July 2007  
PH/HH/ab D(2007) 1194 C 2007-0476

Dear Mr President,

Today, the Intergovernmental Conference (IGC) which has been asked by the European Council to draw up a Reform Treaty started its activities. I noticed that with the start of the IGC a first draft has also been presented for a Treaty amending respectively the Treaty on the European Union and the Treaty establishing the European Community ("Reform Treaty"). Equally, first drafts of Protocols and Declarations have been presented.

The draft of the Reform Treaty includes provisions on data protection. Two declarations are also dedicated to this subject.

In the first place, I would like to use the occasion to congratulate you with the impressive amount of work that has already been done in this short time-frame.

In the second place, I find it useful to present you some suggestions aiming to even further improve the provisions and declarations on data protection. You will find my suggestions, where necessary accompanied by a short explanation in the annex to my letter. The suggestions relate to my mission to advise Community institutions and bodies and data subjects on all matters concerning the processing of personal data. They are of a merely technical nature and stay within the limits of the mandate for the IGC as provided by the European Council in the conclusions of its meeting of 21-23 June.

My suggestions relate to the proposed Article 24 of the Treaty on the European Union, the proposed Article 21 ter on the Treaty on the Functioning of the European Union, as well as to

Postal address: rue Wiertz 60 - B-1047 Brussels

Offices: rue Montoyer 63

E-mail : [edps@edps.europa.eu](mailto:edps@edps.europa.eu) - Website: [www.edps.europa.eu](http://www.edps.europa.eu)

Tel.: 02-283 19 00 - Fax : 02-283 19 50




the Declaration on personal data protection in the areas of police and judicial cooperation in criminal matters.

The Declaration on the provision on data protection in the Charter of the Fundamental Rights of the Union speaks for itself and does not lead to any comments from my side.

Finally, it goes without saying that I am available for questions and/or further discussions on these suggestions. I have sent a copy of this letter to the President of the Commission and the President of the European Parliament.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. HUSTINX', with a stylized flourish at the end.

Peter HUSTINX

Annex: 1



## Data protection under the Reform Treaty.

### A. In the EU-Treaty: Article 24 (a specific provision on data protection for the area of the Foreign Common and Security Policy).

#### TEXT PROPOSED BY PRESIDENCY:

[...] the Council shall adopt the rules relating to the protection of individuals with regard to the processing of personal data by Member States when carrying out activities which fall within the scope of this Title, and relating to the free movement of these data. Compliance with these rules shall be subject to the control of independent authorities.

#### SUGGESTION EDPS:

Article 24 only refers to activities of the Member States, not of activities of the Union. It should also apply to activities of the Union, for instance if the Council at a certain stage will process a terrorist list.

### B. In the Treaty on the Functioning of the European Union: Article 21ter

#### TEXT PROPOSED BY PRESIDENCY

1. Everyone has the right to the protection of personal data concerning him or her.

2. The European Parliament and the Council shall, in accordance with the normal legislative procedure, lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

The rules adopted on the basis of this Article shall be without prejudice to the specific rules foreseen in Article [...].

#### SUGGESTION EDPS:

The article should take into account that now on the basis of the current text of Article 286 EC the EDPS has been established, as competent supervisor of the processing of personal data by Union institutions under EC law. It would be logical, also for reasons of legal clarity, to bring the text of the Treaty up to date and recognise the EDPS in the text of the Treaty. Such a textual change would fall within the Mandate of the IGC.

The second sentence of Article 21ter.2 (new) could therefore read as follows:

"Compliance with these rules shall be subject to the control of the European Data Protection Supervisor and other independent authorities".

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Postal address: rue Wiertz 60 - B-1047 Brussels

Offices: rue Montoyer 63

E-mail : [edps@edps.europa.eu](mailto:edps@edps.europa.eu) - Website: [www.edps.europa.eu](http://www.edps.europa.eu)

Tel.: 02-283 19 00 - Fax : 02-283 19 50

### **C. Declaration on personal data protection in the areas of police and judicial cooperation in criminal matters.**

#### **TEXT PROPOSED BY PRESIDENCY**

The Declaration on personal data protection in the areas of police and judicial cooperation in criminal matters proposed by the Presidency states that specific rules in these areas may be necessary because of the specific nature of these domains.

#### **SUGGESTION EDPS:**

According to the EDPS, the declaration proposed by the Presidency is too general and does not give enough guidance for the legislator of the European Union. The EDPS suggests including a declaration with the following elements:

- The 'Reform Treaty' amending the existing Treaties incorporates police and judicial cooperation in criminal matters in the Treaty on the Functioning of the European Union.
- As a consequence, the rules of Directive 95/46/EC and Regulation (Nr.) 45/2001, jointly providing for a general and comprehensive legal framework for the protection of the individual with regard to the processing of his or her personal data should in principle also apply to the processing of personal data in the area of police and judicial cooperation in criminal matters, as explained below.
- It has to be noted that Directive 95/46/EC includes a specific provision laying down that these rules shall not apply to the processing of personal data in the course of an activity which falls outside the scope of Community law, such as those provided for by Titles V and VI of the Treaty on European Union and in any case to processing operations concerning public security, defence, State security (including the economic well-being of the State when the processing operation relates to State security matters) and the activities of the State in areas of criminal law.
- This provision is no longer appropriate since it no longer concerns activities which fall outside the scope of Community law. For reasons of legal clarity, this provision will have to be repealed.
- It has also to be noted that the processing of personal data in the area of police and judicial cooperation in criminal matters can require provisions specific to this area. Those specific provisions include safeguards for the data subject as well as exceptions to the protection, in order to reconcile the protection of the data subject with the public interest of the State in criminal matters. It is understood that the European Parliament and the Council shall, on the proposal of the Commission, adopt a proposal for a sector specific directive in this area which will apply in addition to the general directive on the protection of personal data (currently: Directive 95/46/EC) and which aims to ensure the widest possible application of the data protection principles contained in this general directive.
- Similar measures must be taken relating to the processing of personal data by Union institutions, bodies, offices and agencies.

EDPS, 23-07-2007

**CONFERENCE  
OF THE REPRESENTATIVES  
OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 3 September 2007**

**CIG 8/07**

**COVER NOTE**

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from: Presidency of the IGC

to: Delegations

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Subject: **IGC 2007**

Letter from the European Court of Auditors, dated 16 July 2007

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Attached will be found the letter from the European Court of Auditors, received on 20 July 2007.



Hubert WEBER  
PRESIDENT  
EUROPEAN  
COURT OF AUDITORS

SECRETARIAT DU CONSEIL DE L'UNION EUROPEENNE
SGE7/ 7489
REQU LE: 20. 07. 2007
DEST. PRINC.: <b>SERVICE JURIDIQUE</b>
DEST. COP.: M. BROUHNS
M. GILBERS
M. CLOOS

Luxembourg, 16 JUL. 2007  
CAT007704EN01-07PP-OR.doc

Mr José Sócrates,  
President of the Council of the EU  
Justus Lipsius Building,  
175 Rue de la Loi  
B-1048 BRUXELLES

*Dear President,*

The Court of Auditors followed with interest the work of the European Council held in Brussels on 21 and 22 June 2007 and has carefully studied the mandate for the forthcoming Intergovernmental Conference (IGC) set out in the Presidency Conclusions of 23 June (11177/07).

We note in particular the importance given by the European Council to the need to "maintain and develop the European Union's ... accountability to the citizen" (paragraph 2 of the Conclusions). With regard to financial accountability, that of course was the reason why the Member States, by the Treaty of Maastricht, included the Court of Auditors among the institutions responsible for carrying out the tasks entrusted to the Community. The institutional role of the Court was further strengthened by the Treaty of Amsterdam.

We were therefore surprised and perplexed when the text of the Treaty establishing a Constitution for Europe (TCE), adopted by the IGC in 2004, removed the Court of Auditors from the Union's institutional framework (Chapter I of Title IV) and included it among the "Other Institutions and advisory bodies" (Chapter II of Title IV). The Court was not consulted about that change.

Although that change may be more one of form than of substance we consider that it gives a clear impression that the role of ensuring financial accountability has been diminished, sending an unfortunate message to taxpayers and auditees alike, and that this may well give rise to practical problems for the Court in carrying out its mandate.

It also appears to exclude the Court of Auditors from the scope of paragraph (2) of Article I-19 which makes explicit the principle of conferred powers and the obligation of mutual

12, rue Alcide De Gasperi  
L-1615 Luxembourg

Phone number (352) 4398-45951  
Fax number (352) 4398-46957  
E-mail: hubert.weber@eca.eu.int

cooperation. Moreover, although Article I-19 no longer refers to a "*single* institutional framework" we consider that to refer in one place to "The Union's institutions" (heading of that article) and elsewhere to "Other Institutions" does not correspond to the aims of improving the clarity and simplicity of the Treaties which were promulgated by the declarations of Nice and Laeken. Finally this arrangement of the relevant provisions gives rise to the inclusion of the first sentence of Article I-31 which is otiose.

For those reasons the Court wishes to submit to the IGC, through your good offices, a proposal for re-drafting Articles I-19 and I-31 (see Annex I). We do not consider that such amendments will disturb the institutional balance decided by the European Council or by the 2004 IGC. On the contrary that balance will be re-inforced by emphasising the importance of the financial accountability of the institutions.

In addition to the issue of the institutional position of the Court of Auditors we consider that the requirement on the Court to "*ensure* good financial management" (Article I-31(2), in English and several other language versions) is impossible to fulfil and may have arisen as a result of a mistranslation since it does not correspond to the French version. I attach a table showing the relevant wording in each of the official languages (Annexe II) and would be grateful if you would bring the matter to the attention of the IGC draughtsmen and that of the lawyer-linguists of the Council. We would suggest that the existing wording of the first sentence of Article 248(2) EC be followed (see Annex I).

There is another unfortunate drafting error in Article III-406 which provides that the expenditure of the institutions shall be set out in separate sections of the budget. In this context the Court of Auditors is omitted from the list and there is no other provision relating to its expenditure.

The Court is at your disposal for any additional assistance that you or the IGC may require in this regard and hopes that you will submit our considerations to the IGC and support them.

*Yours faithfully,*



Hubert Weber

**Annex I**

TEXT COMPARISON BETWEEN THE TREATY ESTABLISHING A CONSTITUTION FOR EUROPE AND THE PROPOSAL FOR A RE-DRAFTING

Article of the Treaty establishing a Constitution for Europe	Proposal for re-drafting
<p><i>Article I-19</i></p> <p style="text-align: center;"><b>The Union's institutions</b></p> <p>1. The Union shall have an institutional framework which shall aim to:</p> <ul style="list-style-type: none"> <li>— promote its values,</li> <li>— advance its objectives,</li> <li>— serve its interests, those of its citizens and those of the Member States,</li> <li>— ensure the consistency, effectiveness and continuity of its policies and actions.</li> </ul> <p>This institutional framework comprises:</p> <ul style="list-style-type: none"> <li>— The European Parliament,</li> <li>— The European Council,</li> <li>— The Council of Ministers (hereinafter referred to as the 'Council'),</li> <li>— The European Commission (hereinafter referred to as the 'Commission'),</li> <li>— The Court of Justice of the European Union.</li> </ul> <p>2. Each institution shall act within the limits of the powers conferred on it in the Constitution, and in conformity with the procedures and conditions set out in it. The institutions shall practise mutual sincere cooperation.</p> <p><i>Article I-31</i></p>	<p><i>Article I-19</i></p> <p style="text-align: center;"><b>The Union's institutions</b></p> <p>1. The Union shall have an institutional framework which shall aim to:</p> <ul style="list-style-type: none"> <li>— promote its values,</li> <li>— advance its objectives,</li> <li>— serve its interests, those of its citizens and those of the Member States,</li> <li>— ensure the consistency, effectiveness and continuity of its policies and actions.</li> </ul> <p>This institutional framework comprises:</p> <ul style="list-style-type: none"> <li>— The European Parliament,</li> <li>— The European Council,</li> <li>— The Council of Ministers (hereinafter referred to as the 'Council'),</li> <li>— The European Commission (hereinafter referred to as the 'Commission'),</li> <li>— The Court of Justice of the European Union,<sup>6</sup></li> <li>— <del>The Court of Auditors</del></li> </ul> <p>2. Each institution shall act within the limits of the powers conferred on it in the Constitution, and in conformity with the procedures and conditions set out in it. The institutions shall practise mutual sincere cooperation.</p> <p><del><i>Article I-31 Article I- 30*</i></del></p>

<p style="text-align: center;"><b>The Court of Auditors</b></p> <p>1. The Court of Auditors is an institution. It shall carry out the Union's audit.</p> <p>2. It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.</p> <p>3. It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest.</p>	<p style="text-align: center;"><b>The Court of Auditors</b></p> <p>1. The Court of Auditors <del>is an institution</del>. It shall carry out the Union's audit.</p> <p>2. It shall examine the accounts of all Union revenue and expenditure, and shall <u>examine whether the ensure good financial management has been sound</u>.</p> <p>3. It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest.</p>
<p style="text-align: center;"><i>Article III-406</i></p> <p>In accordance with the conditions laid down by the European law referred to in Article III-412, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.</p> <p>Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided in accordance with the European law referred to in Article III-412.</p> <p>The expenditure of:</p> <ul style="list-style-type: none"> <li>— the European Parliament,</li> <li>— the European Council and the Council,</li> <li>— the Commission, and</li> <li>— the Court of Justice of the European Union</li> </ul> <p>shall be set out in separate sections of the budget, without prejudice to special arrangements for certain common items of expenditure.</p>	<p style="text-align: center;"><i>Article III-406</i></p> <p>In accordance with the conditions laid down by the European law referred to in Article III-412, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.</p> <p>Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided in accordance with the European law referred to in Article III-412.</p> <p>The expenditure of:</p> <ul style="list-style-type: none"> <li>— the European Parliament,</li> <li>— the European Council and the Council,</li> <li>— the Commission, and</li> <li>— the Court of Justice of the European Union, <u>and</u></li> <li>— <u>the Court of Auditors</u></li> </ul> <p>shall be set out in separate sections of the budget, without prejudice to special arrangements for certain common items of expenditure.</p>

\*Article I-31 should be moved to Chapter I related to the Institutional framework and therefore should become Article I-30. Reference to Article I-31 in Article III-128 should not be maintained.



ARTICLE I-31(2) TCE

ANNEXE II (

	Text Art. 31(2) TCE	Comments	Proposed text
BG	„Тя проверява отчетите за всички приходи и разходи на Съюза и осигурява добро финансово управление.“	Here, the term "осигурява" is the translation of the English word "ensures" or of the French word "assure".	„Тя проверява отчетите за всички приходи и разходи на Съюза и се уверява в доброто финансово управление.“
ES	The Spanish version reads: "El Tribunal de Cuentas examinará las cuentas de la totalidad de los ingresos y gastos de la Unión y <b>garantizará</b> una buena gestión financiera."	Here, the term "garantizará" is closer to the English. It should be replaced by "se asegurará".	"El Tribunal de Cuentas examinará las cuentas de la totalidad de los ingresos y gastos de la Unión y <b>se asegurará</b> de la buena gestión financiera."
CS	<b>Účetní dvůr</b> Přezkoumává účetnictví všech příjmů a výdajů Unie a <b>přesvědčuje se o</b> řádnosti finančního řízení.	The Czech translation corresponds to the French meaning, i.e. the sentence implies that the Court carries out control to obtain assurance that the financial management is sound.	
DA	Den reviderer regnskaberne for alle Unionens indtægter og udgifter og sikrer sig, at den økonomiske forvaltning har været forsvarlig.	La traduction danoise suit la version française.	
DE	Er prüft die Rechnung über alle Einnahmen und Ausgaben der Union und überzeugt sich von der Wirtschaftlichkeit der Haushaltsführung.	The German verb "sich überzeugen" corresponds to the French verb "s'assurer" and an alternative wording is not suggested.	

ARTICLE I-31(2) TCE

ANNEXE II I

ET	<b>Kontrollikoda</b> Kontrollikoda vaatab läbi kõik liidu tulude ja kulude raamatupidamiskontod ning tagab hea finantshalduse.	The Estonian translation follows the English version. The verb "tagama" means "ensure". The correct translation would be: Kontrollikoda vaatab läbi kõik liidu tulude ja kulude raamatupidamiskontod ning <b>kontrollib</b> , kas finantshaldus on olnud usaldusväärne.	Retranslation into English: ... and <b>checks</b> that the financial management has been sound.
EL	Το Ελεγκτικό Συνέδριο εξετάζει τους λογαριασμούς του συνόλου των εσόδων και των δαπανών της Ένωσης και εξακριβώνει τη χρηστή δημοσιονομική διαχείριση.	The greek verb "εξακριβώνω" used in Article I-31(2) case corresponds more to the French verb "s'assurer"; it has the meaning of "ascertain" or "verify" or "check up". Therefore no alternative to this particular wording is suggested.	
EN	... shall examine the accounts of all Union revenue and expenditure, and shall <b>ensure</b> good financial management.	It looks like a mistranslation. The following is suggested:	shall examine whether the financial management has been sound
FR	Elle examine les comptes de la totalité des recettes et des dépenses de l'Union et s'assure de la bonne gestion financière.	Au paragraphe 2, le verbe "s'assurer" signifie clairement "devenir sûr (de, que)", c'est-à-dire, en l'occurrence, contrôler, vérifier que les principes de la bonne gestion financière ont été respectés.  La version française ne pose donc aucun problème.	
GA	Scrúdaídh sí na cuntaí ar ioncam agus ar chaitéachas uile an Aontais, agus áiríteoidh sí an dea-bhainistíocht airgeadais.	The relevant term, "áiríteoidh" very definitely means "shall ensure" and this involves more than a mere checking or verification.	fiosróidh

ARTICLE I-31(2) TCE

ANNEXE II I

IT	Essa esamina i conti di tutte le entrate e le spese dell'Unione ed <b>accerta</b> la sana gestione finanziaria."	This term is correct and corresponds to the French " <b>s'assure</b> ". It implies that control is carried out in order to establish whether financial management is actually sound.	
LV	Tā pārbauda visu Savienības ieņēmumu un izdevumu pārskatus un nodrošina labu finanšu vadību.	According to unofficial sources, the Constitutional Treaty was translated into Latvian from English (the underlined parts expressly reveal it and concerning I-31(3), underlined part, the LV version is faithful neither to EN nor FR text.) As a result, the Latvian version of „s'assure” has the same meaning as in English, in other words, the Latvian version is not correct if compared to the French. The right verb to render the idea of „s'assure” would be „pārlicinās”. As the suggested verb needs a different grammatical construction, the whole part of the sentence should be changed.	The new paragraph would read: "Tā pārbauda visu Savienības ieņēmumu un izdevumu pārskatus un pārlicinās, vai finanses tiek labi pārvaldītas."
LT	Jie tikrina visų Sąjungos pajamų ir išlaidų sąskaitas bei užtikrina patikimą finansų valdymą.	In the authentic Lithuanian version of the Constitutional Treaty, the word „s'assure” has the same meaning as in English. The correct translation of the verb „s'assure” would be „įsitikinti”. As the suggested verb needs a different grammatical construction, the part of the sentence should be changed.	„Jie tikrina visų Sąjungos pajamų ir išlaidų sąskaitas bei įsitikina, ar finansų valdymas yra patikimas“.
HU	A Számvevőszék megvizsgálja az Unió valamennyi bevételre és kiadásra vonatkozó elszámolását, valamint <b>figyelemmel kíséri</b> a pénzgazdálkodás hatékonyságát és eredményességét.	Telle que publiée, la traduction hongroise ne reflète ni la version française ni la version anglaise. La locution verbale <b>figyelemmel kíséri</b> („ <i>suivre avec attention</i> ”) traduit d'habitude plutôt des idées telles que <b>monitoring</b> ou <b>suivi</b> , activités moins contraignantes que <b>soit to ensure</b> soit <b>s'assurer</b> .	A Számvevőszék megvizsgálja az Unió valamennyi bevételre és kiadásra vonatkozó elszámolását, valamint <b>megbizonyosodik</b> a pénzgazdálkodás hatékonyságáról és eredményességéről.  où le verbe <b>megbizonyosodik</b> (dont la rection est différente, d'où un changement de désinences) correspond bien aux verbes <b>s'assurer, sich überzeugen</b> .

ARTICLE I-31(2) TCE

ANNEXE II I

MT	... u għandha ukoll <u>tiżgura</u> amministrazzjoni finanzjarja tajba.'	This corresponds to the English translation in that it puts the burden of ensuring good financial management on the Court.	u għandha tassigura ruħha li l-amministrazzjoni finanzjarja hija tajba.
NL	"2. De Rekenkamer onderzoekt de rekeningen van alle ontvangsten en uitgaven van de Unie <u>en gaat na of een goed financieel beheer is gevoerd.</u> "	La signification du verbe "nagaan" est très proche de l'expression française "vérifier", ce qui paraît un tout petit peu plus faible que le verbe "s'assurer". Néanmoins la version NL est tout à fait acceptable.	
PL	"Trybunał Obrachunkowy kontroluje rachunki wszystkich dochodów i wydatków Unii oraz <u>zapewnia</u> należyte zarządzanie finansami."	The Polish version corresponds to the English text, hence it <b>should be corrected</b> .  The verb " <u>zapewnia</u> " in this context is an exact equivalent of the verb " <u>ensures</u> ". Clearly, a correction to the Polish version is necessary. However, the required modification will entail a change of the whole phrase.	"Trybunał Obrachunkowy kontroluje rachunki wszystkich dochodów i wydatków Unii oraz <u>upewnia się co do należytego zarządzania finansami.</u> "*  * <i>the underlined part of the sentence stays the same, while the changed fragment is marked in bold.</i>

PT	O Tribunal de Contas examina as contas da totalidade das receitas e despesas da União e <u>garante</u> a boa gestão financeira."	If compared to other Romance languages, the sentence uses the same verb as in ES <u>garantizará</u> , which is somewhat similar to the EN <u>ensure</u> and a different verb from IT <u>accerta</u> , which seems closer to FR <u>s'assure</u> de. However, this is not the only time that the PT verb <u>garantir</u> is used in EU documents with this meaning.  Of course nobody knows which language is the translation of which although FR might be technically considered as the source language.  So, there is no strong reason to change PT <u>garante</u> specially if EN <u>ensure</u> is kept.	If an alternative wording is looked for, the only possibility would be "certifica-se da boa gestão financeira".
RO	„Ea examinează conturile tuturilor veniturilor și cheltuielilor Uniunii și <u>asigură</u> buna gestiune financiară”.	Here, the term "asigură" is the translation of the English word "ensures" or of the French word "assure".	In order to render the French nuance, the Romanian version should be "se asigură de" or "veghează la"
SK	Dvor audítorov Skúma účty všetkých príjmov a výdavkov Únie a <u>zabezpečuje</u> správne finančné hospodárenie."	La version slovaque contient la même erreur que la version EN.  Donc, l'expression "... a <u>zabezpečuje</u> (ensure) <u>správne finančné hospodárenie</u> ." devrait être remplacée par:  En conséquence grammaticale de ce changement il faut changer aussi la fin de phrase.	"...a <u>uisťuje sa</u> (s' assure) o <u>riadnom finančnom hospodárení</u> (de la bonne gestion financière)."

ARTICLE I-31(2) TCE

ANNEXE II I

SL	<p>Računsko sodišče Opravilja revizijo vseh prihodkov in odhodkov Unije in skrbi za dobro finančno poslovanje.</p>	<p>The Slovenian wording (marked in bold) is maybe closest to the meaning of "to take care of", however it does not express that the Court has to ensure that the financial management is sound, as it is used in its imperfective form. It is not as strong as "to ensure", but it does imply more responsibility for a good financial management and not just verifying the financial management. Given that we do issue recommendations and that the discharge is based on our work, the Slovenian verb seems appropriate.</p>	
FI	<p><b>Tilintarkastustuomioistuim</b> Tilintarkastustuomioistuim <b>tarkastaa</b> unionin kaikkia tuloja ja menoja koskevat tilit ja sen, että varainhoito on ollut moitteetonta.</p>	<p>In the Finnish version there is only one verb (tarkastaa = to audit/check) in this sentence and it relates both to accounts and to financial management.</p>	<p>2. The Court of Auditors <b>audits</b> the accounts related to all the revenue and all the expenditure of the Union and <b>[checks]</b> that the financial management has been sound.</p>
SV	<p><b>Revisionsrätten</b> Den skall granska räkenskaperna över unionens samtliga inkomster och utgifter och <b>förvissa sig om</b> att den ekonomiska förvaltningen varit sund.</p>	<p>The wording <i>förvissa sig om</i> corresponds to the French <i>s'assurer</i>.</p>	

**CONFERENCE  
OF THE REPRESENTATIVES  
OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 27 July 2007**

**CIG 7/07**

**COVER NOTE**

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from : Presidency of the IGC

dated : 27 July 2007

to : Intergovernmental Conference (IGC)

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Subject : **IGC 2007**

Opinion of the Committee of the Regions entitled "Relaunching the process of reforming the European Union in anticipation of the European Council of 21 and 22 June 2007"

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Please find attached the opinion of the Committee of the Regions entitled " Relaunching the process of reforming the European Union in anticipation of the European Council of 21 and 22 June 2007".

EUROPEAN UNION



**Committee of the Regions**

**CONST-IV-011**

**70th plenary session**

**6 and 7 June 2007**

**OPINION  
of the  
Committee of the Regions  
on  
RELAUNCHING THE PROCESS OF REFORMING  
THE EUROPEAN UNION  
IN ANTICIPATION OF THE EUROPEAN COUNCIL  
OF 21 AND 22 JUNE 2007**

**THE COMMITTEE OF THE REGIONS**

- supports the EU Presidency in its commitment to the process of reforming the European Union and the need to preserve the substance of the Constitutional Treaty signed by all heads of state or government on 29 October 2004 in Rome;
- calls on heads of state or government, at the European Council of 21 and 22 June 2007, to commit to working towards bringing the Treaty reform process to a conclusion without going back on the advances obtained by and for local and regional authorities, inter alia with respect to the principles of subsidiarity and good governance, and to the territorial cohesion of the European Union, and calls for these provisions to be retained in their entirety in any future Treaty;
- asks to be consulted on the road map to be proposed by the European Council for continuing the process of reforming the European Union, and would like to be involved in the negotiation phase;
- believes that the absence of a Constitutional Treaty would be detrimental to the recognition of the virtues of the model of European integration, which seeks to respect and foster diversity within the EU, and notes that with no Constitutional Treaty, the European Union would not benefit either from the recognition of regional and local autonomy as a pillar of the democratic system of the European Union, or from a relevant capacity to act to guarantee territorial cohesion and strengthen Community solidarity;
- reiterates that it is convinced of the urgent need to promote, via a decentralised communication policy, debate based on shared values, the achievements of European integration and Community policies, and the challenges for the future of the European Union, and to adopt a two-way approach, as communication with local and regional authorities is currently too unilateral and top-down;
- believes that the European Union's communication policy will become more coherent and effective if the European institutions find a legal framework or basis conducive to the implementation of a properly targeted programme based on this policy and backed up by sufficient financial resources.

CdR 398/2006 fin FR-EN-PT/HA/HR/MAL/PM/ss



Reference documents

- Commission staff working paper: The cost of the non-Constitution, 21 November 2006
- *Plan D – Wider and deeper debate on Europe*, Information note from Ms Wallström to the Commission, 29 November 2006  
SEC(2006) 1553

## I. POLICY RECOMMENDATIONS

### THE COMMITTEE OF THE REGIONS

1. supports the EU Presidency in its commitment to the process of reforming the European Union and the need to preserve the substance of the Constitutional Treaty signed by all heads of state or government on 29 October 2004 in Rome;
2. welcomes the Berlin Declaration of 25 March 2007, which recognises, fifty years after the signature of the Treaties of Rome, the goal of achieving a renewed common foundation for the European Union before the elections to the European Parliament in 2009, and is pleased that it enshrines the recognition of the territorial dimension of the EU and the principles and values it holds dear;
3. restates its determination, expressed in its Declaration for Europe adopted on 23 March 2007 on the occasion of the celebration of the 50th anniversary of the Treaties of Rome, to work for an ever closer union of the peoples of Europe, strengthened by its freedoms, its values and its principles of solidarity and responsibility, and developing common policies and joint actions whilst respecting local and regional diversity, identity and autonomy, in keeping with the principles of subsidiarity and good governance;
4. calls on heads of state or government, at the European Council of 21 and 22 June 2007, to commit to working towards bringing the Treaty reform process to a conclusion without going back on the advances obtained by and for local and regional authorities, inter alia with respect to the principles of subsidiarity and good governance, and to the territorial cohesion of the European Union;
5. would therefore support the earliest possible calling of a new Intergovernmental Conference with a precise mandate and timetable so as to provide the European Union with a new Treaty that preserves the substance and the balance of the Constitutional Treaty signed in 2004 and enjoys the broadest possible support in the EU;
6. recognises that for many citizens the purpose of the EU in the 21st century is no longer clear and, in the spirit of Plan D, believes that the EU must recognise that citizens cannot be expected to read lengthy technical treaties and that the EU must be able to explain its "raison d'être" in a clear and concise manner to today's citizens and to future generations; therefore, calls on EU leaders to give the Union an official one-page Mission Statement, valid for the long-term, which would complement any future treaty and which the EU institutions could pro-actively bring to the attention of citizens, now and in the future;
7. asks to be consulted on and fully involved in the next stages of the process of reforming the European Union, based on the road map to be proposed by the European Council; would like to be involved in the negotiation phase for a future IGC, as its involvement would be conducive to a more inclusive result, which would benefit the public;

*The CoR's contribution to analysing the political cost of the non-Constitution*

8. supports the Commission's approach as regards to the symbolic impact of a Constitution in terms of strengthening the sense of ownership of European citizenship by the EU's citizens, based on shared values and ambitions;
9. believes that, with no Constitutional Treaty, the European Union would deprive itself of significant advances in representative and participatory democracy within the European Union, and would have neither a relevant legal framework nor decision-making mechanisms conducive to strengthening the Union's ability to act, in particular by the extension of qualified majority voting, and its capacity to take in new candidate countries;
10. stresses that with no Constitutional Treaty, the EU would deprive itself of a legal personality and of a common foundation for its fundamental rights in the form of a binding charter, which would provide a real legal and democratic guarantee for the citizens of the European Union;
11. notes that with no Constitutional Treaty, the European Union would not benefit from the recognition of regional and local autonomy as a pillar of the democratic system of the European Union;
12. believes that the absence of a Constitutional Treaty would be detrimental to the recognition of the virtues of the model of European integration, which seeks to respect and foster diversity within the EU;
13. recalls that with no Constitutional Treaty, the Union would deprive itself of a clearer definition of competences and of a political and judicial system that strengthens the implementation of and compliance with the subsidiarity and proportionality principles, inter alia as regards the explicit recognition of the local and regional dimension, thus renouncing greater recognition by the Union of the competences of regional and local authorities, greater involvement of the latter in the decision-making process, thanks to their systematic involvement in the pre-legislative consultation phase; and the legal guarantee of this participation, inter alia thanks to the granting to the Committee of the Regions of a right of appeal to the Court of Justice, which would strengthen transparency and democracy in the Union;
14. notes that, with the Constitutional Treaty, the European Union would have a relevant capacity to act to guarantee territorial cohesion and strengthen Community solidarity;
15. stresses that, with no Constitutional treaty, Europe would deprive itself of a common asylum policy and concrete tools to fight illegal immigration, which are of particular relevance to local and regional authorities who have to provide for the reception of immigrants in their regions and cities;

16. recalls that, with no Constitutional Treaty, the Union would not be able to develop a broad energy policy; this would, inter alia, penalise the commitment of local and regional authorities to renewable energy and energy efficiency as part of efforts to reduce climate change;

*Taking account of the regional and local dimension in the institutional settlement*

17. asks that, in any case, the following provisions be retained in any future Treaty:
- the importance attached to the EU's aims, to values and fundamental rights, and in particular to respect for local and regional self-government and recognition of cultural and linguistic diversity, (Articles I-3, I-5 and Preamble of the Charter of Fundamental Rights);
  - the new definition of the principle of subsidiarity, (Article I-11(3));
  - consideration of the effects of Community legislation on local and regional authorities (protocol on the application of the principles of subsidiarity and proportionality);
  - recognition of the principle of consultation, and consequently, closer cooperation between local and regional authorities in drawing up, implementing and evaluating Community policies (protocol on the application of the principles of subsidiarity and proportionality);
  - the possibility for regional parliaments with legislative powers to be involved in the early warning process of ex-ante monitoring of the application of the principles of subsidiarity and proportionality (Article 6 of the protocol on the application of the principles of subsidiarity and proportionality);
  - the CoR's right to bring an action to defend its own prerogatives (Article III-365) and for infringement of the principle of subsidiarity (Article 8 of the protocol on the application of the principles of subsidiarity and proportionality);
  - bringing the term of office of members of the Committee of the Regions in line with those of members of the Parliament and of the Commission (Article III-386(2));
  - a new system governing the number and the appointment of its members and alternates, replacing the current system and moving towards a system based on political or territorial criteria (Article III-386);
  - the acknowledgement of the importance of grassroots democracy in the Union, (Article I-46);
  - the new provisions on participatory democracy, which call upon the institutions of the Union to give representative associations, including local and regional associations, the

opportunity to make known and publicly exchange their views on all areas of Union action and hold a regular, open and transparent dialogue with them (Article I-47).

- the inclusion of territorial cohesion among the objectives of the Union (Article I-3) and the commitments made by Member States with respect to the promotion of economic, social and territorial cohesion (protocol on social, economic and territorial cohesion);
  - recognition of the special status of the outermost regions (Article III-424);
  - the inclusion of the regional and local dimension in matters relating to civil protection (Article III-284).
18. therefore requests that the protocol on the application of the principles of subsidiarity and proportionality be included in any new treaty or maintained as Protocol 2 immediately after Protocol 1 on the role of national parliaments;
19. recognises the need to take into account the following areas: climate change, energy, the European Social Model in the context of demographic change and globalisation<sup>1</sup>, migration policy, inter alia as regards the fight against illegal immigration, economic policy in the Euro area, and stresses that EU action in these areas can only be effective if it draws on and is supported by local and regional authorities; therefore asks that any new Treaty provide for it to be consulted in these new areas of EU action;
20. points out that, in addition to the EU communication problems which have been identified time and again, the public wants the EU and the Member States to provide policies which are more geared towards its interests. The public's question "What do I get out of the EU?" is legitimate, and European politics must provide convincing answers to these questions.
21. asks, if the mandate of the IGC provides for the re-examination of the legal bases contained in Part III of the Constitutional Treaty, that provision be made for it to be consulted on measures relating to civil protection (Article III-284), tourism (Article III-281) and administrative cooperation (Article III-285);

*Continuation of the CoR's commitment to Plan D for Decentralisation*

22. notes that a consensus has emerged since the beginning of the reflection period on the need to discuss Europe at the level closest to the people, and to target information and give it a local and regional slant;

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<sup>1</sup>

Draft report on the roadmap for the Union's Constitutional Process (2007/000(INI)), Committee on Constitutional Affairs of the European Parliament, Rapporteurs: Enrique Barón Crespo, Elmar Brok, pt 8.

23. reiterates that it is convinced of the urgent need to promote, via a decentralised communication policy, debate based on shared values, the achievements of European integration and Community policies, and the challenges for the future of the European Union;
24. stresses that by adding a fourth "D" – Decentralisation – to Plan D (Democracy, Dialogue and Debate) proposed by the European Commission, it wanted to draw attention to the relevance of the political and public debate on proximity and to the need to promote a decentralised communication policy across Europe;
25. recalls that it is developing a programme of major events in Brussels (Open Days/European week of cities and regions, forums, thematic weeks), thus giving the European institutions involved in their organisation a real platform for communicating with representatives of regional and local authorities, regional and local media, and the editors of the publications of European and national associations of local and regional authorities;
26. also welcomes all the initiatives taken by its political groups and local and regional authorities in the area of communicating Europe, listed in its first two progress reports on the implementation of Plan D for Decentralisation<sup>2</sup>, thus promoting the creation of a public space for dialogue and debate via the local and regional press;
27. therefore reiterates the need to adopt a two-way approach, as advocated by the European Commission in its White Paper on European information policy; communication with local and regional authorities is currently too unilateral and top-down;
28. commits, in the current context of prolongation of the Commission's action, to continuing the territorial approach already developed with Plan D for Decentralisation and, with the aim of consolidating a decentralised communication policy, calls for:
  - the creation of a network between the press offices of local and regional authorities which, by giving a local slant to news on European events, would make for easier and more effective use of information on Europe by local and regional media;
  - the organisation in the various Member States, in cooperation with national associations of local and regional authorities, of seminars for regional and municipal representatives to discuss subjects of key national interest to them;
  - local and regional councils to hold special sessions, open to Members of the European Parliament and the Committee of the Regions coming from the same constituency, dedicated to the achievements of European integration and the process of EU institutional reform, for instance on Europe Day (9 May);

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<sup>2</sup> *Communicating Europe in Cities and Regions – Implementing Plan D for Decentralisation*, First progress report (October 2005-October 2006).

- the holding of conference-debates in connection with Plan D on the margins of its commissions' external meetings, so as to develop a dialogue between its members and the public targeting particular themes;
  - the publication of a standard text on Plan D for Decentralisation on the websites of European municipalities, cities and regions, outlining the priorities of the Communication on Europe; and best use to be made of the links to those sites on its *Going local* website and on that of the European Commission, thus promoting the spread of good practice in the area of communication and information about the EU at local and regional level;
29. welcomes the step the European Commission took in holding the Berlin Conference on 18 and 19 January 2007 with a view to developing a partnership between the European institutions and local and regional authorities in the area of communication;
30. draws particular attention to the proposals contained in the conclusions of that conference, inter alia the need to:
- guarantee an increase in the budgetary resources available to local and regional authorities to enable them to play their part in a renewed information and communication policy;
  - include European civic education classes in school curricula;
  - encourage candidates for election at local and regional level to include European themes in their manifestos by means of appropriate information;
  - and spread good practice on information within Member States at local and regional level;
31. agrees with the Commission's view about future targeting of communication to specific population groups, inter alia women and young people;
32. believes that the European Union's communication policy will become more coherent and effective if the European institutions find a legal framework or basis conducive to the implementation of a properly targeted programme based on this policy and backed up by sufficient financial resources; local and regional authorities and their networks should be eligible for Community funding under these future programmes; welcomes in this context the guidelines for the European Parliament's 2008 budget procedure calling for greater involvement and new action plans for communication oriented to the local and regional media;

33. notes that both the Commission<sup>3</sup> and the European Parliament<sup>4</sup> recognise the need for cooperation between the EU institutions to give the public a consistent message about Europe, and welcomes the fact that cooperation with regional and local institutions has been relaunched with a view to demonstrating the relevance and impact of the EU's decisions in citizens' lives;
34. supports the European Parliament's proposal regarding an interinstitutional agreement setting out the common principles that might govern cooperation between the institutions in the area of communications, and asks that it be involved in drafting and implementing this agreement<sup>5</sup>;
35. supports the European Parliament's proposal on the evaluation of the activities of the Interinstitutional Information Group (IIG) to establish whether there is scope for improvements and whether a group responsible for coordinating the implementation of the guidelines set by the IIG should be created, and would be willing to participate in such an evaluation<sup>6</sup>;
36. also welcomes the addendum to the cooperation agreement with the European Commission, signed in November 2005, relating to information and communication policy, which strengthens this dimension of interinstitutional cooperation in favour of a genuine decentralised communication policy;
37. supports the communication activities of regional parliaments, and requests the participation of its members and of regional parliaments and their representative associations in the *Inter-parliamentary forums on the future of Europe*;
38. welcomes the European Parliament's initiative proposing the creation of a European journalism fund aimed at making European themes relevant to regional and local circumstances<sup>7</sup>;

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<sup>3</sup> SEC(2006) 1553, *Plan D – Wider and deeper debate on Europe*, Information note from Mrs Wallström to the Commission, 29 November 2006.

<sup>4</sup> European Parliament resolution on the White Paper on a European communication policy (2006/2087(INI)), 16 November 2006.

<sup>5</sup> 2006/2087(INI), pt. 9.

<sup>6</sup> 2006/2087(INI), pts. 44 and 48.

<sup>7</sup> 2006/2087(INI), pt. 33.



39. instructs its President to forward this opinion to the members of the European Council, the Council, the European Parliament, the Commission and the European Economic and Social Committee.

Brussels, 6 June 2007.

The President  
of the Committee of the Regions

Michel Delebarre

The Secretary-General  
of the Committee of the Regions

Gerhard Stahl

## II.A. PROCEDURE

<b>Title</b>	Commission staff working paper: The cost of the non-Constitution, 21 November 2006
<b>References</b>	-
<b>Legal basis</b>	Own-initiative opinion (Article 265(5))
<b>Procedural basis</b>	-
<b>Date of Bureau decision</b>	12.2.2007
<b>Commission responsible:</b>	Commission for Constitutional Affairs, European Governance and the Area of Freedom, Security and Justice (CONST)
<b>Rapporteur</b>	<b>Mr Paiva</b> , Mayor of Tomar (PT/EPP)
<b>Analysis</b>	CdR 12/2007
<b>Discussed in commission</b>	27.2.2007
<b>Date adopted by commission</b>	3.5.2007
<b>Result of the vote in commission</b>	<b>Adopted by a majority</b>
<b>Date adopted in plenary</b>	6.6.2007
Previous Committee opinions	Opinion CdR 250/2005 of 13 October 2005 on <i>The period of reflection: the structure, subject and context for an assessment of the debate on the European Union</i> , rapporteurs: Mr Schausberger (AT/EPP) and Lord Tope (UK/ALDE) <sup>8</sup> .

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<sup>8</sup> [OJ C 81 of 4.4.2006, p. 32.](#)

## II.B. PROCEDURE

<b>Title</b>	Plan D – Wider and deeper debate on Europe
<b>References</b>	SEC(2006) 1553
<b>Legal basis</b>	Own-initiative opinion (Article 265(5))
<b>Procedural basis</b>	-
<b>Date of Bureau decision</b>	12.2.2007
<b>Commission responsible:</b>	Commission for Constitutional Affairs, European Governance and the Area of Freedom, Security and Justice (CONST)
<b>Rapporteur</b>	<b>Mr Paiva</b> , Mayor of Tomar (PT/EPP)
<b>Analysis</b>	CdR 12/2007
<b>Discussed in commission</b>	27.2.2007
<b>Date adopted by commission</b>	3.5.2007
<b>Result of the vote in commission</b>	<b>Adopted by a majority</b>
<b>Date adopted in plenary</b>	6.6.2007
Previous Committee opinions	Opinion CdR 52/2006 of 15 June 2006 on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on <i>The Commission's contribution to the period of reflection and beyond: Plan-D for Democracy, Dialogue and Debate</i> (COM(2005) 494 final) and on the White Paper on <i>A European communication policy</i> (COM(2006) 35 final), rapporteur: Ms Bresso (IT/PES) <sup>9</sup> .

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<sup>9</sup> [OJ C 229 of 22.9.2006, p. 67.](#)

**NOTE**

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from: Presidency of the IGC  
dated: 24 July 2007  
to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**  
Draft Treaty amending the Treaty on European Union and the Treaty  
establishing the European Community – Draft Preamble

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**DRAFT**  
**TREATY AMENDING**  
**THE TREATY ON EUROPEAN UNION AND**  
**THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY**

**DRAFT PREAMBLE**

RECALLING the historic importance of the ending of the division of the European continent,

DESIRING to complete the process started by the Treaty of Amsterdam and by the Treaty of Nice of adapting the institutions of the European Union to function in an enlarged Union,

HAVE RESOLVED to amend the Treaty on European Union and the Treaty establishing the European Community,

and to this end have designated as their Plenipotentiaries:

(...)

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

(...)

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**NOTE**

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from: Presidency of the IGC  
date: 23 July 2007  
to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**  
Draft Treaty amending the Treaty on European Union and the Treaty establishing the European Community

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**DRAFT**  
**TREATY AMENDING**  
**THE TREATY ON EUROPEAN UNION AND**  
**THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY**

Articles 1 to 7 of the Reform Treaty

*N.B.:*

*This document is only a working document for examination by the IGC. The cross-references between Articles which appear in square brackets will, as usual, be corrected by the Legal/Linguistic experts when they finalise the text of the Reform Treaty before it is signed.*



## Article 1

The Treaty on European Union shall be amended in accordance with the provisions of this Article.

### **Preamble**

- 1) In the preamble the words "of this Treaty" shall be replaced by "of these Treaties" and the following text shall be inserted as the second recital:

"DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,".

### **General provisions**

- 2) Article 1 shall be amended as follows:

- (a) the Article heading "Establishment of the Union" shall be inserted;

- (b) the following words shall be inserted at the end of the first paragraph:

"... on which the Member States confer competences to attain objectives they have in common.";

- (c) the third paragraph shall be replaced by the following:

"The Union shall be founded on the present Treaty and on the Treaty on the Functioning of the European Union. It shall replace and succeed the European Community."

- 3) An Article 2 shall be inserted and the existing Article 2 shall be renumbered Article 3:

#### "Article 2 The Union's values

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."



- 4) Article 2, renumbered 3, shall be replaced by the following:

"Article 3  
The Union's objectives

1. The Union's aim is to promote peace, its values and the well-being of its peoples.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment.

It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

It shall promote economic, social and territorial cohesion, and solidarity among Member States.

It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

4. The Union shall establish an economic and monetary union whose currency is the euro.
5. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.
6. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties."

- 5) Article 3, renumbered 4, shall be replaced by the following:

"Article 4  
Relations between the Union and the Member States

1. In accordance with Article [I-11], competences not conferred upon the Union in the Treaties remain with the Member States.
2. The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.
3. Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties.

The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union.

The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives."

- 6) Article 4, renumbered 5, shall be replaced by the following:

"Article 5  
Fundamental principles relating to competences

1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.
2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.
3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments shall ensure compliance with that principle in accordance with the procedure set out in that Protocol.

4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.

The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality."

7) Article 5 shall be repealed.

8) Article 6 shall be replaced by the following:

"Article 6  
Fundamental rights

1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of 7 December 2000, as adapted on [... 2007], which shall have the same legal value as the Treaties.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions.

2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law."

9) Article 7 shall be amended as follows:

- (a) the Article heading "Suspension of certain rights resulting from Union membership" shall be inserted;
- (b) throughout the Article, the word "assent" shall be replaced by "consent", the reference to breach "of principles mentioned in Article 6(1)" shall be replaced by a reference to breach "of the values referred to in Article [I-2]" and the words "of this Treaty" shall be replaced by "of the Treaties";
- (c) at the end of the first sentence of the first subparagraph of paragraph 1, the words "... and address appropriate recommendations to that State" shall be deleted; at the end of the last sentence, the words "... and, acting in accordance with the same procedure, may call on independent persons to submit within a reasonable time limit a report on the situation in the Member State in question" shall be replaced by "... and may address recommendations to it, acting in accordance with the same procedure.";
- (d) in paragraph 2, the words "the Council, meeting in the composition of the Heads of State or Government and acting by unanimity ..." shall be replaced by "the European Council, acting by unanimity ..." and the words "the government of the Member State in question" shall be replaced by "the Member State in question";
- (e) paragraphs 5 and 6 shall be replaced by the following:

"5. The voting arrangements applying to the European Parliament, the European Council and the Council for the purposes of this Article are laid down in Article [309] of the Treaty on the Functioning of the Union."

10) The following new Article 7a shall be inserted:

"Article 7a  
The Union and its neighbours

1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.
2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation."

- 11) The provisions of Title II of the EU Treaty shall be incorporated into the Treaty establishing the European Community.

## **Democratic principles**

- 12) Title II and Article 8 shall be replaced by the following new heading and new articles:

### "TITLE II PROVISIONS ON DEMOCRATIC PRINCIPLES

#### Article 8

##### The principle of democratic equality

In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.

#### Article 8a

##### The principle of representative democracy

1. The functioning of the Union shall be founded on representative democracy.
2. Citizens are directly represented at Union level in the European Parliament.

Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.
4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

#### Article 8b

##### The principle of participatory democracy

1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.
2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

3. The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.

4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.

The procedures and conditions required for such a citizens' initiative shall be determined in accordance with Article [I-47(4)(last sentence)] of the Treaty on the Functioning of the Union.

#### Article 8c The role of national Parliaments

National Parliaments shall contribute actively to the good functioning of the Union:

- (a) through being informed by the institutions of the Union and having draft European legislative acts forwarded to them in accordance with the Protocol on the role of national Parliaments in the European Union;
- (b) by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;
- (c) by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with Article [III-260] of the Treaty on the Functioning of the Union, and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles [III-276 and III-273] of that Treaty;
- (d) by taking part in the revision procedures of the Treaties, in accordance with Articles [IV-443 and IV-444] of this Treaty;
- (e) by being notified of applications for accession to the Union, in accordance with Article [I-58] of this Treaty;
- (f) by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national Parliaments."

## **Institutions**

- 13) The provisions of Title III of the EU Treaty shall be repealed. Title III shall be replaced by the following heading:

**"TITLE III  
PROVISIONS ON THE INSTITUTIONS".**

- 14) Article 9 shall be replaced by the following:

**"Article 9  
The Union's institutions**

1. The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.

The Union's institutions shall be:

- the European Parliament,
- the European Council,
- the Council,
- the European Commission (hereinafter referred to as the "Commission"),
- the Court of Justice of the European Union,
- the European Central Bank,
- the Court of Auditors.

2. Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures and conditions set out in them. The institutions shall practise mutual sincere cooperation.

3. The provisions relating to the European Central Bank and the Court of Auditors are set out in the Treaty on the Functioning of the Union."

- 15) An Article 9a shall be inserted:

**"Article 9a  
The European Parliament**

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.

2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph.

3. The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.

4. The European Parliament shall elect its President and its officers from among its members."

**16)** An Article 9b shall be inserted:

"Article 9b  
The European Council and its President

1. The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.

2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The High Representative of the Union for Foreign Affairs and Security Policy shall take part in its work.

3. The European Council shall meet quarterly, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.

4. Except where the Treaties provide otherwise, decisions of the European Council shall be taken by consensus.

5. The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end his or her term of office in accordance with the same procedure.



6. The President of the European Council:
  - (a) shall chair it and drive forward its work;
  - (b) shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;
  - (c) shall endeavour to facilitate cohesion and consensus within the European Council;
  - (d) shall present a report to the European Parliament after each of the meetings of the European Council.

The President of the European Council shall, at his or her level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.

The President of the European Council shall not hold a national office."

- 17) An Article 9c shall be inserted:

"Article 9c

The Council, its Presidency and the definition of a qualified majority

1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Treaties.
2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.
3. The Council shall act by a qualified majority except where the Treaties provide otherwise.
4. As from 1 November 2014, a qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union.

A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.

The other arrangements governing the qualified majority are laid down in Article [I-25(2)] of the Treaty on the Functioning of the Union.

5. The transitional provisions relating to the definition of the qualified majority which shall be applicable until 31 October 2014 and those which shall be applicable from 1 November 2014 to 31 March 2017 are laid down in the Protocol on transitional provisions.

6. The Council shall meet in different configurations, the list of which shall be adopted in accordance with Article [I-24(4) and (7)] of the Treaty on the Functioning of the Union.

The General Affairs Council shall ensure consistency in the work of the different Council configurations. It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.

The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.

7. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.

8. The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.

9. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established in accordance with Article [I-24(4) and (7)] of the Treaty on the Functioning of the Union.

**18)** An Article 9d shall be inserted:

"Article 9d  
The European Commission and its President

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

2. Union legislative acts may be adopted only on the basis of a Commission proposal, except where the Treaties provide otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Treaties so provide.

3. The Commission's term of office shall be five years.

The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.

In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article [I-28(2)], the members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

4. The Commission appointed between the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and 31 October 2014 shall consist of one national of each Member State, including its President and the High Representative of the Union for Foreign Affairs and Security Policy who shall be one of its Vice-Presidents.

5. As from 1 November 2014, the Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.

The members of the Commission shall be chosen from among the nationals of the Member States on the basis of a system of equal rotation between the Member States. This system shall be established unanimously by the European Council in accordance with Article [I-26(a) and (b)] of the Treaty on the Functioning of the Union.

6. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article [III-340] of the Treaty on the Functioning of the Union, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from the duties that he or she carries out in the Commission.

7. The President of the Commission shall:

- (a) lay down guidelines within which the Commission is to work;
- (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;

- (c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The High Representative of the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article [I-28(1)], if the President so requests.

8. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he or she does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in [paragraph 3, second subparagraph, and paragraph 5, second subparagraph].

The President, the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority."

- 19) The following new Article 9e shall be inserted:

"Article 9e  
The High Representative of the Union for Foreign Affairs  
and Security Policy

1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High Representative of the Union for Foreign Affairs and Security Policy. The European Council may end his or her term of office by the same procedure.
2. The High Representative shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.
3. The High Representative shall preside over the Foreign Affairs Council.

4. The High Representative shall be one of the Vice-Presidents of the Commission. He or she shall ensure the consistency of the Union's external action. He or she shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the High Representative shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3."

20) An Article 9f shall be inserted:

"Article 9f  
The Court of Justice of the European Union

1. The Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the Treaties the law is observed.

Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

2. The Court of Justice shall consist of one judge from each Member State. It shall be assisted by Advocates-General.

The General Court shall include at least one judge per Member State.

The judges and the Advocates-General of the Court of Justice and the judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles [III-355 and III-356] of the Treaty on the Functioning of the Union. They shall be appointed by common accord of the governments of the Member States for six years. Retiring judges and Advocates-General may be reappointed.

3. The Court of Justice of the European Union shall in accordance with the Treaties:

- (a) rule on actions brought by a Member State, an institution or a natural or legal person;
- (b) give preliminary rulings, at the request of courts or tribunals of the Member States, on the interpretation of Union law or the validity of acts adopted by the institutions;
- (c) rule in other cases provided for in the Treaties."

- 21) The provisions of Title IV of the EU Treaty shall be incorporated into the Treaty establishing the European Atomic Energy Community.

### **Enhanced cooperation**

- 22) Title IV shall take over the heading of Title VII, "PROVISIONS ON ENHANCED COOPERATION", and Articles 27a to 27e, Articles 40 to 40b and Articles 43 to 45 shall be replaced by the following Article 10:

"Article 10  
Enhanced cooperation

1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Treaties, subject to the limits and in accordance with the procedures laid down in this Article and in Articles [III-416 to III-423] of the Treaty on the Functioning of the Union.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article [III-418] of the Treaty on the Functioning of the Union.

2. The decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least nine Member States participate in it. The Council shall act in accordance with the procedure laid down in Article [III-419] of the Treaty on the Functioning of the Union.

3. All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. The voting rules are set out in Article [I-44(3)] of the Treaty on the Functioning of the Union.

4. Acts adopted in the framework of enhanced cooperation shall bind only participating Member States. They shall not be regarded as part of the *acquis* which has to be accepted by candidate States for accession to the Union."

- 23) Title V of the EU Treaty shall be renamed as follows: "GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION AND SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY".

## **General provisions on the Union's external action**

24) The following new chapter shall be inserted:

### "CHAPTER 1 GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION

#### Article 10a

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (a) safeguard its values, fundamental interests, security, independence and integrity;
- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law;
- (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;
- (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;
- (e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;
- (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;

- (g) assist populations, countries and regions confronting natural or man-made disasters; and
- (h) promote an international system based on stronger multilateral cooperation and good global governance.

3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and Part Five of the Treaty on the Functioning of the Union, and of the external aspects of its other policies.

The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.

#### Article 10b

1. On the basis of the principles and objectives set out in Article [III-292], the European Council shall identify the strategic interests and objectives of the Union.

Decisions of the European Council on the strategic interests and objectives of the Union shall relate to the common foreign and security policy and to other areas of the external action of the Union. Such decisions may concern the relations of the Union with a specific country or region or may be thematic in approach. They shall define their duration, and the means to be made available by the Union and the Member States.

The European Council shall act unanimously on a recommendation from the Council, adopted by the latter under the arrangements laid down for each area. Decisions of the European Council shall be implemented in accordance with the procedures provided for in the Treaties.

2. The High Representative of the Union for Foreign Affairs and Security Policy, for the area of common foreign and security policy, and the Commission, for other areas of external action, may submit joint proposals to the Council."



## **The common foreign and security policy**

25) The following new heading shall be inserted:

"CHAPTER 2  
SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND  
SECURITY POLICY

26) The following new Article 10 C shall be inserted:

"Article 10c

The Union's action on the international scene, pursuant to this Chapter, shall be guided by the principles, shall pursue the objectives of, and be conducted in accordance with, the general provisions laid down in Chapter 1."

27) Article 11 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following two paragraphs:

"1. The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.

The common foreign and security policy is subject to specific procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. The Court of Justice of the European Union shall not have jurisdiction with respect to the provisions relating to this area, with the exception of its jurisdiction to monitor the compliance with Article [III 308] of this Treaty and to review the legality of certain decisions as provided for by Article [III-376, second paragraph] of the Treaty on the Functioning of the Union.

2. Within the framework of the principles and objectives of its external action, the Union shall conduct, define and implement a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions."

- (b) paragraph 2 shall be renumbered 3 and amended as follows:
  - (i) The following words shall be added at the end of the first subparagraph:

"... and shall comply with the Union's action in this area.";
  - (ii) the third subparagraph shall be replaced by "The Council and the High Representative shall ensure that these principles are complied with."

**28)** Article 12 shall be replaced by the following:

"The Union shall conduct the common foreign and security policy by:

- (a) defining the general guidelines;
- (b) adopting decisions defining:
  - (i) actions to be undertaken by the Union;
  - (ii) positions to be taken by the Union;
  - (iii) arrangements for the implementation of the decisions referred to in points (i) and (ii);
- (c) strengthening systematic cooperation between Member States in the conduct of policy."

**29)** Article 13 shall be amended as follows:

- (a) in paragraph 1, the words "... define the principles of and general guidelines for ..." shall be replaced by "... shall identify the Union's strategic interests, determine the objectives of and define general guidelines for ..." and the following sentence shall be added: "It shall adopt the necessary decisions.". The following subparagraph shall be inserted:

"If international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy in the face of such developments.";

- (b) paragraph 2 shall be deleted and paragraph 3 shall be renumbered 2. The first subparagraph shall be replaced by the following: "The Council shall frame the common foreign and security policy and take the decisions necessary for defining and implementing it on the basis of the general guidelines and strategic lines defined by the European Council." The second subparagraph shall be deleted;

(c) the following new paragraph shall be inserted:

"3. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by the Member States, using national and Union resources."

**30)** The following new Article 13a shall be inserted:

"Article 13a

1. The High Representative of the Union for Foreign Affairs and Security Policy, who shall chair the Foreign Affairs Council, shall contribute through his or her proposals towards the preparation of the common foreign and security policy and shall ensure implementation of the decisions adopted by the European Council and the Council.

2. The High Representative shall represent the Union for matters relating to the common foreign and security policy. He or she shall conduct political dialogue with third parties on the Union's behalf and shall express the Union's position in international organisations and at international conferences.

3. In fulfilling his or her mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission."

**31)** Article 14 shall be amended as follows:

(a) in paragraph 1, the first two sentences shall be replaced by the following sentence:

"Where the international situation requires operational action by the Union, the Council shall adopt the necessary decisions.";

(b) in paragraph 2, first sentence, the words "... to joint action," shall be replaced by "... to such a decision," and the words "that action" shall be replaced by "that decision". The last sentence shall be deleted;

(c) in paragraph 3, the words "Joint actions ..." shall be replaced by "Decisions referred to in paragraph 1 ...";

(d) paragraph 4 shall be deleted and the remaining paragraphs shall be renumbered accordingly;

- (e) in the first sentence of paragraph 5, renumbered 4, the words "... pursuant to a joint action, information shall be provided in time to allow," shall be replaced by "pursuant to a decision as referred to in paragraph 1, information shall be provided by the Member State concerned in time to allow, ...";
  - (f) in the first sentence of paragraph 6, renumbered 5, the words "... failing a Council decision," shall be replaced by "... failing a review of the Council decision referred to in paragraph 1," and the words "... of the joint action" shall be replaced by "... of that decision".
  - (g) in the first sentence of paragraph 7, renumbered 6, the words "joint action" shall be replaced by "decision referred to in this Article".
- 32)** At the beginning of Article 15, the words "The Council shall adopt common positions. Common positions shall define ..." shall be replaced by "The Council shall adopt decisions which shall define ..." and at the end of the Article the words "common positions" shall be replaced by "Union positions".
- 33)** The text of Article 16, with the amendments set out in point 35 below, shall become Article 17a. The text of Article 22, with the following amendments, shall become Article 16:
- (a) in paragraph 1, the words "Any Member State or the Commission may refer to the Council any question relating to the common foreign and security policy" shall be replaced by "Any Member State, the High Representative of the Union for Foreign Affairs and Security Policy, or that Minister with the Commission's support, may refer any question relating to the common foreign and security policy to the Council ..." and the words "... submit proposals to the Council" shall be replaced by "... submit to it initiatives or proposals as appropriate";
  - (b) in paragraph 2, the words "the Presidency ..." shall be replaced by "the High Representative of the Union for Foreign Affairs and Security Policy ..." and the words ", or at the request of the Commission or a Member State," shall be replaced by ", or at the request of a Member State,".
- 34)** The text of Article 17 shall become Article 27, with the amendments set out in point 48 below. The text of Article 23, with the following amendments, shall become Article 17:
- (a) in paragraph 1, the first subparagraph shall be replaced by the following: "Decisions under this Chapter shall be taken by the European Council and the Council acting unanimously. The adoption of legislative acts shall be excluded." and the last sentence in the second subparagraph shall be replaced by the following: "If the members of the Council qualifying their abstention in this way represent at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted.";

(b) Paragraph 2 shall be amended as follows:

(i) the first indent shall be replaced by the following two indents:

- "- when adopting a decision defining a Union action or position on the basis of a decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article [III-293(1)],
- when adopting a decision defining a Union action or position, on a proposal which the High Representative of the Union for Foreign Affairs and Security Policy has presented following a specific request to him or her from the European Council, made on its own initiative or that of the High Representative,";

(ii) in the second indent, which shall become the third indent, the words "... a joint action or a common position," shall be replaced by "... a decision defining a Union action or position,";

(iii) in the second subparagraph, first sentence, the word "important" shall be replaced by "vital"; the last sentence shall be replaced by the following: "The High Representative will, in close consultation with the Member State involved, search for a solution acceptable to it. If he or she does not succeed, the Council may, acting by a qualified majority, request that the matter be referred to the European Council for a decision by unanimity.";

(iv) the third subparagraph shall be replaced by the following new paragraph 3, the last subparagraph shall become paragraph 4 and paragraph 3 shall be renumbered 5:

"3. The European Council may unanimously adopt a decision stipulating that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2 of this Article.";

(c) in the paragraph now numbered 4, the words "This paragraph shall not apply ..." shall be replaced by "Paragraphs 2 and 3 shall not apply ..." and paragraph 3 shall be renumbered 5.

**35)** An Article 17a shall be inserted, with the wording of Article 16; it shall be amended as follows:

(a) the words "... inform and ..." shall be deleted, the words "within the Council" shall be replaced by "within the European Council and the Council" and the words "... in order to ensure that the Union's influence is exerted as effectively as possible by means of concerted and convergent action." shall be replaced by "... in order to determine a common approach.";

(b) the following sentence shall be added after the first sentence: "Before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity.";

(c) the following two paragraphs shall be inserted:

"When the European Council or the Council has defined a common approach of the Union within the meaning of the first paragraph, the High Representative of the Union for Foreign Affairs and Security Policy and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council.

The diplomatic missions of the Member States and the Union delegations in third countries and at international organisations shall cooperate and shall contribute to formulating and implementing the common approach."

**36)** Article 18 shall be amended as follows:

(a) paragraphs 1 to 4 shall be deleted;

(b) in paragraph 5, which shall not be numbered, the words "..., whenever it deems it necessary, ..." shall be replaced by "..., on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, ..." and the following sentence shall be added at the end: "The special representative shall carry out his or her mandate under the authority of the High Representative."

**37)** Article 19 shall be amended as follows:

(a) in paragraph 1, the words "... common positions" shall be replaced by "... Union's positions" and the following sentence shall be added: "The High Representative of the Union for Foreign Affairs and Security Policy shall organise this coordination.";

(b) Paragraph 2 shall be amended as follows:

(i) in the first subparagraph, the words "Without prejudice to paragraph 1 and Article 14(3)," shall be replaced by "In accordance with Article [I-16(2)]," and ", as well as the High Representative," shall be inserted after "... keep the latter";

(ii) in the second subparagraph, first sentence, the words "and the High Representative" shall be inserted after "... the other Member States"; in the second sentence, the words "... ensure the defence of the positions ..." shall be replaced by "... defend the positions ...";

(iii) the following new third subparagraph shall be inserted:

"When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the High Representative be asked to present the Union's position."

**38)** Article 20 shall be amended as follows:

(a) in the first paragraph, the words "Commission delegations" shall be replaced by "Union delegations" and the words "... the common positions and joint actions adopted by the Council" shall be replaced by "decisions defining Union positions and actions adopted pursuant to this Chapter";

(b) in the second paragraph, the words "... and contributing to the implementation of the provisions referred to in Article 20 of the Treaty establishing the European Community" shall be deleted and the following paragraph shall be added:

"They shall contribute to the implementation of the right of European citizens to protection in the territory of third countries as referred to in Article [I-10(2)(c)] of the Treaty on the Functioning of the Union and of the measures adopted pursuant to Article [III-127] of that Treaty".

**39)** Article 21 shall be amended as follows:

(a) the first paragraph shall be replaced by the following:

"The High Representative of the Union for Foreign Affairs and Security Policy shall regularly consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and the common security and defence policy and inform it of how those policies evolve. He or she shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.";

(b) in the second paragraph, first sentence, the words "and the High Representative of the Union" shall be inserted at the end; in the second sentence, the words "It shall hold an annual debate" shall be replaced by "Twice a year it shall hold a debate" and the words ", including the common security and defence policy" shall be inserted at the end.

40) The text of Article 22 shall become Article 16; it shall be amended as set out above in point 33.

41) The text of Article 23 shall become Article 17; it shall be amended as set out above in point 34.

42) Article 24, renumbered 22, shall be replaced by the following:

"The Union may conclude agreements with one or more States or international organisations in areas covered by this Chapter."

43) Article 25, renumbered 23, shall be amended as follows:

(a) in the first paragraph, first sentence, the reference to the Treaty establishing the European Community shall be adjusted in accordance with this Treaty and the words "or of the High Representative of the Union for Foreign Affairs and Security Policy" shall be inserted after "... at the request of the Council"; in the second sentence, the words "... without prejudice to the responsibility of the Presidency and the Commission" shall be replaced by "without prejudice to the powers of the High Representative";

(b) the text of the second paragraph shall be replaced by the following: "Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council and of the High Representative, the political control and strategic direction of the crisis management operations referred to in Article [III-309].";

(c) in the third paragraph, the reference to Article 47 shall be deleted.

44) Articles 26 and 27, renumbered 24 and 25, shall be replaced by the following two articles, with Article 25 replacing Article 47:

#### "Article 24

In accordance with Article [I-51] of the Treaty on the Functioning of the Union and by way of derogation from paragraph 2 thereof, the Council shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by the Member States when carrying out activities which fall within the scope of this Chapter, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.



## Article 25

The implementation of the common foreign and security policy shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Treaties for the exercise of the Union competences referred to in Articles [I-13 to I-15 and I-17] of the Treaty on the Functioning of the Union.

Similarly, the implementation of the policies listed in those Articles shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Treaties for the exercise of the Union competences under this Chapter.

- 45) Articles 27a to 27e, on enhanced cooperation, shall be replaced by Article [I-44] in accordance with point 22 above.
- 46) Article 28, renumbered 26, shall be amended as follows:
- (a) paragraph 1 shall be deleted and the remaining paragraphs shall be renumbered accordingly; throughout the Article the words "budget of the European Communities" shall be replaced by "Union budget";
  - (b) in paragraph 2, renumbered 1, the words "... which the provisions relating to the areas referred to in this title entail" shall be replaced by "... to which the implementation of this Chapter gives rise";
  - (c) in paragraph 3, renumbered 2, the words "... the implementation of those provisions" in the first subparagraph shall be replaced by "... the implementation of this Chapter" and in the second subparagraph the reference to Article 23 shall be replaced by a reference to Article [III-300];
  - (d) the following new paragraph 3 shall be inserted, paragraph 4 having been deleted:

"3. The Council shall adopt a decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article [I-41(1) and Article III-309]. It shall act after consulting the European Parliament.

Preparatory activities for the tasks referred to in Article [I-41(1) and Article III-309] which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

The Council shall adopt by a qualified majority, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, decisions establishing:

- (a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;
- (b) the procedures for administering the start-up fund;
- (c) the financial control procedures.

When the task planned in accordance with [Article I-41(1) and Article III-309] cannot be charged to the Union budget, the Council shall authorise the High Representative to use the fund. The High Representative shall report to the Council on the implementation of this remit."

### **The common security and defence policy**

47) The following new section shall be inserted:

"SECTION RELATING TO THE  
PROVISIONS ON THE COMMON SECURITY  
AND DEFENCE POLICY"

48) Article 27 shall take over the wording of Article 17, with the following amendments:

- (a) the following new paragraph 1 shall be inserted and the next paragraph shall be renumbered 2:

"1. The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civil and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.";

- (b) paragraph 1, renumbered 2, shall be amended as follows:

- (i) the first subparagraph shall be replaced by the following:

"The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.";

- (ii) in the second subparagraph, the words "in accordance with this Article" shall be replaced by "in accordance with this Section";
  - (iii) the third subparagraph shall be deleted;
- (c) paragraph 2, renumbered 3, to paragraph 5 shall be replaced by the following paragraphs:

"3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the common security and defence policy.

Member States shall undertake progressively to improve their military capabilities. The Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) shall identify operational requirements, shall promote measures to satisfy those requirements, shall contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, shall participate in defining a European capabilities and armaments policy, and shall assist the Council in evaluating the improvement of military capabilities.

4. Decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate.

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article [III-310].

6. Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article [III-312]. It shall not affect the provisions of Article [III-309].

7. If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.

Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation."

49) The following new Articles 28 to 31 shall be inserted:

#### "Article 28

1. The tasks referred to in Article [I-41(1)], in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

2. The Council shall adopt decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation. The High Representative of the Union for Foreign Affairs and Security Policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

#### Article 29

1. Within the framework of the decisions adopted in accordance with Article [III-309], the Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the High Representative of the Union for Foreign Affairs and Security Policy, shall agree among themselves on the management of the task.

2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary decisions.

#### Article 30

1. The European Defence Agency referred to in Article [I-41(3)], subject to the authority of the Council, shall have as its task to:

- (a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;
- (b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;
- (c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;
- (d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;
- (e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

2. The European Defence Agency shall be open to all Member States wishing to be part of it. The Council, acting by a qualified majority, shall adopt a decision defining the Agency's statute, seat and operational rules. That decision should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.

#### Article 31

1. Those Member States which wish to participate in the permanent structured cooperation referred to in Article [I-41(6)], which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation, shall notify their intention to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy.

2. Within three months following the notification referred to in paragraph 1 the Council shall adopt a decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by a qualified majority after consulting the High Representative.

3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the High Representative.

The Council shall adopt a decision confirming the participation of the Member State concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation. The Council shall act by a qualified majority after consulting the High Representative. Only members of the Council representing the participating Member States shall take part in the vote.

A qualified majority shall be defined in accordance with Article [205(3)(a)] of the Treaty on the Functioning of the Union.

4. If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation, the Council may adopt a decision suspending the participation of the Member State concerned.

The Council shall act by a qualified majority. Only members of the Council representing the participating Member States, with the exception of the Member State in question, shall take part in the vote.

A qualified majority shall be defined in accordance with Article [205(3)(a)] of the Treaty on the Functioning of the Union.

5. Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate.

6. The decisions and recommendations of the Council within the framework of permanent structured cooperation, other than those provided for in paragraphs 2 to 5, shall be adopted by unanimity. For the purposes of this paragraph, unanimity shall be constituted by the votes of the representatives of the participating Member States only."

- 50)** Articles 29 to 39 of Title VI of the EU Treaty, which relate to judicial cooperation in criminal matters and to police cooperation, shall be replaced by Articles [III-257 to III-264 and III-270 to III-277] of the Treaty on the Functioning of the Union; they shall be amended as set out in Article 2, points 61, 64 and 65, of this Treaty. The heading of the Title shall be deleted and its number shall become the number of the Title on final provisions.
- 51)** Articles 40 to 40b of Title VI of the EU Treaty and Articles 43 to 45, relating to enhanced cooperation, shall be replaced by Article [I-44] in accordance with point 22 above.
- 52)** Articles 41 and 42 of the EU Treaty shall be repealed.

## **Final provisions**

53) Title VIII, on final provisions, shall be renumbered VI; this Title and Articles 48, 49, 51, 52 and 53 shall be amended as set out respectively in points 55, 56, 60, 62 and 63 below. Article 47 shall be replaced by Article 25, as indicated above in point 44, and Articles 46 and 50 shall be repealed.

54) The following new Article 32 shall be inserted:

"Article 32  
Legal personality

The Union shall have legal personality."

55) An Article 33 shall be inserted to replace Article 48:

"Article 33  
Treaty revision procedures

The Treaties may be amended in accordance with an ordinary revision procedure. They may also be amended in accordance with simplified revision procedures.

### *Ordinary revision procedure*

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of the Treaties. These proposals may serve either to increase or to reduce the competences conferred on the Union in the Treaties. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.

If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in the fourth subparagraph.

The European Council may decide by a simple majority, after obtaining the consent of the European Parliament, not to convene a Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for a conference of representatives of the governments of the Member States.

A conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaties.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

If, two years after the signature of the treaty amending the Treaties, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.

#### *Simplified revision procedures*

2. The Government of any Member State, the European Parliament or the Commission may submit to the European Council proposals for revising all or part of the provisions of Part Three of the Treaty on the Functioning of the Union relating to the internal policies and action of the Union.

The European Council may adopt a decision amending all or part of the provisions of Part Three of the Treaty on the Functioning of the Union. The European Council shall act by unanimity after consulting the European Parliament and the Commission, and the European Central Bank in the case of institutional changes in the monetary area. That decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

The decision referred to in the second subparagraph shall not increase the competences conferred on the Union in the Treaties.

3. Where the Treaty on the Functioning of the Union or Title V of this Treaty provides for the Council to act by unanimity in a given area or case, the European Council may adopt a decision authorising the Council to act by a qualified majority in that area or in that case. This subparagraph shall not apply to decisions with military implications or those in the area of defence.

Where the Treaty on the Functioning of the Union provides for legislative acts to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a decision allowing for the adoption of such acts in accordance with the ordinary legislative procedure.



Any initiative taken by the European Council on the basis of the first or the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision referred to in the first or the second subparagraph shall not be adopted. In the absence of opposition, the European Council may adopt the decision.

For the adoption of the decisions referred to in the first and second subparagraphs, the European Council shall act by unanimity after obtaining the consent of the European Parliament, which shall be given by a majority of its component members."

**56)** An Article 34 shall be inserted, with the wording of Article 49; it shall be amended as follows:

- (a) the following Article heading shall be inserted: "Conditions of eligibility and procedure for accession to the Union";
- (b) the first paragraph shall be amended as follows:
  - (i) in the first sentence, the words "... which respects the principles set out in Article 6(1) may apply ..." shall be replaced by "... which respects the values referred to in Article 2 and is committed to promoting them may apply ...";
  - (ii) in the second sentence, the words "It shall address its application to the Council, which shall act unanimously ..." shall be replaced by "The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously ..." and the word "assent" shall be replaced by "consent";
  - (iii) the following new third sentence shall be inserted: "The conditions of eligibility agreed upon by the European Council shall be taken into account."

**57)** The following new Article 35 shall be inserted:

"Article 35  
Voluntary withdrawal from the Union

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article [III-325(3)] of the Treaty on the Functioning of the Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

A qualified majority shall be defined in accordance with Article [205(3)(b)] of the Treaty on the Functioning of the Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article [I-58]."

**58)** An Article 36 shall be inserted:

"Article 36  
Protocols and Annexes

The Protocols and Annexes to the Treaties shall form an integral part thereof.

**59)** An Article 37 shall be inserted:

"Article 37  
Territorial scope

1. The Treaties shall apply to the Kingdom of Belgium, Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

2. The territorial scope of the Treaties is specified in Article [IV-440(2) to (7)] of the Treaty on the Functioning of the Union."

**60)** An Article 38 shall be inserted, with the wording of Article 51; it shall be amended as follows:

- (a) the following Article heading shall be inserted: "Duration";
- (b) The words "This Treaty is concluded ..." shall be replaced by "These Treaties are concluded ...".

**61)** The following new Article 39 shall be inserted:

"Article 39

Relationship between this Treaty and the Treaty on the Functioning of the European Union

This Treaty and the Treaty on the Functioning of the European Union constitute the Treaties on which the Union is founded. These two Treaties, which have the same legal value, shall be referred to as "the Treaties".

**62)** An Article 40 shall be inserted, with the wording of Article 52; it shall be amended as follows:

- (a) the following Article heading shall be inserted: "Ratification and entry into force";
- (b) in paragraph 1 the words "This Treaty" shall be replaced by "These Treaties";
- (c) in paragraph 2 the words "This Treaty" shall be replaced by "These Treaties" and the words "... on 1 January 1993, provided that all the Instruments of ratification have been deposited, or, failing that, ..." shall be deleted.

**63)** An Article 41 shall be inserted, with the wording of Article 53; it shall be amended as follows:

- (a) the following heading shall be inserted: "Authentic texts and translations";
- (b) the first paragraph shall be numbered 1 and the words "this Treaty" shall be replaced by "these Treaties", the languages listed in the second paragraph of Article 53 of the EU Treaty shall be added to the list in this paragraph and the second paragraph shall be deleted;

(c) the following new paragraph 2 shall be inserted:

"2. The Treaties may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council."



## Article 2

- 1) The Treaty establishing the European Community shall be amended in accordance with the provisions of this Article.
- 2) The title of the Treaty shall be replaced by "Treaty on the Functioning of the European Union".

### **A. HORIZONTAL AMENDMENTS**

- 3) Throughout the Treaty:
  - (a) the words "Community" and "European Community" shall be replaced by "Union", the words "European Communities" shall be replaced by "European Union";
  - (b) the words "this Treaty" and "the present Treaty" shall be replaced by "the Treaties" and the verb, where applicable, shall be put in the plural;
  - (c) the words "the Council [shall], acting in accordance with the procedure referred to in Article 251" shall be replaced by "the European Parliament and the Council [shall], acting in accordance with the ordinary legislative procedure", and the words "procedure referred to in Article 251" shall be replaced by "ordinary legislative procedure";
  - (d) the words "acting by a qualified majority" and "by a qualified majority" shall be deleted;
  - (e) the words "Council meeting in the composition of the Heads of State or Government" shall be replaced by "European Council";
  - (f) the words "institutions or bodies" shall be replaced by "institutions, bodies, offices or agencies", except in the first paragraph of Article 193;
  - (g) the words "common market" shall be replaced by "internal market";
  - (h) the word "ecu" shall be replaced by "euro";
  - (i) the words "Member States without a derogation" shall be replaced by "Member States whose currency is the euro";
  - (j) the abbreviation "ECB" shall be replaced by "European Central Bank";

- (k) the words "Statute of the ESCB" shall be replaced by "Statute of the ESCB and of the ECB";
  - (l) The words "Committee provided for in Article 114" and "Committee referred to in Article 114" shall be replaced by "Economic and Financial Committee";
  - (m) the words "Statute of the Court of Justice" shall be replaced by "Statute of the Court of Justice of the European Union";
  - (n) the words " Court of First Instance" shall be replaced by "General Court";
  - (o) the words "judicial panel" and "judicial panels" shall be replaced by "specialised court" and "specialised courts" respectively and any necessary grammatical changes shall be made.
- 4) In the following Articles, the words "on a proposal from the Commission" shall be replaced by "in accordance with a special legislative procedure";
- Article 17a(1)
  - Article 19(1)
  - Article 19(2)
  - Article 22, second paragraph
  - Article 93.
  - Article 95
  - Article 104(14), second subparagraph
  - Article 166(4)
  - Article 175(2), first subparagraph
- 5) In the following Articles, the words ", acting by a simple majority" shall be inserted after "the Council":
- Article 130, first paragraph
  - Article 144, first paragraph
  - Article 208
  - Article 209
  - Article 213, second paragraph, second sentence
  - Article 216
  - Article 284.
- 6) In the following Articles, the words "consulting the European Parliament" shall be replaced by "obtaining the consent of the European Parliament":
- Article 17a(1)
  - Article 22, second paragraph.

7) In the following Articles, the word "institution" or "institutions" shall be replaced by "institution, body, office or agency" or "institutions, bodies, offices or agencies", as appropriate, and any grammatical changes necessary shall be made:

- Article 195(1), second subparagraph
- Article 232, second paragraph
- Article 233, first paragraph:
- Article 234, point (b)
- Article 255(2).

8) In the following Articles, the words "Court of Justice" shall be replaced by "Court of Justice of the European Union".

- |   |  |
|---|--|
| – Article 83(2)(d)                                | – Article 234, first, second and third paragraphs    |
| – Article 88(2), second subparagraph              | – Article 235  |
| – Article 94(9)                                   | – Article 236  |
| – Article 195(1)                                  | – Article 237, introductory sentence and point (d)   |
| – Article 225a, sixth paragraph                   | – Article 238  |
| – Article 226, second paragraph                   | – Article 240  |
| – Article 227, first paragraph                    | – Article 242  |
| – Article 228(1)                                  | – Article 243  |
| – Article 229                                     | – Article 244  |
| – Article 229a                                    | – Article 245, first paragraph                       |
| – Article 230, first, second and third paragraphs | – Article 247(8)                                     |
| – Article 231, first paragraph                    | – Article 256, second paragraph and fourth paragraph |
| – Article 232, first paragraph                    | – Article 290.                                       |
| – Article 233, first paragraph                    |  |

9) In the following Articles, the reference to another Article of the Treaty shall be replaced by the following reference to an Article of the Treaty on European Union:

- |                                 |  |
|---------------------------------|--|
| – Article 21, third paragraph   | reference to Article [I-19] (first reference) and Article [IV-448(1)] (second reference) |
| – Article 97b                   | reference to Article [I-3]   |
| – Article 98                    | reference to Article [I-3] (first reference)   |
| – Article 105(1)                | reference to Article [I-3]   |
| – Article 125                   | reference to Article [I-3]   |
| – Article 215, fourth paragraph | reference to Article [I-27(1)].  |



## **B. SPECIFIC AMENDMENTS**

### **Preamble**

- 10) In the second recital, the word "countries" shall be replaced by "States" and in the last recital, the words "HAVE DECIDED to create a EUROPEAN COMMUNITY and to this end have designated ..." shall be replaced by "and to this end HAVE DESIGNATED ..."

### **Common provisions**

- 11) Article 9 shall be replaced by the following:

#### Article 1

1. This Treaty organises the functioning of the Union and determines the areas, the scope of, and arrangements for exercising its competences.

2. This Treaty and the Treaty on European Union constitute the Treaties on which the Union is founded. These two Treaties, which have the same legal value, shall be referred to as "the Treaties".

- 12) Article 3(1) shall be repealed. Paragraph 2 thereof shall become Article 8; it shall be amended as set out below in point 21.
- 13) The text of Article 4 shall become Article 97b. it shall be amended as set out below in point 82.
- 14) The text of Article 12 shall become Article 17.
- 15) The text of Article 13 shall become Article 17a. It shall be amended as set out below in point 31.
- 16) The text of Article 14 shall become Article 22a. It shall be amended as set out below in point 41.

- 17) The text of Article 15 shall become Article 22b. It shall be amended as set out below in point 42.
- 18) The text of Article 16 shall become Article 14. It shall be amended as set out in point 27.

## **Categories and areas of competence**

- 19) Articles 2 to 6 shall be replaced by the following new Title and new Articles:

### "TITLE I CATEGORIES AND AREAS OF UNION COMPETENCE

#### Article 2

1. When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.

2. When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised its competence. The Member States shall again exercise their competence to the extent that the Union has decided to cease exercising its competence.

3. The Member States shall coordinate their economic and employment policies within arrangements as determined by the Treaties, which the Union shall have competence to provide.?

4. The Union shall have competence, in accordance with the provisions of the Treaty on European Union, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.

5. In certain areas and under the conditions laid down in the Treaties, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.

Legally binding acts of the Union adopted on the basis of the provisions of the Treaties relating to these areas shall not entail harmonisation of Member States' laws or regulations.

6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions of the Treaties relating to each area.

### Article 3

1. The Union shall have exclusive competence in the following areas:
  - (a) customs union;
  - (b) the establishing of the competition rules necessary for the functioning of the internal market;
  - (c) monetary policy for the Member States whose currency is the euro;
  - (d) the conservation of marine biological resources under the common fisheries policy;
  - (e) common commercial policy.
  
2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.

### Article 4

1. The Union shall share competence with the Member States where the Constitution confers on it a competence which does not relate to the areas referred to in Articles [I-13 and 17].
  
2. Shared competence between the Union and the Member States applies in the following principal areas:
  - (a) internal market;
  - (b) social policy, for the aspects defined in this Treaty;
  - (c) economic, social and territorial cohesion;
  - (d) agriculture and fisheries, excluding the conservation of marine biological resources;
  - (e) environment;
  - (f) consumer protection;
  - (g) transport;
  - (h) trans-European networks;
  - (i) energy;
  - (j) area of freedom, security and justice;
  - (k) common safety concerns in public health matters, for the aspects defined in this Treaty.

3. In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

4. In the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

#### Article 5

1. The Member States shall coordinate their economic policies within the Union. To this end, the Council shall adopt measures, in particular broad guidelines for these policies.

Specific provisions shall apply to those Member States whose currency is the euro.

2. The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.

3. The Union may take initiatives to ensure coordination of Member States' social policies.

#### Article 6

The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be:

- (a) protection and improvement of human health;
- (b) industry;
- (c) culture;
- (d) tourism;
- (e) education, youth, sport and vocational training;
- (f) civil protection;
- (g) administrative cooperation."

## **Provisions having general application**

- 20) Article 7 shall be replaced by the following title and article:

"TITLE II  
PROVISIONS HAVING GENERAL APPLICATION

Article 7

The Union shall ensure consistency between its policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers."

- 21) Article 8 shall be replaced by the wording of Article 3(2). The words "... the activities referred to in this Article," shall be replaced by "... its activities, ".

- 22) Article 9 shall be replaced by the following:

"In defining and implementing its policies and actions, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health."

- 23) Article 10 shall be replaced by the following:

"In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."

- 24) Article 11 shall be replaced by the wording of Article 6, with the deletion of "referred to in Article 3".

- 25) Article 12 shall be replaced by the wording of Article 153(2).

- 26) Article 13 shall be replaced by the wording of the enacting terms of the Protocol on the protection and welfare of animals; the word "fisheries" shall be inserted after "agriculture", the words "... and research" shall be replaced by "... research and technological development and space", and the words ", since animals are sentient beings," shall be inserted after "Member States shall".

**27)** Article 14 shall be replaced by the wording of Article 16; it shall be amended as follows:

- (a) a reference to Article [I-5] of the Treaty on European Union shall be inserted in the list of articles at the beginning;
- (b) at the end of the first sentence, the words "... and conditions which enable them to fulfil their missions" shall be replaced by "... and conditions, particularly economic and financial conditions, which enable them to fulfil their missions.";
- (c) the following new sentence shall be added:

"The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Treaties, to provide, to commission and to fund such services. "

**28)** Article 15 shall be replaced by the following:

- 1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.
- 2. The Union equally respects the status under national law of philosophical and non-confessional organisations.
- 3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations."

## **Non-discrimination and citizenship**

**29)** The heading of Part Two shall be replaced by the following heading:  
"NON DISCRIMINATION AND CITIZENSHIP".

**30)** Article 17 shall be replaced by the wording of Article 12.

**31)** An Article 17a shall be inserted, with the wording of Article 13; in paragraph 2, the words "... when the Council adopts ..." shall be replaced by "... the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt ..." and the words at the end of the paragraph "... it shall act in accordance with the procedure referred to in Article 251" shall be deleted.

32) An Article 17b shall be inserted, with the wording of Article 17; Article 17(2) shall be replaced by the following:

"2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have:

- (a) the right to move and reside freely within the territory of the Member States;
- (b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;
- (c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
- (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language.

These rights shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder."

33) Article 18 shall be amended as follows:

- (a) in paragraph 2, the words "... the Council may adopt" shall be replaced by "... the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt ..." and the last sentence shall be deleted;
- (b) paragraph 3 shall be replaced by the following:

"3. For the same purposes as those referred to in paragraph 1 and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament."

- 34) In Article 20, the words "... establish the necessary rules among themselves and" shall be deleted. The following new paragraph shall be added:

"The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament, may adopt directives establishing the coordination and cooperation measures necessary to facilitate such protection."

- 35) In Article 21, the following new first paragraph shall be inserted:

"The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the provisions for the procedures and conditions required for a citizens' initiative within the meaning of Article [I-47] of the Treaty on European Union, including the minimum number of Member States from which such citizens must come."

- 36) An Article 21a shall be inserted, with the wording of Article 255; it shall be amended as follows:

- (a) paragraph 1 shall be preceded by the following text, paragraph 1 being renumbered 3 and paragraphs 2 and 3 becoming subparagraphs:

"1. In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible.

2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act."

- (b) in paragraph 1, renumbered 3, first subparagraph, the words "European Parliament, Council and Commission documents" shall be replaced by "documents of the Union institutions, bodies, offices and agencies, whatever their medium" and the reference to paragraphs 2 and 3 shall be replaced by a reference to this paragraph;

- (c) in paragraph 2, which becomes the second subparagraph of paragraph 3, the words "within two years of the entry into force of the Treaty of Amsterdam" shall be deleted;

- (d) in paragraph 3, which becomes the third subparagraph of paragraph 3, the words "... referred to above shall elaborate ..." shall be replaced by "... shall ensure that its proceedings are transparent and shall elaborate", the words "..., in accordance with the legislative act referred to in the second subparagraph" shall be inserted at the end of the subparagraph and the following two new subparagraphs shall be added:

"The Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to this paragraph only when exercising their administrative tasks.



The European Parliament and the Council shall ensure publication of the documents relating to the legislative procedures under the terms laid down by the legislative act referred to in the second subparagraph."

37) An Article 21b shall be inserted:

"Article 21b

1. Everyone has the right to the protection of personal data concerning him or her.
2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

The rules adopted on the basis of this Article shall be without prejudice to the specific rules laid down in Article [III-307a]."

- 38) In the second paragraph of Article 22, the following sentence shall be added at the end: "This paragraph shall not apply to the first paragraph of Article 21, to Article 21a or to Article 21b."
- 39) In the heading of Part Three, the words "AND INTERNAL ACTIONS" shall be inserted after "POLICIES".

### **Internal market**

- 40) A Title I, with the heading "THE INTERNAL MARKET" shall be inserted at the beginning of Part Three.
- 41) An Article 22a shall be inserted, with the wording of Article 14. Paragraph 1 shall be replaced by the following:
- "1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Treaties."

- 42) An Article 22b shall be inserted, with the wording of Article 15. In the first paragraph, the words "... during the period of establishment ..." shall be replaced by "... in order to establish ...".
- 43) Title I on the free movement of goods shall become Title Ia.
- 44) A Chapter Ia shall be inserted after Article 27, entitled "CUSTOMS COOPERATION", and an Article 27a shall be inserted with the wording of Article 135, the last sentence of that Article being deleted.

### **Agriculture and fisheries**

- 45) In the heading of Title II, the words "AND FISHERIES" shall be added.
- 46) Article 32(1) shall be amended as follows:
- (a) the word "fisheries" shall be inserted after "agriculture";
  - (b) the following sentence shall be added at the end of the paragraph: "References to the common agricultural policy or to agriculture, and the use of the term "agricultural", shall be understood as also referring to fisheries, having regard to the specific characteristics of this sector."
- 47) Article 36 shall be amended as follows:
- (a) in the first paragraph, the words "the European Parliament and" shall be inserted before "the Council" and the reference to paragraph 3 shall be deleted;
  - (b) in the second paragraph, the introductory sentence shall be replaced by the following: "The Council, on a proposal from the Commission, may authorise the granting of aid:"
- 48) Article 37 shall be amended as follows:
- (a) paragraph 1 shall be deleted;
  - (b) paragraph 2 shall be renumbered 1 and the words "Having taken into account the work of the Conference provided for in paragraph 1, after consulting the Economic and Social Committee and within two years of the entry into force of the Treaty, the Commission shall submit proposals ..." shall be replaced by "The Commission shall submit proposals ...";

- (c) the following paragraphs shall be inserted as new paragraphs 2 and 2a:

"2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the common organisation of agricultural markets provided for in Article [III-228(1)] and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy.

2a The Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities."

- (d) in the first subparagraph of paragraph 3, the words "The Council may, acting by a qualified majority and in accordance with paragraph 2, replace the national market organisations by the common organisation ..." shall be replaced by "In accordance with paragraph 2, the national market organisations may be replaced by the common organisation ..."

### **Aggregation of insurance periods and export of social security benefits**

- 49) Article 42 shall be amended as follows:

- (a) in the first paragraph, the words "... migrant workers and their dependants: " shall be replaced by "employed and self-employed migrant workers and their dependants:"
- (b) the last paragraph shall be replaced by the following:

"Where a member of the Council declares that a draft legislative act referred to in the first subparagraph would affect important aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- (a) refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure, or,
- (b) take no action or request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted."

## **Freedom of establishment**

- 50) In Article 44(2), the words "The European Parliament," shall be added at the beginning of the first subparagraph.
- 51) In Article 45, second paragraph, the words "The Council may, acting by a qualified majority on a proposal from the Commission, ..." shall be replaced by "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may ...".
- 52) Article 47 shall be amended as follows:
- (a) the following phrase shall be added at the end of paragraph 1: "and for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons."
  - (b) paragraph 2 shall be deleted and paragraph 3 shall be renumbered 2.
- 53) An Article 48a shall be inserted, with the wording of Article 294.

## **Services**

- 54) Article 49 shall be amended as follows:
- (a) in the first paragraph, the words "State of the Community" shall be replaced by "Member State";
  - (b) In the second paragraph, the words "The Council may, acting by a qualified majority on a proposal from the Commission, extend ..." shall be replaced by "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may extend ...".

## **Capital**

- 55) In Article 50, third paragraph, the words "the State" shall be replaced by "the Member State".

- 56) In Article 52(1), the words "... the Council shall, on a proposal from the Commission and after consulting the Economic and Social Committee and the European Parliament, issue ..." shall be replaced by "... the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall issue ...".
- 57) In Article 57(2), the words "... the Council may, acting by a qualified majority on a proposal from the Commission, adopt measures ..." shall be replaced by "... the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures ..." and the last sentence of paragraph 2 shall become a paragraph 3, reading as follows:
- "3. Notwithstanding paragraph 2, only the Council, acting in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament, adopt measures which constitute a step backwards in Union law as regards the liberalisation of the movement of capital to or from third countries."
- 58) In Article 58, the following new paragraph 4 shall be added:
- "4. In the absence of measures pursuant to Article [III-157(3)], the Commission or, in the absence of a Commission decision within three months from the request of the Member State concerned, the Council, may adopt a decision stating that restrictive tax measures adopted by a Member State concerning one or more third countries are to be considered compatible with the Treaties insofar as they are justified by one of the objectives of the Union and compatible with the proper functioning of the internal market. The Council shall act unanimously on application by a Member State."
- 59) Article 60 shall become Article [67a]. It shall be amended as set out below in point 61.

### **Area of freedom, security and justice;**

- 60) A Title IV, with the heading "AREA OF FREEDOM, SECURITY AND JUSTICE", shall replace the Title IV on visas, asylum, immigration, and other policies related to free movement of persons. Title IV shall contain the following Chapters:
- |            |   |
|------------|---|
| Chapter 1: | General provisions                                |
| Chapter 2: | Policies on border checks, asylum and immigration |
| Chapter 3: | Judicial cooperation in civil matters             |
| Chapter 4: | Judicial cooperation in criminal matters          |
| Chapter 5: | Police cooperation                                |

## **General provisions**

61) Article 61 shall be replaced by the following chapter and articles:

### "CHAPTER 1 GENERAL PROVISIONS

#### Article 61

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.
2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.
3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.
4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.

#### Article 62

The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice.

#### Article 63

National Parliaments shall ensure that the proposals and legislative initiatives submitted under Chapters 4 and 5 comply with the principle of subsidiarity, in accordance with the arrangements laid down by the Protocol on the application of the principles of subsidiarity and proportionality.

#### Article 64

Without prejudice to Articles [III-360 to III-362], the Council may, on a proposal from the Commission, adopt measures laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Title by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament and national Parliaments shall be informed of the content and results of the evaluation.

#### Article 65

A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article [III-344], it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.

#### Article 66

This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

It shall be open to Member States to organise between themselves and under their responsibility such forms of cooperation and coordination as they deem appropriate between the competent departments of their administrations responsible for safeguarding national security.

#### Article 67

The Council shall adopt measures to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Title, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article [III-264], and after consulting the European Parliament.

#### Article 67a

Where necessary to achieve the objectives set out in Article [III-257], as regards preventing and combating terrorism and related activities, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.

The Council, on a proposal from the Commission, shall adopt measures to implement the framework referred to in the first paragraph.

The acts referred to in this Article shall include necessary provisions on legal safeguards.

#### Article 68

The acts referred to in Chapters 4 and 5, together with the measures referred to in Article [III-263] which ensure administrative cooperation in the areas covered by these Sections, shall be adopted:

- (a) on a proposal from the Commission, or
- (b) on the initiative of a quarter of the Member States."

### **Border checks, asylum and immigration**

**62)** Articles 62 to 64 shall be replaced by the following chapter and articles:

#### "CHAPTER 2 POLICIES ON BORDER CHECKS, ASYLUM AND IMMIGRATION

#### Article 69

1. The Union shall develop a policy with a view to:
  - (a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;
  - (b) carrying out checks on persons and efficient monitoring of the crossing of external borders;
  - (c) the gradual introduction of an integrated management system for external borders.
2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:
  - (a) the common policy on visas and other short-stay residence permits;



- (b) the checks to which persons crossing external borders are subject;
- (c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;
- (d) any measure necessary for the gradual establishment of an integrated management system for external borders;
- (e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.

3. If action by the Union should prove necessary to facilitate the exercise of the right referred to in Article [I-10(2)(a)], and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt provisions concerning passports, identity cards, residence permits or any other such document. The Council shall act unanimously after consulting the European Parliament.

4. This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.

#### Article 69a

1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:

- (a) a uniform status of asylum for nationals of third countries, valid throughout the Union;
- (b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;
- (c) a common system of temporary protection for displaced persons in the event of a massive inflow;

- (d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
- (e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
- (f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
- (g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.

#### Article 69b

1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas:

- (a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;
- (b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;
- (c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;
- (d) combating trafficking in persons, in particular women and children.

3. The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States.

4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.

5. This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.

#### Article 69c

The policies of the Union set out in this Section and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Section shall contain appropriate measures to give effect to this principle."

### **Judicial cooperation in civil matters**

63) Article 65 shall be replaced by the following chapter and article:

#### "CHAPTER 3 JUDICIAL COOPERATION IN CIVIL MATTERS

#### Article 69d

1. The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and decisions in extrajudicial cases. Such cooperation may include the adoption of measures for the approximation of the laws and regulations of the Member States.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures, particularly when necessary for the proper functioning of the internal market, aimed at ensuring:

- (a) the mutual recognition and enforcement between Member States of judgments and decisions in extrajudicial cases;
- (b) the cross-border service of judicial and extrajudicial documents;

- (c) the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction;
- (d) cooperation in the taking of evidence;
- (e) effective access to justice;
- (f) the elimination of obstacles to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;
- (g) the development of alternative methods of dispute settlement;
- (h) support for the training of the judiciary and judicial staff.

3. Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament.

4. The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.

This proposal shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision shall not be adopted. In the absence of opposition, the Council may adopt the decision."

## **Judicial cooperation in criminal matters**

**64)** Articles 66 and 67 shall be replaced by the following chapter and articles:

### "CHAPTER 4 JUDICIAL COOPERATION IN CRIMINAL MATTERS

#### Article 69e

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article [III-271].

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures to:

- (a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;
- (b) prevent and settle conflicts of jurisdiction between Member States;
- (c) support the training of the judiciary and judicial staff;
- (d) facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

They shall concern:

- (a) mutual admissibility of evidence between Member States;
- (b) the rights of individuals in criminal procedure;
- (c) the rights of victims of crime;
- (d) any other specific aspects of criminal procedure which the Council has identified in advance by a decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the consent of the European Parliament.

Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles [I-44(2) and III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

#### Article 69f

1. The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

On the basis of developments in crime, the Council may adopt a decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.

2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such directives shall be adopted by the same ordinary or special legislative procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article [III-264].

3. Where a member of the Council considers that a draft directive as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles [I-44(2) and III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

#### Article 69g

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States.

#### Article 69h

1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

In this context, the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Eurojust's structure, operation, field of action and tasks. These tasks may include:

- (a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions, conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;
- (b) the coordination of investigations and prosecutions referred to in point (a);
- (c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

These regulations shall also determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.

2. In the prosecutions referred to in paragraph 1, and without prejudice to Article [III-274], formal acts of judicial procedure shall be carried out by the competent national officials.

## Article 69i

1. In order to combat crimes affecting the financial interests of the Union, the Council, by means of a regulation adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.

In the absence of unanimity in the Council, a group of at least nine Member States may request that the draft regulation be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft regulation concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I-44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offences against the Union's financial interests, as determined by the regulation provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.

3. The regulation referred to in paragraph 1 shall determine the general rules applicable to the European Public Prosecutor's Office, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions.

4. The European Council may, at the same time or subsequently, adopt a decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor's Office to include serious crime having a cross-border dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission."



## **Police cooperation**

65) Articles 68 and 69 shall be replaced by the following chapter and articles:

### "CHAPTER 5 POLICE COOPERATION

#### Article 69j

1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.
2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures concerning:
  - a) the collection, storage, processing, analysis and exchange of relevant information;
  - b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;
  - c) common investigative techniques in relation to the detection of serious forms of organised crime.
3. The Council, acting in accordance with a special legislative procedure, may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

"In case of the absence of unanimity in the Council, a group of at least nine Member States may request that the draft measures be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft measures concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I-44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

The specific procedure provided for in the second and third subparagraphs shall not apply to acts which constitute a development of the Schengen *acquis*.

#### Article 69k

1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.
2. In this context, the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Europol's structure, operation, field of action and tasks. These tasks may include:
  - a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;
  - (b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.

These regulations shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

#### Article 69l

The Council, acting in accordance with a special legislative procedure, shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles [III-270 and III-275] may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament."

## **Transports**

**66)** In Article 70, the words "of this Treaty" shall be replaced by "of the Treaties".

**67)** Article 71(2) shall be replaced by the following:

"2. When the measures referred to in paragraph 1 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities. "

**68)** At the beginning of Article 72, the words "..., without the unanimous approval of the Council, ..." shall be replaced by "..., unless the Council, acting in accordance with a special legislative procedure, has unanimously adopted a measure granting a derogation, ..."

**69)** In Article 75(2), the words "the Council" shall be replaced by "the European Parliament and the Council".

**70)** In Article 78, the following sentence shall be added:

"Five years after the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, the Council, acting on a proposal from the Commission, may adopt a decision repealing this Article."

**71)** In Article 79, the phrase "without prejudice to the powers of the Economic and Social Committee" shall be deleted.

**72)** Article 80(2) shall be replaced by the following:

"2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport. They shall act after consulting the Committee of the Regions and the Economic and Social Committee."

## **Rules on competition**

73) In Article 85, the following new paragraph 3 shall be added:

"3. The Commission may adopt regulations relating to the categories of agreement in respect of which the Council has adopted a regulation or a directive pursuant to Article [III-163, second paragraph, (b)]."

74) Article 87 shall be amended as follows:

(a) in paragraph 2, the following sentence shall be added at the end of point (c):

"Five years after the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point."

(b) in paragraph 3, the following words shall be added at the end of point (a): "... and of the regions referred to in Article [III-424], in view of their structural, economic and social situation;"

75) In Article 88, the following new paragraph 4 shall be added:

"4. The Commission may adopt regulations relating to the categories of State aid that the Council has, pursuant to Article [III-169], determined may be exempted from the procedure provided for by paragraph 3 of this Article."

## **Fiscal provisions**

76) At the end of Article 93, the words "... within the time limit laid down in Article 14" shall be replaced by "... and to avoid distortion of competition."

## **Approximation of laws**

77) The order of Articles 94 and 95 shall be reversed. Article 94 shall be renumbered 95 and Article 95 shall be renumbered 94.

- 78)** Article 95, renumbered 94, shall be amended as follows:
- (a) at the beginning of paragraph 1, the words "By way of derogation from Article 94 and" shall be deleted;
  - (b) at the beginning of paragraph 4, the words "If, after the adoption by the Council or by the Commission of a harmonisation measure, ..." shall be replaced by "If, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, ...";
  - (c) at the beginning of paragraph 5, the words "Moreover, without prejudice to paragraph 4, if, after the adoption by the Council or by the Commission of a harmonisation measure, ..." shall be replaced by "Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, ...";
- 79)** In Article 94, renumbered 95, the words "Without prejudice to Article 94, ..." shall be inserted at the beginning.
- 80)** In Article 96, second paragraph, first sentence, the words ", the Council shall, on a proposal from the Commission, acting by a qualified majority, issue ..." shall be replaced by ", the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall issue ..." The second sentence shall be replaced by "Any other appropriate measures provided for in the Treaties may be adopted."

## **Intellectual property**

- 81)** The following new Article 97a shall be inserted:

### "Article 97a

In the context of the establishment and functioning of the internal market, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish measures for the creation of European intellectual property rights to provide uniform intellectual property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements.

The Council, acting unanimously in accordance with a special legislative procedure, shall by means of regulations establish language arrangements for the European intellectual property rights. The Council shall act unanimously after consulting the European Parliament."

## **Economic and monetary policy**

**82)** An Article 97b shall be inserted, with the wording of Article 4; it shall be amended as follows:

- (a) in paragraph 1, the words "and in accordance with the timetable set out therein" shall be deleted;
- (b) in paragraph 2, the words "Concurrently with the foregoing, and as provided in this Treaty and in accordance with the timetable and the procedures set out therein, these activities shall include the irrevocable fixing of exchange rates leading to the introduction of a single currency, the ecu, ..." shall be replaced by " Concurrently with the foregoing, and as provided in the Treaties and in accordance with the procedures set out therein, these activities shall include a single currency, the euro, ..."

**83)** Article 99 shall be amended as follows:

- (a) in paragraph 4, the first sentence of the first subparagraph shall be replaced by the following two sentences:

"Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned.";

- (b) the second subparagraph of paragraph 4 shall be renumbered paragraph 5 and paragraph 5 shall be renumbered 6;
- (c) the following three new subparagraphs shall be inserted in paragraph 4:

"Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a)."

- (d) in paragraph 6, the words "The Council, acting in accordance with the procedure referred to in Article 252, may adopt ..." shall be replaced by the following: "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt ...".

## **Difficulties in the supply of certain products (energy)**

84) Article 100(1) shall be replaced by the following:

"1. Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy."

## **Other provisions - economic and monetary policy**

85) Article 102(2) shall be deleted;

86) Article 103(2) shall be replaced by the following:

"The Council, on a proposal from the Commission and after consulting the European Parliament, may, as required, specify definitions for the application of the prohibitions referred to in Articles 101 and 102 and in this Article."

## **Excessive deficit procedure**

87) Article 104 shall be amended as follows:

(a) paragraph 5 shall be replaced by the following:

"5. If the Commission considers that an excessive deficit in a Member State exists or may occur, it shall address an opinion to the Member State concerned and shall inform the Council accordingly.

(b) in paragraph 6, the word "recommendation" shall be replaced by "proposal";

(c) in paragraph 7, the first sentence shall be replaced by "Where the Council decides, in accordance with paragraph 6, that an excessive deficit exists, it shall adopt, without undue delay, on a recommendation from the Commission, recommendations addressed to the Member State concerned with a view to bringing that situation to an end within a given period.";

- (d) in the introductory words of the first subparagraph of paragraph 11, there is a change to the French which does not affect the English version.
- (e) in paragraph 12, at the beginning of the first sentence, the words "its decisions" shall be replaced by "its decisions or recommendations";
- (f) paragraph 13 shall be replaced by the following:

"13. When taking the decisions referred to in paragraphs 8, 9, 11 and 12, the Council shall act on a recommendation from the Commission.

When the Council adopts the measures referred to in paragraphs 6 to 9 and 11 and 12, it shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a)."

- (g) in paragraph 14, third subparagraph, the words ", before 1 January 1994" shall be deleted.

## **Monetary policy**

- 88)** In Article 105, paragraph 6 shall be replaced by the following:

"6. The Council, acting in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament and the European Central Bank, confer specific tasks upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings."

- 89)** Article 106 shall be amended as follows:

- (a) in paragraph 1, first sentence, the word "euro" shall be inserted before "... banknotes ...";
- (b) in paragraph 2, first sentence, the word "euro" shall be inserted before "... coins ..."; at the beginning of the second sentence, the words "The Council may, acting in accordance with the procedure referred to in Article 252 and after consulting the ECB ..." shall be replaced by: "The Council, on a proposal from the Commission and after consulting the European Parliament and the European Central Bank, may ...".



**90)** Article 107 shall be amended as follows:

(a) paragraphs 1 and 2 shall be deleted and paragraphs 3, 4, 5 and 6 shall be renumbered 1, 2, 3 and 4 respectively;

(b) the paragraph renumbered 1 shall be replaced by the following:

"1. The European System of Central Banks, hereinafter referred to as 'ESCB', shall be governed by the decision-making bodies of the European Central Bank, which shall be the Governing Council and the Executive Board.";

(c) in the paragraph renumbered 2, the words "Statute of the ESCB" shall be replaced by the following: "Statute of the European System of Central Banks and of the European Central Bank, hereinafter referred to as 'Statute of the ESCB and of the ECB' ...";

(d) the paragraph renumbered 3 shall be replaced by the following:

"3. Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the ESCB may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure. They shall act either on a recommendation from the European Central Bank and after consulting the Commission or on a proposal from the Commission and after consulting the European Central Bank.".

**91)** In Article 109, the words "..., at the latest at the date of the establishment of the ESCB," shall be deleted.

**92)** In Article 110, the first four subparagraphs of paragraph 2 shall be deleted.

### **Measures relating to use of the euro**

**93)** In Article 111, paragraphs 1 to 3 and 5 shall become, respectively, paragraphs 1 to 4 of Article 1880; they shall be amended as set out below in point 178.

Article 111 shall be replaced by the following:

"Without prejudice to the powers of the European Central Bank, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the measures necessary for use of the euro as the single currency. Such measures shall be adopted after consultation of the European Central Bank.".

## **Institutional provisions (EMU)**

- 94) Articles 112 and 113 shall become Articles 245b and 245c respectively; they shall be amended as set out below in points 231 and 232.
- 95) Article 114 shall be renumbered 112; it shall be amended as follows:
- (a) in paragraph 1, first subparagraph, the words "Monetary Committee with advisory status" shall be replaced by "Economic and Financial Committee";
  - (b) in paragraph 1, the second and third subparagraphs shall be deleted;
  - (c) in paragraph 2, the first subparagraph shall be deleted.
- 96) Article 115 shall be renumbered 113.

## **Provisions specific to Member States whose currency is the euro**

- 97) The following new Chapter 3a and new Articles 114, 115 and 115a shall be inserted:

### "CHAPTER 3a

#### PROVISIONS SPECIFIC TO MEMBER STATES WHOSE CURRENCY IS THE EURO

##### Article 114

1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Treaties, the Council shall, in accordance with the relevant procedure from among those referred to in Articles [III-179 and III-184], with the exception of the procedure set out in Article [III-184(13)], adopt measures specific to those Member States whose currency is the euro:

- (a) to strengthen the coordination and surveillance of their budgetary discipline;
- (b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.

2. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 205(3)(a).

#### Article 115

Arrangements for meetings between ministers of those Member States whose currency is the euro are laid down by the Protocol on the Euro Group.

#### Article 115a

1. In order to secure the euro's place in the international monetary system, the Council, on a proposal from the Commission, shall adopt a decision establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

2. The Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

3. For the measures referred to in paragraphs 1 and 2, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 205(3)(a)."

### **Transitional provisions relating to Member States with a derogation**

98) Article 116 shall be replaced by the following:

#### "Article 116

1. Member States in respect of which the Council has not decided that they fulfil the necessary conditions for the adoption of the euro shall hereinafter be referred to as "Member States with a derogation".

2. The following provisions of the Treaties shall not apply to Member States with a derogation:

- (a) adoption of the parts of the broad economic policy guidelines which concern the euro area generally [(Article III-179(2))];
- (b) coercive means of remedying excessive deficits [(Article III-184(9) and (10))];
- (c) the objectives and tasks of the European System of Central Banks [(Article III-185(1), (2), (3) and (5))];
- (d) issue of the euro [(Article III-186)];
- (e) acts of the European Central Bank [(Article III-190)];
- (f) measures governing the use of the euro [(Article III-191)];
- (g) monetary agreements and other measures relating to exchange-rate policy [(Article III-326)];
- (h) appointment of members of the Executive Board of the European Central Bank [(Article III-382(2))];
- (i) decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences [(Article III-196(1))];
- (j) measures to ensure unified representation within the international financial institutions and conferences [(Article III-196(2))].

In the Articles referred to in points (a) to (j), "Member States" shall therefore mean Member States whose currency is the euro.

3. Under Chapter IX of the Statute of the European System of Central Banks and of the European Central Bank, Member States with a derogation and their national central banks are excluded from rights and obligations within the European System of Central Banks.

4. The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in paragraph 2, and in the following instances:

- (a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings [(Article III-179(4))];

- (b) measures relating to excessive deficits concerning those Member States whose currency is the euro [(Article III-184(6), (7), (8) and (11)].

A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a)."

**99)** Article 117 shall be amended as follows:

- (a) paragraph 1 shall be replaced by Article 121(1), with the following amendments:
- (i) at the beginning of the paragraph, the following shall be inserted: "At least once every two years, or at the request of a Member State with a derogation, ...";
  - (ii) throughout the paragraph, the words "the EMI" shall be replaced by "the European Central Bank";
  - (iii) in the first subparagraph, first sentence, the words "... the progress made in the fulfilment by the Member States of their obligations ..." shall be replaced by "... the progress made by the Member States with a derogation in fulfilling their obligations ...";
  - (iv) in the first subparagraph, second sentence, the words "... each Member State's national legislation ..." shall be replaced by "the national legislation of each of these Member States ...";
  - (v) in the third indent, the words "against the currency of any other Member State" shall be replaced by "... against the euro;";
  - (vi) in the fourth indent, the words "... the Member State ..." shall be replaced by "... the Member State with a derogation ..." and the words "... of the European Monetary System" shall be deleted;
  - (vii) in the second subparagraph, the words "the development of the ecu" shall be deleted;
- (b) paragraph 2 shall be amended as follows:
- (i) the first five indents shall become the first five indents of the second paragraph of Article 118(2); they shall be amended as set out below in point [...];

- (ii) Article 117(2) shall be replaced by the second sentence of Article 122(2); the following new second and third subparagraphs shall be added:

"The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.

The qualified majority of the said members, as referred to in the second subparagraph, shall be defined in accordance with Article 205(3)(a).";

- (c) paragraph 3 shall be replaced by Article 123(5); it shall be amended as follows:
  - (i) at the beginning of the paragraph, the words "If it is decided, according to the procedure set out in Article 122(2), to abrogate a derogation, ..." shall be replaced by " If it is decided, in accordance with the procedure set out in paragraph 2, to abrogate a derogation, ...";
  - (ii) the words "adopt the rate ..." shall be replaced by "irrevocably fix the rate ...";
- (d) paragraphs 4 to 9 shall be repealed.

**100)** Article 118 shall be amended as follows:

- (a) the first paragraph shall be replaced by Article 123(3); the words "of this Treaty" shall be deleted;
- (b) the second paragraph shall be replaced by the first five indents of Article 117(2); the five indents shall be preceded by the following introductory words:

"If and as long as there are Member States with a derogation, the European Central Bank shall, as regards those Member States:"

- (i) in the third indent, the words "European Monetary System" shall be replaced by "exchange-rate mechanism";
- (ii) the fifth indent shall be replaced by the following: "carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute.";

**101)** An Article 118a shall be inserted, with the wording of Article 124; it shall be amended as follows:

- (a) the words "Until the beginning of the third stage, each Member State shall treat ..." shall be replaced by "Each Member State with a derogation shall treat ...";
- (b) the words "...of the European Monetary System (EMS) and in developing the ecu, and shall respect existing powers in this field" shall be replaced by "... of the exchange-rate mechanism."

**102)** Article 119 shall be amended as follows:

- (a) in paragraph 1, the words "with a derogation" shall be inserted after "Member State" in the first and second subparagraphs and the word "progressive" in the first subparagraph shall be deleted;"
- (b) in paragraph 2(a), the words "with a derogation" shall be inserted after "Member States" and in paragraph 2(b), the words "the State which is in difficulties ..." shall be replaced by "the Member State with a derogation which is in difficulties, ...";
- (c) in paragraph 3, the words "the Commission shall authorise the State which is in difficulties ..." shall be replaced by "the Commission shall authorise the Member State with a derogation, which is in difficulties, ...";
- (d) paragraph 4 shall be deleted.

**103)** Article 120 shall be amended as follows:

- (a) in paragraph 1, the words "the Member State concerned ..." shall be replaced by "a Member State with a derogation ...";
- (b) in paragraph 3, the words "an opinion" shall be replaced by "a recommendation";
- (c) paragraph 4 shall be deleted.

**104)** Article 121(1) shall become Article 117(1); it shall be amended as set out above in point 99.

**105)** In Article 122(2), the second sentence shall become the first subparagraph of Article 117(2); it shall be amended as set out above in point 99. The rest of Article 122 shall be repealed.

- 106)** Article 123(3) shall become Article 118(1) and Article 123(5) shall become Article 117(3); they shall be amended as set out above in points 100 and 99 respectively. The rest of Article 123 shall be repealed.
- 107)** Article 124(1) shall become the new Article 118a. it shall be amended as set out above in point 101. The rest of Article 124 shall be repealed.

### **Titles being moved**

- 108)** Title IX, "COMMON COMMERCIAL POLICY", shall become Title II in Part Five on the Union's external action and Articles 131 and 133 shall become Articles 188b and 188c respectively. Article 131 shall be amended as set out below in point 160 and Article 133 shall be replaced by Article 188c.

Articles 132 and 134 shall be repealed.

- 109)** Title X, "CUSTOMS COOPERATION", shall become Chapter 1a in Title Ia, "Free movement of goods" and Article 135 shall become Article 27a, as set out above in point 44.

### **Social policy**

- 110)** The heading of Title XI, "SOCIAL POLICY, EDUCATION, VOCATIONAL TRAINING AND YOUTH", shall be repealed.
- 111)** The heading of Chapter I, "Social provisions", shall be replaced by the following: "TITLE IX SOCIAL POLICY".
- 112)** The following new Article 136a shall be inserted:

"Article 136a

The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.

The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue."



**113)** Article 137 shall be amended as follows:

- (a) in paragraph 2, in the introductory phrase of the first subparagraph, the words "the Council:" shall be replaced by "the European Parliament and the Council:" and the first sentence of the second subparagraph shall be split into two subparagraphs which shall read as follows:

"The European Parliament and the Council shall act in accordance with the ordinary legislative procedure after consulting the Economic and Social Committee and the Committee of the Regions.

In the fields referred to in paragraph 1(c), (d), (f) and (g) of this Article, the Council shall act unanimously, in accordance with a special legislative procedure, after consulting the European Parliament and the said Committees."

The second sentence of the second subparagraph shall become the last subparagraph.

- (b) in paragraph 3, at the end of the first subparagraph, the following words shall be added "... or, where appropriate, with the implementation of a Council decision adopted in accordance with Article [III-212]."; in the second subparagraph, the words "... a directive must be transposed in accordance with Article 249" shall be replaced by "... a directive or a decision must be transposed or implemented," and the words "... or that decision" shall be added at the end of the subparagraph.

**114)** In Article 138(4), first sentence, the words "On the occasion of such consultation, ..." shall be replaced by "On the occasion of the consultation referred to in paragraphs 2 and 3, ..." and, in the second sentence, the words "the procedure" shall be replaced by "this process".

**115)** Article 139(2) shall be amended as follows:

- (a) at the end of the first subparagraph, the following sentence shall be added: "The European Parliament shall be informed.";
- (b) in the second subparagraph, at the beginning of the first sentence "The Council shall act by qualified majority, except where the agreement ..." shall be replaced by "The Council shall act unanimously where the agreement ..." and the second sentence shall be deleted.

**116)** In Article 140, the following words shall be added at the end of the second subparagraph: "..., in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed."

## **European Social Fund**

117) Chapter 2 shall be renumbered TITLE X.

## **Titles and chapters being moved**

118) Chapter 3, "EDUCATION, VOCATIONAL TRAINING AND YOUTH" shall become Chapter 1 of Title XVII, "AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION" and Articles 149 and 150 shall become Articles 176b and 176c respectively. They shall be amended as set out below in points 141 to 143 respectively.

119) Title XII, "CULTURE" shall become Chapter 2 of Title XVII, "AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION" and Article 151 shall become Article 176d. That Article shall be amended as set out below in point 145.

120) Title XIII, "PUBLIC HEALTH" shall become Chapter 2 of Title XVII, "AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION" and Article 152 shall become Article 176e. That Article shall be amended as set out below in point 147.

## **Consumer protection**

121) Title XIV shall be renumbered XI.

122) Article 153(2) shall become Article 12; paragraph 2 shall be deleted and paragraphs 3, 4 and 5 shall be renumbered 2, 3 and 4 respectively.

## **Titles being renumbered or moved**

**123)** Title XV shall be renumbered XII.

**124)** Title XVI, "INDUSTRY" shall become Chapter 4 of Title XVII, "AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION" and Article 157 shall become Article 176f. That Article shall be amended as set out below in point 149.

## **Economic, social and territorial cohesion**

**125)** Title XVII shall be renumbered XIII. The heading shall be replaced by: "ECONOMIC, SOCIAL AND TERRITORIAL COHESION".

**126)** Article 158 shall be amended as follows:

- (a) in the first paragraph, the words "economic and social cohesion" shall be replaced by "economic, social and territorial cohesion";
- (b) in the second paragraph, the words "or islands, including rural areas" shall be deleted;
- (c) the following new paragraph shall be added: "Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions."

**127)** Article 161 shall be amended as follows:

- (a) at the beginning of the first paragraph, first sentence, the words "Without prejudice to Article 162, the Council, acting unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament ..." shall be replaced by "Without prejudice to Article 162, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure ..." and in the second sentence the words "The Council, acting by the same procedure, shall also define" shall be deleted at the beginning and the words "shall also be defined by the same procedure" added at the end;
- (b) in the second paragraph the words "by the Council " shall be deleted;
- (c) the third paragraph shall be deleted.

## **Research and technological development**

- 128)** Title XVIII shall be renumbered XIV. The words "AND SPACE" shall be added to the heading.
- 129)** Article 163 shall be amended as follows:
- (a) paragraph 1 shall be replaced by the following:

"1. The Union shall have the objective of strengthening its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encourage it to become more competitive, including in its industry, while promoting all the research activities deemed necessary by virtue of other Chapters of the Treaties.";
  - (b) in paragraph 2, the words "... enabling undertakings to exploit the internal market potential to the full, ..." shall be replaced by "... permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential, ...".
- 130)** The following words shall be added at the end of Article 165(2): "..., in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed."
- 131)** In Article 166, the following new paragraph 5 shall be added:
- "5. As a complement to the activities planned in the multiannual framework programme, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the measures necessary for the implementation of the European research area."
- 132)** In Article 167, the words "the Council" shall be replaced by "the Union".
- 133)** In Article 168, second paragraph, the words "the Council" shall be replaced by "the Union".
- 134)** In Article 170, the last clause "..., which shall be negotiated and concluded in accordance with Article 300" shall be deleted.

## **Space**

135) The following new Article 172a shall be inserted:

### "Article 172a

1. To promote scientific and technical progress, industrial competitiveness and the implementation of its policies, the Union shall draw up a European space policy. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space.
2. To contribute to attaining the objectives referred to in paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures, which may take the form of a European space programme, excluding any harmonisation of the laws and regulations of the Member States.
3. The Union shall establish any appropriate relations with the European Space Agency.
4. This Article shall be without prejudice to the other provisions of this Title."

## **Environment (climate change)**

136) Title XIX shall be renumbered XV.

137) Article 174 shall be amended as follows:

- (a) in paragraph 1, the fourth indent shall be replaced by the following:
  - "– promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change."
- (b) in paragraph 4, first subparagraph, the last clause "..., which shall be negotiated and concluded in accordance with Article 300" shall be deleted.

**138)** Article 175 shall be amended as follows:

(a) in paragraph 2, the second subparagraph shall be replaced by the following:

"The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, may make the ordinary legislative procedure applicable to the matters referred to in the first subparagraph.";

(b) in paragraph 3, the second subparagraph shall be replaced by the following:

"The measures necessary for the implementation of these programmes shall be adopted under the terms of paragraph 1 or 2, as the case may be.";

(c) in paragraph 5, the words "the Council shall, in the act adopting that measure, lay down ... provisions" shall be replaced by "such measure shall provide ...".

## **Energy**

**139)** Title XX shall be replaced by the following new Title and new Article 176a:

### "TITLE XVI ENERGY

#### Article 176a

1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to:

- (a) ensure the functioning of the energy market;
- (b) ensure security of energy supply in the Union, and
- (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy;
- (d) promote the interconnection of energy networks.

2. Without prejudice to the application of other provisions of the Treaties, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to achieve the objectives in paragraph 1. Such measures shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article [III-234(2)(c)].

3. By way of derogation from paragraph 2, the Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament, establish the measures referred to therein when they are primarily of a fiscal nature.

### **Areas where the Union may take supporting, coordinating or complementary action**

**140)** A new Title XVII "AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION" shall be inserted.

### **Sport**

**141)** In the heading of Chapter 1, taken from Chapter 3 of Title XI, the words "... AND YOUTH" shall be replaced by "..., YOUTH and SPORT."

**142)** An Article 176b shall be inserted, with the wording of Article 149; it shall be amended as follows:

(a) in paragraph 1, the following subparagraph shall be inserted:

The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.";

(b) in paragraph 2, the following indent shall be added at the end:

"– developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially young sportsmen and sportswomen.";

- (c) in paragraph 3, the words "and sport" shall be added after "in the field of education";
- (d) in paragraph 4, the words "the Council" shall be deleted and the first indent shall begin with the words "the European Parliament and the Council, acting..."; the second indent shall begin with the words "The Council, on a proposal ...".

**143)** An Article 176c shall be inserted, with the wording of Article 150; in paragraph 4, the following clause shall be added at the end: "and the Council, on a proposal from the Commission, shall adopt recommendations."

## **Culture**

**144)** A Chapter 2 "CULTURE" shall be inserted, taking over the heading of Title XII.

**145)** An Article 176d shall be inserted, with the wording of Article 151; paragraph 5 shall be amended as follows:

- (a) in the introductory phrase, the words "the Council" shall be deleted;
- (b) the first sentence of the first indent shall begin with the words "the European Parliament and the Council, acting ...", and the second sentence of the first indent shall be deleted;
- (c) in the second indent, the words "acting unanimously" shall be deleted and the indent shall begin with the words "the Council, on a proposal ...".

## **Public Health**

**146)** A Chapter 3 "PUBLIC HEALTH" shall be inserted, taking over the heading of Title XII.

**147)** An Article 176e shall be inserted, with the wording of Article 152; it shall be amended as follows:

- (a) in paragraph 1, at the end of the second subparagraph, the following shall be added: ", and monitoring, early warning of and combating serious cross-border threats to health";



- (b) in paragraph 2, at the end of the first subparagraph, the following sentence shall be added: "It shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.";
- (c) In paragraph 2, the following shall be added at the end of the second subparagraph: "..., in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.";
- (d) paragraph 4 shall be amended as follows:
- (i) in the introductory subparagraph, the following words shall be inserted at the beginning: "By way of derogation from Article [I-12(5)] and Article [I-17(a)] and in accordance with Article [I-14(2) (k)] ..." and the following at the end: "... in order to meet common safety concerns:";
- (ii) in point (b), the words "by way of derogation from Article 37, ..." shall be deleted;
- (iii) the following new point (c) shall be inserted:
- "(c) measures setting high standards of quality and safety for medicinal products and devices for medical use.";
- (iv) the current point (c) shall be renumbered paragraph 5 and replaced by the following:
- "5. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Committee of the Regions and the Economic and Social Committee, may also adopt incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, measures concerning monitoring, early warning of and combating serious cross-border threats to health, and measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States.";
- (e) the last subparagraph of the current paragraph 4 shall become paragraph 6 and paragraph 5, renumbered 7, shall be replaced by the following:
- "7. Union action in the field of public health shall fully respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care and the allocation of the resources assigned to them. The measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood."

## **Industry**

- 148) A Chapter 4 "INDUSTRY" shall be inserted, taking over the heading of Title XVI.
- 149) An Article 176f shall be inserted, with the wording of Article 157; it shall be amended as follows:
- (a) at the end of paragraph 2, the following words shall be added: "..., in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.";
  - (b) in paragraph 3, first subparagraph, the following phrase shall be added at the end of the second sentence: "..., excluding any harmonisation of the laws and regulations of the Member States."

## **Tourism**

- 150) The following new Chapter 5 and new Article 176g shall be inserted:

"CHAPTER 5  
TOURISM

Article 176g

1. The Union shall complement the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector.

To that end, Union action shall be aimed at:

- (a) encouraging the creation of a favourable environment for the development of undertakings in this sector;
  - (b) promoting cooperation between the Member States, particularly by the exchange of good practice.
2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish specific measures to complement actions within the Member States to achieve the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States."

## **Civil protection**

151) The following new Chapter 6 and new Article 176h shall be inserted:

### "CHAPTER 6 CIVIL PROTECTION

#### Article 176h

1. The Union shall encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters.

Union action shall aim to:

- (a) support and complement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or man-made disasters within the Union;
- (b) promote swift, effective operational cooperation within the Union between national civil-protection services;
- (c) promote consistency in international civil-protection work.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to help achieve the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States."

## **Administrative cooperation**

152) The following new Chapter 7 and new Article 176i shall be inserted:

### "CHAPTER 7 ADMINISTRATIVE COOPERATION

#### Article 176i

1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.

2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.

3. This Article shall be without prejudice to the obligations of the Member States to implement Union law or to the prerogatives and duties of the Commission. It shall also be without prejudice to other provisions of the Treaties providing for administrative cooperation among the Member States and between them and the Union."

### **Titles which have been moved**

**153)** Title XX "DEVELOPMENT COOPERATION" shall become Chapter I of Title III of Part Five on the Union's external action, and Articles 177 and 179 to 181 shall become Articles 188d to 188g respectively; those articles shall be amended as set out below in points 165 to 168. Article 178 shall be repealed.

**154)** Title XXI "ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES" shall become Chapter 2 of Title III of Part Five on the Union's external action and Article 181a shall become the new Article 188h; that Article shall be amended as set out below in point 170.

### **Association of overseas countries and territories**

**155)** At the end of Article 182, first paragraph, the words "to this Treaty" shall be deleted.

**156)** At the end of Article 186, the words "... shall be governed by agreements to be concluded subsequently with the unanimous approval of Member States." shall be replaced by "... shall be regulated by acts adopted in accordance with Article 187."

**157)** In Article 187, the words "acting unanimously" shall be replaced by "acting unanimously on a proposal from the Commission" and the following sentence shall be added at the end of the Article: "Where the provisions in question take the form of a legislative act, they shall be adopted after consultation of the European Parliament."

## **External action of the Union (other than the CFSP)**

**158)** A new Part Five shall be inserted.

Its heading shall be "EXTERNAL ACTION BY THE UNION IN AREAS OTHER THAN THE COMMON FOREIGN AND SECURITY POLICY" and it shall contain the following Titles and Chapters:

Title I: General provisions on the Union's external action

Title II: Common commercial policy

Title III: Cooperation with third countries and humanitarian aid

Chapter 1: Development cooperation

Chapter 2: Economic, financial and technical cooperation with third countries

Chapter 3: Humanitarian aid

Title IV: Restrictive measures

Title V: International agreements

Title VI: The Union's relations with international organisations and third countries and Union delegations

Title VII: Solidarity clause

## **General provisions**

**159)** The following new Title I and new Article 188a shall be inserted:

"TITLE I  
GENERAL PROVISIONS ON  
THE UNION'S EXTERNAL ACTION

Article 188a

The Union's action on the international scene, pursuant to this Part, shall be guided by the principles, pursue the objectives and be conducted in accordance with the general provisions laid down in Chapter 1 of Title V of the Treaty on European Union.

## **Common commercial policy**

**160)** A Title II with the heading "COMMON COMMERCIAL POLICY" shall be inserted, taking over the heading of Title IX of Part 3.

**161)** An Article 188b shall be inserted, with the wording of Article 131; it shall be amended as follows:

(a) the first paragraph shall be replaced by the following:

"By establishing a customs union in accordance with Articles 23 to 27, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.";

(b) the second paragraph shall be deleted.

**162)** An Article 188c shall be inserted, replacing Article 133:

"Article 188c

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures defining the framework for implementing the common commercial policy.

3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article [III-325] shall apply, subject to the special provisions of this Article.

The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by a qualified majority.

For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

The Council shall also act unanimously for the negotiation and conclusion of agreements:

- (a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity;
- (b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to [Section 7 of Chapter III of Title III and to Article III-325].

6. The exercise of the competences conferred by this Article in the field of the common commercial policy shall not affect the delimitation of competences between the Union and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of the Member States insofar as the Constitution excludes such harmonisation."

## **Development cooperation**

**163)** A Title III with the heading "COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID" shall be inserted.

**164)** A Chapter 1 "DEVELOPMENT COOPERATION" shall be inserted, taking over the heading of Title XX of Part 3.

**165)** An Article 188d shall be inserted, with the wording of Article 177; it shall be amended as follows:

(a) paragraphs 1 and 2 shall be replaced by the following:

1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States shall complement and reinforce each other.

Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries."

(b) Paragraph 3 shall be renumbered "2".

**166)** An Article 188e shall be inserted, with the wording of Article 179; it shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

"1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.";

(b) the following new paragraph 2 shall be inserted:

"2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Articles [III-292 and III-316].

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.";

(c) the current paragraph 2 shall be renumbered "3" and the current paragraph 3 shall be deleted.

**167)** An Article 188f shall be inserted, with the wording of Article 180; it shall be amended as follows:

At the beginning of paragraph 1, the following words shall be inserted: "In order to promote the complementarity and efficiency of their action, the Union ....".



**168)** An Article 188g shall be inserted, with the wording of Article 181; the second sentence of the first paragraph and the second paragraph shall be deleted.

### **Economic, financial and technical cooperation with third countries**

**169)** A Chapter 2 "ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES" shall be inserted, taking over the heading of Title XXI of Part 3.

**170)** An Article 188h shall be inserted, with the wording of Article 181a; it shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

"1. Without prejudice to the other provisions of the Treaties, and in particular [Articles 188d to 188g], the Union shall carry out economic, financial and technical cooperation measures, including assistance, in particular financial assistance, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The Union's operations and those of the Member States shall complement and reinforce each other.";

(b) paragraph 2 shall be replaced by the following:

"The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of paragraph 1."

(c) at the end of the second sentence of the first subparagraph of paragraph 3, the words "..., which shall be negotiated and concluded in accordance with Article 300" shall be deleted.

**171)** The following new Article 188i shall be inserted:

"Article 188i

When the situation in a third country requires urgent financial assistance from the Union, the Council shall adopt the necessary decisions on a proposal from the Commission."

## **Humanitarian aid**

172) The following new Chapter 3 and new Article 188j shall be inserted:

### "CHAPTER 3 HUMANITARIAN AID

#### Article 188j

1. The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union. Such operations shall be intended to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations. The Union's operations and those of the Member States shall complement and reinforce each other.

2. Humanitarian aid operations shall be conducted in compliance with the principles of international law and with the principles of impartiality, neutrality and non-discrimination.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures defining the framework within which the Union's humanitarian aid operations shall be implemented.

4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in paragraph 1 and in Article [III-292] of the Treaty on European Union.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.

5. In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall determine the rules and procedures for the operation of the Corps.

6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures.

7. The Union shall ensure that its humanitarian aid operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations system."

## **Restrictive measures**

173) The following Title IV and Article 188k shall be inserted, replacing Article 301:

### "TITLE IV RESTRICTIVE MEASURES

#### Article 188k

1. Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European Parliament thereof.
2. Where a decision adopted in accordance with Chapter 2 of Title V of the Treaty on European Union so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.
3. The acts referred to in this Article shall include necessary provisions on legal safeguards."

## **International agreements**

174) A Title V "INTERNATIONAL AGREEMENTS" shall be inserted.

175) The following Article 188l shall be inserted:

#### "Article 188l

1. The Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.
2. Agreements concluded by the Union are binding on the institutions of the Union and on its Member States.

176) An Article 188m shall be inserted, with the wording of Article 310. The word "States" shall be replaced by "third countries".

177) An Article 188n shall be inserted, replacing Article 300:

"Article 188n

1. Without prejudice to the specific provisions laid down in Article [III-315], agreements between the Union and third countries or international organisations shall be negotiated and concluded in accordance with the following procedure.
2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.
3. The Commission, or the High Representative of the Union for Foreign Affairs and Security Policy where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall submit recommendations to the Council, which shall adopt a decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or head of the Union's negotiating team.
4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.
5. The Council, on a proposal by the negotiator, shall adopt a decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force.
6. The Council, on a proposal by the negotiator, shall adopt a decision concluding the agreement.

Except where agreements relate exclusively to the common foreign and security policy, the Council shall adopt the decision concluding the agreement:

- (a) after obtaining the consent of the European Parliament in the following cases:
  - (i) association agreements;
  - (ii) agreement on Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;
  - (iii) agreements establishing a specific institutional framework by organising cooperation procedures;
  - (iv) agreements with important budgetary implications for the Union;

- (v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required.

The European Parliament and the Council may, in an urgent situation, agree upon a time-limit for consent.

- (b) after consulting the European Parliament in other cases. The European Parliament shall deliver its opinion within a time-limit which the Council may set depending on the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

7. When concluding an agreement, the Council may, by way of derogation from paragraphs 5, 6 and 9, authorise the negotiator to approve on the Union's behalf modifications to the agreement where it provides for them to be adopted by a simplified procedure or by a body set up by the agreement. The Council may attach specific conditions to such authorisation.

8. The Council shall act by a qualified majority throughout the procedure.

However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements and the agreements referred to in Article [III-319] with the States which are candidates for accession. The Council shall also act unanimously for the agreement on accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms; the decision concluding this agreement shall not come into force until it has been approved by the Member States in accordance with their respective constitutional requirements.

9. The Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a decision suspending application of an agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.

10. The European Parliament shall be immediately and fully informed at all stages of the procedure.

11. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the Treaties. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless it is amended or the Treaties are revised."

**178)** An Article 188o shall be inserted, with the wording of paragraphs 1 to 3 and 5 of Article 111; it shall be amended as follows:

- (a) in paragraph 1 of paragraph 1 and paragraph 2, the words "non-Community currencies" shall be replaced by "currencies of third States";
- (b) in the first sentence of the first subparagraph of paragraph 3, the word "States" shall be replaced by "third States" and the second subparagraph shall be deleted;
- (c) paragraph 5 shall be renumbered "4".

### **The Union's relations with international organisations and third countries and Union delegations**

**179)** The following Title VI and Articles 188p and 188q shall be inserted, with Article 188p replacing Articles 302 to 304:

"TITLE VI  
THE UNION'S RELATIONS WITH INTERNATIONAL ORGANISATIONS  
AND THIRD COUNTRIES AND UNION DELEGATIONS

Article 188p

1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.

The Union shall also maintain such relations as are appropriate with other international organisations.

2. The High Representative of the Union for Foreign Affairs and Security Policy and the Commission shall be instructed to implement this Article.

Article 188q

1. Union delegations in third countries and at international organisations shall represent the Union.

2. Union delegations shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy. They shall act in close cooperation with Member States' diplomatic and consular missions.

## **Solidarity clause**

180) The following new Title VII and new Article 188r shall be inserted:

### "TITLE VIII SOLIDARITY CLAUSE

#### Article 188r

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

- (a) – prevent the terrorist threat in the territory of the Member States;
  - protect democratic institutions and the civilian population from any terrorist attack;
  - assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;
- (b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.

2. Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

3. The arrangements for the implementation by the Union of the solidarity clause shall be defined by a decision adopted by the Council acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy. The Council shall act in accordance with Article [III-300(1)] where this decision has defence implications. The European Parliament shall be informed.

For the purposes of this paragraph and without prejudice to Article [III-344], the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article [III-261]; the two committees shall, if necessary, submit joint opinions.

4. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action."

## **Functioning of the Union**

**181)** Part Five shall be renumbered "Part Six" and its heading shall be replaced by "THE FUNCTIONING OF THE UNION".

## **European Parliament**

**182)** Article 189 shall be repealed.

**183)** Article 190 shall be amended as follows:

- (a) paragraphs 1, 2 and 3 shall be deleted and paragraphs 4 and 5 shall be renumbered 1 and 2 respectively;
- (b) in the first subparagraph of paragraph 4, renumbered as 1, the words "of its Members" shall be inserted after "election"; in the second subparagraph, the words "in accordance with a special legislative procedure" shall be inserted after "acting";
- (c) in paragraph 5, renumbered as 2, the words "acting on its own initiative in accordance with a special legislative procedure" shall be inserted after "The European Parliament".

**184)** In Article 191, the first paragraph shall be deleted; in the second paragraph, the words "referred to in Article [I-46(4)] of the Treaty on European Union" shall be inserted after "at European level".

**185)** In Article 192, the first paragraph shall be deleted; in the second paragraph, the words "of its Members" shall be replaced by "by a majority of its component members" and the following sentence shall be added at the end of the paragraph: "If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons".

**186)** Article 193 shall be amended as follows:

- (a) in the first paragraph, the words "of its Members" shall be replaced by "of its component Members";
- (b) the second paragraph shall be replaced by the following:

"The detailed provisions governing the exercise of the right of inquiry shall be determined by the European Parliament, acting on its own initiative in accordance with a special legislative procedure, after obtaining the consent of the Council and the Commission."



**187)** Article 195 shall be amended as follows:

- (a) in the first subparagraph of paragraph 1, the words at the beginning "The European Parliament shall appoint an Ombudsman empowered to receive complaints ..." shall be replaced by "A European Ombudsman elected by the European Parliament shall be empowered to receive complaints ..."; in the last part of the sentence, the words "and the Court of First Instance" shall be deleted and the following final sentence shall be added: "He or she shall examine such complaints and report on them".
- (b) in the first subparagraph of paragraph 2, the word "appointed" shall be replaced by "elected";
- (c) in paragraph 3, the words "from any body" shall be replaced by "from any institution, body, office or agency";
- (d) in paragraph 4, the words "acting on its own initiative in accordance with a special legislative procedure" shall be inserted after "The European Parliament ...".

**188)** In the second paragraph of Article 196, the words "in extraordinary session" shall be replaced by "in extraordinary part-session" and the words "of its Members" shall be replaced by "of its component members".

**189)** Article 197 shall be amended as follows:

- (a) the first paragraph shall be deleted;
- (b) the second paragraph shall be replaced by the following: "The Commission may attend all the meetings and shall, at its request, be heard.";
- (c) the fourth paragraph shall be replaced by the following: "The European Council and the Council shall be heard by the European Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council and those of the Council."

**190)** In the first paragraph of Article 198, the word "absolute" shall be deleted.

**191)** In the second paragraph of Article 199, the words "... manner laid down in its Rules of Procedure" shall be replaced by "manner laid down in the Treaties and in its Rules of Procedure".

**192)** In Article 201, the second paragraph shall be replaced by the following:

"If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the component members of the European Parliament, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from duties that he or she carries out in the Commission. They shall remain in office and continue to deal with current business until they are replaced in accordance with Articles [I-26 and I-27] of the Treaty on European Union. In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired."

## **European Council**

**193)** The following new Section 1a and new Articles 201a and 201b shall be inserted:

### "SECTION 1a THE EUROPEAN COUNCIL

#### Article 201a

1. Where a vote is taken, any member of the European Council may also act on behalf of not more than one other member.

Paragraph [1 of Article I-25] of the Treaty on European Union and paragraph [2] of Article [205] of this Treaty shall apply to the European Council when it is acting by a qualified majority. Where the European Council decides by vote, its President and the President of the Commission shall not take part in the vote.

Abstentions by members present in person or represented shall not prevent the adoption by the European Council of acts which require unanimity.

2. The President of the European Parliament may be invited to be heard by the European Council.

3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.

4. The European Council shall be assisted by the General Secretariat of the Council.

## Article 201b

The European Council shall adopt by a qualified majority:

- (a) a decision establishing the list of Council configurations other than those referred to in Article [I-24(2) and (3)] of the Treaty on European Union;
- (b) a decision on the Presidency of Council configurations, other than that of Foreign Affairs, in accordance with Article [I-24(7)] of the Treaty on European Union.

## **Council**

**194)** Articles 202 and 203 shall be repealed.

**195)** Article 205 shall be amended as follows:

- (a) paragraphs 1 and 2 shall be replaced by the following:

"1. Where it is required to act by a simple majority, the Council shall act by a majority of its component members.

2. By way of derogation from paragraph 1 of Article [I-25] of the Treaty on European Union, as from 1 November 2014 and subject to the transitional provisions referred to in Article [9 C(5)] of the Treaty on European Union, where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council, representing Member States comprising at least 65 % of the population of the Union.

3. As from 1 November 2014 and subject to the transitional provisions referred to in Article [9 C(5)] of the Treaty on European Union, in cases where not all the members of the Council participate in voting, a qualified majority shall be defined as follows:

- (a) A qualified majority shall be defined as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

- (b) By way of derogation from point (a), where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States."

(b) paragraph 4 shall be deleted and paragraph 3 shall be renumbered "4".

**196)** Article 207 shall be replaced by the following:

"Article 207

1. A committee consisting of the Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the latter. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.
2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council.

The Council shall decide on the organisation of the General Secretariat by a simple majority.

3. The Council shall act by a simple majority regarding procedural matters and for the adoption of its Rules of Procedure.

**197)** In Article 208, the following sentence shall be added at the end of the Article: "If the Commission does not submit a proposal, it shall inform the Council of the reasons."

**198)** In Article 209, the words "receiving an opinion from" shall be replaced by "consulting".

**199)** Article 210 shall be replaced by the following:

"The Council shall determine the salaries, allowances and pensions of the President of the European Council, the President of the Commission, the High Representative of the Union for Foreign Affairs and Security Policy, the members of the Commission, the Presidents, members and Registrars of the Court of Justice of the European Union, and the Secretary-General of the Council. It shall also determine any payment to be made instead of remuneration."

## **Commission**

**200)** Article 211 shall be replaced by the following:

"In accordance with Article [I-26(6)] of the Treaty on European Union, the members of the Commission shall be chosen on the basis of a system of rotation established unanimously by the European Council and on the basis of the following principles:

- (a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;
- (b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States."

**201)** Article 212 shall become a new paragraph 2 of Article 218.

**202)** In Article 213, paragraph 1 shall be deleted and paragraph 2 shall not be numbered; its first two paragraphs shall be merged and shall read as follows:

"The Members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks."

**203)** Article 214 shall be repealed.

**204)** Article 215 shall be amended as follows:

- (a) the second paragraph shall be replaced by the following two paragraphs:

A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the member's term of office by a new member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in Article [I-26(4)] of the Treaty on European Union.

The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not be filled, in particular when the remainder of the member's term of office is short.

(b) the following new fifth paragraph shall be inserted:

"In the event of resignation, compulsory retirement or death, the High Representative of the Union for Foreign Affairs and Security Policy shall be replaced, for the remainder of his or her term of office, in accordance with Article [I-28(1)] of the Treaty on European Union";

(c) the last paragraph shall be replaced by the following:

"In the case of the resignation of all the members of the Commission, they shall remain in office and continue to deal with current business until they have been replaced, in accordance with Articles [I-26] and [I-27] of the Treaty on European Union".

- 205)** In Article 217, paragraphs 1, 3 and 4 shall be deleted and paragraph 2 shall not be numbered. Its first sentence shall be replaced by the following: "Without prejudice to Article [I-28(4)] of the Treaty on European Union, the responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President, in accordance with Article [I-27(3)] of that Treaty".
- 206)** In Article 218, paragraph 1 shall be deleted; paragraph 2 shall be renumbered "1" and the words "in accordance with the provisions of this Treaty" shall be deleted. A paragraph 2 shall be inserted, with the wording of Article 212.
- 207)** In Article 219, first paragraph, the words "of the number of Members provided for in Article 213" shall be replaced by "of its members" and the second paragraph shall be replaced by "Its Rules of Procedure shall determine the quorum."

## **Court of Justice**

- 208)** In the heading of Section 4, the words "OF THE EUROPEAN UNION" shall be added.
- 209)** Article 220 shall be repealed.
- 210)** In Article 221, the first paragraph shall be deleted.
- 211)** In Article 223, the words "..., after consultation of the panel provided for in Article [III-357]" shall be added at the end of the first paragraph. The fifth paragraph shall be deleted.
- 212)** In Article 224, first paragraph, the first sentence shall be deleted and the words "of the Court" shall be inserted after "The number of Judges ...". In the second paragraph, the words "..., after consultation of the panel provided for in Article [III-357]" shall be inserted at the end of the second sentence. The fourth paragraph shall be deleted.
- 213)** The following new Article 224a shall be inserted:

### "Article 224a

A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles [III-355 and III-356].

The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament. The Council shall adopt a decision establishing the panel's operating rules and a decision appointing its members. It shall act on the initiative of the President of the Court of Justice."

- 214)** In Article 225, paragraph 1, first subparagraph, first sentence, the words "set up under Article [III-359]" shall be inserted after "a specialised court" and in paragraph 2, first subparagraph, the words "set up under Article 225a" shall be deleted.

**215)** Article 225a shall be amended as follows:

- (a) the first paragraph shall be replaced by the following text: "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish specialised courts attached to the General Court to hear and determine at first instance certain classes of action or proceeding brought in specific areas. The European Parliament and the Council shall act either on a proposal from the Commission after consultation of the Court of Justice or at the request of the Court of Justice after consultation of the Commission.";
- (b) in the second paragraph, the words "the panel" shall be replaced by "the court";
- (c) in the sixth paragraph, the following sentence shall be added at the end: "Title I of the Statute and Article 64 thereof shall in any case apply to the specialised courts."

**216)** Article 228 shall be amended as follows:

- (a) in paragraph 2, the first and second subparagraphs shall be replaced by the following wording, which becomes the first subparagraph:

"If the Commission considers that the Member State concerned has not taken the necessary measures to comply with judgment of the Court, it may bring the case before the Court of Justice of the European Union after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances."

In the second subparagraph, which has become the third, the words "of Justice" shall be deleted after "Court".

- (b) the following new paragraph 3 shall be added:

"3. When the Commission brings a case before the Court of Justice of the European Union pursuant to Article [III-360] on the grounds that the Member State concerned has failed to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure, it may, when it deems appropriate, specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that there is an infringement it may impose a lump sum or penalty payment on the Member State concerned not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment."



**217)** In Article 229a, the words "... the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, ..." shall be replaced by "... the Council, acting in accordance with a special legislative procedure and after consulting the European Parliament, ..." and the words "Community industrial property rights" shall be replaced by "European intellectual property rights".

**218)** Article 230 shall be amended as follows:

- (a) in the first paragraph, the words "acts adopted jointly by the European Parliament and the Council, ..." shall be replaced by "... legislative acts, ..." the words "and of the European Council" shall be inserted after "European Parliament" and the following sentence shall be added at the end: "It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects vis-à-vis third parties.";
- (b) in the third paragraph, the words "and by the Committee of the Regions" shall be inserted after "ECB";
- (c) the fourth paragraph shall be replaced by the following:

"Any natural or legal person may, under the same conditions, institute proceedings against an act addressed to that person or which is of direct and individual concern to him or her, and against a regulatory act which is of direct concern to him or her and does not entail implementing measures.";

- (d) the following new fifth paragraph shall be inserted:

"Acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them."

**219)** In Article 231, the second paragraph shall be replaced by the following: "However, the Court shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive."

**220)** Article 232 shall be amended as follows:

- (a) in the first paragraph, the words "the European Council," shall be inserted after "European Parliament", the words "or the European Central Bank" shall be inserted after "Commission", the word "or" before "the Commission" shall be deleted and the following sentence shall be added at the end of the paragraph: "This Article shall apply, under the same conditions, to bodies, offices and agencies of the Union which fail to act.";

- (b) in the third paragraph, the words "... , body, office or agency" shall be inserted after "... an institution";
- (c) the fourth paragraph shall be deleted.

**221)** In Article 233, first paragraph, the words "or institutions" shall be deleted and the third paragraph shall be deleted.

**222)** In Article 234, first paragraph, point (b), the words "and of the ECB" shall be deleted and point (c) shall be deleted. The following paragraph shall be added at the end of the Article: "If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court of Justice of the European Union shall act with the minimum of delay."

**223)** The following new Article 235a shall be inserted:

"Article 235a

The Court of Justice shall have jurisdiction to decide on the legality of an act adopted by the European Council or by the Council pursuant to Article [I-59] solely at the request of the Member State concerned by a determination of the European Council or of the Council and in respect solely of the procedural stipulations contained in that Article.

Such a request must be made within one month from the date of such determination. The Court shall rule within one month from the date of the request."

**224)** In Article 236, the words "... in the Staff Regulations or the Conditions of employment" shall be replaced by "... in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union".

**225)** In Article 237, point (d), at the beginning of the second sentence, the word "Governing" shall be inserted before "Council" and the words "of Justice" shall be deleted at the end, after the word "Court".

**226)** The following two new Articles 240a and 240b shall be inserted:

"Article 240a

The Court of Justice of the European Union shall not have jurisdiction with respect to Articles [I-40 and I-41] of the Treaty on European Union and the provisions of Chapter II of Title V of that Treaty concerning the common foreign and security policy and Article [III-293] of that Treaty insofar as it concerns the common foreign and security policy.

However, the Court shall have jurisdiction to monitor compliance with Article [III-308] of the Treaty on European Union and to rule on proceedings, brought in accordance with the conditions laid down in Article [III-365(4)] of this Treaty, reviewing the legality of European decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter II of Title V of the Treaty on European Union.

Article 240b

In exercising its powers regarding the provisions of [Sections 4 and 5 of Chapter IV of Title III] relating to the area of freedom, security and justice, the Court of Justice of the European Union shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security."

**227)** Article 241 shall be replaced by the following:

"Article 241

Notwithstanding the expiry of the period laid down in Article [230, fifth paragraph,] any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the Union is at issue, plead the grounds specified in Article [230, second paragraph,] in order to invoke before the Court of Justice of the European Union the inapplicability of that act."

**228)** In Article 242, second sentence, the words "of Justice" after "Court" shall be deleted.

**229)** In Article 245, the second paragraph shall be replaced by the following:

"The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may amend the provisions of the Statute, with the exception of Title I and Article 64. The European Parliament and the Council shall act either at the request of the Court of Justice and after consultation of the Commission, or on a proposal from the Commission and after consultation of the Court of Justice."

## **European Central Bank**

**230)** The following Section 4a and Article 245a shall be inserted:

"SECTION 4a  
THE EUROPEAN CENTRAL BANK

Article 245a

1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks. The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.
2. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives.
3. The European Central Bank shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.
4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles [III-185 to III-191 and Article III-196], and with the conditions laid down in the Statute of the ESCB and of the ECB. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.
5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion."

**231)** An Article 245b shall be inserted, with the wording of Article 112; it shall be amended as follows:

- (a) in paragraph 1, the words "of the Member States without a derogation as referred to in Article [III-197]" shall be inserted at the end after "... national central banks";

- (b) in paragraph 2, second subparagraph, the words "from among persons of recognised standing and professional experience in monetary or banking matters by common accord of the governments of the Member States at the level of Heads of State or Government," shall be replaced by "by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters,".

232) An Article 245c shall be inserted, with the wording of Article 113.

### **Court of Auditors**

233) In Article 246, the word "Union's" shall be inserted before "audit" and the following two paragraphs shall be added:

"It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.

It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest."

234) Article 247 shall be amended as follows:

- (a) paragraph 1 and the first subparagraph of paragraph 4 shall be deleted. Paragraphs 2 to 9 shall be renumbered 1 to 8 respectively;
- (b) in paragraph 2, renumbered 1, the word "countries" shall be replaced by "States";
- (c) in paragraph 4, the word "they" shall be replaced by "the Members of the Court of Auditors".

235) In Article 248, the word "bodies" shall be replaced by "bodies, offices or agencies".

### **Legal acts of the Union**

236) The heading of Chapter 2 shall be replaced by the following "LEGAL ACTS OF THE UNION, ADOPTION PROCEDURES AND OTHER PROVISIONS".

237) A Section 1 shall be inserted above Article 249:

"SECTION 1  
THE LEGAL ACTS OF THE UNION"

**238)** Article 249 shall be amended as follows:

(a) the first paragraph shall be replaced by the following:

"To exercise the Union's competences, the institutions shall adopt regulations, directives, recommendations and opinions."

(b) the fourth paragraph shall be replaced by the following:

"A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them."

**239)** The following new Articles 249a to 249d shall be inserted:

"Article 249a

1. The ordinary legislative procedure shall consist in the joint adoption by the European Parliament and the Council of a regulation, directive or decision on a proposal from the Commission. This procedure is defined in Article [III-396].
2. A special legislative procedure shall consist in the adoption of a regulation, directive or decision by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament.
3. Legal acts adopted by legislative procedure shall constitute legislative acts.

Article 249b

1. A legislative act may delegate to the Commission the power to adopt non-legislative acts to supplement or amend certain non-essential elements of the legislative act. The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts. The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power.
2. Legislative acts shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:
  - (a) the European Parliament or the Council may decide to revoke the delegation;
  - (b) the delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

3. The adjective "delegated" shall be inserted in the title of delegated acts.

#### Article 249c

1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.
2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Article [I-40], on the Council.
3. For the purposes of paragraph 2, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.
4. The word "implementing" shall be inserted in the title of implementing acts.

#### Article 249d

The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the Treaties provide that it shall adopt acts on a proposal from the Commission. It shall act unanimously in those areas in which unanimity is required for the adoption of a Union act. The Commission, and the European Central Bank in the specific cases provided for in the Treaties, shall adopt recommendations.

### **Procedures for the adoption of acts and other provisions**

**240)** A Section 2 "PROCEDURES FOR THE ADOPTION OF ACTS AND OTHER PROVISIONS" shall be inserted before Article 250:

**241)** In Article 250, paragraph 1 shall be replaced by the following:

"1. Where, pursuant to the Treaties, the Council acts on a proposal from the Commission, the Council may amend that proposal only by acting unanimously, except in the cases referred to in Articles [I-55, I56, III-396(10) and (13), III-404 and III-405(2)].

## **Procedures for the adoption of acts and other provisions**

242) Article 251 shall be amended as follows:

- (a) in paragraph 1 the words "to this Article ..." shall be replaced by "to the ordinary legislative procedure";
- (b) as from the second subparagraph of paragraph 2, the wording of the Article shall be replaced by the following:

### *"First reading*

- 3. The European Parliament shall adopt its position at first reading and communicate it to the Council.
- 4. If the Council approves the European Parliament's position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.
- 5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.
- 6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

### *Second reading*

- 7. If, within three months of such communication, the European Parliament:
  - (a) approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;
  - (b) rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;
  - (c) proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.

If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:

- (a) approves all those amendments, the act in question shall be deemed to have been adopted;



(b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.

#### *Conciliation*

10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.

11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

#### *Third reading*

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.

14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

#### *Special provisions*

15. Where, in the cases provided for in the Treaties, a legislative act is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the opinion of the Commission throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee in accordance with paragraph 11."

**243)** Article 252 shall be replaced by the following:

"The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature."

**244)** Article 253 shall be replaced by the following:

"Where the Treaties do not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality.

Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Treaties.

When considering draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the relevant legislative procedure in the area in question."

**245)** Article 254 shall be replaced by the following:

"1. Legislative acts adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

Legislative acts adopted under a special legislative procedure shall be signed by the President of the institution which adopted them.

Legislative acts shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

2. Non-legislative acts adopted in the form of regulations, directives or decisions, when the latter do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

Regulations and directives which are addressed to all Member States, as well as decisions which do not specify to whom they are addressed, shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

Other directives, and decisions which specify to whom they are addressed, shall be notified to those to whom they are addressed and shall take effect upon such notification."

246) The following new Article 254a shall be inserted:

"Article 254a

1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.
2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of [Article III-427], the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish provisions to that end."

247) Article 255 shall become Article 21a; it shall be amended as set out above in point 36.

248) In Article 256, first paragraph, the word "decisions" shall be replaced by "acts" and the words "or of the European Central Bank" shall be inserted after "Commission".

### **Advisory bodies**

249) The following new Chapter 3 and Article shall be inserted; Chapters 3 and 4 shall become Section 1 and Section 2 respectively and Chapter 5 shall be renumbered 4:

"CHAPTER 3  
THE UNION'S ADVISORY BODIES

Article 256a

1. The European Parliament, the Council and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee, exercising advisory functions.

2. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.
3. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas.
4. The members of the Committee of the Regions and the Economic and Social Committee shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the Union's general interest.
5. Rules governing the composition of these Committees, the designation of their members, their powers and their operations are set out in Articles [III-386 to III-392].

The rules referred to in paragraphs 2 and 3 governing the nature of their composition shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union. The Council, on a proposal from the Commission, shall adopt decisions to that end."

**250)** Articles 257 and 261 shall be repealed.

**251)** In Article 258, the second and third paragraphs shall be replaced by the following paragraph:

"The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition."

**252)** Article 259 shall be amended as follows:

(a) in paragraph 1, the first sentence shall be replaced by the following sentence:  
"The members of the Committee shall be appointed for five years.";

(b) paragraph 2 shall be replaced by the following:

2. The Council shall act after consulting the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors and of civil society to which the Union's activities are of concern."

**253)** In Article 260, in the first paragraph, the words "two years" shall be replaced by "two and a half years" and in the third paragraph, the words "of the European Parliament," shall be inserted before "of the Council".

**254)** Article 262 shall be amended as follows:

- (a) a reference to the European Parliament shall be inserted before the reference to the Council in the first, second and third paragraphs;
- (b) in the first paragraph, the word "must" shall be replaced by "shall";
- (c) in the third paragraph, the words "and that of the specialised section" shall be deleted;
- (d) the fourth paragraph shall be deleted.

**255)** Article 263 shall be amended as follows:

- (a) the first paragraph shall be deleted;
- (b) the third paragraph shall be replaced by the following:

"The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition.";
- (c) in the fourth paragraph, first sentence, the words "on proposals from the respective Member States" shall be deleted and the figure "four" shall be replaced by "five"; in the third sentence, the reference to "the first paragraph" shall be replaced by a reference to "Article [I-32](2),)";
- (d) the last paragraph shall be deleted.

## **Committee of the Regions**

**256)** In Article 264, first paragraph, the words "two years" shall be replaced by "two and a half years" and in the third paragraph, the words "of the European Parliament," shall be inserted before "of the Council".

**257)** Article 265 shall be amended as follows:

- (a) the fourth paragraph shall be deleted.
- (b) a reference to the European Parliament shall be inserted before the reference to the Council in the first, second, third and last paragraphs;

### **European Investment Bank**

**258)** In Article 266, third paragraph, the words "at the request of the Commission" shall be replaced by "on a proposal from the Commission" and the words "in accordance with a special legislative procedure" shall be inserted after "unanimously" and the reference to Articles 4, 11, and 12 and Article 18(5) of the Statute of the Bank shall be deleted.

**259)** In Article 267(b), the word "progressive" shall be deleted and the words "or functioning" shall be inserted after "establishment".

### **Financial provisions**

**260)** Article 268 shall be amended as follows:

- (a) in the first paragraph, the words "..., including those relating to the European Social Fund, ..." shall be deleted and the paragraph shall become paragraph 1;
- (b) the second paragraph shall be replaced by the following:

"The Union's annual budget shall be established by the European Parliament and the Council in accordance with Article [III-404].";

- (c) the following new paragraphs shall be inserted:

2. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the regulation referred to in Article [III-412].

3. The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the regulation referred to in Article [III-412], except in cases for which that law provides.

4. With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union's own resources and in compliance with the multiannual financial framework referred to in Article [I-55].

5. The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.

6. The Union and the Member States, in accordance with Article [III-415], shall counter fraud and any other illegal activities affecting the financial interests of the Union."

### **The Union's own resources**

**261)** A Chapter 1, "THE UNION'S OWN RESOURCES", shall be inserted before Article 269.

**262)** Article 269 shall be amended as follows:

(a) the following new first paragraph shall be inserted:

"The Union shall provide itself with the means necessary to attain its objectives and carry through its policies."

(b) the last paragraph shall be replaced by the following two paragraphs:

"The Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament adopt a regulation laying down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. That regulation shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

The Council, acting in accordance with a special legislative procedure, shall lay down implementing measures of the Union's own resources system insofar as this is provided for in the regulation adopted on the basis of the first paragraph. The Council shall act after obtaining the consent of the European Parliament."

**263)** Article 270 shall be repealed.

## **Multiannual financial framework**

264) The following new Chapter 2 and new Article 270a shall be inserted:

### "CHAPTER 2 THE MULTIANNUAL FINANCIAL FRAMEWORK

#### Article 270a

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources. It shall determine the amounts of the annual ceilings of appropriations for commitments by category of expenditure.

It shall be established for a period of at least five years.

The annual budget of the Union shall comply with the multiannual financial framework.

2. The Council, acting in accordance with a special legislative procedure, shall adopt a regulation laying down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

The European Council may, unanimously, adopt a decision authorising the Council to act by a qualified majority when adopting the regulation referred to in the first paragraph.

3. The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity.

The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly.

4. Where no Council act determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that act is adopted.

5. Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate the successful completion of the procedure."



## **The Union's annual budget**

**265)** A Chapter 3, "THE UNION'S ANNUAL BUDGET", shall be inserted after Article 270a.

**266)** An Article 270b shall be inserted, with the wording of Article 272(1).

**267)** Article 271 shall become the new Article 273a; it shall be amended as set out below in point 270.

**268)** Article 272(1) shall become Article 270b and paragraphs 2 to 10 shall be replaced by the following:

"The European Parliament and the Council, acting in accordance with a special legislative procedure, shall establish the Union's annual budget in accordance with the following provisions.

1. Each institution shall, before 1 July, draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget which may contain different estimates.

The draft budget shall contain an estimate of revenue and an estimate of expenditure.

2. The Commission shall submit a proposal containing the draft budget to the European Parliament and to the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Commission may amend the draft budget during the procedure until such time as the Conciliation Committee, referred to in paragraph 5, is convened.

3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1 October of the year preceding that in which the budget is to be implemented. The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.

4. If, within forty-two days of such communication, the European Parliament:

(a) approves the position of the Council, the budget shall be adopted;

(b) has not taken a decision, the budget shall be deemed to have been adopted;

- (c) adopts amendments by a majority of its component members, the amended draft shall be forwarded to the Council and to the Commission. The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the draft being forwarded the Council informs the European Parliament that it has approved all its amendments, the Conciliation Committee shall not meet.

5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council.

The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

6. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.

7. If, within the period of fourteen days referred to in paragraph 6:

- (a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the budget shall be deemed to be definitively adopted in accordance with the joint text, or
- (b) the European Parliament, acting by a majority of its component members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission, or
- (c) the European Parliament, acting by a majority of its component members, rejects the joint text while the Council approves it, a new draft budget shall be submitted by the Commission, or

(d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation committee on the budget heading which is the subject of the amendment shall be retained. The budget shall be deemed to be definitively adopted on this basis.

8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.

9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the budget has been definitively adopted.

10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Treaties and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure.

**269)** Article 273 shall be amended as follows:

(a) in the first paragraph, the word "voted" shall be replaced by "definitively adopted", the words "or other subdivision" shall be deleted and, at the end of the sentence, the words "... this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one twelfth of those provided for in the draft budget in course of preparation" shall be replaced by "... that sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget.";

(b) in the second paragraph, the words "on a proposal from the Commission," shall be inserted after "The Council" and the following shall be added at the end: "... in accordance with the Regulations made pursuant to Article 279. The Council shall forward the decision immediately to the European Parliament.";

(c) the third paragraph shall be deleted;

- (d) the last paragraph shall be replaced by the following:

"The decision referred to in the second paragraph shall lay down the necessary measures relating to resources to ensure application of this Article, in accordance with the acts referred to in Article [269].

It shall enter into force thirty days following its adoption if the European Parliament, acting by a majority of its component members, has not decided to reduce this expenditure within that time-limit."

- 270)** An Article 273a shall be inserted, with the wording of Article 271; it shall be amended as follows:

- (a) the first paragraph shall be deleted;
- (b) In the third paragraph, which has become the second, the words "as far as may be necessary" shall be deleted;
- (c) in the last paragraph, the words "the Council, the Commission and the Court of Justice" shall be replaced by "the European Council, the Council, the Commission and the Court of Justice of the European Union".

### **Implementation of the budget and discharge**

- 271)** A Chapter 4, "IMPLEMENTATION OF THE BUDGET AND DISCHARGE", shall be inserted before Article 274, which shall be amended as follows:

- (a) in the first paragraph, the words at the beginning "The Commission shall implement the budget" shall be replaced by "The Commission shall implement the budget in cooperation with the Member States";
- (b) the second paragraph shall be replaced by the following: "The regulations shall lay down the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities. They shall also lay down the responsibilities and detailed rules for each institution concerning its part in effecting its own expenditure."

- 272)** In Article 275, the order of the Council and the European Parliament shall be reversed.

- 273)** In Article 276(1), the words "the accounts and the financial statement referred to in Article [275]", shall be replaced by "the accounts, the financial statement and the evaluation report referred to in Article [275],".

## **Common financial provisions**

**274)** A Chapter 5, "COMMON PROVISIONS", shall be inserted before Article 277.

**275)** Article 277 shall be replaced by the following: "The multiannual financial framework and the annual budget shall be drawn up in euro."

**276)** Article 279 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

"1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Court of Auditors shall:

- (a) adopt financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers, and concerning appropriate arrangements for inspection."

(b) in paragraph 2, "unanimously" and the word "opinion" shall be deleted.

**277)** The following new Articles 279a and 279b shall be inserted:

### "Article 279a

The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.

### Article 279b

Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened, on the initiative of the Commission, under the budgetary procedures referred to in this Chapter. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the institutions over which they preside in order to facilitate the implementation of this Title."

## **Combating fraud**

278) A Chapter 6, "COMBATING FRAUD", shall be inserted before Article 280.

279) In Article 280, the following words shall be added at the end of paragraph 1: "..., and in all the Union's institutions, bodies, offices and agencies." and the last sentence in paragraph 4 shall be deleted.

## **Enhanced cooperation**

280) A Title III, "ENHANCED COOPERATION", shall be inserted after Article 280.

281) The following new Articles 280a to 280i shall be inserted:

### "Article 280a

Any enhanced cooperation shall comply with the Treaties and the law of the Union.

Such cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.

### Article 280b

Any enhanced cooperation shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.

### Article 280c

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the authorising decision. It shall also be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to any such conditions.

The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.

2. The Commission and, where appropriate, the High Representative of the Union for Foreign Affairs and Security Policy shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.

#### Article 280d

1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Treaties, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

Authorisation to proceed with the enhanced cooperation referred to in paragraph 1 shall be granted by the Council, on a proposal from the Commission and after obtaining the consent of the European Parliament.

2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the High Representative of the Union for Foreign Affairs and Security Policy, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information.

Authorisation to proceed with enhanced cooperation shall be granted by a decision of the Council acting unanimously.

#### Article 280e

All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote.

Unanimity shall be constituted by the votes of the representatives of the participating Member States only.

A qualified majority shall be defined in accordance with Article 205(3).

## Article 280f

1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article [III-419(1)] shall notify its intention to the Council and the Commission. The Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. It shall note where necessary that the conditions of participation have been fulfilled and shall adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request. On the expiry of that deadline, it shall re-examine the request, in accordance with the procedure set out in the second subparagraph. If the Commission considers that the conditions of participation have still not been met, the Member State concerned may refer the matter to the Council, which shall decide on the request. The Council shall act in accordance with Article [I-44](3). It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, the High Representative of the Union for Foreign Affairs and Security Policy and the Commission.

The Council shall confirm the participation of the Member State concerned, after consulting the High Representative of the Union for Foreign Affairs and Security Policy and after noting, where necessary, that the conditions of participation have been fulfilled. The Council, on a proposal from the High Representative, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request for participation.

For the purposes of this paragraph, the Council shall act unanimously and in accordance with Article [I-44](3).

## Article 280g

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.



## Article 280h

1. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article [I-44](3), may adopt a decision stipulating that it will act by a qualified majority.
2. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt acts under a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article [I-44](3), may adopt a decision stipulating that it will act under the ordinary legislative procedure. The Council shall act after consulting the European Parliament.
3. Paragraphs 1 and 2 shall not apply to decisions having military or defence implications.

## Article 280i

The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end."

## **General and final provisions**

- 282)** Part Six shall be renumbered "Part Seven".
- 283)** Articles 281, 286, 293, 305 and 310 to 312 shall be repealed.
- 284)** In Article 282, the following sentence shall be added at the end: "However, the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation."
- 285)** At the beginning of Article 283, the words "The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting ..." shall be replaced by "The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure on a proposal from the Commission and after consulting ...".

**286)** In Article 288, the third paragraph shall be replaced by the following:

"Notwithstanding the second paragraph, the European Central Bank shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties."

**287)** In Article 291, the words ", the European Monetary Institute " shall be deleted.

**288)** Article 294 shall become Article 48a.

**289)** Article 299 shall be amended as follows:

- (a) paragraph 1 shall be deleted. The first subparagraph of paragraph 2 and paragraphs 3 to 6 shall become Article 313; they shall be amended as set out below in point 295.

Paragraph 2 shall not be numbered;

- (b) at the beginning of the first paragraph, the word "However," shall be deleted and the words "the French overseas departments" shall be replaced by "Guadeloupe, French Guiana, Martinique, Réunion"; the following sentence shall be added at the end of the paragraph: "Such acts shall take the form of legislative acts where the legal basis for the adoption of Union measures in the area concerned provides for the adoption of legislative acts.";
- (c) at the beginning of the second paragraph, the words "The Council shall, when adopting the relevant measures referred to in the second subparagraph, take into account areas such as" shall be replaced by "The acts referred to in the first paragraph concern in particular areas such as ...".

**290)** Articles 300 and 301 shall be replaced by Articles 188n and 188k respectively and Articles 302 to 304 shall be replaced by Article 188p.

**291)** Article 308 shall be replaced by the following:

"Article 308

1. If action by the Union should prove necessary, within the framework of the policies defined by the Treaties, to attain one of the objectives set out by the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures.

2. Using the procedure for monitoring the subsidiarity principle referred to in Article [I-11](3) of the Treaty on European Union, the Commission shall draw national Parliaments' attention to proposals based on this Article.

3. Measures based on this Article shall not entail harmonisation of Member States' laws or regulations in cases where the Treaties exclude such harmonisation.

4. This Article cannot serve as a basis for attaining objectives pertaining to the common foreign and security policy and shall respect the limits set out in Article [III-308, second paragraph]."

**292)** The following new Article 308a shall be inserted:

"Article 308a

Article [IV-444] of the Treaty on European Union shall not apply to the following Articles:

- 201b, point (a),
- 201b, point (b),
- 211,
- 256a(3) second subparagraph,
- 269, third and fourth paragraphs,
- 270a(2),
- 308,
- 309, and
- 313(6)."

**293)** Article 309 shall be replaced by the following:

"Article 309

For the purposes of Article [I-59] of the Treaty on European Union on the suspension of certain rights resulting from Union membership, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2 of that Article. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2 of that Article.

For the adoption of the decisions referred to in paragraphs 3 and 4 of that Article, a qualified majority shall be defined in accordance with Article 205(3)(b).

Where, following a decision to suspend voting rights adopted pursuant to paragraph 3 of that Article, the Council acts by a qualified majority on the basis of a provision of the Treaties, that qualified majority shall be defined as in the second paragraph, or, where the Council acts on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, in accordance with Article 205(3)(a).

For the purposes of Article [I-59], the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component members."

**294)** Article 310 shall become Article 188m;

**295)** Article 313 shall be replaced by a text combining Article 299(2), first subparagraph, and Article 299(3) to (6); the text shall be amended as follows:

- (a) the first subparagraph of paragraph 2 and paragraphs 3 to 6 shall be renumbered 1 to 5 and the following new introductory wording shall be inserted at the beginning of the Article:

"In addition to the provisions of Article [IV-440] of the Treaty on European Union relating to the territorial scope of the Treaties, the following provisions shall apply:";

- (b) at the beginning of the first subparagraph of paragraph 2, renumbered 1, the words "the French overseas departments, ..." shall be replaced by "Guadeloupe, French Guiana, Martinique, Réunion, ..." and the words "in accordance with Article [III-424]" shall be added at the end;
- (c) in paragraph 3, renumbered 2, the words "of this Treaty" shall be deleted.
- (d) in paragraph 6, renumbered 5, the introductory words "Notwithstanding the preceding paragraphs:" shall be replaced by "Notwithstanding Article [IV-440] of the Treaty on European Union and paragraphs 1 to 4:";
- (e) the following new paragraph shall be inserted at the end of the Article:

"6. The European Council may, on the initiative of the Member State concerned, adopt a decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 1 and 2. The European Council shall act unanimously after consulting the Commission."

**296)** Article 314 shall be replaced by the following:

"The final provisions of the Treaty on European Union shall apply to this Treaty."

## **FINAL PROVISIONS**

### **Article 3**

This Treaty is concluded for an unlimited period.

### **Article 4**

1. Protocol [No 11] annexed to this Treaty contains the amendments to the Protocols annexed to the Treaty on European Union, to the Treaty establishing the European Community and/or to the Treaty establishing the European Atomic Energy Community.
2. Protocol [No 12] annexed to this Treaty contains the amendments to the Treaty establishing the European Atomic Energy Community.

### **Article 5**

1. The articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the Union, as amended by this Treaty, shall be renumbered in accordance with the tables of equivalences set out in the Annex to this Treaty.
2. The cross references to the articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the Union, as well as between them, shall be adapted accordingly. The same shall apply as regards references to the articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the Union contained in the other treaties and acts of primary legislation on which the Union is founded.
3. The references to the articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the Union contained in other instruments or acts shall be understood as referring to the articles, parts, titles, chapters and sections of those Treaties as renumbered pursuant to paragraph 1 and, respectively, to the paragraphs of the said articles, as renumbered by certain provisions of this Treaty.

## Article 6

1. This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
2. This Treaty shall enter into force on 1 January 2009, provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the second month following the deposit of the instrument of ratification by the last signatory State to take this step.

## Article 7

This Treaty, drawn up in a single original in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

Done at, ...

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**CORRIGENDUM TO NOTE**

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from: Presidency of the IGC  
date: 23 July 2007  
to: Intergovernmental Conference (IGC)  
Subject: **IGC 2007**  
Draft Treaty amending the Treaty on European Union and the Treaty establishing  
the European Community

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The following corrections should be made to the English translation:

Page 23, point 33(a): the insertion should read "any Member State, the High Representative of the Union for Foreign Affairs and Security Policy, or the High Representative ...".

Page 28: closing quotation marks should be inserted at the end of point 44.

Page 37: closing quotation marks should be inserted at the end of point 58.

Page 44: point 11: "Article 9" should read "Article 1".

Page 53: the end of point 42 should read "shall be replaced by "... for the establishment ...".

Page 76, point 93: "Article 1880" should read "Article 1880".

Page 80, point 99(b): the beginning of point (i) should read "the first five indents shall become the first five indents of the second paragraph of Article 118; they shall ....".

Page 82: the quotation marks at the end of point 102(a) should be deleted.

Page 87: the beginning of the text inserted by point 129(a) should read as follows:

"1. The Union shall have the objective of strengthening its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encouraging it to become more competitive ...".

Page 90: In point 139, closing quotation marks should be inserted at the end of paragraph 3.  
In point 142(a), opening quotation marks should be inserted before "The Union ...".

Page 91: In point 142(d), the last line should read: "shall begin with the words "the Council, on a proposal ...".  
In point 146, the end of the sentence should read "Title XIII".

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- Page 95: The heading above point 155 should read "Association of the overseas countries and territories".  
The beginning of point 155 should read "At the end of the first paragraph of Article 182".
- Page 96: The heading at the top of the page should read "The Union's external action (other than the CFSP)" and the heading in point 158 should read "THE UNION'S EXTERNAL ACTION IN AREAS OTHER THAN THE COMMON FOREIGN AND SECURITY POLICY".  
Point 159 should have closing quotation marks at the end.  
The end of point 160 should read "Part Three".
- Page 98: the end of point 164 should read "Part Three".
- Page 100: the end of point 169 should read "Part Three".
- Page 104: in the new Article 188n(8), the end of the last sentence should read: "the decision concluding this agreement shall enter into force after it has been approved by the Member States in accordance with their respective constitutional requirements."
- Page 105: point 178(a): "of paragraph 1" should be deleted after "in paragraph 1".
- Page 111: closing quotation marks should be inserted at the end of point 196.
- Page 112, point 204: opening quotation marks should be inserted before "A vacancy...".
- Page 113, point 204: closing quotation marks should be inserted after "is short".
- Page 118, point 226: in Article 240a the references to "Chapter II of Title V" should read "Chapter 2 of Title V".
- Page 135: point 270(c), the insertion should read: "the European Council and the Council, the Commission and the Court of Justice of the European Union".
- Page 136: In point 276(a), points (a) and (b) of the insertion should read:  
"(a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;  
(b) lay down rules providing for checks on the responsibility of financial controllers, authorising officers and accounting officers, and concerning appropriate arrangements for inspection."  
Point 276(b) should read "in paragraph 2, the word "unanimously" and the word "opinion" shall be deleted."
- Page 141, point 291: the first two lines of Article 308(1) should read "... to attain one of the objectives set out in the Treaties ...".
- Page 145: Article 6(2) should read "... or, failing that, on the first day of the month following the deposit ...".



**NOTE**

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from: Presidency of the IGC  
dated: 23 July 2007  
to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**  
Draft Treaty amending the Treaty on European Union and the Treaty establishing the European Community – Protocols

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**DRAFT  
TREATY AMENDING  
THE TREATY ON EUROPEAN UNION AND  
THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY**

**PROTOCOLS**

- Protocols 1 to 10 to be annexed to the Treaty on European Union and/or to the Treaty on the Functioning of the Union
- Protocols 11 and 12 to be annexed to the Treaty amending the Treaty on European Union and the Treaty establishing the European Community

*N.B.:*

*This document is only a working document for examination by the IGC. The cross-references between Articles which appear in square brackets will, as usual, be corrected by the Legal/Linguistic experts when they finalise the text of the Reform Treaty before it is signed.*



**A. PROTOCOLS TO BE ANNEXED TO THE TREATY ON EUROPEAN UNION AND/OR TO THE TREATY ON THE FUNCTIONING OF THE UNION**

**PROTOCOL (No 1)**

**ON THE ROLE OF NATIONAL PARLIAMENTS  
IN THE EUROPEAN UNION**

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which national Parliaments scrutinise their governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State;

DESIRING to encourage greater involvement of national Parliaments in the activities of the European Union and to enhance their ability to express their views on draft European legislative acts as well as on other matters which may be of particular interest to them,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, to the Treaty on the Functioning of the Union and to the Treaty establishing the European Atomic Energy Community:

**TITLE I**

**INFORMATION FOR NATIONAL PARLIAMENTS**

**Article 1**

Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to national Parliaments upon publication. The Commission shall also forward the annual legislative programme as well as any other instrument of legislative planning or policy to national Parliaments, at the same time as to the European Parliament and the Council.

## Article 2

Draft legislative acts sent to the European Parliament and to the Council shall be forwarded to national Parliaments.

For the purposes of this Protocol, "draft legislative acts" shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

Draft legislative acts originating from the Commission shall be forwarded to national Parliaments directly by the Commission, at the same time as to the European Parliament and the Council.

Draft legislative acts originating from the European Parliament shall be forwarded to national Parliaments directly by the European Parliament.

Draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank shall be forwarded to national Parliaments by the Council.

## Article 3

National Parliaments may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion on whether a draft legislative act complies with the principle of subsidiarity, in accordance with the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the reasoned opinion or opinions to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the reasoned opinion or opinions to the institution or body concerned.

#### Article 4

An eight-week period shall elapse between a draft legislative act being made available to national Parliaments in the official languages of the Union and the date when it is placed on a provisional agenda for the Council for its adoption or for adoption of a position under a legislative procedure. Exceptions shall be possible in cases of urgency, the reasons for which shall be stated in the act or position of the Council. Save in urgent cases for which due reasons have been given, no agreement may be reached on a draft legislative act during those eight weeks. Save in urgent cases for which due reasons have been given, a ten-day period shall elapse between the placing of a draft legislative act on the provisional agenda for the Council and the adoption of a position.

#### Article 5

The agendas for and the outcome of meetings of the Council, including the minutes of meetings where the Council is deliberating on draft legislative acts, shall be forwarded directly to national Parliaments, at the same time as to Member States' governments.

#### Article 6

When the European Council intends to make use of Article [IV-444](1) or (2) of the Treaty on European Union, national Parliaments shall be informed of the initiative of the European Council at least six months before any decision is adopted.

#### Article 7

The Court of Auditors shall forward its annual report to national Parliaments, for information, at the same time as to the European Parliament and to the Council.

#### Article 8

Where the national Parliamentary system is not unicameral, Articles 1 to 7 shall apply to the component chambers.

## TITLE II

### INTERPARLIAMENTARY COOPERATION

#### Article 9

The European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular interparliamentary cooperation within the Union.

#### Article 10

A conference of Parliamentary Committees for Union Affairs may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the conference shall not bind national Parliaments and shall not prejudice their positions.

## **PROTOCOL (No 2)**

### **ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY**

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the Union;

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as laid down in Article [I-11] of the Treaty on European Union, and to establish a system for monitoring the application of those principles,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

#### Article 1

Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article [I-11] of the Treaty on European Union.

#### Article 2

Before proposing legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for its decision in its proposal.

#### Article 3

For the purposes of this Protocol, "draft legislative acts" shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

#### Article 4

The Commission shall forward its draft legislative acts and its amended drafts to national Parliaments at the same time as to the Union legislator.

The European Parliament shall forward its draft legislative acts and its amended drafts to national Parliaments.

The Council shall forward draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank and amended drafts to national Parliaments.

Upon adoption, legislative resolutions of the European Parliament and positions of the Council shall be forwarded by them to national Parliaments.

#### Article 5

Draft legislative acts shall be justified with regard to the principles of subsidiarity and proportionality. Any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level shall be substantiated by qualitative and, wherever possible, quantitative indicators. Draft legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

#### Article 6

Any national Parliament or any chamber of a national Parliament may, within eight weeks from the date of transmission of a draft legislative act, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the opinion to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the opinion to the institution or body concerned.



## Article 7

1. The European Parliament, the Council and the Commission, and, where appropriate, the group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, shall take account of the reasoned opinions issued by national Parliaments or by a chamber of a national Parliament.

Each national Parliament shall have two votes, shared out on the basis of the national Parliamentary system. In the case of a bicameral Parliamentary system, each of the two chambers shall have one vote.

2. Where reasoned opinions on a draft legislative act's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the draft must be reviewed. This threshold shall be a quarter in the case of a draft legislative act submitted on the basis of Article [III-264] of the Treaty on the Functioning of the Union on the area of freedom, security and justice.

After such review, the Commission or, where appropriate, the group of Member States, the European Parliament, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, may decide to maintain, amend or withdraw the draft. Reasons must be given for this decision.

3. Furthermore, under the ordinary legislative procedure, where reasoned opinions on the non-compliance of a proposal for a legislative act with the principle of subsidiarity represent at least a simple majority of the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the proposal must be reviewed. After such review, the Commission may decide to maintain, amend or withdraw the proposal.

If it chooses to maintain the proposal, the Commission will have, in a reasoned opinion, to justify why it considers that the proposal complies with the principle of subsidiarity. This reasoned opinion, as well as the reasoned opinions of the national Parliaments, will have to be submitted to the Union legislator, for consideration in the procedure:

- (a) before concluding the first reading, the legislator (Council and European Parliament) shall consider whether the legislative proposal is compatible with the principle of subsidiarity, taking particular account of the reasons expressed and shared by the majority of national Parliaments as well as the reasoned opinion of the Commission;
- (b) if, by a majority of 55 % of the members of the Council or a majority of the votes cast in the European Parliament, the legislator is of the opinion that the proposal is not compatible with the principle of subsidiarity, the legislative proposal shall not be given further consideration.

## Article 8

The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act, brought in accordance with the rules laid down in Article [III-365] of the Treaty on the Functioning of the Union by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber of it.

In accordance with the rules laid down in the said Article, the Committee of the Regions may also bring such actions against legislative acts for the adoption of which the Treaty on the Functioning of the Union provides that it be consulted.

## Article 9

The Commission shall submit each year to the European Council, the European Parliament, the Council and national Parliaments a report on the application of Article [I-11] of the Treaty on European Union. This annual report shall also be forwarded to the Committee of the Regions and to the Economic and Social Committee.

**PROTOCOL (No 3)**  
**ON THE EURO GROUP**

THE HIGH CONTRACTING PARTIES,

DESIRING to promote conditions for stronger economic growth in the European Union and, to that end, to develop ever-closer coordination of economic policies within the euro area,

CONSCIOUS of the need to lay down special provisions for enhanced dialogue between the Member States whose currency is the euro, pending the euro becoming the currency of all Member States of the Union,

HAVE AGREED UPON the following provisions, which are annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Article 1

The Ministers of the Member States whose currency is the euro shall meet informally. Such meetings shall take place, when necessary, to discuss questions related to the specific responsibilities they share with regard to the single currency. The Commission shall take part in the meetings. The European Central Bank shall be invited to take part in such meetings, which shall be prepared by the representatives of the Ministers with responsibility for finance of the Member States whose currency is the euro and of the Commission.

Article 2

The Ministers of the Member States whose currency is the euro shall elect a president for two and a half years, by a majority of those Member States.



**PROTOCOL (No 4)**

**ON PERMANENT STRUCTURED COOPERATION  
ESTABLISHED BY ARTICLE [I-41] OF THE TREATY ON EUROPEAN UNION**

THE HIGH CONTRACTING PARTIES,

HAVING REGARD TO Article [I-41(6)] and Article [III-312] of the Treaty on European Union,

RECALLING that the Union is pursuing a common foreign and security policy based on the achievement of growing convergence of action by Member States;

RECALLING that the common security and defence policy is an integral part of the common foreign and security policy; that it provides the Union with operational capacity drawing on civil and military assets; that the Union may use such assets in the tasks referred to in Article [III-309] of the Treaty on European Union outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter; that the performance of these tasks is to be undertaken using capabilities provided by the Member States in accordance with the principle of a single set of forces;

RECALLING that the common security and defence policy of the Union does not prejudice the specific character of the security and defence policy of certain Member States;

RECALLING that the common security and defence policy of the Union respects the obligations under the North Atlantic Treaty of those Member States which see their common defence realised in the North Atlantic Treaty Organisation, which remains the foundation of the collective defence of its members, and is compatible with the common security and defence policy established within that framework;

CONVINCED that a more assertive Union role in security and defence matters will contribute to the vitality of a renewed Atlantic Alliance, in accordance with the Berlin Plus arrangements;

DETERMINED to ensure that the Union is capable of fully assuming its responsibilities within the international community;

RECOGNISING that the United Nations Organisation may request the Union's assistance for the urgent implementation of missions undertaken under Chapters VI and VII of the United Nations Charter;

RECOGNISING that the strengthening of the security and defence policy will require efforts by Member States in the area of capabilities;

CONSCIOUS that embarking on a new stage in the development of the European security and defence policy involves a determined effort by the Member States concerned;

RECALLING the importance of the High Representative of the Union for Foreign Affairs and Security Policy being fully involved in proceedings relating to permanent structured cooperation,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

#### Article 1

The permanent structured cooperation referred to in Article [I-41(6)] of the Treaty on European Union shall be open to any Member State which undertakes, from the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, to:

- (a) proceed more intensively to develop its defence capacities through the development of its national contributions and participation, where appropriate, in multinational forces, in the main European equipment programmes, and in the activity of the Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency), and
- (b) have the capacity to supply by 2010 at the latest, either at national level or as a component of multinational force groups, targeted combat units for the missions planned, structured at a tactical level as a battle group, with support elements including transport and logistics, capable of carrying out the tasks referred to in Article [III-309] of the Treaty on European Union, within a period of 5 to 30 days, in particular in response to requests from the United Nations Organisation, and which can be sustained for an initial period of 30 days and be extended up to at least 120 days.

#### Article 2

To achieve the objectives laid down in Article 1, Member States participating in permanent structured cooperation shall undertake to:

- (a) cooperate, as from the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, with a view to achieving approved objectives concerning the level of investment expenditure on defence equipment, and regularly review these objectives, in the light of the security environment and of the Union's international responsibilities;

- (b) bring their defence apparatus into line with each other as far as possible, particularly by harmonising the identification of their military needs, by pooling and, where appropriate, specialising their defence means and capabilities, and by encouraging cooperation in the fields of training and logistics;
- (c) take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces, in particular by identifying common objectives regarding the commitment of forces, including possibly reviewing their national decision-making procedures;
- (d) work together to ensure that they take the necessary measures to make good, including through multinational approaches, and without prejudice to undertakings in this regard within the North Atlantic Treaty Organisation, the shortfalls perceived in the framework of the "Capability Development Mechanism";
- (e) take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency.

### Article 3

The European Defence Agency shall contribute to the regular assessment of participating Member States' contributions with regard to capabilities, in particular contributions made in accordance with the criteria to be established, *inter alia*, on the basis of Article 2, and shall report thereon at least once a year. The assessment may serve as a basis for Council recommendations and decisions adopted in accordance with Article [III-312] of the Treaty on European Union.





## **PROTOCOL (No 5)**

### **RELATING TO ARTICLE [I-9(2)] OF THE TREATY ON EUROPEAN UNION ON THE ACCESSION OF THE UNION TO THE EUROPEAN CONVENTION ON THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

#### **THE HIGH CONTRACTING PARTIES**

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

#### **Article 1**

The agreement relating to the accession of the Union to the European Convention on the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the "European Convention") provided for in Article [I-9(2)] of the Treaty on European Union shall make provision for preserving the specific characteristics of the Union and Union law, in particular with regard to:

- (a) the specific arrangements for the Union's possible participation in the control bodies of the European Convention;
- (b) the mechanisms necessary to ensure that proceedings by non-Member States and individual applications are correctly addressed to Member States and/or the Union as appropriate.

#### **Article 2**

The agreement referred to in Article 1 shall ensure that accession of the Union shall not affect the competences of the Union or the powers of its institutions. It shall ensure that nothing therein affects the situation of Member States in relation to the European Convention, in particular in relation to the Protocols thereto, measures taken by Member States derogating from the European Convention in accordance with Article 15 thereof and reservations to the European Convention made by Member States in accordance with Article 57 thereof.

#### **Article 3**

Nothing in the agreement referred to in Article 1 shall affect Article [III-375(2)] of the Treaty on the Functioning of the Union.



**PROTOCOL (No 6)**  
**ON THE INTERNAL MARKET AND COMPETITION**

THE HIGH CONTRACTING PARTIES,

CONSIDERING that the internal market as set out in Article [I-3] of the Treaty on European Union includes a system ensuring that competition is not distorted,

HAVE AGREED UPON the following provision, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Sole Article

For the purposes of the first recital, the Union shall, if necessary, take action under the provisions of the Treaties, including under Article [308] of the Treaty on the Functioning of the Union.



**PROTOCOL (No 7)**

**ON THE APPLICATION OF THE CHARTER OF FUNDAMENTAL RIGHTS  
TO THE UNITED KINGDOM**

THE HIGH CONTRACTING PARTIES,

WHEREAS in Article [I-9] of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights;

WHEREAS the Charter is to be applied in strict accordance with the provisions of the aforementioned Article [I-9] and Title VII of the Charter itself;

Whereas the aforementioned Article [I-9] requires the Charter to be applied and interpreted by the courts of the United Kingdom strictly in accordance with the explanations referred to in that Article;

WHEREAS the Charter contains both rights and principles;

WHEREAS the Charter contains both provisions which are civil and political in character and those which are economic and social in character;

WHEREAS the Charter reaffirms the rights, freedoms and principles recognised in the Union and makes those rights more visible, but does not create new rights or principles;

RECALLING the United Kingdom's obligations under the Treaty on European Union, the Treaty on the Functioning of the Union, and Union law generally;

NOTING the wish of the United Kingdom to clarify certain aspects of the application of the Charter;

DESIROUS therefore of clarifying the application of the Charter in relation to the laws and administrative action of the United Kingdom and of its justiciability within the United Kingdom;

REAFFIRMING that references in this Protocol to the operation of specific provisions of the Charter are strictly without prejudice to the operation of other provisions of the Charter;

REAFFIRMING that this Protocol is without prejudice to the application of the Charter to other Member States;

REAFFIRMING that this Protocol is without prejudice to other obligations of the United Kingdom under the Treaty on European Union, the Treaty on the Functioning of the Union, and Union law generally,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union:

#### Article 1

1. The Charter does not extend the ability of the Court of Justice, or any court or tribunal of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms.
2. In particular, and for the avoidance of doubt, nothing in Title IV of the Charter creates justiciable rights applicable to the United Kingdom except in so far as the United Kingdom has provided for such rights in its national law.

#### Article 2

To the extent that a provision of the Charter refers to national laws and practices, it shall only apply to the United Kingdom to the extent that the rights or principles that it contains are recognised in the law or practices of the United Kingdom.

**PROTOCOL (No 8)**  
**ON THE EXERCISE OF SHARED COMPETENCE**

THE HIGH CONTRACTING PARTIES

HAVE AGREED UPON the following provision, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Sole Article

With reference to Article [I-12(2)] of the Treaty on the Functioning of the Union on shared competence, when the Union has taken action in a certain area, the scope of this exercise of competence only covers those elements governed by the Union act in question and therefore does not cover the whole area.





**PROTOCOL (No 9)**  
**ON SERVICES OF GENERAL INTEREST**

THE HIGH CONTRACTING PARTIES,

WISHING to emphasise the importance of services of general interest,

HAVE AGREED UPON the following interpretative provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Article 1

The shared values of the Union in respect of services of general economic interest within the meaning of Article [III-122] of the Treaty on the Functioning of the Union include in particular:

- the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users;
- the diversity between various services of general economic interest and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations;
- a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights.

Article 2

The provisions of the Treaties do not affect in any way the competence of Member States to provide, commission and organise non-economic services of general interest.



**PROTOCOL (No 10)**  
**ON TRANSITIONAL PROVISIONS**

THE HIGH CONTRACTING PARTIES,

WHEREAS, in order to organise the transition from the institutional provisions of the Treaties applicable prior to the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community to the provisions contained in that Treaty, it is necessary to lay down transitional provisions,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, to the Treaty on the Functioning of the Union and to the Treaty establishing the European Atomic Energy Community:

In this Protocol, the words "the Treaties" shall mean the Treaty on European Union, the Treaty on the Functioning of the Union and the Treaty establishing the European Atomic Energy Community.

**TITLE I**  
**PROVISIONS CONCERNING THE EUROPEAN PARLIAMENT**

Article 1

In accordance with [the second subparagraph of Article I-20(2)] of the Treaty on European Union, the European Council shall adopt a decision determining the composition of the European Parliament in good time before the 2009 European Parliament elections.

**TITLE II**  
**PROVISIONS CONCERNING THE QUALIFIED MAJORITY**

Article 2

1. In accordance with Article [I-25(1)], the provisions of Article [I-25(1), (2) and (3)] of the Treaty on European Union on the definition of a qualified majority in the European Council and the Council shall take effect on 1 November 2014.

2. Between 1 November 2014 and 31 March 2017, when an act is to be adopted by qualified majority, a member of the Council may request that it be adopted in accordance with the qualified majority as defined in paragraph 3. In that case, paragraph 3 shall apply.

3. Until 31 October 2014, the following provisions shall remain in force:

For acts of the European Council and of the Council requiring a qualified majority, members' votes shall be weighted as follows:

Belgium	12
Bulgaria	10
Czech Republic	12
Denmark	7
Germany	29
Estonia	4
Greece	12
Spain	27
France	29
Ireland	7
Italy	29
Cyprus	4
Latvia	4
Lithuania	7
Luxembourg	4
Hungary	12
Malta	3
Netherlands	13
Austria	10
Poland	27
Portugal	12
Romania	14
Slovenia	4
Slovakia	7
Finland	7
Sweden	10
United Kingdom	29

Acts shall be adopted if there are at least 255 votes in favour representing a majority of the members where, under the Treaties, they must be adopted on a proposal from the Commission. In other cases decisions shall be adopted if there are at least 255 votes in favour representing at least two thirds of the members.

A member of the European Council or the Council may request that, where an act is adopted by the European Council or the Council by a qualified majority, a check is made to ensure that the Member States comprising the qualified majority represent at least 62 % of the total population of the Union. If that proves not to be the case, the act shall not be adopted.

4. Until 31 October 2014, the qualified majority shall, in cases where not all the members of the Council participate in voting, namely in the cases where reference is made to the qualified majority as defined in Article 250(3) of the Treaty on the Functioning of the Union, be defined as the same proportion of the weighted votes and the same proportion of the number of the Council members and, if appropriate, the same percentage of the population of the Member States concerned as laid down in paragraph 3.

### TITLE III PROVISIONS CONCERNING THE CONFIGURATIONS OF THE COUNCIL

#### Article 3

Until the entry into force of the decision referred to in Article [I-24(4)] of the Treaty on European Union, the Council may meet in the configurations laid down in Article [I-24(2) and (3)] and in the other configurations on the list established by a decision of the General Affairs Council, acting by a simple majority.

### TITLE IV PROVISIONS CONCERNING THE COMMISSION, INCLUDING THE HIGH REPRESENTATIVE OF THE UNION FOR FOREIGN AFFAIRS AND SECURITY POLICY

#### Article 4

The members of the Commission in office on the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community shall remain in office until the end of their term of office. However, on the day of the appointment of the High Representative of the Union for Foreign Affairs and Security Policy, the term of office of the member having the same nationality as the High Representative shall end.

TITLE IV  
PROVISIONS CONCERNING THE SECRETARY-GENERAL OF THE COUNCIL, HIGH  
REPRESENTATIVE FOR THE COMMON FOREIGN AND SECURITY POLICY, AND  
THE DEPUTY SECRETARY-GENERAL OF THE COUNCIL

Article 5

The terms of office of the Secretary-General of the Council, High Representative for the common foreign and security policy, and the Deputy Secretary-General of the Council shall end on the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community. The Council shall appoint a Secretary-General in conformity with Article [III-344(2)] of the Treaty on the Functioning of the Union.

TITLE V  
PROVISIONS CONCERNING ADVISORY BODIES

Article 6

Until entry into force of the decision referred to in Article [III-386] of the Treaty on the Functioning of the Union, the allocation of members of the Committee of the Regions shall be as follows:

Belgium	12	Sweden	12
Bulgaria	12	Czech Republic	12
Denmark	9	Germany	24
Estonia	7	Greece	12
Spain	21	France	24
Ireland	9	Italy	24
Cyprus	6	Latvia	7
Lithuania	9	Luxembourg	6
Hungary	12	Malta	5
Netherlands	12	Austria	12
Poland	21	Portugal	12
Romania	15	Slovenia	7
Slovakia	9	Finland	9
		United Kingdom	24

## Article 7

Until entry into force of the decision referred to in Article [III-389] of the Treaty on the Functioning of the Union, the allocation of members of the Economic and Social Committee shall be as follows:

Belgium	12	Sweden	12
Bulgaria	12	Czech Republic	12
Denmark	9	Germany	24
Estonia	7	Greece	12
Spain	21	France	24
Ireland	9	Italy	24
Cyprus	6	Latvia	7
Lithuania	9	Luxembourg	6
Hungary	12	Malta	5
Netherlands	12	Austria	12
Poland	21	Portugal	12
Romania	15	Slovenia	7
Slovakia	9	Finland	9
		United Kingdom	24

## TITLE VI

TRANSITIONAL PROVISIONS CONCERNING ACTS ADOPTED ON THE BASIS OF  
TITLES V AND VI OF THE TREATY ON EUROPEAN UNION  
PRIOR TO THE ENTRY INTO FORCE OF THE TREATY AMENDING THE TREATY ON  
EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

## Article 8

The legal effects of the acts of the institutions, bodies, offices and agencies of the Union adopted on the basis of Titles V and VI of the Treaty on European Union prior to the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community shall be preserved until those acts are repealed, annulled or amended in implementation of the Treaties. The same shall apply to agreements concluded between Member States on the basis of those Titles.





**B. PROTOCOLS TO BE ANNEXED TO THE TREATY AMENDING THE TREATY ON EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY**

**PROTOCOL (No 11)**

**AMENDING THE PROTOCOLS ANNEXED TO THE TREATY ON EUROPEAN UNION,  
TO THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY  
AND/OR TO THE TREATY ESTABLISHING  
THE EUROPEAN ATOMIC ENERGY COMMUNITY**

THE HIGH CONTRACTING PARTIES,

DESIRING to amend the Protocols annexed to the Treaty on European Union, to the Treaty establishing the European Community and/or to the Treaty establishing the European Atomic Energy Community, in order to adapt them to the new rules laid down by the Treaty amending the Treaty on European Union and the Treaty establishing the European Community,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty establishing the European Community:

Sole Article

1) The protocols in force on the date of entry into force of this Treaty and annexed to the Treaty on European Union and/or to the Treaty establishing the European Community and/or to the Treaty establishing the European Atomic Energy Community shall be amended in accordance with the provisions of this Article.

2) No later than six months after the signing of this Treaty, the Council, acting unanimously and after consulting the Commission, shall make the necessary adjustments in the Protocols to the references in them to Articles of the Treaty on European Union and of the Treaty on the Functioning of the Union. The Council shall consult the Court of Justice and the European Central Bank on the respective protocols concerning them. These adjustments shall enter into force on the date of the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community.

## **A. HORIZONTAL AMENDMENTS**

- 3) The horizontal amendments laid down in Article 2(3) of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community shall apply to the Protocols referred to in this Article, with the exception of points (d), (e), (j) and (k).
- 4) In the Protocols referred to in point 1 of this Article:
- (a) the last recital of their respective preambles, referring to the Treaty or Treaties to which the Protocol in question is annexed, shall be replaced by "HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union".
- The Protocol on the Statute of the Court of Justice of the European Union, the Protocol on Article 40.3.3 of the Constitution of Ireland and the Protocol on the privileges and immunities of the European Union shall also be annexed to the Treaty establishing the European Atomic Energy Community;
- (b) the word "Communities" shall be replaced by "Union" and grammatical changes shall be made, where necessary.
- 5) In the following Protocols, the words "the Treaty" and "this Treaty" shall be replaced by "the Treaties" and "these Treaties" respectively, and references to the Treaty on European Union and/or to the Treaty establishing the European Community shall be replaced by a reference to the Treaties:
- (a) Protocol on the Statute of the Court of Justice of the European Union:
    - Article 1
  - (b) Protocol on the Statute of the European System of Central Banks and of the European Central Bank:
    - Article 1.1, new second subparagraph;
    - Article 12.1, first subparagraph;
    - Article 14.1;
    - Article 14.2, second subparagraph;
    - Article 34.1, second indent;
    - Article 35.1;
  - (c) Protocol on the excessive deficit procedure:
    - Article 3, second sentence;
  - (d) Protocol on certain provisions relating to Denmark:
    - point 2, renumbered 1, second sentence;

- (e) Protocol on the Schengen *acquis*:
    - sixth recital;
    - Article 1;
  - (f) Protocol on asylum for nationals of Member States of the European Union:
    - seventh recital;
  - (g) Protocol on the acquisition of property in Denmark:
    - sole provision;
  - (h) Protocol on the system of public broadcasting in the Member States:
    - throughout the text;
  - (i) Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel:
    - Article 3.
- 6) In the following Protocols, the words "acting by a simple majority" shall be inserted after "the Council":
- (a) Protocol on the Statute of the Court of Justice:
    - Article 4, second paragraph;
    - Article 13, second paragraph;
  - (b) Protocol on the privileges and immunities of the European Union:
    - Article 7, renumbered 6, first paragraph, first sentence.
- 7) In the following Protocols, the words "Court of Justice of the European Communities", "Court of Justice" or "Court" shall be replaced by "Court of Justice of the European Union".
- (a) Protocol on the Statute of the Court of Justice of the European Union:
 

- preamble, first recital	- Article 1 of the Annex
- title of the Protocol	- Article 5, first paragraph, of the Annex
- Article 1	- Article 7(1) of the Annex;
- Article 3, fourth paragraph	
  - (b) Protocol on the Statute of the European System of Central Banks and of the European Central Bank:
    - Article 35.1, 35.2, 35.4, 35.5 and 35.6;
    - Article 36.2;

- (c) Protocol on the location of the seats of the institutions and of certain bodies, offices, agencies and departments of the European Union:
  - Sole Article, point (d);
- (d) Protocol on the privileges and immunities of the European Union:
  - Article 12, renumbered 11, point (a);
  - Article 21, renumbered 20;
- (e) Protocol on the position of Denmark:
  - Article 2, first sentence;
- (f) Protocol on asylum for nationals of Member States of the European Union:
  - third recital.

## **B. SPECIFIC AMENDMENTS**

### **Protocols repealed**

- 8) The following Protocols shall be repealed:
- (a) Protocol on Italy (1957);
  - (b) Protocol on goods originating in and coming from certain countries and enjoying special treatment when imported into a Member State (1957);
  - (c) Protocol on the Statute of the European Monetary Institute (1992);
  - (d) Protocol on the transition to the third stage of economic and monetary union (1992);
  - (e) Protocol on Portugal (1992);
  - (f) Protocol on the role of national parliaments in the European Union (1997), which shall be replaced by a new Protocol with the same title;
  - (g) Protocol on the application of the principles of subsidiarity and proportionality (1997), which shall be replaced by a new Protocol with the same title;
  - (h) Protocol on protection and welfare of animals (1997), the text of which shall become Article [III-121] of the Treaty on the Functioning of the Union;
  - (i) Protocol on the enlargement of the European Union (2001);
  - (j) Protocol on Article 67 of the Treaty establishing the European Community (2001).

### **Statute of the Court of Justice of the European Union**

- 9) The Protocol on the Statute of the Court of Justice shall be amended as follows:
- (a) in the title, the words "of the European Union" shall be added;

- (b) in the following Articles, the word "Court", where it refers specifically to the Court of Justice, shall be replaced by "Court of Justice":
- Article 3, second paragraph, beginning of the sentence;
  - Article 4, fourth paragraph
  - Article 5, second paragraph;
  - Article 6, first paragraph;
  - Article 10 to 15;
  - Article 16, first paragraph;
  - Article 17, first paragraph;
  - Article 18, third paragraph;
  - Article 19, first paragraph;
  - Article 20, first paragraph;
  - Article 21, first paragraph;
  - Article 22, first paragraph;
  - Article 23, first paragraph, first sentence;
  - Article 24, first paragraph, beginning of the sentence;
  - Article 25 and 27;
  - Article 29, first paragraph;
  - Articles 30 to 32, 35, 38 to 41 and 43;
  - Article 44, first paragraph;
  - Article 46, first paragraph; \*
- (c) in Article 2, the words "in open court" shall be replaced by "before the Court of Justice sitting in open court";
- (d) in Article 3, second paragraph, and Article 4, fourth paragraph, the following sentence shall be added: "If the decision concerns a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.";
- (e) in Article 6, first paragraph, the following sentence shall be added: "If the person concerned is a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.";
- (f) in the heading of Title II, the words "of the Court of Justice" shall be added;
- (g) in Article 13, first paragraph, first sentence, the words "On a proposal from" shall be replaced by "At the request of", and the words "the Council may, acting unanimously, provide for" shall be replaced by "the European Parliament and the Council may, acting in accordance with the ordinary legislative procedure, provide for";
- (h) in the heading of Title III, the words "before the Court of Justice" shall be added;

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\* Translator's note: the remaining Articles listed in the French version already refer to the "Court of Justice" in English.

- (i) Article 23 shall be amended as follows:
  - (i) in the first paragraph, second sentence, the words "and also to the Council or to the European Central Bank if the act the validity or interpretation of which is in dispute originates from one of them, and to the European Parliament and the Council if the act the validity or interpretation of which is in dispute was adopted jointly by those two institutions" shall be replaced by "and to the institution, body, office or agency of the Union which adopted the act the validity or interpretation of which is in dispute";
  - (ii) in the second paragraph, the words "and, where appropriate, the European Parliament, the Council and the European Central Bank, shall be entitled" shall be replaced by "and, where appropriate, the institution, body, office or agency which adopted the act the validity or interpretation of which is in dispute, shall be entitled";
- (j) in Article 24, second paragraph, the words ", bodies, offices and agencies" shall be inserted after "institutions";
- (k) in Article 40, second paragraph, the words "The same right shall be open to any other person establishing an interest" shall be replaced by "The same right shall be open to the bodies, offices and agencies of the Union and to any other person which can establish an interest";
- (l) in Article 46, the following new paragraph shall be added: "This Article shall also apply to proceedings against the European Central Bank regarding non-contractual liability.";
- (m) the heading of Title IV shall be replaced by "GENERAL COURT";
- (n) in Article 47, the first paragraph shall be replaced by "The first paragraph of Article 9, Articles 14 and 15, the first, second, fourth and fifth paragraphs of Article 17 and Article 18 shall apply to the General Court and its members" and, in the second paragraph, the words "The fourth paragraph of Article 3 and" shall be deleted;
- (o) in Article 51, second paragraph, the words "or by the European Central Bank" shall be deleted;
- (p) Article 64 shall be amended as follows:
  - (i) the following new first paragraph shall be inserted:

"The rules governing the language arrangements applicable at the Court of Justice of the European Union shall be laid down by a regulation of the Council acting unanimously. This regulation shall be adopted either at the request of the Court of Justice and after consultation of the Commission and the European Parliament, or on a proposal from the Commission and after consultation of the Court of Justice and of the European Parliament."

- (ii) in the second paragraph, first sentence, the words "Until the rules governing the language arrangements applicable at the Court of Justice and the Court of First Instance have been adopted in this Statute" shall be replaced by "Until those rules have been adopted"; the second sentence shall be replaced by the following: "By way of derogation from Articles [III-335 and III-356], those provisions may only be amended or repealed with the unanimous consent of the Council.";
- (q) in Annex I to the Protocol, Article 3(1), second sentence, the words "Civil Service" shall be inserted before "Tribunal".

## **Statute of the ESCB and of the ECB**

- 10) The Protocol on the Statute of the European System of Central Banks and of the European Central Bank shall be amended as follows:
- (a) Article 1.1 shall be split at the semi-colon into two unnumbered paragraphs. The first paragraph shall be replaced by the following: "In accordance with Article [I-30] of the Treaty on European Union, the European Central Bank (ECB) and the national central banks shall constitute the European System of Central Banks (ESCB). The ECB and the national central banks of those Member States whose currency is the euro shall constitute the Eurosystem."; at the beginning of the second paragraph, the words "they shall perform" shall be replaced by "The ESCB and the ECB shall perform";
  - (b) Article 1.2 shall be deleted;
  - (c) in Article 4, point (b), the word "appropriate" shall be deleted;
  - (d) Article 10 shall be amended as follows:
    - (i) in Article 10.1, the words "without a derogation as referred to in Article [III-197] of the Treaty" shall be inserted at the end;
    - (ii) in Article 10.2, first indent, at the end of the first sentence, the words "Member States which have adopted the euro" shall be replaced by "Member States whose currency is the euro";
    - (iii) Article 10.6 shall be deleted;
  - (e) in Article 11.2, first subparagraph, the words "shall be appointed from among persons of recognised standing and professional experience in monetary or banking matters by common accord of the governments of the Member States at the level of Heads of State or Government" shall be replaced by "shall be appointed by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters";
  - (f) in Article 14.1, the words ", at the latest at the date of the establishment of the ESCB," shall be deleted;



- (g) in Article 18.1, first indent, at the end of the first sentence, the words "whether in Community or non-Community currencies" shall be replaced by "whether in euro or other currencies";
- (h) in Article 28.1, the words ", which shall become operational upon its establishment," shall be deleted;
- (i) in Article 29.1, the introductory wording shall be replaced by the following: "The key for subscription of the ECB's capital, fixed for the first time in 1998 when the ESCB was established, shall be determined by assigning to each national central bank a weighting in this key equal to the sum of:"; the second subparagraph shall be replaced by the following: "The percentages shall be rounded up or down to the nearest multiple of 0,0001 percentage points.";
- (j) in Article 32.2, the words "Subject to Article 32.3," shall be deleted;
- (k) in Article 34.2, the first four subparagraphs shall be deleted.
- (l) in Article 35.6, first sentence, the words "the Treaties and" shall be inserted before "this Statute";
- (m) Article 37 shall be repealed and the remaining Articles shall be renumbered accordingly;
- (n) Article 41, renumbered 40, shall be amended as follows:
  - (i) in Article 41.1, renumbered 40.1, the words "may be amended by the Council, acting either" shall be replaced by "may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure either" and the last sentence shall be deleted;
  - (ii) the following new Article 40.2 shall be inserted: "40.2. Article 10(2) may be amended by a decision of the European Council, acting unanimously, either on a recommendation from the European Central Bank and after consulting the European Parliament and the Commission, or on a recommendation from the Commission and after consulting the European Parliament and the European Central Bank. These amendments shall not enter into force until they are approved by the Member States in accordance with their respective constitutional requirements.";
- (o) in Article 42, renumbered 41, the words "immediately after the decision on the date for the beginning of the third stage," shall be deleted;
- (p) in Article 44, renumbered 43, at the end of the first paragraph, the words "in the third stage" shall be replaced by "after the introduction of the euro";

- (q) in Article 47.3, renumbered 46.3, the words "against the currencies, or the single currency, of the Member States without a derogation," shall be replaced by "against the euro";
- (r) Article 50 shall be repealed and the remaining Articles shall be renumbered accordingly;
- (s) in Article 52, renumbered 50, the words "in accordance with Article [III-198(3)] of the Treaty on the Functioning of the Union" shall be inserted after the words "Following the irrevocable fixing of exchange rates".

## **Statute of the EIB**

11) The Protocol on the Statute of the European Investment Bank shall be amended as follows:

- (a) throughout the Protocol, references to an Article of "the Treaty" shall be replaced by references to an Article of "the Treaty on the Functioning of the Union";
- (b) at the end of the preamble, the words "to this Treaty" shall be replaced by "to the Treaty on European Union and to the Treaty on the Functioning of the Union";
- (c) in Article 1, the second paragraph shall be deleted;
- (d) in Article 3, the introductory phrase shall be replaced by "In accordance with Article [266] of the Treaty on the Functioning of the Union, the Bank's members shall be the Member States" and the list of States shall be deleted;
- (e) in Article 4(1), the second subparagraph shall be deleted;
- (f) Article 5 shall be amended as follows:
  - (i) in paragraph 2, the following new sentence shall be added: "Cash payments shall be made exclusively in euro.";
  - (ii) in paragraph 3, first subparagraph, the words "towards those who have made loans to it" shall be deleted, and in the second subparagraph the words "in the currencies required by the Bank to meet these obligations" shall be deleted;
- (g) Articles 6 and 7 shall be repealed and the remaining Articles shall be renumbered accordingly;

- (h) Article 9, renumbered 7, shall be amended as follows:
- (i) in paragraph 2, the words "with particular reference to the objectives to be pursued as progress is made in the attainment of the common market" shall be replaced by "in accordance with the Union's objectives";
  - (ii) in paragraph 3, the text of point (b) shall be replaced by "for the purposes of Article [9(1)], determine the principles applicable to financing operations undertaken within the framework of the Bank's task;", the text of point (d) shall be replaced by "take decisions in respect of the granting of finance for investment operations to be carried out, in whole or in part, outside the territories of the Member States in accordance with Article [16(1)];" and, in point (g), the words "provided in Articles 4, 7, 14, 17, 26 and 27" shall be replaced by "conferred by this Statute";
- (i) Article 10, renumbered 8, shall be amended as follows:
- (i) the third sentence shall be deleted;
  - (ii) the following two new paragraphs shall be inserted:

"A qualified majority shall require eighteen votes in favour and 68 % of the subscribed capital.

Abstentions by members present in person or represented shall not prevent the adoption of decisions requiring unanimity."
- (j) Article 11, renumbered 9, shall be amended as follows:
- (i) paragraph 1, first subparagraph, shall be replaced by the following:

"1. The Board of Directors shall take decisions in respect of granting finance, in particular in the form of loans and guarantees, and raising loans; it shall fix the interest rates on loans granted and the commission and other charges. It may, on the basis of a decision taken by a qualified majority, delegate some of its functions to the Management Committee. It shall determine the terms and conditions for such delegation and shall supervise its execution.

The Board of Directors shall see that the Bank is properly run; it shall ensure that the Bank is managed in accordance with the provisions of the Treaty and of this Statute and with the general directives laid down by the Board of Governors.";
  - (ii) in paragraph 2, the sixth subparagraph shall be replaced by the following:

"The Rules of Procedure shall lay down the arrangements for participating in the meetings of the Board of Directors and the provisions applicable to alternates and co-opted experts."

- (iii) in paragraph 5, second sentence, the words ", acting unanimously," shall be deleted.
- (k) Article 13, renumbered 11, shall be amended as follows:
- (i) in paragraph 3, second subparagraph, the words "the granting of loans" shall be replaced by "the granting of finance, in particular in the form of loans";
  - (ii) in paragraph 4, the words "on proposals for raising loans or granting loans and guarantees" shall be replaced by "on proposals for raising loans or granting finance, in particular in the form of loans and guarantees";
  - (iii) in paragraph 7, first sentence, the words "officials and other employees" shall be replaced by "staff". The following sentence shall be added at the end: "The Rules of Procedure shall determine which organ is competent to adopt the provisions applicable to staff.";
- (l) Article 14, renumbered 12, shall be amended as follows:
- (i) in paragraph 1, the words "shall annually verify that the operations of the Bank have been conducted and its books kept in a proper manner" shall be replaced by "shall verify that the activities of the Bank conform to best banking practice and shall be responsible for the auditing of its accounts.";
  - (ii) paragraph 2 shall be replaced by the following three new paragraphs:
    - "2. The Committee referred to in paragraph 1 shall annually ascertain that the operations of the Bank have been conducted and its books kept in a proper manner. To this end, it shall verify that the Bank's operations have been carried out in compliance with the formalities and procedures laid down by this Statute and the Rules of Procedure.
    - 3. The Committee referred to in paragraph 1 shall confirm that the financial statements, as well as any other financial information contained in the annual accounts drawn up by the Board of Directors, give a true and fair view of the financial position of the Bank in respect of its assets and liabilities, and of the results of its operations and its cash flows for the financial year under review.
    - 4. The Rules of Procedure shall specify the qualifications required of the members of the Committee and lay down the terms and conditions for the Committee's activity."
- (m) in Article 15, renumbered 13, the words "the bank of issue" shall be replaced by "the national central bank";

(n) Article 18, renumbered 16, shall be amended as follows:

- (i) in the first subparagraph of paragraph 1, the words "shall grant loans" shall be replaced by "shall grant finance, in particular in the form of loans and guarantees"; in the second subparagraph, the words "by way of derogation authorised by the Board of Governors, acting unanimously" shall be replaced by "by decision of the Board of Governors, acting by a qualified majority", and the words "loans for investment projects" shall be replaced by "financing for investment";
- (ii) at the end of paragraph 3, the following shall be added: ", or on the financial strength of the debtor" and the following new second subparagraph shall be inserted:

"Furthermore, in accordance with the principles established by the Board of Governors pursuant to Article [7(3)(b)], and where the implementation of projects provided for in Article [III-394] of the Treaty on the Functioning of the Union so requires, the Board of Directors shall, acting by a qualified majority, lay down the terms and conditions of any financing operation presenting a specific risk profile and thus considered to be a special activity."

- (iii) paragraph 5 shall be replaced by the following:

"5. The aggregate amount outstanding at any time of loans and guarantees granted by the Bank shall not exceed 250 % of its subscribed capital, reserves, non-allocated provisions and profit and loss account surplus. The latter aggregate amount shall be reduced by an amount equal to the amount subscribed (whether or not paid in) for any equity participation of the Bank.

The amount of the Bank's disbursed equity participations shall not exceed at any time an amount corresponding to the total of its paid-in subscribed capital, reserves, non-allocated provisions and profit and loss account surplus.

By way of exception, the special activities of the Bank, as decided by the Board of Governors and the Board of Directors in accordance with paragraph 3, will have a specific allocation of reserve.

This paragraph shall also apply to the consolidated accounts of the Bank."

- (o) in paragraph 1 of Article 19, renumbered 17 the words "commission on guarantees" shall be replaced by "commission and other charges" and the words "and risks" shall be inserted after "to cover its expenses";

(p) Article 20, renumbered 18, shall be amended as follows:

- (i) in paragraph 1, point (a), the words "projects carried out by" shall be replaced by "investments by", the words "in which the project is carried out" shall be replaced by "in which the investment is made" and the words "in other cases" shall be replaced by "in the case of other investments"; in point (b), the words "of the project" shall be replaced by "of the investment";
- (ii) in paragraph 2, the following new second subparagraph shall be inserted:

"However, in accordance with the principles determined by the Board of Governors pursuant to Article [7(3)(b)], and where the implementation of operations provided for in Article [III-394] of the Treaty on the Functioning of the Union so requires, the Board of Directors shall, acting by a qualified majority, lay down the terms and conditions for taking an equity participation in a commercial undertaking, normally as a complement to a loan or a guarantee, insofar as this is required to finance an investment or programme."

- (iii) the following new paragraph 7 shall be added:

"7. As a complement to its lending activity, the Bank may provide technical assistance services in accordance with the terms and conditions laid down by the Board of Governors, acting by a qualified majority, and in compliance with this Statute."

(q) Article 21, renumbered 19, shall be amended as follows:

- (i) paragraph 1 shall be replaced by the following:

"1. Any undertaking or public or private entity may apply directly to the Bank for financing. Applications to the Bank may also be made either through the Commission or through the Member State on whose territory the investment will be carried out."

- (ii) in paragraph 3 and in the first sentence of paragraph 4, the words "applications for loans or guarantees" shall be replaced by "financing operations";
- (iii) in paragraph 4, second sentence, the words "granting the loan or guarantee" shall be replaced by "the financing operation" and the words "draft contract" shall be replaced by "corresponding proposal"; in the last sentence, the words "loan or guarantee" shall be replaced by "finance";
- (iv) in paragraphs 5, 6 and 7, the words "loan or guarantee" shall be replaced by "finance";

(v) the following new paragraph 8 shall be added:

"8. In the event that a financing operation relating to an approved investment has to be restructured in order to safeguard the Bank's rights and interests, the Management Committee shall take without delay the emergency measures which it deems necessary, subject to immediate reporting thereon to the Board of Directors."

(r) in Article 22, renumbered 20, paragraph 2 shall be replaced by the following:

"2. The Bank may borrow on the capital markets of the Member States in accordance with the legal provisions applying to those markets.

The competent authorities of a Member State with a derogation within the meaning of Article [III-197(1)] of the Treaty on the Functioning of the Union may oppose this only if there is reason to fear serious disturbances on the capital market of that State.";

(s) in paragraph 1(b) of Article 23, renumbered 21, the words "issued by itself or by those who have borrowed from it" shall be deleted and in paragraph 3, the words "the bank of issue" shall be replaced by "the national central bank";

(t) in Article 25, renumbered 23, the words "a Member State whose currency is not the euro" shall be inserted to replace "one Member State" in paragraph 1, first sentence and "a Member State" in paragraph 2; in paragraph 1, first sentence, the words "into the currency of another Member State" shall be deleted and in paragraph 4 the word "projects" shall be replaced by "investment";

(u) in Article 26, renumbered 24, the words ", to grant its special loans" shall be deleted;

(v) in paragraph 2 of Article 27, renumbered 25, the following sentence shall be added at the end: "It shall ensure that the rights of the members of staff are safeguarded.";

(w) in the first paragraph of Article 29, renumbered 27, the words "of the European Union" shall be added at the end and in the second paragraph, the words "or provide for arbitration" shall be deleted;

(x) Article 30, renumbered 28, shall be replaced by the following:

"1. The Board of Governors may, acting unanimously, decide to establish subsidiaries or other entities, which shall have legal personality and financial autonomy.

2. The Board of Governors, acting unanimously, shall establish the Statutes of the bodies referred to in paragraph 1. The Statutes shall define, in particular, their objectives, structure, capital, membership, the location of their seat, their financial resources, means of intervention and auditing arrangements, as well as their relationship with the organs of the Bank.

3. The Bank shall be entitled to participate in the management of these bodies and contribute to their subscribed capital up to the amount determined by the Board of Governors, acting unanimously.

4. The Protocol on the privileges and immunities of the European Union shall apply to the bodies referred to in paragraph 1 insofar as they are incorporated under Union law, to the members of their organs in the performance of their duties as such and to their staff, under the same terms and conditions as those applicable to the Bank.

Those dividends, capital gains or other forms of revenue stemming from such bodies to which the members, other than the European Union and the Bank, are entitled, shall however remain subject to the fiscal provisions of the applicable legislation.

5. The Court of Justice of the European Union shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning measures adopted by organs of a body incorporated under Union law. Proceedings against such measures may be instituted by any member of such a body in its capacity as such or by Member States under the conditions laid down in Article [230] of the Treaty on the Functioning of the Union.

6. The Board of Governors may, acting unanimously, decide to admit the staff of bodies incorporated under Union law to joint schemes with the Bank, in compliance with the respective internal procedures."

## **Protocol on the location of seats**

- 12) The Protocol on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol shall be amended as follows:
- (a) in the title of the Protocol, the words ", offices, agencies" shall be inserted before "and departments" and the words "and of Europol" shall be deleted;
  - (b) in the citation in the preamble, the reference to the Treaty establishing the European Community shall be replaced by a reference to the Treaty on the Functioning of the Union and the reference to Article 77 of the Treaty establishing the European Coal and Steel Community shall be deleted;



- (c) in point (d), the reference to the Court of First Instance shall be deleted and the words "their seat" shall be replaced by "its seat";
- (d) in point (i), the reference to the European Monetary Institute shall be deleted and the words "their seat" shall be replaced by "its seat";

### **Protocol on the privileges and immunities of the Union**

13) The Protocol on the privileges and immunities of the European Union shall be amended as follows:

- (a) in the first recital in the preamble, the reference to Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities shall be replaced by a reference to Article [III-434] of the Treaty on the Functioning of the Union and to Article 191 of the Treaty establishing the European Atomic Energy Community, abbreviated as the EAEC, and the words "these Communities and the European Investment Bank" shall be replaced by "the European Union and the EAEC";
- (b) Article 5 shall be repealed and the remaining Articles shall be renumbered accordingly;
- (c) in Article 13, renumbered 12, the words "in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission" shall be replaced by "in accordance with the conditions and procedure laid down by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consultation of the institutions concerned";
- (d) in Article 15, renumbered 14, the opening phrase "The Council shall, acting unanimously on a proposal from the Commission, lay down" shall be replaced by "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consultation of the institutions concerned, shall lay down";
- (e) in Article 16, renumbered 15, the opening phrase "The Council shall, acting on a proposal from the Commission" shall be replaced by "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall";
- (f) in Article 21, renumbered 20, the words "and to the Members and Registrar of the Court of First Instance" shall be deleted;
- (g) in Article 23, renumbered 22, the last paragraph shall be deleted;
- (h) the closing formula, "IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol", the date and the list of signatories shall be deleted.

## **Protocol on the convergence criteria**

- 14) The Protocol on the convergence criteria referred to in Article 121 of the Treaty establishing the European Community shall be amended as follows:
- (a) in the title of the Protocol, the words "referred to in Article 121 of the Treaty establishing the European Community" shall be deleted;
  - (b) in the first recital, the words "in taking decisions on the passage to the third stage of economic and monetary union" shall be replaced by "in taking decisions to end the derogations of those Member States with a derogation";
  - (c) in Article 3, second sentence, the words "against another Member State's currency" shall be replaced by "against the euro";

## **Protocol on certain provisions relating to the United Kingdom**

- 15) The Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland shall be amended as follows:
- (a) throughout the Protocol, the words "to move to the third stage of economic and monetary union" and "to move to the third stage" shall be replaced by "to adopt the euro"; the words "moves to the third stage" shall be replaced by "adopts the euro"; the words "in the third stage" shall be replaced by "after the introduction of the euro";
  - (b) in the preamble, the following new second recital shall be inserted:

GIVEN that on 16 October 1996 and 30 October 1997 the United Kingdom government notified the Council of its intention not to participate in the third stage of economic and monetary union,";
  - (c) in paragraph 1, the first and third subparagraphs shall be deleted;
  - (d) paragraph 2 shall be replaced by the following:

"2. In view of the notice given to the Council by the United Kingdom government on 16 October 1996 and 30 October 1997, paragraphs 3 to 9 shall apply to the United Kingdom."

- (e) paragraph 3 shall be deleted and the remaining paragraphs shall be renumbered accordingly;
- (f) paragraph 5, renumbered 4, shall be amended as follows:
  - (i) in the first sentence, the list of Articles shall be replaced by "Articles I-30(2), with the exception of the first and last sentences thereof, I-30(5), III-177, second paragraph, III-184(1), (9) and (10), III-185(1) to (5), III-186, III-188, III-189, III-190, III-191, III-196, III-198(3), III-326 and III-382";
  - (ii) The following new second sentence shall be inserted: "The same applies to Article [III-179(2)] of this Treaty as regards the adoption of the parts of the broad economic policy guidelines which concern the euro area generally.";
- (g) in paragraph 6, renumbered 5, the following new first subparagraph shall be inserted: "The United Kingdom shall endeavour to avoid an excessive government deficit.";
- (h) paragraph 7, renumbered 6, shall be replaced by the following: "6. The voting rights of the United Kingdom shall be suspended in respect of acts of the Council referred to in the Articles listed in paragraph 4 and in the instances referred to in [the first subparagraph of Article III-197(4)] of the Treaty. For this purpose [the second and third subparagraphs of Article III-197(4)] of the Treaty shall apply.";
- (i) in point (a) of paragraph 9, renumbered 8, the words "move to that stage" shall be replaced by "adopt the euro";
- (j) in paragraph 10, renumbered 9, the introductory subparagraph shall be replaced by "The United Kingdom may notify the Council at any time of its intention to adopt the euro. In that event:";
- (k) at the end of paragraph 11, renumbered 10, the words "does not move to the third stage" shall be replaced by "does not adopt the euro".

## **Protocol on certain provisions relating to Denmark**

- 16) The Protocol on certain provisions relating to Denmark shall be amended as follows:
- (a) in the preamble, the first recital shall be deleted, in the second recital the words "Danish participation in the third stage of economic and monetary union" shall be replaced by "Denmark renouncing its exemption", and the following new third recital shall be inserted: "GIVEN THAT, on 3 November 1993, the Danish Government notified the Council of its intention not to participate in the third stage of economic and monetary union,";
  - (b) points 1 and 3 shall be deleted and the remaining points shall be renumbered accordingly;
  - (c) in point 2, renumbered 1, the first sentence shall be replaced by "In view of the notice given to the Council by the Danish Government on 3 November 1993, Denmark shall have an exemption."

## **Schengen Protocol**

- 17) The Protocol integrating the Schengen *acquis* into the framework of the European Union shall be amended as follows:
- (a) in the title of the Protocol, the words "integrating the Schengen *acquis* into" shall be replaced by "on the Schengen *acquis* integrated into";
  - (b) the preamble shall be amended as follows:
    - (i) at the end of the first recital, the words "are aimed at enhancing European integration and, in particular, at enabling the European Union to develop more rapidly into an area of freedom, security and justice" shall be replaced by "have been integrated into the framework of the European Union by the Treaty of Amsterdam of 2 October 1997;"
    - (ii) the second recital shall be replaced by the following:

"DESIRING to preserve the Schengen *acquis*, as developed since the entry into force of the Treaty of Amsterdam, and to develop this *acquis* in order to contribute towards achieving the objective of offering citizens of the Union an area of freedom, security and justice without internal borders";

- (iii) the third recital shall be deleted;
  - (iv) in the fifth recital, now the fourth recital, the words "are not parties to and have not signed the aforementioned agreements" shall be replaced by "do not participate in all the provisions of the Schengen *acquis*" and, at the end, the words "to accept some or all of the provisions thereof" shall be replaced by "to accept other provisions of this *acquis* in full or in part";
  - (v) at the end of the sixth recital, now the fifth recital, the words "and that those provisions should only be used as a last resort" shall be deleted;
  - (vi) at the end of the seventh recital, now the sixth recital, the words "both States having confirmed their intention to become bound by the provisions mentioned above, on the basis of the Agreement signed in Luxembourg on 19 December 1996" shall be replaced by "both States being bound by the provisions of the Nordic passport union, together with the Nordic States which are members of the European Union";
- (c) in Article 1, the first sentence shall be replaced by the following:

"The Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden shall be authorised to establish closer cooperation among themselves in areas covered by provisions defined by the Council which constitute the Schengen *acquis*."

- (d) Article 2 shall be replaced by the following:

"The Schengen *acquis* shall apply to the Member States referred to in Article 1, without prejudice to Article 3 of the Act of Accession of 16 April 2003 or to Article 4 of the Act of Accession of 25 April 2005. The Council will substitute itself for the Executive Committee established by the Schengen agreements."

- (e) Article 3 shall be replaced by the following:

"The participation of Denmark in the adoption of measures constituting a development of the Schengen *acquis*, as well as the implementation of these measures and their application to Denmark, shall be governed by the relevant provisions of the Protocol on the position of Denmark."

- (f) in Article 4, first paragraph, the words "which are not bound by the Schengen *acquis*," shall be deleted;
- (g) at the end of the first subparagraph of Article 5(1), the words "of the Treaties" shall be added; in the second subparagraph, the reference to two articles in the Treaties shall be replaced by a reference to Article [III-419] of the Treaty on the Functioning of the Union; paragraph 2 shall be deleted and paragraph 1 shall not be numbered;
- (h) at the end of the first sentence of the first paragraph of Article 6, the words "on the basis of the Agreement signed in Luxembourg on 19 December 1996" shall be deleted;
- (i) Article 7 shall be repealed and Article 8 shall be renumbered 7;
- (j) the Annex shall be repealed.

### **Protocol on the application of Article [III-130] to the United Kingdom and to Ireland**

- 18)** The Protocol on the application of certain aspects of Article 14 of the Treaty establishing the European Community to the United Kingdom and to Ireland shall be amended as follows:
- (a) in the title of the Protocol, the reference to Article 14 shall be replaced by a reference to Article [III-130] of the Treaty on the Functioning of the Union;
  - (b) in Article 1, first paragraph, point (a), the words "States which are Contracting Parties to the Agreement on the European Economic Area" shall be replaced by "Member States";
  - (c) in Article 1, first and second paragraphs, Article 2 and Article 3, second paragraph, the reference to Article 14 shall be replaced by a reference to Articles [III-130 and III-265] of the Treaty on the Functioning of the Union.

### **Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice**

- 19)** The Protocol on the position of the United Kingdom and Ireland shall be amended as follows:
- (a) at the end of the title of the Protocol, the words "in respect of the area of freedom, security and justice" shall be added;
  - (b) in the second recital of the preamble, the reference to Article 14 shall be replaced by a reference to Article [III-130] of the Treaty on the Functioning of the Union;

- (c) in Article 1, first sentence, the words "pursuant to Title IV of the Treaty establishing the European Community" shall be replaced by "pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union"; the second sentence shall be deleted and the following paragraph shall be added:

"For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the Union.";

- (d) at the beginning of Article 2 the words "provisions of Title IV of the Treaty establishing the European Community" shall be replaced by "provisions of Title IV of Part Three of the Treaty on the Functioning of the Union"; at the end of the Article, the words "*acquis communautaire*" shall be replaced by "Community or Union *acquis*";

- (e) Article 3(1) shall be amended as follows:

- (i) in the first sentence of the first subparagraph, the words "pursuant to Title IV of the Treaty establishing the European Community" shall be replaced by "pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union" and the second sentence shall be deleted;

- (ii) the following new subparagraphs shall be added after the second subparagraph:

"Measures adopted pursuant to Article [III-260] of the Treaty on the Functioning of the Union shall lay down the conditions for the participation of the United Kingdom and Ireland in the evaluations concerning the areas covered by Title IV of Part Three of that Treaty.

For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the Union."

- (f) in Articles 4, 5 and 6, the words "pursuant to Title IV" shall be replaced by "pursuant to Title IV of Part Three";
- (g) in the second sentence of Article 4, the reference to Article 11(3) shall be replaced by a reference to Article [III-240(1)] of the Treaty on the Functioning of the Union;
- (h) at the end of Article 5, the following shall be added: ", unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise";
- (i) In Article 6, the words "the relevant provisions of that Treaty, including Article 68," shall be replaced by "the relevant provisions of the Treaties";

- (j) in Article 7, the words "Protocol integrating the Schengen *acquis* into" shall be replaced by "Protocol on the Schengen *acquis* integrated into".

## **Protocol on the position of Denmark**

20) The Protocol on the position of Denmark shall be amended as follows:

(a) the preamble shall be amended as follows:

(i) the following three new recitals shall be inserted after the second recital:

"CONSCIOUS of the fact that a continuation under the Treaties of the legal regime originating in the Edinburgh decision will significantly limit Denmark's participation in important areas of cooperation of the Union, and that it would be in the best interest of the Union to ensure the integrity of the *acquis* in the area of freedom, security and justice;

WISHING therefore to establish a legal framework that will provide an option for Denmark to participate in the adoption of measures proposed on the basis of Title IV of Part Three of the Treaty on the Functioning of the Union and welcoming the intention of Denmark to avail itself of this option when possible in accordance with its constitutional requirements;

NOTING that Denmark will not prevent the other Member States from further developing their cooperation with respect to measures not binding on Denmark;"

(ii) in the penultimate recital, the words "Protocol integrating the Schengen *acquis* into" shall be replaced by "Protocol on the Schengen *acquis* integrated into";

(b) the heading "PART I" shall be inserted before Article 1;

(c) in Article 1, first sentence, and Article 2, first sentence, the words "Title IV of the Treaty establishing the European Community" shall be replaced by "Title IV of Part Three of the Treaty on the Functioning of the Union";

(c) in Article 1, the second sentence of the first paragraph shall be deleted and the following new paragraph shall be added:

"For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the Union."



- (d) at the end of Article 2, the words "*acquis communautaire*" shall be replaced by "Community or Union *acquis*";
- (e) the following new Article 2a shall be inserted:

"Article 2a

Article 2 of this Protocol shall also apply in respect of those rules laid down on the basis of Article [I-51] of the Treaty on the Functioning of the Union which relate to the processing of personal data by the Member States when carrying out activities which fall within the scope of Chapter 4 or Chapter 5 of Title IV of Part Three of that Treaty."

- (f) Article 4 shall become Article 6;
- (g) Article 5, renumbered 4, shall be amended as follows:
  - (i) throughout the Article, the word "decision" shall be replaced by "measure";
  - (ii) in paragraph 1, the words "under the provisions of Title IV of the Treaty establishing the European Community" shall be replaced by "covered by this Part" and the words "Member States referred to in Article 1 of the Protocol integrating the Schengen *acquis* into the framework of the European Union as well as Ireland or the United Kingdom if those Member States take part in the areas of cooperation in question" shall be replaced by "Member States bound by the measure";
  - (iii) in paragraph 2, the word "decision" shall be replaced by "measure" and the words "the Member States referred to in Article 1 of the Protocol integrating the Schengen *acquis* into the framework of the European Union will consider" shall be replaced by "the Member States bound by that measure and Denmark will consider";
- (h) the heading "PART II" shall be inserted before Article 6, renumbered 5;
- (i) Article 6, renumbered 5, shall be amended as follows:
  - (i) in the first sentence, the words "in the field of Articles 13(1) and 17 of the Treaty on European Union" shall be replaced by "pursuant to Article [I-41], Article [III-295] and Articles [III-309 to III-313] of the Treaty on the Functioning of the Union" and the last phrase ", but will not prevent the development of closer cooperation between Member States in this area" shall be deleted;

- (ii) the following new second sentence shall be inserted: "Denmark will not prevent the other Member States from further developing their cooperation in this area.";
- (iii) at the end of the third sentence, the following shall be added: ", nor to make military capabilities available to the Union";
- (iv) the following two new paragraphs shall be added:

"The unanimity of the members of the Council, with the exception of the representative of the government of Denmark, shall be necessary for the acts of the Council which must be adopted unanimously.

For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the Union."

- (j) the heading "PART III" shall be inserted after Article 6, renumbered 5;
- (k) an Article 6 shall be inserted, with the wording of Article 4;
- (l) the heading "PART IV" shall be inserted before Article 7;
- (m) the following new Article 8 shall be inserted:

#### "Article 8

1. At any time and without prejudice to Article 7, Denmark may, in accordance with its constitutional requirements, notify the other Member States that, with effect from the first day of the month following the notification, Part I shall consist of the provisions in the Annex. In that case Articles 5 to 8 shall be renumbered in consequence.

2. Six months after the date on which the notification referred to in paragraph 1 takes effect all Schengen *acquis* and measures adopted to build upon this *acquis*, which until then have been binding on Denmark as obligations under international law, shall be binding upon Denmark as Union law."

- (n) the following new Annex shall be added to the Protocol:

"ANNEX

Article 1

Subject to Article 3, Denmark shall not take part in the adoption by the Council of measures proposed pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union. The unanimity of the members of the Council, with the exception of the representative of the government of Denmark, shall be necessary for the acts of the Council which must be adopted unanimously.

For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the Union.

Article 2

Pursuant to Article 1 and subject to Articles 3, 4 and 6, none of the provisions in Title IV of Part Three of the Treaty on the Functioning of the Union, no measure adopted pursuant to that Title, no provision of any international agreements concluded by the Union pursuant to that Title, no decision of the Court of Justice of the European Union interpreting any such provision or measure shall be binding upon or applicable in Denmark; and no such provision, measure or decision shall in any way affect the competences, rights and obligations of Denmark; and no such provision, measure or decision shall in any way affect the Community or Union *acquis* nor form part of Union law as they apply to Denmark.

Article 3

1. Denmark may notify the President of the Council in writing, within three months after a proposal or initiative has been presented to the Council pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union, that it wishes to take part in the adoption and application of any such proposed measure, whereupon Denmark shall be entitled to do so.

2. If after a reasonable period of time a measure referred to in paragraph 1 cannot be adopted with Denmark taking part, the Council may adopt that measure referred to in paragraph 1 in accordance with Article 1 without the participation of Denmark. In that case Article 2 applies.

#### Article 4

Denmark may at any time after the adoption of a measure pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union notify its intention to the Council and the Commission that it wishes to accept that measure. In that case, the procedure provided for in Article [III-420(1)] of that Treaty shall apply *mutatis mutandis*.

#### Article 5

1. Notification pursuant to Article 4 shall be submitted no later than six months after the final adoption of a measure if this measure builds upon the Schengen *acquis*.

If Denmark does not submit a notification in accordance with Articles 3 or 4 regarding a measure building upon the Schengen *acquis*, the Member States bound by that measure and Denmark will consider appropriate measures to be taken.

2. A notification pursuant to Article 3 with respect to a measure building upon the Schengen *acquis* shall be deemed irrevocably to be a notification pursuant to Article 3 with respect to any further proposal or initiative aiming to build upon that measure to the extent that such proposal or initiative builds upon the Schengen *acquis*.

#### Article 5a

Denmark shall be bound by the rules laid down on the basis of Article [I-51] of the Treaty on the Functioning of the Union which relate to the processing of personal data by the Member States when carrying out activities which fall within the scope of Chapter 4 or Chapter 5 of Title IV of Part Three of that Treaty only to the extent that it is bound by the rules governing the forms of judicial cooperation in criminal matters or police cooperation which require compliance with the provisions laid down on the basis of Article [I-51].

#### Article 6

Where, in cases referred to in this Part, Denmark is bound by a measure adopted by the Council pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union, the relevant provisions of that Treaty shall apply to Denmark in relation to that measure.

#### Article 7

Where Denmark is not bound by a measure adopted pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union, it shall bear no financial consequences of that measure other than administrative costs entailed for the institutions unless the Council, acting unanimously after consulting the European Parliament, decides otherwise."

## **Protocol on asylum for nationals of the Union**

21) The Protocol on asylum for nationals of Member States of the European Union shall be amended as follows:

(a) the preamble shall be amended as follows:

(i) the first recital shall be replaced by the following:

"WHEREAS, in accordance with Article [I-9(1)] of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights;"

(ii) the following new second recital shall be inserted:

"WHEREAS pursuant to Article [I-9(3)] of the Treaty on European Union, fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, constitute part of the Union's law as general principles;"

(iii) in the third and fourth recitals, now the fourth and fifth recitals, the word "principles" shall be replaced by "values";

(iv) the seventh recital, now the eighth recital, shall be deleted;

(b) in point (b) of the Sole Article, the words ", or, where appropriate, the European Council," shall be inserted after "the Council" and the words "with regard to the Member State of which the applicant is a national" shall be added at the end;

(c) point (c) shall be replaced by the following:

"(c) if the Council has adopted a decision in accordance with Article [I-59(1)] of the Treaty on European Union in respect of the Member State of which the applicant is a national or if the European Council has adopted a decision in accordance with Article [I-59(2)] of that Treaty in respect of the Member State of which the applicant is a national;"

## **Protocol on economic, social and territorial cohesion**

22) The Protocol on economic and social cohesion shall be amended as follows:

(a) throughout the Protocol, the words "economic and social cohesion" shall be replaced by "economic, social and territorial cohesion";

(b) the preamble shall be amended as follows:

(i) the first two recitals shall be replaced by following new first recital:

"RECALLING that [Article I-3] of the Treaty on European Union includes the objective of promoting economic, social and territorial cohesion and solidarity between Member States and that the said cohesion figures among the areas of shared competence of the Union listed in Article [I-14(2)(c)] of that Treaty;"

(ii) the fourth recital, now the third recital, shall be replaced by the following:

"RECALLING that the provisions of Article [III-223] of the Treaty on the Functioning of the Union envisage setting up a Cohesion Fund;"

(iii) the fifth, sixth and fourteenth recitals shall be deleted;

(iv) at the end of the eleventh recital, now the eighth recital, the words ", and underline the importance of the inclusion of economic and social cohesion in Articles 2 and 3 of this Treaty" shall be deleted;

(v) in the fifteenth recital, now the new eleventh recital, the words "to be set up before 31 December 1993" shall be deleted.

## **Other Protocols**

23) In the Protocol on France, the words "in its overseas territories" shall be replaced by "in New Caledonia, French Polynesia and Wallis and Futuna".

- 24)** The Protocol on Article 17 of the Treaty on European Union shall be amended as follows:
- (a) in the title of the Protocol, the reference to Article 17 shall be replaced by a reference to Article [I-41(2)];
  - (b) in the enacting terms, the final clause ", within a year from the entry into force of the Treaty of Amsterdam" shall be deleted.
- 25)** In the second sentence of Article 3(3) of the Protocol concerning imports into the European Union of petroleum products refined in the Netherlands Antilles, the words "by a decision taken by a qualified majority" shall be deleted.
- 26)** Article 2 of the Protocol on special arrangements for Greenland shall be deleted.
- 27)** The Protocol annexed to the Treaty on European Union and to the Treaties establishing the European Communities shall be amended as follows:
- (a) the title of the Protocol shall be replaced by "Protocol on Article 40.3.3 of the Constitution of Ireland";
  - (b) the words "Nothing in the Treaty on European Union, or in the Treaties establishing the European Communities" shall be replaced by "Nothing in the Treaties, or in the Treaty establishing the European Atomic Energy Community".
- 28)** The Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel shall be amended as follows:
- (a) in the preamble, the first two recitals shall be replaced by following new first recital:  
  
"RECALLING that all assets and liabilities of the European Coal and Steel Community, as they existed on 23 July 2002, were transferred to the European Community on 24 July 2002;"
  - (b) Article 1(1) shall be deleted and the two remaining paragraphs shall be renumbered accordingly;

- (c) Article 2 shall be split into two paragraphs, the first of which shall end with the words "including essential principles.". Furthermore, this Article shall be amended as follows:
- (i) in the first paragraph, the words "acting unanimously on a proposal from the Commission" shall be replaced by "acting in accordance with a special legislative procedure" and the word "consulting" shall be replaced by "obtaining the consent of";
  - (ii) in the second paragraph, the words "and proper decision-making procedures, in particular for the adoption of" shall be replaced by "The Council shall adopt, on a proposal from the Commission and after consulting the European Parliament, measures establishing";
- (d) Article 4 shall be repealed.



**PROTOCOL (No 12)**  
**AMENDING THE TREATY ESTABLISHING**  
**THE EUROPEAN ATOMIC ENERGY COMMUNITY**

THE HIGH CONTRACTING PARTIES,

RECALLING the necessity that the provisions of the Treaty establishing the European Atomic Energy Community should continue to have full legal effect;

DESIRING to adapt that Treaty to the new rules laid down by the Treaty on European Union and by the Treaty on the Functioning of the Union, in particular in the institutional and financial fields,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and which amend the Treaty establishing the European Atomic Energy Community as follows:

Article 1

This Protocol shall amend the Treaty establishing the European Atomic Energy Community (hereinafter referred to as the "EAEC Treaty") in its version in force at the time of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community.

Article 2

The heading of Title III of the EAEC Treaty "Institutional provisions" shall be replaced by the heading: "Institutional and financial provisions".

### Article 3

The following chapter shall be inserted at the beginning of Title III of the EAEC Treaty:

#### "CHAPTER I

#### APPLICATION OF CERTAIN PROVISIONS OF THE TREATY ON EUROPEAN UNION AND OF THE TREATY ON THE FUNCTIONING OF THE UNION

#### Article 106a

1. Articles [I-19 to I-29] of the Treaty on European Union, Articles [I-31 to I-39], Articles [I-49 and I-50] and Articles [I-53 to I-56] of the Treaty on the Functioning of the Union, Articles [I-58 to I-60] of the Treaty on European Union, Articles [III-330 to III-372, Articles III-374 and III-375, Articles III-378 to III-381, Articles III-384 and III-385, Articles III-389 to III-392, Articles III-395 to III-410, Articles III-412 to III-415 and Articles III-427 and III-433] of the Treaty on the Functioning of the Union and Article [IV-443] of the Treaty on European Union and the Protocol on transitional provisions shall apply to this Treaty.
2. Within the framework of this Treaty, the references to the Union, to the "Treaty on European Union", to the "Treaty on the Functioning of the Union" or to the "Treaties" in the provisions referred to in paragraph 1 and those in the protocols annexed both to those Treaties and to this Treaty shall be taken, respectively, as references to the European Atomic Energy Community and to this Treaty.
3. The provisions of the Treaties of the European Union shall not derogate from the provisions of this Treaty."

#### Article 4

Chapters I, II and III of Title III of the EAEC Treaty shall be renumbered II, III and IV.

#### Article 5

Article 3, Articles 107 to 132, Articles 136 to 143, Articles 146 to 156, Articles 158 to 163, Articles 165 to 170, Articles 173 and 173A, Article 175, Articles 177 to 179a, and Articles 180b, 181, 183, 183A, 190 and 204 of the EAEC Treaty shall be repealed.

## Article 6

The heading of Title IV of the EAEC Treaty "Financial provisions" shall be replaced by the heading: "Specific financial provisions".

## Article 7

1. In the third paragraph of Article 38 and the third paragraph of Article 82 of the EAEC Treaty the references to Articles 141 and 142 shall be replaced by references to Articles [III-360 and III-361] respectively of the Treaty on the Functioning of the Union.
2. In Article 171(2) and Article 176(3) of the EAEC Treaty the references to Article 183 shall be replaced by references to Article [III-412] of the Treaty on the Functioning of the Union.
3. In Article 172(4) of the EAEC Treaty the reference to Article 177(5) shall be replaced by a reference to Article [III-404] of the Treaty on the Functioning of the Union.
4. In the EAEC Treaty the words "Court of Justice" shall be replaced by "Court of Justice of the European Union".

## Article 8

Article 191 of the EAEC Treaty shall be replaced by the following:

### "Article 191

The Community shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union."

## Article 9

Article 198 of the EAEC Treaty shall be replaced by the following:

### "Article 198

Save as otherwise provided, the provisions of this Treaty shall apply to the European territories of the Member States and to the non-European territories under their jurisdiction.

They shall also apply to the European territories for whose external relations a Member State is responsible.

The provisions of this Treaty shall apply to the Åland Islands with the derogations which were originally set out in the Treaty referred to in Article IV-437(2)(d) of the Treaty establishing a Constitution for Europe and which have been incorporated in the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

Notwithstanding the first, second and third paragraphs:

- (a) this Treaty shall not apply to the Faroe Islands or to Greenland;
- (b) this Treaty shall not apply to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;
- (c) this Treaty shall not apply to the overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not mentioned in the list in Annex II to the Treaty establishing a Constitution for Europe;
- (d) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands originally set out in the Treaty referred to in Article IV-437(2)(a) of the Treaty establishing a Constitution for Europe and which have been incorporated in the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden."

## Article 10

Article 206 of the EAEC Treaty shall be replaced by the following:

### "Article 206

The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.

These agreements shall be concluded by the Council, acting unanimously after consulting the European Parliament.

Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article [IV-443] of the Treaty on European Union."

## Article 11

In Article 225 of the EAEC Treaty, the second paragraph shall be replaced by the following:

"The Bulgarian, Czech, Danish, English, Estonian, Finnish, Greek, Hungarian, Irish, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish versions of the Treaty shall also be authentic."

## Article 12

The revenue and expenditure of the European Atomic Energy Community, except for those of the Supply Agency and Joint Undertakings, shall be shown in the budget of the Union.

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**NOTE**

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from: Presidency of the IGC  
dated: 24 July 2007  
to: Intergovernmental Conference (IGC)

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Subject: **IGC 2007**  
Draft Treaty amending the Treaty on European Union and the Treaty  
establishing the European Community – Draft Preamble

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**DRAFT  
TREATY AMENDING  
THE TREATY ON EUROPEAN UNION AND  
THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY**

**DRAFT PREAMBLE**

RECALLING the historic importance of the ending of the division of the European continent,

DESIRING to complete the process started by the Treaty of Amsterdam and by the Treaty of Nice of adapting the institutions of the European Union to function in an enlarged Union,

HAVE RESOLVED to amend the Treaty on European Union and the Treaty establishing the European Community,

and to this end have designated as their Plenipotentiaries:

(...)

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

(...)

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**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 19 July 2007**

**12004/07**

**POLGEN 92**

**COVER NOTE**

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from : Presidency  
dated : 17 July 2007  
to : Ministers of Foreign Affairs

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Subject : Convening of an Intergovernmental Conference

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Recalling the proposal submitted by the government of the Federal Republic of Germany on 27 June 2007 (see doc. 11222/07), which reproduces the mandate approved by the European Council of 21-23 June 2007, and following the favourable opinion delivered by the Council on 16 July 2007, the Presidency of the Council, in accordance with Article 48 of the Treaty on European Union, hereby convenes a conference of representatives of the governments of the Member States for the purpose of determining by common accord the amendments to be made to the Treaties on which the European Union is founded.

The first meeting of the Conference will be held in Brussels on 23 July 2007.

I attach a short information note on the organisation of the Conference.

(Complimentary close).

(s.) Luís AMADO



17 July 2007

<p style="text-align: center;"><b>ORGANISATION OF THE FORTHCOMING INTERGOVERNMENTAL CONFERENCE (IGC)</b></p>
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***Organisation of work***

1. As agreed by the European Council at its meeting on 21-23 June, the IGC will be conducted under the overall responsibility of the Heads of State or Government. The objective is to conclude the negotiations on 18-19 October in Lisbon.
2. The Heads of State or Government will be assisted by the Ministers of Foreign Affairs, who will open the IGC in the margins of the 23 July General Affairs and External Relations Council (GAERC). Ministers will be kept informed about progress in the work of the IGC.
3. At the inaugural meeting, and in line with the conclusions of the European Council, the Presidency will circulate the draft Treaty modifying the TEU and the TEC, drawn up in strict accordance with the agreed mandate. The text of this draft will be distributed in one (legally revised) language on 23 July 2007; the translations (non legally revised) will be distributed as soon as possible. This text will be submitted for examination to the group of legal experts. Personal representatives could be consulted by the Presidency if and when necessary in order to discuss any possible issues not resolved at the meetings of legal experts.

### ***Participation***

4. A Commission representative will participate in Conference meetings at all levels.
5. The European Parliament will be closely associated with and involved in the work of the Conference. The President of the European Parliament will take part in the proceedings of the IGC meeting at the level of Heads of State or Government. Three European Parliament representatives will attend ministerial-level Conference meetings. The European Parliament will also be involved in the work of the personal representatives and the legal experts.
6. The Presidency will take the necessary measures to ensure that the candidate States are kept fully and regularly briefed throughout the Intergovernmental Conference.

### ***Practical arrangements***

7. The General Secretariat of the Council will be the secretariat of the Conference.
8. All Conference documents will be made public and accessible on the internet site of the Council.
9. The interpretation arrangements for the Conference (meetings of Heads of State or Government and ministerial meetings) will be those which apply at European Council.

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**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 13 July 2007 (16.07)**

**11626/07**

**PE 230  
POLGEN 84**

**NOTE**

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from : General Secretariat of the Council  
to : delegations

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Subject : European Parliament resolution of 11 July 2007 on the convening of the Intergovernmental Conference (IGC): the European Parliament's opinion (Article 48 of the EU Treaty)

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Please find attached the text of the European Parliament resolution on the convening of the Intergovernmental Conference (IGC), adopted at its plenary session in Strasbourg from 9 to 12 July 2007.

## **Convening of the Intergovernmental Conference: opinion of the European Parliament**

**European Parliament resolution of 11 July 2007 on the convening of the Intergovernmental Conference (IGC): the European Parliament's opinion (Article 48 of the EU Treaty) (11222/2007 – C6-0206/2007 – 2007/0808(CNS))**

*The European Parliament,*

- having regard to Article 48(2) of the Treaty on European Union, pursuant to which the Council consulted Parliament (C6-0206/2007),
- having regard to the Treaty on European Union and the Treaty establishing the European Community,
- having regard to the Treaty establishing a Constitution for Europe signed in Rome on 29 October 2004 (hereafter referred to as 'the Constitutional Treaty'),
- having regard to the Charter of Fundamental Rights of the European Union signed and proclaimed in Nice on 7 December 2000,
- having regard to the Laeken Declaration of 15 December 2001 on the future of the Union,
- having regard to the Berlin Declaration of 25 March 2007 on the occasion of the fiftieth anniversary of the signature of the Treaties of Rome,
- having regard to its resolutions of 12 January 2005 on the Treaty establishing a Constitution for Europe<sup>1</sup> and of 7 June 2007 on the roadmap for the Union's constitutional process<sup>2</sup>,
- having regard to the resolution of the European Economic and Social Committee of 30 May 2007 on the roadmap for the constitutional process and to the opinion of the Committee of the Regions of 6 June 2007 on relaunching the process of reforming the European Union in anticipation of the European Council of 21 and 22 June 2007,
- having regard to the joint parliamentary meeting on the future of Europe held on 11 and 12 June 2007 in Brussels,
- having regard to the Presidency Conclusions of the European Council held in Brussels on 21 and 22 June 2007 setting out the mandate for the IGC,
- having regard to the report of the Committee on Constitutional Affairs (A6-0279/2007),

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<sup>1</sup> OJ C 247 E, 6.10.2005, p. 88.

<sup>2</sup> Texts adopted, P6\_TA(2007)0234.

Whereas:

- A. two years of reflection on the future of Europe have confirmed the need to safeguard and to improve the content of the innovations of the Constitutional Treaty in terms of democracy, efficiency and transparency, in order to ensure the proper functioning of the European Union as well as to enhance the rights of its citizens and its role in the world,
  - B. this view is broadly shared by the national parliaments of the Member States and the European Parliament, whose representatives worked out the basis for these innovations within the Convention entrusted with drafting the Charter of Fundamental Rights and in the European Convention,
  - C. the European Council of June 2007 agreed on convening an IGC with a mandate to transform most of the innovations contained in the Constitutional Treaty into amendments to the Treaties in force,
  - D. that mandate is very precise and also allows the IGC to quickly agree on the modification of some of the innovations contained in the Constitutional Treaty, without jeopardising its substance;
  - E. the mandate, however, renounces the ambition of creating a single, constitutional treaty to replace the existing ones, abandons terminology which would give citizens a clear understanding of the nature of the acts of the Union, does not maintain a set of symbols which would make it easier for citizens to identify with the European Union, and includes several opt-outs in certain areas where difficulties have been raised by individual Member States,
  - F. the mandate does not sufficiently address the new challenges which the Union has been facing since the Constitutional Treaty was signed,
  - G. the European Parliament, as the only institution of the Union directly elected by the citizens, is duty bound to voice the common interest of the European Union in order to strengthen European construction and the Community method, which, for more than 50 years, have been a source of peace, stability and prosperity,
1. Welcomes the efforts deployed by the German Presidency of the Council to achieve unanimous agreement at the European Council of 21 and 22 June 2007;
  2. Takes note of the mandate for the IGC which was agreed by the European Council; welcomes its elaborate precision and the tight timetable for conclusion of the IGC, and calls on the Member States not to retreat from the commitments to which they subscribed in the European Council; expresses a favourable opinion on the convening of the IGC;

3. Regrets, however, that this mandate implies the loss of some important elements that had been agreed during the 2004 IGC, such as the concept of a constitutional treaty, the symbols of the Union, comprehensible names for the legal acts of the Union, a clear statement of the primacy of the law of the Union and the definition of the Union as a Union of citizens and states, and also implies a long delay in the introduction of others;
4. Expresses its concern at the fact that the mandate allows for an increasing number of derogations granted to certain Member States from the implementation of major provisions of the envisaged Treaties that could lead to a weakening of the cohesion of the Union;
5. Regrets that the mandate allows for various drafting changes to the Constitutional Treaty, which give an impression of distrust vis-à-vis the Union and its institutions and thus send a wrong signal to public opinion;
6. Regrets the decreasing European goodwill and political courage of Member State representatives and expresses its concern at the development of attitudes opposed to the European ideals of solidarity and integration;
7. Stresses that the mandate allows for modification of the names of legal acts, but does not provide for any substantial change in their structure or hierarchy, and expresses its intention to closely scrutinise the way in which this will be introduced in the relevant provisions, with a view to guaranteeing political accountability and safeguarding its legislative powers, in particular as regards the scrutiny of delegated acts;
8. Welcomes, nevertheless, the fact that the mandate safeguards much of the substance of the Constitutional Treaty, notably the single legal personality of the Union and the abolition of the 'pillars' structure, the extension of qualified majority voting in the Council and co-decision by Parliament and the Council, the elements of participatory democracy, the legally binding status of the Charter of Fundamental Rights, the enhancement of the coherence of the external action of the Union and the balanced institutional package;
9. Observes that all positive results in terms of strengthening democratic procedures and citizens' rights, extending competences and defining the EU's values and objectives derive exclusively from the work of the European Convention;
10. Welcomes the fact that economic and monetary union is to be recognised in the Treaty on European Union as an objective of the EU;
11. Welcomes the fact that the mandate provides for the introduction of certain new elements into the Treaties, such as the explicit mention of climate change and solidarity in the field of energy;

12. Recalls that the EU has declared itself, both to its own citizens and to the whole world, to be a community of values, that fundamental rights and freedoms form the innermost core of this community of values and that they have been comprehensively expressed in the Charter of Fundamental Rights and recognised by the EU institutions and all the Member States on many occasions; considers, therefore, that if one or more Member States now claim an opt-out from the Charter of Fundamental Rights, this would represent a dramatic setback and cause serious damage to the EU's innermost sense of identity; for this reason, urgently appeals to all Member States once again to make every effort to overcome this internal division and to reach a consensus after all on the complete validity of the Charter;
13. Invites the IGC to conclude its work before the end of 2007, so as to enable the new Treaty to enter into force in good time before the 2009 European elections;
14. Welcomes the strengthening of the modalities of its participation in the IGC at all levels, as agreed by the European Council of June 2007;
15. Reserves its right to make concrete proposals to the IGC on specific items within the scope of the mandate;
16. Will respond in due time to the invitation made by the European Council to deal with the issue of its own composition;
17. Stresses its intention to carefully scrutinise the outcome of the IGC in order to assess whether the reforms agreed during the negotiations comply in a satisfactory way with its interpretation of the mandate;
18. Calls on the Member States and its own representatives to ensure the full transparency of the work done by the IGC, notably by publishing all the documents submitted to it for discussion;
19. Reaffirms its intention to maintain a very close relationship with national parliaments and with civil society during the process of revision of the Treaties;
20. Calls on the IGC to ensure, for reasons of transparency, that the results of its work will also be published in the form of a draft consolidated version of the Treaties;
21. Announces its firm resolve to put forward, after the 2009 elections, new proposals for a further constitutional settlement for the Union, in accordance with the clause on treaty revision<sup>3</sup>, since the European Union is a common project that is constantly being renewed;

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<sup>3</sup> See Article IV-443 of the Constitutional Treaty.

22. Calls on the EU institutions to put forward specific proposals to involve Union citizens once again in dialogue during the continuation of the constitutional process;
23. Invites its competent committee to consider the possible amendment of its Rules of Procedure so as to lend official character to the European Union flag and anthem chosen in the Constitutional Treaty in its activities and premises;
24. Instructs its President to forward this resolution, constituting its opinion on the convening of the IGC, to the Council, the Commission, the Heads of State or Government and parliaments of the Member States and the European Central Bank.

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**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 11 July 2007**

**11597/07**

**POLGEN 81**

**"I/A" ITEM NOTE**

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from: Presidency  
to: COREPER/Council  
Subject: Council's opinion in favour of convening an Intergovernmental Conference under Article 48 of the TEU

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1. On 27 June 2007 the Government of the Federal Republic of Germany submitted to the Council a proposal for the amendment of the Treaties on which the Union is founded, in accordance with Article 48 of the TEU (see doc. 11222/07). The Council decided to consult the European Parliament, the Commission and the European Central Bank on convening a conference of representatives of the governments of the Member States for this purpose.
2. The European Central Bank delivered its opinion on 5 July 2007 (doc. 11624/07), the Commission on 10 July 2007 (doc. 11625/07), and the European Parliament on 11 July 2007 (doc. 11626/07).
3. In the light of the foregoing the Council is invited, pursuant to Article 48 of the TEU, to deliver an opinion in favour of calling a conference of the representatives of the governments of the Member States with a view to its opening in Brussels on 23 July 2007.



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 13 July 2007 (16.07)  
(OR. fr)**

**11625/07**

**POLGEN 83**

**COVER NOTE**

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from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	13 July 2007
to:	Mr Javier SOLANA, Secretary-General/High Representative
Subject:	Reforming Europe for the 21st Century Opinion of the European Commission, pursuant to Article 48 of the Treaty on European Union, on the Conference of representatives of the governments of the Member States convened to revise the Treaties

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Delegations will find attached Commission document COM(2007) 412 final.

Encl.: COM(2007) 412 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.7.2007  
COM(2007) 412 final

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL**

**Reforming Europe for the 21st Century**

## COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

### Reforming Europe for the 21st Century

#### **Opinion of the European Commission, pursuant to Article 48 of the Treaty on European Union, on the Conference of representatives of the governments of the Member States convened to revise the Treaties**

#### **I REFORMING EUROPE TOGETHER**

Europe has changed, the world has changed. The 21<sup>st</sup> century brings new challenges and new opportunities. The interaction of economies and peoples worldwide – whether by communication, trade, migration, shared security concerns or cultural exchange – is in constant evolution. In such a globalised world, Europe needs to be competitive to secure economic growth and more and better jobs, in order to achieve an overall sustainable development. Climate change calls for a response that must be both global and local. Demographic change has shifted some of the old certainties about the patterns of how society works. New security threats call for new strategies and policies. In all these areas, Europe needs to be equipped for change. Tomorrow's prosperity requires new skills, new ways of working, and political, economic and social reforms. European society has the creativity and the ability to respond to these challenges. It has a bedrock of core values – freedom, human dignity, solidarity, tolerance, social justice, the rule of law – which have proved their worth. But to preserve and consolidate these values, Europe needs to adapt. It also needs the levers to turn intentions into reality. Member States cannot cope with the challenges of today or of the future on their own: only a collective effort – applied in full respect for subsidiarity – can provide the right response. This is the task of the European Union, and this is why it needs to have the right treaties, the right institutions and the right working methods.

The test for Europe is the delivery of policies which meet the expectations and aspirations of citizens: a vision of a Europe ready to work together to realise a common future.

The European Union is uniquely well placed to find the answers to today's most pressing questions. A Europe of 27 or more Member States gives the opportunity to act on a continental scale and to face up to issues which transcend national boundaries. After fifty years of integration and enlargement, the vision set out by Europe's founding fathers holds as good as ever. Common solutions are often the only viable approach to achieve the right responses for Europe in the globalised world: to modernise the European economy to face new competition, to keep Europe as the forefront of efforts to address climate change worldwide, to secure sustainable energy supplies, to manage migration effectively, to combat terrorism, to help developing countries to fight poverty, and to see European values promoted effectively in the global community. The European Union has the potential to reinforce its policies in all these areas: but that potential must not be held back by outdated ways of working.

To realise its potential, the European Union needs modernisation and reform. Policy provisions need to be updated to reflect the demands of today. The delicate balance of the Union's institutional mix still provides the best combination to bring together Europe's strengths. The "Community method" – and more particularly the European Commission's special role and its right of initiative – is key to the success of the European system. But the instruments used must keep pace with the needs of the enlarged Union. They need to be effective and cohesive, overcoming the inevitable complications of dealing with a diverse Europe of 27 Member States to make a reality of the EU's common vision: institutions and working methods must enjoy streamlined decision-making equal to the fast-moving challenges of today. They also need to be democratic – modern European society rightly demands high standards of accountability, transparency and participation. The legitimacy of the European project must be grounded both in what it does, and how it acts.

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Over the past decade, the European Union has been looking for the right way forward to modernise and to respond better to the concerns and aspirations of its citizens. The Commission has always been an active participant in this process. The Laeken Declaration set out where the EU needed reform. The enlargement of 2004 and 2007 intensified the need for the way the Union works to be updated. The Convention and the Inter-Governmental Conference of 2004 sought to provide an answer in the form of the treaty establishing a Constitution for Europe. The Commission has always strongly supported the Constitutional Treaty as providing the right response to the challenges Europe faces. The Constitutional Treaty, despite being ratified in a majority of Member States, failed to secure unanimous support. The period of reflection helped the Union to find a springboard for a resolution, with the Commission leading the way through the Plan D initiative<sup>1</sup> to spark ideas about how to make the EU more democratic, transparent and effective.

With ratification of the Constitutional Treaty at a standstill, the need to reform Europe's way of working remained as compelling as ever. The European Commission set out to implement a new agenda, which won support at the Hampton Court informal European Council of October 2005 and was pursued in the twin track approach set out in the "Citizens Agenda"<sup>2</sup>. This showed that to address the policy imperatives facing Europe, we need the right tools and the right working methods. The steps laid out towards an institutional settlement – a framework at the European Council in June 2006, the Berlin Declaration in March 2007, and a comprehensive agreement on the elements for reform in June 2007 – have been realised. At the same time, the European Union has confirmed to European citizens its commitment to policy reform from economic growth to job creation, from energy to migration, from climate change to innovation. In all these areas, Europe has delivered results.

As well as celebrating the 50<sup>th</sup> anniversary of the Treaty of Rome, the Berlin Declaration made a commitment to putting the Union on a new common basis before the European Parliament elections of 2009. After a period of political consultations, the European Council

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<sup>1</sup> The Commission's contribution to the period of reflection and beyond: Plan D for Democracy, Dialogue and Debate - COM(2005) 494 , 13.10.2005.

<sup>2</sup> A Citizens Agenda: Delivering results for Europe - COM(2006) 211 , 10.5.2006.

of June 2007 agreed to convene an Inter-Governmental Conference (IGC) in July 2007. A precise mandate was set out detailing the elements of reform. The task of the IGC is to agree the text of a Reform Treaty to "amend the existing Treaties with a view to enhancing the efficiency and democratic legitimacy of the enlarged Union, as well as the coherence of its external action".

The agreement on the mandate confirms the twin track strategy as the right approach for the Union. Europe can best tackle institutional change when the institutions show their commitment to deliver on the political, economic and social imperatives. The Union seeks to serve its citizens, to deliver results to make their lives more prosperous and more secure, and to cement a Europe based on the values on which 50 years of European integration have been built.

## **II THE REFORM TREATY**

The European Council of June 2007 agreed a precise mandate for the Inter-Governmental Conference. The mandate was the fruit of a carefully crafted compromise. Together with many positive elements, which are to be welcomed, this compromise meant that some of the changes agreed in the 2004 IGC were not retained, and a number of derogations were granted to individual Member States. The disappearance of some elements, including some symbolic ones, as well as changes that reduced the readability of the Treaty text, were necessary parts of a package agreement which could be subscribed to by all Member States. The Commission actively contributed to this compromise by finding solutions which balanced political realism with ambition. Compared with the existing Treaties, the changes proposed will leave the European Union with a sound institutional and political basis to meet the expectations of its citizens.

The proposed Reform Treaty will amend the EU's two core treaties. The result will be a legal framework designed to give the Union the tools it needs to meet the challenges of the future, promoting reform while respecting the strong foundations of the established institutional balance which has served Europe so well over the past fifty years.

The mandate set out in considerable detail how the Inter-Governmental Conference (IGC) will put together the Reform Treaty. It defines the scope of the IGC, and is the exclusive basis for the IGC, detailing where the innovations agreed at the 2004 IGC will be taken on board and where specific new elements are brought in. As such it gives a clear picture of the two treaties of equal status which will emerge from the process to be presented for ratification.

The mandate provides the right basis for a swift and efficient IGC able to agree a treaty for early ratification. The goal set by the European Council of ensuring ratification before the European Parliament elections in June 2009 is both desirable and realistic. This goal should be met.

The European Council emphasised that during the IGC and during the process of ratification, the EU should reinforce communication with its citizens, providing them with full and

comprehensive information and involving them in permanent dialogue. The approach chosen – amending the existing treaties – makes it particularly important to communicate the proposed reforms and their underlying rationale, and to make available as soon as possible an easily accessible and readable text of the Treaties.

### *A More Democratic and Transparent Europe*

With the Reform Treaty, Europe's democratic infrastructure will be refreshed and reinforced. It will offer more open institutions and more opportunities for Europeans to see their voice heard in the work of the Union. A new section of the treaty lays out the principles underlying the Union's democratic accountability.

- The increase of co-decision in around 50 areas will see the European Parliament placed on an equal footing with the Council for the vast bulk of EU legislation. This will include key areas of policy including freedom, security and justice. The Parliament will also see important new powers over the budget and international agreements.
- National parliaments will have greater opportunities to be involved in the work of the EU while respecting the established roles of the EU institutions. This includes a two-stage procedure to monitor subsidiarity which will allow national parliaments to draw concerns to the attention of the Commission: if a majority share the same concerns about a particular proposal, the Commission, as well as the option to withdraw or amend, may choose to maintain its draft and explain its reasoning for final decision by the European Parliament and the Council of Ministers.
- Citizens and national parliaments will see the decisions taken by their governments at first hand through opening the legislative discussions in the Council of Ministers to the public.
- The Citizens' Initiative will create a possibility for a million citizens from different Member States – out of the Union's population of almost 500 million – to trigger an invitation to the Commission to bring forward a new proposal.
- The relationship between the Member States and the European Union will become clearer with the clear categorisation of competences.
- The Reform Treaty will make clear that Member States remain inside the Union by their own choosing, with a provision recognising that withdrawal from the EU is an option.

### *A more effective Europe*

To turn policy aspirations into effective change for citizens, the EU needs the capacity to act. That requires institutions and working methods which are effective and streamlined. The Community method, the Union's unique mix of institutions, provides the basic structure to enable the interests of different states and peoples in Europe to be married with the interests of the Union as a whole. The Commission attaches particular importance to the primacy of EU law, clearly established in existing case law and recognised in the mandate. It will continue to use its powers in areas such as competition policy to deliver the benefits of the Internal Market to its citizens.

The Reform Treaty would update the Union's institutional system to reflect the need for the enlarged Union to adapt policies to a fast-moving world.

- The Reform Treaty will bring swifter and more consistent decisions to the policy areas of freedom, security and justice. This will mean a step change in Europe's ability to combat terrorism, to tackle crime and human trafficking, and to manage migratory flows. Member States which have decided not to participate in all aspects of freedom, security and justice policies might choose to play a full part in those areas of activity in the future.
- The Union will have an improved ability to act in areas of major priority for today's Union, through new and reinforced legal bases in areas including energy policy, public health and civil protection, and new provisions on climate change, services of general interest, research and technological development, territorial cohesion, commercial policy, space, humanitarian aid, sport, tourism, and administrative cooperation.
- Streamlined procedures for economic governance will enhance coordination and facilitate decision-taking in the euro area.
- Qualified majority voting in the Council of Ministers will ensure that common issues can be tackled through common decision-making, fairly reflecting the varying sizes of the EU's Member States. The extension of qualified majority voting to more than 40 new cases will make a reality of EU action in these areas.
- A simplified way of calculating qualified majority voting will strengthen the Council's efficiency and provide a clear balance between the number of Member States and the size of their population, once applied in November 2014.
- Where at least nine Member States would like to take collective action inside the Union framework, they will be able to use enhanced cooperation procedures. In particular, the path to enhanced cooperation is smoothed in the areas of judicial cooperation in criminal matters and police cooperation. Whilst enhanced cooperation can be a way to take the diversity of the enlarged Union into account, it works within the common framework necessary for all Member States.
- The permanent President of the European Council will, in cooperation with the President of the Commission, ensure a better preparation and continuity in the work of the European Council.
- A streamlined Commission, with reinforced authority for its President, will continue to play its central role in EU decision-making and to reflect different parts of the Union through a system of equal rotation.
- A ceiling on the number of MEPs, with a lower and upper limit for any one Member State, will stabilise citizens' representation in the European Parliament.
- Introducing qualified majority voting and co-decision for future reforms to the Union's judicial system will help this system to adapt to the challenges of the future.
- Arrangements for conducting external policy will reflect the existing balance between the Member States and the institutions, while enabling the EU as a whole to better promote and protect European interests and values at the global level.



- Future changes to policies within existing competences, extensions to qualified majority voting and use of co-decision can be agreed without needing to call a new IGC, while preserving the need for unanimous agreement.
- The confusing distinction between the "European Community" and the "European Union" will be brought to an end.

### *A Europe of rights and values, solidarity and security*

The Reform Treaty will reinforce the imperatives of solidarity and security in the Union. These bind together the Union, the Member States and Europe's citizens and encapsulate a Union of mutual support and mutual protection. At the same time, practical steps will be taken in the new Treaty to develop EU action in areas like climate change and health, and give the Union new possibilities to promote greater solidarity and cohesion throughout Europe. The extension of the Union's capacity to act in freedom, security and justice will bring direct benefits in terms of the Union's ability to fight crime and terrorism. The Reform Treaty will also introduce a new emphasis on the rights of individuals as citizens in the Union.

- The Union's values and objectives will be set down more clearly than ever before. They will serve as a point of reference for European citizens, and will encapsulate what Europe has to offer to partners worldwide. They show how the European Union balances different goals for Europe, pursuing sustainable development while promoting political, economic and social objectives.
- The Charter of Fundamental Rights will offer Europeans guarantees with the same legal status as the treaties themselves, bringing together civil, political, economic and social rights which the Union's action must respect. Its provisions will also apply in full to acts of implementation of Union law, even if not in all Member States. The Union will be able to join the unique system of human rights protection established by the European Convention of Human Rights.
- Gaps in judicial protection ensured by the European Court of Justice will be filled to ensure jurisdiction in freedom, security and justice and to improve the individuals' rights of recourse to the Court.
- The new solidarity clause will give force to the obligation of Member States to support each other in the event of terrorist attack, natural or man-made disaster.
- The need for solidarity in the area of energy is given special prominence in the Union's powers to help in case of shortage of supply, as well as emphasising that solidarity is an important aspect of new provisions on energy.
- New provisions on civil protection, humanitarian aid and public health all aim at boosting the Union's ability to respond to threats to the security of European citizens.
- The new horizontal social clause will give prominence to the Union's commitment to employment and social protection, and the role of the regions and the social partners will be confirmed as part of the political, economic and social fabric of the Union.

### *Europe as an actor on the global stage*

One of the particular challenges for the European Union is its ability to harness its economic, political and diplomatic strengths to promote European interests and values worldwide. Globalisation has sharpened the need to address the most pressing issues – sustainable development, competitiveness, climate change, energy, terrorism, migration, the fight against poverty – which link both internal and external policy. Prosperity, freedom and security all depend on Europe's ability to project itself worldwide. This has put the spotlight on the potential for combining the particular assets of all Member States with the collective weight of the Union as a whole, in full respect of the Union's institutional balance. To make a success of external policy, the Union's external policy instruments need to be geared to work together to best effect. The mandate maximises this coherence by ensuring that all external action policies – such as CFSP, trade, enlargement, development, and humanitarian assistance – are on an equal political and legal footing.

The Reform Treaty will develop the Union's capacity to act by bringing together Europe's external policy tools, both in policy development and policy delivery. It will give Europe a clear voice in relations with our partners worldwide, and sharpen the impact and visibility of our message. It will also bring more coherence between the different strands of EU external policy – such as diplomacy, security, trade, development, humanitarian aid, and international negotiations on a range of global issues. This will mean an EU able to play a more responsive and effective part in global affairs.

- Establishing a single legal personality of the Union will strengthen the Union's negotiating power, making it even more effective on the world stage and a more visible partner for third countries and international organisations.
- The new High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission will increase the impact, the coherence and the visibility of the EU's external action.
- The European External Action Service will provide a structure to support the full range of European external policies – as well as the external dimension of internal policies – in a more effective and coherent way.
- This new architecture for external relations will be married with a respect for the particular interests of Member States by retaining specific decision-making procedures in the area of Common Foreign and Security Policy.
- The European Security and Defence Policy will be brought more clearly into the Union, preserving special decision-making arrangements but also paving the way towards reinforced cooperation amongst a smaller group of Member States.

### **III OPINION IN ACCORDANCE WITH ARTICLE 48 OF THE TREATY ON EUROPEAN UNION**

The Reform Treaty will underpin some of the most deep-seated aspirations of European citizens. It will reinforce core values; it will clarify key issues; it will reassure persistent concerns. Above all, it will give the Union the capacity to deliver change, to make Europeans more secure and prosperous, to open up their opportunities to shape globalisation.

The European Commission considers that the decisions of the European Council will provide a Reform Treaty to adapt the European Union to the needs of the 21<sup>st</sup> century. The Commission welcomes the convocation of the Inter-Governmental Conference, gives its full support to the mandate as agreed by the European Council, and is committed to contribute to its success.

Europe needs a Reform Treaty to be agreed and ratified ahead of the June 2009 European elections. It is the responsibility of all participants in the Inter-Governmental Conference to create the conditions for this goal to be met.



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 10 July 2007**

**11624/07**

**POLGEN 82**

**COVER NOTE**

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from : General Secretariat of the Council

to : Delegations

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Subject : Opinion of the European Central Bank of 5 July 2007 at the request of the Council of the European Union on the opening of an Intergovernmental Conference to draw up a Treaty amending the existing Treaties (CON/2007/20)

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Delegations will find attached a copy of a letter from Mr Jean-Claude Trichet, President of the European Central Bank, to Mr José Sócrates, President of the Council of the European Union, concerning the opinion of the European Central Bank of 5 July 2007 at the request of the Council of the European Union on the opening of an Intergovernmental Conference to draw up a Treaty amending the existing Treaties.



Jean-Claude TRICHET  
President

Mr José Sócrates  
President  
Council of the European Union  
Rue de la Loi 175  
B-1048 Brussels

5 July 2007

**ECB opinion of 5 July 2007 at the request of the Council of the European Union on the opening of an Intergovernmental Conference to draw up a Treaty amending the existing Treaties (CON/2007/20)**

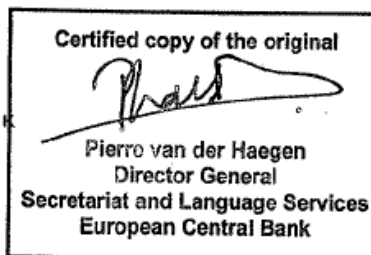
Dear Mr Sócrates,

Following the consultation request received by the ECB on 27 June 2007, please find enclosed, for your information, the English version of the above-mentioned ECB Opinion. Copies of the Opinion in the other Community languages will follow in the next days.

The Opinion has been transmitted to the European Commission and European Parliament (Committee on Economic and Monetary Affairs), and will be published in the *Official Journal of the European Union* in due course.

Yours sincerely,

Encl.



**OPINION OF THE EUROPEAN CENTRAL BANK**

**of 5 July 2007**

**at the request of the Council of the European Union on the opening of an Intergovernmental Conference to draw up a Treaty amending the existing Treaties**

**(CON/2007/20)**

1. On 27 June 2007, the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on the opening of a conference of representatives of the governments of the Member States (Intergovernmental Conference or IGC) to draw up a Treaty amending the existing Treaties (Reform Treaty).
2. The ECB's competence to deliver an opinion is based on Article 48 of the Treaty on European Union. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, the Governing Council of the ECB has adopted this Opinion.
3. The mandate of the IGC was agreed by the Brussels European Council of 21-23 June 2007 and is attached as an Annex to the Presidency Conclusions (IGC Mandate). The IGC Mandate states that it is the exclusive basis and framework for the IGC<sup>1</sup>. The IGC is mandated to draw-up a Reform Treaty which will introduce the innovations resulting from the 2004 IGC into the Treaty on European Union (TEU) and into the Treaty establishing the European Community (TEC) which is to be renamed the Treaty on the Functioning of the Union (TFU)<sup>2</sup>.
4. The ECB welcomes the opening of the IGC. The ECB understands that, except as indicated in the IGC Mandate, the text of the TEU will remain unchanged<sup>3</sup>. In particular, the ECB welcomes the confirmation in the IGC Mandate that price stability is one of the Union's objectives<sup>4</sup> and that monetary policy is expressly listed as one of the Union's exclusive competences. The ECB also welcomes the revision of the article on the Union's objectives so as to include the establishment of an economic and monetary union whose currency is the euro<sup>5</sup>.
5. The IGC Mandate specifically refers to improvements to the governance of the euro, stating that

<sup>1</sup> Preamble of the IGC Mandate.

<sup>2</sup> Point 4 of the IGC Mandate. On point 17 of the IGC Mandate it is termed 'Treaty on the Functioning of the *European Union*'.

<sup>3</sup> Point 5 of the IGC Mandate.

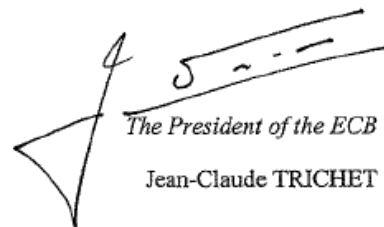
<sup>4</sup> Annex 1, point 3 of the IGC Mandate.

<sup>5</sup> Annex 1, point 3 of the IGC Mandate.

innovations, as agreed at the 2004 IGC, will be inserted into the TFU 'by way of specific modifications in the usual manner'<sup>6</sup>. The ECB is specifically mentioned, and the IGC is mandated<sup>7</sup> to insert the provisions on the ECB in Section 4bis of Part Five of the TFU. The IGC is also mandated to annex a Protocol to the Reform Treaty to amend existing Protocols in line with the changes agreed at the 2004 IGC<sup>8</sup>. This includes, inter alia, changes to the Protocol on the Statute of the European System of Central Banks and of the European Central Bank.

6. The ECB understands that, as regards the status, mandate, tasks and legal regime of the ECB, the Eurosystem and the European System of Central Banks, the changes to the current Treaties to be introduced by the IGC will be limited to and will comprise all the innovations agreed at the 2004 IGC<sup>9</sup>.
7. With regard to the innovations agreed at the 2004 IGC on the governance of the euro, the Annex to this Opinion refers to some that are of particular relevance to the ECB and, where appropriate, sets out the ECB's understanding of how these could be introduced into the TFU without going beyond the scope of the IGC Mandate.
8. The ECB stands ready to contribute to the IGC at any time during its work and, once a text has been drawn up, to provide an opinion on the matters which are within its fields of competence.

Done at Frankfurt am Main, 5 July 2007.



*The President of the ECB*  
Jean-Claude TRICHET

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<sup>6</sup> Point 18 of the IGC Mandate.

<sup>7</sup> Annex 2(B), point 16 of the IGC Mandate.

<sup>8</sup> Point 22 of the IGC Mandate.

<sup>9</sup> In connection with the 2004 IGC, the ECB issued ECB Opinion CON/2003/20 of 19 September 2003 at the request of the Council of the European Union on the draft Treaty establishing a Constitution for Europe (OJ C 229, 25.9.2003, p. 7).

**A. Provisions on the ECB**

1. The IGC is mandated<sup>10</sup> to insert the innovations agreed at the 2004 IGC concerning the ECB into the TFU, together with the articles on the Court of Auditors and the Union's advisory bodies. In the TFU, the text of the provisions on the ECB will be identical to those agreed at the 2004 IGC, except for the necessary amendments to cross-references. This means, inter alia, that the 2004 IGC innovation of defining the ECB as an (other) institution will be incorporated into the Treaties, along with the introduction of the term 'Eurosystem' and the express confirmation of the ECB's financial independence.
2. While the article on the ECB will appear in the TFU<sup>11</sup>, the IGC Mandate states that the TEU and the TFU will have the same legal value<sup>12</sup>. This means that the new Article 1 of the TFU, which should set out the relationship between the TFU and the TEU<sup>13</sup>, will neither establish a hierarchy between the two Treaties nor introduce differences between the amending procedures for the core provisions dealing with the ECB/ESCB and those dealing with the EU institutions. On this basis, the ECB understands that, even if the article on the ECB will appear in the TFU, the ECB will benefit from the same legal standing as the EU institutions which are referred to in the TEU.

**B. Updating of the terminology used in the Treaties with respect to the single currency**

3. Further to the IGC Mandate<sup>14</sup>, the Reform Treaty will replace the term 'Community' with 'Union' and 'ECU' with 'euro' throughout the Treaties, and introduce a series of changes to outdated references to the 'stages' of economic and monetary union. Necessary changes will be made to the Protocols on Denmark and the UK.
4. Following the agreement of the Reform Treaty, the name of the single currency will appear in the primary law of the Union. The ECB considers that, for reasons of legal certainty and clarity, the uniform spelling of the term 'euro' should be respected in all the linguistic and alphabetical versions of the Reform Treaty and, therefore in the TEU and the TFU, and this requires the spelling to be *euro* in the Latin alphabet, *ευρώ* in the Greek alphabet and *eypo* in the Cyrillic alphabet.

**C. Abrogation of the EMI Protocol**

5. The text agreed at the 2004 IGC abrogated the Protocol on the Statute of the European Monetary Institute ('the EMI Protocol'), and thus the EMI Protocol will be deleted. While the ECB welcomes such deletion, some of the functions carried out under its provisions are still relevant for the

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<sup>10</sup> Annex 2(B), point 16 of the IGC Mandate.

<sup>11</sup> Point 12 of the IGC Mandate.

<sup>12</sup> Point 19(a) of the IGC Mandate.

<sup>13</sup> Point 19(a) of the IGC Mandate.

<sup>14</sup> Point 18 of the IGC Mandate.



Member States with a derogation. Under Articles 44 and 47.1 of the Statute of the ESCB, such functions are currently performed by the General Council of the ECB. The ECB understands that the deletion of the EMI Protocol will be complemented by an amendment to Article 117(2) of the TEC<sup>15</sup> so that such functions will continue to be performed by the ECB.

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<sup>15</sup> I.e. along the lines of the adaptation agreed at the 2004 IGC.



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 26 June 2007**

**11218/07**

**POLGEN 74**

**NOTE**

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from : General Secretariat of the Council

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to : Delegations

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Subject : IGC 2007 Mandate

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Delegations will find attached the IGC 2007 Mandate.

## IGC MANDATE

The present mandate will provide the exclusive basis and framework for the work of the IGC that will be convened according to paragraph 10 of the European Council conclusions.

### I. GENERAL OBSERVATIONS

1. The IGC is asked to draw up a Treaty (hereinafter called "*Reform Treaty*") amending the existing Treaties with a view to enhancing the efficiency and democratic legitimacy of the enlarged Union, as well as the coherence of its external action. The constitutional concept, which consisted in repealing all existing Treaties and replacing them by a single text called "Constitution", is abandoned. The *Reform Treaty* will introduce into the existing Treaties, which remain in force, the innovations resulting from the 2004 IGC, as set out below in a detailed fashion.

2. The *Reform Treaty* will contain two substantive clauses amending respectively the *Treaty on the European Union (TEU)* and the *Treaty establishing the European Community (TEC)*. The *TEU* will keep its present name and the *TEC* will be called *Treaty on the Functioning of the Union*, the Union having a single legal personality. The word "Community" will throughout be replaced by the word "Union"; it will be stated that the two Treaties constitute the Treaties on which the Union is founded and that the Union replaces and succeeds the Community. Further clauses will contain the usual provisions on ratification and entry into force as well as transitional arrangements. Technical amendments to the *Euratom Treaty* and to the existing *Protocols*, as agreed in the 2004 IGC, will be done via *Protocols* attached to the *Reform Treaty*.

3. The *TEU* and the *Treaty on the Functioning of the Union* will not have a constitutional character. The terminology used throughout the Treaties will reflect this change: the term "Constitution" will not be used, the "Union Minister for Foreign Affairs" will be called High Representative of the Union for Foreign Affairs and Security Policy and the denominations "law" and "framework law" will be abandoned, the existing denominations "regulations", "directives" and "decisions" being retained. Likewise, there will be no article in the amended Treaties mentioning the symbols of the EU such as the flag, the anthem or the motto. Concerning the primacy of EU law, the IGC will adopt a Declaration recalling the existing case law of the EU Court of Justice<sup>1</sup>.

4. As far as the content of the amendments to the existing Treaties is concerned, the innovations resulting from the 2004 IGC will be integrated into the *TEU* and the *Treaty on the Functioning of the Union*, as specified in this mandate. Modifications to these innovations introduced as a result of the consultations held with the Member States over the past 6 months are clearly indicated below. They concern in particular the respective competences of the EU and the Member States and their delimitation, the specific nature of the Common Foreign and Security Policy, the enhanced role of national parliaments, the treatment of the Charter of Fundamental Rights and a mechanism, in the area of police and judicial cooperation in criminal matters, enabling Member States to go forward on a given act while allowing others not to participate.

## II. AMENDMENTS TO THE EU TREATY

5. Clause 1 of the *Reform Treaty* will contain the amendments to the present *TEU*.

In the absence of indications to the contrary in this mandate, the text of the existing Treaty remains unchanged.

6. The text of the first recital as agreed in the 2004 IGC will be inserted as a second recital into the Preamble.

7. The *TEU* will be divided into 6 Titles: *Common Provisions (I)*, *Provisions on democratic principles (II)*, *Provisions on institutions (III)*, *Provisions on enhanced cooperation (IV)*, *General Provisions on the Union's External Action and specific Provisions on the Common Foreign and Security Policy (V)*, and *Final Provisions (VI)*. Titles I, IV (present VII), V and VI (present VIII) follow the structure of the existing *TEU*, with amendments as agreed in the 2004 IGC.<sup>2</sup> The two other titles (II and III) are new and introduce innovations agreed in the 2004 IGC.

### *Common Provisions (I)*

8. Title I of the existing *TEU*, containing inter alia Articles on the Union's values and objectives, on relations between the Union and the Member States, and on the suspension of rights of Member States, will be amended in line with the innovations agreed in the 2004 IGC (see Annex 1, Title I).

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<sup>1</sup> Whilst the Article on primacy of Union law will not be reproduced in the *TEU*, the IGC will agree on the following Declaration: "*The Conference recalls that, in accordance with well settled case-law of the EU Court of Justice, the Treaties and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case-law.*" In addition, the opinion of the Legal Service of the Council (doc. 11197/07) will be annexed to the Final Act of the Conference.

<sup>2</sup> The content of Title VI on police and judicial cooperation in criminal matters will be put into the Title on the Area of freedom, security and justice in the Treaty on the Functioning of the Union (*TFEU*), see below under "Amendments to the EC Treaty".

9. The Article on fundamental rights will contain a cross reference<sup>3</sup> to the *Charter on fundamental rights*, as agreed in the 2004 IGC, giving it legally binding value and setting out the scope of its application.

10. In the Article on fundamental principles concerning competences it will be specified that the Union shall act only within the limits of competences conferred upon it by the Member States in the Treaties.

#### Provisions on democratic principles (II)

11. This new Title II will contain the provisions agreed in the 2004 IGC on democratic equality, representative democracy, participatory democracy and the citizens' initiative. Concerning national parliaments, their role will be further enhanced compared to the provisions agreed in the 2004 IGC (see Annex 1, Title II):

- The period given to national parliaments to examine draft legislative texts and to give a reasoned opinion on subsidiarity will be extended from 6 to 8 weeks (the *Protocols on national Parliaments and on subsidiarity and proportionality* will be modified accordingly).
- There will be a reinforced control mechanism of subsidiarity in the sense that if a draft legislative act is contested by a simple majority of the votes allocated to national parliaments, the Commission will re-examine the draft act, which it may decide to maintain, amend or withdraw. If it chooses to maintain the draft, the Commission will have, in a reasoned opinion, to justify why it considers that the draft complies with the principle of subsidiarity. This reasoned opinion, as well as the reasoned opinions of the national parliaments, will have to be transmitted to the EU legislator, for consideration in the legislative procedure. This will trigger a specific procedure:
  - before concluding first reading under the ordinary legislative procedure, the legislator (Council and Parliament) shall consider the compatibility of the legislative proposal with the principle of subsidiarity, taking particular account of the reasons expressed and shared by the majority of national parliaments as well as the reasoned opinion of the Commission;
  - If, by a majority of 55% of the members of the Council or a majority of the votes cast in the European Parliament, the legislator is of the opinion that the proposal is not compatible with the principle of subsidiarity, the legislative proposal shall not be given further consideration. (the *Protocol on subsidiarity and proportionality* will be modified accordingly).

A new general Article will reflect the role of the national parliaments.

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<sup>3</sup> Therefore, the text of the Charter on fundamental rights will not be included in the Treaties.

### Provisions on institutions (III)

12. The institutional changes agreed in the 2004 IGC will be integrated partly into the *TEU* and partly into the *Treaty on the Functioning of the Union*. The new Title III will give an overview of the institutional system and will set out the following institutional modifications to the existing system, i.e. the Articles on the Union's institutions, the European Parliament (new composition), the European Council (transformation into an institution<sup>4</sup> and creation of the office of President), the Council (introduction of the double majority voting system and changes in the six-monthly Council presidency system, with the possibility of modifying it), the European Commission (new composition and strengthening of the role of its President), the Union Minister for Foreign Affairs (creation of the new office, its title being changed to High Representative of the Union for Foreign Affairs and Security Policy) and the Court of Justice of the European Union.<sup>5</sup>

13. The double majority voting system, as agreed in the 2004 IGC, will take effect on 1 November 2014, until which date the present qualified majority system (Article 205(2) TEC) will continue to apply. After that, during a transitional period until 31 March 2017, when a decision is to be adopted by qualified majority, a member of the Council may request that the decision be taken in accordance with the qualified majority as defined in Article 205(2) of the present TEC.

In addition, until 31 March 2017, if members of the Council representing at least 75% of the population or at least 75% of the number of Member States necessary to constitute a blocking minority resulting from the application of Article [I-25(1) first subparagraph], or Article [I-25(2)], indicate their opposition to the Council adopting an act by a qualified majority, the mechanism provided for in the draft Decision contained in Declaration n° 5 annexed to the Final Act of the 2004 IGC will apply. As from 1 April 2017, the same mechanism will apply, the relevant percentages being, respectively, at least 55% of the population or at least 55% of the number of Member States necessary to constitute a blocking minority resulting from the application of Article [I-25(1) first subparagraph], or Article [I-25(2)].

### Provisions on enhanced cooperation (IV)

14. Title IV (former Title VII of the existing *TEU*) will be amended as agreed in the 2004 IGC. The minimum number of Member States required for launching an enhanced cooperation will be nine.

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<sup>4</sup> Including modalities of vote.

<sup>5</sup> There will be some drafting adaptations due to the merging of some provisions.

General Provisions on the Union's external action and specific Provisions on the Common Foreign and Security Policy (V)

15. In Title V of the existing *TEU*, a first new Chapter on the general provisions on the Union's external action will be inserted containing two Articles, as agreed in the 2004 IGC, on the principles and objectives of the Union's external action and on the role of the European Council in setting the strategic interests and objectives of this action. The second Chapter contains the provisions of Title V<sup>6</sup> of the existing *TEU*, as amended in the 2004 IGC (including the European External Action Service and the permanent structured cooperation in the field of defence). In this Chapter, a new first Article will be inserted stating that the Union's action on the international scene will be guided by the principles, will pursue the objectives and will be conducted in accordance with the general provisions on the Union's external action which are laid down in Chapter 1. It will be clearly specified in this Chapter that the CFSP is subject to specific procedures and rules. There will also be a specific legal basis on personal data protection in the CFSP area<sup>7</sup>.

Final Provisions (VI)

16. Title VI (former Title VIII of the existing *TEU*) will be amended as agreed in the 2004 IGC. There will in particular be an Article on the legal personality of the Union<sup>8</sup>, an Article on voluntary withdrawal from the Union and Article 48 will be amended so as to bring together the procedures for revising the Treaties (the ordinary and the two simplified procedures). This Article, in its paragraph on the ordinary revision procedure, will make it clear that the Treaties can be revised to increase or reduce the competences conferred upon the Union. In Article 49, on conditions of eligibility and the procedure for accession to the Union, the reference to the principles will be replaced by a reference to the Union's values and the addition of a commitment to promoting such values, an obligation to notify the European Parliament and national parliaments of an application for accession to the Union and a reference to take into account the conditions of eligibility agreed upon by the European Council (see Annex 1, Title VI). The usual final provision will also be adapted (territorial scope, duration, ratification and authentic texts and translations).<sup>9</sup>

### III. AMENDMENTS TO THE EC TREATY

17. Clause 2 of the *Reform Treaty* will contain the amendments to the present *TEC*, which will become the *Treaty on the Functioning of the European Union*.

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<sup>6</sup> The IGC will agree on the following Declaration: "*The Conference underlines that the provisions in the Treaty on European Union covering the Common Foreign and Security Policy, including the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy and the establishment of an External Action Service, do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organisations.*

*The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States.*

*It stresses that the EU and its Member States will remain bound by the provisions of the Charter of the United Nations and, in particular, by the primary responsibility of the Security Council and of its Members for the maintenance of international peace and security.*"

<sup>7</sup> With regard to the processing of such data by the Member States when carrying out activities which fall within the CFSP and ESDP and the movement of such data.

<sup>8</sup> The IGC will agree on the following Declaration: "*The Conference confirms that the fact that the European Union has a legal personality will not in any way authorise the Union to legislate or to act beyond the competences conferred upon it by the Member States in the Treaties.*"

<sup>9</sup> Articles 41, 42, 46 and 50 of the *TEU* will be deleted, Article 47 being placed, as amended in the 2004 IGC, in the CFSP Chapter.

18. The innovations as agreed in the 2004 IGC will be inserted into the Treaty by way of specific modifications in the usual manner. They concern the categories and areas of competences, the scope of qualified majority voting and of codecision, the distinction between legislative and non legislative acts, provisions *inter alia* on the Area of freedom, security and justice, the solidarity clause, the improvements to the governance of the euro, horizontal provisions such as the social clause, specific provisions such as public services, space, energy, civil protection, humanitarian aid, public health, sport, tourism, outermost regions, administrative cooperation, financial provisions (own resources, multiannual financial framework, new budgetary procedure).

19. The following modifications will be introduced compared to the results of the 2004 IGC (see Annex 2):

- a) A new Article 1 will state the purpose of the Treaty on the functioning of the Union and its relation with the EU Treaty. It will state that the two Treaties have the same legal value.
- b) In the Article on categories of competences, placed at the beginning of the *TEC*, it will be clearly specified that the Member States will exercise again their competence to the extent that the Union has decided to cease exercising its competence.<sup>10</sup>
- c) In the Article on supporting, coordinating or complementary action, the introductory sentence will be amended so as to underline that the Union carries out actions to support, coordinate or supplement the actions of the Member States.
- d) In Article 18(3), as amended in the 2004 IGC, the phrase on the adoption of measures on passports, identity cards, residence permits and similar documents will be removed and transferred to a similar legal basis on this issue to be placed in the Title on the Area of freedom, security and justice, in the Article on border checks.
- e) In Article 20 (diplomatic and consular protection), as amended in the 2004 IGC, the legal basis will be amended so as to provide in this field for adoption of directives establishing coordination and cooperation measures.
- f) In Article 286 (personal data protection), as amended in the 2004 IGC, a subparagraph will be inserted stating that the rules adopted on the basis of this Article will be without prejudice to those adopted under the specific legal basis on this subject which will be introduced in the CFSP Title (the IGC will also adopt a declaration on personal data protection in the areas of police and judicial cooperation in criminal matters, as well as, where appropriate, specific entries in the relevant Protocols on the position of individual Member States clarifying their applicability in this respect).

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<sup>10</sup> (a) The IGC will also agree a Declaration in relation to the delimitation of competences: "*The Conference underlines that, in accordance with the system of division of competences between the Union and the Member States as provided for in the Treaty on European Union, competences not conferred upon the Union in the Treaties remain with Member States.*

*When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence. The latter situation arises when the relevant EU institutions decide to repeal a legislative act, in particular to better ensure the constant respect for the principles of subsidiarity and proportionality. The Council may request, at the initiative of one or several of its Members (representatives of Member States) and in accordance with Article 208, the Commission to submit proposals for repealing a legislative act.*

*Equally, the representatives of the governments of the Member States, meeting in an Intergovernmental Conference, in accordance with the ordinary revision procedure provided for in Article [IV-443] of the Treaty on European Union, may decide to amend the Treaties on which the Union is founded, including either to increase or to reduce the competences conferred on the Union in the said Treaties."*

(b) The following Protocol will be annexed to the Treaties:

*"With reference to Article [I-12(2)] on shared competences, when the Union has taken action in a certain area, the scope of this exercise of competence only covers those elements governed by the Union act in question and therefore does not cover the whole area."*



- g) In Article 42 (aggregation of insurance periods and export of social security benefits), an addition will be made to stress that the procedure is halted in the brake system if the European Council does not take any action within 4 months (see point 1) of Annex 2).<sup>11</sup>
- h) Article 60 (freezing of assets to combat terrorism), as amended in the 2004 IGC, will be transferred towards the end of the Chapter on general provisions in the Title on the Area of freedom, security and justice.
- i) On the issue of services of general economic interest (cf. Article 16, as amended in the 2004 IGC) a Protocol will be annexed to the Treaties.<sup>12</sup>
- j) In the Chapter on general provisions applying to the area of freedom, security and justice, insertion of a provision about cooperation and coordination by Member States in the field of national security (see point 2)(a) of Annex 2).
- k) In the Chapter on judicial cooperation in civil matters, paragraph 3 of the Article on such cooperation, as agreed in the 2004 IGC, will be modified so as to give a role to national parliaments in the "passerelle" clause on family law (see point 2)(b) of Annex 2).
- l) In the Chapters on judicial cooperation in criminal matters and on police cooperation, as amended in the 2004 IGC, in the Articles on mutual recognition of judgments, minimum rules on definition of criminal offences and sanctions, the European Public Prosecutor, and police cooperation, a new mechanism will be inserted enabling Member States to go forward with adopting measures in this field while allowing others not to participate (see point 2)(c) and (d) of Annex 2). Moreover, the scope of the Protocol on the position of the United Kingdom and Ireland (1997) will be extended so as to include, in relation to the UK, and on the same terms, the Chapters on judicial cooperation in criminal matters and on police cooperation. It may also address the application of the Protocol in relation to Schengen building measures and amendments to existing measures. This extension will take account of the UK's position under the previously existing Union *acquis* in these areas. Ireland will determine in due course its position with regard to that extension.
- m) In Article 100 (measures in case of severe difficulties in the supply of certain products), a reference to the spirit of solidarity between Member States and to the particular case of energy as regards difficulties in the supply of certain product will be inserted (see point 3) of Annex 2).

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<sup>11</sup> The IGC will also agree a Declaration in relation to this Article: "*The Conference recalls that in that case, in accordance with Article [I-21(4)], the European Council acts by consensus*".

<sup>12</sup> The following Protocol will be annexed to the Treaties:

*"Protocol on services of general interest*

*The High Contracting Parties,*

*Wishing to emphasise the importance of services of general interest*

*Have agreed upon the following interpretative provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:*

*Article 1*

*The shared values of the Union in respect of services of general economic interest within the meaning of Article 16 EC Treaty include in particular:*

- the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organizing services of general economic interest as closely as possible to the needs of the users;*
- the diversity between various services of general economic interest and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations;*
- a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights;*

*Article 2*

*The provisions of the Treaties do not affect in any way the competence of Member States to provide, commission and organise non-economic services of general interest."*

- n) In Article 152 (public health), as amended in the 2004 IGC, point (d) on measures concerning monitoring, early warning of and combating serious cross border threats to health will be transferred to the paragraph on adoption of incentive measures (the IGC will also adopt a declaration clarifying the internal market aspect of measures on the quality and safety standards for medicinal products and devices).
- o) In the Article on European space policy, agreed in the 2004 IGC, it will be specified that measures adopted may not entail harmonisation of the laws and regulations of the Member States.
- p) In Article 174 (environment), as amended in the 2004 IGC, the particular need to combat climate change in measures at international level will be specified (see point 4) of Annex 2).
- q) In the Article on energy, agreed in the 2004 IGC, a reference to the spirit of solidarity between Member States will be inserted (see point 5) of Annex 2), as well as a new point (d) on the promotion of interconnection of energy networks.
- r) At the beginning of the Part on the Union's external action, an Article will be inserted stating that the Union's action on the international scene will be guided by the principles, will pursue the objectives and will be conducted in accordance with the general provisions on the Union's external action which are laid down in Chapter 1 of Title V of the *TEU*.
- s) In the Article on the procedure for concluding international agreements, it will be added that the agreement on the accession of the Union to the ECHR will be concluded by the Council, by unanimity and with ratification by Member States.
- t) Article 229 A (extension of ECJ jurisdiction on disputes relating to European intellectual property rights) will remain unchanged.
- u) In Article 249 (definition of EU acts: regulation, directive and decision), in a new Section 1 on the Union's legal acts, the definition of a decision will be aligned with the one agreed in the 2004 IGC.
- v) As a consequence of dropping the denominations "law" and "framework law", the innovations agreed in the 2004 IGC will be adapted, while maintaining the distinction between what is legislative and what is not and its consequences. Accordingly, after Article 249, three Articles will be introduced on, respectively, acts which are adopted in accordance with a legislative procedure, delegated acts and implementing acts. The Article on legislative acts will state that acts (regulations, directives or decisions) adopted under a legislative procedure (ordinary or special) will be legislative acts. The terminology in the Articles on delegated and implementing acts, as agreed in the 2004 IGC, will be adapted accordingly.
- w) In Article 308 (flexibility clause), as amended in the 2004 IGC, a paragraph will be added stating that this Article cannot serve as a basis for attaining objectives pertaining to the CFSP, and that any acts adopted pursuant to this Article will have to respect the limits set out in Article [III-308, second subparagraph].<sup>13</sup>

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<sup>13</sup> The IGC will also agree two Declarations in relation to this Article:

- 1) *"The Conference declares that the reference in Article 308 to objectives of the Union refers to the objectives as set out in Article [I-3(2) and (3)] and to the objectives of Articles [I-3(4)] with respect to external action under Part III, Title V of the Treaty. It is therefore excluded that an action based on Article 308 would only pursue objectives set out in Article [I-3(1)]. In this connection, the Conference notes that in accordance with Article [I-40(6)], legislative acts may not be adopted in the area of Common Foreign and Security Policy."*
- 2) *"The Conference underlines that, in accordance with the settled case-law of the Court of Justice of the European Union, Article 308, being an integral part of an institutional system based on the principle of conferred powers, cannot serve as a basis for widening the scope of Union powers beyond the general framework created by the provisions of the Treaties as a whole and, in particular, by those that define the tasks and the activities of the Union. In any event, Article 308 cannot be used as a basis for the adoption of provisions whose effect would, in substance, be to amend the Treaties without following the procedure which they provide for that purpose."*

- x) After Article 308, an Article will be inserted excluding from the coverage of the simplified revision procedure those legal bases which were not covered by this procedure in the texts as agreed in the 2004 IGC.

20. In addition, a number of provisions agreed in the 2004 IGC will be located in the *Treaty on the Functioning of the Union* (see list in Part B of Annex 2).

#### **IV. PROTOCOLS AND THE EURATOM TREATY**

21. The new Protocols agreed in the 2004 IGC<sup>14</sup> will be annexed to the existing Treaties (i.e. Protocol on the role of national Parliaments in the European Union, Protocol on the application of the principles of subsidiarity and proportionality, Protocol on the Euro Group, Protocol on permanent structured cooperation in the field of defence and Protocol on the accession of the Union to the ECHR).

22. A Protocol annexed to the *Reform Treaty* will amend the existing Protocols, as agreed in the 2004 IGC (including the deletion of 10 of them).

23. A Protocol annexed to the *Reform Treaty* will make the necessary technical amendments, as agreed in the 2004 IGC, to the *Euratom Treaty*.

#### **V. DECLARATIONS**

24. In addition to the Declarations referred to in the present mandate, the Declarations as agreed by the 2004 IGC will be taken over by the present IGC, to the extent they relate to provisions or protocols examined during the present IGC.

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<sup>14</sup> Some of these Protocols are not necessary due to the fact that the existing Treaties are not repealed and are therefore not listed. It is underlined that all existing Treaties, including the Accession Acts, remain in force.

**Title I - Common provisions**

The purpose of this Annex is to clarify the exact drafting where necessary

- 1) *Insertion in the Preamble of the EU Treaty of the following second whereas clause<sup>\*15</sup>:*
- "DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,"
- 2) *In Article 1, insertion of the following sentences:*
- At the end of the first subparagraph:* "... on which the Member States confer competences to attain objectives they have in common."
- To replace the last subparagraph:* "The Union shall be founded on the present Treaty and on the Treaty on the functioning of the European Union. It shall replace and succeed the European Community."
- 2bis *Insertion of an Article 2 on the values of the Union.\**
- 3) *Replacement of Article 2 on the Union's objectives, renumbered 3, with the following text:<sup>16</sup>*
- "1. The Union's aim is to promote peace, its values and the well-being of its peoples.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.
- It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.
- It shall promote economic, social and territorial cohesion, and solidarity among Member States.
- It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.
- 3bis. The Union shall establish an economic and monetary union whose currency is the euro.
4. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.
5. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties."

<sup>15</sup> Throughout this Annex, this sign (\*) indicates that the innovations to be inserted are the same as those agreed by the 2004 IGC.

<sup>16</sup> The following Protocol will be annexed to the Treaties:

*"Protocol on internal market and competition*

*The High Contracting Parties, considering that the internal market as set out in Article 3 of the Treaty on European Union includes a system ensuring that competition is not distorted*

*Have agreed that,*

*to this end, the Union shall, if necessary, take action under the provisions of the Treaties, including under Article 308 of the Treaty on the Functioning of the Union."*

- 4) *Replacement of Article 3 by an Article 4 on the relations between the Union and the Member States\**, with the addition of the following at the beginning and of a sentence at the end of the present paragraph 1, renumbered 2:

"1. In accordance with Article [I-11], competences not conferred upon the Union in the Treaties remain with the Member States.

2. The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.

*(present paragraph 2 renumbered 3)*".

- 5) *Replacement of Article 6 on fundamental rights with a text reading as follows:*<sup>17-18-19-20</sup>

"1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of 7 December 2000, as adapted on [... 2007<sup>21</sup>], which shall have the same legal value as the Treaties.

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<sup>17</sup> The IGC will agree the following Declaration: *"The Conference declares that:*

1. *The Charter of Fundamental Rights, which has legally binding force, confirms the fundamental rights guaranteed by the European Convention on Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States.*

2. *The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined by the Treaties."*

<sup>18</sup> Unilateral Declaration by Poland:

*"The Charter does not affect in any way the right of Member States to legislate in the sphere of public morality, family law as well as the protection of human dignity and respect for human physical and moral integrity."*

<sup>19</sup> The following Protocol will be annexed to the Treaties:

*"The High Contracting Parties*

*Whereas in Article [xx] of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights;*

*Whereas the Charter is to be applied in strict accordance with the provisions of the aforementioned Article [xx] and Title VII of the Charter itself;*

*Whereas the aforementioned Article [xx] requires the Charter to be applied and interpreted by the courts of the United Kingdom strictly in accordance with the Explanations referred to in that Article;*

*Whereas the Charter contains both rights and principles;*

*Whereas the Charter contains both provisions which are civil and political in character and those which are economic and social in character;*

*Whereas the Charter reaffirms the rights, freedoms and principles recognised in the Union and makes those rights more visible, but does not create new rights or principles;*

*Recalling the United Kingdom's obligations under the Treaty on European Union, the Treaty on the Functioning of the European Union, and Union law generally;*

*Noting the wish of the United Kingdom to clarify certain aspects of the application of the Charter;*

*Desirous therefore of clarifying the application of the Charter in relation to the laws and administrative action of the United Kingdom and of its justiciability within the United Kingdom;*

*Reaffirming that references in this Protocol to the operation of specific provisions of the Charter are strictly without prejudice to the operation of other provisions of the Charter;*

*Reaffirming that this Protocol is without prejudice to the application of the Charter to other Member States;*

*Reaffirming that this Protocol is without prejudice to other obligations of the United Kingdom under the Treaty on European Union, the Treaty on the Functioning of the European Union, and Union law generally;*

*Have agreed upon the following provisions which shall be annexed to the Treaty on European Union:*

*Article 1*

1. *The Charter does not extend the ability of the Court of Justice, or any court or tribunal of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms.*

2. *In particular, and for the avoidance of doubt, nothing in [Title IV] of the Charter creates justiciable rights applicable to the United Kingdom except in so far as the United Kingdom has provided for such rights in its national law.*

*Article 2*

*To the extent that a provision of the Charter refers to national laws and practices, it shall only apply in the United Kingdom to the extent that the rights or principles that it contains are recognised in the law or practices of the United Kingdom."*

<sup>20</sup> Two delegations reserved their right to join in the Protocol referred to in footnote 19.

<sup>21</sup> I.e. the version of the Charter as agreed in the 2004 IGC which will be re-enacted by the three Institutions in [2007]. It will be published in the Official Journal of the European Union.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions."

2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

6) *Insertion of an Article 7bis on the Union and its neighbours\**.

## ***Title II - Provisions on democratic principles***

7) *Insertion of a new Article on the role of national parliaments in the Union reading as follows:*

"National parliaments shall contribute actively to the good functioning of the Union:

- a) through being informed by the institutions of the Union and having draft European legislative acts forwarded to them in accordance with the Protocol on the role of national parliaments in the European Union;
- b) by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;
- c) by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with Article [III-260], and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles [III-276 and III-273];
- d) by taking part in the revision procedures of the Treaties, in accordance with Article [IV-443 and IV-444];
- e) by being notified of applications for accession to the Union, in accordance with Article [49];
- f) by taking part in the interparliamentary cooperation between national parliaments and with the European Parliament, in accordance with the Protocol on the role of national parliaments in the European Union."

## ***Title V - General provisions on the Union's External Action and specific provisions on the Common Foreign and Security Policy***

8) *In Article 11, insertion of a paragraph 1 reading as follows (the current text of paragraph 1 being deleted):*<sup>22</sup>

1. The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.

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<sup>22</sup> The IGC will agree the following Declaration: "*In addition to the specific procedures referred to in [paragraph 1 of Article 11], the Conference underlines that the provisions covering CFSP including in relation to the High Representative of the Union for Foreign Affairs and Security Policy and External Action Service will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organisations, including a Member State's membership of the Security Council of the UN. The Conference also notes that the provisions covering CFSP do not give new powers to the Commission to initiate decisions or increase the role of the European Parliament. The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States.*"

The common foreign and security policy is subject to specific procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. The Court of Justice of the European Union shall not have jurisdiction with respect to these provisions, with the exception of its jurisdiction to monitor the compliance with Article [III-308] and to review the legality of certain decisions as provided for by Article [III-376, second subparagraph]."

## ***Title VI - Final provisions***

- 9) *In Article 49, first subparagraph, insertion of a new last sentence, the second subparagraph remaining unchanged:*

### *"Article 49*

#### *Conditions of eligibility and procedure for accession to the Union*

*Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account."*

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**A. Modifications compared with the results as agreed in the 2004 IGC**

The purpose of this Annex is to clarify the exact drafting where necessary (A) and to clarify the location of certain provisions (B)

- 1) *In Article 42, insertion of amendments as agreed in the 2004 IGC, with addition of the following, at the end:*

"Where a member of the Council declares that a draft legislative act referred to in the first subparagraph would affect important aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- (a) refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure, or
- (b) take no action or request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted."

- 2) *Replacement, as agreed in the 2004 IGC, of Title IV with the provisions of a new Title on the area of freedom, security and justice\*, which includes Chapter 1 (general provisions), Chapter 2 (policies on border checks, asylum and immigration), Chapter 3 (judicial cooperation in civil matters), Chapter 4 (judicial cooperation in criminal matters) and Chapter 5 (police cooperation).*

- (a) *In Chapter 1 (general provisions), insertion in [Article III-262] of the following new second subparagraph:*

"It shall be open to Member States to organize between themselves and under their responsibility forms of cooperation and coordination as they deem appropriate between the competent departments of their administrations responsible for safeguarding national security."

- (b) *In Chapter 3 (judicial cooperation in civil matters), replacement of paragraph 3 of [Article III-269] as follows:*

3. Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The proposal referred to in the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision referred to in the second subparagraph shall not be adopted. In the absence of opposition, the Council may adopt the decision."

<sup>23</sup> Throughout this Annex, this sign (\*) indicates that the innovations to be inserted are the same as those agreed by the 2004 IGC.



- (c) *In Chapter 4 (judicial cooperation in criminal matters), replacement of, respectively, paragraphs 3 and 4 of [Article III-270] and of [Article III-271] by the following:*

"3. Where a member of the Council considers that a draft directive as referred to in [paragraph 2 of III-270] [paragraphs 1 or 2 of III-271] would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least 9 Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I-44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply."

- (d) *In Chapter 4 (judicial cooperation in criminal matters) and in Chapter 5 (police cooperation) insertion of the following new last subparagraphs, respectively, in paragraph 1 of [III-274] and in paragraph 3 of [Article III-275]:*

"In case of absence of unanimity in the Council, a group of at least 9 Member States may request that the draft [regulation/measures] be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least 9 Member States wish to establish enhanced cooperation on the basis of the draft [regulation/measures] concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I-44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply."

*[in III-275(3) only:* "The specific procedure provided in the second and third subparagraphs shall not apply to acts which constitute a development of the Schengen acquis."*]*

- 3) *In Article 100, replacement of paragraph 1 with the following:*

"1. Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy."

- 4) *In Title XIX (environment), insertion of amendments as agreed in the 2004 IGC, with the replacement of the last indent in Article 174 by the following:*

"- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change."

- 5) *Insertion of a new Title on energy, as agreed in the 2004 IGC, with the replacement of the introductory sentence in paragraph 1 of the Article [III-256] by the following:*

"1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to: (...)"

## **B. Clarifications on the location of certain provisions\***

- 6) *Status of churches and non-confessional organisations (end of Title II on provisions of general application);*
- 7) *Citizenship of the Union (Part Two);*
- 8) *Legal basis for adopting the arrangements for the submission of a citizens' initiative [I-47(4)] (at the beginning of Article 27);*
- 9) *Transparency of the proceedings of the Union institutions, bodies, offices and agencies (Article 255, moved in Part Two);*
- 10) *Social partners and the social dialogue (beginning of the Chapter on social policy);*
- 11) *Solidarity clause (new Title VII in the Part on External Action);*
- 12) *European Ombudsman (in Article 195);*
- 13) *Provision under which the rules on QMV in the Council also apply to the European Council ([Article I-25(3)] in the new Section Ibis on European Council);*
- 14) *Legal bases for adopting the list of Council configurations [Article I-24(4)] and the decision on the presidency of these configurations (Article I-24(7)) and replacement of Article 205(2) with the QMV rule applicable when the Council does not act on the basis of a Commission proposal [Article I-25(2)] (in Section 2 on Council);*
- 15) *Legal basis for the adoption of the rotation system for the composition of the Commission [Article I-26(6)(a) and (b)] (Section 3 on Commission);*
- 16) *European Central Bank (in Section 4bis in Part Five);*
- 17) *Court of Auditors (in Section 5 in Part Five);*
- 18) *The Union's Advisory Bodies (in Chapters 3 and 4 in Part Five);*
- 19) *Specific Title II on financial provisions (Chapters on the Union's own resources, the multiannual financial framework, the Union's annual budget, the implementation of the budget and discharge, common provisions and combating fraud);*
- 20) *A Title III and provisions on enhanced cooperation, including the transfer of Articles 27 A to 27 E and 40 to 40 B TEU and of the details on voting arrangements [Article I-44(3)];*
- 21) *Amendment of Article 309 with the details of voting rules in case of suspension of certain rights resulting from Union membership [Article I-59(5) and (6)];*
- 22) *Insertion in the General and Final Provisions of the details of territorial scope [Article IV-440(2) to (7)].*



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 26 June 2007**

**11222/07**

**POLGEN 75**

**COVER NOTE**

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from : General Secretariat of the Council

to : Delegations

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Subject : Amendment of the Treaties on which the Union is founded

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Delegations will find attached a copy of a letter from Mr Wilhelm Schönfelder, Permanent Representative of Germany, to Mr Javier SOLANA, Secretary-General/High Representative, concerning the amendment of the Treaties on which the Union is founded.

[dated 25 June 2007]

Sir,

The German Government has instructed me to submit to the Council, in accordance with Article 48 of the Treaty on European Union, a proposal for the amendment of the Treaties on which the Union is founded. The proposal is annexed to this letter.

(Complimentary close)

(s.) W. SCHÖNFELDER  
Permanent Representative

**EXTRACT OF THE EUROPEAN COUNCIL PRESIDENCY CONCLUSIONS OF  
21/22 JUNE 2007**

**TREATY REFORM PROCESS**

- "8. The European Council agrees that, after two years of uncertainty over the Union's treaty reform process, the time has come to resolve the issue and for the Union to move on. The period of reflection has provided the opportunity in the meantime for wide public debate and helped prepare the ground for a solution.
  
9. Against this background, the European Council welcomes the report drawn up by the Presidency (doc.10659/07) following the mandate given to it in June 2006, and agrees that settling this issue quickly is a priority.
  
10. To this end the European Council agrees to convene an Intergovernmental Conference and invites the Presidency without delay to take the necessary steps in accordance with Article 48 of the TUE, with the objective of opening the IGC before the end of July as soon as the legal requirements have been met.
  
11. The IGC will carry out its work in accordance with the mandate set out in the Annex to these conclusions. The European Council invites the incoming Presidency to draw up a draft Treaty text in line with the terms of the mandate and to submit this to the IGC as soon as it opens. The IGC will complete its work as quickly as possible, and in any case before the end of 2007, so as to allow for sufficient time to ratify the resulting Treaty before the European Parliament elections in June 2009.

12. The IGC will be conducted under the overall responsibility of the Heads of State or Government, assisted by the members of the General Affairs and External Relations Council. The Representative of the Commission will participate in the Conference. The European Parliament will be closely associated with and involved in the work of the Conference with 3 representatives. The General Secretariat of the Council will provide the secretariat support for the Conference.
13. Having consulted the President of the European Parliament, the European Council invites the European Parliament, in order to pave the way for settling the issue of the future composition of the European Parliament in good time before the 2009 elections, to put forward by October 2007 a draft of the initiative foreseen in Protocol 34 as agreed in the 2004 IGC.
14. The incoming presidency is invited to ensure that the candidate countries are kept fully and regularly briefed throughout the Intergovernmental Conference."

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## IGC MANDATE

The present mandate will provide the exclusive basis and framework for the work of the IGC that will be convened according to paragraph 10 of the European Council conclusions.

### I. GENERAL OBSERVATIONS

1. The IGC is asked to draw up a Treaty (hereinafter called "*Reform Treaty*") amending the existing Treaties with a view to enhancing the efficiency and democratic legitimacy of the enlarged Union, as well as the coherence of its external action. The constitutional concept, which consisted in repealing all existing Treaties and replacing them by a single text called "Constitution", is abandoned. The *Reform Treaty* will introduce into the existing Treaties, which remain in force, the innovations resulting from the 2004 IGC, as set out below in a detailed fashion.

2. The *Reform Treaty* will contain two substantive clauses amending respectively the *Treaty on the European Union (TEU)* and the *Treaty establishing the European Community (TEC)*. The *TEU* will keep its present name and the *TEC* will be called *Treaty on the Functioning of the Union*, the Union having a single legal personality. The word "Community" will throughout be replaced by the word "Union"; it will be stated that the two Treaties constitute the Treaties on which the Union is founded and that the Union replaces and succeeds the Community. Further clauses will contain the usual provisions on ratification and entry into force as well as transitional arrangements. Technical amendments to the *Euratom Treaty* and to the existing *Protocols*, as agreed in the 2004 IGC, will be done via *Protocols* attached to the *Reform Treaty*.

3. The *TEU* and the *Treaty on the Functioning of the Union* will not have a constitutional character. The terminology used throughout the Treaties will reflect this change: the term "Constitution" will not be used, the "Union Minister for Foreign Affairs" will be called High Representative of the Union for Foreign Affairs and Security Policy and the denominations "law" and "framework law" will be abandoned, the existing denominations "regulations", "directives" and "decisions" being retained. Likewise, there will be no article in the amended Treaties mentioning the symbols of the EU such as the flag, the anthem or the motto. Concerning the primacy of EU law, the IGC will adopt a Declaration recalling the existing case law of the EU Court of Justice<sup>1</sup>.

4. As far as the content of the amendments to the existing Treaties is concerned, the innovations resulting from the 2004 IGC will be integrated into the *TEU* and the *Treaty on the Functioning of the Union*, as specified in this mandate. Modifications to these innovations introduced as a result of the consultations held with the Member States over the past 6 months are clearly indicated below. They concern in particular the respective competences of the EU and the Member States and their delimitation, the specific nature of the Common Foreign and Security Policy, the enhanced role of national parliaments, the treatment of the Charter of Fundamental Rights and a mechanism, in the area of police and judicial cooperation in criminal matters, enabling Member States to go forward on a given act while allowing others not to participate.

## II. AMENDMENTS TO THE EU TREATY

5. Clause 1 of the *Reform Treaty* will contain the amendments to the present *TEU*.

In the absence of indications to the contrary in this mandate, the text of the existing Treaty remains unchanged.

6. The text of the first recital as agreed in the 2004 IGC will be inserted as a second recital into the Preamble.

7. The *TEU* will be divided into 6 Titles: *Common Provisions (I)*, *Provisions on democratic principles (II)*, *Provisions on institutions (III)*, *Provisions on enhanced cooperation (IV)*, *General Provisions on the Union's External Action and specific Provisions on the Common Foreign and Security Policy (V)*, and *Final Provisions (VI)*. Titles I, IV (present VII), V and VI (present VIII) follow the structure of the existing *TEU*, with amendments as agreed in the 2004 IGC.<sup>2</sup> The two other titles (II and III) are new and introduce innovations agreed in the 2004 IGC.

### *Common Provisions (I)*

8. Title I of the existing *TEU*, containing inter alia Articles on the Union's values and objectives, on relations between the Union and the Member States, and on the suspension of rights of Member States, will be amended in line with the innovations agreed in the 2004 IGC (see Annex 1, Title I).

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<sup>1</sup> Whilst the Article on primacy of Union law will not be reproduced in the *TEU*, the IGC will agree on the following Declaration: "*The Conference recalls that, in accordance with well settled case-law of the EU Court of Justice, the Treaties and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case-law.*" In addition, the opinion of the Legal Service of the Council (doc. 11197/07) will be annexed to the Final Act of the Conference.

<sup>2</sup> The content of Title VI on police and judicial cooperation in criminal matters will be put into the Title on the Area of freedom, security and justice in the Treaty on the Functioning of the Union (*TFEU*), see below under "Amendments to the EC Treaty".



9. The Article on fundamental rights will contain a cross reference<sup>3</sup> to the *Charter on fundamental rights*, as agreed in the 2004 IGC, giving it legally binding value and setting out the scope of its application.

10. In the Article on fundamental principles concerning competences it will be specified that the Union shall act only within the limits of competences conferred upon it by the Member States in the Treaties.

#### Provisions on democratic principles (II)

11. This new Title II will contain the provisions agreed in the 2004 IGC on democratic equality, representative democracy, participatory democracy and the citizens' initiative. Concerning national parliaments, their role will be further enhanced compared to the provisions agreed in the 2004 IGC (see Annex 1, Title II):

- The period given to national parliaments to examine draft legislative texts and to give a reasoned opinion on subsidiarity will be extended from 6 to 8 weeks (the *Protocols on national Parliaments and on subsidiarity and proportionality* will be modified accordingly).
- There will be a reinforced control mechanism of subsidiarity in the sense that if a draft legislative act is contested by a simple majority of the votes allocated to national parliaments, the Commission will re-examine the draft act, which it may decide to maintain, amend or withdraw. If it chooses to maintain the draft, the Commission will have, in a reasoned opinion, to justify why it considers that the draft complies with the principle of subsidiarity. This reasoned opinion, as well as the reasoned opinions of the national parliaments, will have to be transmitted to the EU legislator, for consideration in the legislative procedure. This will trigger a specific procedure:
  - before concluding first reading under the ordinary legislative procedure, the legislator (Council and Parliament) shall consider the compatibility of the legislative proposal with the principle of subsidiarity, taking particular account of the reasons expressed and shared by the majority of national parliaments as well as the reasoned opinion of the Commission;
  - If, by a majority of 55% of the members of the Council or a majority of the votes cast in the European Parliament, the legislator is of the opinion that the proposal is not compatible with the principle of subsidiarity, the legislative proposal shall not be given further consideration. (the *Protocol on subsidiarity and proportionality* will be modified accordingly).

A new general Article will reflect the role of the national parliaments.

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<sup>3</sup> Therefore, the text of the Charter on fundamental rights will not be included in the Treaties.

### Provisions on institutions (III)

12. The institutional changes agreed in the 2004 IGC will be integrated partly into the *TEU* and partly into the *Treaty on the Functioning of the Union*. The new Title III will give an overview of the institutional system and will set out the following institutional modifications to the existing system, i.e. the Articles on the Union's institutions, the European Parliament (new composition), the European Council (transformation into an institution<sup>4</sup> and creation of the office of President), the Council (introduction of the double majority voting system and changes in the six-monthly Council presidency system, with the possibility of modifying it), the European Commission (new composition and strengthening of the role of its President), the Union Minister for Foreign Affairs (creation of the new office, its title being changed to High Representative of the Union for Foreign Affairs and Security Policy) and the Court of Justice of the European Union.<sup>5</sup>

13. The double majority voting system, as agreed in the 2004 IGC, will take effect on 1 November 2014, until which date the present qualified majority system (Article 205(2) TEC) will continue to apply. After that, during a transitional period until 31 March 2017, when a decision is to be adopted by qualified majority, a member of the Council may request that the decision be taken in accordance with the qualified majority as defined in Article 205(2) of the present TEC.

In addition, until 31 March 2017, if members of the Council representing at least 75% of the population or at least 75% of the number of Member States necessary to constitute a blocking minority resulting from the application of Article [I-25(1) first subparagraph], or Article [I-25(2)], indicate their opposition to the Council adopting an act by a qualified majority, the mechanism provided for in the draft Decision contained in Declaration n° 5 annexed to the Final Act of the 2004 IGC will apply. As from 1 April 2017, the same mechanism will apply, the relevant percentages being, respectively, at least 55% of the population or at least 55% of the number of Member States necessary to constitute a blocking minority resulting from the application of Article [I-25(1) first subparagraph], or Article [I-25(2)].

### Provisions on enhanced cooperation (IV)

14. Title IV (former Title VII of the existing *TEU*) will be amended as agreed in the 2004 IGC. The minimum number of Member States required for launching an enhanced cooperation will be nine.

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<sup>4</sup> Including modalities of vote.

<sup>5</sup> There will be some drafting adaptations due to the merging of some provisions.

General Provisions on the Union's external action and specific Provisions on the Common Foreign and Security Policy (V)

15. In Title V of the existing *TEU*, a first new Chapter on the general provisions on the Union's external action will be inserted containing two Articles, as agreed in the 2004 IGC, on the principles and objectives of the Union's external action and on the role of the European Council in setting the strategic interests and objectives of this action. The second Chapter contains the provisions of Title V<sup>6</sup> of the existing *TEU*, as amended in the 2004 IGC (including the European External Action Service and the permanent structured cooperation in the field of defence). In this Chapter, a new first Article will be inserted stating that the Union's action on the international scene will be guided by the principles, will pursue the objectives and will be conducted in accordance with the general provisions on the Union's external action which are laid down in Chapter 1. It will be clearly specified in this Chapter that the CFSP is subject to specific procedures and rules. There will also be a specific legal basis on personal data protection in the CFSP area<sup>7</sup>.

Final Provisions (VI)

16. Title VI (former Title VIII of the existing *TEU*) will be amended as agreed in the 2004 IGC. There will in particular be an Article on the legal personality of the Union<sup>8</sup>, an Article on voluntary withdrawal from the Union and Article 48 will be amended so as to bring together the procedures for revising the Treaties (the ordinary and the two simplified procedures). This Article, in its paragraph on the ordinary revision procedure, will make it clear that the Treaties can be revised to increase or reduce the competences conferred upon the Union. In Article 49, on conditions of eligibility and the procedure for accession to the Union, the reference to the principles will be replaced by a reference to the Union's values and the addition of a commitment to promoting such values, an obligation to notify the European Parliament and national parliaments of an application for accession to the Union and a reference to take into account the conditions of eligibility agreed upon by the European Council (see Annex 1, Title VI). The usual final provision will also be adapted (territorial scope, duration, ratification and authentic texts and translations).<sup>9</sup>

### III. AMENDMENTS TO THE EC TREATY

17. Clause 2 of the *Reform Treaty* will contain the amendments to the present *TEC*, which will become the *Treaty on the Functioning of the European Union*.

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<sup>6</sup> The IGC will agree on the following Declaration: "*The Conference underlines that the provisions in the Treaty on European Union covering the Common Foreign and Security Policy, including the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy and the establishment of an External Action Service, do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organisations.*

*The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States.*

*It stresses that the EU and its Member States will remain bound by the provisions of the Charter of the United Nations and, in particular, by the primary responsibility of the Security Council and of its Members for the maintenance of international peace and security.*"

<sup>7</sup> With regard to the processing of such data by the Member States when carrying out activities which fall within the CFSP and ESDP and the movement of such data.

<sup>8</sup> The IGC will agree on the following Declaration: "*The Conference confirms that the fact that the European Union has a legal personality will not in any way authorise the Union to legislate or to act beyond the competences conferred upon it by the Member States in the Treaties.*"

<sup>9</sup> Articles 41, 42, 46 and 50 of the *TEU* will be deleted, Article 47 being placed, as amended in the 2004 IGC, in the CFSP Chapter.

18. The innovations as agreed in the 2004 IGC will be inserted into the Treaty by way of specific modifications in the usual manner. They concern the categories and areas of competences, the scope of qualified majority voting and of codecision, the distinction between legislative and non legislative acts, provisions *inter alia* on the Area of freedom, security and justice, the solidarity clause, the improvements to the governance of the euro, horizontal provisions such as the social clause, specific provisions such as public services, space, energy, civil protection, humanitarian aid, public health, sport, tourism, outermost regions, administrative cooperation, financial provisions (own resources, multiannual financial framework, new budgetary procedure).

19. The following modifications will be introduced compared to the results of the 2004 IGC (see Annex 2):

- a) A new Article 1 will state the purpose of the Treaty on the functioning of the Union and its relation with the EU Treaty. It will state that the two Treaties have the same legal value.
- b) In the Article on categories of competences, placed at the beginning of the *TEC*, it will be clearly specified that the Member States will exercise again their competence to the extent that the Union has decided to cease exercising its competence.<sup>10</sup>
- c) In the Article on supporting, coordinating or complementary action, the introductory sentence will be amended so as to underline that the Union carries out actions to support, coordinate or supplement the actions of the Member States.
- d) In Article 18(3), as amended in the 2004 IGC, the phrase on the adoption of measures on passports, identity cards, residence permits and similar documents will be removed and transferred to a similar legal basis on this issue to be placed in the Title on the Area of freedom, security and justice, in the Article on border checks.
- e) In Article 20 (diplomatic and consular protection), as amended in the 2004 IGC, the legal basis will be amended so as to provide in this field for adoption of directives establishing coordination and cooperation measures.
- f) In Article 286 (personal data protection), as amended in the 2004 IGC, a subparagraph will be inserted stating that the rules adopted on the basis of this Article will be without prejudice to those adopted under the specific legal basis on this subject which will be introduced in the CFSP Title (the IGC will also adopt a declaration on personal data protection in the areas of police and judicial cooperation in criminal matters, as well as, where appropriate, specific entries in the relevant Protocols on the position of individual Member States clarifying their applicability in this respect).

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<sup>10</sup> (a) The IGC will also agree a Declaration in relation to the delimitation of competences: "*The Conference underlines that, in accordance with the system of division of competences between the Union and the Member States as provided for in the Treaty on European Union, competences not conferred upon the Union in the Treaties remain with Member States.*

*When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence. The latter situation arises when the relevant EU institutions decide to repeal a legislative act, in particular to better ensure the constant respect for the principles of subsidiarity and proportionality. The Council may request, at the initiative of one or several of its Members (representatives of Member States) and in accordance with Article 208, the Commission to submit proposals for repealing a legislative act.*

*Equally, the representatives of the governments of the Member States, meeting in an Intergovernmental Conference, in accordance with the ordinary revision procedure provided for in Article [IV-443] of the Treaty on European Union, may decide to amend the Treaties on which the Union is founded, including either to increase or to reduce the competences conferred on the Union in the said Treaties."*

(b) The following Protocol will be annexed to the Treaties:

*"With reference to Article [I-12(2)] on shared competences, when the Union has taken action in a certain area, the scope of this exercise of competence only covers those elements governed by the Union act in question and therefore does not cover the whole area."*

- g) In Article 42 (aggregation of insurance periods and export of social security benefits), an addition will be made to stress that the procedure is halted in the brake system if the European Council does not take any action within 4 months (see point 1) of Annex 2).<sup>11</sup>
- h) Article 60 (freezing of assets to combat terrorism), as amended in the 2004 IGC, will be transferred towards the end of the Chapter on general provisions in the Title on the Area of freedom, security and justice.
- i) On the issue of services of general economic interest (cf. Article 16, as amended in the 2004 IGC) a Protocol will be annexed to the Treaties.<sup>12</sup>
- j) In the Chapter on general provisions applying to the area of freedom, security and justice, insertion of a provision about cooperation and coordination by Member States in the field of national security (see point 2)(a) of Annex 2).
- k) In the Chapter on judicial cooperation in civil matters, paragraph 3 of the Article on such cooperation, as agreed in the 2004 IGC, will be modified so as to give a role to national parliaments in the "passerelle" clause on family law (see point 2)(b) of Annex 2).
- l) In the Chapters on judicial cooperation in criminal matters and on police cooperation, as amended in the 2004 IGC, in the Articles on mutual recognition of judgments, minimum rules on definition of criminal offences and sanctions, the European Public Prosecutor, and police cooperation, a new mechanism will be inserted enabling Member States to go forward with adopting measures in this field while allowing others not to participate (see point 2)(c) and (d) of Annex 2). Moreover, the scope of the Protocol on the position of the United Kingdom and Ireland (1997) will be extended so as to include, in relation to the UK, and on the same terms, the Chapters on judicial cooperation in criminal matters and on police cooperation. It may also address the application of the Protocol in relation to Schengen building measures and amendments to existing measures. This extension will take account of the UK's position under the previously existing Union *acquis* in these areas. Ireland will determine in due course its position with regard to that extension.
- m) In Article 100 (measures in case of severe difficulties in the supply of certain products), a reference to the spirit of solidarity between Member States and to the particular case of energy as regards difficulties in the supply of certain product will be inserted (see point 3) of Annex 2).

<sup>11</sup> The IGC will also agree a Declaration in relation to this Article: "*The Conference recalls that in that case, in accordance with Article [I-21(4)], the European Council acts by consensus*".

<sup>12</sup> The following Protocol will be annexed to the Treaties:

*"Protocol on services of general interest*

*The High Contracting Parties,*

*Wishing to emphasise the importance of services of general interest*

*Have agreed upon the following interpretative provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:*

*Article 1*

*The shared values of the Union in respect of services of general economic interest within the meaning of Article 16 EC Treaty include in particular:*

- *the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organizing services of general economic interest as closely as possible to the needs of the users;*
- *the diversity between various services of general economic interest and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations;*
- *a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights;*

*Article 2*

*The provisions of the Treaties do not affect in any way the competence of Member States to provide, commission and organise non-economic services of general interest."*

- n) In Article 152 (public health), as amended in the 2004 IGC, point (d) on measures concerning monitoring, early warning of and combating serious cross border threats to health will be transferred to the paragraph on adoption of incentive measures (the IGC will also adopt a declaration clarifying the internal market aspect of measures on the quality and safety standards for medicinal products and devices).
- o) In the Article on European space policy, agreed in the 2004 IGC, it will be specified that measures adopted may not entail harmonisation of the laws and regulations of the Member States.
- p) In Article 174 (environment), as amended in the 2004 IGC, the particular need to combat climate change in measures at international level will be specified (see point 4) of Annex 2).
- q) In the Article on energy, agreed in the 2004 IGC, a reference to the spirit of solidarity between Member States will be inserted (see point 5) of Annex 2), as well as a new point (d) on the promotion of interconnection of energy networks.
- r) At the beginning of the Part on the Union's external action, an Article will be inserted stating that the Union's action on the international scene will be guided by the principles, will pursue the objectives and will be conducted in accordance with the general provisions on the Union's external action which are laid down in Chapter 1 of Title V of the *TEU*.
- s) In the Article on the procedure for concluding international agreements, it will be added that the agreement on the accession of the Union to the ECHR will be concluded by the Council, by unanimity and with ratification by Member States.
- t) Article 229 A (extension of ECJ jurisdiction on disputes relating to European intellectual property rights) will remain unchanged.
- u) In Article 249 (definition of EU acts: regulation, directive and decision), in a new Section 1 on the Union's legal acts, the definition of a decision will be aligned with the one agreed in the 2004 IGC.
- v) As a consequence of dropping the denominations "law" and "framework law", the innovations agreed in the 2004 IGC will be adapted, while maintaining the distinction between what is legislative and what is not and its consequences. Accordingly, after Article 249, three Articles will be introduced on, respectively, acts which are adopted in accordance with a legislative procedure, delegated acts and implementing acts. The Article on legislative acts will state that acts (regulations, directives or decisions) adopted under a legislative procedure (ordinary or special) will be legislative acts. The terminology in the Articles on delegated and implementing acts, as agreed in the 2004 IGC, will be adapted accordingly.
- w) In Article 308 (flexibility clause), as amended in the 2004 IGC, a paragraph will be added stating that this Article cannot serve as a basis for attaining objectives pertaining to the CFSP, and that any acts adopted pursuant to this Article will have to respect the limits set out in Article [III-308, second subparagraph].<sup>13</sup>

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<sup>13</sup> The IGC will also agree two Declarations in relation to this Article:

- 1) *"The Conference declares that the reference in Article 308 to objectives of the Union refers to the objectives as set out in Article [I-3(2) and (3)] and to the objectives of Articles [I-3(4)] with respect to external action under Part III, Title V of the Treaty. It is therefore excluded that an action based on Article 308 would only pursue objectives set out in Article [I-3(1)]. In this connection, the Conference notes that in accordance with Article [I-40(6)], legislative acts may not be adopted in the area of Common Foreign and Security Policy."*
- 2) *"The Conference underlines that, in accordance with the settled case-law of the Court of Justice of the European Union, Article 308, being an integral part of an institutional system based on the principle of conferred powers, cannot serve as a basis for widening the scope of Union powers beyond the general framework created by the provisions of the Treaties as a whole and, in particular, by those that define the tasks and the activities of the Union. In any event, Article 308 cannot be used as a basis for the adoption of provisions whose effect would, in substance, be to amend the Treaties without following the procedure which they provide for that purpose."*

- x) After Article 308, an Article will be inserted excluding from the coverage of the simplified revision procedure those legal bases which were not covered by this procedure in the texts as agreed in the 2004 IGC.

20. In addition, a number of provisions agreed in the 2004 IGC will be located in the *Treaty on the Functioning of the Union* (see list in Part B of Annex 2).

#### **IV. PROTOCOLS AND THE EURATOM TREATY**

21. The new Protocols agreed in the 2004 IGC<sup>14</sup> will be annexed to the existing Treaties (i.e. Protocol on the role of national Parliaments in the European Union, Protocol on the application of the principles of subsidiarity and proportionality, Protocol on the Euro Group, Protocol on permanent structured cooperation in the field of defence and Protocol on the accession of the Union to the ECHR).

22. A Protocol annexed to the *Reform Treaty* will amend the existing Protocols, as agreed in the 2004 IGC (including the deletion of 10 of them).

23. A Protocol annexed to the *Reform Treaty* will make the necessary technical amendments, as agreed in the 2004 IGC, to the *Euratom Treaty*.

#### **V. DECLARATIONS**

24. In addition to the Declarations referred to in the present mandate, the Declarations as agreed by the 2004 IGC will be taken over by the present IGC, to the extent they relate to provisions or protocols examined during the present IGC.

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<sup>14</sup> Some of these Protocols are not necessary due to the fact that the existing Treaties are not repealed and are therefore not listed. It is underlined that all existing Treaties, including the Accession Acts, remain in force.

**Title I - Common provisions**

The purpose of this Annex is to clarify the exact drafting where necessary

- 1) *Insertion in the Preamble of the EU Treaty of the following second whereas clause\*<sup>15</sup>:*
- "DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,"
- 2) *In Article 1, insertion of the following sentences:*
- At the end of the first subparagraph:* "... on which the Member States confer competences to attain objectives they have in common."
- To replace the last subparagraph:* "The Union shall be founded on the present Treaty and on the Treaty on the functioning of the European Union. It shall replace and succeed the European Community."
- 2bis *Insertion of an Article 2 on the values of the Union.\**
- 3) *Replacement of Article 2 on the Union's objectives, renumbered 3, with the following text:<sup>16</sup>*
- "1. The Union's aim is to promote peace, its values and the well-being of its peoples.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.
- It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.
- It shall promote economic, social and territorial cohesion, and solidarity among Member States.
- It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.
- 3bis. The Union shall establish an economic and monetary union whose currency is the euro.
4. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.
5. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties."

<sup>15</sup> Throughout this Annex, this sign (\*) indicates that the innovations to be inserted are the same as those agreed by the 2004 IGC.

<sup>16</sup> The following Protocol will be annexed to the Treaties:

*"Protocol on internal market and competition*

*The High Contracting Parties, considering that the internal market as set out in Article 3 of the Treaty on European Union includes a system ensuring that competition is not distorted*

*Have agreed that,*

*to this end, the Union shall, if necessary, take action under the provisions of the Treaties, including under Article 308 of the Treaty on the Functioning of the Union."*



- 4) *Replacement of Article 3 by an Article 4 on the relations between the Union and the Member States\**, with the addition of the following at the beginning and of a sentence at the end of the present paragraph 1, renumbered 2:

"1. In accordance with Article [I-11], competences not conferred upon the Union in the Treaties remain with the Member States.

2. The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.

*(present paragraph 2 renumbered 3)".*

- 5) *Replacement of Article 6 on fundamental rights with a text reading as follows:*<sup>17-18-19-20</sup>

"1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of 7 December 2000, as adapted on [... 2007<sup>21</sup>], which shall have the same legal value as the Treaties.

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<sup>17</sup> The IGC will agree the following Declaration: *"The Conference declares that:*

1. *The Charter of Fundamental Rights, which has legally binding force, confirms the fundamental rights guaranteed by the European Convention on Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States.*

2. *The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined by the Treaties."*

<sup>18</sup> Unilateral Declaration by Poland:

*"The Charter does not affect in any way the right of Member States to legislate in the sphere of public morality, family law as well as the protection of human dignity and respect for human physical and moral integrity."*

<sup>19</sup> The following Protocol will be annexed to the Treaties:

*"The High Contracting Parties*

*Whereas in Article [xx] of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights;*

*Whereas the Charter is to be applied in strict accordance with the provisions of the aforementioned Article [xx] and Title VII of the Charter itself;*

*Whereas the aforementioned Article [xx] requires the Charter to be applied and interpreted by the courts of the United Kingdom strictly in accordance with the Explanations referred to in that Article;*

*Whereas the Charter contains both rights and principles;*

*Whereas the Charter contains both provisions which are civil and political in character and those which are economic and social in character;*

*Whereas the Charter reaffirms the rights, freedoms and principles recognised in the Union and makes those rights more visible, but does not create new rights or principles;*

*Recalling the United Kingdom's obligations under the Treaty on European Union, the Treaty on the Functioning of the European Union, and Union law generally;*

*Noting the wish of the United Kingdom to clarify certain aspects of the application of the Charter;*

*Desirous therefore of clarifying the application of the Charter in relation to the laws and administrative action of the United Kingdom and of its justiciability within the United Kingdom;*

*Reaffirming that references in this Protocol to the operation of specific provisions of the Charter are strictly without prejudice to the operation of other provisions of the Charter;*

*Reaffirming that this Protocol is without prejudice to the application of the Charter to other Member States;*

*Reaffirming that this Protocol is without prejudice to other obligations of the United Kingdom under the Treaty on European Union, the Treaty on the Functioning of the European Union, and Union law generally;*

*Have agreed upon the following provisions which shall be annexed to the Treaty on European Union:*

*Article 1*

1. *The Charter does not extend the ability of the Court of Justice, or any court or tribunal of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms.*

2. *In particular, and for the avoidance of doubt, nothing in [Title IV] of the Charter creates justiciable rights applicable to the United Kingdom except in so far as the United Kingdom has provided for such rights in its national law.*

*Article 2*

*To the extent that a provision of the Charter refers to national laws and practices, it shall only apply in the United Kingdom to the extent that the rights or principles that it contains are recognised in the law or practices of the United Kingdom."*

<sup>20</sup> Two delegations reserved their right to join in the Protocol referred to in footnote 19.

<sup>21</sup> I.e. the version of the Charter as agreed in the 2004 IGC which will be re-enacted by the three Institutions in [2007]. It will be published in the Official Journal of the European Union.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions."

2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

6) *Insertion of an Article 7bis on the Union and its neighbours\**.

## ***Title II - Provisions on democratic principles***

7) *Insertion of a new Article on the role of national parliaments in the Union reading as follows:*

"National parliaments shall contribute actively to the good functioning of the Union:

- a) through being informed by the institutions of the Union and having draft European legislative acts forwarded to them in accordance with the Protocol on the role of national parliaments in the European Union;
- b) by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;
- c) by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with Article [III-260], and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles [III-276 and III-273];
- d) by taking part in the revision procedures of the Treaties, in accordance with Article [IV-443 and IV-444];
- e) by being notified of applications for accession to the Union, in accordance with Article [49];
- f) by taking part in the interparliamentary cooperation between national parliaments and with the European Parliament, in accordance with the Protocol on the role of national parliaments in the European Union."

## ***Title V - General provisions on the Union's External Action and specific provisions on the Common Foreign and Security Policy***

8) *In Article 11, insertion of a paragraph 1 reading as follows (the current text of paragraph 1 being deleted):*<sup>22</sup>

1. The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.

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<sup>22</sup> The IGC will agree the following Declaration: "In addition to the specific procedures referred to in [paragraph 1 of Article 11], the Conference underlines that the provisions covering CFSP including in relation to the High Representative of the Union for Foreign Affairs and Security Policy and External Action Service will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organisations, including a Member State's membership of the Security Council of the UN. The Conference also notes that the provisions covering CFSP do not give new powers to the Commission to initiate decisions or increase the role of the European Parliament. The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States."

The common foreign and security policy is subject to specific procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. The Court of Justice of the European Union shall not have jurisdiction with respect to these provisions, with the exception of its jurisdiction to monitor the compliance with Article [III-308] and to review the legality of certain decisions as provided for by Article [III-376, second subparagraph]."

## ***Title VI - Final provisions***

- 9) *In Article 49, first subparagraph, insertion of a new last sentence, the second subparagraph remaining unchanged:*

### *"Article 49*

#### *Conditions of eligibility and procedure for accession to the Union*

*Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account."*

**A. Modifications compared with the results as agreed in the 2004 IGC**

The purpose of this Annex is to clarify the exact drafting where necessary (A) and to clarify the location of certain provisions (B)

- 1) *In Article 42, insertion of amendments as agreed in the 2004 IGC, with addition of the following, at the end:*

"Where a member of the Council declares that a draft legislative act referred to in the first subparagraph would affect important aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- (a) refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure, or
- (b) take no action or request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted."

- 2) *Replacement, as agreed in the 2004 IGC, of Title IV with the provisions of a new Title on the area of freedom, security and justice\*, which includes Chapter 1 (general provisions), Chapter 2 (policies on border checks, asylum and immigration), Chapter 3 (judicial cooperation in civil matters), Chapter 4 (judicial cooperation in criminal matters) and Chapter 5 (police cooperation).*

- (a) *In Chapter 1 (general provisions), insertion in [Article III-262] of the following new second subparagraph:*

"It shall be open to Member States to organize between themselves and under their responsibility forms of cooperation and coordination as they deem appropriate between the competent departments of their administrations responsible for safeguarding national security."

- (b) *In Chapter 3 (judicial cooperation in civil matters), replacement of paragraph 3 of [Article III-269] as follows:*

3. Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The proposal referred to in the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision referred to in the second subparagraph shall not be adopted. In the absence of opposition, the Council may adopt the decision."

<sup>23</sup> Throughout this Annex, this sign (\*) indicates that the innovations to be inserted are the same as those agreed by the 2004 IGC.

- (c) *In Chapter 4 (judicial cooperation in criminal matters), replacement of, respectively, paragraphs 3 and 4 of [Article III-270] and of [Article III-271] by the following:*

"3. Where a member of the Council considers that a draft directive as referred to in [paragraph 2 of III-270] [paragraphs 1 or 2 of III-271] would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least 9 Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I-44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply."

- (d) *In Chapter 4 (judicial cooperation in criminal matters) and in Chapter 5 (police cooperation) insertion of the following new last subparagraphs, respectively, in paragraph 1 of [III-274] and in paragraph 3 of [Article III-275]:*

"In case of absence of unanimity in the Council, a group of at least 9 Member States may request that the draft [regulation/measures] be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least 9 Member States wish to establish enhanced cooperation on the basis of the draft [regulation/measures] concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I-44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply."

*[in III-275(3) only:* "The specific procedure provided in the second and third subparagraphs shall not apply to acts which constitute a development of the Schengen acquis."*]*

- 3) *In Article 100, replacement of paragraph 1 with the following:*

"1. Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy."

- 4) *In Title XIX (environment), insertion of amendments as agreed in the 2004 IGC, with the replacement of the last indent in Article 174 by the following:*

"- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change."

- 5) *Insertion of a new Title on energy, as agreed in the 2004 IGC, with the replacement of the introductory sentence in paragraph 1 of the Article [III-256] by the following:*

"1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to: (...)"

## **B. Clarifications on the location of certain provisions\***

- 6) *Status of churches and non-confessional organisations (end of Title II on provisions of general application);*
- 7) *Citizenship of the Union (Part Two);*
- 8) *Legal basis for adopting the arrangements for the submission of a citizens' initiative [I-47(4)] (at the beginning of Article 27);*
- 9) *Transparency of the proceedings of the Union institutions, bodies, offices and agencies (Article 255, moved in Part Two);*
- 10) *Social partners and the social dialogue (beginning of the Chapter on social policy);*
- 11) *Solidarity clause (new Title VII in the Part on External Action);*
- 12) *European Ombudsman (in Article 195);*
- 13) *Provision under which the rules on QMV in the Council also apply to the European Council ([Article I-25(3)] in the new Section Ibis on European Council);*
- 14) *Legal bases for adopting the list of Council configurations [Article I-24(4)] and the decision on the presidency of these configurations (Article I-24(7)) and replacement of Article 205(2) with the QMV rule applicable when the Council does not act on the basis of a Commission proposal [Article I-25(2)] (in Section 2 on Council);*
- 15) *Legal basis for the adoption of the rotation system for the composition of the Commission [Article I-26(6)(a) and (b)] (Section 3 on Commission);*
- 16) *European Central Bank (in Section 4bis in Part Five);*
- 17) *Court of Auditors (in Section 5 in Part Five);*
- 18) *The Union's Advisory Bodies (in Chapters 3 and 4 in Part Five);*
- 19) *Specific Title II on financial provisions (Chapters on the Union's own resources, the multiannual financial framework, the Union's annual budget, the implementation of the budget and discharge, common provisions and combating fraud);*
- 20) *A Title III and provisions on enhanced cooperation, including the transfer of Articles 27 A to 27 E and 40 to 40 B TEU and of the details on voting arrangements [Article I-44(3)];*
- 21) *Amendment of Article 309 with the details of voting rules in case of suspension of certain rights resulting from Union membership [Article I-59(5) and (6)];*
- 22) *Insertion in the General and Final Provisions of the details of territorial scope [Article IV-440(2) to (7)].*



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 26 June 2007**

**11216/07**

**POLGEN 73**

**NOTE**

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from : General Secretariat of the Council  
to : Delegations

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Subject : Treaty reform process (extract of the European Council Presidency conclusions of  
23 June 2007)

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Delegations will find attached an extract of the European Council Presidency conclusions of 23 June 2007 regarding the treaty reform process.

TREATY REFORM PROCESS

- "8. The European Council agrees that, after two years of uncertainty over the Union's treaty reform process, the time has come to resolve the issue and for the Union to move on. The period of reflection has provided the opportunity in the meantime for wide public debate and helped prepare the ground for a solution.
9. Against this background, the European Council welcomes the report drawn up by the Presidency (doc.10659/07) following the mandate given to it in June 2006, and agrees that settling this issue quickly is a priority.
10. To this end the European Council agrees to convene an Intergovernmental Conference and invites the Presidency without delay to take the necessary steps in accordance with Article 48 of the TUE, with the objective of opening the IGC before the end of July as soon as the legal requirements have been met.
11. The IGC will carry out its work in accordance with the mandate set out in Annex I to these conclusions. The European Council invites the incoming Presidency to draw up a draft Treaty text in line with the terms of the mandate and to submit this to the IGC as soon as it opens. The IGC will complete its work as quickly as possible, and in any case before the end of 2007, so as to allow for sufficient time to ratify the resulting Treaty before the European Parliament elections in June 2009.
12. The IGC will be conducted under the overall responsibility of the Heads of State or Government, assisted by the members of the General Affairs and External Relations Council. The Representative of the Commission will participate in the Conference. The European Parliament will be closely associated with and involved in the work of the Conference with 3 representatives. The General Secretariat of the Council will provide the secretariat support for the Conference.



13. Having consulted the President of the European Parliament, the European Council invites the European Parliament, in order to pave the way for settling the issue of the future composition of the European Parliament in good time before the 2009 elections, to put forward by October 2007 a draft of the initiative foreseen in Protocol 34 as agreed in the 2004 IGC.
  
14. The incoming presidency is invited to ensure that the candidate countries are kept fully and regularly briefed throughout the Intergovernmental Conference."

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## DECLARATION

### on the occasion of the 50th anniversary of the signature of the Treaties of Rome

**FOR CENTURIES EUROPE** has been an idea, holding out hope of peace and understanding. That hope has been fulfilled. European unification has made peace and prosperity possible. It has brought about a sense of community and overcome differences. Each Member State has helped to unite Europe and to strengthen democracy and the rule of law. Thanks to the yearning for freedom of the peoples of central and eastern Europe the unnatural division of Europe is now consigned to the past. European integration shows that we have learnt the painful lessons of a history marked by bloody conflict. Today we live together as was never possible before.

**WE, THE CITIZENS OF THE EUROPEAN UNION, HAVE UNITED FOR THE BETTER.**

I.

**IN THE EUROPEAN UNION**, we are turning our common ideals into reality: for us, the individual is paramount. His dignity is inviolable. His rights are inalienable. Women and men enjoy equal rights.



**WE ARE STRIVING** for peace and freedom, for democracy and the rule of law, for mutual respect and shared responsibility, for prosperity and security, for tolerance and participation, for justice and solidarity.

**WE HAVE A UNIQUE** way of living and working together in the European Union. This is expressed through the democratic interaction of the Member States and the European institutions. The European Union is founded on equal rights and mutually supportive cooperation. This enables us to strike a fair balance between Member States' interests.

**WE PRESERVE** in the European Union the identities and diverse traditions of its Member States. We are enriched by open borders and a lively variety of languages, cultures and regions. There are many goals which we cannot achieve on our own, but only in concert. Tasks are shared between the European Union, the Member States and their regions and local authorities.

II.

**WE ARE FACING** major challenges which do not stop at national borders. The European Union is our response to these challenges. Only together can we continue to preserve our ideal of European society in future for the good of all European Union citizens. This European model combines economic success and social responsibility. The common market and the euro make us strong. We can thus shape the increasing interdependence of the global economy and ever-growing competition on international markets according to our values. Europe's wealth lies in the knowledge and ability of its people; that is the key to growth, employment and social cohesion.



## III.

**WE WILL FIGHT** terrorism, organised crime and illegal immigration together. We stand up for liberties and civil rights also in the struggle against those who oppose them. Racism and xenophobia must never again be given any rein.

**WE ARE COMMITTED** to the peaceful resolution of conflicts in the world and to ensuring that people do not become victims of war, terrorism and violence. The European Union wants to promote freedom and development in the world. We want to drive back poverty, hunger and disease. We want to continue to take a leading role in that fight.

**WE INTEND JOINTLY** to lead the way in energy policy and climate protection and make our contribution to averting the global threat of climate change.

**THE EUROPEAN UNION** will continue to thrive both on openness and on the will of its Member States to consolidate the Union's internal development. The European Union will continue to promote democracy, stability and prosperity beyond its borders.

**WITH EUROPEAN UNIFICATION** a dream of earlier generations has become a reality. Our history reminds us that we must protect this for the good of future generations. For that reason we must always renew the political shape of Europe in keeping with the times. That is why today, 50 years after the signing of the Treaties of Rome, we are united in our aim of placing the European Union on a renewed common basis before the European Parliament elections in 2009.

**FOR WE KNOW, EUROPE IS OUR COMMON FUTURE.**

Done at Berlin on the twenty-fifth day of March in the year two thousand and seven.

For the European Parliament  
The President

For the Council of the European Union  
The President

For the Commission of the European Communities  
The President

Hans-Gert Pötering

Angela Merkel

José Manuel Barroso



The constitutional treaty:

A comparative text

Version 1.0

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## Introduction

The official version of the new constitutional treaty is almost unreadable for most non-specialists, as it takes the form of a series of amendments to the existing treaties, without reproducing the existing text which it would alter.

In the left hand column of the table below is a consolidated text, which shows how the treaties would look, once amended by the new treaty.

In the right hand column we also reproduce the text of the original version of the Constitution with its original article numbers. As you can see, the new treaty effectively alters the existing treaties to bring them into line with the rejected European Constitution.

In the left hand column:

- Bold text indicates where the new treaty would add words to the existing treaties.
- Strikethroughs show where text in the existing treaties would be deleted by the new treaty.
- Underlining highlights changes to the treaties which the new treaty would make, which were not in the original version of the European Constitution.

Many of the articles are moved around in the new version. In the interests of readability where articles have been moved or renumbered, we do not show strikethroughs in their old location, or show strikeouts where whole articles are overwritten. In the current draft there are still two references to the old constitution, and the article numbers of original Constitution are used throughout for all cross-references. The numbering of the current draft also appears to be non-continuous - i.e. some articles are "missing" due to drafting errors. These points will presumably need to be revised in the final text.

Several EU leaders have admitted that the new treaty has been made deliberately inaccessible:

- The author of the Constitution Valéry Giscard d'Estaing has said that "All the earlier proposals will be in the new text, but will be hidden and disguised in some way."

- Former Italian Prime Minister Giuliano Amato has said that: “They decided that the document should be unreadable. If it is unreadable, it is not constitutional, that was the sort of perception... Should you succeed in understanding it at first sight there might be some reason for a referendum, because it would mean that there is something new.”
- Belgian Foreign Minister Karel de Gucht has said that, "The aim of the Constitutional treaty was to be more readable; the aim of this treaty is to be unreadable... The Constitution aimed to be clear, whereas this treaty had to be unclear. It is a success.”

Some opponents of a referendum have even argued that the “new” treaty is shorter than the old constitution and so therefore cannot be substantively the same thing. This is a dishonest argument.

The new treaty in its unconsolidated form contains only the “active ingredients” – the changes which were proposed by the original Constitution. However, once it is turned back into consolidated text it becomes obvious that the “new” treaty essentially edits the existing treaties to bring them into line with the rejected constitution.

In fact it is almost exactly the same length as the original version of the Constitution. While the current treaties are approximately 54,000 words long, the original EU Constitution was 63,000 words long. Strangely enough, the consolidated version of the “new” treaty is also 63,000 words long.

#### An issue of trust?

“The manifesto is what we put to the public. We've got to honour that manifesto. That is an issue of trust for me with the electorate.”  
(Gordon Brown, interview, 24 June 2007)

“The new Constitutional Treaty ensures the new Europe can work effectively... We will put it to the British people in a referendum.”  
(2005 Labour manifesto)

## Treaty on European Union

Treaty on European Union (as amended)	European Constitution
<p style="text-align: center;">PREAMBLE</p> <p>HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE CZECH REPUBLIC, HER MAJESTY THE QUEEN OF DENMARK, THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, THE PRESIDENT OF THE REPUBLIC OF ESTONIA, THE PRESIDENT OF THE HELLENIC REPUBLIC, HIS MAJESTY THE KING OF SPAIN, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF IRELAND, THE PRESIDENT OF THE ITALIAN REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF CYPRUS, THE PRESIDENT OF THE REPUBLIC OF LATVIA, THE PRESIDENT OF THE REPUBLIC OF LITHUANIA, HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG, THE PRESIDENT OF THE REPUBLIC OF HUNGARY, THE PRESIDENT OF MALTA, HER MAJESTY THE QUEEN OF THE NETHERLANDS, THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA, THE PRESIDENT OF THE REPUBLIC OF POLAND, THE PRESIDENT OF THE PORTUGUESE REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF SLOVENIA, THE PRESIDENT OF THE SLOVAK REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF FINLAND, THE GOVERNMENT OF THE KINGDOM OF SWEDEN, HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,</p> <p>RESOLVED to mark a new stage in the process of European integration undertaken with the establishment of the European Communities,</p>	<p style="text-align: center;">PREAMBLE</p> <p>HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE CZECH REPUBLIC, HER MAJESTY THE QUEEN OF DENMARK, THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, THE PRESIDENT OF THE REPUBLIC OF ESTONIA, THE PRESIDENT OF THE HELLENIC REPUBLIC, HIS MAJESTY THE KING OF SPAIN, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF IRELAND, THE PRESIDENT OF THE ITALIAN REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF CYPRUS, THE PRESIDENT OF THE REPUBLIC OF LATVIA, THE PRESIDENT OF THE REPUBLIC OF LITHUANIA, HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG, THE PRESIDENT OF THE REPUBLIC OF HUNGARY, THE PRESIDENT OF MALTA, HER MAJESTY THE QUEEN OF THE NETHERLANDS, THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA, THE PRESIDENT OF THE REPUBLIC OF POLAND, THE PRESIDENT OF THE PORTUGUESE REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF SLOVENIA, THE PRESIDENT OF THE SLOVAK REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF FINLAND, THE GOVERNMENT OF THE KINGDOM OF SWEDEN, HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,</p>

<p>DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law.</p> <p>RECALLING the historic importance of the ending of the division of the European continent and the need to create firm bases for the construction of the future Europe,</p> <p>CONFIRMING their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law,</p> <p>CONFIRMING their attachment to fundamental social rights as defined in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers,</p> <p>DESIRING to deepen the solidarity between their peoples while respecting their history, their culture and their traditions,</p> <p>DESIRING to enhance further the democratic and efficient functioning of the institutions so as to enable them better to carry out, within a single institutional framework, the tasks entrusted to them,</p> <p>RESOLVED to achieve the strengthening and the convergence of their economies and to establish an economic and monetary union including, in accordance with the provisions of these Treaties, a single and stable currency,</p> <p>DETERMINED to promote economic and social progress for their</p>	<p>DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,</p> <p>BELIEVING that Europe, reunited after bitter experiences, intends to continue along the path of civilisation, progress and prosperity, for the good of all its inhabitants, including the weakest and most deprived; that it wishes to remain a continent open to culture, learning and social progress; and that it wishes to deepen the democratic and transparent nature of its public life, and to strive for peace, justice and solidarity throughout the world,</p> <p>CONVINCED that, while remaining proud of their own national identities and history, the peoples of Europe are determined to transcend their former divisions and, united ever more closely, to forge a common destiny,</p> <p>CONVINCED that, thus "United in diversity", Europe offers them the best chance of pursuing, with due regard for the rights of each individual and awareness of their responsibilities towards future generations and the Earth, the great venture which makes of it a special area of human hope,</p> <p>DETERMINED to continue the work accomplished within the framework of the Treaties establishing the European Communities<sup>1</sup> and the Treaty on European Union<sup>2</sup>, by ensuring the continuity of the Community <i>acquis</i>,</p> <p>GRATEFUL to the members of the European Convention for having prepared the draft of this Constitution on behalf of the</p>
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<p>peoples, taking into account the principle of sustainable development and within the context of the accomplishment of the internal market and of reinforced cohesion and environmental protection, and to implement policies ensuring that advances in economic integration are accompanied by parallel progress in other fields,</p> <p>RESOLVED to establish a citizenship common to nationals of their countries,</p> <p>RESOLVED to implement a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence in accordance with the provisions of Article 17, thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and in the world,</p> <p>RESOLVED to facilitate the free movement of persons, while ensuring the safety and security of their peoples, by establishing an area of freedom, security and justice, in accordance with the provisions of this Treaty,</p> <p>RESOLVED to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity,</p> <p>IN VIEW of further steps to be taken in order to advance European integration,</p> <p>HAVE DECIDED to establish a European Union and to this end have designated as their Plenipotentiaries: <i>(List of plenipotentiaries not reproduced)</i></p>	<p>citizens and States of Europe,</p> <p>HAVE DESIGNATED AS THEIR PLENIPOTENTIARIES:</p> <p>WHO, having exchanged their full powers, found in good and due form, have agreed as follows:</p>
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<p>WHO, having exchanged their full powers, found in good and due form, have agreed as follows.</p>	
<p style="text-align: center;"><b>Article 1 - Establishment of the Union</b></p> <p>By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN UNION, hereinafter called 'the Union' <b>on which the Member States confer competences to attain objectives they have in common.</b></p> <p>This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.</p> <p><u>The Union shall be founded on the present Treaty and on the Treaty on the Functioning of the European Union. It shall replace and succeed the European Community.</u></p>	<p style="text-align: center;"><b>Article 1 Establishment of the Union</b></p> <p>1. Reflecting the will of the citizens and States of Europe to build a common future, this Constitution establishes the European Union, on which the Member States confer competences to attain objectives they have in common. The Union shall coordinate the policies by which the Member States aim to achieve these objectives, and shall exercise on a Community basis the competences they confer on it.</p> <p>2. The Union shall be open to all European States which respect its values and are committed to promoting them together.</p>
<p style="text-align: center;"><b>Article 2 The Union's values</b></p> <p>The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.</p>	<p style="text-align: center;"><b>Article 2 The Union's values</b></p> <p>The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.</p>

<p style="text-align: center;">Article 3 The Union's objectives</p>	<p style="text-align: center;">ARTICLE I-3 The Union's objectives</p>
<p>1. The Union's aim is to promote peace, its values and the well-being of its peoples.</p> <p>2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, <u>in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.</u></p> <p>3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment.</p> <p>It shall promote scientific and technological advance.</p> <p>It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.</p> <p>It shall promote economic, social and territorial cohesion, and solidarity among Member States.</p>	<p>1. The Union's aim is to promote peace, its values and the well-being of its peoples.</p> <p>2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, and an internal market where competition is free and undistorted.<sup>1</sup></p> <p>3. The Union shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment.</p> <p>It shall promote scientific and technological advance.</p> <p>It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.</p> <p>It shall promote economic, social and territorial cohesion, and solidarity among Member States.</p>

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<sup>1</sup> In the current EC Treaty, Article 3(1)(g) spells out the provision of "a system ensuring that competition in the internal market is not distorted." This is now removed.

<p>It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.</p> <p><u>4. The Union shall establish an economic and monetary union whose currency is the euro.</u></p> <p>5. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.</p> <p>6. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties.</p>	<p>It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.</p> <p>4. In its relations with the wider world, the Union shall uphold and promote its values and interests. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.</p> <p>5. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Constitution.</p>
<p style="text-align: center;"><b>Article 4</b> Relations between the Union and the Member States</p> <p>1. In accordance with Article [I-11], competences not conferred upon the Union in the Treaties remain with the Member States.</p> <p>2. The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and</p>	<p style="text-align: center;"><b>ARTICLE I-5</b> Relations between the Union and the Member States</p> <p>1. The Union shall respect the equality of Member States before the Constitution as well as their national identities, inherent in their fundamental structures, political and constitutional,</p>

<p>constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. <u>In particular, national security remains the sole responsibility of each Member State.</u></p> <p>3. Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties.</p> <p>The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union.</p> <p>The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.</p>	<p>inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security.</p> <p>2. Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Constitution.</p> <p>The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Constitution or resulting from the acts of the institutions of the Union.</p> <p>The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.</p>
<p style="text-align: center;"><b>Article 5</b> Fundamental principles relating to competences</p> <p>1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.</p> <p>2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set</p>	<p style="text-align: center;"><b>ARTICLE I-11</b> Fundamental principles</p> <p>1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.</p> <p>2. Under the principle of conferral, the Union shall act within the limits of the competences conferred upon it by the Member States in the Constitution to attain the objectives set out in the</p>

<p>out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.</p> <p>3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.</p> <p>The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments shall ensure compliance with that principle in accordance with the procedure set out in that Protocol.</p> <p>4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.</p> <p>The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality.</p>	<p>Constitution. Competences not conferred upon the Union in the Constitution remain with the Member States.</p> <p>3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.</p> <p>The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments shall ensure compliance with that principle in accordance with the procedure set out in that Protocol.</p> <p>4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Constitution.</p> <p>The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality.</p>
<p style="text-align: center;"><b>Article 6</b> <b>Fundamental rights</b></p> <p>1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of 7 December 2000, as adapted on [... 2007], <u>which shall have the same legal value as the Treaties.</u></p>	<p style="text-align: center;"><b>ARTICLE I-9</b> <b>Fundamental rights</b></p> <p>1. The Union shall recognise the rights, freedoms and principles set out in the Charter of Fundamental Rights which constitutes Part II.</p>

<p><u>The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.</u></p> <p><u>The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions.</u></p> <p>2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties.</p> <p>3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.</p>	<p>2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>2</sup>. Such accession shall not affect the Union's competences as defined in the Constitution.</p> <p>3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.</p>
<p style="text-align: center;">Article 7</p> <p><b>Suspension of certain rights resulting from Union membership</b></p> <p>1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may determine that</p>	<p style="text-align: center;">ARTICLE I-59</p> <p>Suspension of certain rights resulting from Union membership</p> <p>1. On the reasoned initiative of one third of the Member States or the reasoned initiative of the European Parliament or on a proposal from the Commission, the Council may adopt a European decision determining that there is a clear risk of a</p>

<sup>2</sup> Treaty Series No. 71 (1953) Cmd 8969

<p>there is a clear risk of a serious breach by a Member State of <b>the values referred to in Article [1-2]</b>. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, <b>may address recommendations to it, acting in accordance with the same procedure.</b></p> <p>The Council shall regularly verify that the grounds on which such a determination was made continue to apply.</p> <p>2. <b>The European Council, acting by unanimity</b> on a proposal by one third of the Member States or by the Commission and after obtaining the consent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of principles mentioned in Article 6(1), after <b>inviting the Member State in question</b> to submit its observations.</p> <p>3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of <b>the Treaties</b> to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons. The obligations of the Member State in question under this Treaty shall in any case continue to be binding on that State.</p> <p>4. The Council, acting by a qualified majority, may decide</p>	<p>serious breach by a Member State of the values referred to in Article 1-2. The Council shall act by a majority of four fifths of its members after obtaining the consent of the European Parliament. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.</p> <p>The Council shall regularly verify that the grounds on which such a determination was made continue to apply.</p> <p>2. The European Council, on the initiative of one third of the Member States or on a proposal from the Commission, may adopt a European decision determining the existence of a serious and persistent breach by a Member State of the values mentioned in Article 1-2, after inviting the Member State in question to submit its observations. The European Council shall act unanimously after obtaining the consent of the European Parliament.</p> <p>3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may adopt a European decision suspending certain of the rights deriving from the application of the Constitution to the Member State in question, including the voting rights of the member of the Council representing that State. The Council shall take into account the possible consequences of such a suspension for the rights and obligations of natural and legal persons. In any case, that State shall continue to be bound by its obligations under the Constitution.</p> <p>4. The Council, acting by a qualified majority, may adopt a</p>
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<p>subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.</p> <p><b>5. The voting arrangements applying to the European Parliament, the European Council and the Council for the purposes of this Article are laid down in Article [309] of the Treaty on the Functioning of the Union.</b></p>	<p>European decision varying or revoking measures adopted under paragraph 3 in response to changes in the situation which led to their being imposed.</p> <p>5. For the purposes of this Article, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2. Abstentions by members present in person or represented shall not prevent the adoption of European decisions referred to in paragraph 2.</p> <p>For the adoption of the European decisions referred to in paragraphs 3 and 4, a qualified majority shall be defined as at least 72% of the members of the Council, representing the participating Member States, comprising at least 65% of the population of these States.</p> <p>Where, following a decision to suspend voting rights adopted pursuant to paragraph 3, the Council acts by a qualified majority on the basis of a provision of the Constitution, that qualified majority shall be defined as in the second subparagraph, or, where the Council acts on a proposal from the Commission or from the Union Minister for Foreign Affairs, as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States. In the latter case, a blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.</p>
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	6. For the purposes of this Article, the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component members.
<p style="text-align: center;"><b>Article 7a</b> The Union and its neighbours</p> <p>1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.</p> <p>2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.</p>	<p style="text-align: center;"><b>ARTICLE I-57</b> The Union and its neighbours</p> <p>1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.</p> <p>2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.</p>
<p style="text-align: center;"><b>TITLE II</b> <b>PROVISIONS ON DEMOCRATIC PRINCIPLES</b></p> <p style="text-align: center;"><b>Article 8</b> The principle of democratic equality</p> <p>In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.</p>	<p style="text-align: center;"><b>ARTICLE I-45</b> The principle of democratic equality</p> <p>In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.</p>
<p style="text-align: center;"><b>Article 8a</b> The principle of representative democracy</p>	<p style="text-align: center;"><b>ARTICLE I-46</b> The principle of representative democracy</p>

<p>1. The functioning of the Union shall be founded on representative democracy.</p> <p>2. Citizens are directly represented at Union level in the European Parliament.</p> <p>Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.</p> <p>3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.</p> <p>4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.</p>	<p>1. The functioning of the Union shall be founded on representative democracy.</p> <p>2. Citizens are directly represented at Union level in the European Parliament.</p> <p>Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.</p> <p>3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.</p> <p>4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.</p>
<p style="text-align: center;"><b>Article 8b</b> The principle of participatory democracy</p> <p>1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.</p> <p>2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.</p> <p>3. The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions</p>	<p style="text-align: center;"><b>ARTICLE I-47</b> The principle of participatory democracy</p> <p>1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.</p> <p>2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.</p> <p>3. The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are</p>

<p>are coherent and transparent.</p> <p>4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.</p> <p>The procedures and conditions required for such a citizens' initiative shall be determined in accordance with Article [I-47(4)(last sentence)] of the Treaty on the Functioning of the Union.</p>	<p>coherent and transparent.</p> <p>4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Constitution.</p> <p>European laws shall determine the provisions for the procedures and conditions required for such a citizens' initiative, including the minimum number of Member States from which such citizens must come.</p>
<p style="text-align: center;"><u>Article 8c</u> <u>The role of national Parliaments</u></p> <p><u>National Parliaments shall contribute actively to the good functioning of the Union:</u></p> <p><u>(a) through being informed by the institutions of the Union and having draft European legislative acts forwarded to them in accordance with the Protocol on the role of national Parliaments in the European Union;</u></p> <p><u>(b) by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;</u></p> <p><u>(c) by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in</u></p>	<p style="text-align: center;">NOT IN CONSTITUTION</p> <p>ARTICLE I-42.2</p> <p>2. National Parliaments may, within the framework of the area of freedom, security and justice, participate in the evaluation mechanisms provided for in Article III-260. They shall be</p>

<p><u>accordance with Article [III-260] of the Treaty on the Functioning of the Union, and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles [III-276 and III-273] of that Treaty;</u></p> <p><u>(d) by taking part in the revision procedures of the Treaties, in accordance with Articles [IV-443 and IV-444] of this Treaty;</u></p> <p><u>(e) by being notified of applications for accession to the Union, in accordance with Article [I-58] of this Treaty;</u></p> <p><u>(f) by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national Parliaments."</u></p>	<p>involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles III-276 and III-273.3. Member States shall have a right of initiative in the field of police and judicial cooperation in criminal matters, in accordance with Article III-264.</p>
<p style="text-align: center;"><b>TITLE III PROVISIONS ON THE INSTITUTIONS</b></p> <p style="text-align: center;"><b>Article 9</b> <b>The Union's institutions</b></p> <p>1. The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.</p>	<p style="text-align: center;"><b>ARTICLE I-19</b> <b>The Union's institutions</b></p> <p>1. The Union shall have an institutional framework which shall aim to:</p> <ul style="list-style-type: none"> <li>- promote its values,</li> <li>- advance its objectives, serve its interests, those of its citizens and those of the Member States,</li> </ul>

<sup>3</sup> The inclusion of the ECB as an institution of the Union is a controversial move, which President of the bank, Jean Claude Trichet, has criticised as a threat to the independence of the bank.

<p>The Union's institutions shall be:</p> <ul style="list-style-type: none"> <li>- the European Parliament,</li> <li>- the European Council,</li> <li>- the Council,</li> <li>- the European Commission (hereinafter referred to as the "Commission"),</li> <li>- the Court of Justice of the European Union,</li> <li>- <u>the European Central Bank,</u><sup>3</sup></li> <li>- <u>the Court of Auditors.</u></li> </ul> <p>2. Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures and conditions set out in them. The institutions shall practise mutual sincere cooperation.</p> <p><u>3. The provisions relating to the European Central Bank and the Court of Auditors are set out in the Treaty on the Functioning of the Union.</u></p>	<p>- ensure the consistency, effectiveness and continuity of its policies and actions.</p> <p>This institutional framework comprises:</p> <ul style="list-style-type: none"> <li>- The European Parliament,</li> <li>- The European Council,</li> <li>- The Council of Ministers (hereinafter referred to as the "Council"),</li> <li>- The European Commission (hereinafter referred to as the "Commission"),</li> <li>- The Court of Justice of the European Union.</li> </ul> <p>2. Each institution shall act within the limits of the powers conferred on it in the Constitution, and in conformity with the procedures and conditions set out in it. The institutions shall practise mutual sincere cooperation.</p>
<p style="text-align: center;">Article 9a The European Parliament</p>	<p style="text-align: center;">ARTICLE I-20 The European Parliament</p>

<p>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.</p> <p>2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.</p> <p>The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph.</p> <p>3. The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.</p> <p>4. The European Parliament shall elect its President and its officers from among its members.</p>	<p>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 Constitution. It shall elect the President of the Commission.</p> <p>2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.</p> <p>The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a European decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph.</p> <p>3. The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.</p> <p>4. The European Parliament shall elect its President and its officers from among its members.</p>
<p style="text-align: center;">Article 9b The European Council and its President</p> <p>1. The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not</p>	<p style="text-align: center;">ARTICLE I-21 The European Council</p> <p>1. The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not</p>

<p>exercise legislative functions.</p> <p>2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The High Representative of the Union for Foreign Affairs and Security Policy shall take part in its work.</p> <p>3. The European Council shall meet quarterly, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.</p> <p>4. Except where the Treaties provide otherwise, decisions of the European Council shall be taken by consensus.</p>	<p>exercise legislative functions.</p> <p>2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The Union Minister for Foreign Affairs shall take part in its work.</p> <p>3. The European Council shall meet quarterly, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.</p> <p>4. Except where the Constitution provides otherwise, decisions of the European Council shall be taken by consensus.</p>
<p>5. The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end his or her term of office in accordance with the same procedure.</p> <p>6. The President of the European Council:</p> <p>(a) shall chair it and drive forward its work;</p> <p>(b) shall ensure the preparation and continuity of the work of</p>	<p style="text-align: center;">ARTICLE I-22 The European Council President</p> <p>1. The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end his or her term of office in accordance with the same procedure.</p> <p>2. The President of the European Council:</p> <p>(a) shall chair it and drive forward its work;</p> <p>(b) shall ensure the preparation and continuity of the work of</p>



<p>the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;</p> <p>(c) shall endeavour to facilitate cohesion and consensus within the European Council;</p> <p>(d) shall present a report to the European Parliament after each of the meetings of the European Council. The President of the European Council shall, at his or her level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.</p> <p>The President of the European Council shall not hold a national office.</p>	<p>the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;</p> <p>(c) shall endeavour to facilitate cohesion and consensus within the European Council;</p> <p>(d) shall present a report to the European Parliament after each of the meetings of the European Council. The President of the European Council shall, at his or her level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the Union Minister for Foreign Affairs.</p> <p>3. The President of the European Council shall not hold a national office.</p>
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<p style="text-align: center;"><b>Article 9c</b> The Council, its Presidency and the definition of a qualified majority</p> <p>1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Treaties.</p> <p>2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.</p> <p>3. The Council shall act by a qualified majority except where the Treaties provide otherwise.</p> <p>4. <u>As from 1 November 2014</u>, a qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union.</p> <p>A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.</p> <p>The other arrangements governing the qualified majority are</p>	<p style="text-align: center;"><b>ARTICLE I-23</b> The Council of Ministers</p> <p>1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Constitution.</p> <p>2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.</p> <p>3. The Council shall act by a qualified majority except where the Constitution provides otherwise.</p> <p style="text-align: center;"><b>ARTICLE I-25</b> Definition of qualified majority within the European Council and the Council</p> <p>1. A qualified majority shall be defined as at least 55% of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65% of the population of the Union. A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.</p> <p>2. By way of derogation from paragraph 1, when the Council</p>
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<sup>4</sup> This delay in the new Council voting system was inserted at the request of Poland.

laid down in Article [I-25(2)] of the Treaty on the Functioning of the Union.

5. The transitional provisions relating to the definition of the qualified majority which shall be applicable until 31 October 2014 and those which shall be applicable from 1 November 2014 to 31 March 2017 are laid down in the Protocol on transitional provisions.<sup>4</sup>

6. The Council shall meet in different configurations, the list of which shall be adopted in accordance with Article [I-24(4) and (7)] of the Treaty on the Functioning of the Union.

The General Affairs Council shall ensure consistency in the work of the different Council configurations. It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.

The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.

does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the qualified majority shall be defined as at least 72% of the members of the Council, representing Member States comprising at least 65% of the population of the Union.

3. Paragraphs 1 and 2 shall apply to the European Council when it is acting by a qualified majority.

4. Within the European Council, its President and the President of the Commission shall not take part in the vote.

#### ARTICLE I-24

#### Configurations of the Council of Ministers

1. The Council shall meet in different configurations.

2. The General Affairs Council shall ensure consistency in the work of the different Council configurations.

It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.

3. The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.

4. The European Council shall adopt by a qualified majority a European decision establishing the list of other Council configurations.

7. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.

8. The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.

9. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established in accordance with Article [I-24(4) and (7)] of the Treaty on the Functioning of the Union.

5. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.

6. The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.

7. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established by a European decision of the European Council. The European Council shall act by a qualified majority.

<p style="text-align: center;"><b>Article 9d<sup>5</sup></b> <b>The European Commission and its President</b></p> <p>1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.</p> <p>2. Union legislative acts may be adopted only on the basis of a Commission proposal, except where the Treaties provide otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Treaties so provide.</p> <p>3. The Commission's term of office shall be five years. The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.</p> <p>In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article [I-</p>	<p style="text-align: center;"><b>ARTICLE I-26</b> <b>The European Commission</b></p> <p>1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Constitution, and measures adopted by the institutions pursuant to the Constitution. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Constitution. With the exception of the common foreign and security policy, and other cases provided for in the Constitution, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.</p> <p>2. Union legislative acts may be adopted only on the basis of a Commission proposal, except where the Constitution provides otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Constitution so provides.</p> <p>3. The Commission's term of office shall be five years.</p> <p>4. The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.</p> <p style="text-align: center;"><b>ARTICLE I-26</b></p>
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<sup>5</sup> Article 9d is substantially the same as Articles I-26 an I-27 of the Constitution, but the ordering is different in places. A new clause on transitional measures for the Commission appears.

<p>28(2)], the members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.</p>	<p>7. In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article I-28(2), the members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.</p>
<p><u>4. The Commission appointed between the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and 31 October 2014 shall consist of one national of each Member State, including its President and the High Representative of the Union for Foreign Affairs and Security Policy who shall be one of its Vice-Presidents.</u></p>	<p>5. The first Commission appointed under the provisions of the Constitution shall consist of one national of each Member State, including its President and the Union Minister for Foreign Affairs who shall be one of its Vice-Presidents.</p>
<p>5. As from <u>1 November 2014</u>, the Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.</p> <p>The members of the Commission shall be chosen from among the nationals of the Member States on the basis of a system of equal rotation between the Member States. This system shall be established unanimously by the European Council in accordance with Article [I-26(a) and (b)] of the Treaty on the Functioning of the Union.</p>	<p>6. As from the end of the term of office of the Commission referred to in paragraph 5, the Commission shall consist of a number of members, including its President and the Union Minister for Foreign Affairs, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.</p> <p>The members of the Commission shall be selected from among the nationals of the Member States on the basis of a system of equal rotation between the Member States. This system shall be established by a European decision adopted unanimously by the European Council...<sup>6</sup></p>

<sup>6</sup> The remainder of this article of the Constitution is transferred to Art. 211 TFEU

<p>6. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article [III-340] of the Treaty on the Functioning of the Union, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from the duties that he or she carries out in the Commission.</p> <p>7. The President of the Commission shall:</p> <p>(a) lay down guidelines within which the Commission is to work;</p> <p>(b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;</p> <p>(c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.</p> <p>A member of the Commission shall resign if the President so requests. The High Representative of the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article [I-28(1)], if the President so requests.</p>	<p>8. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article III-340, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the Union Minister for Foreign Affairs shall resign from the duties that he or she carries out in the Commission.</p> <p style="text-align: center;">ARTICLE I-27</p> <p>3. The President of the Commission shall:</p> <p>(a) lay down guidelines within which the Commission is to work;</p> <p>(b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;</p> <p>(c) appoint Vice-Presidents, other than the Union Minister for Foreign Affairs, from among the members of the Commission.</p> <p>A member of the Commission shall resign if the President so requests. The Union Minister for Foreign Affairs shall resign, in accordance with the procedure set out in Article I-28(1), if the President so requests.</p> <p style="text-align: center;">ARTICLE I-27</p>
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8. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he or she does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in [paragraph 3, second subparagraph, and paragraph 5, second subparagraph].

The President, the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

1. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he or she does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

2. The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in Article I-26(4) and (6), second subparagraph.

The President, the Union Minister for Foreign Affairs and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.



<p style="text-align: center;"><b>Article 9e</b> <b>The High Representative of the Union for Foreign Affairs and Security Policy</b></p> <p>1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High Representative of the Union for Foreign Affairs and Security Policy. The European Council may end his or her term of office by the same procedure.</p> <p>2. The High Representative shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.</p> <p>3. The High Representative shall preside over the Foreign Affairs Council.</p> <p>4. The High Representative shall be one of the Vice-Presidents of the Commission. He or she shall ensure the consistency of the Union's external action. He or she shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the High Representative shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3.</p>	<p style="text-align: center;"><b>ARTICLE I-28</b> <b>The Union Minister for Foreign Affairs</b></p> <p>1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the Union Minister for Foreign Affairs. The European Council may end his or her term of office by the same procedure.</p> <p>2. The Union Minister for Foreign Affairs shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.</p> <p>3. The Union Minister for Foreign Affairs shall preside over the Foreign Affairs Council.</p> <p>4. The Union Minister for Foreign Affairs shall be one of the Vice-Presidents of the Commission. He or she shall ensure the consistency of the Union's external action. He or she shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the Union Minister for Foreign Affairs shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3.</p>
<p>TITLE IV PROVISIONS ON ENHANCED COOPERATION</p>	

**Article 10**  
**Enhanced cooperation**

1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Treaties, subject to the limits and in accordance with the procedures laid down in this Article and in Articles [III-416 to III-423] of the Treaty on the Functioning of the Union.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article [III-418] of the Treaty on the Functioning of the Union.

2. The decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least nine Member States participate in it. The Council shall act in accordance with the procedure laid down in Article [III-419] of the Treaty on the Functioning of the Union.

3. All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. The voting rules are set out in Article [I-44(3)] of the Treaty on the Functioning of the Union.

**ARTICLE I-44**  
**Enhanced cooperation**

1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Constitution, subject to the limits and in accordance with the procedures laid down in this Article and in Articles III-416 to III-423.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article III-418.

2. The European decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least one third of the Member States participate in it. The Council shall act in accordance with the procedure laid down in Article III-419.

3. All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. Unanimity shall be constituted by the votes of the representatives of the participating Member States only.

<p>4. Acts adopted in the framework of enhanced cooperation shall bind only participating Member States. They shall not be regarded as part of the <i>acquis</i> which has to be accepted by candidate States for accession to the Union.</p>	<p>A qualified majority shall be defined as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States. A blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.</p> <p>By way of derogation from the third and fourth subparagraphs, where the Council does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the required qualified majority shall be defined as at least 72% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.</p> <p>4. Acts adopted in the framework of enhanced cooperation shall bind only participating Member States. They shall not be regarded as part of the <i>acquis</i> which has to be accepted by candidate States for accession to the Union.</p>
<p style="text-align: center;">Title V GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION AND SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY</p> <p style="text-align: center;">CHAPTER 1 GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION</p> <p style="text-align: center;">Article 10a</p> <p>1. The Union's action on the international scene shall be</p>	<p style="text-align: center;">ARTICLE III-292</p> <p>1. The Union's action on the international scene shall be guided</p>

<p>guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.</p> <p>The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.</p> <p>2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:</p> <p>(a) safeguard its values, fundamental interests, security, independence and integrity;</p> <p>(b) consolidate and support democracy, the rule of law, human rights and the principles of international law;</p> <p>(c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and</p>	<p>by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.<sup>7</sup></p> <p>The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.</p> <p>2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international Relations, in order to:</p> <p>(a) safeguard its values, fundamental interests, security, independence and integrity;</p> <p>(b) consolidate and support democracy, the rule of law, human rights and the principles of international law;</p> <p>(c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and</p>
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<sup>7</sup> Treaty Series No. 67 (1946) Cmd 7015

<p>principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;</p> <p>(d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;</p> <p>(e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;</p> <p>(f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;</p> <p>(g) assist populations, countries and regions confronting natural or man-made disasters; and</p> <p>(h) promote an international system based on stronger multilateral cooperation and good global governance.</p> <p>3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and Part Five of the Treaty on the Functioning of the Union, and of the external aspects of its other policies.</p>	<p>principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris,<sup>8</sup> including those relating to external borders;</p> <p>(d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;</p> <p>(e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;</p> <p>(f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;</p> <p>(g) assist populations, countries and regions confronting natural or man-made disasters;</p> <p>(h) promote an international system based on stronger multilateral cooperation and good global governance.</p> <p>3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and the external aspects of its other policies.</p>
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<sup>8</sup> Cm 1464 (Not a Treaty)

<p>The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.</p>	<p>The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the Union Minister for Foreign Affairs, shall ensure that consistency and shall cooperate to that effect.</p>
<p style="text-align: center;">Article 10b</p> <p>1. On the basis of the principles and objectives set out in Article [III-292], the European Council shall identify the strategic interests and objectives of the Union.</p> <p>Decisions of the European Council on the strategic interests and objectives of the Union shall relate to the common foreign and security policy and to other areas of the external action of the Union. Such decisions may concern the relations of the Union with a specific country or region or may be thematic in approach. They shall define their duration, and the means to be made available by the Union and the Member States.</p> <p>The European Council shall act unanimously on a recommendation from the Council, adopted by the latter under the arrangements laid down for each area. Decisions of the European Council shall be implemented in accordance with the procedures provided for in the Treaties.</p> <p>2. The High Representative of the Union for Foreign Affairs and Security Policy, for the area of common foreign and security policy, and the Commission, for other areas of external action, may submit joint proposals to the Council.</p>	<p style="text-align: center;">ARTICLE III-293</p> <p>1. On the basis of the principles and objectives set out in Article III-292, the European Council shall identify the strategic interests and objectives of the Union.</p> <p>European decisions of the European Council on the strategic interests and objectives of the Union shall relate to the common foreign and security policy and to other areas of the external action of the Union. Such decisions may concern the relations of the Union with a specific country or region or may be thematic in approach. They shall define their duration, and the means to be made available by the Union and the Member States.</p> <p>The European Council shall act unanimously on a recommendation from the Council, adopted by the latter under the arrangements laid down for each area. European decisions of the European Council shall be implemented in accordance with the procedures provided for in the Constitution.</p> <p>2. The Union Minister for Foreign Affairs, for the area of common foreign and security policy, and the Commission, for other areas of external action, may submit joint proposals to the Council.</p>

<p style="text-align: center;"><b>CHAPTER 2 SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY</b></p> <p style="text-align: center;"><b>Article 10c</b></p> <p>The Union's action on the international scene, pursuant to this Chapter, shall be guided by the principles, shall pursue the objectives of, and be conducted in accordance with, the general provisions laid down in Chapter 1.</p>	<p style="text-align: center;"><b>ARTICLE III-292</b></p> <p>3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and the external aspects of its other policies.</p> <p>The Union shall ensure consistency between the different areas of its external action and between these and its other policies.</p>
<p style="text-align: center;"><b>Article 11</b></p> <p>1. The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.</p> <p><u>The common foreign and security policy is subject to specific procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties.</u> The</p>	<p style="text-align: center;"><b>ARTICLE I-16</b></p> <p style="text-align: center;"><b>The common foreign and security policy</b></p> <p>1. The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.</p> <p style="text-align: center;"><b>ARTICLE III-376</b></p> <p>The Court of Justice of the European Union shall not have</p>

<p>Court of Justice of the European Union shall not have jurisdiction with respect to the provisions relating to this area, with the exception of its jurisdiction to monitor the compliance with Article [III 308] of this Treaty and to review the legality of certain decisions as provided for by Article [III-376, second paragraph] of the Treaty on the Functioning of the Union.</p>	<p>jurisdiction with respect to Articles I-40 and I-41 and the provisions of Chapter II of Title V concerning the common foreign and security policy and Article III-293 insofar as it concerns the common foreign and security policy. However, the Court shall have jurisdiction to monitor compliance with Article III-308 and to rule on proceedings, brought in accordance with the conditions laid down in Article III-365(4), reviewing the legality of European decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter II of Title V.</p>
<p><u>2. Within the framework of the principles and objectives of its external action, the Union shall conduct, define and implement a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.</u></p> <p>3. The Member States shall support the Union's external and</p>	<p style="text-align: center;">ARTICLE I-40</p> <p>1. The European Union shall conduct a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.</p> <p>2. The European Council shall identify the Union's strategic interests and determine the objectives of its common foreign and security policy. The Council shall frame this policy within the framework of the strategic guidelines established by the European Council and in accordance with Part III.</p> <p style="text-align: center;">ARTICLE I-16</p> <p>2. Member States shall actively and unreservedly support the</p>



<p>security policy actively and unreservedly in a spirit of loyalty and mutual solidarity and shall comply with the Union's action in this area.</p> <p>The Member States shall work together to enhance and develop their mutual political solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.</p> <p>The Council and the High Representative shall ensure that these principles are complied with.</p>	<p>Union's common foreign and security policy in a spirit of loyalty and mutual solidarity and shall comply with the Union's action in this area. They shall refrain from action contrary to the Union's interests or likely to impair its effectiveness.</p>
<p style="text-align: center;"><b>Article 12</b></p> <p>The Union shall conduct the common foreign and security policy by:</p> <ul style="list-style-type: none"> <li>(a) defining the general guidelines;</li> <li>(b) adopting decisions defining: <ul style="list-style-type: none"> <li>(i) actions to be undertaken by the Union;</li> <li>(ii) positions to be taken by the Union;</li> <li>(iii) arrangements for the implementation of the decisions referred to in points (i) and (ii);</li> </ul> </li> <li>(c) strengthening systematic cooperation between Member States in the conduct of policy.</li> </ul>	<p style="text-align: center;"><b>ARTICLE III-294</b></p> <p>3. The Union shall conduct the common foreign and security policy by:</p> <ul style="list-style-type: none"> <li>(a) defining the general guidelines;</li> <li>(b) adopting European decisions defining: <ul style="list-style-type: none"> <li>(i) actions to be undertaken by the Union;</li> <li>(ii) positions to be taken by the Union;</li> <li>(iii) arrangements for the implementation of the European decisions referred to in points (i) and (ii);</li> </ul> </li> <li>(c) strengthening systematic cooperation between Member States in the conduct of policy.</li> </ul>

<p style="text-align: center;">Article 13</p> <p>1. The European Council shall identify the Union's strategic interests, determine the objectives of and define general guidelines for the common foreign and security policy, including for matters with defence implications. <u>It shall adopt the necessary decisions.</u></p> <p>If international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy in the face of such developments.</p> <p>The Council shall frame the common foreign and security policy and take the decisions necessary for defining and implementing it on the basis of the general guidelines and strategic lines defined by the European Council.</p> <p>The Council shall ensure the unity, consistency and effectiveness of action by the Union.</p> <p>3. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by the Member States, using national and Union resources.</p>	<p style="text-align: center;">ARTICLE III-295</p> <p>1. The European Council shall define the general guidelines for the common foreign and security policy, including for matters with defence implications.</p> <p>If international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy in the face of such developments.</p> <p>2. The Council shall adopt the European decisions necessary for defining and implementing the common foreign and security policy on the basis of the general guidelines and strategic lines defined by the European Council.</p>
<p style="text-align: center;">Article 13a</p> <p>1. The High Representative of the Union for Foreign Affairs and Security Policy, who shall chair the Foreign Affairs Council, shall contribute through his or her proposals towards the preparation of the common foreign and security policy</p>	<p style="text-align: center;">ARTICLE III-296</p> <p>1. The Union Minister for Foreign Affairs, who shall chair the Foreign Affairs Council, shall contribute through his or her proposals towards the preparation of the common foreign and security policy and shall ensure implementation of the European</p>

<p>and shall ensure implementation of the decisions adopted by the European Council and the Council.</p> <p>2. The High Representative shall represent the Union for matters relating to the common foreign and security policy. He or she shall conduct political dialogue with third parties on the Union's behalf and shall express the Union's position in international organisations and at international conferences.</p> <p>3. In fulfilling his or her mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission.</p>	<p>decisions adopted by the European Council and the Council.</p> <p>2. The Minister for Foreign Affairs shall represent the Union for matters relating to the common foreign and security policy. He or she shall conduct political dialogue with third parties on the Union's behalf and shall express the Union's position in international organisations and at international conferences.</p> <p>3. In fulfilling his or her mandate, the Union Minister for Foreign Affairs shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a European decision of the Council. The Council shall act on a proposal from the Union Minister for Foreign Affairs after consulting the European Parliament and after obtaining the consent of the Commission.</p>
<p style="text-align: center;">Article 14</p> <p>Where the international situation requires operational action by the Union, the Council shall adopt the necessary decisions.</p> <p>2. If there is a change in circumstances having a substantial</p>	<p style="text-align: center;">ARTICLE III-297</p> <p>1. Where the international situation requires operational action by the Union, the Council shall adopt the necessary European decisions. Such decisions shall lay down the objectives, the scope, the means to be made available to the Union, if necessary the duration, and the conditions for implementation of the action.</p> <p>If there is a change in circumstances having a substantial effect</p>

<p>effect on a question subject to such a decision, the Council shall review the principles and objectives of that decision and take the necessary decisions.</p> <p>3. Decisions referred to in paragraph 1 shall commit the Member States in the positions they adopt and in the conduct of their activity.</p> <p>4. Whenever there is any plan to adopt a national position or take national action pursuant to a decision as referred to in paragraph 1, information shall be provided by the Member State concerned in time to allow if necessary, for prior consultations within the Council. The obligation to provide prior information shall not apply to measures which are merely a national transposition of Council decisions.</p> <p>5. In cases of imperative need arising from changes in the situation and, failing a review of the Council decision referred to in paragraph 1, Member States may take the necessary measures as a matter of urgency having regard to the general objectives of that decision. The Member State concerned shall inform the Council immediately of any such measures.</p> <p>6. Should there be any major difficulties in implementing a decision referred to in this Article, a Member State shall refer them to the Council which shall discuss them and seek appropriate solutions. Such solutions shall not run counter to the objectives of the joint action or impair its effectiveness.</p>	<p>on a question subject to such a European decision, the Council shall review the principles and objectives of that decision and adopt the necessary European decisions.</p> <p>2. The European decisions referred to in paragraph 1 shall commit the Member States in the positions they adopt and in the conduct of their activity.</p> <p>3. Whenever there is any plan to adopt a national position or take national action pursuant to a European decision as referred to in paragraph 1, information shall be provided by the Member State concerned in time to allow, if necessary, for prior consultations within the Council. The obligation to provide prior information shall not apply to measures which are merely a national transposition of such a decision.</p> <p>4. In cases of imperative need arising from changes in the situation and failing a review of the European decision pursuant to the second subparagraph of paragraph 1, Member States may take the necessary measures as a matter of urgency, having regard to the general objectives of that decision. The Member State concerned shall inform the Council immediately of any such measures.</p> <p>5. Should there be any major difficulties in implementing a European decision as referred to in this Article, a Member State shall refer them to the Council which shall discuss them and seek appropriate solutions. Such solutions shall not run counter to the objectives of the action or impair its effectiveness.</p>
<p style="text-align: center;">Article 15</p> <p>The Council shall adopt decisions which shall define the</p>	<p style="text-align: center;">ARTICLE III-298</p> <p>3. The Council shall adopt European decisions which shall define</p>

<p>approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the <b>Union's positions</b>.</p>	<p>the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the positions of the Union.</p>
<p style="text-align: center;"><b>Article 16<sup>9</sup></b></p> <p>1. <b>Any Member State, the High Representative of the Union for Foreign Affairs and Security Policy, or that Minister with the Commission's support, may refer any question relating to the common foreign and security policy to the Council and may submit to it initiatives or proposals as appropriate.</b></p> <p>2. In cases requiring a rapid decision, <b>the High Representative of the Union for Foreign Affairs and Security Policy of its own motion, or at the request of a Member State, shall convene an extraordinary Council meeting within 48 hours or, in an emergency, within a shorter period.</b></p>	<p style="text-align: center;"><b>ARTICLE III-299</b></p> <p>1. Any Member State, the Union Minister for Foreign Affairs, or that Minister with the Commission's support, may refer any question relating to the common foreign and security policy to the Council and may submit to it initiatives or proposals as appropriate.</p> <p>2. In cases requiring a rapid decision, the Union Minister for Foreign Affairs, of the Minister's own motion or at the request of a Member State, shall convene an extraordinary meeting of the Council within forty-eight hours or, in an emergency, within a shorter period.</p>
<p style="text-align: center;"><b>Article 17<sup>10</sup></b></p> <p>1. <b>Decisions under this Chapter shall be taken by the European Council and the Council acting unanimously. The adoption of legislative acts shall be excluded.</b></p> <p>When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration under the present subparagraph. In that case, it shall not be obliged to apply the decision, but shall accept that the decision commits</p>	<p style="text-align: center;"><b>ARTICLE III-300</b></p> <p>1. The European decisions referred to in this Chapter shall be adopted by the Council acting unanimously.</p> <p>When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration. In that case, it shall not be obliged to apply the European decision, but shall accept that the latter commits the Union. In a spirit of</p>

<sup>9</sup> Text of current Article 22 TEU (with amendments)

<sup>10</sup> Text of current Article 23 TEU (with amendments)

<sup>11</sup> Change of adjective from 'important' in existing text to 'vital'

<p>the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that decision and the other Member States shall respect its position. <b>If the members of the Council qualifying their abstention in this way represent at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted.</b></p> <p>2. By derogation from the provisions of paragraph 1, the Council shall act by qualified majority:</p> <ul style="list-style-type: none"> <li>- <b>when adopting a decision defining a Union action or position on the basis of a decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article [III-293(1)],</b></li> <li>- <b>when adopting a decision defining a Union action or position, on a proposal which the High Representative of the Union for Foreign Affairs and Security Policy has presented following a specific request to him or her from the European Council, made on its own initiative or that of the High Representative,</b></li> <li>– <b>when adopting any decision implementing a decision defining a Union action or position</b></li> <li>– when appointing a special representative in accordance with Article 18(5).</li> </ul> <p>If a member of the Council declares that, for vital<sup>11</sup> and stated</p>	<p>mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that decision and the other Member States shall respect its position. If the members of the Council qualifying their abstention in this way represent at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted.</p> <p>2. By way of derogation from paragraph 1, the Council shall act by a qualified majority:</p> <ul style="list-style-type: none"> <li>(a) when adopting European decisions defining a Union action or position on the basis of a European decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article III-293(1);</li> <li>(b) when adopting a European decision defining a Union action or position, on a proposal which the Union Minister for Foreign Affairs has presented following a specific request to him or her from the European Council, made on its own initiative or that of the Minister;</li> <li>(c) when adopting a European decision implementing a European decision defining a Union action or position;</li> <li>(d) when adopting a European decision concerning the appointment of a special representative in accordance with Article III-302.</li> </ul> <p>If a member of the Council declares that, for vital and stated</p>
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<p>reasons of national policy, it intends to oppose the adoption of a decision to be taken by qualified majority, a vote shall not be taken. <b>The High Representative will, in close consultation with the Member State involved, search for a solution acceptable to it. If he or she does not succeed, the Council may, acting by a qualified majority, request that the matter be referred to the European Council for a decision by unanimity.</b></p> <p><b>3. The European Council may unanimously adopt a decision stipulating that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2 of this Article.</b></p> <p><b>4. Paragraphs 2 and 3 shall not apply to decisions having military or defence implications.</b></p> <p><b>5. For procedural questions, the Council shall act by a majority of its members.</b></p>	<p>reasons of national policy, it intends to oppose the adoption of a European decision to be adopted by a qualified majority, a vote shall not be taken. <b>The Union Minister for Foreign Affairs will, in close consultation with the Member State involved, search for a solution acceptable to it. If he or she does not succeed, the Council may, acting by a qualified majority, request that the matter be referred to the European Council for a European decision by unanimity.</b></p> <p><b>3. In accordance with Article I-40(7) the European Council may unanimously adopt a European decision stipulating that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2 of this Article.</b></p> <p><b>4. Paragraphs 2 and 3 shall not apply to decisions having military or defence implications.</b></p>
<p style="text-align: center;"><b>Article 17a<sup>12</sup></b></p> <p><b>Member States shall consult one another within the European Council and the Council on any matter of foreign and security policy of general interest in order to determine a common approach. Before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the</b></p>	<p style="text-align: center;"><b>ARTICLE I-40</b></p> <p><b>5. Member States shall consult one another within the European Council and the Council on any foreign and security policy issue which is of general interest in order to determine a common approach. Before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene.</b></p>

<sup>12</sup> Wording of current Article 16 TEU (with amendments)

<p>international scene. Member States shall show mutual solidarity.</p> <p>When the European Council or the Council has defined a common approach of the Union within the meaning of the first paragraph, the High Representative of the Union for Foreign Affairs and Security Policy and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council.</p> <p>The diplomatic missions of the Member States and the Union delegations in third countries and at international organisations shall cooperate and shall contribute to formulating and implementing the common approach.</p>	<p>Member States shall show mutual solidarity.</p> <p style="text-align: center;">ARTICLE III-301</p> <p>1. When the European Council or the Council has defined a common approach of the Union within the meaning of Article I-40(5), the Union Minister for Foreign Affairs and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council.</p> <p>2. The diplomatic missions of the Member States and the Union delegations in third countries and at international organisations shall cooperate and shall contribute to formulating and implementing the common approach referred to in paragraph 1.</p>
<p style="text-align: center;">Article 18</p> <p>The Council may, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, appoint a special representative with a mandate in relation to particular policy issues. The special representative shall carry out his or her mandate under the authority of the High Representative.</p>	<p style="text-align: center;">ARTICLE III-302</p> <p>The Council may appoint, on a proposal from the Union Minister for Foreign Affairs, a special representative with a mandate in relation to particular policy issues. The special representative shall carry out his or her mandate under the Minister's authority.</p>
<p style="text-align: center;">Article 19</p> <p>1. Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the Union's positions in such forums. The High Representative of the Union for Foreign Affairs and Security Policy shall organise this coordination.</p>	<p style="text-align: center;">ARTICLE III-305</p> <p>1. Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the Union's positions in such fora. The Union Minister for Foreign Affairs shall organise this coordination.</p>



<p>In international organisations and at international conferences where not all the Member States participate, those which do take part shall uphold the common positions.</p> <p>2. <b>In accordance with Article [I-16(2)]</b>, Member States represented in international organisations or international conferences where not all the Member States participate shall keep the latter <b>as well as the High Representative</b> informed of any matter of common interest.</p> <p>Member States which are also members of the United Nations Security Council will concert and keep the other Member States <b>and the High Representative</b> fully informed. Member States which are permanent members of the Security Council will, in the execution of their functions, <b>defend the positions</b> and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter.</p> <p><b>When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the High Representative be asked to present the Union's position.</b></p>	<p>In international organisations and at international conferences where not all the Member States participate, those which do take part shall uphold the Union's positions.</p> <p>2. In accordance with Article I-16(2), Member States represented in international organisations or international conferences where not all the Member States participate shall keep the latter, as well as the Union Minister for Foreign Affairs, informed of any matter of common interest.</p> <p>Member States which are also members of the United Nations Security Council shall concert and keep the other Member States and the Union Minister for Foreign Affairs fully informed. Member States which are members of the Security Council will, in the execution of their functions, defend the positions and the interests of the Union, without prejudice to their responsibilities under the United Nations Charter.</p> <p>When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the Union Minister for Foreign Affairs be asked to present the Union's position.</p>
<p style="text-align: center;">Article 20</p> <p>The diplomatic and consular missions of the Member States and the <b>Union delegations</b> in third countries and international conferences, and their representations to international organisations, shall cooperate in ensuring that <b>decisions defining Union positions and actions adopted pursuant to this</b></p>	<p style="text-align: center;">ARTICLE III-306</p> <p>The diplomatic and consular missions of the Member States and the Union delegations in third countries and international conferences, and their representations to international organisations, shall cooperate in ensuring that the European decisions defining Union positions and actions adopted pursuant</p>

<p>Chapter are complied with and implemented.</p> <p>They shall step up cooperation by exchanging information, carrying out joint assessments.</p> <p>They shall contribute to the implementation of the right of European citizens to protection in the territory of third countries as referred to in Article [I-10(2)(c)] of the Treaty on the Functioning of the Union and of the measures adopted pursuant to Article [III-127] of that Treaty.</p>	<p>to this Chapter are complied with and implemented.</p> <p>They shall step up cooperation by exchanging information and carrying out joint assessments.</p> <p>They shall contribute to the implementation of the right of European citizens to protection in the territory of third countries as referred to in Article I-10(2)(c) and the measures adopted pursuant to Article III-127.</p>
<p style="text-align: center;">Article 21</p> <p>The High Representative of the Union for Foreign Affairs and Security Policy shall regularly consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and the common security and defence policy and inform it of how those policies evolve. He or she shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.</p> <p>The European Parliament may ask questions of the Council or make recommendations to it and the High Representative of the Union. Twice a year it shall hold a debate on progress in implementing the common foreign and security policy including the common security and defence policy.</p>	<p style="text-align: center;">ARTICLE III-304</p> <p>1. The Union Minister for Foreign Affairs shall consult and inform the European Parliament in accordance with Article I-40(8) and Article I-41(8). He or she shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.</p> <p>2. The European Parliament may ask questions of the Council and of the Union Minister for Foreign Affairs or make recommendations to them. Twice a year it shall hold a debate on progress in implementing the common foreign and security policy, including the common security and defence policy.</p>

<p style="text-align: center;"><b>Article 22<sup>13</sup></b></p> <p>The Union may conclude agreements with one or more States or international organisations in areas covered by this Chapter.</p>	<p style="text-align: center;"><b>ARTICLE III-303</b></p> <p>The Union may conclude agreements with one or more States or international organisations in areas covered by this Chapter.</p>
<p style="text-align: center;"><b>Article 23<sup>14</sup></b></p> <p>Without prejudice to Article 207 of the Treaty establishing the European Community<sup>15</sup>, a Political and Security Committee shall monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the Council or of the <b>High Representative of the Union for Foreign Affairs and Security Policy</b> or on its own initiative. It shall also monitor the implementation of agreed policies, <b>without prejudice to the powers of the High Representative.</b></p> <p><b>Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council and of the High Representative, the political control and strategic direction of the crisis management operations referred to in Article [III-309].</b></p> <p>The Council may authorise the Committee, for the purpose and for the duration of a crisis management operation, as determined by the Council, to take the relevant decisions concerning the political control and strategic direction of the operation, <del>without prejudice to Article 47.</del></p>	<p style="text-align: center;"><b>ARTICLE III-307</b></p> <p>1. Without prejudice to Article III-344, a Political and Security Committee shall monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the latter, or of the Union Minister for Foreign Affairs, or on its own initiative. It shall also monitor the implementation of agreed policies, without prejudice to the powers of the Union Minister for Foreign Affairs.</p> <p>2. Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council and of the Union Minister for Foreign Affairs, the political control and strategic direction of the crisis management operations referred to in Article III-309.</p> <p>The Council may authorise the Committee, for the purpose and for the duration of a crisis management operation, as determined by the Council, to take the relevant measures concerning the political control and strategic direction of the operation.</p>

<sup>13</sup> Replaces current Article 24 TEU

<p style="text-align: center;"><b>Article 24<sup>16</sup></b></p> <p>In accordance with Article [I-51] of the Treaty on the Functioning of the Union and by way of derogation from paragraph 2 thereof, the Council shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by the Member States when carrying out activities which fall within the scope of this Chapter, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.</p>	<p style="text-align: center;"><b>ARTICLE I-51</b> Protection of personal data</p> <ol style="list-style-type: none"> <li>1. Everyone has the right to the protection of personal data concerning him or her.</li> <li>2. European laws or framework laws shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.</li> </ol>
<p style="text-align: center;"><b>Article 25<sup>17</sup></b></p> <p>The implementation of the common foreign and security policy shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Treaties for the exercise of the Union competences referred to in Articles [I-13 to I-15 and I-17] of the Treaty on the Functioning of the Union.</p> <p>Similarly, the implementation of the policies listed in those Articles shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the</p>	<p style="text-align: center;"><b>ARTICLE III-308</b></p> <p>The implementation of the common foreign and security policy shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Constitution for the exercise of the Union competences referred to in Articles I-13 to I-15 and I-17.</p> <p>Similarly, the implementation of the policies listed in those Articles shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the</p>

<sup>14</sup> Text of current Article 25 TEU (with amendments)

<sup>15</sup> Reform Treaty instructs that “the reference to the Treaty establishing the European Community shall be adjusted in accordance with this Treaty”

<sup>16</sup> Replaces current Article 26 TEU

<sup>17</sup> Replaces current Article 27 TEU

<p>Treaties for the exercise of the Union competences under this Chapter.</p>	<p>Constitution for the exercise of the Union competences under this Chapter.</p>
<p style="text-align: center;">Article 26<sup>18</sup></p> <p>1. Administrative expenditure to which the implementation of this Chapter gives rise for the institutions shall be charged to the Union budget.</p> <p>2. Operating expenditure to which the implementation of this Chapter gives rise shall also be charged to the Union budget except for such expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise.</p> <p>In cases where expenditure is not charged to Union budget, it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously decides otherwise. As for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal declaration under Article [III-300] second subparagraph, shall not be obliged to contribute to the financing thereof.</p> <p>3. The Council shall adopt a decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article [I-41(1) and Article III-309]. It shall act after</p>	<p style="text-align: center;">ARTICLE III-313</p> <p>1. Administrative expenditure which the implementation of this Chapter entails for the institutions shall be charged to the Union budget.</p> <p>2. Operating expenditure to which the implementation of this Chapter gives rise shall also be charged to the Union budget, except for such expenditure arising from operations having military or defence implications and cases where the Council decides otherwise.</p> <p>In cases where expenditure is not charged to the Union budget it shall be charged to the Member States in accordance with the gross national product scale, unless the Council decides otherwise. As for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal declaration under Article III-300(1), second subparagraph, shall not be obliged to contribute to the financing thereof.</p> <p>3. The Council shall adopt a European decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article I-41(1) and Article III-309. It shall act after</p>

<sup>18</sup> Text of current Article 28 TEU (with amendments)

<p>consulting the European Parliament.</p> <p>Preparatory activities for the tasks referred to in Article [I-41(1) and Article III-309] which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.</p> <p>The Council shall adopt by a qualified majority, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, decisions establishing:</p> <p>(a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;</p> <p>(b) the procedures for administering the start-up fund;</p> <p>(c) the financial control procedures.</p> <p>When the task planned in accordance with [Article I-41(1) and Article III-309] cannot be charged to the Union budget, the Council shall authorise the High Representative to use the fund. The High Representative shall report to the Council on the implementation of this remit.</p>	<p>consulting the European Parliament.</p> <p>Preparatory activities for the tasks referred to in Article I-41(1) and Article III-309 which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.</p> <p>The Council shall adopt by a qualified majority, on a proposal from the Union Minister for Foreign Affairs, European decisions establishing:</p> <p>(a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;</p> <p>(b) the procedures for administering the start-up fund;</p> <p>(c) the financial control procedures.</p> <p>When the task planned in accordance with Article I-41(1) and Article III-309 cannot be charged to the Union budget, the Council shall authorise the Union Minister for Foreign Affairs to use the fund. The Union Minister for Foreign Affairs shall report to the Council on the implementation of this remit.</p>
<p style="text-align: center;">SECTION RELATING TO THE PROVISIONS ON THE COMMON SECURITY AND DEFENCE POLICY</p> <p style="text-align: center;">Article 27<sup>19</sup></p> <p>1. The common security and defence policy shall be an</p>	<p style="text-align: center;">ARTICLE I-41</p> <p>Specific provisions relating to the common security and defence policy</p> <p>1. The common security and defence policy shall be an integral</p>

<sup>19</sup> Based on wording of current Article 17 TEU (with amendments)

<p>integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civil and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.</p> <p>2. The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.</p> <p>The policy of the Union in accordance with this Section shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework.</p> <p>3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together</p>	<p>part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civil and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.</p> <p>2. The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.</p> <p>The policy of the Union in accordance with this Article shall not prejudice the specific character of the security and defence policy of certain Member States, it shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation, under the North Atlantic Treaty<sup>20</sup>, and be compatible with the common security and defence policy established within that framework.</p> <p>3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together</p>
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<sup>20</sup> Treaty Series No. 56 (1949) Cmd 7789

<p>establish multinational forces may also make them available to the common security and defence policy.</p> <p>Member States shall undertake progressively to improve their military capabilities. The Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) shall identify operational requirements, shall promote measures to satisfy those requirements, shall contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, shall participate in defining a European capabilities and armaments policy, and shall assist the Council in evaluating the improvement of military capabilities.</p> <p>4. Decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate.</p> <p>5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article [III-310].</p> <p>6. Those Member States whose military capabilities fulfil</p>	<p>establish multinational forces may also make them available to the common security and defence policy.</p> <p>Member States shall undertake progressively to improve their military capabilities. An Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) shall be established to identify operational requirements, to promote measures to satisfy those requirements, to contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, to participate in defining a European capabilities and armaments policy, and to assist the Council in evaluating the improvement of military capabilities.</p> <p>4. European decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the Union Minister for Foreign Affairs or an initiative from a Member State. The Union Minister for Foreign Affairs may propose the use of both national resources and Union instruments, together with the Commission where appropriate.</p> <p>5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article III-310.</p> <p>6. Those Member States whose military capabilities fulfil higher</p>
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<p>higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article [III-312]. It shall not affect the provisions of Article [III-309].</p> <p>7. If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.</p> <p>Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation.</p>	<p>criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article III-312. It shall not affect the provisions of Article III-309.</p> <p>7. If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.</p> <p>Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation.</p> <p>8. The European Parliament shall be regularly consulted on the main aspects and basic choices of the common security and defence policy. It shall be kept informed of how it evolves.</p>
<p style="text-align: center;">Article 28</p> <p>1. The tasks referred to in Article [I-41(1)], in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the</p>	<p style="text-align: center;">ARTICLE III-309</p> <p>1. The tasks referred to in Article I-41(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against</p>

<p>fight against terrorism, including by supporting third countries in combating terrorism in their territories.</p> <p>2. The Council shall adopt decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation. The High Representative of the Union for Foreign Affairs and Security Policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.</p>	<p>terrorism, including by supporting third countries in combating terrorism in their territories.</p> <p>2. The Council shall adopt European decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation. The Union Minister for Foreign Affairs, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.</p>
<p style="text-align: center;">Article 29</p> <p>1. Within the framework of the decisions adopted in accordance with Article [III-309], the Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the High Representative of the Union for Foreign Affairs and Security Policy, shall agree among themselves on the management of the task.</p> <p>2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary decisions.</p>	<p style="text-align: center;">ARTICLE III-310</p> <p>1. Within the framework of the European decisions adopted in accordance with Article III-309, the Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the Union Minister for Foreign Affairs, shall agree among themselves on the management of the task.</p> <p>2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the European decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary European decisions.</p>

Article 30	ARTICLE III-311
<p>1. The European Defence Agency referred to in Article [I-41(3)], subject to the authority of the Council, shall have as its task to:</p> <p>(a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;</p> <p>(b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;</p> <p>(c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;</p> <p>(d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;</p> <p>(e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.</p> <p>2. The European Defence Agency shall be open to all Member States wishing to be part of it. The Council, acting by a qualified majority, shall adopt a decision defining the Agency's statute, seat and operational rules. That decision</p>	<p>1. The Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency), established by Article I-41(3) and subject to the authority of the Council, shall have as its task to:</p> <p>(a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;</p> <p>(b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;</p> <p>(c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;</p> <p>(d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;</p> <p>(e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.</p> <p>2. The European Defence Agency shall be open to all Member States wishing to be part of it. The Council, acting by a qualified majority, shall adopt a European decision defining the Agency's statute, seat and operational rules. That decision</p>

<p>should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.</p>	<p>should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.</p>
<p style="text-align: center;">Article 31</p> <p>1. Those Member States which wish to participate in the permanent structured cooperation referred to in Article [I-41(6)], which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation, shall notify their intention to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy.</p> <p>2. Within three months following the notification referred to in paragraph 1 the Council shall adopt a decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by a qualified majority after consulting the High Representative.</p> <p>3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the High Representative.</p> <p>The Council shall adopt a decision confirming the participation of the Member State concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation. The Council shall act by a qualified majority after consulting</p>	<p style="text-align: center;">ARTICLE III-312</p> <p>1. Those Member States which wish to participate in the permanent structured cooperation referred to in Article I-41(6), which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation shall notify their intention to the Council and to the Union Minister for Foreign Affairs.</p> <p>2. Within three months following the notification referred to in paragraph 1 the Council shall adopt a European decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by a qualified majority after consulting the Union Minister for Foreign Affairs.</p> <p>3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the Union Minister for Foreign Affairs. T</p> <p>The Council shall adopt a European decision confirming the participation of the Member State concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation. The Council shall act by a qualified majority after consulting the</p>

<p>the High Representative. Only members of the Council representing the participating Member States shall take part in the vote.</p> <p>A qualified majority shall be defined in accordance with Article [205(3)(a)] of the Treaty on the Functioning of the Union.</p> <p>4. If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation, the Council may adopt a decision suspending the participation of the Member State concerned.</p> <p>The Council shall act by a qualified majority. Only members of the Council representing the participating Member States, with the exception of the Member State in question, shall take part in the vote.</p> <p>A qualified majority shall be defined in accordance with Article [205(3)(a)] of the Treaty on the Functioning of the Union.</p>	<p>Union Minister for Foreign Affairs. Only members of the Council representing the participating Member States shall take part in the vote.</p> <p>A qualified majority shall be defined as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States. A blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.</p> <p>4. If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation, the Council may adopt a European decision suspending the participation of the Member State concerned.</p> <p>The Council shall act by a qualified majority. Only members of the Council representing the participating Member States, with the exception of the Member State in question, shall take part in the vote.</p> <p>A qualified majority shall be defined as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States. A blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.</p>
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<p>5. Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate.</p> <p>6. The decisions and recommendations of the Council within the framework of permanent structured cooperation, other than those provided for in paragraphs 2 to 5, shall be adopted by unanimity. For the purposes of this paragraph, unanimity shall be constituted by the votes of the representatives of the participating Member States only.</p>	<p>5. Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate.</p> <p>6. The European decisions and recommendations of the Council within the framework of permanent structured cooperation, other than those provided for in paragraphs 2 to 5, shall be adopted by unanimity. For the purposes of this paragraph, unanimity shall be constituted by the votes of the representatives of the participating Member States only.</p>
<p style="text-align: center;">VI FINAL PROVISIONS</p> <p style="text-align: center;">Article 32 Legal personality</p> <p>The Union shall have legal personality.</p>	<p style="text-align: center;">ARTICLE I-7 Legal personality</p> <p>The Union shall have legal personality.</p>
<p style="text-align: center;">Article 33<sup>21</sup> Treaty revision procedures</p> <p>The Treaties may be amended in accordance with an ordinary revision procedure. They may also be amended in accordance with simplified revision procedures.</p> <p><i>Ordinary revision procedure</i></p> <p>1. The government of any Member State, the European Parliament or the Commission may submit to the Council</p>	<p style="text-align: center;">ARTICLE IV-443 Ordinary revision procedure</p> <p>1. The government of any Member State, the European Parliament or the Commission may submit to the Council</p>

proposals for the amendment of the Treaties. These proposals may serve either to increase or to reduce the competences conferred on the Union in the Treaties. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.

If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in the fourth subparagraph.

The European Council may decide by a simple majority, after obtaining the consent of the European Parliament, not to convene a Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for a conference of representatives of the governments of the Member States.

A conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaties.

proposals for the amendment of this Treaty. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.

2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in paragraph 3.

The European Council may decide by a simple majority, after obtaining the consent of the European Parliament, not to convene a Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for a conference of representatives of the governments of the Member States.

3. A conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to this Treaty.

<p>The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.</p> <p>If, two years after the signature of the treaty amending the Treaties, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.</p>	<p>The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.</p> <p>4. If, two years after the signature of the treaty amending this Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.</p>
<p><i>Simplified revision procedures</i></p> <p>2. The Government of any Member State, the European Parliament or the Commission may submit to the European Council proposals for revising all or part of the provisions of Part Three of the Treaty on the Functioning of the Union relating to the internal policies and action of the Union.</p> <p>The European Council may adopt a decision amending all or part of the provisions of Part Three of the Treaty on the Functioning of the Union. The European Council shall act by unanimity after consulting the European Parliament and the Commission, and the European Central Bank in the case of institutional changes in the monetary area. That decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.</p>	<p style="text-align: center;">ARTICLE IV-445</p> <p style="text-align: center;">Simplified revision procedure concerning internal Union policies and action</p> <p>1. The Government of any Member State, the European Parliament or the Commission may submit to the European Council proposals for revising all or part of the provisions of Title III of Part III on the internal policies and action of the Union.</p> <p>2. The European Council may adopt a European decision amending all or part of the provisions of Title III of Part III. The European Council shall act by unanimity after consulting the European Parliament and the Commission, and the European Central Bank in the case of institutional changes in the monetary area.</p> <p>Such a European decision shall not come into force until it has been approved by the Member States in accordance with their respective constitutional requirements.</p> <p>3. The European decision referred to in paragraph 2 shall not</p>



<p>The decision referred to in the second subparagraph shall not increase the competences conferred on the Union in the Treaties.</p>	<p>increase the competences conferred on the Union in this Treaty.</p>
<p>3. Where the Treaty on the Functioning of the Union or Title V of this Treaty provides for the Council to act by unanimity in a given area or case, the European Council may adopt a decision authorising the Council to act by a qualified majority in that area or in that case. This subparagraph shall not apply to decisions with military implications or those in the area of defence.</p> <p>Where the Treaty on the Functioning of the Union provides for legislative acts to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a decision allowing for the adoption of such acts in accordance with the ordinary legislative procedure.</p> <p>Any initiative taken by the European Council on the basis of the first or the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision referred to in the first or the second subparagraph shall not be adopted. In the absence of opposition, the European Council may adopt the decision.</p> <p>For the adoption of the decisions referred to in the first and second subparagraphs, the European Council shall act by unanimity after obtaining the consent of the European</p>	<p style="text-align: center;">ARTICLE IV-444 Simplified revision procedure</p> <p>1. Where Part III provides for the Council to act by unanimity in a given area or case, the European Council may adopt a European decision authorising the Council to act by a qualified majority in that area or in that case. This paragraph shall not apply to decisions with military implications or those in the area of defence.</p> <p>2. Where Part III provides for European laws and framework laws to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a European decision allowing for the adoption of such European laws or framework laws in accordance with the ordinary legislative procedure.</p> <p>3. Any initiative taken by the European Council on the basis of paragraphs 1 or 2 shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the European decision referred to in paragraphs 1 or 2 shall not be adopted. In the absence of opposition, the European Council may adopt the decision.</p> <p>For the adoption of the European decisions referred to in paragraphs 1 and 2, the European Council shall act by unanimity after obtaining the consent of</p>

<p>Parliament, which shall be given by a majority of its component members.</p>	<p>the European Parliament, which shall be given by a majority of its component members.</p>
<p style="text-align: center;">Article 34<sup>22</sup> Conditions of eligibility and procedure for accession to the Union</p> <p>Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by an absolute majority of its component members. <u>The conditions of eligibility agreed upon by the European Council shall be taken into account.</u></p> <p>The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.</p>	<p style="text-align: center;">ARTICLE I-58 Conditions of eligibility and procedure for accession to the Union</p> <p>1. The Union shall be open to all European States which respect the values referred to in Article I-2, and are committed to promoting them together.</p> <p>2. Any European State which wishes to become a member of the Union shall address its application to the Council. The European Parliament and national Parliaments shall be notified of this application. The Council shall act unanimously after consulting the Commission and after obtaining the consent of the European Parliament, which shall act by a majority of its component members. The conditions and arrangements for admission shall be the subject of an agreement between the Member States and the candidate State. That agreement shall be subject to ratification by each contracting State, in accordance with its respective constitutional requirements.</p>
<p style="text-align: center;">Article 35 Voluntary withdrawal from the Union</p> <p>1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.</p> <p>2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the</p>	<p style="text-align: center;">ARTICLE I-60 Voluntary withdrawal from the Union</p> <p>1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.</p> <p>2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines</p>

<p>guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article [III-325(3)] of the Treaty on the Functioning of the Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.</p> <p>3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.</p> <p>4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.</p> <p>A qualified majority shall be defined in accordance with Article [205(3)(b)] of the Treaty on the Functioning of the Union.</p> <p>5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article [I-58].</p>	<p>provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article III-325(3). It shall be concluded by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.</p> <p>3. The Constitution shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.</p> <p>4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in European decisions concerning it.</p> <p>A qualified majority shall be defined as at least 72% of the members of the Council, representing the participating Member States, comprising at least 65% of the population of these States.</p> <p>5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article I-58.</p>
<p>Article 36</p>	<p>ARTICLE IV-442</p>

<p style="text-align: center;"><b>Protocols and Annexes</b></p> <p>The Protocols and Annexes to the Treaties shall form an integral part thereof.</p>	<p style="text-align: center;"><b>Protocols and Annexes</b></p> <p>The Protocols and Annexes to this Treaty shall form an integral part thereof.</p>
<p style="text-align: center;"><b>Article 37</b> <b>Territorial scope</b></p> <p>1. The Treaties shall apply to the Kingdom of Belgium, Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.</p> <p>2. The territorial scope of the Treaties is specified in Article [IV-440(2) to (7)] of the Treaty on the Functioning of the Union</p>	<p style="text-align: center;"><b>ARTICLE IV-440</b> <b>Scope</b></p> <p>1. This Treaty shall apply to the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.</p> <p>2. This Treaty shall apply to Guadeloupe, French Guiana, Martinique, Réunion, the Azores, Madeira and the Canary Islands in accordance with Article III-424.</p> <p>3. The special arrangements for association set out in Title IV of Part III shall apply to the overseas countries and territories listed in Annex II. This Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.</p> <p>4. This Treaty shall apply to the European territories for whose external relations a Member State is responsible.</p>

5. This Treaty shall apply to the Åland Islands with the derogations which originally appeared in the Treaty referred to in Article IV-437(2)(d) and which have been incorporated in Section 5 of Title V of the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

6. Notwithstanding paragraphs 1 to 5:

(a) this Treaty shall not apply to the Faeroe Islands;

(b) this Treaty shall apply to Akrotiri and Dhekelia, the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, only to the extent necessary to ensure the implementation of the arrangements originally provided for in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, annexed to the Act of Accession which is an integral part of the Treaty referred to in Article IV 437(2)(e), and which have been incorporated in Title III of Part II of the Protocol on the Treaty and Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic;

(c) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands originally set out in the Treaty referred to in Article IV-437(2)(a), and which have been incorporated in Section 3 of Title II of the Protocol on the

	<p>Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.</p> <p>4. The European Council may, on the initiative of the Member State concerned, adopt a European decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 2 and 3. The European Council shall act unanimously after consulting the Commission.</p>
<p style="text-align: center;">Article 38<sup>23</sup> Duration</p> <p>These treaties are concluded for an unlimited period.</p>	<p style="text-align: center;">ARTICLE IV-446 Duration</p> <p>This Treaty is concluded for an unlimited period.</p>
<p style="text-align: center;"><u>Article 39</u> <u>Relationship between this Treaty and the Treaty on the Functioning of the European Union</u></p> <p><u>This Treaty and the Treaty on the Functioning of the European Union constitute the Treaties on which the Union is founded. These two Treaties, which have the same legal value, shall be referred to as "the Treaties".</u></p>	<p>NOT IN CONSTITUTION</p>
<p style="text-align: center;">Article 40<sup>24</sup> Ratification and entry into force</p> <p>1. These treaties shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited</p>	<p style="text-align: center;">ARTICLE IV-447 Ratification and entry into force</p> <p>1. This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the</p>

<p>with the Government of the Italian Republic.</p> <p>2. <b>These treaties</b> shall enter into force, on the first day of the month following the deposit of the Instrument of ratification by the last signatory State to take this step.</p>	<p>Government of the Italian Republic.</p> <p>2. This Treaty shall enter into force on 1 November 2006, provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the second month following the deposit of the instrument of ratification by the last signatory State to take this step.</p>
<p style="text-align: center;">Article 41<sup>25</sup> Authentic texts and translations</p> <p>1. <b>These treaties</b>, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese and Spanish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.</p> <p>2. <b>The Treaties may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council.</b></p>	<p style="text-align: center;">ARTICLE IV-448 Authentic texts and translations</p> <p>1. This Treaty, drawn up in a single original in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.</p> <p>2. This Treaty may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council.</p>

Treaty Establishing the European Community  
*to be renamed*  
 “Treaty on the Functioning of the European Union”

Treaty on the Functioning of the European Union (as amended)	European Constitution
<p style="text-align: center;">ARTICLE 1</p> <p><u>1. This Treaty organises the functioning of the Union and determines the areas, the scope of, and arrangements for exercising its competences.</u></p> <p><u>2. This Treaty and the Treaty on European Union constitute the Treaties on which the Union is founded. These two Treaties, which have the same legal value, shall be referred to as "the Treaties".</u></p>	<p style="text-align: center;">Not in Constitution</p>
<p style="text-align: center;"><b>TITLE I</b>  <b>CATEGORIES AND AREAS OF UNION COMPETENCE</b></p> <p style="text-align: center;">ARTICLE 2</p> <p>1. When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.</p> <p>2. When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally</p>	<p style="text-align: center;">ARTICLE I-12            Categories of Competence</p> <p>1. When the Constitution confers on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.</p> <p>2. When the Constitution confers on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts</p>



<p>binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised its competence. <u>The Member States shall again exercise their competence to the extent that the Union has decided to cease exercising its competence.</u></p> <p>3. The Member States shall coordinate their economic and employment policies within arrangements as determined by the Treaties, which the Union shall have competence to provide.</p> <p>4. The Union shall have competence, <u>in accordance with the provisions of the Treaty on European Union</u>, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.</p> <p>5. In certain areas and under the conditions laid down in the <u>Treaties</u>, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.</p> <p>Legally binding acts of the Union adopted on the basis of the provisions of the Treaties relating to these areas shall not entail harmonisation of Member States' laws or regulations.</p> <p>6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions of the Treaties relating to each area.</p>	<p>in that area. The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence.</p> <p>3. The Member States shall coordinate their economic and employment policies within arrangements as determined by Part III, which the Union shall have competence to provide.</p> <p>4. The Union shall have competence to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.</p> <p>5. In certain areas and under the conditions laid down in the Constitution, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.</p> <p>Legally binding acts of the Union adopted on the basis of the provisions in Part III relating to these areas shall not entail harmonisation of Member States' laws or regulations.</p> <p>6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions relating to each area in Part III.</p>
<p>ARTICLE 3</p>	<p>ARTICLE I-13 Areas of exclusive competence</p>

<p>1. The Union shall have exclusive competence in the following areas:</p> <p>(a) customs union;</p> <p>(b) the establishing of the competition rules necessary for the functioning of the internal market;</p> <p>(c) monetary policy for the Member States whose currency is the euro;</p> <p>(d) the conservation of marine biological resources under the common fisheries policy;</p> <p>(e) common commercial policy.</p> <p>2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.</p>	<p>1. The Union shall have exclusive competence in the following areas:</p> <p>(a) customs union;</p> <p>(b) the establishing of the competition rules necessary for the functioning of the internal market;</p> <p>(c) monetary policy for the Member States whose currency is the euro;</p> <p>(d) the conservation of marine biological resources under the common fisheries policy;</p> <p>(e) common commercial policy.</p> <p>2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.</p>
<p style="text-align: center;">ARTICLE 4</p> <p>1. The Union shall share competence with the Member States where the Constitution confers on it a competence which does not relate to the areas referred to in Articles [I-13 and 17].</p> <p>2. Shared competence between the Union and the Member States applies in the following principal areas:</p>	<p style="text-align: center;">ARTICLE I-14 Areas of shared competence</p> <p>1. The Union shall share competence with the Member States where the Constitution confers on it a competence which does not relate to the areas referred to in Articles I-13 and I-17.</p> <p>2. Shared competence between the Union and the Member States applies in the following principal areas:</p>

<p>(a) internal market;</p> <p>(b) social policy, for the aspects defined in this Treaty;</p> <p>(c) economic, social and territorial cohesion;</p> <p>(d) agriculture and fisheries, excluding the conservation of marine biological resources;</p> <p>(e) environment;</p> <p>(f) consumer protection;</p> <p>(g) transport;</p> <p>(h) trans-European networks;</p> <p>(i) energy;</p> <p>(j) area of freedom, security and justice;</p> <p>(k) common safety concerns in public health matters, for the aspects defined in this Treaty.</p> <p>3. In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.</p> <p>4. In the areas of development cooperation and</p>	<p>(a) internal market;</p> <p>(b) social policy, for the aspects defined in Part III;</p> <p>(c) economic, social and territorial cohesion;</p> <p>(d) agriculture and fisheries, excluding the conservation of marine biological resources;</p> <p>(e) environment;</p> <p>(f) consumer protection;</p> <p>(g) transport;</p> <p>(h) trans-European networks;</p> <p>(i) energy;</p> <p>(j) area of freedom, security and justice;</p> <p>(k) common safety concerns in public health matters, for the aspects defined in Part III.</p> <p>3. In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.</p> <p>4. In the areas of development cooperation and humanitarian</p>
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<p>humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.</p>	<p>aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.</p>
<p style="text-align: center;">ARTICLE 5</p> <p>1. The Member States shall coordinate their economic policies within the Union. To this end, the Council shall adopt measures, in particular broad guidelines for these policies. Specific provisions shall apply to those Member States whose currency is the euro.</p> <p>2. The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.</p> <p>3. The Union may take initiatives to ensure coordination of Member States' social policies.</p>	<p style="text-align: center;">ARTICLE I-15</p> <p style="text-align: center;">The coordination of economic and employment policies</p> <p>1. The Member States shall coordinate their economic policies within the Union. To this end, the Council of Ministers shall adopt measures, in particular broad guidelines for these policies. Specific provisions shall apply to those Member States whose currency is the euro.</p> <p>2. The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.</p> <p>3. The Union may take initiatives to ensure coordination of Member States' social policies.</p>
<p style="text-align: center;">ARTICLE 6</p> <p>The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be:</p> <p>(a) protection and improvement of human health;</p> <p>(b) industry;</p>	<p style="text-align: center;">ARTICLE-17</p> <p>The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be:</p> <p>(a) protection and improvement of human health;</p> <p>(b) industry;</p> <p>(c) culture;</p>

<p>(c) culture;</p> <p>(d) tourism;</p> <p>(e) education, youth, sport and vocational training;</p> <p>(f) civil protection;</p> <p>(g) administrative cooperation.</p>	<p>(d) tourism;</p> <p>(e) education, youth, sport and vocational training;</p> <p>(f) civil protection;</p> <p>(g) administrative cooperation.</p>
<p style="text-align: center;"><b>TITLE II</b></p> <p style="text-align: center;"><b>PROVISIONS HAVING GENERAL APPLICATION</b></p> <p style="text-align: center;">ARTICLE 7</p> <p>The Union shall ensure consistency between its policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers.</p>	<p style="text-align: center;">ARTICLE III-115</p> <p>The Union shall ensure consistency between the policies and activities referred to in this Part, taking all of its objectives into account and in accordance with the principle of conferral of powers.</p>
<p style="text-align: center;">ARTICLE 8</p> <p>In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women.</p>	<p style="text-align: center;">ARTICLE III-116</p> <p>In all the activities referred to in this Part, the Union shall aim to eliminate inequalities, and to promote equality, between women and men.</p>
<p style="text-align: center;">ARTICLE 9</p> <p>In defining and implementing its policies and actions, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and</p>	<p style="text-align: center;">ARTICLE III-117</p> <p>In defining and implementing the policies and actions referred to in this Part, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection</p>

protection of human health.	of human health.
ARTICLE 10  In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.	ARTICLE III-118  In defining and implementing the policies and activities referred to in this Part, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.
ARTICLE 11  Environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities, in particular with a view to promoting sustainable development.	ARTICLE III-119  Environmental protection requirements must be integrated into the definition and implementation of the policies and activities referred to in this Part, in particular with a view to promoting sustainable development.
ARTICLE 12  Consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities.	ARTICLE III-120  Consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities.
ARTICLE 13  In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall ", since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage. <sup>26</sup>	ARTICLE III-121  In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the requirements of animal welfare, while respecting the legislative or administrative provisions and customs of Member States relating in particular to religious rites, cultural traditions and regional heritage.

<p style="text-align: center;">ARTICLE 14</p> <p>Without prejudice to Articles 73, 86 Article [I-5] and 87, and given the place occupied by services of general economic interest in the shared values of the Union<sup>27</sup> as well as their role in promoting social and territorial cohesion, the Union and the Member States, each within their respective powers and within the scope of application of the Treaties, shall take care that such services operate on the basis of principles and conditions, particularly economic and financial conditions, which enable them to fulfil their missions.</p> <p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Treaties, to provide, to commission and to fund such services.</p>	<p style="text-align: center;">ARTICLE III-122</p> <p>Without prejudice to Articles I-5, III-166, III-167 and III-238, and given the place occupied by services of general economic interest as services to which all in the Union attribute value as well as their role in promoting its social and territorial cohesion, the Union and the Member States, each within their respective competences and within the scope of application of the Constitution, shall take care that such services operate on the basis of principles and conditions, in particular economic and financial conditions, which enable them to fulfil their missions.</p> <p>European laws shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Constitution, to provide, to commission and to fund such services.</p>
<p style="text-align: center;">ARTICLE 15</p> <p>1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.</p> <p>2. The Union equally respects the status under national law of philosophical and non-confessional organisations.</p> <p>3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.</p>	<p style="text-align: center;">ARTICLE I-52</p> <p>1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.</p> <p>2. The Union equally respects the status under national law of philosophical and non-confessional organisations.</p> <p>3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.</p>

<p style="text-align: center;">ARTICLE 16</p> <p>No new Article 16 created.</p>	
<p style="text-align: center;">PART TWO <b>NON DISCRIMINATION AND CITIZENSHIP</b></p> <p style="text-align: center;">ARTICLE 17</p> <p>Within the scope of application of <b>the Treaties</b>, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.</p> <p>The Council, acting in accordance with the <b>ordinary legislative procedure</b>,<sup>28</sup> may adopt rules designed to prohibit such discrimination.</p>	<p style="text-align: center;">ARTICLE I-4</p> <p>Within the scope of the Constitution, and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited.</p> <hr/> <p style="text-align: center;">ARTICLE III-123</p> <p>European laws or framework laws may lay down rules to prohibit discrimination on grounds of nationality as referred to in Article I-4(2).</p>
<p style="text-align: center;">ARTICLE 17a</p> <p>1. Without prejudice to the other provisions of <b>the Treaties</b> and within the limits of the powers conferred by it upon the <b>Union</b>, the Council, acting unanimously <b>in accordance with a special legislative procedure and after obtaining the consent</b> of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.</p>	<p style="text-align: center;">ARTICLE III-124</p> <p>1. Without prejudice to the other provisions of the Constitution and within the limits of the powers assigned by it to the Union, a European law or framework law of the Council may establish the measures needed to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council shall act unanimously after obtaining the consent of the European Parliament.</p>



<p>2. By way of derogation from paragraph 1, <b>the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt Union incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1.</b><sup>29</sup></p>	<p>2. By way of derogation from paragraph 1, European laws or framework laws may establish basic principles for Union incentive measures and define such measures, to support action taken by Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, excluding any harmonisation of their laws and regulations.</p>
<p style="text-align: center;">ARTICLE 17b</p> <p>1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship.</p> <p>2. <b>Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have:</b></p> <p>(a) <b>the right to move and reside freely within the territory of the Member States;</b></p> <p>(b) <b>the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;</b></p> <p>(c) <b>the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;</b></p>	<p style="text-align: center;">ARTICLE I-10 Citizenship of the Union</p> <p>1. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.</p> <p>2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Constitution. They shall have:</p> <p>(a) the right to move and reside freely within the territory of the Member States;</p> <p>(b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;</p> <p>(c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;</p> <p>(d) the right to petition the European Parliament, to apply to</p>

<p>(d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the <u>Treaty</u> languages and to obtain a reply in the same language.</p> <p>These rights shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder.</p>	<p>the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Constitution's languages and to obtain a reply in the same language.</p> <p>These rights shall be exercised in accordance with the conditions and limits defined by the Constitution and by the measures adopted thereunder.</p>
<p style="text-align: center;">ARTICLE 18</p> <p>1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give it effect.</p> <p>2. If action by the Union should prove necessary to attain this objective and the Treaties has not provided the necessary powers, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1.</p> <p>3. For the same purposes as those referred to in paragraph 1 and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament.<sup>30</sup></p>	<p style="text-align: center;">ARTICLE III-125</p> <p>1. If action by the Union should prove necessary to facilitate the exercise of the right, referred to in Article I-10(2)(a), of every citizen of the Union to move and reside freely and the Constitution has not provided the necessary powers, European laws or framework laws may establish measures for that purpose.</p> <p>2. For the same purposes as those referred to in paragraph 1 and if the Constitution has not provided the necessary powers, a European law or framework law of the Council may establish measures concerning passports, identity cards, residence permits or any other such document and measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament.</p>
<p style="text-align: center;">ARTICLE 19</p>	<p style="text-align: center;">ARTICLE III-126</p>

<p>1. Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements adopted by the Council, acting unanimously <b>in accordance with a special legislative procedure</b> and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.</p> <p>2. Without prejudice to Article 190(4) and to the provisions adopted for its implementation, every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements adopted by the Council, <b>in accordance with a special legislative procedure</b> and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.</p>	<p>A European law or framework law of the Council shall determine the detailed arrangements for exercising the right, referred to in Article I-10(2)(b), for every citizen of the Union to vote and to stand as a candidate in municipal elections and elections to the European Parliament in his or her Member State of residence without being a national of that State. The Council shall act unanimously after consulting the European Parliament. These arrangements may provide for derogations where warranted by problems specific to a Member State. The right to vote and to stand as a candidate in elections to the European Parliament shall be exercised without prejudice to Article III-330(1) and the measures adopted for its implementation.</p>
<p style="text-align: center;">ARTICLE 20</p> <p>Every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that State. Member States shall <del>establish the necessary rules among themselves and</del> start the</p>	<p style="text-align: center;">ARTICLE III-127</p> <p>Member States shall adopt the necessary provisions to secure diplomatic and consular protection of citizens of the Union in third countries, as referred to in Article I-10(2)(c).</p> <p>Member States shall commence the international negotiations required to secure this protection.</p>

<p>international negotiations required to secure this protection.</p> <p>The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament, may adopt directives establishing the coordination and cooperation measures necessary to facilitate such protection.<sup>31</sup></p>	<p>A European law of the Council may establish the measures necessary to facilitate such protection. The Council shall act after consulting the European Parliament.</p>
<p style="text-align: center;">ARTICLE 21</p> <p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the provisions for the procedures and conditions required for a citizens' initiative within the meaning of Article [I-47] of the Treaty on European Union, including the minimum number of Member States from which such citizens must come.</p> <p>Every citizen of the Union shall have the right to petition the European Parliament in accordance with Article 194.</p> <p>Every citizen of the Union may apply to the Ombudsman established in accordance with Article 195.</p> <p>Every citizen of the Union may write to any of the institutions, bodies, offices or agencies referred to in this Article or in Article 7 in one of the languages mentioned in Article 314 and have an answer in the same language.</p>	<p style="text-align: center;">ARTICLE I-47</p> <p>4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Constitution. European laws shall determine the provisions for the procedures and conditions required for such a citizens' initiative, including the minimum number of Member States from which such citizens must come.</p>
<p style="text-align: center;">ARTICLE 21a</p> <p>1. In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies,</p>	<p style="text-align: center;">ARTICLE I-50</p> <p>1. In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies,</p>

<p>offices and agencies shall conduct their work as openly as possible.</p> <p>2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.</p> <p>3. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to <b>documents of the Union institutions, bodies, offices and agencies, whatever their medium</b>, subject to the principles and the conditions to be defined in accordance with <b>this paragraph</b>.</p> <p>General principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by the Council, acting in accordance with the <b>ordinary legislative procedure</b>.</p> <p>Each institution shall ensure that its proceedings are <b>transparent and shall elaborate</b> in its own Rules of Procedure specific provisions regarding access to its documents <b>in accordance with the legislative act referred to in the second subparagraph</b>.</p>	<p>offices and agencies shall conduct their work as openly as possible.</p> <p>2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.</p> <p>3. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State shall have, under the conditions laid down in Part III, a right of access to documents of the Union institutions, bodies, offices and agencies, whatever their medium.</p> <p>European laws shall lay down the general principles and limits which, on grounds of public or private interest, govern the right of access to such documents.</p> <p>4. Each institution, body, office or agency shall determine in its own rules of procedure specific provisions regarding access to its documents, in accordance with the European laws referred to in paragraph 3.</p>
<p>The Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to this paragraph only when exercising their administrative tasks.</p>	<p style="text-align: center;">ARTICLE III-399</p> <p>1. The institutions, bodies, offices and agencies of the Union shall ensure transparency in their work and shall, pursuant to Article I-50, determine in their rules of procedure specific provisions for public access to their documents. The Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to the provisions of Article I-50(3) and to this Article only when exercising their</p>

	administrative tasks.
<p style="text-align: center;">ARTICLE 21b</p> <p>1. Everyone has the right to the protection of personal data concerning him or her.</p> <p>2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities. <u>The rules adopted on the basis of this Article shall be without prejudice to the specific rules laid down in Article [III-307a].</u></p>	<p style="text-align: center;">ARTICLE I-51 Protection of personal data</p> <p>1. Everyone has the right to the protection of personal data concerning him or her.</p> <p>2. European laws or framework laws shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.</p>
<p style="text-align: center;">ARTICLE 22</p> <p>The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of the provisions of this part. This report shall take account of the development of the Union. <u>This paragraph shall not apply to the first paragraph of Article 21, to Article 21a or to Article 21b.</u></p> <p>On this basis, and without prejudice to the other provisions of the Treaties, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the</p>	<p style="text-align: center;">ARTICLE III-129</p> <p>The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of Article I-10 and of this Title. This report shall take account of the development of the Union.</p> <p>On the basis of this report, and without prejudice to the other provisions of the Constitution, a European law or framework law of the Council may add to the rights laid down in Article I-</p>

<p>European Parliament, may adopt provisions to strengthen or to add to the rights laid down in this part, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.</p>	<p>10. The Council shall act unanimously after obtaining the consent of the European Parliament. The law or framework law concerned shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.</p>
<p style="text-align: center;">PART THREE COMMUNITY POLICIES AND INTERNAL ACTIONS TITLE I THE INTERNAL MARKET</p> <p style="text-align: center;">ARTICLE 22a</p> <p>1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Treaties.</p> <p>2. The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties.</p> <p>3. The Council, in accordance with a special legislative procedure, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.</p>	<p style="text-align: center;">ARTICLE III-130</p> <p>1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Constitution.</p> <p>2. The internal market shall comprise an area without internal frontiers in which the free movement of persons, services, goods and capital is ensured in accordance with the Constitution.</p> <p>3. The Council, on a proposal from the Commission, shall adopt European regulations and decisions determining the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.</p>
<p style="text-align: center;">ARTICLE 22b</p> <p>When drawing up its proposals with a view to achieving the objectives set out in Article 14, the Commission shall take into account the extent of the effort that certain economies</p>	<p style="text-align: center;">ARTICLE III-130</p> <p>4. When drawing up its proposals for achieving the objectives set out in paragraphs 1 and 2, the Commission shall take into account the extent of the effort that certain economies</p>

<p>showing differences in development will have to sustain in order to establish the internal market and it may propose appropriate provisions.</p> <p>If these provisions take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the internal market.</p>	<p>showing differences in development will have to sustain for the establishment of the internal market and it may propose appropriate measures.</p> <p>If these measures take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the internal market.</p>
<p style="text-align: center;">PART THREE UNION POLICIES TITLE IA FREE MOVEMENT OF GOODS</p> <p style="text-align: center;">ARTICLE 23</p> <p>1. The Union shall be based upon a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.</p> <p>2. The provisions of Article 25 and of Chapter 2 of this title shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.</p>	<p style="text-align: center;">SECTION 3 FREE MOVEMENT OF GOODS Subsection 1 Customs union</p> <p style="text-align: center;">ARTICLE III-151</p> <p>1. The Union shall comprise a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.</p> <p>2. Paragraph 4 and Subsection 3 on the prohibition of quantitative restrictions shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.</p>
<p style="text-align: center;">ARTICLE 24</p> <p>Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties</p>	<p style="text-align: center;">ARTICLE III-151</p> <p>3. Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or</p>



<p>or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.</p>	<p>charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.</p>
<p style="text-align: center;">CHAPTER 1 THE CUSTOMS UNION</p> <p style="text-align: center;">ARTICLE 25</p> <p>Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.</p>	<p style="text-align: center;">ARTICLE III-151</p> <p>4. Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.</p>
<p style="text-align: center;">ARTICLE 26</p> <p>Common Customs Tariff duties shall be fixed by the Council <del>acting by a qualified majority</del> on a proposal from the Commission.</p>	<p style="text-align: center;">ARTICLE III-151</p> <p>5. The Council, on a proposal from the Commission, shall adopt the European regulations and decisions fixing Common Customs Tariff duties.</p>
<p style="text-align: center;">ARTICLE 27</p> <p>In carrying out the tasks entrusted to it under this chapter the Commission shall be guided by:</p> <p>(a) the need to promote trade between Member States and third countries;</p> <p>(b) developments in conditions of competition within the <b>Union</b> in so far as they lead to an improvement in the competitive capacity of undertakings;</p>	<p>6. In carrying out the tasks entrusted to it under this Article the Commission shall be guided by:</p> <p>(a) the need to promote trade between Member States and third countries;</p> <p>(b) developments in conditions of competition within the <b>Union</b> insofar as they lead to an improvement in the competitive capacity of undertakings;</p>

<p>(c) the requirements of the <b>Union</b> as regards the supply of raw materials and semi-finished goods; in this connection the Commission shall take care to avoid distorting conditions of competition between Member States in respect of finished goods;</p> <p>(d) the need to avoid serious disturbances in the economies of Member States and to ensure rational development of production and an expansion of consumption within the <b>Union</b>.</p>	<p>(c) the requirements of the Union as regards the supply of raw materials and semi-finished goods; in this connection the Commission shall take care to avoid distorting conditions of competition between Member States in respect of finished goods;</p> <p>(d) the need to avoid serious disturbances in the economies of Member States and to ensure rational development of production and an expansion of consumption within the Union.</p>
<p style="text-align: center;">CHAPTER Ia CUSTOMS COOPERATION,</p> <p style="text-align: center;">ARTICLE 27a</p> <p>Within the scope of application of the <b>Treaties</b>, the Council, acting in accordance with the <b>ordinary legislative procedure</b>, shall take measures in order to strengthen customs cooperation between Member States and between the latter and the Commission. <del>These measures shall not concern the application of national criminal law or the national administration of justice.</del></p>	<p style="text-align: center;">ARTICLE III-152</p> <p>Within the scope of application of the Constitution, European laws or framework laws shall establish measures in order to strengthen customs cooperation between Member States and between them and the Commission.</p>
<p style="text-align: center;">CHAPTER 2 PROHIBITION OF QUANTITATIVE RESTRICTIONS BETWEEN MEMBER STATES</p> <p style="text-align: center;">ARTICLE 28</p>	<p style="text-align: center;">ARTICLE III-153</p>

<p>Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States.</p>	<p>Quantitative restrictions on imports and exports and all measures having equivalent effect shall be prohibited between Member States.</p>
<p style="text-align: center;">ARTICLE 29</p> <p>Quantitative restrictions on exports, and all measures having equivalent effect, shall be prohibited between Member States.</p>	
<p style="text-align: center;">ARTICLE 30</p> <p>The provisions of Articles 28 and 29 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.</p>	<p style="text-align: center;">ARTICLE III-154</p> <p>Article III-153 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.</p>
<p style="text-align: center;">ARTICLE 31</p> <p>1. Member States shall adjust any State monopolies of a commercial character so as to ensure that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.</p> <p>The provisions of this Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. These provisions shall likewise apply to monopolies delegated by the State to</p>	<p style="text-align: center;">ARTICLE III-155</p> <p>1. Member States shall adjust any State monopolies of a commercial character so as to ensure that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.</p> <p>This Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. It shall likewise apply to monopolies delegated by the State to others.</p>

<p>others.</p> <p>2. Member States shall refrain from introducing any new measure which is contrary to the principles laid down in paragraph 1 or which restricts the scope of the articles dealing with the prohibition of customs duties and quantitative restrictions between Member States.</p> <p>3. If a State monopoly of a commercial character has rules which are designed to make it easier to dispose of agricultural products or obtain for them the best return, steps should be taken in applying the rules contained in this article to ensure equivalent safeguards for the employment and standard of living of the producers concerned.</p>	<p>2. Member States shall refrain from introducing any new measure which is contrary to the principles laid down in paragraph 1 or which restricts the scope of the Articles dealing with the prohibition of customs duties and quantitative restrictions between Member States.</p> <p>3. If a State monopoly of a commercial character has rules which are designed to make it easier to dispose of agricultural products or obtain for them the best return, steps should be taken in applying this Article to ensure equivalent safeguards for the employment and standard of living of the producers concerned.</p>
<p style="text-align: center;">TITLE II AGRICULTURE AND FISHERIES</p> <p style="text-align: center;">ARTICLE 32</p> <p>1. The <b>internal market</b> shall extend to agriculture, <b>fisheries</b> and trade in agricultural products. "Agricultural products" means the products of the soil, of stockfarming and of fisheries and products of first-stage processing directly related to these products. <b>References to the common agricultural policy or to agriculture, and the use of the term "agricultural", shall be understood as also referring to fisheries, having regard to the specific characteristics of this sector.</b></p>	<p style="text-align: center;">AGRICULTURE AND FISHERIES</p> <p style="text-align: center;">ARTICLE III-225</p> <p>The Union shall define and implement a common agriculture and fisheries policy. "Agricultural products" means the products of the soil, of stockfarming and of fisheries and products of first-stage processing directly related to these products. References to the common agricultural policy or to agriculture, and the use of the term "agricultural", shall be understood as also referring to fisheries, having regard to the specific characteristics of this sector.</p> <p style="text-align: center;">ARTICLE III-226</p> <p>1. The internal market shall extend to agriculture and trade in</p>

<p>2. Save as otherwise provided in Articles 33 to 38, the rules laid down for the establishment of the <b>internal market</b> shall apply to agricultural products.</p> <p>3. The products subject to the provisions of Articles 33 to 38 are listed in Annex I to <b>the Treaties</b>.</p> <p>4. The operation and development of the <b>internal market</b> for agricultural products must be accompanied by the establishment of a common agricultural policy.</p>	<p>agricultural products.</p> <p>2. Save as otherwise provided in Articles III-227 to III-232, the rules laid down for the establishment and functioning of the internal market shall apply to agricultural products.</p> <p>3. The products listed in Annex I shall be subject to Articles III-227 to III-232.</p> <p>4. The operation and development of the internal market for agricultural products must be accompanied by a common agricultural policy.</p>
<p style="text-align: center;">ARTICLE 33</p> <p>1. The objectives of the common agricultural policy shall be:</p> <p>(a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;</p> <p>(b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;</p> <p>(c) to stabilise markets;</p> <p>(d) to assure the availability of supplies;</p> <p>(e) to ensure that supplies reach consumers at reasonable prices.</p>	<p style="text-align: center;">ARTICLE III-227</p> <p>1. The objectives of the common agricultural policy shall be:</p> <p>(a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;</p> <p>(b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;</p> <p>(c) to stabilise markets;</p> <p>(d) to assure the availability of supplies;</p> <p>(e) to ensure that supplies reach consumers at reasonable prices.</p>

<p>2. In working out the common agricultural policy and the special methods for its application, account shall be taken of:</p> <p>(a) the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;</p> <p>(b) the need to effect the appropriate adjustments by degrees;</p> <p>(c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole.</p>	<p>2. In working out the common agricultural policy and the special methods for its application, account shall be taken of:</p> <p>(a) the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;</p> <p>(b) the need to effect the appropriate adjustments by degrees;</p> <p>(c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole.</p>
<p style="text-align: center;">ARTICLE 34</p> <p>1. In order to attain the objectives set out in Article 33, a common organisation of agricultural markets shall be established.</p> <p>This organisation shall take one of the following forms, depending on the product concerned:</p> <p>(a) common rules on competition;</p> <p>(b) compulsory coordination of the various national market organisations;</p> <p>(c) a European market organisation.</p> <p>2. The common organisation established in accordance with paragraph 1 may include all measures required to attain the objectives set out in Article 33, in particular regulation of</p>	<p style="text-align: center;">ARTICLE III-228</p> <p>1. In order to attain the objectives set out in Article III-227, a common organisation of agricultural markets shall be established.</p> <p>This organisation shall take one of the following forms, depending on the product concerned:</p> <p>(a) common rules on competition;</p> <p>(b) compulsory coordination of the various national market organisations;</p> <p>(c) a European market organisation.</p> <p>2. The common organisation established in accordance with paragraph 1 may include all measures required to attain the objectives set out in Article III-227, in particular regulation of</p>

<p>prices, aids for the production and marketing of the various products, storage and carryover arrangements and common machinery for stabilising imports or exports.</p> <p>The common organisation shall be limited to pursuit of the objectives set out in Article 33 and shall exclude any discrimination between producers or consumers within the Union.</p> <p>Any common price policy shall be based on common criteria and uniform methods of calculation.</p> <p>3. In order to enable the common organisation referred to in paragraph 1 to attain its objectives, one or more agricultural guidance and guarantee funds may be set up.</p>	<p>prices, aids for the production and marketing of the various products, storage and carryover arrangements and common machinery for stabilising imports or exports.</p> <p>The common organisation shall be limited to pursuit of the objectives set out in Article III-227 and shall exclude any discrimination between producers or consumers within the Union.</p> <p>Any common price policy shall be based on common criteria and uniform methods of calculation.</p> <p>3. In order to enable the common organisation referred to in paragraph 1 to attain its objectives, one or more agricultural guidance and guarantee funds may be set up.</p>
<p style="text-align: center;">ARTICLE 35</p> <p>To enable the objectives set out in Article 33 to be attained, provision may be made within the framework of the common agricultural policy for measures such as:</p> <p>(a) an effective coordination of efforts in the spheres of vocational training, of research and of the dissemination of agricultural knowledge; this may include joint financing of projects or institutions;</p> <p>(b) joint measures to promote consumption of certain products.</p>	<p style="text-align: center;">ARTICLE III-229</p> <p>To enable the objectives set out in Article III-227 to be attained, provision may be made within the framework of the common agricultural policy for measures such as:</p> <p>(a) an effective coordination of efforts in the spheres of vocational training, of research and of the dissemination of agricultural knowledge; this may include joint financing of projects or institutions;</p> <p>(b) joint measures to promote consumption of certain products.</p>
<p style="text-align: center;">ARTICLE 36</p>	<p style="text-align: center;">ARTICLE III-230</p>

<p>The provisions of the chapter relating to rules on competition shall apply to production of and trade in agricultural products only to the extent determined by the <b>European Parliament and the Council</b> within the framework of Article 37(2) and (3) and in accordance with the procedure laid down therein, account being taken of the objectives set out in Article 33.</p> <p><b>The Council, on a proposal from the Commission, may authorise</b> the granting of aid:</p> <p>(a) for the protection of enterprises handicapped by structural or natural conditions;</p> <p>(b) within the framework of economic development programmes.</p>	<p>1. The Section relating to rules on competition shall apply to production of and trade in agricultural products only to the extent determined by European laws or framework laws in accordance with Article III-231(2), having regard to the objectives set out in Article III-227.</p> <p>2. The Council, on a proposal from the Commission, may adopt a European regulation or decision authorising the granting of aid:</p> <p>(a) for the protection of enterprises handicapped by structural or natural conditions;</p> <p>(b) within the framework of economic development programmes.</p>
<p style="text-align: center;">ARTICLE 37</p> <p><b>1. The Commission shall submit proposals</b> for working out and implementing the common agricultural policy, including the replacement of the national organisations by one of the forms of common organisation provided for in Article 34(1), and for implementing the measures specified in this title.</p> <p>These proposals shall take account of the interdependence of the agricultural matters mentioned in this title.</p> <p>The Council shall, on a proposal from the Commission and after consulting the European Parliament, acting by a qualified majority, make regulations, issue directives, or take decisions, without prejudice to any recommendations it may also make.</p>	<p style="text-align: center;">ARTICLE III-231</p> <p>1. The Commission shall submit proposals for working out and implementing the common agricultural policy, including the replacement of the national organisations by one of the forms of common organization provided for in Article III-228(1), and for implementing the measures referred to in this Section.</p> <p>These proposals shall take account of the interdependence of the agricultural matters referred to in this Section.</p> <p>2. European laws or framework laws shall establish the common</p>



<p>2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the common organisation of agricultural markets provided for in Article [III-228(1)] and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy.</p> <p>2a. The Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.</p> <p>3. In accordance with paragraph 2, the national market organisations may be replaced by the common organization provided for in Article 34(1) if:</p> <p>(a) the common organisation offers Member States which are opposed to this measure and which have an organisation of their own for the production in question equivalent safeguards for the employment and standard of living of the producers concerned, account being taken of the adjustments that will be possible and the specialisation that will be needed with the passage of time;</p> <p>(b) such an organisation ensures conditions for trade within the Union similar to those existing in a national market.</p> <p>4. If a common organisation for certain raw materials is established before a common organisation exists for the corresponding processed products, such raw materials as are used for processed products intended for export to third countries may be imported from outside the Union.</p>	<p>organisation of the market provided for in Article III-228(1) and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy. They shall be adopted after consultation of the Economic and Social Committee.</p> <p>3. The Council, on a proposal from the Commission, shall adopt the European regulations or decisions on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.</p> <p>4. In accordance with paragraph 2, the national market organizations may be replaced by the common organisation provided for in Article III-228(1) if:</p> <p>(a) the common organisation offers Member States which are opposed to this measure and which have an organisation of their own for the production in question equivalent safeguards for the employment and standard of living of the producers concerned, account being taken of the adjustments that will be possible and the specialisation that will be needed with the passage of time, and</p> <p>(b) such an organisation ensures conditions for trade within the Union similar to those existing in a national market.</p> <p>5. If a common organisation for certain raw materials is established before a common organisation exists for the corresponding processed products, such raw materials as are used for processed products intended for export to third countries may be imported from outside the Union.</p>
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<p style="text-align: center;">ARTICLE 38</p> <p>Where in a Member State a product is subject to a national market organisation or to internal rules having equivalent effect which affect the competitive position of similar production in another Member State, a countervailing charge shall be applied by Member States to imports of this product coming from the Member State where such organisation or rules exist, unless that State applies a countervailing charge on export.</p> <p>The Commission shall fix the amount of these charges at the level required to redress the balance; it may also authorise other measures, the conditions and details of which it shall determine.</p>	<p style="text-align: center;">ARTICLE III-232</p> <p>Where in a Member State a product is subject to a national market organisation or to internal rules having equivalent effect which affect the competitive position of similar production in another Member State, a countervailing charge shall be applied by Member States to imports of this product coming from the Member State where such organisation or rules exist, unless that State applies a countervailing charge on export.</p> <p>The Commission shall adopt European regulations or decisions fixing the amount of these charges at the level required to redress the balance. It may also authorise other measures, the conditions and details of which it shall determine.</p>
<p style="text-align: center;">TITLE III FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL CHAPTER 1 WORKERS</p> <p style="text-align: center;">ARTICLE 39</p> <p>1. Freedom of movement for workers shall be secured within the Union.</p> <p>2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.</p>	<p style="text-align: center;">Workers</p> <p style="text-align: center;">ARTICLE III-133</p> <p>1. Workers shall have the right to move freely within the Union.</p> <p>2. Any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment shall be prohibited.</p>

<p>3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:</p> <p>(a) to accept offers of employment actually made;</p> <p>(b) to move freely within the territory of Member States for this purpose;</p> <p>(c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;</p> <p>(d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in European regulations adopted by the Commission.</p> <p>4. The provisions of this article shall not apply to employment in the public service.</p>	<p>3. Workers shall have the right, subject to limitations justified on grounds of public policy, public security or public health:</p> <p>(a) to accept offers of employment actually made;</p> <p>(b) to move freely within the territory of Member States for this purpose;</p> <p>(c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;</p> <p>(d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in European regulations adopted by the Commission.</p> <p>4. This Article shall not apply to employment in the public service.</p>
<p style="text-align: center;">ARTICLE 40</p> <p>The Council shall, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required to bring about freedom of movement for workers, as defined in Article 39, in particular:</p> <p>(a) by ensuring close cooperation between national employment services;</p>	<p style="text-align: center;">ARTICLE III-134</p> <p>European laws or framework laws shall establish the measures needed to bring about freedom of movement for workers, as defined in Article III-133. They shall be adopted after consultation of the Economic and Social Committee. Such European laws or framework laws shall aim, in particular, to:</p> <p>(a) ensure close cooperation between national employment services;</p>

<p>(b) by abolishing those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers;</p> <p>(c) by abolishing all such qualifying periods and other restrictions provided for either under national legislation or under agreements previously concluded between Member States as imposed on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned;</p> <p>(d) by setting up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries.</p>	<p>(b) abolish those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers;</p> <p>(c) abolish all such qualifying periods and other restrictions provided for either under national legislation or under agreements previously concluded between Member States as impose on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned;</p> <p>(d) set up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries.</p>
<p style="text-align: center;">ARTICLE 41</p> <p>Member States shall, within the framework of a joint programme, encourage the exchange of young workers.</p>	<p style="text-align: center;">ARTICLE III-135</p> <p>Member States shall, within the framework of a joint programme, encourage the exchange of young workers.</p>
<p style="text-align: center;">ARTICLE 42</p> <p>The Council shall, acting in accordance with the <b>ordinary legislative procedure</b>, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, it shall make arrangements to secure for <b>employed and self-employed migrant workers and their dependants</b>:</p>	<p style="text-align: center;">ARTICLE III-136</p> <p>1. In the field of social security, European laws or framework laws shall establish such measures as are necessary to bring about freedom of movement for workers by making arrangements to secure for employed and self-employed migrant workers and their dependants:</p>

<p>(a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the different countries;</p> <p>(b) payment of benefits to persons resident in the territories of Member States.</p> <p>Where a member of the Council <u>declares</u> that a draft legislative act referred to in the first subparagraph would affect important aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:</p> <p>(a) refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure, or,</p> <p>(b) <u>take no action or</u> request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted.<sup>32</sup></p>	<p>(a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the different countries;</p> <p>(b) payment of benefits to persons resident in the territories of Member States.</p> <p>2. Where a member of the Council considers that a draft European law or framework law referred to in paragraph 1 would affect fundamental aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the procedure referred to in Article III-396 shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:</p> <p>(a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396, or</p> <p>(b) request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted.</p>
<p style="text-align: center;">CHAPTER 2 RIGHT OF ESTABLISHMENT</p> <p style="text-align: center;">ARTICLE 43</p>	<p style="text-align: center;">Subsection 2 Freedom of establishment</p> <p style="text-align: center;">ARTICLE III-137</p>

<p>Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.</p> <p>Freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article 48, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of the chapter relating to capital.</p>	<p>Within the framework of this Subsection, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.</p> <p>Nationals of a Member State shall have the right, in the territory of another Member State, to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article III-142, under the conditions laid down for its own nationals by the law of the Member State where such establishment is effected, subject to Section 4 relating to capital and payments.</p>
<p style="text-align: center;">ARTICLE 44</p> <p>1. In order to attain freedom of establishment as regards a particular activity, <b>the European Parliament and the Council acting in accordance with the ordinary legislative procedure</b> and after consulting the Economic and Social Committee, shall act by means of directives.</p> <p>2. <b>The European Parliament, the Council and the Commission</b> shall carry out the duties devolving upon them under the preceding provisions, in particular:</p> <p>(a) by according, as a general rule, priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade;</p>	<p style="text-align: center;">ARTICLE III-138</p> <p>1. European framework laws shall establish measures to attain freedom of establishment as regards a particular activity. They shall be adopted after consultation of the Economic and Social Committee.</p> <p>2. The European Parliament, the Council and the Commission shall carry out the duties devolving upon them under paragraph 1, in particular:</p> <p>(a) by according, as a general rule, priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade;</p>

(b) by ensuring close cooperation between the competent authorities in the Member States in order to ascertain the particular situation within the Union of the various activities concerned;

(c) by abolishing those administrative procedures and practices, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to freedom of establishment;

(d) by ensuring that workers of one Member State employed in the territory of another Member State may remain in that territory for the purpose of taking up activities therein as self-employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that State at the time when they intended to take up such activities;

(e) by enabling a national of one Member State to acquire and use land and buildings situated in the territory of another Member State, in so far as this does not conflict with the principles laid down in Article 33(2);

(f) by effecting the progressive abolition of restrictions on freedom of establishment in every branch of activity under consideration, both as regards the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State and as regards the subsidiaries in the territory of a Member State and as regards the conditions governing the entry of personnel belonging to the main establishment into managerial or supervisory posts in such agencies, branches or

(b) by ensuring close cooperation between the competent authorities in the Member States in order to ascertain the particular situation within the Union of the various activities concerned;

(c) by abolishing those administrative procedures and practices, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to freedom of establishment;

(d) by ensuring that workers from one Member State employed in the territory of another Member State may remain in that territory for the purpose of taking up activities therein as self-employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that State at the time when they intended to take up such activities;

(e) by enabling a national of one Member State to acquire and use land and buildings situated in the territory of another Member State, insofar as this does not conflict with the principles laid down in Article III-227(2);

(f) by effecting the progressive abolition of restrictions on freedom of establishment in every branch of activity under consideration, both as regards the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State and as regards the conditions governing the entry of personnel belonging to the main establishment into managerial or supervisory posts in such agencies, branches or subsidiaries;

<p>subsidiaries;</p> <p>(g) by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and other, are required by Member States of companies or firms within the meaning of the second paragraph of Article 48 with a view to making such safeguards equivalent throughout the <b>Union</b>;</p> <p>(h) by satisfying themselves that the conditions of establishment are not distorted by aids granted by Member States.</p>	<p>(g) by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and others, are required by Member States of companies or firms within the meaning of the second paragraph of Article III-142 with a view to making such safeguards equivalent throughout the Union;</p> <p>(h) by satisfying themselves that the conditions of establishment are not distorted by aids granted by Member States.</p>
<p style="text-align: center;">ARTICLE 45</p> <p>The provisions of this chapter shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.</p> <p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may rule that the provisions of this chapter shall not apply to certain activities.</p>	<p style="text-align: center;">ARTICLE III-139</p> <p>This Subsection shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.</p> <p>European laws or framework laws may exclude certain activities from application of this Subsection.</p>
<p style="text-align: center;">ARTICLE 46</p> <p>1. The provisions of this chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health.</p>	<p style="text-align: center;">ARTICLE III-140</p> <p>1. This Subsection and measures adopted in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action in Member States providing for special treatment for foreign nationals on grounds of public policy, public security or public health.</p>



<p>2. The Council shall, acting in accordance with the <b>ordinary legislative procedure</b>, issue directives for the coordination of the above mentioned provisions.</p>	
<p style="text-align: center;">ARTICLE 47</p> <p>1. In order to make it easier for persons to take up and pursue activities as self-employed persons, the Council shall, acting in accordance with the <b>ordinary legislative procedure</b>, issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualifications, and for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons.</p> <p>2. In the case of the medical and allied and pharmaceutical professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for <u>their exercise in</u> the various Member States.<sup>33</sup></p>	<p style="text-align: center;">ARTICLE III-141</p> <p>1. European framework laws shall make it easier for persons to take up and pursue activities as self-employed persons. They shall cover:</p> <p>(a) the mutual recognition of diplomas, certificates and other evidence of formal qualifications;</p> <p>(b) the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons.</p> <p>2. In the case of the medical and allied and pharmaceutical professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for the exercise of such professions in the various Member States.</p>
<p style="text-align: center;">ARTICLE 48</p> <p>Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Union shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of Member States.</p> <p>"Companies or firms" means companies or firms constituted</p>	<p style="text-align: center;">ARTICLE III-142</p> <p>Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Union shall, for the purposes of this Subsection, be treated in the same way as natural persons who are nationals of Member States.</p> <p>"Companies or firms" means companies or firms constituted</p>

<p>under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.</p>	<p>under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.</p>
<p style="text-align: center;">ARTICLE 48a</p> <p>Member States shall accord nationals of the other Member States the same treatment as their own nationals as regards participation in the capital of companies or firms within the meaning of Article 48, without prejudice to the application of the other provisions of this Treaty.</p>	<p style="text-align: center;">ARTICLE III-143</p> <p>Member States shall accord nationals of the other Member States the same treatment as their own nationals as regards participation in the capital of companies or firms within the meaning of the second paragraph of Article III-142, without prejudice to the application of the other provisions of the Constitution.</p>
<p style="text-align: center;">CHAPTER 3 SERVICES</p> <p style="text-align: center;">ARTICLE 49</p> <p>Within the framework of the provisions set out below, restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of Member States who are established in a <b>Member State</b> other than that of the person for whom the services are intended.</p> <p><b>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may extend the provisions of the Chapter to nationals of a third country who provide services and who are established within the Union.</b></p>	<p style="text-align: center;">Subsection 3</p> <p style="text-align: center;">Freedom to provide services</p> <p style="text-align: center;">ARTICLE III-144</p> <p>Within the framework of this Subsection, restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended.</p> <p>European laws or framework laws may extend this Subsection to service providers who are nationals of a third State and who are established within the Union.</p>
<p style="text-align: center;">ARTICLE 50</p>	<p style="text-align: center;">ARTICLE III-145</p>

<p>Services shall be considered to be "services" within the meaning of the Treaties where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons.</p> <p>"Services" shall in particular include:</p> <ul style="list-style-type: none"> <li>(a) activities of an industrial character;</li> <li>(b) activities of a commercial character;</li> <li>(c) activities of craftsmen;</li> <li>(d) activities of the professions</li> </ul> <p>Without prejudice to the provisions of the chapter relating to the right of establishment, the person providing a service may, in order to do so, temporarily pursue his activity in the Member State where the service is provided, under the same conditions as are imposed by that State on its own nationals.</p>	<p>Services shall be considered to be "services" for the purposes of the Constitution where they are normally provided for remuneration, insofar as they are not governed by the provisions relating to freedom of movement for persons, goods and capital.</p> <p>"Services" shall in particular include:</p> <ul style="list-style-type: none"> <li>(a) activities of an industrial character;</li> <li>(b) activities of a commercial character;</li> <li>(c) activities of craftsmen;</li> <li>(d) activities of the professions.</li> </ul> <p>Without prejudice to Subsection 2 relating to freedom of establishment, the person providing a service may, in order to do so, temporarily pursue his or her activity in the Member State where the service is provided, under the same conditions as are imposed by that State on its own nationals.</p>
<p style="text-align: center;">ARTICLE 51</p> <p>1. Freedom to provide services in the field of transport shall be governed by the provisions of the title relating to transport.</p> <p>2. The liberalisation of banking and insurance services connected with movements of capital shall be effected in step with the liberalisation of movement of capital.</p>	<p style="text-align: center;">ARTICLE III-146</p> <p>1. Freedom to provide services in the field of transport shall be governed by Section 7 of Chapter III relating to transport.</p> <p>2. The liberalisation of banking and insurance services connected with movements of capital shall be effected in step with the liberalisation of movement of capital.</p>
<p style="text-align: center;">ARTICLE 52</p> <p>1. In order to achieve the liberalisation of a specific service,</p>	<p style="text-align: center;">ARTICLE III-147</p> <p>1. European framework laws shall establish measures to achieve</p>

<p>the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall issue directives acting by a qualified majority.</p> <p>2. As regards the directives referred to in paragraph 1, priority shall as a general rule be given to those services which directly affect production costs or the liberalisation of which helps to promote trade in goods.</p>	<p>the liberalisation of a specific service. They shall be adopted after consultation of the Economic and Social Committee.</p> <p>2. European framework laws referred to in paragraph 1 shall as a general rule give priority to those services which directly affect production costs or the liberalisation of which helps to promote trade in goods.</p>
<p style="text-align: center;">ARTICLE 53</p> <p>The Member States declare their readiness to undertake the liberalisation of services beyond the extent required by the directives issued pursuant to Article 52(1), if their general economic situation and the situation of the economic sector concerned so permit.</p> <p>To this end, the Commission shall make recommendations to the Member States concerned.</p>	<p style="text-align: center;">ARTICLE III-148</p> <p>The Member States shall endeavour to undertake liberalisation of services beyond the extent required by the European framework laws adopted pursuant to Article III-147(1), if their general economic situation and the situation of the economic sector concerned so permit.</p> <p>To this end, the Commission shall make recommendations to the Member States concerned.</p>
<p style="text-align: center;">ARTICLE 54</p> <p>As long as restrictions on freedom to provide services have not been abolished, each Member State shall apply such restrictions without distinction on grounds of nationality or residence to all persons providing services within the meaning of the first paragraph of Article 49.</p>	<p style="text-align: center;">ARTICLE III-149</p> <p>As long as restrictions on freedom to provide services have not been abolished, the Member States shall apply such restrictions without distinction on grounds of nationality or of residence to all persons providing services within the meaning of the first paragraph of Article III-144.</p>
<p style="text-align: center;">ARTICLE 55</p> <p>The provisions of Articles 45 to 48 shall apply to the matters covered by this chapter.</p>	<p style="text-align: center;">ARTICLE III-150</p> <p>Articles III-139 to III-142 shall apply to the matters covered by this Subsection.</p>

<p style="text-align: center;">CHAPTER 4 CAPITAL AND PAYMENTS</p> <p style="text-align: center;">ARTICLE 56</p> <p>1. Within the framework of the provisions set out in this chapter, all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited.</p> <p>2. Within the framework of the provisions set out in this chapter, all restrictions on payments between Member States and between Member States and third countries shall be prohibited.</p>	<p style="text-align: center;">CAPITAL AND PAYMENTS</p> <p style="text-align: center;">ARTICLE III-156</p> <p>Within the framework of this Section, restrictions both on the movement of capital and on payments between Member States and between Member States and third countries shall be prohibited.</p>
<p style="text-align: center;">ARTICLE 57</p> <p>1. The provisions of Article 56 shall be without prejudice to the application to third countries of any restrictions which exist on 31 December 1993 under national or Union law adopted in respect of the movement of capital to or from third countries involving direct investment – including in real estate – establishment, the provision of financial services or the admission of securities to capital markets.</p> <p>2. Whilst endeavouring to achieve the objective of free movement of capital between Member States and third countries to the greatest extent possible and without prejudice to the other chapters of the Treaties, the</p>	<p style="text-align: center;">ARTICLE III-157</p> <p>1. Article III-156 shall be without prejudice to the application to third countries of any restrictions which existed on 31 December 1993 under national or Union law adopted in respect of the movement of capital to or from third countries involving direct investment - including investment in real estate, establishment, the provision of financial services or the admission of securities to capital markets. With regard to restrictions which exist under national law in Estonia and Hungary, the date in question shall be 31 December 1999.</p> <p>2. European laws or framework laws shall enact measures on the movement of capital to or from third countries involving direct investment - including investment in real estate, establishment, the provision of financial services or the</p>

<p>European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures on the movement of capital to or from third countries involving direct investment – including investment in real estate – establishment, the provision of financial services or the admission of securities to capital markets.</p> <p>3. Notwithstanding paragraph 2, only the Council, acting in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament, adopt measures which constitute a step backwards in Union law as regards the liberalisation of the movement of capital to or from third countries.</p>	<p>admission of securities to capital markets. The European Parliament and the Council shall endeavour to achieve the objective of free movement of capital between Member States and third countries to the greatest extent possible and without prejudice to other provisions of the Constitution.</p> <p>3. Notwithstanding paragraph 2, only a European law or framework law of the Council may enact measures which constitute a step backwards in Union law as regards the liberalisation of the movement of capital to or from third countries. The Council shall act unanimously after consulting the European Parliament.</p>
<p style="text-align: center;">ARTICLE 58</p> <p>1. The provisions of Article 56 shall be without prejudice to the right of Member States:</p> <p>(a) to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;</p> <p>(b) to take all requisite measures to prevent infringements of national provisions laid down by law or regulation, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.</p>	<p style="text-align: center;">ARTICLE III-158</p> <p>1. Article III-156 shall be without prejudice to the right of Member States:</p> <p>(a) to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;</p> <p>(b) to take all requisite measures to prevent infringements of national provisions laid down by law or regulation, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.</p> <p>2. This Section shall be without prejudice to the applicability of</p>

<p>2. The provisions of this chapter shall be without prejudice to the applicability of restrictions on the right of establishment which are compatible with the Treaties.</p> <p>3. The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article 56.</p> <p>4. In the absence of measures pursuant to Article [III-157(3)], the Commission or, in the absence of a Commission decision within three months from the request of the Member State concerned, the Council, may adopt a decision stating that restrictive tax measures adopted by a Member State concerning one or more third countries are to be considered compatible with the Treaties insofar as they are justified by one of the objectives of the Union and compatible with the proper functioning of the internal market. The Council shall act unanimously on application by a Member State.</p>	<p>restrictions on the right of establishment which are compatible with the Constitution.</p> <p>3. The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article III-156.</p> <p>4. In the absence of a European law or framework law provided for in Article III-157(3), the Commission or, in the absence of a European decision of the Commission within three months from the request of the Member State concerned, the Council, may adopt a European decision stating that restrictive tax measures adopted by a Member State concerning one or more third countries are to be considered compatible with the Constitution insofar as they are justified by one of the objectives of the Union and compatible with the proper functioning of the internal market. The Council shall act unanimously on application by a Member State.</p>
<p style="text-align: center;">ARTICLE 59</p> <p>Where, in exceptional circumstances, movements of capital to or from third countries cause, or threaten to cause, serious difficulties for the operation of economic and monetary union, the Council, <del>acting by a qualified majority</del> on a proposal from the Commission and after consulting the <b>European Central Bank</b>, may take safeguard measures with regard to third countries for a period not exceeding six months if such measures are strictly necessary.</p>	<p style="text-align: center;">ARTICLE III-159</p> <p>Where, in exceptional circumstances, movements of capital to or from third countries cause, or threaten to cause, serious difficulties for the functioning of economic and monetary union, the Council, on a proposal from the Commission, may adopt European regulations or decisions introducing safeguard measures with regard to third countries for a period not exceeding six months if such measures are strictly necessary. It shall act after consulting the European Central Bank.</p>

Article 60 is amended and becomes Article 67a. No new article is currently given in its place.

Title IV

AREA OF FREEDOM, SECURITY AND JUSTICE<sup>34</sup>

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 61

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.

2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.

3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.

CHAPTER IV  
AREA OF FREEDOM, SECURITY AND JUSTICE  
SECTION 1  
GENERAL PROVISIONS

ARTICLE III-257

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.

2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Chapter, stateless persons shall be treated as third-country nationals.

3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.



<p>4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.</p>	<p>4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.</p>
<p style="text-align: center;">ARTICLE 62</p> <p>The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice.</p>	<p style="text-align: center;">ARTICLE III-258</p> <p>The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice.</p>
<p style="text-align: center;">ARTICLE 63</p> <p>National Parliaments shall ensure that the proposals and legislative initiatives submitted under Chapters 4 and 5 comply with the principle of subsidiarity, in accordance with the arrangements laid down by the Protocol on the application of the principles of subsidiarity and proportionality.</p>	<p style="text-align: center;">ARTICLE III-259</p> <p>National Parliaments shall ensure that the proposals and legislative initiatives submitted under Sections 4 and 5 of this Chapter comply with the principle of subsidiarity, in accordance with the arrangements laid down by the Protocol on the application of the principles of subsidiarity and proportionality.</p>
<p style="text-align: center;">ARTICLE 64</p> <p>Without prejudice to Articles [III-360 to III-362], the Council may, on a proposal from the Commission, adopt measures laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Title by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament and national Parliaments shall be informed of the content and results of the evaluation.</p>	<p style="text-align: center;">ARTICLE III-260</p> <p>Without prejudice to Articles III-360 to III-362, the Council may, on a proposal from the Commission, adopt European regulations or decisions laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Chapter by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament and national Parliaments shall be informed of the content and results of the evaluation.</p>

<p style="text-align: center;">ARTICLE 65</p> <p>A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article [III-344], it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.</p>	<p style="text-align: center;">ARTICLE III-261</p> <p>A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article III-344, it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.</p>
<p style="text-align: center;">ARTICLE 66</p> <p>This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.</p> <p><u>It shall be open to Member States to organise between themselves and under their responsibility such forms of cooperation and coordination as they deem appropriate between the competent departments of their administrations responsible for safeguarding national security.</u><sup>35</sup></p>	<p style="text-align: center;">ARTICLE III-262</p> <p>This Chapter shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.</p>
<p style="text-align: center;">ARTICLE 67</p> <p>The Council shall adopt measures to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Title, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article [III-264],</p>	<p style="text-align: center;">ARTICLE III-263</p> <p>The Council shall adopt European regulations to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Chapter, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article III-264,</p>

and after consulting the European Parliament.	and after consulting the European Parliament.
<p style="text-align: center;"><b>ARTICLE 67a</b></p> <p>Where necessary to achieve the objectives set out in Article [III-257], as regards preventing and combating terrorism and related activities, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.</p> <p><u>The Council, on a proposal from the Commission, shall adopt measures to implement the framework referred to in the first paragraph.</u></p> <p><u>The acts referred to in this Article shall include necessary provisions on legal safeguards.</u></p>	<p style="text-align: center;"><b>ARTICLE III-160</b></p> <p>Where necessary to achieve the objectives set out in Article III-257, as regards preventing and combating terrorism and related activities, European laws shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.</p>
<p style="text-align: center;"><b>ARTICLE 68</b></p> <p>The acts referred to in Chapters 4 and 5, together with the measures referred to in Article [III-263] which ensure administrative cooperation in the areas covered by these Sections, shall be adopted:</p> <p>(a) on a proposal from the Commission, or</p> <p>(b) on the initiative of a quarter of the Member States.</p>	<p style="text-align: center;"><b>ARTICLE III-264</b></p> <p>The acts referred to in Sections 4 and 5, together with the European regulations referred to in Article III-263 which ensure administrative cooperation in the areas covered by these Sections, shall be adopted:</p> <p>(a) on a proposal from the Commission, or</p> <p>(b) on the initiative of a quarter of the Member States.</p>

<p style="text-align: center;"><b>CHAPTER 2</b> <b>POLICIES ON BORDER CHECKS, ASYLUM AND IMMIGRATION</b></p> <p style="text-align: center;"><b>ARTICLE 69</b></p> <p>1. The Union shall develop a policy with a view to:</p> <p>(a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;</p> <p>(b) carrying out checks on persons and efficient monitoring of the crossing of external borders;</p> <p>(c) the gradual introduction of an integrated management system for external borders.</p> <p>2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:</p> <p>(a) the common policy on visas and other short-stay residence permits;</p> <p>(b) the checks to which persons crossing external borders are subject;</p> <p>(c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;</p> <p>(d) any measure necessary for the gradual establishment of</p>	<p style="text-align: center;"><b>SECTION 2</b> <b>POLICIES ON BORDER CHECKS, ASYLUM AND IMMIGRATION</b></p> <p style="text-align: center;"><b>ARTICLE III-265</b></p> <p>1. The Union shall develop a policy with a view to:</p> <p>(a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;</p> <p>(b) carrying out checks on persons and efficient monitoring of the crossing of external borders;</p> <p>(c) the gradual introduction of an integrated management system for external borders.</p> <p>2. For the purposes of paragraph 1, European laws or framework laws shall establish measures concerning:</p> <p>(a) the common policy on visas and other short-stay residence permits;</p> <p>(b) the checks to which persons crossing external borders are subject;</p> <p>(c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;</p> <p>(d) any measure necessary for the gradual establishment of an integrated management system for external borders;</p>
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<p>an integrated management system for external borders;</p> <p>(e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.</p> <p>3. If action by the Union should prove necessary to facilitate the exercise of the right referred to in Article [I-10(2)(a)], and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt provisions concerning passports, identity cards, residence permits or any other such document. The Council shall act unanimously after consulting the European Parliament.<sup>36</sup></p> <p>4. This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.</p>	<p>(e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.</p> <p>3. This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.</p>
<p style="text-align: center;"><b>ARTICLE 69a</b></p> <p>1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.</p> <p>2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:</p>	<p style="text-align: center;"><b>ARTICLE III-266</b></p> <p>1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.</p> <p>2. For the purposes of paragraph 1, European laws or framework laws shall lay down measures for a common European asylum system comprising:</p>

<p>(a) a uniform status of asylum for nationals of third countries, valid throughout the Union;</p> <p>(b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;</p> <p>(c) a common system of temporary protection for displaced persons in the event of a massive inflow;</p> <p>(d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;</p> <p>(e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;</p> <p>(f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;</p> <p>(g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.</p> <p>3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.</p>	<p>(a) a uniform status of asylum for nationals of third countries, valid throughout the Union;</p> <p>(b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;</p> <p>(c) a common system of temporary protection for displaced persons in the event of a massive inflow;</p> <p>(d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;</p> <p>(e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;</p> <p>(f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;</p> <p>(g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.</p> <p>3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt European regulations or decisions comprising provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.</p>
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ARTICLE 69b

1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas:

(a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;

(b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;

(c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;

(d) combating trafficking in persons, in particular women and children.

3. The Union may conclude agreements with third countries for the readmission to their countries of origin or

ARTICLE III-267

1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2. For the purposes of paragraph 1, European laws or framework laws shall establish measures in the following areas:

(a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;

(b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;

(c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;

(d) combating trafficking in persons, in particular women and children.

3. The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the

<p>provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States.</p> <p>4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.</p> <p>5. This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.</p>	<p>conditions for entry, presence or residence in the territory of one of the Member States.</p> <p>4. European laws or framework laws may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.</p> <p>5. This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.</p>
<p style="text-align: center;">ARTICLE 69c</p> <p>The policies of the Union set out in this Section and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Section shall contain appropriate measures to give effect to this principle.</p>	<p style="text-align: center;">ARTICLE III-268</p> <p>The policies of the Union set out in this Section and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Section shall contain appropriate measures to give effect to this principle.</p>
<p style="text-align: center;">CHAPTER 3 JUDICIAL COOPERATION IN CIVIL MATTERS</p> <p style="text-align: center;">ARTICLE 69d</p>	<p style="text-align: center;">SECTION 3 JUDICIAL COOPERATION IN CIVIL MATTERS</p> <p style="text-align: center;">ARTICLE III-269</p>



<p>1. The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and decisions in extrajudicial cases. Such cooperation may include the adoption of measures for the approximation of the laws and regulations of the Member States.</p> <p>2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures, particularly when necessary for the proper functioning of the internal market, aimed at ensuring:</p> <p>(a) the mutual recognition and enforcement between Member States of judgments and decisions in extrajudicial cases;</p> <p>(b) the cross-border service of judicial and extrajudicial documents;</p> <p>(c) the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction;</p> <p>(d) cooperation in the taking of evidence;</p> <p>(e) effective access to justice;</p> <p>(f) the elimination of obstacles to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;</p> <p>(g) the development of alternative methods of dispute</p>	<p>1. The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and decisions in extrajudicial cases. Such cooperation may include the adoption of measures for the approximation of the laws and regulations of the Member States.</p> <p>2. For the purposes of paragraph 1, European laws or framework laws shall establish measures, particularly when necessary for the proper functioning of the internal market, aimed at ensuring:</p> <p>(a) the mutual recognition and enforcement between Member States of judgments and decisions in extrajudicial cases;</p> <p>(b) the cross-border service of judicial and extrajudicial documents;</p> <p>(c) the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction;</p> <p>(d) cooperation in the taking of evidence;</p> <p>(e) effective access to justice;</p> <p>(f) the elimination of obstacles to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;</p> <p>(g) the development of alternative methods of dispute</p>
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<p>settlement;</p> <p>(h) support for the training of the judiciary and judicial staff.</p> <p>3. Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament.</p> <p>4. The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament. <u>This proposal shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision shall not be adopted. In the absence of opposition, the Council may adopt the decision.</u><sup>37</sup></p>	<p>settlement;</p> <p>(h) support for the training of the judiciary and judicial staff.</p> <p>3. Notwithstanding paragraph 2, a European law or framework law of the Council shall establish measures concerning family law with cross-border implications. The Council shall act unanimously after consulting the European Parliament.</p> <p>The Council, on a proposal from the Commission, may adopt a European decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.</p>
<p style="text-align: center;">CHAPTER 4 JUDICIAL COOPERATION IN CRIMINAL MATTERS</p> <p style="text-align: center;">ARTICLE 69e</p> <p>1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of</p>	<p style="text-align: center;">SECTION 4 JUDICIAL COOPERATION IN CRIMINAL MATTERS</p> <p style="text-align: center;">ARTICLE III-270</p> <p>1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and</p>

<p>judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article [III-271].</p> <p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures to:</p> <p>(a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;</p> <p>(b) prevent and settle conflicts of jurisdiction between Member States;</p> <p>(c) support the training of the judiciary and judicial staff;</p> <p>(d) facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.</p> <p>2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States. They shall concern:</p> <p>(a) mutual admissibility of evidence between Member</p>	<p>judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article III-271.</p> <p>European laws or framework laws shall establish measures to:</p> <p>(a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;</p> <p>(b) prevent and settle conflicts of jurisdiction between Member States;</p> <p>(c) support the training of the judiciary and judicial staff;</p> <p>(d) facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.</p> <p>2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, European framework laws may establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States. They shall concern:</p> <p>(a) mutual admissibility of evidence between Member States;</p>
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<p>States;</p> <p>(b) the rights of individuals in criminal procedure;</p> <p>(c) the rights of victims of crime;</p> <p>(d) any other specific aspects of criminal procedure which the Council has identified in advance by a decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the consent of the European Parliament. Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.</p> <p>3. Where a member of the Council considers that a draft directive as referred to in paragraph 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.</p> <p>Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced</p>	<p>(b) the rights of individuals in criminal procedure;</p> <p>(c) the rights of victims of crime;</p> <p>(d) any other specific aspects of criminal procedure which the Council has identified in advance by a European decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the consent of the European Parliament. Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.</p> <p>3. Where a member of the Council considers that a draft European framework law as referred to in paragraph 2 would affect fundamental aspects of its criminal justice system, it may request that the draft framework law be referred to the European Council. In that case, the procedure referred to in Article III-396 shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:</p> <p>(a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396, or</p> <p>(b) request the Commission or the group of Member States from which the draft originates to submit a new draft; in that case, the act originally proposed shall be deemed not to have been adopted.</p> <p>4. If, by the end of the period referred to in paragraph 3, either no action has been taken by the European Council or if, within 12 months from the submission of a new draft under paragraph 3(b), the European framework law has not been adopted, and</p>
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<p>cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles [I-44(2) and III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.<sup>38</sup></p>	<p>at least one third of the Member States wish to establish enhanced cooperation on the basis of the draft framework law concerned, they shall notify the European Parliament, the Council and the Commission accordingly.</p> <p>In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles I-44(2) and III-419(1) shall be deemed to be granted and the provisions on enhanced cooperation shall apply.</p>
<p style="text-align: center;"><b>ARTICLE 69f</b></p> <p>1. The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.</p> <p>These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.</p> <p>On the basis of developments in crime, the Council may adopt a decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.</p>	<p style="text-align: center;"><b>ARTICLE III-271</b></p> <p>1. European framework laws may establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.</p> <p>These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.</p> <p>On the basis of developments in crime, the Council may adopt a European decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.</p> <p>2. If the approximation of criminal laws and regulations of the</p>

2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such directives shall be adopted by the same ordinary or special legislative procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article [III-264].

3. Where a member of the Council considers that a draft directive as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles [I-44(2) and III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.<sup>39</sup>

Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, European framework laws may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such framework laws shall be adopted by the same procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article III-264.

3. Where a member of the Council considers that a draft European framework law as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft framework law be referred to the European Council. In that case, where the procedure referred to in Article III-396 is applicable, it shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

(a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396 where it is applicable, or

(b) request the Commission or the group of Member States from which the draft originates to submit a new draft; in that case, the act originally proposed shall be deemed not to have been adopted.

4. If, by the end of the period referred to in paragraph 3, either no action has been taken by the European Council or if, within 12 months from the submission of a new draft under paragraph 3(b), the European framework law has not been adopted, and at least one third of the Member States wish to establish

	<p>enhanced cooperation on the basis of the draft framework law concerned, they shall notify the European Parliament, the Council and the Commission accordingly.</p> <p>In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles I-44(2) and III-419(1) shall be deemed to be granted and the provisions on enhanced cooperation shall apply.</p>
<p style="text-align: center;"><b>ARTICLE 69g</b></p> <p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States.</p>	<p style="text-align: center;"><b>ARTICLE III-272</b></p> <p>European laws or framework laws may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States.</p>
<p style="text-align: center;"><b>ARTICLE 69h</b></p> <p>1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol. In this context, the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Eurojust's structure, operation, field of action and tasks. These tasks may include:</p>	<p style="text-align: center;"><b>ARTICLE III-273</b></p> <p>1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol. In this context, European laws shall determine Eurojust's structure, operation, field of action and tasks. Those tasks may include:</p>

<p>(a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions, conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;</p> <p>(b) the coordination of investigations and prosecutions referred to in point (a);</p> <p>(c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network. These regulations shall also determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.</p> <p>2. In the prosecutions referred to in paragraph 1, and without prejudice to Article [III-274], formal acts of judicial procedure shall be carried out by the competent national officials.</p>	<p>(a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions, conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;</p> <p>(b) the coordination of investigations and prosecutions referred to in point (a);</p> <p>(c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network. European laws shall also determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.</p> <p>2. In the prosecutions referred to in paragraph 1, and without prejudice to Article III-274, formal acts of judicial procedure shall be carried out by the competent national officials.</p>
<p style="text-align: center;">ARTICLE 69i</p> <p>1. In order to combat crimes affecting the financial interests of the Union, the Council, by means of a regulation adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.</p> <p><u>In the absence of unanimity in the Council, a group of at least nine Member States may request that the draft regulation be referred to the European Council. In that</u></p>	<p style="text-align: center;">ARTICLE III-274</p> <p>1. In order to combat crimes affecting the financial interests of the Union, a European law of the Council may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.</p>



case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft regulation concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I-44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.<sup>40</sup>

2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offences against the Union's financial interests, as determined by the regulation provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.

3. The regulation referred to in paragraph 1 shall determine the general rules applicable to the European Public Prosecutor's Office, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions.

2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offences against the Union's financial interests, as determined by the European law provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.

3. The European law referred to in paragraph 1 shall determine the general rules applicable to the European Public Prosecutor's Office, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions.

<p>4. The European Council may, at the same time or subsequently, adopt a decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor's Office to include serious crime having a cross-border dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission.</p>	<p>4. The European Council may, at the same time or subsequently, adopt a European decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor's Office to include serious crime having a crossborder dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission.</p>
<p style="text-align: center;"><b>CHAPTER 5 POLICE COOPERATION</b></p> <p style="text-align: center;"><b>ARTICLE 69j</b></p> <p>1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.</p> <p>2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures concerning:</p> <p>a) the collection, storage, processing, analysis and exchange of relevant information;</p> <p>(b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into</p>	<p style="text-align: center;"><b>SECTION 5 POLICE COOPERATION</b></p> <p style="text-align: center;"><b>ARTICLE III-275</b></p> <p>1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.</p> <p>2. For the purposes of paragraph 1, European laws or framework laws may establish measures concerning:</p> <p>(a) the collection, storage, processing, analysis and exchange of relevant information;</p> <p>(b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;</p>

crime-detection;

(c) common investigative techniques in relation to the detection of serious forms of organised crime.

3. The Council, acting in accordance with a special legislative procedure, may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

In case of the absence of unanimity in the Council, a group of at least nine Member States may request that the draft measures be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft measures concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I-44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

The specific procedure provided for in the second and third subparagraphs shall not apply to acts which constitute a development of the Schengen *acquis*.<sup>41</sup>

(c) common investigative techniques in relation to the detection of serious forms of organised crime.

3. A European law or framework law of the Council may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

ARTICLE 69k

1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

2. In this context, the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Europol's structure, operation, field of action and tasks. These tasks may include:

a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;

(b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust. These regulations shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

ARTICLE III-276

1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

2. European laws shall determine Europol's structure, operation, field of action and tasks. These tasks may include:

(a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;

(b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust. European laws shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

<p style="text-align: center;"><b>ARTICLE 69I</b></p> <p>The Council, acting in accordance with a special legislative procedure, shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles [III-270 and III-275] may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament.</p>	<p style="text-align: center;"><b>ARTICLE III-277</b></p> <p>A European law or framework law of the Council shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles III-270 and III-275 may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament.</p>
<p style="text-align: center;"><b>TITLE V TRANSPORT</b></p> <p style="text-align: center;">Article 70</p> <p>The objectives of the Treaties shall, in matters governed by this title, be pursued by Member States within the framework of a common transport policy.</p>	<p style="text-align: center;"><b>SECTION 7 TRANSPORT</b></p> <p style="text-align: center;"><b>ARTICLE III-236</b></p> <p>1. The objectives of the Constitution shall, in matters governed by this Section, be pursued within the framework of a common transport policy.</p>
<p style="text-align: center;"><b>ARTICLE 71</b></p> <p>1. For the purpose of implementing Article 70, and taking into account the distinctive features of transport, the Council shall, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee and the Committee of the Regions, lay down:</p> <p>(a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;</p>	<p style="text-align: center;"><b>ARTICLE III-236</b></p> <p>2. European laws or framework laws shall implement paragraph 1, taking into account the distinctive features of transport. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p> <p>Such European laws or framework laws shall establish:</p> <p>(a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;</p>

<p>(b) the conditions under which non-resident carriers may operate transport services within a Member State;</p> <p>(c) measures to improve transport safety;</p> <p>(d) any other appropriate provisions.</p> <p>2. When the measures referred to in paragraph 1 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities.<sup>42</sup></p>	<p>(b) the conditions under which non-resident carriers may operate transport services within a Member State;</p> <p>(c) measures to improve transport safety;</p> <p>(d) any other appropriate measure.</p> <p>3. When the European laws or framework laws referred to in paragraph 2 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities.</p>
<p style="text-align: center;">ARTICLE 72</p> <p>Until the provisions referred to in Article 71(1) have been laid down, no Member State may, unless the Council, acting in accordance with a special legislative procedure, has <b>unanimously adopted a measure granting a derogation</b>, make the various provisions governing the subject on 1 January 1958 or, for acceding States, the date of their accession less favourable in their direct or indirect effect on carriers of other Member States as compared with carriers who are nationals of that State.</p>	<p style="text-align: center;">ARTICLE III-237</p> <p>Until the European laws or framework laws referred to in Article III-236(2) have been adopted, no Member State may, unless the Council has unanimously adopted a European decision granting a derogation, make the various provisions governing the subject on 1 January 1958 or, for acceding States, the date of their accession less favourable in their direct or indirect effect on carriers of other Member States as compared with carriers who are nationals of that State.</p>
<p style="text-align: center;">ARTICLE 73</p> <p>Aids shall be compatible with <b>the Treaties</b> if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.</p>	<p style="text-align: center;">ARTICLE III-238</p> <p>Aids shall be compatible with the Constitution if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.</p>

<p style="text-align: center;">ARTICLE 74</p> <p>Any measures taken within the framework of the <b>Treaties</b> in respect of transport rates and conditions shall take account of the economic circumstances of carriers.</p>	<p style="text-align: center;">ARTICLE III-239</p> <p>Any measures adopted within the framework of the Constitution in respect of transport rates and conditions shall take account of the economic circumstances of carriers.</p>
<p style="text-align: center;">ARTICLE 75</p> <p>1. In the case of transport within the <b>Union</b>, discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the country of origin or of destination of the goods in question shall be abolished.</p> <p>2. Paragraph 1 shall not <b>prevent the European Parliament and the Council</b> from adopting other measures pursuant to Article 71(1).</p> <p>3. The Council shall, <del>acting by a qualified majority</del> on a proposal from the Commission and after consulting the Economic and Social Committee, lay down rules for implementing the provisions of paragraph 1.</p> <p>The Council may in particular lay down the provisions needed to enable the institutions of the <b>Union</b> to secure compliance with the rule laid down in paragraph 1 and to ensure that users benefit from it to the full.</p> <p>4. The Commission shall, acting on its own initiative or on application by a Member State, investigate any cases of discrimination falling within paragraph 1 and, after consulting any Member State concerned, shall take the necessary</p>	<p style="text-align: center;">ARTICLE III-240</p> <p>1. In the case of transport within the Union, discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the Member State of origin or of destination of the goods in question shall be prohibited.</p> <p>2. Paragraph 1 shall not prevent the adoption of other European laws or framework laws pursuant to Article III-236(2).</p> <p>3. The Council, on a proposal from the Commission, shall adopt European regulations or decisions for implementing paragraph 1. It shall act after consulting the European Parliament and the Economic and Social Committee.</p> <p>The Council may in particular adopt the European regulations and decisions needed to enable the institutions to secure compliance with the rule laid down in paragraph 1 and to ensure that users benefit from it to the full.</p> <p>4. The Commission, acting on its own initiative or on application by a Member State, shall investigate any cases of discrimination falling within paragraph 1 and, after consulting any Member State concerned, adopt the necessary European</p>

<p>decisions within the framework of the rules laid down in accordance with the provisions of paragraph 3.</p>	<p>decisions within the framework of the European regulations and decisions referred to in paragraph 3.</p>
<p style="text-align: center;">ARTICLE 76</p> <p>1. The imposition by a Member State, in respect of transport operations carried out within the <b>Union</b>, of rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries shall be prohibited, unless authorised by the Commission.</p> <p>2. The Commission shall, acting on its own initiative or on application by a Member State, examine the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate regional economic policy, the needs of underdeveloped areas and the problems of areas seriously affected by political circumstances on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport on the other.</p> <p>After consulting each Member State concerned, the Commission shall take the necessary decisions.</p> <p>3. The prohibition provided for in paragraph 1 shall not apply to tariffs fixed to meet competition.</p>	<p style="text-align: center;">ARTICLE III-241</p> <p>1. The imposition by a Member State, in respect of transport operations carried out within the Union, of rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries shall be prohibited, unless authorised by a European decision of the Commission.</p> <p>2. The Commission, acting on its own initiative or on application by a Member State, shall examine the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate regional economic policy, the needs of underdeveloped areas and the problems of areas seriously affected by political circumstances on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport on the other.</p> <p>After consulting each Member State concerned, the Commission shall adopt the necessary European decisions.</p> <p>3. The prohibition provided for in paragraph 1 shall not apply to tariffs fixed to meet competition.</p>
<p style="text-align: center;">ARTICLE 77</p> <p>Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to the transport rates</p>	<p style="text-align: center;">ARTICLE III-242</p> <p>Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to the transport rates shall not</p>



<p>shall not exceed a reasonable level after taking the costs actually incurred thereby into account.</p> <p>Member States shall endeavour to reduce these costs progressively.</p> <p>The Commission may make recommendations to Member States for the application of this article.</p>	<p>exceed a reasonable level after taking the costs actually incurred thereby into account.</p> <p>Member States shall endeavour to reduce these costs.</p> <p>The Commission may make recommendations to Member States for the application of this Article.</p>
<p style="text-align: center;">ARTICLE 78</p> <p>The provisions of this title shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division. <b>Five years after the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, the Council, acting on a proposal from the Commission, may adopt a decision repealing this Article.</b></p>	<p style="text-align: center;">ARTICLE III-243</p> <p>The provisions of this Section shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division. Five years after the entry into force of the Treaty establishing a Constitution for Europe, the Council, acting on a proposal from the Commission, may adopt a European decision repealing this Article.</p>
<p style="text-align: center;">ARTICLE 79</p> <p>An Advisory Committee consisting of experts designated by the governments of Member States shall be attached to the Commission. The Commission, whenever it considers it desirable, shall consult the Committee on transport matters <del>without prejudice to the powers of the Economic and Social Committee.</del></p>	<p style="text-align: center;">ARTICLE III-244</p> <p>An Advisory Committee consisting of experts designated by the governments of the Member States shall be attached to the Commission. The Commission, whenever it considers it desirable, shall consult the Committee on transport matters.</p>
<p style="text-align: center;">ARTICLE 80</p>	<p style="text-align: center;">ARTICLE III-245</p>

<p>1. The provisions of this title shall apply to transport by rail, road and inland waterway.</p> <p>2. <b>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport. They shall act after consulting the Committee of the Regions and the Economic and Social Committee.</b></p>	<p>1. This Section shall apply to transport by rail, road and inland waterway.</p> <p>2. European laws or framework laws may lay down appropriate measures for sea and air transport. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p>
<p style="text-align: center;">TITLE VI</p> <p style="text-align: center;">COMMON RULES ON COMPETITION, TAXATION AND APPROXIMATION OF LAWS</p> <p style="text-align: center;">CHAPTER 1</p> <p style="text-align: center;">RULES ON COMPETITION</p> <p style="text-align: center;">SECTION 1</p> <p style="text-align: center;">RULES APPLYING TO UNDERTAKINGS</p> <p style="text-align: center;">ARTICLE 81</p> <p>1. The following shall be prohibited as incompatible with the <b>internal market</b>: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the <b>internal market</b>, and in particular those which:</p> <p>(a) directly or indirectly fix purchase or selling prices or any other trading conditions;</p>	<p style="text-align: center;">RULES ON COMPETITION</p> <p style="text-align: center;">Subsection 1</p> <p style="text-align: center;">Rules applying to undertakings</p> <p style="text-align: center;">ARTICLE III-161</p> <p>1. The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:</p> <p>(a) directly or indirectly fix purchase or selling prices or any other trading conditions;</p>

<p>(b) limit or control production, markets, technical development, or investment;</p> <p>(c) share markets or sources of supply;</p> <p>(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;</p> <p>(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.</p> <p>2. Any agreements or decisions prohibited pursuant to this article shall be automatically void.</p> <p>3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:</p> <ul style="list-style-type: none"> <li>– any agreement or category of agreements between undertakings,</li> <li>– any decision or category of decisions by associations of undertakings,</li> <li>– any concerted practice or category of concerted practices, which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:</li> </ul> <p>(a) impose on the undertakings concerned restrictions which</p>	<p>(b) limit or control production, markets, technical development, or investment;</p> <p>(c) share markets or sources of supply;</p> <p>(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;</p> <p>(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.</p> <p>2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.</p> <p>3. Paragraph 1 may, however, be declared inapplicable in the case of:</p> <ul style="list-style-type: none"> <li>- any agreement or category of agreements between undertakings,</li> <li>- any decision or category of decisions by associations of undertakings,</li> <li>- any concerted practice or category of concerted practices, which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:</li> </ul> <p>(a) impose on the undertakings concerned restrictions which are</p>
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<p>are not indispensable to the attainment of these objectives;</p> <p>(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.</p>	<p>not indispensable to the attainment of these objectives;</p> <p>(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.</p>
<p style="text-align: center;">ARTICLE 82</p> <p>Any abuse by one or more undertakings of a dominant position within the <b>internal market</b> or in a substantial part of it shall be prohibited as incompatible with the <b>internal market</b> in so far as it may affect trade between Member States.</p> <p>Such abuse may, in particular, consist in:</p> <p>(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;</p> <p>(b) limiting production, markets or technical development to the prejudice of consumers;</p> <p>(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;</p> <p>(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.</p>	<p style="text-align: center;">ARTICLE III-162</p> <p>Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market insofar as it may affect trade between Member States.</p> <p>Such abuse may, in particular, consist in:</p> <p>(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;</p> <p>(b) limiting production, markets or technical development to the prejudice of consumers;</p> <p>(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;</p> <p>(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.</p>
<p style="text-align: center;">ARTICLE 83</p> <p>1. The appropriate regulations or directives to give effect to</p>	<p style="text-align: center;">ARTICLE III-163</p> <p>The Council, on a proposal from the Commission, shall adopt</p>

<p>the principles set out in Articles 81 and 82 shall be laid down by the Council, <del>acting by a qualified majority</del> on a proposal from the Commission and after consulting the European Parliament.</p> <p>2. The regulations or directives referred to in paragraph 1 shall be designed in particular:</p> <p>(a) to ensure compliance with the prohibitions laid down in Article 81(1) and in Article 82 by making provision for fines and periodic penalty payments;</p> <p>(b) to lay down detailed rules for the application of Article 81(3), taking into account the need to ensure effective supervision on the one hand, and to simplify administration to the greatest possible extent on the other;</p> <p>(c) to define, if need be, in the various branches of the economy, the scope of the provisions of Articles 81 and 82;</p> <p>(d) to define the respective functions of the Commission and of the Court of Justice in applying the provisions laid down in this paragraph;</p> <p>(e) to determine the relationship between national laws and the provisions contained in this section or adopted pursuant to this article.</p>	<p>the European regulations to give effect to the principles set out in Articles III-161 and III-162. It shall act after consulting the European Parliament.</p> <p>Such regulations shall be designed in particular:</p> <p>(a) to ensure compliance with the prohibitions laid down in Article III-161(1) and in Article III-162 by making provision for fines and periodic penalty payments;</p> <p>(b) to lay down detailed rules for the application of Article III-161(3), taking into account the need to ensure effective supervision on the one hand, and to simplify administration to the greatest possible extent on the other;</p> <p>(c) to define, if need be, in the various branches of the economy, the scope of Articles III-161 and III-162;</p> <p>(d) to define the respective functions of the Commission and of the Court of Justice of the European Union in applying the provisions laid down in this paragraph;</p> <p>(e) to determine the relationship between Member States' laws and this Subsection as well as the European regulations adopted pursuant to this Article.</p>
<p style="text-align: center;">ARTICLE 84</p> <p>Until the entry into force of the provisions adopted in pursuance of Article 83, the authorities in Member States shall rule on the admissibility of agreements, decisions and</p>	<p style="text-align: center;">ARTICLE III-164</p> <p>Until the entry into force of the European regulations adopted pursuant to Article III-163, the authorities in Member States shall rule on the admissibility of agreements, decisions and</p>

<p>concerted practices and on abuse of a dominant position in the <b>internal market</b> in accordance with the law of their country and with the provisions of Article 81, in particular paragraph 3, and of Article 82.</p>	<p>concerted practices and on abuse of a dominant position in the internal market in accordance with their national law and Article III-161, in particular paragraph 3, and Article III-162.</p>
<p style="text-align: center;"><b>ARTICLE 85</b></p> <p>1. Without prejudice to Article 84, the Commission shall ensure the application of the principles laid down in Articles 81 and 82. On application by a Member State or on its own initiative, and in cooperation with the competent authorities in the Member States, which shall give it their assistance, the Commission shall investigate cases of suspected infringement of these principles. If it finds that there has been an infringement, it shall propose appropriate measures to bring it to an end.</p> <p>2. If the infringement is not brought to an end, the Commission shall record such infringement of the principles in a reasoned decision. The Commission may publish its decision and authorise Member States to take the measures, the conditions and details of which it shall determine, needed to remedy the situation.</p> <p>3. <b>The Commission may adopt regulations relating to the categories of agreement in respect of which the Council has adopted a regulation or a directive pursuant to Article [III-163, second paragraph, (b)].</b></p>	<p style="text-align: center;"><b>ARTICLE III-165</b></p> <p>1. Without prejudice to Article III-164, the Commission shall ensure the application of the principles set out in Articles III-161 and III-162. On application by a Member State or on its own initiative, and in cooperation with the competent authorities in the Member States, which shall give it their assistance, the Commission shall investigate cases of suspected infringement of these principles. If it finds that there has been an infringement, it shall propose appropriate measures to bring it to an end.</p> <p>2. If the infringement referred to in paragraph 1 is not brought to an end, the Commission shall adopt a reasoned European decision recording the infringement of the principles. The Commission may publish its decision and authorise Member States to take the measures, the conditions and details of which it shall determine, needed to remedy the situation.</p> <p>3. The Commission may adopt European regulations relating to the categories of agreement in respect of which the Council has adopted a European regulation pursuant to Article III-163, second paragraph, (b).</p>
<p style="text-align: center;"><b>ARTICLE 86</b></p> <p>1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights,</p>	<p style="text-align: center;"><b>ARTICLE III-166</b></p> <p>1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States</p>

<p>Member States shall neither enact nor maintain in force any measure contrary to the rules contained in <b>the Treaties</b>, in particular to those rules provided for in Article 12 and Articles 81 to 89.</p> <p>2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in <b>the Treaties</b>, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the <b>Union</b>.</p> <p>3. The Commission shall ensure the application of the provisions of this Article and shall, where necessary, address appropriate directives or decisions to Member States.</p>	<p>shall neither enact nor maintain in force any measure contrary to the Constitution, in particular Article I-4(2) and Articles III-161 to III-169.</p> <p>2. Undertakings entrusted with the operation of services of general economic interest or having the character of an income-producing monopoly shall be subject to the provisions of the Constitution, in particular to the rules on competition, insofar as the application of such provisions does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the Union's interests.</p> <p>3. The Commission shall ensure the application of this Article and shall, where necessary, adopt appropriate European regulations or decisions.</p>
<p style="text-align: center;">SECTION 2 AIDS GRANTED BY STATES</p> <p style="text-align: center;">ARTICLE 87</p> <p>1. Save as otherwise provided in <b>the Treaties</b>, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the <b>internal market</b>.</p>	<p style="text-align: center;">Subsection 2 Aids granted by Member States</p> <p style="text-align: center;">ARTICLE III-167</p> <p>1. Save as otherwise provided in the Constitution, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the internal market.</p> <p>2. The following shall be compatible with the internal market:</p>

<p>2. The following shall be compatible with the <b>internal market</b>:</p> <p>(a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;</p> <p>(b) aid to make good the damage caused by natural disasters or exceptional occurrences;</p> <p>(c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division. <b>Five years after the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point.</b></p> <p>3. The following may be considered to be compatible with the <b>internal market</b>:</p> <p>(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment <b>and of the regions referred to in Article [III-424], in view of their structural, economic and social situation;</b></p> <p>(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;</p>	<p>(a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;</p> <p>(b) aid to make good the damage caused by natural disasters or exceptional occurrences;</p> <p>(c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, insofar as such aid is required in order to compensate for the economic disadvantages caused by that division. Five years after the entry into force of the Treaty establishing a Constitution for Europe, the Council, acting on a proposal from the Commission, may adopt a European decision repealing this point.</p> <p>3. The following may be considered to be compatible with the internal market:</p> <p>(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article III-424, in view of their structural, economic and social situation;</p> <p>(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;</p> <p>(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the</p>
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<p>(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.</p> <p>(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the <b>Union</b> to an extent that is contrary to the common interest;</p> <p>(e) such other categories of aid as may be specified by decision of the Council <del>acting by a qualified majority</del> on a proposal from the Commission.</p>	<p>common interest;</p> <p>(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest;</p> <p>(e) such other categories of aid as may be specified by European regulations or decisions adopted by the Council on a proposal from the Commission.</p>
<p style="text-align: center;">ARTICLE 88</p> <p>1. The Commission shall, in cooperation with Member States, keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the <b>internal market</b>.</p> <p>2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a State or through State resources is not compatible with the <b>internal market</b> having regard to Article 87, or that such aid is being misused, it shall decide that the State concerned shall abolish or alter such aid within a period of time to be determined by the Commission.</p>	<p style="text-align: center;">ARTICLE III-168</p> <p>1. The Commission, in cooperation with Member States, shall keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the internal market.</p> <p>2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a Member State or through State resources is not compatible with the internal market having regard to Article III-167, or that such aid is being misused, it shall adopt a European decision requiring the Member State concerned to abolish or alter such aid within a period of time to be determined by the Commission.</p>

If the State concerned does not comply with this decision within the prescribed time, the Commission or any other interested State may, in derogation from the provisions of Articles 226 and 227, refer the matter to the Court of Justice direct.

On application by a Member State, the Council may, acting unanimously, decide that aid which that State is granting or intends to grant shall be considered to be compatible with the **internal market**, in derogation from the provisions of Article 87 or from the regulations provided for in Article 89, if such a decision is justified by exceptional circumstances.

If, as regards the aid in question, the Commission has already initiated the procedure provided for in the first subparagraph of this paragraph, the fact that the State concerned has made its application to the Council shall have the effect of suspending that procedure until the Council has made its attitude known.

If, however, the Council has not made its attitude known within three months of the said application being made, the Commission shall give its decision on the case.

3. The Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the **internal market** having regard to Article 87, it shall without delay initiate the procedure provided for in paragraph 2. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.

If the Member State concerned does not comply with this European decision within the prescribed time, the Commission or any other interested Member State may, in derogation from Articles III-360 and III-361, refer the matter to the Court of Justice of the European Union directly.

On application by a Member State, the Council may adopt unanimously a European decision that aid which that State is granting or intends to grant shall be considered to be compatible with the internal market, in derogation from Article III-167 or from European regulations provided for in Article III-169, if such a decision is justified by exceptional circumstances.

If, as regards the aid in question, the Commission has already initiated the procedure provided for in the first subparagraph of this paragraph, the fact that the Member State concerned has made its application to the Council shall have the effect of suspending that procedure until the Council has made its attitude known. If, however, the Council has not made its attitude known within three months of the said application being made, the Commission shall act.

3. The Commission shall be informed by the Member States, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the internal market having regard to Article III-167, it shall without delay initiate the procedure provided for in paragraph 2 of this Article. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.

4. The Commission may adopt European regulations relating to

<p>4. The Commission may adopt regulations relating to the categories of State aid that the Council has, pursuant to Article [III-169], determined may be exempted from the procedure provided for by paragraph 3 of this Article.</p>	<p>the categories of State aid that the Council has, pursuant to Article III-169, determined may be exempted from the procedure provided for by paragraph 3 of this Article.</p>
<p style="text-align: center;">Article 89</p> <p>The Council, <del>acting by a qualified majority</del> on a proposal from the Commission and after consulting the European Parliament, may make any appropriate regulations for the application of Articles 87 and 88 and may in particular determine the conditions in which Article 88(3) shall apply and the categories of aid exempted from this procedure.</p>	<p style="text-align: center;">ARTICLE III-169</p> <p>The Council, on a proposal from the Commission, may adopt European regulations for the application of Articles III-167 and III-168 and for determining in particular the conditions in which Article III-168(3) shall apply and the categories of aid exempted from the procedure provided for in Article 168(3). It shall act after consulting the European Parliament.</p>
<p style="text-align: center;">CHAPTER 2 TAX PROVISIONS</p> <p style="text-align: center;">ARTICLE 90</p> <p>No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.</p> <p>Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products.</p>	<p style="text-align: center;">SECTION 6 FISCAL PROVISIONS</p> <p style="text-align: center;">ARTICLE III-170</p> <p>1. No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.</p> <p>Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products.</p>
<p style="text-align: center;">ARTICLE 91</p>	

<p>Where products are exported to the territory of any Member State, any repayment of internal taxation shall not exceed the internal taxation imposed on them whether directly or indirectly.</p>	<p>2. Where products are exported by a Member State to the territory of another Member State, any repayment of internal taxation shall not exceed the internal taxation imposed on them whether directly or indirectly.</p>
<p style="text-align: center;">ARTICLE 92</p> <p>In the case of charges other than turnover taxes, excise duties and other forms of indirect taxation, remissions and repayments in respect of exports to other Member States may not be granted and countervailing charges in respect of imports from Member States may not be imposed unless the measures contemplated have been previously approved for a limited period by the Council <del>acting by a qualified majority</del> on a proposal from the Commission.</p>	<p>3. In the case of charges other than turnover taxes, excise duties and other forms of indirect taxation, remissions and repayments in respect of exports to other Member States may not be granted and countervailing charges in respect of imports from Member States may not be imposed unless the provisions contemplated have been previously approved for a limited period by a European decision adopted by the Council on a proposal from the Commission.</p>
<p style="text-align: center;">ARTICLE 93</p> <p>The Council shall, acting unanimously <b>in accordance with a special legislative procedure</b> and after consulting the European Parliament and the Economic and Social Committee, adopt provisions for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonisation is necessary to ensure the establishment and the functioning of the internal market <b>and to avoid distortion of competition.</b></p>	<p style="text-align: center;">ARTICLE III-171</p> <p>A European law or framework law of the Council shall establish measures for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation provided that such harmonisation is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition. The Council shall act unanimously after consulting the European Parliament and the Economic and Social Committee.</p>
<p style="text-align: center;">CHAPTER 3 APPROXIMATION OF LAWS</p> <p style="text-align: center;">ARTICLE 94</p>	<p style="text-align: center;">SECTION 7 COMMON PROVISIONS</p> <p style="text-align: center;">ARTICLE III-172</p>

<p>1. <del>By way of derogation from Article 94 and</del> Save where otherwise provided in <b>the Treaties</b>, the following provisions shall apply for the achievement of the objectives set out in Article 14. The Council shall, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.</p> <p>2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons.</p> <p>3. The Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.</p> <p>4. <b>If, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission</b>, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article 30, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.</p> <p>5. <b>Moreover, without prejudice to paragraph 4, if, after</b></p>	<p>1. Save where otherwise provided in the Constitution, this Article shall apply for the achievement of the objectives set out in Article III-130. European laws or framework laws shall establish measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market. Such laws shall be adopted after consultation of the Economic and Social Committee.</p> <p>2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons or to those relating to the rights and interests of employed persons.</p> <p>3. The Commission, in its proposals submitted under paragraph 1 concerning health, safety, environmental protection and consumer protection, shall take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council shall also seek to achieve this objective.</p> <p>4. If, after the adoption of a harmonisation measure by means of a European law or framework law or by means of a European regulation of the Commission, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article III-154, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.</p> <p>5. Moreover, without prejudice to paragraph 4, if, after the</p>
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**the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions as well as the grounds for introducing them.**

6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.

7. When, pursuant to paragraph 6, a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.

adoption of a harmonisation measure by means of a European law or framework law or by means of a European regulation of the Commission, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions and the reasons for them.

6. The Commission shall, within six months of the notifications referred to in paragraphs 4 and 5, adopt a European decision approving or rejecting the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger to human health, the Commission may notify the Member State concerned that the period referred to in this paragraph will be extended for a further period of up to six months.

7. When, pursuant to paragraph 6, a Member State is authorised to maintain or introduce national provisions derogating from a harmonization measure, the Commission shall immediately examine whether to propose an adaptation to that measure.

<p>8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures to the Council.</p> <p>9. By way of derogation from the procedure laid down in Articles 226 and 227, the Commission and any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this Article.</p> <p>10. The harmonisation measures referred to above shall, in appropriate cases, include a safeguard clause authorising the Member States to take, for one or more of the non-economic reasons referred to in Article 30, provisional measures subject to a Union control procedure.</p>	<p>8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures.</p> <p>9. By way of derogation from the procedure laid down in Articles III-360 and III-361, the Commission and any Member State may bring the matter directly before the Court of Justice of the European Union if it considers that another Member State is making improper use of the powers provided for in this Article.</p> <p>10. The harmonisation measures referred to in this Article shall, in appropriate cases, include a safeguard clause authorising the Member States to take, for one or more of the non-economic reasons referred to in Article III-154, provisional measures subject to a Union control procedure.</p>
<p style="text-align: center;">ARTICLE 95</p> <p>Without prejudice to Article 94, the Council shall, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, issue directives for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market.</p>	<p style="text-align: center;">ARTICLE III-173</p> <p>Without prejudice to Article III-172, a European framework law of the Council shall establish measures for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market. The Council shall act unanimously after consulting the European Parliament and the Economic and Social Committee.</p>
<p style="text-align: center;">ARTICLE 96</p>	<p style="text-align: center;">ARTICLE III-174</p>

<p>Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the <b>internal market</b> and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.</p> <p>If such consultation does not result in an agreement eliminating the distortion in question <b>the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall issue the necessary directives. Any other appropriate measures provided for in the Treaties may be adopted.</b></p>	<p>Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.</p> <p>If such consultation does not result in agreement, European framework laws shall establish the measures necessary to eliminate the distortion in question. Any other appropriate measures provided for in the Constitution may be adopted.</p>
<p style="text-align: center;">ARTICLE 97</p> <p>1. Where there is a reason to fear that the adoption or amendment of a provision laid down by law, regulation or administrative action may cause distortion within the meaning of Article 96, a Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the Commission shall recommend to the States concerned such measures as may be appropriate to avoid the distortion in question.</p> <p>2. If a State desiring to introduce or amend its own provisions does not comply with the recommendation addressed to it by the Commission, other Member States shall not be required, pursuant to Article 96, to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the recommendation of the Commission causes distortion detrimental only to itself, the provisions of Article</p>	<p style="text-align: center;">ARTICLE III-175</p> <p>1. Where there is reason to fear that the adoption or amendment of a provision laid down by law, regulation or administrative action of a Member State may cause distortion within the meaning of Article III-174, a Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the Commission shall address to the Member States concerned a recommendation on such measures as may be appropriate to avoid the distortion in question.</p> <p>2. If a Member State desiring to introduce or amend its own provisions does not comply with the recommendation addressed to it by the Commission, other Member States shall not be required, pursuant to Article III-174, to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the recommendation of the Commission causes distortion detrimental only to itself, Article III-174 shall</p>



96 shall not apply.	not apply.
<p style="text-align: center;"><b>ARTICLE 97a</b></p> <p>In the context of the establishment and functioning of the internal market, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish measures for the creation of European intellectual property rights to provide uniform intellectual property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements.</p> <p>The Council, acting unanimously in accordance with a special legislative procedure, shall by means of regulations establish language arrangements for the European intellectual property rights. The Council shall act unanimously after consulting the European Parliament.</p>	<p style="text-align: center;"><b>ARTICLE III-176</b></p> <p>In the context of the establishment and functioning of the internal market, European laws or framework laws shall establish measures for the creation of European intellectual property rights to provide uniform intellectual property rights protection throughout the Union and for the setting up of centralized Union-wide authorisation, coordination and supervision arrangements.</p> <p>A European law of the Council shall establish language arrangements for the European intellectual property rights. The Council shall act unanimously after consulting the European Parliament.</p>
<p style="text-align: center;"><b>ARTICLE 97b</b></p> <p>1. For the purposes set out in Article 2, the activities of the Member States and the Union shall include, as provided in the <del>Treaties and in accordance with the timetable set out therein</del>, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.</p> <p>2. Concurrently with the foregoing, and as provided in the</p>	<p style="text-align: center;"><b>CHAPTER II ECONOMIC AND MONETARY POLICY ARTICLE III-177</b></p> <p>For the purposes set out in Article I-3, the activities of the Member States and the Union shall include, as provided in the Constitution, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.</p> <p>Concurrently with the foregoing, and as provided in the</p>

<p>Treaties and in accordance with the procedures set out therein, these activities shall include a single currency, the euro, and the definition and conduct of a single monetary policy and exchange-rate policy the primary objective of both of which shall be to maintain price stability and, without prejudice to this objective, to support the general economic policies in the <b>Union</b>, in accordance with the principle of an open market economy with free competition.</p> <p>3. These activities of the Member States and the <b>Union</b> shall entail compliance with the following guiding principles: stable prices, sound public finances and monetary conditions and a sustainable balance of payments.</p>	<p>Constitution and in accordance with the procedures set out therein, these activities shall include a single currency, the euro, and the definition and conduct of a single monetary policy and exchange-rate policy, the primary objective of both of which shall be to maintain price stability and, without prejudice to this objective, to support general economic policies in the Union, in accordance with the principle of an open market economy with free competition.</p> <p>These activities of the Member States and the Union shall entail compliance with the following guiding principles: stable prices, sound public finances and monetary conditions and a stable balance of payments.</p>
<p style="text-align: center;">TITLE VII ECONOMIC AND MONETARY POLICY CHAPTER 1 ECONOMIC POLICY</p> <p style="text-align: center;">ARTICLE 98</p> <p>Member States shall conduct their economic policies with a view to contributing to the achievement of the objectives of the <b>Union</b>, as defined in Article 2, and in the context of the broad guidelines referred to in Article 99(2). The Member States and the <b>Union</b> shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 4.</p>	<p style="text-align: center;">SECTION 1 ECONOMIC POLICY</p> <p style="text-align: center;">ARTICLE III-178</p> <p>Member States shall conduct their economic policies in order to contribute to the achievement of the Union's objectives, as defined in Article I-3, and in the context of the broad guidelines referred to in Article III-179(2). The Member States and the Union shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article III-177.</p>
<p style="text-align: center;">ARTICLE 99</p>	<p style="text-align: center;">ARTICLE III-179</p>

<p>1. Member States shall regard their economic policies as a matter of common concern and shall coordinate them within the Council, in accordance with the provisions of Article 98.</p> <p>2. The Council shall, <del>acting by a qualified majority</del> on a recommendation from the Commission, formulate a draft for the broad guidelines of the economic policies of the Member States and of the <b>Union</b>, and shall report its findings to the European Council.</p> <p>The European Council shall, acting on the basis of the report from the Council, discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the <b>Union</b>.</p> <p>On the basis of this conclusion, the Council shall, acting by a qualified majority, adopt a recommendation setting out these broad guidelines. The Council shall inform the European Parliament of its recommendation.</p> <p>3. In order to ensure closer coordination of economic policies and sustained convergence of the economic performances of the Member States, the Council shall, on the basis of reports submitted by the Commission, monitor economic developments in each of the Member States and in the <b>Union</b> as well as the consistency of economic policies with the broad guidelines referred to in paragraph 2, and regularly carry out an overall assessment.</p> <p>For the purpose of this multilateral surveillance, Member States shall forward information to the Commission about important measures taken by them in the field of their</p>	<p>1. Member States shall regard their economic policies as a matter of common concern and shall coordinate them within the Council, in accordance with Article III-178.</p> <p>2. The Council, on a recommendation from the Commission, shall formulate a draft for the broad guidelines of the economic policies of the Member States and of the Union, and shall report its findings to the European Council.</p> <p>The European Council, on the basis of the report from the Council, shall discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the Union.</p> <p>On the basis of this conclusion, the Council shall adopt a recommendation setting out these broad guidelines. It shall inform the European Parliament of its recommendation.</p> <p>3. In order to ensure closer coordination of economic policies and sustained convergence of the economic performances of the Member States, the Council, on the basis of reports submitted by the Commission, shall monitor economic developments in each of the Member States and in the Union, as well as the consistency of economic policies with the broad guidelines referred to in paragraph 2, and shall regularly carry out an overall assessment.</p> <p>For the purpose of this multilateral surveillance, Member States shall forward information to the Commission on important measures taken by them in the field of their economic policy</p>
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economic policy and such other information as they deem necessary.

4. Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned. The Council may, ~~acting by a qualified majority~~ on a proposal from the Commission, decide to make its recommendations public.

Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a).

5. The President of the Council and the Commission shall report to the European Parliament on the results of multilateral surveillance. The President of the Council may be invited to appear before the competent committee of the European Parliament if the Council has made its

and such other information as they deem necessary.

4. Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned. The Council, on a proposal from the Commission, may decide to make its recommendations public.

Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority shall be defined as at least 55% of the other members of the Council, representing Member States comprising at least 65% of the population of the participating Member States. A blocking minority must include at least the minimum number of these other Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

5. The President of the Council and the Commission shall report to the European Parliament on the results of multilateral surveillance. The President of the Council may be invited to appear before the competent committee of the European Parliament if the Council has made its recommendations public.

<p>recommendations public.</p> <p><b>6. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt detailed rules for the multilateral surveillance procedure referred to in paragraphs 3 and 4 of this Article.</b></p>	<p>6. European laws may lay down detailed rules for the multilateral surveillance procedure referred to in paragraphs 3 and 4.</p>
<p style="text-align: center;">ARTICLE 100</p> <p><b>1. Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, <u>notably in the area of energy.</u></b></p> <p>2. Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council, <del>acting by a qualified majority</del> on a proposal from the Commission, may grant, under certain conditions, <b>Union</b> financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision taken.</p>	<p style="text-align: center;">ARTICLE III-180</p> <p>1. Without prejudice to any other procedures provided for in the Constitution, the Council, on a proposal from the Commission, may adopt a European decision laying down measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products.</p> <p>2. Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council, on a proposal from the Commission, may adopt a European decision granting, under certain conditions, Union financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision adopted.</p>
<p style="text-align: center;">ARTICLE 101</p> <p>1. Overdraft facilities or any other type of credit facility</p>	<p style="text-align: center;">ARTICLE III-181</p> <p>1. Overdraft facilities or any other type of credit facility with</p>

<p>with the <b>European Central Bank</b> or with the central banks of the Member States (hereinafter referred to as "national central banks") in favour of <b>Union institutions, bodies, offices or agencies</b>, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the <b>European Central Bank</b> or national central banks of debt instruments.</p> <p>2. Paragraph 1 shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the <b>European Central Bank</b> as private credit institutions.</p>	<p>the European Central Bank or with the central banks of the Member States (hereinafter referred to as "national central banks") in favour of Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the European Central Bank or national central banks of debt instruments.</p> <p>2. Paragraph 1 shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the European Central Bank as private credit institutions.</p>
<p style="text-align: center;">ARTICLE 102</p> <p>Any measure, not based on prudential considerations, establishing privileged access by <b>Union institutions, bodies, offices or agencies</b>, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States to financial institutions, shall be prohibited.</p> <p><del>2. The Council, acting in accordance with the procedure referred to in Article 252, shall, before 1 January 1994, specify definitions for the application of the prohibition referred to in paragraph 1.</del></p>	<p style="text-align: center;">ARTICLE III-182</p> <p>Any measure or provision, not based on prudential considerations, establishing privileged access by Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States to financial institutions shall be prohibited.</p>
<p style="text-align: center;">ARTICLE 103</p> <p>1. The <b>Union</b> shall not be liable for or assume the commitments of central governments, regional, local or other</p>	<p style="text-align: center;">ARTICLE III-183</p> <p>1. The Union shall not be liable for or assume the commitments of central governments, regional, local or other public</p>

<p>public authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project.</p> <p><b>2. The Council, on a proposal from the Commission and after consulting the European Parliament, may, as required, specify definitions for the application of the prohibitions referred to in Articles 101 and 102 and in this Article.</b></p>	<p>authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project.</p> <p>2. The Council, on a proposal from the Commission, may adopt European regulations or decisions specifying definitions for the application of the prohibitions laid down in Articles III-181 and III-182 and in this Article. It shall act after consulting the European Parliament.</p>
<p style="text-align: center;"><b>ARTICLE 104</b></p> <p>1. Member States shall avoid excessive government deficits.</p> <p>2. The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the Member States with a view to identifying gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following two criteria:</p> <p>(a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, unless:</p> <p>– either the ratio has declined substantially and continuously and reached a level that comes close to the reference value,</p>	<p style="text-align: center;"><b>ARTICLE III-184</b></p> <p>1. Member States shall avoid excessive government deficits.</p> <p>2. The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the Member States in order to identify gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following two criteria:</p> <p>(a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, unless:</p> <p>(i) either the ratio has declined substantially and continuously and reached a level that comes close to the reference value, or</p>

<p>– or, alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value;</p> <p>(b) whether the ratio of government debt to gross domestic product exceeds a reference value, unless the ratio is sufficiently diminishing and approaching the reference value at a satisfactory pace. The reference values are specified in the Protocol on the excessive deficit procedure annexed to the <b>Treaties</b>.</p> <p>3. If a Member State does not fulfil the requirements under one or both of these criteria, the Commission shall prepare a report. The report of the Commission shall also take into account whether the government deficit exceeds government investment expenditure and take into account all other relevant factors, including the medium-term economic and budgetary position of the Member State.</p> <p>The Commission may also prepare a report if, notwithstanding the fulfilment of the requirements under the criteria, it is of the opinion that there is a risk of an excessive deficit in a Member State.</p> <p>4. The <b>Economic and Financial Committee</b> shall formulate an opinion on the report of the Commission.</p> <p>5. <b>If the Commission considers that an excessive deficit in a Member State exists or may occur, it shall address an opinion to the Member State concerned and shall inform the Council accordingly.</b></p>	<p>(ii) alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value;</p> <p>(b) whether the ratio of government debt to gross domestic product exceeds a reference value, unless the ratio is diminishing sufficiently and approaching the reference value at a satisfactory pace. The reference values are specified in the Protocol on the excessive deficit procedure.</p> <p>3. If a Member State does not fulfil the requirements under one or both of these criteria, the Commission shall prepare a report. The Commission's report shall also take into account whether the government deficit exceeds government investment expenditure and take into account all other relevant factors, including the medium-term economic and budgetary position of the Member State.</p> <p>The Commission may also prepare a report if, notwithstanding the fulfillment of the requirements under the criteria, it is of the opinion that there is a risk of an excessive deficit in a Member State.</p> <p>4. The Economic and Financial Committee set up under Article III-192 shall formulate an opinion on the Commission's report.</p> <p>5. If the Commission considers that an excessive deficit in a Member State exists or may occur, it shall address an opinion to the Member State concerned and shall inform the Council accordingly.</p>
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<p>6. The Council shall, <del>acting by a qualified majority</del> on a <b>proposal</b> from the Commission, and having considered any observations which the Member State concerned may wish to make, decide after an overall assessment whether an excessive deficit exists.</p> <p>7. <b>Where the Council decides, in accordance with paragraph 6, that an excessive deficit exists, it shall adopt, without undue delay, on a recommendation from the Commission, recommendations addressed to the Member State concerned with a view to bringing that situation to an end within a given period.</b> Subject to the provisions of paragraph 8, these recommendations shall not be made public.</p> <p>8. Where it establishes that there has been no effective action in response to its recommendations within the period laid down, the Council may make its recommendations public.</p> <p>9. If a Member State persists in failing to put into practice the recommendations of the Council, the Council may decide to give notice to the Member State to take, within a specified time limit, measures for the deficit reduction which is judged necessary by the Council in order to remedy the situation.</p> <p>In such a case, the Council may request the Member State concerned to submit reports in accordance with a specific timetable in order to examine the adjustment efforts of that Member State.</p> <p>10. The rights to bring actions provided for in Articles 226 and 227 may not be exercised within the framework of paragraphs 1 to 9 of this Article.</p>	<p>6. The Council shall, on a proposal from the Commission, having considered any observations which the Member State concerned may wish to make and after an overall assessment, decide whether an excessive deficit exists. In that case it shall adopt, without undue delay, on a recommendation from the Commission, recommendations addressed to the Member State concerned with a view to bringing that situation to an end within a given period. Subject to paragraph 8, those recommendations shall not be made public.</p> <p>Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.</p> <p>A qualified majority shall be defined as at least 55% of the other members of the Council, representing Member States comprising at least 65% of the population of the participating Member States.</p> <p>A blocking minority must include at least the minimum number of these other Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.</p> <p>7. The Council, on a recommendation from the Commission, shall adopt the European decisions and recommendations referred to in paragraphs 8 to 11.</p> <p>It shall act without taking into account the vote of the member of the Council representing the Member State concerned. A qualified majority shall be defined as at least 55% of the other members of the Council, representing Member States</p>
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11. As long as a Member State fails to comply with a decision taken in accordance with paragraph 9, the Council may decide to apply or, as the case may be, intensify one or more of the following measures:

- to require the Member State concerned to publish additional information, to be specified by the Council, before issuing bonds and securities,
- to invite the European Investment Bank to reconsider its lending policy towards the Member State concerned,
- to require the Member State concerned to make a non-interest-bearing deposit of an appropriate size with the Union until the excessive deficit has, in the view of the Council, been corrected,
- to impose fines of an appropriate size.

The President of the Council shall inform the European Parliament of the decisions taken.

comprising at least 65% of the population of the participating Member States. A blocking minority must include at least the minimum number of these other Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

8. Where it adopts a European decision establishing that there has been no effective action in response to its recommendations within the period laid down, the Council may make its recommendations public.

9. If a Member State persists in failing to put the Council's recommendations into practice, the Council may adopt a European decision giving notice to the Member State to take, within a specified time-limit, measures for the deficit reduction which the Council judges necessary to remedy the situation. In such a case, the Council may request the Member State concerned to submit reports in accordance with a specific timetable in order to examine the adjustment efforts of that Member State.

10. As long as a Member State fails to comply with a European decision adopted in accordance with paragraph 9, the Council may decide to apply or, as the case may be, intensify one or more of the following measures:

- (a) require the Member State concerned to publish additional information, to be specified by the Council, before issuing bonds and securities;
- (b) invite the European Investment Bank to reconsider its lending policy towards the Member State concerned;
- (c) require the Member State concerned to make a non-

<p>12. The Council shall abrogate some or all of <b>its decisions or recommendations</b> referred to in paragraphs 6 to 9 and 11 to the extent that the excessive deficit in the Member State concerned has, in the view of the Council, been corrected. If the Council has previously made public recommendations, it shall, as soon as the decision under paragraph 8 has been abrogated, make a public statement that an excessive deficit in the Member State concerned no longer exists.</p> <p>13. <b>When taking the decisions referred to in paragraphs 8, 9, 11 and 12, the Council shall act on a recommendation from the Commission.</b></p> <p><b>When the Council adopts the measures referred to in paragraphs 6 to 9 and 11 and 12, it shall act without taking into account the vote of the member of the Council representing the Member State concerned.</b></p> <p><b>A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a).</b></p> <p>14. Further provisions relating to the implementation of the procedure described in this article are set out in the Protocol on the excessive deficit procedure annexed to <b>the Treaties</b>.</p>	<p>interest-bearing deposit of an appropriate size with the Union until the Council considers that the excessive deficit has been corrected;</p> <p>(d) impose fines of an appropriate size. The President of the Council shall inform the European Parliament of the measures adopted.</p> <p>11. The Council shall repeal some or all of the measures referred to in paragraph 6 and paragraphs 8, 9 and 10 if it considers the excessive deficit in the Member State concerned to have been corrected. If the Council has previously made public recommendations, it shall state publicly, as soon as the European decision referred to in paragraph 8 has been repealed, that there is no longer an excessive deficit in the Member State concerned.</p> <p>12. The rights to bring actions provided for in Articles III-360 and III-361 shall not be exercised within the framework of paragraphs 1 to 6 or paragraphs 8 and 9.</p> <p>13. Further provisions relating to the implementation of the procedure laid down in this Article are set out in the Protocol on the excessive deficit procedure.</p> <p>A European law of the Council shall lay down the appropriate</p>
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<p>The Council shall, <b>in accordance with a special legislative procedure</b> and after consulting the European Parliament and the <b>European Central Bank</b>, adopt the appropriate provisions which shall then replace the said Protocol.</p> <p>Subject to the other provisions of this paragraph, the Council shall, <del>before 1 January 1994, acting by a qualified majority in</del> <b>accordance with a special legislative procedure</b> and after consulting the European Parliament, lay down detailed rules and definitions for the application of the provisions of the said Protocol.</p>	<p>measures to replace the said Protocol. The Council shall act unanimously after consulting the European Parliament and the European Central Bank.</p> <p>Subject to the other provisions of this paragraph, the Council, on a proposal from the Commission, shall adopt European regulations or decisions laying down detailed rules and definitions for the application of the said Protocol. It shall act after consulting the European Parliament.</p>
<p style="text-align: center;"><i>CHAPTER 2</i> MONETARY POLICY</p> <p style="text-align: center;">ARTICLE 105</p> <p>1. The primary objective of the ESCB shall be to maintain price stability. Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the <b>Union</b> with a view to contributing to the achievement of the objectives of the <b>Union</b> as laid down in Article 2. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 4.</p> <p>2. The basic tasks to be carried out through the ESCB shall be:</p> <ul style="list-style-type: none"> <li>– to define and implement the monetary policy of the <b>Union</b>,</li> <li>– to conduct foreign-exchange operations consistent with the provisions of Article 111,</li> <li>– to hold and manage the official foreign reserves of the</li> </ul>	<p style="text-align: center;">SECTION 2 MONETARY POLICY</p> <p style="text-align: center;">ARTICLE III-185</p> <p>1. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to this objective, the European System of Central Banks shall support the general economic policies in the Union in order to contribute to the achievement of its objectives as laid down in Article I-3. The European System of Central Banks shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article III-177.</p> <p>2. The basic tasks to be carried out through the European System of Central Banks shall be:</p> <ul style="list-style-type: none"> <li>(a) to define and implement the Union's monetary policy;</li> <li>(b) to conduct foreign-exchange operations consistent with Article III-326;</li> </ul>

<p>Member States, – to promote the smooth operation of payment systems.</p> <p>3. The third indent of paragraph 2 shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.</p> <p>4. The <b>European Central Bank</b> shall be consulted:</p> <p>– on any proposed <b>Union</b> act in its fields of competence, – by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article 107(6).</p> <p>The <b>European Central Bank</b> may submit opinions to the appropriate <b>Union institutions, bodies, offices or agencies</b> or to national authorities on matters in its fields of competence.</p> <p>5. The ESCB shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.</p> <p>6. The Council, acting in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament and the European Central Bank, confer specific tasks upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.</p>	<p>(c) to hold and manage the official foreign reserves of the Member States; (d) to promote the smooth operation of payment systems.</p> <p>3. Paragraph 2(c) shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.</p> <p>4. The European Central Bank shall be consulted:</p> <p>(a) on any proposed Union act in areas within its powers; (b) by national authorities regarding any draft legislative provision in areas within its powers, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article III-187(4).</p> <p>The European Central Bank may submit opinions to the Union institutions, bodies, offices or agencies or to national authorities on matters within its powers.</p> <p>5. The European System of Central Banks shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.</p> <p>6. A European law of the Council may confer specific tasks upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. The Council shall act unanimously after consulting the European Parliament and the European Central Bank.</p>
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<p style="text-align: center;">ARTICLE 106</p> <p>1. The <b>European Central Bank</b> shall have the exclusive right to authorise the issue of banknotes within the <b>Union</b>. The <b>European Central Bank</b> and the national central banks may issue such notes. The <b>euro</b> banknotes issued by the <b>European Central Bank</b> and the national central banks shall be the only such notes to have the status of legal tender within the <b>Union</b>.</p> <p>2. Member States may issue coins subject to approval by the <b>European Central Bank</b> of the volume of the issue. <b>The Council, on a proposal from the Commission and after consulting the European Parliament and the European Central Bank, may adopt measures to harmonise the denominations and technical specifications of all euro coins intended for circulation to the extent necessary to permit their smooth circulation within the Union.</b></p>	<p style="text-align: center;">ARTICLE III-186</p> <p>1. The European Central Bank shall have the exclusive right to authorize the issue of euro bank notes in the Union. The European Central Bank and the national central banks may issue such notes. Only the bank notes issued by the European Central Bank and the national central banks shall have the status of legal tender within the Union.</p> <p>2. Member States may issue euro coins subject to approval by the European Central Bank of the volume of the issue. The Council, on a proposal from the Commission, may adopt European regulations laying down measures to harmonise the denominations and technical specifications of coins intended for circulation to the extent necessary to permit their smooth circulation within the Union. The Council shall act after consulting the European Parliament and the European Central Bank.</p>
<p style="text-align: center;">ARTICLE 107</p> <p>1. The <b>European System of Central Banks, hereinafter referred to as 'ESCB', shall be governed by the decision-making bodies of the European Central Bank, which shall be the Governing Council and the Executive Board.</b></p> <p>2. The <b>Statute of the European System of Central Banks and of the European Central Bank, hereinafter referred to as 'Statute of the ESCB and of the ECB' is laid down in a Protocol annexed to the Treaties.</b></p> <p>3. <b>Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2,</b></p>	<p style="text-align: center;">ARTICLE III-187</p> <p>1. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank, which shall be the Governing Council and the Executive Board.</p> <p>2. The Statute of the European System of Central Banks is laid down in the Protocol on the Statute of the European System of Central Banks and of the European Central Bank.</p> <p>3. Article 5(1), (2) and (3), Articles 17 and 18, Article 19(1),</p>

<p>32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the ESCB and of the ECB may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure. They shall act either on a recommendation from the European Central Bank and after consulting the Commission or on a proposal from the Commission and after consulting the European Central Bank.</p> <p>4. The Council, <del>acting by a qualified majority</del> either on a proposal from the Commission and after consulting the European Parliament and the <b>European Central Bank</b> or on a recommendation from the <b>European Central Bank</b> and after consulting the European Parliament and the Commission, shall adopt the provisions referred to in Articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 and 34.3 of the <b>Statute of the ESCB and of the ECB</b>.</p>	<p>Articles 22, 23, 24 and 26, Article 32(2), (3), (4) and (6), Article 33(1)(a) and Article 36 of the Statute of the European System of Central Banks and of the European Central Bank may be amended by European laws:</p> <p>(a) either on a proposal from the Commission and after consultation of the European Central Bank;  (b) or on a recommendation from the European Central Bank and after consultation of the Commission.</p> <p>4. The Council shall adopt the European regulations and decisions laying down the measures referred to in Article 4, Article 5(4), Article 19(2), Article 20, Article 28(1), Article 29(2), Article 30(4) and Article 34(3) of the Statute of the European System of Central Banks and of the European Central Bank. It shall act after consulting the European Parliament:</p> <p>(a) either on a proposal from the Commission and after consulting the European Central Bank;  (b) or on a recommendation from the European Central Bank and after consulting the Commission.</p>
<p style="text-align: center;">ARTICLE 108</p> <p>When exercising the powers and carrying out the tasks and duties conferred upon them by the <b>Treaties and the Statute of the ESCB and of the ECB</b>, neither the <b>European Central Bank</b>, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from <b>Union institutions, bodies, offices or agencies</b>, from any government of a Member State or from any other body. The <b>Union institutions and bodies and the governments of the Member States</b> undertake to respect this principle and not to</p>	<p style="text-align: center;">ARTICLE III-188</p> <p>When exercising the powers and carrying out the tasks and duties conferred upon them by the Constitution and the Statute of the European System of Central Banks and of the European Central Bank, neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body. The Union institutions, bodies, offices or agencies and the governments of the Member States undertake</p>

<p>seek to influence the members of the decision-making bodies of the <b>European Central Bank</b> or of the national central banks in the performance of their tasks.</p>	<p>to respect this principle and not to seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks.</p>
<p style="text-align: center;">ARTICLE 109</p> <p>Each Member State shall ensure, <del>at the latest at the date of the establishment of the ESCB,</del> that its national legislation including the statutes of its national central bank is compatible with <b>the Treaties and the Statute of the ESCB and of the ECB.</b></p>	<p style="text-align: center;">ARTICLE III-189</p> <p>Each Member State shall ensure that its national legislation, including the statutes of its national central bank, is compatible with the Constitution and the Statute of the European System of Central Banks and of the European Central Bank.</p>
<p style="text-align: center;">ARTICLE 110</p> <p>1. In order to carry out the tasks entrusted to the ESCB, the <b>European Central Bank</b> shall, in accordance with the provisions of <b>the Treaties</b> and under the conditions laid down in the <b>Statute of the ESCB and of the ECB:</b></p> <p>– make regulations to the extent necessary to implement the tasks defined in Article 3.1, first indent, Articles 19.1, 22 and 25.2 of the <b>Statute of the ESCB and of the ECB</b> and in cases which shall be laid down in the acts of the Council referred to in Article 107(6),</p> <p>– take decisions necessary for carrying out the tasks entrusted to the ESCB under <b>the Treaties and the Statute of the ESCB and of the ECB,</b></p>	<p style="text-align: center;">ARTICLE III-190</p> <p>1. In order to carry out the tasks entrusted to the European System of Central Banks, the European Central Bank shall, in accordance with the Constitution and under the conditions laid down in the Statute of the European System of Central Banks and of the European Central Bank, adopt:</p> <p>(a) European regulations to the extent necessary to implement the tasks defined in Article 3(1)(a), Article 19(1), Article 22 and Article 25(2) of the Statute of the European System of Central Banks and of the European Central Bank and in cases which shall be laid down in European regulations and decisions as referred to in Article III-187(4);</p> <p>(b) European decisions necessary for carrying out the tasks entrusted to the European System of Central Banks under the Constitution and the Statute of the European System of Central Banks and of the European Central Bank;</p>



<p>– make recommendations and deliver opinions.</p> <p><del>2. A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.</del></p> <p><del>Recommendations and opinions shall have no binding force.</del></p> <p><del>A decision shall be binding in its entirety upon those to whom it is addressed.</del></p> <p><del>Articles 253, 254 and 256 shall apply to regulations and decisions adopted by the ECB.</del></p> <p>The <b>European Central Bank</b> may decide to publish its decisions, recommendations and opinions.</p> <p>3. Within the limits and under the conditions adopted by the Council under the procedure laid down in Article 107(6), the <b>European Central Bank</b> shall be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its regulations and decisions.</p>	<p>(c) recommendations and opinions.</p> <p>2. The European Central Bank may decide to publish its European decisions, recommendations and opinions.</p> <p>3. The Council shall, under the procedure laid down in Article III-187(4), adopt the European regulations establishing the limits and conditions under which the European Central Bank shall be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its European regulations and decisions.</p>
<p style="text-align: center;">ARTICLE 111</p> <p><b>Without prejudice to the powers of the European Central Bank, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the measures necessary for use of the euro as the</b></p>	<p style="text-align: center;">ARTICLE III-191</p> <p>Without prejudice to the powers of the European Central Bank, European laws or framework laws shall lay down the measures necessary for use of the euro as the single currency. Such laws or framework laws shall be adopted after consultation of the</p>

<p>single currency. Such measures shall be adopted after consultation of the European Central Bank.</p>	<p>European Central Bank.</p>
<p style="text-align: center;">CHAPTER 3 INSTITUTIONAL PROVISIONS</p> <p style="text-align: center;">ARTICLE 112</p> <p>1. In order to promote coordination of the policies of Member States to the full extent needed for the functioning of the internal market, an <b>Economic and Financial Committee</b> is hereby set up. It shall have the following tasks:</p> <ul style="list-style-type: none"> <li><del>— to keep under review the monetary and financial situation of the Member States and of the Community and the general payments system of the Member States and to report regularly thereon to the Council and to the Commission,</del></li> <li><del>— to deliver opinions at the request of the Council or of the Commission, or on its own initiative for submission to those institutions,</del></li> <li>— without prejudice to Article 207, to contribute to the preparation of the work of the Council referred to in Articles 59, 60, 99(2), (3), (4) and (5), 100, 102, 103, 104, 116(2), 117(6), 119, 120, 121(2) and 122(1),</li> <li>— to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of the Treaties and of measures adopted by the Council; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council on the outcome of this examination.</li> </ul>	<p style="text-align: center;">SECTION 3 INSTITUTIONAL PROVISIONS</p> <p style="text-align: center;">ARTICLE III-192</p> <p>1. In order to promote coordination of the policies of Member States to the full extent needed for the functioning of the internal market, an Economic and Financial Committee is hereby set up.</p> <p>2. The Committee shall have the following tasks:</p> <ul style="list-style-type: none"> <li>(a) to deliver opinions at the request of the Council or of the Commission, or on its own initiative, for submission to those institutions;</li> <li>(b) to keep under review the economic and financial situation of the Member States and of the Union and to report on it regularly to the Council and to the Commission, in particular with regard to financial relations with third countries and international institutions;</li> <li>(c) without prejudice to Article III-344, to contribute to the preparation of the work of the Council referred to in Article III-159, Article III-179(2), (3), (4) and (6), Articles III-180, III-183 and III-184, Article III-185(6), Article III-186(2), Article III-187(3) and (4), Articles III-191 and III-196, Article III-198(2) and (3), Article III-201, Article III-202(2) and (3) and Articles III-322 and</li> </ul>

The Member States and the Commission shall each appoint two members of the Monetary Committee.

~~2. At the start of the third stage, an Economic and Financial Committee shall be set up. The Monetary Committee provided for in paragraph 1 shall be dissolved. The Economic and Financial Committee shall have the following tasks:~~

- to deliver opinions at the request of the Council or of the Commission, or on its own initiative for submission to those institutions,
- to keep under review the economic and financial situation of the Member States and of the **Union** and to report regularly thereon to the Council and to the Commission, in particular on financial relations with third countries and international institutions,
- without prejudice to Article 207, to contribute to the preparation of the work of the Council referred to in Articles 59, 60, 99(2), (3), (4) and (5), 100, 102, 103, 104, 105(6), 106(2), 107(5) and (6), 111, 119, 120(2) and (3), 122(2), 123(4) and (5), and to carry out other advisory and preparatory tasks assigned to it by the Council,
- to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of the **Treaties** and of measures adopted by the Council; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council

III-326, and to carry out other advisory and preparatory tasks assigned to it by the Council;

(d) to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of the Constitution and of Union acts; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council on the outcome of this examination.

The Member States, the Commission and the European Central Bank shall each appoint no more than two members of the Committee.

<p>on the outcome of this examination.</p> <p>The Member States, the Commission and the <b>European Central Bank</b> shall each appoint no more than two members of the Committee.</p> <p>3. The Council shall, <del>acting by a qualified majority</del> on a proposal from the Commission and after consulting the <b>European Central Bank</b> and the Committee referred to in this Article, lay down detailed provisions concerning the composition of the Economic and Financial Committee. The President of the Council shall inform the European Parliament of such a decision.</p> <p>4. In addition to the tasks set out in paragraph 2, if and as long as there are Member States with a derogation as referred to in Articles 122 and 123, the Committee shall keep under review the monetary and financial situation and the general payments system of those Member States and report regularly thereon to the Council and to the Commission.</p>	<p>3. The Council, on a proposal from the Commission, shall adopt a European decision laying down detailed provisions concerning the composition of the Economic and Financial Committee. It shall act after consulting the European Central Bank and the Committee. The President of the Council shall inform the European Parliament of that decision.</p> <p>4. In addition to the tasks referred to in paragraph 2, if and as long as there are Member States with a derogation as referred to in Article III-197, the Committee shall keep under review the monetary and financial situation and the general payments system of those Member States and report regularly to the Council and to the Commission on the matter.</p>
<p style="text-align: center;">ARTICLE 113</p> <p>For matters within the scope of Articles 99(4), 104 with the exception of paragraph 14, 111, 121, 122 and 123(4) and (5), the Council or a Member State may request the Commission to make a recommendation or a proposal, as appropriate. The Commission shall examine this request and submit its conclusions to the Council without delay.</p>	<p style="text-align: center;">ARTICLE III-193</p> <p>For matters within the scope of Article III-179(4), Article III-184 with the exception of paragraph 13, Articles III-191, III-196, Article III-198(3) and Article III-326, the Council or a Member State may request the Commission to make a recommendation or a proposal, as appropriate. The Commission shall examine this request and submit its conclusions to the Council without delay.</p>
<p style="text-align: center;">CHAPTER 3a</p>	<p style="text-align: center;">SECTION 4</p>

<p style="text-align: center;"><b>PROVISIONS SPECIFIC TO MEMBER STATES WHOSE CURRENCY IS THE EURO</b></p> <p style="text-align: center;"><b>ARTICLE 114</b></p> <p>1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Treaties, the Council shall, in accordance with the relevant procedure from among those referred to in Articles [III-179 and III-184], with the exception of the procedure set out in Article [III-184(13)], adopt measures specific to those Member States whose currency is the euro:</p> <p>(a) to strengthen the coordination and surveillance of their budgetary discipline;</p> <p>(b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.</p> <p>2. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote. A qualified majority of the said members shall be defined in accordance with Article 205(3)(a).</p>	<p style="text-align: center;"><b>PROVISIONS SPECIFIC TO MEMBER STATES WHOSE CURRENCY IS THE EURO</b></p> <p style="text-align: center;"><b>ARTICLE III-194</b></p> <p>1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Constitution, the Council shall, in accordance with the relevant procedure from among those referred to in Articles III-179 and III-184, with the exception of the procedure set out in Article III-184(13), adopt measures specific to those Member States whose currency is the euro:</p> <p>(a) to strengthen the coordination and surveillance of their budgetary discipline;</p> <p>(b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.</p> <p>2. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote. A qualified majority shall be defined as at least 55% of these members of the Council, representing Member States comprising at least 65% of the population of the participating Member States. A blocking minority must include at least the minimum number of these Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.</p>
<b>ARTICLE 115</b>	<b>ARTICLE III-195</b>

<p>Arrangements for meetings between ministers of those Member States whose currency is the euro are laid down by the Protocol on the Euro Group.</p>	<p>Arrangements for meetings between ministers of those Member States whose currency is the euro are laid down by the Protocol on the Euro Group.</p>
<p style="text-align: center;">ARTICLE 115a</p> <p>1. In order to secure the euro's place in the international monetary system, the Council, on a proposal from the Commission, shall adopt a decision establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences. The Council shall act after consulting the European Central Bank.</p> <p>2. The Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Council shall act after consulting the European Central Bank.</p> <p>3. For the measures referred to in paragraphs 1 and 2, only members of the Council representing Member States whose currency is the euro shall take part in the vote. A qualified majority of the said members shall be defined in accordance with Article 205(3)(a).</p>	<p style="text-align: center;">ARTICLE III-196</p> <p>1. In order to secure the euro's place in the international monetary system, the Council, on a proposal from the Commission, shall adopt a European decision establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences. The Council shall act after consulting the European Central Bank.</p> <p>2. The Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Council shall act after consulting the European Central Bank.</p> <p>3. For the measures referred to in paragraphs 1 and 2, only members of the Council representing Member States whose currency is the euro shall take part in the vote.</p> <p>A qualified majority shall be defined as at least 55% of these members of the Council, representing Member States comprising at least 65% of the population of the participating Member States.</p> <p>A blocking minority must include at least the minimum number of these Council members representing more than 35% of the population of the participating Member States, plus one</p>

	member, failing which the qualified majority shall be deemed attained.
<p style="text-align: center;">CHAPTER 4 TRANSITIONAL PROVISIONS</p> <p style="text-align: center;">ARTICLE 116</p> <p>1. Member States in respect of which the Council has not decided that they fulfil the necessary conditions for the adoption of the euro shall hereinafter be referred to as Member States with a derogation.</p> <p>2. The following provisions of the Treaties shall not apply to Member States with a derogation:</p> <p>(a) adoption of the parts of the broad economic policy guidelines which concern the euro area generally [(Article III-179(2))];</p> <p>(b) coercive means of remedying excessive deficits [(Article III-184(9) and (10))];</p> <p>(c) the objectives and tasks of the European System of Central Banks [(Article III-185(1), (2), (3) and (5))];</p> <p>(d) issue of the euro [(Article III-186)];</p> <p>(e) acts of the European Central Bank [(Article III-190)];</p> <p>(f) measures governing the use of the euro [(Article III-191)];</p>	<p style="text-align: center;">SECTION 5 TRANSITIONAL PROVISIONS</p> <p style="text-align: center;">ARTICLE III-197</p> <p>1. Member States in respect of which the Council has not decided that they fulfil the necessary conditions for the adoption of the euro shall hereinafter be referred to as "Member States with a derogation".</p> <p>2. The following provisions of the Constitution shall not apply to Member States with a derogation:</p> <p>(a) adoption of the parts of the broad economic policy guidelines which concern the euro area generally (Article III-179(2));</p> <p>(b) coercive means of remedying excessive deficits (Article III-184(9) and (10));</p> <p>(c) the objectives and tasks of the European System of Central Banks (Article III-185(1), (2), (3) and (5));</p> <p>(d) issue of the euro (Article III-186);</p> <p>(e) acts of the European Central Bank (Article III-190);</p> <p>(f) measures governing the use of the euro (Article III-191);</p>

<p>(g) monetary agreements and other measures relating to exchange-rate policy [(Article III-326)];</p> <p>(h) appointment of members of the Executive Board of the European Central Bank [(Article III-382(2))];</p> <p>(i) decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences [(Article III-196(1))];</p> <p>(j) measures to ensure unified representation within the international financial institutions and conferences [(Article III-196(2))]. In the Articles referred to in points (a) to (j), "Member States" shall therefore mean Member States whose currency is the euro.</p> <p>3. Under Chapter IX of the Statute of the European System of Central Banks and of the European Central Bank, Member States with a derogation and their national central banks are excluded from rights and obligations within the European System of Central Banks.</p> <p>4. The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in paragraph 2, and in the following instances:</p> <p>(a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and</p>	<p>(g) monetary agreements and other measures relating to exchange-rate policy (Article III-326);</p> <p>(h) appointment of members of the Executive Board of the European Central Bank (Article III-382(2));</p> <p>(i) European decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences (Article III-196(1));</p> <p>(j) measures to ensure unified representation within the international financial institutions and conferences (Article III-196(2)). In the Articles referred to in points (a) to (j), "Member States" shall therefore mean Member States whose currency is the euro.</p> <p>3. Under Chapter IX of the Statute of the European System of Central Banks and of the European Central Bank, Member States with a derogation and their national central banks are excluded from rights and obligations within the European System of Central Banks.</p> <p>4. The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in paragraph 2, and in the following instances:</p> <p>(a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings (Article III-179(4));</p>
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<p>warnings [(Article III-179(4));</p> <p>(b) measures relating to excessive deficits concerning those Member States whose currency is the euro [(Article III-184(6), (7), (8) and (11)]. A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a).</p>	<p>(b) measures relating to excessive deficits concerning those Member States whose currency is the euro (Article III-184(6), (7), (8) and (11)).</p> <p>A qualified majority shall be defined as at least 55% of the other members of the Council, representing Member States comprising at least 65% of the population of the participating Member States.</p> <p>A blocking minority must include at least the minimum number of these other Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.</p>
<p style="text-align: center;">ARTICLE 117</p> <p>1.<sup>43</sup>At least once every two years, or at the request of a Member State with a derogation, the Commission and the European Central Bank shall report to the Council on the progress made by the Member States with a derogation in fulfilling their obligations regarding the achievement of economic and monetary union. These reports shall include an examination of the compatibility between the national legislation of each of these Member States, including the statutes of its national central bank, and Articles 108 and 109 of the Treaties and the Statute of the ESCB and of the ECB. The reports shall also examine the achievement of a high degree of sustainable convergence by reference to the fulfilment by each Member State of the following criteria:</p>	<p style="text-align: center;">ARTICLE III-198</p> <p>1. At least once every two years, or at the request of a Member State with a derogation, the Commission and the European Central Bank shall report to the Council on the progress made by the Member States with a derogation in fulfilling their obligations regarding the achievement of economic and monetary union. These reports shall include an examination of the compatibility between the national legislation of each of these Member States, including the statutes of its national central bank, and Articles III-188 and III-189 and the Statute of the European System of Central Banks and of the European Central Bank. The reports shall also examine whether a high degree of sustainable convergence has been achieved, by analysing how far each of these Member States has fulfilled the following criteria:</p>

– the achievement of a high degree of price stability; this will be apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability,

– the sustainability of the government financial position; this will be apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article 104(6),

– the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European Monetary System, for at least two years, without devaluing against the euro;

– the durability of convergence achieved by the Member State with a derogation and of its participation in the exchange-rate mechanism of the European Monetary System being reflected in the long-term interest-rate levels.

The four criteria mentioned in this paragraph and the relevant periods over which they are to be respected are developed further in a Protocol annexed to the Treaties. The reports of the Commission and the European Central Bank shall also take account of the development of the ecu, the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

The Statute of the European Central Bank is laid down in a Protocol annexed to the Treaties.

(a) the achievement of a high degree of price stability; this is apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability;

(b) the sustainability of the government financial position; this is apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article III-184(6);

(c) the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European monetary system, for at least two years, without devaluing against the euro;

(d) the durability of convergence achieved by the Member State with a derogation and of its participation in the exchange-rate mechanism, being reflected in the long-term interest-rate levels.

The four criteria laid down in this paragraph and the relevant periods over which they are to be respected are developed further in the Protocol on the convergence criteria. The reports from the Commission and the European Central Bank shall also take account of the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

2. After consulting the European Parliament and after

2.<sup>44</sup> After consulting the European Parliament and after discussion in the **European Council**, the Council shall, ~~acting by a qualified majority~~ on a proposal from the Commission, decide which Member States with a derogation fulfil the necessary conditions on the basis of the criteria set out in Article 121(1), and abrogate the derogations of the Member States concerned.

**The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.**

**The qualified majority of the said members, as referred to in the second subparagraph, shall be defined in accordance with Article 205(3)(a).**

3.<sup>45</sup> **If it is decided, in accordance with the procedure set out in paragraph 2, to abrogate a derogation, Council shall, acting with the unanimity of the Members States whose currency is the euro and the Member State concerned, on a proposal from the Commission and after consulting the European Central Bank, irrevocably fix the rate at which the euro shall be substituted for the currency of the Member State concerned, and take the other measures necessary for the introduction of the euro as the single currency in the**

discussion in the European Council, the Council, on a proposal from the Commission, shall adopt a European decision establishing which Member States with a derogation fulfil the necessary conditions on the basis of the criteria laid down in paragraph 1, and shall abrogate the derogations of the Member States concerned.

The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.

The qualified majority referred to in the second subparagraph shall be defined as at least 55% of these members of the Council, representing Member States comprising at least 65% of the population of the participating Member States.

A blocking minority must include at least the minimum number of these Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

3. If it is decided, in accordance with the procedure set out in paragraph 2, to abrogate a derogation, the Council shall, on a proposal from the Commission, adopt the European regulations or decisions irrevocably fixing the rate at which the euro is to be substituted for the currency of the Member State concerned, and laying down the other measures necessary for the introduction of the euro as the single currency in that Member State. The Council shall act with the unanimous agreement of the members representing Member States whose currency is the

<p>Member State concerned.<sup>46</sup></p>	<p>euro and the Member State concerned, after consulting the <b>European Central Bank</b>.</p>
<p style="text-align: center;">ARTICLE 118</p> <p><sup>47</sup>If and as long as there are Member States with a derogation, and without prejudice to Article 107(3) <del>of this Treaty</del>, the General Council of the <b>European Central Bank</b> referred to in Article 45 of the <b>Statute of the ESCB and of the ECB</b> shall be constituted as a third decision-making body of the <b>European Central Bank</b>.</p> <p><b>If and as long as there are Member States with a derogation, the European Central Bank shall, as regards those Member States:</b></p> <p><sup>48</sup>— strengthen cooperation between the national central banks,</p> <ul style="list-style-type: none"> <li>— strengthen the coordination of the monetary policies of the Member States, with the aim of ensuring price stability,</li> <li>— monitor the functioning of the European Monetary System,</li> <li>— hold consultations concerning issues falling within the competence of the national central banks and affecting the stability of financial institutions and markets,</li> <li>— <b>carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute.</b></li> </ul>	<p style="text-align: center;">ARTICLE III-199</p> <p>1. If and as long as there are Member States with a derogation, and without prejudice to Article III-187(1), the General Council of the European Central Bank referred to in Article 45 of the Statute of the European System of Central Banks and of the European Central Bank shall be constituted as a third decision-making body of the European Central Bank.</p> <p>2. If and as long as there are Member States with a derogation, the European Central Bank shall, as regards those Member States:</p> <ul style="list-style-type: none"> <li>(a) strengthen cooperation between the national central banks;</li> <li>(b) strengthen the coordination of the monetary policies of the Member States, with the aim of ensuring price stability;</li> <li>(c) monitor the functioning of the exchange-rate mechanism;</li> <li>(d) hold consultations concerning issues falling within the competence of the national central banks and affecting the stability of financial institutions and markets;</li> <li>(e) carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute.</li> </ul>

<p style="text-align: center;">ARTICLE 118a</p> <p>Each Member State with a derogation shall treat its exchange-rate policy as a matter of common interest. In so doing, Member States shall take account of the experience acquired in cooperation within the framework of the exchange-rate mechanism..</p> <p>From the beginning of the third stage and for as long as a Member State has a derogation, paragraph 1 shall apply by analogy to the exchange-rate policy of that Member State.</p>	<p style="text-align: center;">ARTICLE III-200</p> <p>Each Member State with a derogation shall treat its exchange-rate policy as a matter of common interest. In so doing, it shall take account of the experience acquired in cooperation within the framework of the exchange rate mechanism.</p>
<p style="text-align: center;">ARTICLE 119</p> <p>1. Where a Member State <b>with a derogation</b> is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of the <b>internal market</b> or the <del>progressive</del> implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the provisions of the Treaties. The Commission shall state</p>	<p style="text-align: center;">ARTICLE III-201</p> <p>1. Where a Member State with a derogation is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of the internal market or the implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the Constitution. The Commission shall state what measures it recommends the Member State concerned to</p>

<p>what measures it recommends the State concerned to take.</p> <p>If the action taken by a Member State <b>with a derogation</b> and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the <b>Economic and Financial Committee</b>, recommend to the Council the granting of mutual assistance and appropriate methods therefore.</p> <p>The Commission shall keep the Council regularly informed of the situation and of how it is developing.</p> <p>2. The Council, acting by a qualified majority, shall grant such mutual assistance; it shall adopt directives or decisions laying down the conditions and details of such assistance, which may take such forms as:</p> <p>a) a concerted approach to or within any other international organisations to which Member States may have recourse;</p> <p>b) measures needed to avoid deflection of trade where <b>the Member State with a derogation which is in difficulties</b>, maintains or reintroduces quantitative restrictions against third countries;</p> <p>c) the granting of limited credits by other Member States, subject to their agreement.</p> <p>3. If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, <b>the</b></p>	<p>adopt.</p> <p>If the action taken by a Member State with a derogation and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the Economic and Financial Committee, recommend to the Council the granting of mutual assistance and appropriate methods.</p> <p>The Commission shall keep the Council regularly informed of the situation and of how it evolves.</p> <p>2. The Council shall adopt European regulations or decisions granting such mutual assistance and laying down the conditions and details of such assistance, which may take such forms as:</p> <p>(a) a concerted approach to or within any other international organizations to which Member States with a derogation may have recourse;</p> <p>(b) measures needed to avoid deflection of trade where the Member State with a derogation, which is in difficulties, maintains or reintroduces quantitative restrictions against third countries;</p> <p>(c) the granting of limited credits by other Member States, subject to their agreement.</p> <p>3. If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, the Commission shall</p>
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<p>Commission shall authorise the Member State with a derogation, which is in difficulties, to take protective measures, the conditions and details of which the Commission shall determine. Such authorisation may be revoked and such conditions and details may be changed by the Council acting by a qualified majority.</p> <p><del>4. Subject to Article 122(6), this article shall cease to apply from the beginning of the third stage.</del></p>	<p>authorise the Member State with a derogation, which is in difficulties, to take protective measures, the conditions and details of which the Commission shall determine. Such authorisation may be revoked and such conditions and details may be changed by the Council.</p>
<p style="text-align: center;">ARTICLE 120</p> <p>1. Where a sudden crisis in the balance of payments occurs and a decision within the meaning of Article 119(2) is not immediately taken, a Member State with a derogation may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the internal market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.</p> <p>2. The Commission and the other Member States shall be informed of such protective measures not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article 119.</p> <p>3. After the Commission has delivered a recommendation and the Economic and Financial Committee has been consulted, the Council may, acting by a qualified majority, decide that the State concerned shall amend, suspend or abolish the protective measures referred to above.</p>	<p style="text-align: center;">ARTICLE III-202</p> <p>1. Where a sudden crisis in the balance of payments occurs and a European decision as referred to in Article III-201(2) is not immediately adopted, a Member State with a derogation may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the internal market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.</p> <p>2. The Commission and the other Member States shall be informed of the protective measures referred to in paragraph 1 not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article III-201.</p> <p>3. The Council, acting on a recommendation from the Commission and after consulting the Economic and Financial Committee may adopt a European decision stipulating that the Member State concerned shall amend, suspend or abolish the protective measures referred to in paragraph 1.</p>

<p><del>4. Subject to Article 122(6), this article shall cease to apply from the beginning of the third stage.</del></p>	
<p>Article 121 - 124 are apparently repealed, without being replaced. It is unclear, however, whether Article 121 excluding paragraph 1 (which becomes Art 117(1)) will remain in the treaty, or whether there has merely been a drafting error, as there is no provision made for renumbering the remaining paragraphs of the article.</p>	
<p style="text-align: center;">TITLE VIII EMPLOYMENT</p> <p style="text-align: center;">ARTICLE 125</p> <p>Member States and the Union shall, in accordance with this title, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives defined in Article 2 of the Treaty on European Union and in Article 2 of the Treaties.</p>	<p style="text-align: center;">CHAPTER III POLICIES IN OTHER AREAS SECTION 1 EMPLOYMENT</p> <p style="text-align: center;">ARTICLE III-203</p> <p>The Union and the Member States shall, in accordance with this Section, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives referred to in Article I-3.</p>
<p style="text-align: center;">ARTICLE 126</p> <p>1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article 125 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Union adopted pursuant to Article 99(2).</p>	<p style="text-align: center;">ARTICLE III-204</p> <p>1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article III-203 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Union adopted pursuant to Article III-179(2).</p>



<p>2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with the provisions of Article 128.</p>	<p>2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with Article III-206.</p>
<p style="text-align: center;">ARTICLE 127</p> <p>1. The <b>Union</b> shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected.</p> <p>2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of <b>Union</b> policies and activities.</p>	<p style="text-align: center;">ARTICLE III-205</p> <p>1. The Union shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected.</p> <p>2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of Union policies and activities.</p>
<p style="text-align: center;">ARTICLE 128</p> <p>1. The European Council shall each year consider the employment situation in the <b>Union</b> and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.</p> <p>2. On the basis of the conclusions of the European Council, the Council, <del>acting by a qualified majority</del> on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Employment Committee referred to in Article 130, shall each year draw up guidelines</p>	<p style="text-align: center;">ARTICLE III-206</p> <p>1. The European Council shall each year consider the employment situation in the Union and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.</p> <p>2. On the basis of the conclusions of the European Council, the Council, on a proposal from the Commission, shall each year adopt guidelines which the Member States shall take into account in their employment policies. It shall act after consulting the European Parliament, the Committee of the Regions, the Economic and Social Committee and the</p>

<p>which the Member States shall take into account in their employment policies. These guidelines shall be consistent with the broad guidelines adopted pursuant to Article 99(2).</p> <p>3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.</p> <p>4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, <del>acting by a qualified majority</del> on a recommendation from the Commission, may, if it considers it appropriate in the light of that examination, make recommendations to Member States.</p> <p>5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the <b>Union</b> and on the implementation of the guidelines for employment.</p>	<p>Employment Committee. These guidelines shall be consistent with the broad guidelines adopted pursuant to Article III-179(2).</p> <p>3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.</p> <p>4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, on a recommendation from the Commission, may adopt recommendations which it shall address to Member States.</p> <p>5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the Union and on the implementation of the guidelines for employment.</p>
<p style="text-align: center;">ARTICLE 129</p> <p>The Council, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee and the Committee of the Regions, may adopt incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing</p>	<p style="text-align: center;">ARTICLE III-207</p> <p>European laws or framework laws may establish incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot</p>

<p>comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects.</p> <p>Those measures shall not include harmonisation of the laws and regulations of the Member States.</p>	<p>projects. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p> <p>Such European laws or framework laws shall not include harmonisation of the laws and regulations of the Member States.</p>
<p style="text-align: center;">ARTICLE 130</p> <p>The Council, <b>acting by a simple majority</b>, after consulting the European Parliament, shall establish an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. The tasks of the Committee shall be:</p> <ul style="list-style-type: none"> <li>- to monitor the employment situation and employment policies in the Union and the Member States;</li> <li>- without prejudice to Article III-344, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article III-206.</li> </ul> <p>In fulfilling its mandate, the Committee shall consult management and labour.</p> <p>Each Member State and the Commission shall appoint two members of the Committee.</p>	<p style="text-align: center;">ARTICLE III-208</p> <p>The Council shall, by a simple majority, adopt a European decision establishing an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. It shall act after consulting the European Parliament. The tasks of the Committee shall be:</p> <ul style="list-style-type: none"> <li>(a) to monitor the employment situation and employment policies in the Union and the Member States;</li> <li>(b) without prejudice to Article III-344, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article III-206.</li> </ul> <p>In fulfilling its mandate, the Committee shall consult management and labour.</p> <p>Each Member State and the Commission shall appoint two members of the Committee.</p>
<p style="text-align: center;">TITLE IX</p>	<p style="text-align: center;">SECTION 2</p>

<p style="text-align: center;"><b>SOCIAL POLICY</b></p> <p style="text-align: center;">ARTICLE 136</p> <p>The <b>Union</b> and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.</p> <p>To this end the <b>Union</b> and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the <b>Union</b> economy.</p> <p>They believe that such a development will ensue not only from the functioning of the <b>internal market</b>, which will favour the harmonisation of social systems, but also from the procedures provided for in <b>the Treaties</b> and from the approximation of provisions laid down by law, regulation or administrative action.</p>	<p style="text-align: center;"><b>SOCIAL POLICY</b></p> <p style="text-align: center;">ARTICLE III-209</p> <p>The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.</p> <p>To this end the Union and the Member States shall act taking account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy.</p> <p>They believe that such a development will ensue not only from the functioning of the internal market, which will favour the harmonisation of social systems, but also from the procedures provided for in the Constitution and from the approximation of provisions laid down by law, regulation or administrative action of the Member States.</p>
<p style="text-align: center;">ARTICLE 136a</p>	<p style="text-align: center;">ARTICLE I-48</p> <p style="text-align: center;">The social partners and autonomous social dialogue</p>

<p>The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.</p> <p>The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.</p>	<p>The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.</p> <p>The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.</p>
<p style="text-align: center;">ARTICLE 137</p> <p>1. With a view to achieving the objectives of Article 136, the Union shall support and complement the activities of the Member States in the following fields:</p> <p>(a) improvement in particular of the working environment to protect workers' health and safety;</p> <p>(b) working conditions;</p> <p>(c) social security and social protection of workers;</p> <p>(d) protection of workers where their employment contract is terminated;</p> <p>(e) the information and consultation of workers;</p> <p>(f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 5;</p> <p>(g) conditions of employment for third-country nationals legally residing in Union territory;</p>	<p style="text-align: center;">ARTICLE III-210</p> <p>1. With a view to achieving the objectives of Article III-209, the Union shall support and complement the activities of the Member States in the following fields:</p> <p>(a) improvement in particular of the working environment to protect workers' health and safety;</p> <p>(b) working conditions;</p> <p>(c) social security and social protection of workers;</p> <p>(d) protection of workers where their employment contract is terminated;</p> <p>(e) the information and consultation of workers;</p> <p>(f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 6;</p> <p>(g) conditions of employment for third-country nationals legally residing in Union territory;</p>

<p>(h) the integration of persons excluded from the labour market, without prejudice to Article 150;</p> <p>(i) equality between men and women with regard to labour market opportunities and treatment at work;</p> <p>(j) the combating of social exclusion;</p> <p>(k) the modernisation of social protection systems without prejudice to point (c).</p> <p>2. To this end, <b>the European Parliament and the Council:</b></p> <p>(a) may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;</p> <p>(b) may adopt, in the fields referred to in paragraph 1(a) to (i), by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.</p> <p><b>The European Parliament and the Council shall act in accordance with the ordinary legislative procedure after consulting the Economic and Social Committee and the</b></p>	<p>(h) the integration of persons excluded from the labour market, without prejudice to Article III-283;</p> <p>(i) equality between women and men with regard to labour market opportunities and treatment at work;</p> <p>(j) the combating of social exclusion;</p> <p>(k) the modernisation of social protection systems without prejudice to point (c).</p> <p>2. For the purposes of paragraph 1:</p> <p>(a) European laws or framework laws may establish measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;</p> <p>(b) in the fields referred to in paragraph 1(a) to (i), European framework laws may establish minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such European framework laws shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.</p> <p>In all cases, such European laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p>
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**Committee of the Regions.**

In the fields referred to in paragraph 1(c), (d), (f) and (g) of this Article, the Council shall act unanimously, in accordance with a special legislative procedure, after consulting the European Parliament and the said Committees.

The Council, acting unanimously on a proposal from the Commission, after consulting the European Parliament, may decide to render the ordinary legislative procedure applicable to paragraph 1(d), (f) and (g) of this article.

3. A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraph 2 or, where appropriate, with the implementation of a Council decision adopted in accordance with Article [III-212].

In this case, it shall ensure that, no later than the date on which a directive or a decision must be transposed or implemented, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive or that decision.

4. The provisions adopted pursuant to this article:

3. By way of derogation from paragraph 2, in the fields referred to in paragraph 1(c), (d), (f) and (g), European laws or framework laws shall be adopted by the Council acting unanimously after consulting the European Parliament, the Committee of the Regions and the Economic and Social Committee.

The Council may, on a proposal from the Commission, adopt a European decision making the ordinary legislative procedure applicable to paragraph 1(d), (f) and (g). It shall act unanimously after consulting the European Parliament.

4. A Member State may entrust management and labour, at their joint request, with the implementation of European framework laws adopted pursuant to paragraphs 2 and 3 or, where appropriate, with the implementation of European regulations or decisions adopted in accordance with Article III-212.

In this case, it shall ensure that, no later than the date on which a European framework law must be transposed, or a European regulation or decision implemented, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that framework law, regulation or decision.

5. The European laws and framework laws adopted pursuant to this Article:

(a) shall not affect the right of Member States to define the

<p>– shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof,</p> <p>– shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Treaties.</p> <p>5. The provisions of this article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.</p>	<p>fundamental principles of their social security systems and must not significantly affect the financial equilibrium of such systems;</p> <p>(b) shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Constitution.</p> <p>6. This Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.</p>
<p style="text-align: center;">ARTICLE 138</p> <p>1. The Commission shall have the task of promoting the consultation of management and labour at <b>Union</b> level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.</p> <p>2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of <b>Union</b> action.</p> <p>3. If, after such consultation, the Commission considers <b>Union</b> action advisable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.</p> <p>4. On the occasion of the consultation referred to in</p>	<p style="text-align: center;">ARTICLE III-211</p> <p>1. The Commission shall promote the consultation of management and labour at Union level and shall adopt any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.</p> <p>2. For the purposes of paragraph 1, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Union action.</p> <p>3. If, after the consultation referred to in paragraph 2, the Commission considers Union action desirable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.</p> <p>4. On the occasion of the consultation referred to in paragraphs</p>



<p>paragraphs 2 and 3, management and labour may inform the Commission of their wish to initiate the process provided for in Article 139. The duration of this process shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.</p>	<p>2 and 3, management and labour may inform the Commission of their wish to initiate the process provided for in Article III-212(1). The duration of this process shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.</p>
<p style="text-align: center;">ARTICLE 139</p> <p>1. Should management and labour so desire, the dialogue between them at <b>Union</b> level may lead to contractual relations, including agreements.</p> <p>2. Agreements concluded at <b>Union</b> level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 137, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission. <b>The European Parliament shall be informed.</b></p> <p><b>The Council shall act unanimously where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to Article 137(2).</b></p>	<p style="text-align: center;">ARTICLE III-212</p> <p>1. Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements.</p> <p>2. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article III-210, at the joint request of the signatory parties, by European regulations or decisions adopted by the Council on a proposal from the Commission. The European Parliament shall be informed.</p> <p>Where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to Article III-210(3), the Council shall act unanimously.</p>
<p style="text-align: center;">ARTICLE 140</p> <p>With a view to achieving the objectives of Article 136 and without prejudice to the other provisions of <b>the Treaties</b>, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this chapter, particularly in matters</p>	<p style="text-align: center;">ARTICLE III-213</p> <p>With a view to achieving the objectives of Article III-209 and without prejudice to the other provisions of the Constitution, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this Section, particularly in matters</p>

<p>relating to:</p> <ul style="list-style-type: none"> <li>- employment;</li> <li>- labour law and working conditions;</li> <li>- basic and advanced vocational training;</li> <li>- social security;</li> <li>- prevention of occupational accidents and diseases;</li> <li>- occupational hygiene;</li> <li>- the right of association and collective bargaining between employers and workers.</li> </ul> <p>To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organizations, <b>in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.</b></p> <p>Before delivering the opinions provided for in this article, the Commission shall consult the Economic and Social Committee.</p>	<p>relating to:</p> <ul style="list-style-type: none"> <li>(a) employment;</li> <li>(b) labour law and working conditions;</li> <li>(c) basic and advanced vocational training;</li> <li>(d) social security;</li> <li>(e) prevention of occupational accidents and diseases;</li> <li>(f) occupational hygiene;</li> <li>(g) the right of association and collective bargaining between employers and workers.</li> </ul> <p>To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.</p> <p>Before delivering the opinions provided for in this Article, the Commission shall consult the Economic and Social Committee.</p>
<p style="text-align: center;">ARTICLE 141</p> <p>1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.</p> <p>2. For the purpose of this article, "pay" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly</p>	<p style="text-align: center;">ARTICLE III-214</p> <p>1. Each Member State shall ensure that the principle of equal pay for female and male workers for equal work or work of equal value is applied.</p> <p>2. For the purpose of this Article, "pay" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly</p>

<p>or indirectly, in respect of his employment, from his employer.</p> <p>Equal pay without discrimination based on sex means:</p> <ul style="list-style-type: none"> <li>- that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;</li> <li>- that pay for work at time rates shall be the same for the same job.</li> </ul> <p>3. The Council, acting in accordance with the <b>ordinary legislative procedure</b>, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.</p> <p>4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.</p>	<p>or indirectly, in respect of his employment, from his employer.</p> <p>Equal pay without discrimination based on sex means:</p> <ul style="list-style-type: none"> <li>(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;</li> <li>(b) that pay for work at time rates shall be the same for the same job.</li> </ul> <p>3. European laws or framework laws shall establish measures to ensure the application of the principle of equal opportunities and equal treatment of women and men in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value. They shall be adopted after consultation of the Economic and Social Committee.</p> <p>4. With a view to ensuring full equality in practice between women and men in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity, or to prevent or compensate for disadvantages in professional careers.</p>
<p style="text-align: center;">ARTICLE 142</p> <p>Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.</p>	<p style="text-align: center;">ARTICLE III-215</p> <p>Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.</p>
<p style="text-align: center;">ARTICLE 143</p>	<p style="text-align: center;">ARTICLE III-216</p>

<p>The Commission shall draw up a report each year on progress in achieving the objectives of Article 136, including the demographic situation in the <b>Union</b>. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.</p> <p>The European Parliament may invite the Commission to draw up reports on particular problems concerning the social situation.</p>	<p>The Commission shall draw up a report each year on progress in achieving the objectives of Article III-209, including the demographic situation within the Union. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.</p>
<p style="text-align: center;">ARTICLE 144</p> <p>The Council, <b>acting by a simple majority</b> after consulting the European Parliament, shall establish a Social Protection Committee with advisory status to promote cooperation on social protection policies between Member States and with the Commission. The tasks of the Committee shall be:</p> <ul style="list-style-type: none"> <li>- to monitor the social situation and the development of social protection policies in the Member States and within the Union;</li> <li>- to promote exchanges of information, experience and good practice between Member States and with the Commission;</li> <li>- without prejudice to Article III-344, to prepare reports, formulate opinions or undertake other work within the scope of its powers, at the request of either the Council or the Commission or on its own initiative.</li> </ul>	<p style="text-align: center;">ARTICLE III-217</p> <p>The Council shall, by a simple majority, adopt a European decision establishing a Social Protection Committee with advisory status to promote cooperation on social protection policies between Member States and with the Commission. The Council shall act after consulting the European Parliament.</p> <p>The tasks of the Committee shall be:</p> <ul style="list-style-type: none"> <li>(a) to monitor the social situation and the development of social protection policies in the Member States and within the Union;</li> <li>(b) to promote exchanges of information, experience and good practice between Member States and with the Commission;</li> <li>(c) without prejudice to Article III-344, to prepare reports, formulate opinions or undertake other work within the scope of its powers, at the request of either the Council or the Commission or on its own initiative.</li> </ul> <p>In fulfilling its mandate, the Committee shall establish</p>

<p>In fulfilling its mandate, the Committee shall establish appropriate contacts with management and labour. Each Member State and the Commission shall appoint two members of the Committee.</p>	<p>appropriate contacts with management and labour. Each Member State and the Commission shall appoint two members of the Committee.</p>
<p style="text-align: center;">ARTICLE 145</p> <p>The Commission shall include a separate chapter on social developments within the <b>Union</b> in its annual report to the European Parliament.</p> <p>The European Parliament may invite the Commission to draw up reports on any particular problems concerning social conditions.</p>	<p style="text-align: center;">ARTICLE III-218</p> <p>The Commission shall include a separate chapter on social developments within the Union in its annual report to the European Parliament.</p> <p>The European Parliament may invite the Commission to draw up reports on any particular problems concerning social conditions.</p>
<p style="text-align: center;"><b>Title X</b> <b>THE EUROPEAN SOCIAL FUND</b></p> <p style="text-align: center;">ARTICLE 146</p> <p>In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established in accordance with the provisions set out below; it shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the <b>Union</b>, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining.</p>	<p style="text-align: center;">ARTICLE III-219</p> <p>1. In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established; it shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the Union, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining.</p>
<p style="text-align: center;">ARTICLE 147</p>	

<p>The Fund shall be administered by the Commission. The Commission shall be assisted in this task by a Committee presided over by a Member of the Commission and composed of representatives of governments, trade unions and employers' organisations.</p>	<p>2. The Commission shall administer the Fund. It shall be assisted in this task by a Committee presided over by a member of the Commission and composed of representatives of Member States, trade unions and employers' organisations.</p>
<p style="text-align: center;">ARTICLE 148</p> <p>The Council, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt implementing decisions relating to the European Social Fund.</p>	<p>3. European laws shall establish implementing measures relating to the Fund. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p>
<p>Articles 149 and 150 become Articles 176b and 176c respectively; Article 151 shall become Article 176d; Article 152 becomes Article 176e. These article numbers are not replaced.</p>	
<p style="text-align: center;">TITLE XI CONSUMER PROTECTION</p> <p style="text-align: center;">ARTICLE 153<sup>49</sup></p> <p>1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the <b>Union</b> shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.</p> <p>2. The <b>Union</b> shall contribute to the attainment of the objectives referred to in paragraph 1 through:</p>	<p style="text-align: center;">SECTION 6 CONSUMER PROTECTION</p> <p style="text-align: center;">ARTICLE III-235</p> <p>1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the <b>Union</b> shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.</p> <p>2. The <b>Union</b> shall contribute to the attainment of the objectives referred to in paragraph 1 through:</p>

<p>(a) measures adopted pursuant to Article III-172 in the context of the establishment and functioning of the internal market;</p> <p>(b) measures which support, supplement and monitor the policy pursued by the Member States.</p> <p>3. The Council, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee, shall adopt the measures referred to in paragraph 3(b).</p> <p>4. Measures adopted pursuant to paragraph 4 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with <b>the Treaties</b>. The Commission shall be notified of them.</p>	<p>(a) measures adopted pursuant to Article III-172 in the context of the establishment and functioning of the internal market;</p> <p>(b) measures which support, supplement and monitor the policy pursued by the Member States.</p> <p>3. European laws or framework laws shall establish the measures referred to in paragraph 2(b). Such laws shall be adopted after consultation of the Economic and Social Committee.</p> <p>4. Acts adopted pursuant to paragraph 3 shall not prevent any Member State from maintaining or introducing more stringent protective provisions. Such provisions must be compatible with the Constitution. They shall be notified to the Commission.</p>
<p style="text-align: center;"><b>TITLE XII</b> TRANS-EUROPEAN NETWORKS</p> <p style="text-align: center;">ARTICLE 154</p> <p>1. To help achieve the objectives referred to in Articles 14 and 158 and to enable citizens of the Union, economic operators and regional and local communities to derive full benefit from the setting-up of an area without internal frontiers, the <b>Union</b> shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.</p>	<p style="text-align: center;"><b>SECTION 8</b> TRANS-EUROPEAN NETWORKS</p> <p style="text-align: center;">ARTICLE III-246</p> <p>1. To help achieve the objectives referred to in Articles III-130 and III-220 and to enable citizens of the Union, economic operators and regional and local communities to derive full benefit from the setting-up of an area without internal frontiers, the Union shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.</p>

<p>2. Within the framework of a system of open and competitive markets, action by the <b>Union</b> shall aim at promoting the interconnection and interoperability of national networks as well as access to such networks. It shall take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the <b>Union</b>.</p>	<p>2. Within the framework of a system of open and competitive markets, action by the Union shall aim at promoting the interconnection and interoperability of national networks as well as access to such networks. It shall take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the Union.</p>
<p style="text-align: center;">ARTICLE 155</p> <p>1. In order to achieve the objectives referred to in Article 154, the <b>Union</b>:</p> <ul style="list-style-type: none"> <li>- shall establish a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks; these guidelines shall identify projects of common interest,</li> <li>- shall implement any measures that may prove necessary to ensure the interoperability of the networks, in particular in the field of technical standardisation,</li> <li>- may support projects of common interest supported by Member States, which are identified in the framework of the guidelines referred to in the first indent, particularly through feasibility studies, loan guarantees or interest-rate subsidies; the <b>Union</b> may also contribute, through the Cohesion Fund set up pursuant to Article 161, to the financing of specific projects in Member States in the area of transport infrastructure.</li> </ul> <p>The <b>Union's</b> activities shall take into account the potential economic viability of the projects.</p>	<p style="text-align: center;">ARTICLE III-247</p> <p>1. In order to achieve the objectives referred to in Article III-246, the Union:</p> <ul style="list-style-type: none"> <li>(a) shall establish a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks; these guidelines shall identify projects of common interest;</li> <li>(b) shall implement any measures that may prove necessary to ensure the interoperability of the networks, in particular in the field of technical standardisation;</li> <li>(c) may support projects of common interest supported by Member States, which are identified in the framework of the guidelines referred to in point (a), particularly through feasibility studies, loan guarantees or interest-rate subsidies; the Union may also contribute, through the Cohesion Fund, to the financing of specific projects in Member States in the area of transport infrastructure.</li> </ul> <p>The Union's activities shall take into account the potential economic viability of the projects.</p> <p>3. Member States shall, in liaison with the Commission,</p>



<p>2. Member States shall, in liaison with the Commission, coordinate among themselves the policies pursued at national level which may have a significant impact on the achievement of the objectives referred to in Article 154. The Commission may, in close cooperation with the Member State, take any useful initiative to promote such coordination.</p> <p>3. The <b>Union</b> may decide to cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks.</p>	<p>coordinate among themselves the policies pursued at national level which may have a significant impact on the achievement of the objectives referred to in Article III-246. The Commission may, in close cooperation with the Member States, take any useful initiative to promote such coordination.</p> <p>4. The Union may cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks.</p>
<p style="text-align: center;">ARTICLE 156</p> <p>The guidelines and other measures referred to in Article 155(1) shall be adopted by the Council, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee and the Committee of the Regions.</p> <p>Guidelines and projects of common interest which relate to the territory of a Member State shall require the approval of the Member State concerned.</p>	<p style="text-align: center;">ARTICLE III-247</p> <p>2. European laws or framework laws shall establish the guidelines and other measures referred to in paragraph 1. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p> <p>Guidelines and projects of common interest which relate to the territory of a Member State shall require the agreement of that Member State.</p>
<p>Art 157 becomes 176f - no replacement specified</p>	
<p style="text-align: center;">TITLE XIII ECONOMIC, SOCIAL AND TERRITORIAL COHESION</p> <p style="text-align: center;">ARTICLE 158</p> <p>In order to promote its overall harmonious development, the <b>Union</b> shall develop and pursue its actions leading to the</p>	<p style="text-align: center;">SECTION 3 ECONOMIC, SOCIAL AND TERRITORIAL COHESION</p> <p style="text-align: center;">ARTICLE III-220</p> <p>In order to promote its overall harmonious development, the Union shall develop and pursue its action leading to the</p>

<p>strengthening of its economic, social and territorial cohesion.</p> <p>In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions <del>or islands,</del> including rural areas.</p> <p><b>Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.</b></p>	<p>strengthening of its economic, social and territorial cohesion.</p> <p>In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions.</p> <p>Among the regions concerned, particular attention shall be paid to rural areas, affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.</p>
<p style="text-align: center;">ARTICLE 159</p> <p>Member States shall conduct their economic policies and shall coordinate them in such a way as, in addition, to attain the objectives set out in Article 158. The formulation and implementation of the Union's policies and actions and the implementation of the internal market shall take into account the objectives set out in Article 158 and shall contribute to their achievement. The Union shall also support the achievement of these objectives by the action it takes through the Structural Funds (European Agricultural Guidance and Guarantee Fund, Guidance Section; European Social Fund; European Regional Development Fund), the European Investment Bank and the other existing Financial Instruments.</p> <p>The Commission shall submit a report to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions every three years on the</p>	<p style="text-align: center;">ARTICLE III-221</p> <p>Member States shall conduct their economic policies and shall coordinate them in such a way as, in addition, to attain the objectives set out in Article III-220. The formulation and implementation of the Union's policies and action and the implementation of the internal market shall take into account those objectives and shall contribute to their achievement. The Union shall also support the achievement of these objectives by the action it takes through the Structural Funds (European Agricultural Guidance and Guarantee Fund, Guidance Section; European Social Fund; European Regional Development Fund), the European Investment Bank and the other existing financial instruments.</p> <p>The Commission shall submit a report to the European Parliament, the Council, the Committee of the Regions and the Economic and Social Committee every three years on the</p>

<p>progress made towards achieving economic and social cohesion and on the manner in which the various means provided for in this Article have contributed to it. This report shall, if necessary, be accompanied by appropriate proposals. If specific actions prove necessary outside the Funds and without prejudice to the measures decided upon within the framework of the other <b>Union</b> policies, such actions may be adopted by the Council acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee and the Committee of the Regions.</p>	<p>progress made towards achieving economic, social and territorial cohesion and on the manner in which the various means provided for in this Article have contributed to it. This report shall, if necessary, be accompanied by appropriate proposals. European laws or framework laws may establish any specific measure outside the Funds, without prejudice to measures adopted within the framework of the Union's other policies. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p>
<p style="text-align: center;">ARTICLE 160</p> <p>The European Regional Development Fund is intended to help to redress the main regional imbalances in the <b>Union</b> through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions.</p>	<p style="text-align: center;">ARTICLE III-222</p> <p>The European Regional Development Fund is intended to help to redress the main regional imbalances in the Union through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions.</p>
<p style="text-align: center;">ARTICLE 161</p> <p><b>Without prejudice to Article 162, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure</b> and consulting the Economic and Social Committee and the Committee of the Regions, shall define the tasks, priority objectives and the organisation of the Structural Funds, which may involve grouping the Funds. <del>The Council, acting by the same procedure, shall also define</del> the general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing Financial Instruments <b>shall also be defined by the same procedure.</b></p>	<p style="text-align: center;">ARTICLE III-223</p> <p>1. Without prejudice to Article III-224, European laws shall define the tasks, the priority objectives and the organisation of the Structural Funds, which may involve grouping the Funds, the general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing financial instruments.</p>

<p>A Cohesion Fund set up <del>by the Council</del> in accordance with the same procedure shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.</p> <p><del>From 1 January 2007, the Council shall act by a qualified majority on a proposal from the Commission after obtaining the assent of the European Parliament and after consulting the Economic and Social Committee and the Committee of the Regions if, by that date, the multiannual financial perspective applicable from 1 January 2007 and the Interinstitutional Agreement relating thereto have been adopted. If such is not the case, the procedure laid down by this paragraph shall apply from the date of their adoption.</del></p>	<p>A Cohesion Fund set up by a European law shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.</p> <p>In all cases, such European laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p> <p>2. The first provisions on the Structural Funds and the Cohesion Fund to be adopted following those in force on the date on which the Treaty establishing a Constitution for Europe is signed shall be established by a European law of the Council. The Council shall act unanimously after obtaining the consent of the European Parliament.</p>
<p style="text-align: center;">ARTICLE 162</p> <p>Implementing decisions relating to the European Regional Development Fund shall be taken by the Council, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee and the Committee of the Regions.</p> <p>With regard to the European Agricultural Guidance and Guarantee Fund, Guidance Section, and the European Social Fund, Articles 37 and 148 respectively shall continue to apply.</p>	<p style="text-align: center;">ARTICLE III-224</p> <p>European laws shall establish implementing measures relating to the European Regional Development Fund. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p> <p>With regard to the European Agricultural Guidance and Guarantee Fund, Guidance Section, and the European Social Fund, Articles III-231 and III-219(3) respectively shall apply.</p>
<p style="text-align: center;">TITLE XIV RESEARCH AND TECHNOLOGICAL DEVELOPMENT AND SPACE</p>	<p style="text-align: center;">SECTION 9 RESEARCH AND TECHNOLOGICAL DEVELOPMENT AND SPACE</p>

<p style="text-align: center;">ARTICLE 163</p> <p>1. The Union shall have the objective of strengthening its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encourage it to become more competitive, including in its industry, while promoting all the research activities deemed necessary by virtue of other Chapters of the Treaties.</p> <p>2. For this purpose the Union shall, throughout the Union, encourage undertakings, including small and medium-sized undertakings, research centres and universities in their research and technological development activities of high quality; it shall support their efforts to cooperate with one another, aiming, notably, at permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential, in particular through the opening-up of national public contracts, the definition of common standards and the removal of legal and fiscal obstacles to that cooperation.</p> <p>3. All Union activities under the Treaties in the area of research and technological development, including demonstration projects, shall be decided on and implemented in accordance with the provisions of this title.</p>	<p style="text-align: center;">ARTICLE III-248</p> <p>1. The Union shall aim to strengthen its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encourage it to become more competitive, including in its industry, while promoting all the research activities deemed necessary by virtue of other Chapters of the Constitution.</p> <p>2. For the purposes referred to in paragraph 1 the Union shall, throughout the Union, encourage undertakings, including small and medium-sized undertakings, research centres and universities in their research and technological development activities of high quality. It shall support their efforts to cooperate with one another, aiming, notably, at permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential, in particular through the opening-up of national public contracts, the definition of common standards and the removal of legal and fiscal obstacles to that cooperation.</p> <p>3. All the Union's activities in the area of research and technological development, including demonstration projects, shall be decided on and implemented in accordance with this Section.</p>
<p style="text-align: center;">ARTICLE 164</p> <p>In pursuing these objectives, the Union shall carry out the following activities, complementing the activities carried out in the Member States:</p>	<p style="text-align: center;">ARTICLE III-249</p> <p>In pursuing the objectives referred to in Article III-248, the Union shall carry out the following activities, complementing the activities carried out in the Member States:</p>

<p>(a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;</p> <p>(b) promotion of cooperation in the field of <b>Union</b> research, technological development and demonstration with third countries and international organisations;</p> <p>(c) dissemination and optimisation of the results of activities in <b>Union</b> research, technological development and demonstration;</p> <p>(d) stimulation of the training and mobility of researchers in the <b>Union</b>.</p>	<p>(a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;</p> <p>(b) promotion of cooperation in the field of the Union's research, technological development and demonstration with third countries and international organisations;</p> <p>(c) dissemination and optimisation of the results of activities in the Union's research, technological development and demonstration;</p> <p>(d) stimulation of the training and mobility of researchers in the Union.</p>
<p style="text-align: center;">ARTICLE 165</p> <p>1. The <b>Union</b> and the Member States shall coordinate their research and technological development activities so as to ensure that national policies and <b>Union</b> policy are mutually consistent.</p> <p>2. In close cooperation with the Member State, the Commission may take any useful initiative to promote the coordination referred to in paragraph 1, <b>in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.</b></p>	<p style="text-align: center;">ARTICLE III-250</p> <p>1. The Union and the Member States shall coordinate their research and technological development activities so as to ensure that national policies and the Union's policy are mutually consistent.</p> <p>2. In close cooperation with the Member States, the Commission may take any useful initiative to promote the coordination referred to in paragraph 1, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.</p>

ARTICLE 166	ARTICLE III-251
<p>1. A multiannual framework programme, setting out all the activities of the <b>Union</b>, shall be adopted by the Council, acting in accordance with the <b>ordinary legislative procedure</b> after consulting the Economic and Social Committee.</p> <p>The framework programme shall:</p> <ul style="list-style-type: none"> <li>– establish the scientific and technological objectives to be achieved by the activities provided for in Article 164 and fix the relevant priorities,</li> <li>– indicate the broad lines of such activities,</li> <li>– fix the maximum overall amount and the detailed rules for <b>Union</b> financial participation in the framework programme and the respective shares in each of the activities provided for.</li> </ul> <p>2. The framework programme shall be adapted or supplemented as the situation changes.</p> <p>3. The framework programme shall be implemented through specific programmes developed within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary. The sum of the amounts deemed necessary, fixed in the specific programmes, may not exceed the overall maximum amount fixed for the framework programme and each activity.</p>	<p>1. A multiannual framework programme, setting out all the activities of the Union, shall be adopted by the Council, acting in accordance with the <b>ordinary legislative procedure</b> after consulting the Economic and Social Committee.</p> <p>The framework programme shall:</p> <ul style="list-style-type: none"> <li>a) establish the scientific and technological objectives to be achieved by the activities provided for in Article 164 and fix the relevant priorities,</li> <li>b) indicate the broad lines of such activities,</li> <li>c) fix the maximum overall amount and the detailed rules for Union financial participation in the framework programme and the respective shares in each of the activities provided for.</li> </ul> <p>3. A European law of the Council shall establish specific programmes to implement the multiannual framework programme within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary. The sum of the amounts deemed necessary, fixed in the specific programmes, shall not exceed the overall maximum amount fixed for the framework programme and each activity. Such a law shall be adopted after consulting the European Parliament and the Economic and Social Committee.</p>

<p>4. The Council, <del>acting by a qualified majority in accordance with a special legislative procedure</del> and after consulting the European Parliament and the Economic and Social Committee, shall adopt the specific programmes.</p> <p>5. As a complement to the activities planned in the multiannual framework programme, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the measures necessary for the implementation of the European research area.</p>	<p>4. As a complement to the activities planned in the multiannual framework programme, European laws shall establish the measures necessary for the implementation of the European research area. Such laws shall be adopted after consulting the Economic and Social Committee.</p>
<p style="text-align: center;">ARTICLE 167</p> <p>For the implementation of the multiannual framework programme <b>the Union</b> shall:</p> <ul style="list-style-type: none"> <li>– determine the rules for the participation of undertakings, research centres and universities,</li> <li>– lay down the rules governing the dissemination of research results.</li> </ul>	<p style="text-align: center;">ARTICLE III-252</p> <p>1. For the implementation of the multiannual framework programme, European laws or framework laws shall establish:</p> <ul style="list-style-type: none"> <li>(a) the rules for the participation of undertakings, research centres and universities;</li> <li>(b) the rules governing the dissemination of research results. Such European laws or framework laws shall be adopted after consultation of the Economic and Social Committee.</li> </ul>
<p style="text-align: center;">ARTICLE 168</p> <p>In implementing the multiannual framework programme, supplementary programmes may be decided on involving the participation of certain Member States only, which shall finance them subject to possible <b>Union</b> participation.</p> <p><b>The Union</b> shall adopt the rules applicable to supplementary</p>	<p>2. In implementing the multiannual framework programme, European laws may establish supplementary programmes involving the participation of certain Member States only, which shall finance them subject to possible participation by the Union.</p> <p>Such European laws shall determine the rules applicable to</p>



<p>programmes, particularly as regards the dissemination of knowledge and access by other Member States.</p>	<p>supplementary programmes, particularly as regards the dissemination of knowledge as well as access by other Member States. They shall be adopted after consultation of the Economic and Social Committee and with the agreement of the Member States concerned.</p>
<p style="text-align: center;">ARTICLE 169</p> <p>In implementing the multiannual framework programme, the <b>Union</b> may make provision, in agreement with the Member States concerned, for participation in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes.</p>	<p>3. In implementing the multiannual framework programme, European laws may make provision, in agreement with the Member States concerned, for participation in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes.</p> <p>Such European laws shall be adopted after consultation of the Economic and Social Committee.</p>
<p style="text-align: center;">ARTICLE 170</p> <p>In implementing the multiannual framework programme the <b>Union</b> may make provision for cooperation in <b>Union</b> research, technological development and demonstration with third countries or international organisations.</p> <p>The detailed arrangements for such cooperation may be the subject of agreements between the <b>Union</b> and the third parties concerned, <del>which shall be negotiated and concluded in accordance with Article 300.</del></p>	<p>4. In implementing the multiannual framework programme the <b>Union</b> may make provision for cooperation in the <b>Union's</b> research, technological development and demonstration with third countries or international organisations.</p> <p>The detailed arrangements for such cooperation may be the subject of agreements between the <b>Union</b> and the third parties concerned.</p>
<p style="text-align: center;">ARTICLE 171</p> <p>The <b>Union</b> may set up joint undertakings or any other</p>	<p style="text-align: center;">ARTICLE III-253</p> <p>The Council, on a proposal from the Commission, may adopt</p>

<p>structure necessary for the efficient execution of <b>Union</b> research, technological development and demonstration programmes.</p>	<p>European regulations or decisions to set up joint undertakings or any other structure necessary for the efficient execution of the Union's research, technological development and demonstration programmes. It shall act after consulting the European Parliament and the Economic and Social Committee.</p>
<p style="text-align: center;"><b>ARTICLE 172</b></p> <p>The Council, acting by qualified majority on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall adopt the provisions referred to in Article 171.</p> <p>The Council, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee, shall adopt the provisions referred to in Articles 167, 168 and 169.</p> <p>Adoption of the supplementary programmes shall require the agreement of the Member States concerned.</p>	
<p style="text-align: center;"><b>ARTICLE 172a</b></p> <p><b>1. To promote scientific and technical progress, industrial competitiveness and the implementation of its policies, the Union shall draw up a European space policy. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space.</b></p> <p><b>2. To contribute to attaining the objectives referred to in paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures, which may take the form of a European space programme,</b></p>	<p style="text-align: center;"><b>ARTICLE III-254</b></p> <p><b>1. To promote scientific and technical progress, industrial competitiveness and the implementation of its policies, the Union shall draw up a European space policy. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space.</b></p> <p><b>2. To contribute to attaining the objectives referred to in paragraph 1, European laws or framework laws shall establish the necessary measures, which may take the form of a European space programme.</b></p>

<p><u>excluding any harmonisation of the laws and regulations of the Member States.</u></p> <p>3. The Union shall establish any appropriate relations with the European Space Agency.</p> <p><u>4. This Article shall be without prejudice to the other provisions of this Title.</u></p>	<p>3. The Union shall establish any appropriate relations with the European Space Agency.</p>
<p>ARTICLE 173</p> <p>At the beginning of each year the Commission shall send a report to the European Parliament and to the Council. The report shall include information on research and technological development activities and the dissemination of results during the previous year, and the work programme for the current year.</p>	<p>ARTICLE III-255</p> <p>At the beginning of each year the Commission shall send a report to the European Parliament and the Council. The report shall include information on activities relating to research, technological development and the dissemination of results during the previous year, and the work programme for the current year.</p>
<p>TITLE XV ENVIRONMENT</p> <p>ARTICLE 174</p> <p>1. <b>Union</b> policy on the environment shall contribute to pursuit of the following objectives:</p> <ul style="list-style-type: none"> <li>– preserving, protecting and improving the quality of the environment,</li> <li>– protecting human health,</li> </ul>	<p>SECTION 5 ENVIRONMENT</p> <p>ARTICLE III-233</p> <p>1. Union policy on the environment shall contribute to the pursuit of the following objectives:</p> <ul style="list-style-type: none"> <li>(a) preserving, protecting and improving the quality of the environment;</li> <li>(b) protecting human health;</li> </ul>

<p>– prudent and rational utilisation of natural resources,</p> <p>- promoting measures at international level to deal with regional or worldwide environmental problems, <u>and in particular combating climate change.</u></p> <p>2. <b>Union</b> policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the <b>Union</b>. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.</p> <p>In this context, harmonisation measures answering environmental protection requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional measures, for non-economic environmental reasons, subject to a <b>Union</b> inspection procedure.</p> <p>3. In preparing its policy on the environment, the <b>Union</b> shall take account of:</p> <p>– available scientific and technical data,</p> <p>– environmental conditions in the various regions of the <b>Union</b>,</p> <p>– the potential benefits and costs of action or lack of action,</p> <p>– the economic and social development of the <b>Union</b> as a</p>	<p>(c) prudent and rational utilisation of natural resources;</p> <p>(d) promoting measures at international level to deal with regional or worldwide environmental problems.</p> <p>2. Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.</p> <p>In this context, harmonisation measures answering environmental protection requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional steps, for non-economic environmental reasons, subject to a procedure of inspection by the Union.</p> <p>3. In preparing its policy on the environment, the Union shall take account of:</p> <p>(a) available scientific and technical data;</p> <p>(b) environmental conditions in the various regions of the Union;</p> <p>(c) the potential benefits and costs of action or lack of action;</p> <p>(d) the economic and social development of the Union as a whole and the balanced development of its regions.</p>
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<p>whole and the balanced development of its regions.</p> <p>4. Within their respective spheres of competence, the <b>Union</b> and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for <b>Union</b> cooperation may be the subject of agreements between the <b>Union</b> and the third parties concerned, <del>which shall be negotiated and concluded in accordance with Article 300.</del></p> <p>The previous subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.</p>	<p>4. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for the Union's cooperation may be the subject of agreements between the Union and the third parties concerned.</p> <p>The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.</p>
<p style="text-align: center;">ARTICLE 175</p> <p>1. The Council, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee and the Committee of the Regions, shall decide what action is to be taken by the <b>Union</b> in order to achieve the objectives referred to in Article 174.</p> <p>2. By way of derogation from the decision-making procedure provided for in paragraph 1 and without prejudice to Article 95, the Council, acting unanimously <b>in accordance with a special legislative procedure</b> and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, shall adopt:</p> <p>(a) provisions primarily of a fiscal nature;</p> <p>(b) measures affecting:</p>	<p style="text-align: center;">ARTICLE III-234</p> <p>1. European laws or framework laws shall establish what action is to be taken in order to achieve the objectives referred to in Article III-233. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p> <p>2. By way of derogation from paragraph 1 and without prejudice to Article III-172, the Council shall unanimously adopt European laws or framework laws establishing:</p> <p>(a) provisions primarily of a fiscal nature;</p> <p>(b) measures affecting:</p>

<p>– town and country planning,</p> <p>– quantitative management of water resources or affecting, directly or indirectly, the availability of those resources,</p> <p>– land use, with the exception of waste management;</p> <p>(c) measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply.</p> <p><b>The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, may make the ordinary legislative procedure applicable to the matters referred to in the first subparagraph.<sup>50</sup></b></p> <p>3. In other areas, general action programmes setting out priority objectives to be attained shall be adopted by the Council, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee and the Committee of the Regions.</p> <p><b>The measures necessary for the implementation of these programmes shall be adopted under the terms of paragraph 1 or 2, as the case may be.</b></p> <p>4. Without prejudice to certain measures of a <b>Union</b> nature, the Member States shall finance and implement the environment policy.</p> <p>5. Without prejudice to the principle that the polluter should</p>	<p>(i) town and country planning;</p> <p>(ii) quantitative management of water resources or affecting, directly or indirectly, the availability of those resources;</p> <p>(iii) land use, with the exception of waste management;</p> <p>(c) measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply.</p> <p>The Council, on a proposal from the Commission, may unanimously adopt a European decision making the ordinary legislative procedure applicable to the matters referred to in the first subparagraph. In all cases, the Council shall act after consulting the European Parliament, the Committee of the Regions and the Economic and Social Committee.</p> <p>3. European laws shall establish general action programmes which set out priority objectives to be attained. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p> <p>The measures necessary for the implementation of these programmes shall be adopted under the terms of paragraph 1 or 2, as the case may be.</p> <p>4. Without prejudice to certain measures adopted by the Union, the Member States shall finance and implement the environment policy.</p> <p>5. Without prejudice to the principle that the polluter should</p>
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<p>pay, if a measure based on the provisions of paragraph 1 involves costs deemed disproportionate for the public authorities of a Member State, such measure shall provide in the form of:</p> <ul style="list-style-type: none"> <li>– temporary derogations, and/or</li> <li>– financial support from the Cohesion Fund set up pursuant to Article 161.</li> </ul>	<p>pay, if a measure based on paragraph 1 involves costs deemed disproportionate for the public authorities of a Member State, such measure shall provide in appropriate form for:</p> <ul style="list-style-type: none"> <li>(a) temporary derogations, and/or</li> <li>(b) financial support from the Cohesion Fund.</li> </ul>
<p style="text-align: center;">ARTICLE 176</p> <p>The protective measures adopted pursuant to Article 175 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with the Treaties. They shall be notified to the Commission.</p>	<p>6. The protective measures adopted pursuant to this Article shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with the Constitution. They shall be notified to the Commission.</p>
<p style="text-align: center;">TITLE XVI ENERGY</p> <p style="text-align: center;">ARTICLE 176a</p> <p>1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, <u>in a spirit of solidarity between Member States</u><sup>51</sup>, to:</p> <ul style="list-style-type: none"> <li>(a) ensure the functioning of the energy market;</li> <li>(b) ensure security of energy supply in the Union, and</li> </ul>	<p style="text-align: center;">SECTION 10 ENERGY</p> <p style="text-align: center;">ARTICLE III-256</p> <p>1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim to:</p> <ul style="list-style-type: none"> <li>(a) ensure the functioning of the energy market;</li> <li>(b) ensure security of energy supply in the Union, and</li> </ul>

<p>(c) promote energy efficiency and energy saving and the development of new and renewable forms of energy;</p> <p>(d) <u>promote the interconnection of energy networks.</u></p> <p>2. Without prejudice to the application of other provisions of the Treaties, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to achieve the objectives in paragraph 1. Such measures shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee. Such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article [III-234(2)(c)].</p> <p>3. By way of derogation from paragraph 2, the Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament, establish the measures referred to therein when they are primarily of a fiscal nature.</p>	<p>(c) promote energy efficiency and energy saving and the development of new and renewable forms of energy.</p> <p>2. Without prejudice to the application of other provisions of the Constitution, the objectives in paragraph 1 shall be achieved by measures enacted in European laws or framework laws. Such laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee. Such European laws or framework laws shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article III-234(2)(c).</p> <p>3. By way of derogation from paragraph 2, a European law or framework law of the Council shall establish the measures referred to therein when they are primarily of a fiscal nature. The Council shall act unanimously after consulting the European Parliament.</p>
<p style="text-align: center;">Title XVII</p> <p style="text-align: center;">AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION</p> <p>SOCIAL POLICY, EDUCATION, VOCATIONAL TRAINING YOUTH</p>	<p style="text-align: center;">SECTION 5 EDUCATION, YOUTH, SPORT AND VOCATIONAL TRAINING</p>



AND SPORT

ARTICLE 176b

1. The **Union** shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organization of education systems and their cultural and linguistic diversity.

**The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.**

2. **Union** action shall be aimed at:

- developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States,
- encouraging mobility of students and teachers, by encouraging *inter alia*, the academic recognition of diplomas and periods of study,
- promoting cooperation between educational establishments,
- developing exchanges of information and experience on issues common to the education systems of the Member States,

ARTICLE III-282

1. The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and complementing their action. It shall fully respect the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.

Union action shall be aimed at:

- (a) developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States;
- (b) encouraging mobility of students and teachers, *inter alia* by encouraging the academic recognition of diplomas and periods of study;
- (c) promoting cooperation between educational establishments;
- (d) developing exchanges of information and experience on issues common to the education systems of the Member States;
- (e) encouraging the development of youth exchanges and of exchanges of socio-educational instructors and encouraging the

<p>– encouraging the development of youth exchanges and of exchanges of socioeducational instructors,</p> <p>– encouraging the development of distance education.</p> <p><b>- developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially young sportsmen and sportswomen.</b></p> <p>3. The <b>Union</b> and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education <b>and sport</b>, in particular the Council of Europe.</p> <p>4. In order to contribute to the achievement of the objectives referred to in this Article, <del>the Council</del>:</p> <p>– <b>the European Parliament and the Council, acting in accordance with the ordinary legislative procedure</b>, after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States,</p> <p>– <del>The Council, acting by a qualified majority on a proposal from the Commission</del>, shall adopt recommendations.</p>	<p>participation of young people in democratic life in Europe;</p> <p>(f) encouraging the development of distance education;</p> <p>(g) developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially young sportsmen and sportswomen.</p> <p>2. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education and sport, in particular the Council of Europe.</p> <p>3. In order to contribute to the achievement of the objectives referred to in this Article:</p> <p>(a) European laws or framework laws shall establish incentive measures, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee;</p> <p>(b) the Council, on a proposal from the Commission, shall adopt recommendations.</p>

ARTICLE 176b

1. The **Union** shall implement a vocational training policy which shall support and supplement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training.

2. **Union** action shall aim to:

– facilitate adaptation to industrial changes, in particular through vocational training and retraining,

– improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market,

– facilitate access to vocational training and encourage mobility of instructors and trainees and particularly young people,

– stimulate cooperation on training between educational or training establishments and firms,

– develop exchanges of information and experience on issues common to the training systems of the Member States.

3. The **Union** and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of vocational training.

4. The Council, acting in accordance with the **ordinary**

SECTION 5  
ARTICLE III-283

1. The Union shall implement a vocational training policy which shall support and complement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training.

Union action shall aim to:

(a) facilitate adaptation to industrial change, in particular through vocational training and retraining;

(b) improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market;

(c) facilitate access to vocational training and encourage mobility of instructors and trainees and particularly young people;

(d) stimulate cooperation on training between educational or training establishments and firms;

(e) develop exchanges of information and experience on issues common to the training systems of the Member States.

2. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of vocational training.

3. In order to contribute to the achievement of the objectives

<p><b>legislative procedure</b> and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt measures to contribute to the achievement of the objectives referred to in this article, excluding any harmonisation of the laws and regulations of the Member States <b>and the Council, on a proposal from the Commission, shall adopt recommendations.</b></p>	<p>referred to in this Article:</p> <p>(a) European laws or framework laws shall establish the necessary measures, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee;</p> <p>(b) the Council, on a proposal from the Commission, shall adopt recommendations.</p>
<p style="text-align: center;">Chapter 2 CULTURE</p> <p style="text-align: center;"><b>ARTICLE 176d</b></p> <p>1. The <b>Union</b> shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.</p> <p>2. Action by the <b>Union</b> shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action in the following areas:</p> <ul style="list-style-type: none"> <li>– improvement of the knowledge and dissemination of the culture and history of the European peoples,</li> <li>– conservation and safeguarding of cultural heritage of European significance,</li> <li>– non-commercial cultural exchanges,</li> </ul>	<p style="text-align: center;">SECTION 3 CULTURE</p> <p style="text-align: center;"><b>ARTICLE III-280</b></p> <p>1. The Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.</p> <p>2. Action by the Union shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and complementing their action in the following areas:</p> <ul style="list-style-type: none"> <li>(a) improvement of the knowledge and dissemination of the culture and history of the European peoples;</li> <li>(b) conservation and safeguarding of cultural heritage of European significance;</li> <li>(c) non-commercial cultural exchanges;</li> </ul>

<p>– artistic and literary creation, including in the audiovisual sector.</p> <p>3. The <b>Union</b> and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.</p> <p>4. The <b>Union</b> shall take cultural aspects into account in its action under other provisions of <b>the Treaties</b>, in particular in order to respect and to promote the diversity of its cultures.</p> <p>5. In order to contribute to the achievement of the objectives referred to in this Article, <del>the Council</del>:</p> <p>– <b>the European Parliament and the Council</b>, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States. <del>The Council shall act unanimously throughout the procedure referred to in Article 251,</del></p> <p>– <del>acting unanimously</del> <b>the Council</b> on a proposal from the Commission, shall adopt recommendations.</p>	<p>(d) artistic and literary creation, including in the audiovisual sector.</p> <p>3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.</p> <p>4. The Union shall take cultural aspects into account in its action under other provisions of the Constitution, in particular in order to respect and to promote the diversity of its cultures.</p> <p>5. In order to contribute to the achievement of the objectives referred to in this Article:</p> <p>(a) European laws or framework laws shall establish incentive measures, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions;</p> <p>(b) the Council, on a proposal from the Commission, shall adopt recommendations.</p>
<p style="text-align: center;">Chapter 3 PUBLIC HEALTH</p> <p style="text-align: center;">ARTICLE 176e</p> <p>1. A high level of human health protection shall be ensured in</p>	<p style="text-align: center;">SECTION 1 PUBLIC HEALTH</p> <p style="text-align: center;">ARTICLE III-278</p> <p>1. A high level of human health protection shall be ensured in</p>

<p>the definition and implementation of all <b>Union</b> policies and activities.</p> <p><b>Union</b> action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education <b>and monitoring, early warning of and combating serious cross-border threats to health.</b></p> <p>The <b>Union</b> shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.</p> <p>2. The <b>Union</b> shall encourage cooperation between the Member States in the areas referred to in this Article and, if necessary, lend support to their action. <b>It shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.</b></p> <p>Member States shall, in liaison with the Commission, coordinate among themselves their policies and programmes in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination, <b>in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic</b></p>	<p>the definition and implementation of all the Union's policies and activities.</p> <p>Action by the Union, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover:</p> <p>(a) the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education;</p> <p>(b) monitoring, early warning of and combating serious cross-border threats to health. The Union shall complement the Member States' action in reducing drug-related health damage, including information and prevention.</p> <p>2. The Union shall encourage cooperation between the Member States in the areas referred to in this Article and, if necessary, lend support to their action. It shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.</p> <p>Member States shall, in liaison with the Commission, coordinate among themselves their policies and programmes in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.</p>
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monitoring and evaluation. The European Parliament shall be kept fully informed.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

4. **By way of derogation from Article [I-12(5)] and Article [I-17(a)] and in accordance with Article [I-14(2) (k)],** the Council, acting in accordance with the **ordinary legislative procedure** and after consulting the Economic and Social Committee and the Committee of the Regions, shall contribute to the achievement of the objectives referred to in this article through adopting **in order to meet common safety concerns:**

(a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures;

~~(b) by way of derogation from Article 37,~~ measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health;

(c) measures setting high standards of quality and safety for medicinal products and devices for medical use.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

4. By way of derogation from Article I-12(5) and Article I-17(a) and in accordance with Article I-14(2)(k), European laws or framework laws shall contribute to the achievement of the objectives referred to in this Article by establishing the following measures in order to meet common safety concerns:

(a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures;

(b) measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health;

(c) measures setting high standards of quality and safety for medicinal products and devices for medical use;

(d) measures concerning monitoring, early warning of and combating serious cross-border threats to health.

Such European laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

5. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Committee of the Regions and the Economic and Social Committee, may also adopt incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, measures concerning monitoring, early warning of and combating serious cross-border threats to health, and measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States.

6. The Council, ~~acting by a qualified majority~~ on a proposal from the Commission, may also adopt recommendations for the purposes set out in this article.

7. Union action in the field of public health shall fully respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care and the allocation of the resources assigned to them. The measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.

5. European laws or framework laws may also establish incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, as well as measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

6. For the purposes of this Article, the Council, on a proposal from the Commission, may also adopt recommendations.

7. Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care. The responsibilities of the Member States shall include the management of health services and medical care and the allocation of the resources assigned to them. The measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.



Chapter 4  
INDUSTRY

1. The **Union** and the Member States shall ensure that the conditions necessary for the competitiveness of the **Union's** industry exist.

For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:

- speeding up the adjustment of industry to structural changes,
- encouraging an environment favourable to initiative and to the development of undertakings throughout the **Union**, particularly small and medium-sized undertakings,
- encouraging an environment favourable to cooperation between undertakings,
- fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

2. The Member States shall consult each other in liaison with the Commission and, where necessary, shall coordinate their action. The Commission may take any useful initiative to promote such coordination, **in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic**

INDUSTRY  
ARTICLE III-279

1. The Union and the Member States shall ensure that the conditions necessary for the competitiveness of the Union's industry exist.

For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:

- (a) speeding up the adjustment of industry to structural changes;
- (b) encouraging an environment favourable to initiative and to the development of undertakings throughout the Union, particularly small and medium-sized undertakings;
- (c) encouraging an environment favourable to cooperation between undertakings;
- (d) fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

2. The Member States shall consult each other in liaison with the Commission and, where necessary, shall coordinate their action. The Commission may take any useful initiative to promote such coordination, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

<p>monitoring and evaluation. The European Parliament shall be kept fully informed.</p> <p>3. The Union shall contribute to the achievement of the objectives set out in paragraph 1 through the policies and activities it pursues under other provisions of the Treaties. The Council, acting in accordance with the <b>ordinary legislative procedure</b> and after consulting the Economic and Social Committee, may decide on specific measures in support of action taken in the Member States to achieve the objectives set out in paragraph 1, <b>excluding any harmonisation of the laws and regulations of the Member States.</b></p> <p>This title shall not provide a basis for the introduction by the Union of any measure which could lead to a distortion of competition or contains tax provisions or provisions relating to the rights and interests of employed persons.</p>	<p>3. The Union shall contribute to the achievement of the objectives set out in paragraph 1 through the policies and activities it pursues under other provisions of the Constitution. European laws or framework laws may establish specific measures in support of action taken in the Member States to achieve the objectives set out in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Economic and Social Committee.</p> <p>This Section shall not provide a basis for the introduction by the Union of any measure which could lead to distortion of competition or contains tax provisions or provisions relating to the rights and interests of employed persons.</p>
<p style="text-align: center;"><b>CHAPTER 5 TOURISM</b></p> <p style="text-align: center;"><b>ARTICLE 176g</b></p> <p>1. The Union shall complement the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector.</p> <p>To that end, Union action shall be aimed at:</p> <p>(a) encouraging the creation of a favourable environment for the development of undertakings in this sector;</p>	<p style="text-align: center;"><b>SECTION 4 TOURISM</b></p> <p style="text-align: center;"><b>ARTICLE III-281</b></p> <p>1. The Union shall complement the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector.</p> <p>To that end, Union action shall be aimed at:</p> <p>(a) encouraging the creation of a favourable environment for the development of undertakings in this sector;</p>

<p>(b) promoting cooperation between the Member States, particularly by the exchange of good practice.</p> <p>2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish specific measures to complement actions within the Member States to achieve the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States.</p>	<p>(b) promoting cooperation between the Member States, particularly by the exchange of good practice;</p> <p>2. European laws or framework laws shall establish specific measures to complement actions within the Member States to achieve the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States.</p>
<p style="text-align: center;"><b>CHAPTER 6 CIVIL PROTECTION</b></p> <p style="text-align: center;"><b>ARTICLE 176h</b></p> <p>1. The Union shall encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters. Union action shall aim to:</p> <p>(a) support and complement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or man-made disasters within the Union;</p> <p>(b) promote swift, effective operational cooperation within the Union between national civil-protection services;</p> <p>(c) promote consistency in international civil-protection work.</p>	<p style="text-align: center;"><b>SECTION 6 CIVIL PROTECTION</b></p> <p style="text-align: center;"><b>ARTICLE III-284</b></p> <p>1. The Union shall encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters. Union action shall aim to:</p> <p>(a) support and complement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or man-made disasters within the Union;</p> <p>(b) promote swift, effective operational cooperation within the Union between national civil-protection services;</p> <p>(c) promote consistency in international civil-protection work.</p> <p>2. European laws or framework laws shall establish the</p>

<p>2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to help achieve the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States.</p>	<p>measures necessary to help achieve the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States.</p>
<p style="text-align: center;"><b>CHAPTER 7</b> <b>ADMINISTRATIVE COOPERATION</b></p> <p style="text-align: center;"><b>ARTICLE 176i</b></p> <p>1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.</p> <p>2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.</p> <p>3. This Article shall be without prejudice to the obligations of the Member States to implement Union law or to the prerogatives and duties of the Commission. It shall also be without prejudice to other provisions of the Treaties providing for administrative cooperation among the</p>	<p style="text-align: center;"><b>SECTION 7</b> <b>ADMINISTRATIVE COOPERATION</b></p> <p style="text-align: center;"><b>ARTICLE III-285</b></p> <p>1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.</p> <p>2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. European laws shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.</p> <p>3. This Article shall be without prejudice to the obligations of the Member States to implement Union law or to the prerogatives and duties of the Commission. It shall also be without prejudice to other provisions of the Constitution providing for administrative cooperation among the Member</p>

<p>Member States and between them and the Union.</p>	<p>States and between them and the Union.</p>
<p style="text-align: center;">PART FOUR ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES</p> <p style="text-align: center;">ARTICLE 182</p> <p>The Member States agree to associate with the <b>Union</b> the non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom. These countries and territories (hereinafter called the 'countries and territories') are listed in Annex II to <del>this Treaty</del>.</p> <p>The purpose of association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the <b>Union</b> as a whole.</p> <p>In accordance with the principles set out in the preamble to <b>the Treaties</b>, association shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire.</p>	<p style="text-align: center;">TITLE IV ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES</p> <p style="text-align: center;">ARTICLE III-286</p> <p>1. The non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom shall be associated with the Union. These countries and territories, hereinafter called the "countries and territories", are listed in Annex II.</p> <p>This title shall apply to Greenland, subject to the specific provisions of the Protocol on special arrangements for Greenland.</p> <p>2. The purpose of association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Union. Association shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire.</p>
<p style="text-align: center;">ARTICLE 183</p> <p>Association shall have the following objectives.</p>	<p style="text-align: center;">ARTICLE III-287</p> <p>Association shall have the following objectives:</p>

<p>1. Member States shall apply to their trade with the countries and territories the same treatment as they accord each other pursuant to <b>the Treaties</b>.</p> <p>2. Each country or territory shall apply to its trade with Member States and with the other countries and territories the same treatment as that which it applies to the European State with which it has special relations.</p> <p>3. The Member States shall contribute to the investments required for the progressive development of these countries and territories.</p> <p>4. For investments financed by the <b>Union</b>, participation in tenders and supplies shall be open on equal terms to all natural and legal persons who are nationals of a Member State or of one of the countries and territories.</p> <p>5. In relations between Member States and the countries and territories the right of establishment of nationals and companies or firms shall be regulated in accordance with the provisions and procedures laid down in the Chapter relating to the right of establishment and on a non-discriminatory basis, subject to any special provisions laid down pursuant to Article 187.</p>	<p>(a) Member States shall apply to their trade with the countries and territories the same treatment as they accord each other pursuant to the Constitution;</p> <p>(b) each country or territory shall apply to its trade with Member States and with the other countries and territories the same treatment as that which it applies to the European State with which it has special relations;</p> <p>(c) Member States shall contribute to the investments required for the progressive development of these countries and territories;</p> <p>(d) for investments financed by the Union, participation in tenders and supplies shall be open on equal terms to all natural and legal persons who are nationals of a Member State or of one of the countries and territories;</p> <p>(e) in relations between Member States and the countries and territories, the right of establishment of nationals and companies or firms shall be regulated in accordance with the provisions of Subsection 2 of Section 2 of Chapter I of Title III relating to the freedom of establishment and under the procedures laid down in that Subsection, and on a non-discriminatory basis, subject to any acts adopted pursuant to Article III-291.</p>
<p style="text-align: center;">ARTICLE 184</p> <p>1. Customs duties on imports into the Member States of goods originating in the countries and territories shall be prohibited in conformity with the prohibition of customs duties between Member States in accordance with the provisions of <b>the</b></p>	<p style="text-align: center;">ARTICLE III-288</p> <p>1. Customs duties on imports into the Member States of goods originating in the countries and territories shall be prohibited in conformity with the prohibition of customs duties between Member States provided for in the Constitution.</p>

<p><b>Treaties.</b></p> <p>2. Customs duties on imports into each country or territory from Member States or from the other countries or territories shall be prohibited in accordance with the provisions of Article 25.</p> <p>3. The countries and territories may, however, levy customs duties which meet the needs of their development and industrialisation or produce revenue for their budgets.</p> <p>The duties referred to in the preceding subparagraph may not exceed the level of those imposed on imports of products from the Member State with which each country or territory has special relations.</p> <p>4. Paragraph 2 shall not apply to countries and territories which, by reason of the particular international obligations by which they are bound, already apply a non-discriminatory customs tariff.</p> <p>5. The introduction of or any change in customs duties imposed on goods imported into the countries and territories shall not, either in law or in fact, give rise to any direct or indirect discrimination between imports from the various Member States.</p>	<p>2. Customs duties on imports into each country or territory from Member States or from the other countries or territories shall be prohibited in accordance with Article III-151(4).</p> <p>3. The countries and territories may, however, levy customs duties which meet the needs of their development and industrialisation or produce revenue for their budgets.</p> <p>The duties referred to in the first subparagraph shall not exceed the level of those imposed on imports of products from the Member State with which each country or territory has special relations.</p> <p>4. Paragraph 2 shall not apply to countries and territories which, by reason of the particular international obligations by which they are bound, already apply a non-discriminatory customs tariff.</p> <p>5. The introduction of or any change in customs duties imposed on goods imported into the countries and territories shall not, either in law or in fact, give rise to any direct or indirect discrimination between imports from the various Member States.</p>
<p style="text-align: center;">ARTICLE 185</p> <p>If the level of the duties applicable to goods from a third country on entry into a country or territory is liable, when the provisions of Article 184(1) have been applied, to cause deflections of trade to the detriment of any Member State,</p>	<p style="text-align: center;">ARTICLE III-289</p> <p>If the level of the duties applicable to goods from a third country on entry into a country or territory is liable, when Article III-288(1) has been applied, to cause deflections of trade to the detriment of any Member State, the latter may request</p>

<p>the latter may request the Commission to propose to the other Member States the measures needed to remedy the situation.</p>	<p>the Commission to propose to the other Member States that they take the necessary measures to remedy the situation.</p>
<p style="text-align: center;">ARTICLE 186</p> <p>Subject to the provisions relating to public health, public security or public policy, freedom of movement within Member States for workers from the countries and territories, and within the countries and territories for workers from Member States, shall be regulated by acts adopted in accordance with Article 187.</p>	<p style="text-align: center;">ARTICLE III-290</p> <p>Subject to the provisions relating to public health, public security or public policy, freedom of movement within Member States for workers from the countries and territories, and within the countries and territories for workers from Member States, shall be regulated by acts adopted in accordance with Article III-291.</p>
<p style="text-align: center;">ARTICLE 187</p> <p>The Council, acting unanimously on a proposal from the Commission, shall, on the basis of the experience acquired under the association of the countries and territories with the Union and of the principles set out in the Treaties, lay down provisions as regards the detailed rules and the procedure for the association of the countries and territories with the Union.</p>	<p style="text-align: center;">ARTICLE III-291</p> <p>The Council, on a proposal from the Commission, shall adopt unanimously, on the basis of the experience acquired under the association of the countries and territories with the Union, European laws, framework laws, regulations and decisions as regards the detailed rules and the procedure for the association of the countries and territories with the Union. These laws and framework laws shall be adopted after consultation of the European Parliament.</p>
<p style="text-align: center;">ARTICLE 188</p> <p>The provisions of Articles 182 to 187 shall apply to Greenland, subject to the specific provisions for Greenland set out in the Protocol on special arrangements for Greenland, annexed to the Treaties.</p>	<p style="text-align: center;">(contained in Article III-286)</p>
<p style="text-align: center;">PART FIVE</p>	



<p>EXTERNAL ACTION OF THE UNION (OTHER THAN THE CFSP)  <b>TITLE I</b>  <b>GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION</b></p> <p><b>ARTICLE 188a</b></p> <p>The Union's action on the international scene, pursuant to this Part, shall be guided by the principles, pursue the objectives and be conducted in accordance with the general provisions laid down in Chapter 1 of Title V of the Treaty on European Union.</p>	<p><b>TITLE V</b>  <b>PROVISIONS HAVING GENERAL APPLICATION</b></p> <p><b>ARTICLE III-292</b></p> <p>The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.</p>
<p><b>TITLE II</b>  <b>COMMON COMMERCIAL POLICY</b></p> <p><b>ARTICLE 188b</b></p> <p>By establishing a customs union in accordance with Articles 23 to 27, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.</p> <p><del>The common commercial policy shall take into account the favourable effect which the abolition of customs duties between Member States may have on the increase in the competitive strength of undertakings in those States.</del></p>	<p><b>CHAPTER III</b>  <b>COMMON COMMERCIAL POLICY</b></p> <p><b>ARTICLE III-314</b></p> <p>By establishing a customs union in accordance with Article III-151, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.</p>

ARTICLE 188c	ARTICLE III-315
<p>1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.</p> <p>2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures defining the framework for implementing the common commercial policy.</p> <p>3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article [III-325] shall apply, subject to the special provisions of this Article. The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules. The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission</p>	<p>1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.</p> <p>2. European laws shall establish the measures defining the framework for implementing the common commercial policy.</p> <p>3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article III-325 shall apply, subject to the special provisions of this Article. The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules. The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.</p>

shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by a qualified majority.

For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

The Council shall also act unanimously for the negotiation and conclusion of agreements:

(a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity;

(b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to [Section 7 of Chapter III of Title III and to Article III-325].

6. The exercise of the competences conferred by this Article in the field of the common commercial policy shall not affect the delimitation of competences between the

4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by a qualified majority.

For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

The Council shall also act unanimously for the negotiation and conclusion of agreements:

(a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity;

(b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to Section 7 of Chapter III of Title III and to Article III-325.

6. The exercise of the competences conferred by this Article in the field of the common commercial policy shall not affect the delimitation of competences between the Union and the Member States, and shall not lead to harmonisation of

<p>Union and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of the Member States insofar as the Constitution excludes such harmonisation.</p>	<p>legislative or regulatory provisions of the Member States insofar as the Constitution excludes such harmonisation.</p>
<p style="text-align: center;">TITLE III COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID CHAPTER 1 DEVELOPMENT COOPERATION</p> <p style="text-align: center;">ARTICLE 188d</p> <p>1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States shall complement and reinforce each other. Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.</p> <p>2. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.</p>	<p style="text-align: center;">CHAPTER IV COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID SECTION 1 DEVELOPMENT COOPERATION</p> <p style="text-align: center;">ARTICLE III-316</p> <p>1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States shall complement and reinforce each other. Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.</p> <p>2. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.</p>
<p style="text-align: center;">ARTICLE 188e</p> <p>1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall</p>	<p style="text-align: center;">ARTICLE III-317</p> <p>1. European laws or framework laws shall establish the measures necessary for the implementation of development</p>

<p>adopt the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.</p> <p>2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Articles [III-292 and III-316].</p> <p>The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.</p> <p>3. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.</p> <p><del>3. The provisions of this Article shall not affect cooperation with the African, Caribbean and Pacific countries in the framework of the ACP-EC Convention.</del></p>	<p>cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.</p> <p>2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Articles III-292 and III-316.</p> <p>The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.</p> <p>3. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.</p>
<p style="text-align: center;">ARTICLE 188f</p> <p>1. "In order to promote the complementarity and efficiency of their action, the Union shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organizations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of <b>Union</b> aid programmes.</p> <p>2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.</p>	<p style="text-align: center;">ARTICLE III-318</p> <p>1. In order to promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Union aid programmes.</p> <p>2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.</p>

<p style="text-align: center;"><b>ARTICLE 188g</b></p> <p>Within their respective spheres of competence, the <b>Union</b> and the Member States shall cooperate with third countries and with the competent international organisations.</p>	<p>3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations.</p>
<p style="text-align: center;"><b>CHAPTER 2 ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES</b></p> <p style="text-align: center;"><b>ARTICLE 188h</b></p> <p>1. Without prejudice to the other provisions of the Treaties, and in particular [Articles 188d to 188g], the <b>Union</b> shall carry out economic, financial and technical cooperation measures, including assistance, in particular financial assistance, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The Union's operations and those of the Member States shall complement and reinforce each other.</p> <p>2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of paragraph 1.</p> <p>3. Within their respective spheres of competence, the <b>Union</b> and the Member States shall cooperate with third countries</p>	<p style="text-align: center;"><b>SECTION 2 ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES</b></p> <p style="text-align: center;"><b>ARTICLE III-319</b></p> <p>1. Without prejudice to the other provisions of the Constitution, and in particular Articles III-316 to III-318, the Union shall carry out economic, financial and technical cooperation measures, including assistance, in particular financial assistance, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The Union's measures and those of the Member States shall complement and reinforce each other.</p> <p>2. European laws or framework laws shall establish the measures necessary for the implementation of paragraph 1.</p> <p>3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations. The arrangements</p>

<p>and the competent international organisations. The arrangements for <b>Union</b> cooperation may be the subject of agreements between the <b>Union</b> and the third parties concerned, <del>which shall be negotiated and concluded in accordance with Article 300.</del> The first subparagraph shall be without prejudice to the Member States' competence to negotiate in international bodies and to conclude international agreements.</p>	<p>for Union cooperation may be the subject of agreements between the Union and the third parties concerned. The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.</p>
<p style="text-align: center;"><b>ARTICLE 188i</b></p> <p><b>When the situation in a third country requires urgent financial assistance from the Union, the Council shall adopt the necessary decisions on a proposal from the Commission.</b></p>	<p style="text-align: center;"><b>ARTICLE III-320</b></p> <p><b>When the situation in a third country requires urgent financial assistance from the Union, the Council shall adopt the necessary European decisions on a proposal from the Commission.</b></p>
<p style="text-align: center;"><b>CHAPTER 3 HUMANITARIAN AID</b></p> <p style="text-align: center;"><b>ARTICLE 188j</b></p> <p><b>1. The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union. Such operations shall be intended to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations. The Union's operations and those of the Member States shall complement and reinforce each other.</b></p> <p><b>2. Humanitarian aid operations shall be conducted in</b></p>	<p style="text-align: center;"><b>SECTION 3 HUMANITARIAN AID</b></p> <p style="text-align: center;"><b>ARTICLE III-321</b></p> <p><b>1. The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union. Such operations shall be intended to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations. The Union's operations and those of the Member States shall complement and reinforce each other.</b></p> <p><b>2. Humanitarian aid operations shall be conducted in compliance with the principles of international law and with</b></p>

<p>compliance with the principles of international law and with the principles of impartiality, neutrality and non-discrimination.</p> <p>3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures defining the framework within which the Union's humanitarian aid operations shall be implemented.</p> <p>4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in paragraph 1 and in Article [III-292] of the Treaty on European Union. The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.</p> <p>5. In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall determine the rules and procedures for the operation of the Corps.</p> <p>6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures.</p> <p>7. The Union shall ensure that its humanitarian aid</p>	<p>the principles of impartiality, neutrality and non-discrimination.</p> <p>3. European laws or framework laws shall establish the measures defining the framework within which the Union's humanitarian aid operations shall be implemented.</p> <p>4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in paragraph 1 and in Article III-292. The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.</p> <p>5. In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. European laws shall determine the rules and procedures for the operation of the Corps.</p> <p>6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures.</p> <p>7. The Union shall ensure that its humanitarian aid operations are coordinated and consistent with those of international</p>
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<p>operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations system.</p>	<p>organisations and bodies, in particular those forming part of the United Nations system.</p>
<p style="text-align: center;">TITLE IV RESTRICTIVE MEASURES</p> <p style="text-align: center;">ARTICLE 188k</p> <p>1. Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority<sup>52</sup> on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European Parliament thereof.</p> <p>2. Where a decision adopted in accordance with Chapter 2 of Title V of the Treaty on European Union so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.</p> <p>3. The acts referred to in this Article shall include necessary provisions on legal safeguards.</p>	<p style="text-align: center;">RESTRICTIVE MEASURES</p> <p style="text-align: center;">ARTICLE III-322</p> <p>1. Where a European decision, adopted in accordance with Chapter II, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the Union Minister for Foreign Affairs and the Commission, shall adopt the necessary European regulations or decisions. It shall inform the European Parliament thereof.</p> <p>2. Where a European decision adopted in accordance with Chapter II so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.</p> <p>3. The acts referred to in this Article shall include necessary provisions on legal safeguards.</p>
<p style="text-align: center;">TITLE V INTERNATIONAL AGREEMENTS</p> <p style="text-align: center;">ARTICLE 188l</p>	<p style="text-align: center;">CHAPTER VI INTERNATIONAL AGREEMENTS</p> <p style="text-align: center;">ARTICLE III-323</p>

<p>1. The Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.</p> <p>2. Agreements concluded by the Union are binding on the institutions of the Union and on its Member States.</p>	<p>1. The Union may conclude an agreement with one or more third countries or international organisations where the Constitution so provides or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Constitution, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.</p> <p>2. Agreements concluded by the Union are binding on the institutions of the Union and on its Member States.</p>
<p style="text-align: center;">ARTICLE 188m</p> <p>The Union may conclude an association agreement with one or more third countries or international organisations in order to establish an association involving reciprocal rights and obligations, common actions and special procedures.</p>	<p style="text-align: center;">ARTICLE III-324</p> <p>The Union may conclude an association agreement with one or more third countries or international organisations in order to establish an association involving reciprocal rights and obligations, common actions and special procedures.</p>
<p style="text-align: center;">ARTICLE 188n</p> <p>1. Without prejudice to the specific provisions laid down in Article [III-315], agreements between the Union and third countries or international organisations shall be negotiated and concluded in accordance with the following procedure.</p> <p>2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.</p> <p>3. The Commission, or the High Representative of the Union for Foreign Affairs and Security Policy where the agreement envisaged relates exclusively or principally to</p>	<p style="text-align: center;">ARTICLE III-325</p> <p>1. Without prejudice to the specific provisions laid down in Article III-315, agreements between the Union and third countries or international organisations shall be negotiated and concluded in accordance with the following procedure.</p> <p>2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.</p> <p>3. The Commission, or the Union Minister for Foreign Affairs where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall</p>

<p>the common foreign and security policy, shall submit recommendations to the Council, which shall adopt a decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or head of the Union's negotiating team.</p> <p>4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.</p> <p>5. The Council, on a proposal by the negotiator, shall adopt a decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force.</p> <p>6. The Council, on a proposal by the negotiator, shall adopt a decision concluding the agreement. Except where agreements relate exclusively to the common foreign and security policy, the Council shall adopt the decision concluding the agreement:</p> <p>(a) after obtaining the consent of the European Parliament in the following cases:</p> <ul style="list-style-type: none"> <li>(i) association agreements;</li> <li>(ii) agreement on Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;</li> <li>(iii) agreements establishing a specific institutional framework by organising cooperation procedures;</li> <li>(iv) agreements with important budgetary implications for the Union;</li> </ul>	<p>submit recommendations to the Council, which shall adopt a European decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or head of the Union's negotiating team.</p> <p>4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.</p> <p>5. The Council, on a proposal by the negotiator, shall adopt a European decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force.</p> <p>6. The Council, on a proposal by the negotiator, shall adopt a European decision concluding the agreement. Except where agreements relate exclusively to the common foreign and security policy, the Council shall adopt the European decision concluding the agreement:</p> <p>(a) after obtaining the consent of the European Parliament in the following cases:</p> <ul style="list-style-type: none"> <li>(i) association agreements;</li> <li>(ii) Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;</li> <li>(iii) agreements establishing a specific institutional framework by organising cooperation procedures;</li> <li>(iv) agreements with important budgetary implications for the Union;</li> <li>(v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative</li> </ul>
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(v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required. The European Parliament and the Council may, in an urgent situation, agree upon a time-limit for consent.

(b) after consulting the European Parliament in other cases. The European Parliament shall deliver its opinion within a time-limit which the Council may set depending on the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

7. When concluding an agreement, the Council may, by way of derogation from paragraphs 5, 6 and 9, authorise the negotiator to approve on the Union's behalf modifications to the agreement where it provides for them to be adopted by a simplified procedure or by a body set up by the agreement. The Council may attach specific conditions to such authorisation.

8. The Council shall act by a qualified majority throughout the procedure. However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements and the agreements referred to in Article [III-319] with the States which are candidates for accession. The Council shall also act unanimously for the agreement on accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms; the decision concluding this agreement shall not come into force until it has been approved by the Member States in accordance with their respective constitutional requirements.<sup>53</sup>

procedure where consent by the European Parliament is required. The European Parliament and the Council may, in an urgent situation, agree upon a time-limit for consent.

(b) after consulting the European Parliament in other cases. The European Parliament shall deliver its opinion within a time-limit which the Council may set depending on the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

7. When concluding an agreement, the Council may, by way of derogation from paragraphs 5, 6 and 9, authorise the negotiator to approve on the Union's behalf modifications to the agreement where it provides for them to be adopted by a simplified procedure or by a body set up by the agreement. The Council may attach specific conditions to such authorisation.

8. The Council shall act by a qualified majority throughout the procedure. However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements and the agreements referred to in Article III-319 with the States which are candidates for accession.

9. The Council, on a proposal from the Commission or the Union

<p>9. The Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a decision suspending application of an agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.</p> <p>10. The European Parliament shall be immediately and fully informed at all stages of the procedure.</p> <p>11. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the Treaties. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless it is amended or the Treaties are revised.</p>	<p>Minister for Foreign Affairs, shall adopt a European decision suspending application of an agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.</p> <p>10. The European Parliament shall be immediately and fully informed at all stages of the procedure.</p> <p>11. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the Constitution. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless it is amended or the Constitution is revised.</p>
<p style="text-align: center;">ARTICLE 188o</p> <p>1. By way of derogation from Article 300, the Council, either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may conclude formal agreements on an exchange-rate system for the euro in relation to the currencies of <b>third States</b>. The Council shall act unanimously after consulting the European Parliament and in accordance with the procedure provided for in paragraph 3.</p>	<p style="text-align: center;">ARTICLE III-326</p> <p>1. By way of derogation from Article III-325, the Council, either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may conclude formal agreements on an exchange-rate system for the euro in relation to the currencies of third States. The Council shall act unanimously after consulting the European Parliament and in accordance with the procedure provided for in paragraph 3.</p>

The Council, either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.

2. In the absence of an exchange-rate system in relation to one or more currencies of **third States** as referred to in paragraph 1, the Council, acting either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

3. By way of derogation from Article 300, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more **third States** or international organisations, the Council, acting on a recommendation from the Commission and after consulting the European Central Bank, shall decide the arrangements for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Union expresses a single position. The Commission shall be fully associated with the negotiations.

The Council, either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.

2. In the absence of an exchange-rate system in relation to one or more currencies of third States as referred to in paragraph 1, the Council, acting either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

3. By way of derogation from Article III-325, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more third States or international organisations, the Council, acting on a recommendation from the Commission and after consulting the European Central Bank, shall decide the arrangements for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Union expresses a single position. The Commission shall be fully associated with the negotiations.

<p><del>Agreements concluded in accordance with this paragraph shall be binding on the institutions of the Community, on the ECB and on Member States.</del></p> <p>4. Without prejudice to Union competence and Union agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude agreements.</p>	<p>4. Without prejudice to Union competence and Union agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude agreements.</p>
<p style="text-align: center;"><b>TITLE VI</b> <b>THE UNION'S RELATIONS WITH INTERNATIONAL ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS</b></p> <p style="text-align: center;"><b>ARTICLE 188p</b></p> <p>1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development. The Union shall also maintain such relations as are appropriate with other international organisations.</p> <p>2. The High Representative of the Union for Foreign Affairs and Security Policy and the Commission shall be instructed to implement this Article.</p>	<p style="text-align: center;"><b>CHAPTER VII</b> <b>THE UNION'S RELATIONS WITH INTERNATIONAL ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS</b></p> <p style="text-align: center;"><b>ARTICLE III-327</b></p> <p>1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development. The Union shall also maintain such relations as are appropriate with other international organisations.</p> <p>2. The Union Minister for Foreign Affairs and the Commission shall be instructed to implement this Article.</p>
<p style="text-align: center;"><b>ARTICLE 188q</b></p> <p>1. Union delegations in third countries and at international organisations shall represent the Union.</p>	<p style="text-align: center;"><b>ARTICLE III-328</b></p> <p>1. Union delegations in third countries and at international organizations shall represent the Union.</p>

<p>2. Union delegations shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy. They shall act in close cooperation with Member States' diplomatic and consular missions.</p>	<p>2. Union delegations shall be placed under the authority of the Union Minister for Foreign Affairs. They shall act in close cooperation with Member States' diplomatic and consular missions.</p>
<p style="text-align: center;">TITLE VIII SOLIDARITY CLAUSE</p> <p style="text-align: center;">ARTICLE 188r</p> <p>1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:</p> <p>a) - prevent the terrorist threat in the territory of the Member States; - protect democratic institutions and the civilian population from any terrorist attack; - assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;</p> <p>(b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.</p>	<p style="text-align: center;">ARTICLE I-43 Solidarity clause</p> <p>1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:</p> <p>(a) - prevent the terrorist threat in the territory of the Member States; - protect democratic institutions and the civilian population from any terrorist attack; - assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;</p> <p>(b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.</p> <p>2. The detailed arrangements for implementing this Article are set out in Article III-329.</p> <p style="text-align: center;">CHAPTER VIII</p>



<p>2. Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.</p> <p>3. The arrangements for the implementation by the Union of the solidarity clause shall be defined by a decision adopted by the Council acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy. The Council shall act in accordance with Article [III-300(1)] where this decision has defence implications. The European Parliament shall be informed. For the purposes of this paragraph and without prejudice to Article [III-344], the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article [III-261]; the two committees shall, if necessary, submit joint opinions.</p> <p>4. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.</p>	<p style="text-align: center;">IMPLEMENTATION OF THE SOLIDARITY CLAUSE</p> <p style="text-align: center;">ARTICLE III-329</p> <p>1. Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.</p> <p>2. The arrangements for the implementation by the Union of the solidarity clause referred to in Article I-43 shall be defined by a European decision adopted by the Council acting on a joint proposal by the Commission and the Union Minister for Foreign Affairs. The Council shall act in accordance with Article III-300(1) where this decision has defence implications. The European Parliament shall be informed. For the purposes of this paragraph and without prejudice to Article III-344, the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article III-261; the two committees shall, if necessary, submit joint opinions.</p> <p>3. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.</p>
<p style="text-align: center;">PART SIX THE FUNCTIONING OF THE UNION EUROPEAN PARLIAMENT</p>	<p style="text-align: center;">TITLE VI THE FUNCTIONING OF THE UNION CHAPTER I</p>

	<p style="text-align: center;">PROVISIONS GOVERNING THE INSTITUTIONS</p> <p style="text-align: center;">SECTION 1 THE INSTITUTIONS SUBSECTION 1</p> <p style="text-align: center;">THE EUROPEAN PARLIAMENT</p>
<p>ARTICLE 189 has been repealed. No article given to replace it.</p>	
<p style="text-align: center;">ARTICLE 190<sup>54</sup></p> <p>1. The European Parliament shall draw up a proposal for elections <b>of its members</b> by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.</p> <p>The Council shall, <b>acting in accordance with a special legislative procedure</b> unanimously after obtaining the assent of the European Parliament, which shall act by a majority of its component members, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.</p> <p>2. The European Parliament <b>acting on its own initiative in accordance with a special legislative procedure</b>, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, shall lay down the regulations and general conditions governing the performance of the duties of its Members. All rules or</p>	<p style="text-align: center;">ARTICLE III-330</p> <p>1. A European law or framework law of the Council shall establish the necessary measures for the election of the Members of the European Parliament by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.</p> <p>The Council shall act unanimously on initiative from, and after obtaining the consent of the European Parliament, which shall act by a majority of its component members. This law or framework law shall enter into force after it has been approved by the Member States in accordance with their respective constitutional requirements.</p> <p>2. A European law of the European Parliament shall lay down the regulations and general conditions governing the performance of the duties of its Members. The European Parliament shall act on its own initiative after seeking an opinion from the Commission and after obtaining the consent of the Council. The Council shall act unanimously on all rules or</p>

conditions relating to the taxation of Members or former Members shall require unanimity within the Council.	conditions relating to the taxation of Members or former Members.
<p style="text-align: center;">ARTICLE 191</p> <p>The European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall lay down the regulations governing political parties at European level referred to in Article [I-46(4)] of the Treaty on European Union and in particular the rules regarding their funding.</p>	<p style="text-align: center;">ARTICLE III-331</p> <p>European laws shall lay down the regulations governing the political parties at European level referred to in Article I-46(4), and in particular the rules regarding their funding.</p>
<p style="text-align: center;">ARTICLE 192</p> <p><del>In so far as provided in this Treaty, the European Parliament shall participate in the process leading up to the adoption of Community acts by exercising its powers under the procedures laid down in Articles 251 and 252 and by giving its assent or delivering advisory opinions.</del></p> <p>The European Parliament may, acting by a majority of its component members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Treaties. If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons.</p>	<p style="text-align: center;">ARTICLE III-332</p> <p>The European Parliament may, by a majority of its component Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Constitution. If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons.</p>
<p style="text-align: center;">ARTICLE 193</p> <p>In the course of its duties, the European Parliament may, at the request of a quarter of its component Members, set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by the Treaties on other</p>	<p style="text-align: center;">ARTICLE III-333</p> <p>In the course of its duties, the European Parliament may, at the request of a quarter of its component Members, set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by the Constitution on other</p>

<p>institutions or bodies<sup>55</sup> alleged contraventions or maladministration in the implementation of <b>Union law</b>, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.</p> <p>The temporary Committee of Inquiry shall cease to exist on the submission of its report.</p> <p><b>The detailed provisions governing the exercise of the right of inquiry shall be determined by the European Parliament, acting on its own initiative in accordance with a special legislative procedure, after obtaining the consent of the Council and the Commission.</b></p>	<p>institutions or bodies, alleged contraventions or maladministration in the implementation of Union law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.</p> <p>The temporary Committee of Inquiry shall cease to exist on submission of its report.</p> <p>A European law of the European Parliament shall lay down the detailed provisions governing the exercise of the right of inquiry. The European Parliament shall act on its own initiative after obtaining the consent of the Council and of the Commission.</p>
<p style="text-align: center;">ARTICLE 194</p> <p>Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Union's fields of activity and which affects him, her or it directly.</p>	<p style="text-align: center;">ARTICLE III-334</p> <p>In accordance with Article I-10(2)(d), any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other persons, a petition to the European Parliament on a matter which comes within the Union's fields of activity and which affects him, her or it directly.</p>
<p style="text-align: center;">ARTICLE 195</p> <p><b>1. A European Ombudsman elected by the European Parliament shall be empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the <b>Union institutions, bodies, offices or agencies</b>, with the exception of the Court of Justice and <del>the Court of First Instance</del> acting in its judicial role. <u>He or she shall examine</u></b></p>	<p style="text-align: center;">ARTICLE III-335</p> <p><b>1. The European Parliament shall elect a European Ombudsman. In accordance with Articles I-10(2)(d) and I-49, he or she shall be empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the Union's institutions, bodies, offices or agencies, with the exception of the Court of Justice of the European Union acting in its judicial role.</b></p>

such complaints and report on them

In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a Member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he shall refer the matter to the institution concerned, which shall have a period of three months in which to inform him of its views. The Ombudsman shall then forward a report to the European Parliament and the institution concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his inquiries.

2. The Ombudsman shall be elected after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment. The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he no longer fulfils the conditions required for the performance of his duties or if he is guilty of serious misconduct.

3. The Ombudsman shall be completely independent in the performance of his duties. In the performance of those duties he shall neither seek nor take instructions from **any institution, body, office or agency**. The Ombudsman may not, during his term of office, engage in any other

In accordance with his or her duties, the Ombudsman shall conduct inquiries for which he or she finds grounds, either on his or her own initiative or on the basis of complaints submitted to him or her direct or through a member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he or she shall refer the matter to the institution, body, office or agency concerned, which shall have a period of three months in which to inform him or her of its views. The European Ombudsman shall then forward a report to the European Parliament and the institution, body, office or agency concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his or her inquiries.

2. The Ombudsman shall be elected after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment. The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he or she no longer fulfils the conditions required for the performance of his or her duties or if he or she is guilty of serious misconduct.

3. The Ombudsman shall be completely independent in the performance of his or her duties. In the performance of those duties he or she shall neither seek nor take instructions from any institution, body, office or agency. The Ombudsman shall not, during his or her term of office, engage in any other

<p>occupation, whether gainful or not.</p> <p>4. The European Parliament acting on its own initiative in accordance with a special legislative procedure shall, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, lay down the regulations and general conditions governing the performance of the Ombudsman's duties.</p>	<p>occupation, whether gainful or not.</p> <p>4. A European law of the European Parliament shall lay down the regulations and general conditions governing the performance of the Ombudsman's duties. The European Parliament shall act on its own initiative after seeking an opinion from the Commission and after obtaining the consent of the Council.</p>
<p style="text-align: center;">ARTICLE 196</p> <p>The European Parliament shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March.</p> <p>The European Parliament may meet in extraordinary part-session at the request of a majority of its component members or at the request of the Council or of the Commission.</p>	<p style="text-align: center;">ARTICLE III-336</p> <p>The European Parliament shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March.</p> <p>The European Parliament may meet in extraordinary part-session at the request of a majority of its component members or at the request of the Council or of the Commission.</p>
<p style="text-align: center;">ARTICLE 197</p> <p><del>The European Parliament shall elect its President and its officers from among its Members.</del></p> <p>The Commission may attend all the meetings and shall, at its request, be heard.</p> <p>The Commission shall reply orally or in writing to questions put to it by the European Parliament or by its Members.</p> <p>The European Council and the Council shall be heard by the European Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council</p>	<p style="text-align: center;">ARTICLE III-337</p> <p>1. The European Council and the Council shall be heard by the European Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council and those of the Council.</p> <p>2. The Commission may attend all the meetings of the European Parliament and shall, at its request, be heard. It shall reply orally or in writing to questions put to it by the European Parliament or by its members.</p>

<p>and those of the Council.</p>	<p>3. The European Parliament shall discuss in open session the annual general report submitted to it by the Commission.</p>
<p style="text-align: center;">ARTICLE 198</p> <p>Save as otherwise provided in <b>the Treaties</b>, the European Parliament shall act by a <del>absolute</del> majority of the votes cast. The Rules of Procedure shall determine the quorum.</p>	<p style="text-align: center;">ARTICLE III-338</p> <p>Save as otherwise provided in the Constitution, the European Parliament shall act by a majority of the votes cast. Its Rules of Procedure shall determine the quorum.</p>
<p style="text-align: center;">ARTICLE 199</p> <p>The European Parliament shall adopt its Rules of Procedure, acting by a majority of its Members. The proceedings of the European Parliament shall be published in the <b>manner laid down in the Treaties and in its Rules of Procedure</b>.</p>	<p style="text-align: center;">ARTICLE III-339</p> <p>The European Parliament shall adopt its Rules of Procedure, by a majority of its component members. The proceedings of the European Parliament shall be published in the manner laid down in the Constitution and the Rules of Procedure of the European Parliament.</p>
<p style="text-align: center;">ARTICLE 200</p> <p>The European Parliament shall discuss in open session the annual general report submitted to it by the Commission.</p>	<p style="text-align: center;">ARTICLE III-337</p> <p>3. The European Parliament shall discuss in open session the annual general report submitted to it by the Commission.</p>
<p style="text-align: center;">ARTICLE 201</p> <p>If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and only by open vote.</p> <p><b>If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the component members of the European Parliament, the members of the Commission shall resign as a body and the</b></p>	<p style="text-align: center;">ARTICLE III-340</p> <p>If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and shall do so only by open vote.</p> <p><b>If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the component members of the European Parliament, the members of the Commission shall resign as a body and the Union Minister for</b></p>

<p>High Representative of the Union for Foreign Affairs and Security Policy shall resign from duties that he or she carries out in the Commission. They shall remain in office and continue to deal with current business until they are replaced in accordance with Articles [I-26 and I-27] of the Treaty on European Union. In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired.</p>	<p>Foreign Affairs shall resign from duties that he or she carries out in the Commission. They shall remain in office and continue to deal with current business until they are replaced in accordance with Articles I-26 and I-27. In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired.</p>
<p style="text-align: center;">SECTION 1a EUROPEAN COUNCIL</p> <p style="text-align: center;">ARTICLE 201a</p> <p>1. Where a vote is taken, any member of the European Council may also act on behalf of not more than one other member.</p> <p>Paragraph [1 of Article I-25] of the Treaty on European Union and paragraph [2] of Article [205] of this Treaty shall apply to the European Council when it is acting by a qualified majority. Where the European Council decides by vote, its President and the President of the Commission shall not take part in the vote.</p> <p>Abstentions by members present in person or represented shall not prevent the adoption by the European Council of acts which require unanimity.</p> <p>2. The President of the European Parliament may be</p>	<p style="text-align: center;">SUBSECTION 2 THE EUROPEAN COUNCIL</p> <p style="text-align: center;">ARTICLE III-341</p> <p>1. Where a vote is taken, any member of the European Council may also act on behalf of not more than one other member.</p> <p>Abstentions by members present in person or represented shall not prevent the adoption by the European Council of acts which require unanimity.</p> <p>2. The President of the European Parliament may be invited to</p>



<p>invited to be heard by the European Council.</p> <p>3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.</p> <p>4. The European Council shall be assisted by the General Secretariat of the Council.</p>	<p>be heard by the European Council.</p> <p>3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.</p> <p>4. The European Council shall be assisted by the General Secretariat of the Council.</p>
<p style="text-align: center;">ARTICLE 201b</p> <p>The European Council shall adopt by a qualified majority:</p> <p>(a) a decision establishing the list of Council configurations other than those referred to in Article [I-24(2) and (3)] of the Treaty on European Union;</p> <p>(b) a decision on the Presidency of Council configurations, other than that of Foreign Affairs, in accordance with Article [I-24(7)] of the Treaty on European Union.</p>	<p style="text-align: center;">ARTICLE I-24</p> <p>4. The European Council shall adopt by a qualified majority a European decision establishing the list of other Council configurations.</p> <hr/> <p style="text-align: center;">ARTICLE I-24</p> <p>7. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established by a European decision of the European Council. The European Council shall act by a qualified majority.</p>
<p>Articles 202 and 203 repealed. No new articles are given to replace them.</p>	
<p style="text-align: center;">THE COUNCIL<sup>56</sup></p> <p style="text-align: center;">ARTICLE 204</p>	<p style="text-align: center;">The Council of Ministers</p> <p style="text-align: center;">ARTICLE III-342</p>

<p>The Council shall meet when convened by its President on his own initiative or at the request of one of its Members or of the Commission.</p>	<p>The Council shall meet when convened by its President on his or her own initiative, or at the request of one of its members or of the Commission.</p>
<p style="text-align: center;">ARTICLE 205</p> <p>1. Where it is required to act by a simple majority, the Council shall act by a majority of its component members.</p> <p>2. By way of derogation from paragraph 1 of Article [I-25] of the Treaty on European Union, as from 1 November 2014 and subject to the transitional provisions referred to in Article [9 C(5)] of the Treaty on European Union, where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council, representing Member States comprising at least 65 % of the population of the Union.</p> <p>3. <u>As from 1 November 2014 and subject to the transitional provisions referred to in Article [9 C(5)] of the Treaty on European Union, in cases where not all the members of the Council participate in voting, a qualified majority shall be defined as follows:</u></p>	<p style="text-align: center;">ARTICLE I-25</p> <p>Definition of qualified majority within the European Council and the Council</p> <p>1. A qualified majority shall be defined as at least 55% of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65% of the population of the Union.</p> <p>A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.</p> <p>2. By way of derogation from paragraph 1, when the Council does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the qualified majority shall be defined as at least 72% of the members of the Council, representing Member States comprising at least 65% of the population of the Union.</p> <p>3. Paragraphs 1 and 2 shall apply to the European Council when it is acting by a qualified majority.</p> <p>4. Within the European Council, its President and the President of the Commission shall not take part in the vote.</p>

<p>(a) A qualified majority shall be defined as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.</p> <p>A blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.</p> <p>(b) By way of derogation from point (a), where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.</p> <p>4. Abstentions by Members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.</p>	
<p style="text-align: center;">Article 206</p> <p>Where a vote is taken, any Member of the Council may also act on behalf of not more than one other member.</p>	<p style="text-align: center;">ARTICLE III-343</p> <p>1. Where a vote is taken, any member of the Council may act on behalf of not more than one other member.</p>
<p style="text-align: center;">ARTICLE 207</p> <p>1. A committee consisting of the Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council</p>	<p style="text-align: center;">ARTICLE III-344</p> <p>1. A committee consisting of the Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks</p>

<p>and for carrying out the tasks assigned to it by the latter. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.</p> <p>2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council.</p> <p>The Council shall decide on the organisation of the General Secretariat by a simple majority.</p> <p>3. The Council shall act by a simple majority regarding procedural matters and for the adoption of its Rules of Procedure.</p>	<p>assigned to it by the latter. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.</p> <p>2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council.</p> <p>The Council shall decide on the organisation of the General Secretariat by a simple majority.</p> <p>3. The Council shall act by a simple majority regarding procedural matters and for the adoption of its Rules of Procedure.</p>
<p style="text-align: center;">ARTICLE 208</p> <p>The Council, acting by a simple majority may request the Commission to undertake any studies the Council considers desirable for the attainment of the common objectives, and to submit to it any appropriate proposals. If the Commission does not submit a proposal, it shall inform the Council of the reasons.</p>	<p style="text-align: center;">ARTICLE III-345</p> <p>The Council, by a simple majority, may request the Commission to undertake any studies the Council considers desirable for the attainment of the common objectives, and to submit any appropriate proposals to it. If the Commission does not submit a proposal, it shall inform the Council of the reasons.</p>
<p style="text-align: center;">ARTICLE 209</p> <p>The Council shall, acting by a simple majority after consulting the Commission, determine the rules governing the committees provided for in the Treaties.</p>	<p style="text-align: center;">ARTICLE III-346</p> <p>The Council shall adopt European decisions laying down the rules governing the committees provided for in the Constitution. It shall act by a simple majority after consulting the Commission.</p>
<p style="text-align: center;">ARTICLE 210</p>	<p style="text-align: center;">ARTICLE III-400</p>

<p>The Council shall determine the salaries, allowances and pensions of the President of the European Council, the President of the Commission, the High Representative of the Union for Foreign Affairs and Security Policy, the members of the Commission, the Presidents, members and Registrars of the Court of Justice of the European Union, and the Secretary-General of the Council. It shall also determine any payment to be made instead of remuneration.</p>	<p>1. The Council shall adopt European regulations and decisions determining:</p> <p>(a) the salaries, allowances and pensions of the President of the European Council, the President of the Commission, the Union Minister for Foreign Affairs, the members of the Commission, the Presidents, members and Registrars of the Court of Justice of the European Union, and the Secretary-General of the Council;</p> <p>(b) the conditions of employment, in particular the salaries, allowances and pensions, of the President and members of the Court of Auditors;</p> <p>(c) any payment to be made instead of remuneration to the persons referred to in points (a) and (b).</p> <p>2. The Council shall adopt European regulations and decisions determining the allowances of the members of the Economic and Social Committee.</p>
<p style="text-align: center;">THE COMMISSION<sup>57</sup></p> <p style="text-align: center;">ARTICLE 211</p> <p>In accordance with Article [I-26(6)] of the Treaty on European Union, the members of the Commission shall be chosen on the basis of a system of rotation established unanimously by the European Council and on the basis of the following principles:</p>	<p style="text-align: center;">ARTICLE I-26</p> <p style="text-align: center;">THE EUROPEAN COMMISSION</p> <p>6... The members of the Commission shall be selected from among the nationals of the Member States on the basis of a system of equal rotation between the Member States. This system shall be established by a European decision adopted unanimously by the European Council and on the basis of the following principles:</p>

<p>(a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;</p> <p>(b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States."</p>	<p>(a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;</p> <p>(b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States.</p>
<p>Article 212 becomes a new paragraph 2 of Article 218</p>	
<p style="text-align: center;">ARTICLE 213</p> <p><del>1. The Commission shall consist of 20 Members, who shall be chosen on the grounds of their general competence and whose independence is beyond doubt.</del></p> <p>The Members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks.</p> <p>The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising there from and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on</p>	<p style="text-align: center;">ARTICLE III-347</p> <p>The members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks.</p> <p>The members of the Commission shall not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by</p>

<p>application by the Council, acting by single majority or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 216 or deprived of his right to a pension or other benefits in its stead.</p>	<p>the Council, acting by a simple majority, or the Commission, rule that the person concerned be, according to the circumstances, either compulsorily retired in accordance with Article III-349 or deprived of his or her right to a pension or other benefits in its stead.</p>
<p>Article 14 is repealed. No new article in its place.</p>	
<p style="text-align: center;"><b>ARTICLE 215</b></p> <p>Apart from normal replacement, or death, the duties of a Member of the Commission shall end when he resigns or is compulsorily retired.</p> <p><b>A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the member's term of office by a new member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in Article [I-26(4)] of the Treaty on European Union.</b></p> <p><b>The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not be filled, in particular when the remainder of the member's term of office is short.</b></p> <p>In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his term of office. <b>The procedure laid down in Article 214(2) shall be applicable for the replacement of the President.</b></p> <p><b>In the event of resignation, compulsory retirement or</b></p>	<p style="text-align: center;"><b>ARTICLE III-348</b></p> <p>1. Apart from normal replacement, or death, the duties of a member of the Commission shall end when he or she resigns or is compulsorily retired.</p> <p>2. A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the member's term of office by a new member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in Article I-26(4).</p> <p>The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not be filled, in particular when the remainder of the member's term of office is short.</p> <p>3. In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his or her term of office in accordance with Article I-27(1).</p> <p>4. In the event of resignation, compulsory retirement or death,</p>

<p>death, the High Representative of the Union for Foreign Affairs and Security Policy shall be replaced, for the remainder of his or her term of office, in accordance with Article [I-28(1)] of the Treaty on European Union.</p> <p>In the case of the resignation of all the members of the Commission, they shall remain in office and continue to deal with current business until they have been replaced, in accordance with Articles [I-26] and [I-27] of the Treaty on European Union.</p>	<p>the Union Minister for Foreign Affairs shall be replaced, for the remainder of his or her term of office, in accordance with Article I-28(1).</p> <p>5. In the case of the resignation of all the members of the Commission, they shall remain in office and continue to deal with current business until they have been replaced, for the remainder of their term of office, in accordance with Articles I-26 and I-27.</p>
<p style="text-align: center;">ARTICLE 216</p> <p><del>1. The Commission shall work under the political guidance of its President, who shall decide on its internal organisation in order to ensure that it acts consistently, efficiently and on the basis of collegiality.</del></p> <p>If any Member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council, <b>acting by a simple majority</b> or the Commission, compulsorily retire him.</p> <p><del>3. After obtaining the approval of the College, the President shall appoint Vice Presidents from among its Members.</del></p> <p><del>4. A Member of the Commission shall resign if the President so requests, after obtaining the approval of the College.</del></p>	<p style="text-align: center;">ARTICLE III-349</p> <p>If any member of the Commission no longer fulfils the conditions required for the performance of his or her duties or if he or she has been guilty of serious misconduct, the Court of Justice may, on application by the Council, acting by a simple majority, or by the Commission, compulsorily retire him or her.</p>
<p style="text-align: center;">ARTICLE 217</p>	<p style="text-align: center;">ARTICLE III-350</p>



<p>Without prejudice to Article [I-28(4)] of the Treaty on European Union, the responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President, in accordance with Article [I-27(3)] of that Treaty. The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The Members of the Commission shall carry out the duties devolved upon them by the President under his authority.</p>	<p>Without prejudice to Article I-28(4), the responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President, in accordance with Article I-27(3). The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The members of the Commission shall carry out the duties devolved upon them by the President under his or her authority.</p>
<p style="text-align: center;">ARTICLE 218</p> <p><del>1. The Council and the Commission shall consult each other and shall settle by common accord their methods of cooperation.</del></p> <p>1. The Commission shall adopt its Rules of Procedure so as to ensure that both it and its departments operate <del>in accordance with the provisions of this Treaty.</del> It shall ensure that these Rules are published.</p> <p>2. The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Union.<sup>58</sup></p>	<p style="text-align: center;">ARTICLE III-352</p> <p>1. The Commission shall adopt its Rules of Procedure so as to ensure both its own operation and that of its departments. It shall ensure that these rules are published.</p> <p>2. The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Union.</p>
<p style="text-align: center;">ARTICLE 219</p> <p>The Commission shall act by a majority of its members.</p> <p>Its Rules of Procedure shall determine the quorum.</p>	<p style="text-align: center;">ARTICLE III-351</p> <p>The Commission shall act by a majority of its members. Its Rules of Procedure shall determine the quorum.</p>
<p style="text-align: center;">Article 220 is being repealed. No new article in its place.</p>	

<p style="text-align: center;">SECTION 4 THE COURT OF JUSTICE OF THE EUROPEAN UNION</p> <p style="text-align: center;">ARTICLE 221</p> <p><del>The Court of Justice shall consist of one judge per Member State.</del></p> <p>The Court of Justice shall sit in chambers or in a Grand Chamber, in accordance with the rules laid down for that purpose in the <b>Statute of the Court of Justice of the European Union</b>.</p> <p>When provided for in the Statute, the Court of Justice may also sit as a full Court.</p>	<p style="text-align: center;">SUBSECTION 5 THE COURT OF JUSTICE OF THE EUROPEAN UNION</p> <p style="text-align: center;">ARTICLE III-353</p> <p>The Court of Justice shall sit in chambers, as a Grand Chamber or as a full Court, in accordance with the Statute of the Court of Justice of the European Union.</p> <hr/> <p style="text-align: center;">ARTICLE III-353</p> <p>The Court of Justice shall sit in chambers, as a Grand Chamber or as a full Court, in accordance with the Statute of the Court of Justice of the European Union.</p>
<p style="text-align: center;">ARTICLE 222</p> <p>The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council, acting unanimously, may increase the number of Advocates-General. It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the <b>Statute of the Court of Justice of the European Union</b>, require his involvement.</p>	<p style="text-align: center;">ARTICLE III-354</p> <p>The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council may, acting unanimously, adopt a European decision to increase the number of Advocates-General. It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice of the European Union, require his or her involvement.</p>
<p style="text-align: center;">ARTICLE 223</p> <p>The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond</p>	<p style="text-align: center;">ARTICLE III-355</p> <p>The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt</p>

<p>doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years <b>after consultation of the panel provided for in Article [III-357].</b></p> <p>Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the <b>Statute of the Court of Justice of the European Union.</b></p> <p>The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He may be re-elected.</p> <p>Retiring Judges and Advocates-General may be reappointed.</p> <p><del>The Court of Justice shall appoint its Registrar and lay down the rules governing his service.</del></p> <p>The Court of Justice shall establish its Rules of Procedure. Those Rules shall require the approval of the Council, acting by a qualified majority.</p>	<p>and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States after consultation of the panel provided for in Article III-357.</p> <p>Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice of the European Union.</p> <p>The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He or she may be re-elected.</p> <p>The Court of Justice shall adopt its Rules of Procedure. Those Rules shall require the consent of the Council.</p>
<p style="text-align: center;">ARTICLE 224</p> <p><del>The Court of First Instance shall comprise at least one judge per Member State.</del> The number of Judges <b>of the Court</b> shall be determined by the <b>Statute of the Court of Justice of the European Union.</b> The Statute may provide for the General</p>	<p style="text-align: center;">ARTICLE III-356</p> <p>The number of Judges of the General Court shall be determined by the Statute of the Court of Justice of the European Union. The Statute may provide for the General Court to be assisted by</p>

<p><b>Court</b> to be assisted by Advocates-General.</p> <p>The members of the <b>General Court</b> shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States for a term of six years <b>after consultation of the panel provided for in Article [III-357]</b>.</p> <p>The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.</p> <p>The Judges shall elect the President of the <b>General Court</b> from among their number for a term of three years. He may be re-elected.</p> <p>The <b>General Court</b> shall establish its Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.</p> <p>Unless the <b>Statute of the Court of Justice of the European Union</b> provides otherwise, the provisions of <b>the Treaties</b> relating to the Court of Justice shall apply to the <b>General Court</b>.</p>	<p>Advocates-General.</p> <p>The members of the General Court shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States after consultation of the panel provided for in Article III-357.</p> <p>The membership of the General Court shall be partially renewed every three years.</p> <p>The Judges shall elect the President of the General Court from among their number for a term of three years. He or she may be re-elected.</p> <p>The General Court shall establish its Rules of Procedure in agreement with the Court of Justice. The Rules shall be subject to the consent of the Council.</p> <p>Unless the Statute provides otherwise, the provisions of the Constitution relating to the Court of Justice shall apply to the General Court.</p>
<p style="text-align: center;"><b>ARTICLE 224a</b></p> <p>A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles [III-355 and III-</p>	<p style="text-align: center;"><b>ARTICLE III-357</b></p> <p>A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles III-355 and III-356.</p>

<p>356].</p> <p>The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament. The Council shall adopt a decision establishing the panel's operating rules and a decision appointing its members. It shall act on the initiative of the President of the Court of Justice.</p>	<p>The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament. The Council shall adopt a European decision establishing the panel's operating rules and a European decision appointing its members. It shall act on the initiative of the President of the Court of Justice.</p>
<p style="text-align: center;">ARTICLE 225</p> <p>1. The General Court shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles 230, 232, 235, 236 and 238, with the exception of those assigned to a specialised court set up under Article [III-359] and those reserved in the Statute for the Court of Justice. The Statute may provide for the General Court to have jurisdiction for other classes of action or proceeding.</p> <p>Decisions given by the General Court under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.</p> <p>2. The General Court shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the specialised court set up under Article 225a.</p> <p>Decisions given by the General Court under this paragraph may exceptionally be subject to review by the Court of</p>	<p style="text-align: center;">ARTICLE III-358</p> <p>1. The General Court shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles III-365, III-367, III-370, III-372 and III-374, with the exception of those assigned to a specialised court set up under Article III-359 and those reserved in the Statute of the Court of Justice of the European Union for the Court of Justice. The Statute may provide for the General Court to have jurisdiction for other classes of action or proceeding.</p> <p>Decisions given by the General Court under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.</p> <p>2. The General Court shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the specialised courts.</p> <p>Decisions given by the General Court under this paragraph may exceptionally be subject to review by the Court of Justice,</p>

<p>Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of <b>Union</b> law being affected.</p> <p>3. The <b>General Court</b> shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 234, in specific areas laid down by the Statute.</p> <p>Where the <b>General Court</b> considers that the case requires a decision of principle likely to affect the unity or consistency of <b>Union</b> law, it may refer the case to the Court of Justice for a ruling.</p> <p>Decisions given by the <b>General Court</b> on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of <b>Union</b> law being affected.</p>	<p>under the conditions and within the limits laid down by the Statute of the Court of Justice of the European Union, where there is a serious risk of the unity or consistency of Union law being affected.</p> <p>3. The General Court shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article III-369, in specific areas laid down by the Statute of the Court of Justice of the European Union.</p> <p>Where the General Court considers that the case requires a decision of principle likely to affect the unity or consistency of Union law, it may refer the case to the Court of Justice for a ruling.</p> <p>Decisions given by the General Court on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Union law being affected.</p>
<p style="text-align: center;">ARTICLE 225a</p> <p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish specialised courts attached to the General Court to hear and determine at first instance certain classes of action or proceeding brought in specific areas. The European Parliament and the Council shall act either on a proposal from the Commission after consultation of the Court of Justice or at the request of the Court of Justice after consultation of the Commission.</p>	<p style="text-align: center;">ARTICLE III-359</p> <p>1. European laws may establish specialised courts attached to the General Court to hear and determine at first instance certain classes of action or proceeding brought in specific areas. They shall be adopted either on a proposal from the Commission after consultation of the Court of Justice or at the request of the Court of Justice after consultation of the Commission.</p>

<p>The decision establishing a <b>judicial panel</b> shall lay down the rules on the organisation of the court and the extent of the jurisdiction conferred upon it.</p> <p>Decisions given by <b>judicial panels</b> may be subject to a right of appeal on points of law only or, when provided for in the decision establishing the panel, a right of appeal also on matters of fact, before the <b>General Court</b>.</p> <p>The members of the <b>judicial panels</b> shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.</p> <p>The <b>judicial panels</b> shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.</p> <p>Unless the decision establishing the <b>judicial panel</b> provides otherwise, the provisions of the <b>Treaties</b> relating to the Court of Justice and the provisions of the <b>Statute of the Court of Justice of the European Union</b> shall apply to the specialised court. <b>Title I of the Statute and Article 64 thereof shall in any case apply to the specialised courts.</b></p>	<p>2. The European law establishing a specialised court shall lay down the rules on the organisation of the court and the extent of the jurisdiction conferred upon it.</p> <p>3. Decisions given by specialised courts may be subject to a right of appeal on points of law only or, when provided for in the European law establishing the specialised court, a right of appeal also on matters of fact, before the General Court.</p> <p>4. The members of the specialised courts shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.</p> <p>5. The specialised courts shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the consent of the Council.</p> <p>6. Unless the European law establishing the specialised court provides otherwise, the provisions of the Constitution relating to the Court of Justice of the European Union and the provisions of the Statute of the Court of Justice of the European Union shall apply to the specialised courts. Title I of the Statute and Article 64 thereof shall in any case apply to the specialised courts.</p>
<p style="text-align: center;">ARTICLE 226</p> <p>If the Commission considers that a Member State has failed to fulfil an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.</p>	<p style="text-align: center;">ARTICLE III-360</p> <p>If the Commission considers that a Member State has failed to fulfil an obligation under the Constitution, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.</p>

<p>If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.</p>	<p>If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union.</p>
<p style="text-align: center;">ARTICLE 227</p> <p>A Member State which considers that another Member State has failed to fulfil an obligation under this Treaty may bring the matter before the Court of Justice.</p> <p>Before a Member State brings an action against another Member State for an alleged infringement of an obligation under this Treaty, it shall bring the matter before the Commission.</p> <p>The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.</p> <p>If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court of Justice.</p>	<p style="text-align: center;">ARTICLE III-361</p> <p>A Member State which considers that another Member State has failed to fulfil an obligation under the Constitution may bring the matter before the Court of Justice of the European Union.</p> <p>Before a Member State brings an action against another Member State for an alleged infringement of an obligation under the Constitution, it shall bring the matter before the Commission.</p> <p>The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.</p> <p>If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court.</p>
<p style="text-align: center;">ARTICLE 228</p> <p>1. If the Court of Justice finds that a Member State has failed to fulfil an obligation under <b>the Treaties</b>, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.</p>	<p style="text-align: center;">ARTICLE III-362</p> <p>1. If the Court of Justice of the European Union finds that a Member State has failed to fulfil an obligation under the Constitution, the State shall be required to take the necessary measures to comply with the judgment of the Court.</p>



<p>2. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with judgment of the Court, it may bring the case before the Court of Justice of the European Union after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.</p> <p>If the Court of Justice finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it. This procedure shall be without prejudice to Article III-361.</p> <p>3. When the Commission brings a case before the Court of Justice of the European Union pursuant to Article [III-360] on the grounds that the Member State concerned has failed to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure, it may, when it deems appropriate, specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.</p> <p>If the Court finds that there is an infringement it may impose a lump sum or penalty payment on the Member State concerned not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment.</p>	<p>2. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the judgment referred to in paragraph 1, it may bring the case before the Court of Justice of the European Union after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.</p> <p>If the Court finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it. This procedure shall be without prejudice to Article III-361.</p> <p>3. When the Commission brings a case before the Court of Justice of the European Union pursuant to Article III-360 on the grounds that the Member State concerned has failed to fulfil its obligation to notify measures transposing a European framework law, it may, when it deems appropriate, specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.</p> <p>If the Court finds that there is an infringement it may impose a lump sum or penalty payment on the Member State concerned not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment.</p>
<p>Article 229</p>	<p>ARTICLE III-363</p>
<p>Regulations adopted jointly by the European Parliament and the Council, and by the Council, pursuant to the provisions of</p>	<p>European laws and regulations of the Council may give the Court of Justice of the European Union unlimited jurisdiction</p>

<p>this Treaty, may give the <b>Court of Justice of the European Union</b> unlimited jurisdiction with regard to the penalties provided for in such regulations.</p>	<p>with regard to the penalties provided for in them.</p>
<p style="text-align: center;">ARTICLE 229a</p> <p>Without prejudice to the other provisions of <b>the Treaties the Council, acting in accordance with a special legislative procedure and after consulting the European Parliament</b>, may adopt provisions to confer jurisdiction, to the extent that it shall determine, on the Court of Justice in disputes relating to the application of acts adopted on the basis of <b>the Treaties which create European intellectual property rights</b>. The Council shall recommend those provisions to the Member States for adoption in accordance with their respective constitutional requirements.</p>	<p style="text-align: center;">ARTICLE III-364</p> <p>Without prejudice to the other provisions of the Constitution, a European law may confer on the Court of Justice of the European Union, to the extent that it shall determine, jurisdiction in disputes relating to the application of acts adopted on the basis of the Constitution which create European intellectual property rights.</p>
<p style="text-align: center;">ARTICLE 230</p> <p>The Court of Justice shall review the legality of <b>legislative acts</b>, of acts of the Council, of the Commission and of the <b>European Central Bank</b>, other than recommendations and opinions, and of acts of the European Parliament and of the <b>European Council</b> intended to produce legal effects vis-à-vis third parties. <b>It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects vis-à-vis third parties.</b></p> <p>It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of <b>the Treaties</b> or of any rule of law relating to its application, or</p>	<p style="text-align: center;">ARTICLE III-365</p> <p>1. The Court of Justice of the European Union shall review the legality of European laws and framework laws, of acts of the Council, of the Commission and of the European Central Bank, other than recommendations and opinions, and of acts of the European Parliament and of the European Council intended to produce legal effects vis-à-vis third parties. It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects vis-à-vis third parties.</p> <p>2. For the purposes of paragraph 1, the Court of Justice of the European Union shall have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the</p>

<p>misuse of powers.</p> <p>The Court of Justice shall have jurisdiction under the same conditions in actions brought by the Court of Auditors and by the <b>European Central Bank and by the Committee of the Regions</b> for the purpose of protecting their prerogatives.</p> <p><b>Any natural or legal person may, under the same conditions, institute proceedings against an act addressed to that person or which is of direct and individual concern to him or her, and against a regulatory act which is of direct concern to him or her and does not entail implementing measures.</b></p> <p><b>Acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them.</b></p> <p>The proceedings provided for in this article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.</p>	<p>Constitution or of any rule of law relating to its application, or misuse of powers.</p> <p>3. The Court of Justice of the European Union shall have jurisdiction under the conditions laid down in paragraphs 1 and 2 in actions brought by the Court of Auditors, by the European Central Bank and by the Committee of the Regions for the purpose of protecting their prerogatives.</p> <p>4. Any natural or legal person may, under the conditions laid down in paragraphs 1 and 2, institute proceedings against an act addressed to that person or which is of direct and individual concern to him or her, and against a regulatory act which is of direct concern to him or her and does not entail implementing measures.</p> <p>5. Acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them.</p> <p>6. The proceedings provided for in this Article shall be instituted within two months of the publication of the act, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the plaintiff's knowledge, as the case may be.</p>
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<p style="text-align: center;">ARTICLE 231</p> <p>If the action is well founded, the Court of Justice shall declare the act concerned to be void.</p> <p><b>However, the Court shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive.</b></p>	<p style="text-align: center;">ARTICLE III-366</p> <p>If the action is well founded, the Court of Justice of the European Union shall declare the act concerned to be void.</p> <p>However, the Court shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive.</p>
<p style="text-align: center;">ARTICLE 232</p> <p>Should the European Parliament, the European Council, the Council or the Commission or the European Central Bank, in infringement of the Treaties, fail to act, the Member States and the other institutions of the Union may bring an action before the Court of Justice to have the infringement established. <b>This Article shall apply, under the same conditions, to bodies, offices and agencies of the Union which fail to act.</b></p> <p>The action shall be admissible only if the institution concerned has first been called upon to act. If, within two months of being so called upon, the institution concerned has not defined its position, the action may be brought within a further period of two months.</p> <p>Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court of Justice that an institution, <b>body, office or agency</b> of the Union has failed to address to that person any act other than a recommendation or an opinion.</p>	<p style="text-align: center;">ARTICLE III-367</p> <p>Should the European Parliament, the European Council, the Council, the Commission or the European Central Bank, in infringement of the Constitution, fail to act, the Member States and the other institutions of the Union may bring an action before the Court of Justice of the European Union to have the infringement established. This Article shall apply, under the same conditions, to bodies, offices and agencies of the Union which fail to act.</p> <p>The action shall be admissible only if the institution, body, office or agency concerned has first been called upon to act. If, within two months of being so called upon, the institution, body, office or agency concerned has not defined its position, the action may be brought within a further period of two months.</p> <p>Any natural or legal person may, under the conditions laid down in the first and second paragraphs, complain to the Court that an institution, body, office or agency of the Union has failed to address to that person any act other than a recommendation or an opinion.</p>

<p style="text-align: center;">ARTICLE 233</p> <p>The institution whose act has been declared void or whose failure to act has been declared contrary to the Treaties shall be required to take the necessary measures to comply with the judgment of the Court of Justice.</p> <p>This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 288.</p>	<p style="text-align: center;">ARTICLE III-368</p> <p>The institution, body, office or agency whose act has been declared void, or whose failure to act has been declared contrary to the Constitution, shall be required to take the necessary measures to comply with the judgment of the Court of Justice of the European Union.</p> <p>This obligation shall not affect any obligation which may result from the application of the second paragraph of Article III-431.</p>
<p style="text-align: center;">ARTICLE 234</p> <p>The Court of Justice shall have jurisdiction to give preliminary rulings concerning:</p> <p>(a) the interpretation of the Treaties;</p> <p>(b) the validity and interpretation of acts of the institutions of the Union <del>and of the ECB</del>;</p> <p>Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.</p> <p>Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.</p>	<p style="text-align: center;">ARTICLE III-369</p> <p>The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings concerning:</p> <p>(a) the interpretation of the Constitution;</p> <p>(b) the validity and interpretation of acts of the institutions, bodies, offices and agencies of the Union.</p> <p>Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling thereon.</p> <p>Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court.</p> <p>If such a question is raised in a case pending before a court or</p>

<p>If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court of Justice of the European Union shall act with the minimum of delay.</p>	<p>tribunal of a Member State with regard to a person in custody, the Court shall act with the minimum of delay.</p>
<p style="text-align: center;">ARTICLE 235</p> <p>The Court of Justice shall have jurisdiction in disputes relating to compensation for damage provided for in the second paragraph of Article 288.</p>	<p style="text-align: center;">ARTICLE III-370</p> <p>The Court of Justice of the European Union shall have jurisdiction in disputes relating to compensation for damage provided for in the second and third paragraphs of Article III-431.</p>
<p style="text-align: center;">Article 235a</p> <p>The Court of Justice shall have jurisdiction to decide on the legality of an act adopted by the European Council or by the Council pursuant to Article [I-59] solely at the request of the Member State concerned by a determination of the European Council or of the Council and in respect solely of the procedural stipulations contained in that Article.</p> <p>Such a request must be made within one month from the date of such determination. The Court shall rule within one month from the date of the request.</p>	<p style="text-align: center;">ARTICLE III-371</p> <p>The Court of Justice shall have jurisdiction to decide on the legality of an act adopted by the European Council or by the Council pursuant to Article I-59 solely at the request of the Member State concerned by a determination of the European Council or of the Council and in respect solely of the procedural stipulations contained in that Article.</p> <p>Such a request must be made within one month from the date of such determination. The Court shall rule within one month from the date of the request.</p>

<p style="text-align: center;">ARTICLE 236</p> <p>The Court of Justice shall have jurisdiction in any dispute between the <b>Union</b> and its servants within the limits and under the conditions laid down in the <b>Staff Regulations of Officials and the Conditions of Employment of other servants of the Union</b>.</p>	<p style="text-align: center;">ARTICLE III-372</p> <p>The Court of Justice of the European Union shall have jurisdiction in any dispute between the Union and its servants within the limits and under the conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union.</p>
<p style="text-align: center;">ARTICLE 237</p> <p>The Court of Justice shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning:</p> <p>(a) the fulfilment by Member States of obligations under the Statute of the European Investment Bank. In this connection, the Board of Directors of the Bank shall enjoy the powers conferred upon the Commission by Article 226;</p> <p>(b) measures adopted by the Board of Governors of the European Investment Bank. In this connection, any Member State, the Commission or the Board of Directors of the Bank may institute proceedings under the conditions laid down in Article 230;</p> <p>(c) measures adopted by the Board of Directors of the European Investment Bank. Proceedings against such measures may be instituted only by Member States or by the Commission, under the conditions laid down in Article 230, and solely on the grounds of non-compliance with the procedure provided for in Article 21(2), (5), (6) and (7) of the Statute of the Bank;</p>	<p style="text-align: center;">ARTICLE III-373</p> <p>The Court of Justice of the European Union shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning:</p> <p>(a) the fulfilment by Member States of obligations under the Statute of the European Investment Bank. In this connection, the Board of Directors of the Bank shall enjoy the powers conferred upon the Commission by Article III-360;</p> <p>(b) measures adopted by the Board of Governors of the European Investment Bank. In this connection, any Member State, the Commission or the Board of Directors of the Bank may institute proceedings under the conditions laid down in Article III-365;</p> <p>(c) measures adopted by the Board of Directors of the European Investment Bank. Proceedings against such measures may be instituted only by Member States or by the Commission, under the conditions laid down in Article III-365, and solely on the grounds of non-compliance with the procedure provided for in Article 19(2), (5), (6) and (7) of the Statute of the Bank;</p> <p>(d) the fulfilment by national central banks of obligations under</p>

<p>(d) the fulfilment by national central banks of obligations under <b>the Treaties</b> and the <b>Statute of the ESCB and of the ECB</b>. In this connection the powers of the <b>Governing Council of the European Central Bank</b> in respect of national central banks shall be the same as those conferred upon the Commission in respect of Member States by Article 226. If the Court of Justice finds that a national central bank has failed to fulfil an obligation under <b>the Treaties</b>, that bank shall be required to take the necessary measures to comply with the judgment of the Court of Justice.</p>	<p>the Constitution and the Statute of the European System of Central Banks and of the European Central Bank. In this connection, the powers of the Governing Council of the European Central Bank in respect of national central banks shall be the same as those conferred upon the Commission in respect of Member States by Article III-360. If the Court of Justice of the European Union finds that a national central bank has failed to fulfil an obligation under the Constitution, that bank shall be required to take the necessary measures to comply with the judgment of the Court.</p>
<p style="text-align: center;">ARTICLE 238</p> <p>The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the <b>Union</b>, whether that contract be governed by public or private law.</p>	<p style="text-align: center;">ARTICLE III-374</p> <p>The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Union, whether that contract be governed by public or private law.</p>
<p style="text-align: center;">ARTICLE 239</p> <p>The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject matter of <b>the Treaties</b> if the dispute is submitted to it under a special agreement between the parties.</p>	<p style="text-align: center;">ARTICLE III-375</p> <p>3. The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject-matter of the Constitution if the dispute is submitted to it under a special agreement between the parties.</p>
<p style="text-align: center;">ARTICLE 240</p> <p>Save where jurisdiction is conferred on the Court of Justice by <b>the Treaties</b>, disputes to which the <b>Union</b> is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.</p>	<p style="text-align: center;">ARTICLE III-375</p> <p>1. Save where jurisdiction is conferred on the Court of Justice of the European Union by the Constitution, disputes to which the Union is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.</p>



<p style="text-align: center;"><b>ARTICLE 240a</b></p> <p>The Court of Justice of the European Union shall not have jurisdiction with respect to Articles [I-40 and I-41] of the Treaty on European Union and the provisions of Chapter II of Title V of that Treaty concerning the common foreign and security policy and Article [III-293] of that Treaty insofar as it concerns the common foreign and security policy.</p> <p>However, the Court shall have jurisdiction to monitor compliance with Article [III-308] of the Treaty on European Union and to rule on proceedings, brought in accordance with the conditions laid down in Article [III-365(4)] of the Treaties, reviewing the legality of European decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter II of Title V of the Treaty on European Union.</p>	<p style="text-align: center;"><b>ARTICLE III-376</b></p> <p>The Court of Justice of the European Union shall not have jurisdiction with respect to Articles I-40 and I-41 and the provisions of Chapter II of Title V concerning the common foreign and security policy and Article III-293 insofar as it concerns the common foreign and security policy.</p> <p>However, the Court shall have jurisdiction to monitor compliance with Article III-308 and to rule on proceedings, brought in accordance with the conditions laid down in Article III-365(4), reviewing the legality of European decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter II of Title V.</p>
<p style="text-align: center;"><b>ARTICLE 240b</b></p> <p>In exercising its powers regarding the provisions of [Sections 4 and 5 of Chapter IV of Title III] relating to the area of freedom, security and justice, the Court of Justice of the European Union shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.</p>	<p style="text-align: center;"><b>ARTICLE III-377</b></p> <p>In exercising its powers regarding the provisions of Sections 4 and 5 of Chapter IV of Title III relating to the area of freedom, security and justice, the Court of Justice of the European Union shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.</p>

<p style="text-align: center;">ARTICLE 241</p> <p>Notwithstanding the expiry of the period laid down in Article [230, fifth paragraph,] any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the Union is at issue, plead the grounds specified in Article [230, second paragraph,] in order to invoke before the Court of Justice of the European Union the inapplicability of that act.</p>	<p style="text-align: center;">ARTICLE III-378</p> <p>Notwithstanding the expiry of the period laid down in Article III-365(6), any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the Union is at issue, plead the grounds specified in Article III-365(2) in order to invoke before the Court of Justice of the European Union the inapplicability of that act.</p>
<p style="text-align: center;">ARTICLE 242</p> <p>Actions brought before the Court of Justice shall not have suspensory effect. The Court of Justice may, however, if it considers that circumstances so require, order that application of the contested act be suspended.</p>	<p style="text-align: center;">ARTICLE III-379</p> <p>1. Actions brought before the Court of Justice of the European Union shall not have suspensory effect. The Court may, however, if it considers that circumstances so require, order that application of the contested act be suspended.</p>
<p style="text-align: center;">ARTICLE 243</p> <p>The Court of Justice may in any cases before it prescribe any necessary interim measures.</p>	<p style="text-align: center;">ARTICLE III-379</p> <p>2. The Court of Justice of the European Union may in any cases before it prescribe any necessary interim measures.</p>
<p style="text-align: center;">ARTICLE 244</p> <p>The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 256.</p>	<p style="text-align: center;">ARTICLE III-380</p> <p>The judgments of the Court of Justice of the European Union shall be enforceable under the conditions laid down in Article III-401.</p>
<p style="text-align: center;">ARTICLE 245</p> <p>The Statute of the Court of Justice of the European Union shall be laid down in a separate Protocol. [cf. Nice Protocols]</p> <p>The European Parliament and the Council, acting in</p>	<p style="text-align: center;">ARTICLE III-381</p> <p>The Statute of the Court of Justice of the European Union shall be laid down in a Protocol.</p> <p>A European law may amend the provisions of the Statute, with</p>

<p>accordance with the ordinary legislative procedure, may amend the provisions of the Statute, with the exception of Title I and Article 64. The European Parliament and the Council shall act either at the request of the Court of Justice and after consultation of the Commission, or on a proposal from the Commission and after consultation of the Court of Justice.</p>	<p>the exception of Title I and Article 64. It shall be adopted either at the request of the Court of Justice and after consultation of the Commission, or on a proposal from the Commission and after consultation of the Court of Justice.</p>
<p style="text-align: center;"><b>SECTION 4a</b> <b>THE EUROPEAN CENTRAL BANK</b></p> <p style="text-align: center;"><b>ARTICLE 245a</b></p> <p>1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks. The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.</p> <p>2. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives.</p> <p>3. The European Central Bank shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the</p>	<p style="text-align: center;"><b>ARTICLE I-30</b></p> <p>1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks. The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.</p> <p>2. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives. It shall conduct other Central Bank tasks in accordance with Part III and the Statute of the European System of Central Banks and of the European Central Bank.</p> <p>3. The European Central Bank is an institution. It shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the</p>

<p>management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.</p> <p>4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles [III-185 to III-191 and Article III-196], and with the conditions laid down in the Statute of the ESCB and of the ECB and of the European Central Bank. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.</p> <p>5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion.</p>	<p>management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.</p> <p>4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles III-185 to III-191 and Article III-196, and with the conditions laid down in the Statute of the European System of Central Banks and of the European Central Bank. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.</p> <p>5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion.</p> <p>6. The decision-making organs of the European Central Bank, their composition and operating methods are set out in Articles III-382 and III- 383, as well as in the Statute of the European System of Central Banks and of the European Central Bank.</p>
<p style="text-align: center;">ARTICLE 245b</p> <p>1. The Governing Council of the European Central Bank shall comprise the members of the Executive Board of the European Central Bank and the Governors of the national central banks of the Members States whose currency is the euro as referred to in Article [III-197].</p> <p>2. (a) The Executive Board shall comprise the President, the Vice-President and four other members.</p>	<p style="text-align: center;">ARTICLE III-382</p> <p>1. The Governing Council of the European Central Bank shall comprise the members of the Executive Board of the European Central Bank and the Governors of the national central banks of the Member States without a derogation as referred to in Article III-197.</p> <p>2. The Executive Board shall comprise the President, the Vice-President and four other members.</p>

<p>(b) The President, the Vice-President and the other members of the Executive Board shall be appointed by the <b>European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters</b> on a recommendation from the Council, after it has consulted the European Parliament and the Governing Council of the <b>European Central Bank</b>.</p> <p>Their term of office shall be eight years and shall not be renewable.</p> <p>Only nationals of Member States may be members of the Executive Board.</p>	<p>The President, the Vice-President and the other members of the Executive Board shall be appointed by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters, on a recommendation from the Council and after consulting the European Parliament and the Governing Council of the European Central Bank.</p> <p>Their term of office shall be eight years and shall not be renewable.</p> <p>Only nationals of Member States may be members of the Executive Board.</p>
<p style="text-align: center;"><b>ARTICLE 245c</b></p> <p>1. The President of the Council and a member of the Commission may participate, without having the right to vote, in meetings of the Governing Council of the <b>European Central Bank</b>.</p> <p>The President of the Council may submit a motion for deliberation to the Governing Council of the <b>European Central Bank</b>.</p> <p>2. The President of the <b>European Central Bank</b> shall be invited to participate in Council meetings when the Council is discussing matters relating to the objectives and tasks of the ESCB.</p> <p>3. The <b>European Central Bank</b> shall address an annual report on the activities of the ESCB and on the monetary policy of</p>	<p style="text-align: center;"><b>ARTICLE III-383</b></p> <p>1. The President of the Council and a member of the Commission may participate, without having the right to vote, in meetings of the Governing Council of the European Central Bank.</p> <p>The President of the Council may submit a motion for deliberation to the Governing Council of the European Central Bank.</p> <p>2. The President of the European Central Bank shall be invited to participate in meetings of the Council when it is discussing matters relating to the objectives and tasks of the European System of Central Banks.</p> <p>3. The European Central Bank shall address an annual report on the activities of the European System of Central Banks and on</p>

<p>both the previous and current year to the European Parliament, the Council and the Commission, and also to the European Council. The President of the <b>European Central Bank</b> shall present this report to the Council and to the European Parliament, which may hold a general debate on that basis.</p> <p>The President of the <b>European Central Bank</b> and the other members of the Executive Board may, at the request of the European Parliament or on their own initiative, be heard by the competent committees of the European Parliament.</p>	<p>the monetary policy of both the previous and the current year to the European Parliament, the European Council, the Council and the Commission. The President of the European Central Bank shall present this report to the European Parliament, which may hold a general debate on that basis, and to the Council.</p> <p>The President of the European Central Bank and the other members of the Executive Board may, at the request of the European Parliament or on their own initiative, be heard by the competent bodies of the European Parliament.</p>
<p style="text-align: center;">ARTICLE 246</p> <p>The Court of Auditors shall carry out the Union's audit.</p> <p><b>It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.</b></p> <p><b>It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest.</b></p>	<p style="text-align: center;">ARTICLE I-31</p> <p>1. The Court of Auditors is an institution. It shall carry out the Union's audit.</p> <p>2. It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.</p> <p>3. It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest.</p>
<p style="text-align: center;">ARTICLE 247</p> <p>1. The Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective <b>States</b> to external audit <b>bodies, offices or agencies</b> or who are especially qualified for this office. Their independence must be beyond doubt.</p> <p>2. The Members of the Court of Auditors shall be appointed</p>	<p style="text-align: center;">ARTICLE III-385</p> <p>1. The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective States to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.</p> <p>2. The members of the Court of Auditors shall be appointed for</p>

<p>for a term of six years.</p> <p>The Council, <del>acting by a qualified majority</del> after consulting the European Parliament, shall adopt the list of Members drawn up in accordance with the proposals made by each Member State. The term of office of the Members of the Court of Auditors shall be renewable.</p> <p>They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.</p> <p>3. In the performance of these duties, <del>they</del> <b>the Members of the Court of Auditors</b> shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.</p> <p>4. The Members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.</p> <p>5. Apart from normal replacement, or death, the duties of a Member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 7. The vacancy thus caused shall be filled for the remainder of the Member's term of office. Save in the case of compulsory retirement, Members of the Court of Auditors shall remain in office until they have been</p>	<p>a term of six years. Their term of office shall be renewable.</p> <p>The Council shall adopt a European decision establishing the list of members drawn up in accordance with the proposals made by each Member State. It shall act after consulting the European Parliament.</p> <p>The members of the Court of Auditors shall elect their President from among their number for a term of three years. He or she may be re-elected.</p> <p>3. In the performance of their duties, members of the Court of Auditors shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.</p> <p>4. Members of the Court of Auditors shall not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.</p> <p>5. Apart from normal replacement, or death, the duties of a member of the Court of Auditors shall end when he or she resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 6. The vacancy thus caused shall be filled for the remainder of the member's term of office. Save in the case of compulsory retirement, members of the Court of Auditors shall remain in office until they have been replaced.</p>
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<p>replaced.</p> <p>6. A Member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.</p> <p>7. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the Members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.</p> <p>8. The provisions of the Protocol on the privileges and immunities of the <b>European Union</b> applicable to the Judges of the Court of Justice shall also apply to the Members of the Court of Auditors.</p>	<p>6. A member of the Court of Auditors may be deprived of his or her office or of his or her right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he or she no longer fulfils the requisite conditions or meets the obligations arising from his or her office.</p> <hr/> <p style="text-align: center;">ARTICLE III-400</p> <p>1. The Council shall adopt European regulations and decisions determining:</p> <p>(a) the salaries, allowances and pensions of the President of the European Council, the President of the Commission, the Union Minister for Foreign Affairs, the members of the Commission, the Presidents, members and Registrars of the Court of Justice of the European Union, and the Secretary-General of the Council;</p> <p>(b) the conditions of employment, in particular the salaries, allowances and pensions, of the President and members of the Court of Auditors;</p> <p>(c) any payment to be made instead of remuneration to the persons referred to in points (a) and (b).</p>
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ARTICLE 248

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Union. It shall also examine the accounts of all revenue and expenditure of all **bodies, offices or agencies** set up by the Union in so far as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the Official Journal of the European Union. This statement may be supplemented by specific assessments for each major area of Union activity.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound. In doing so, it shall report in particular on any cases of irregularity.

The audit of revenue shall be carried out on the basis both of the amounts established as due and the amounts actually paid to the Union.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

ARTICLE III-384

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Union. It shall also examine the accounts of all revenue and expenditure of any body, office or agency set up by the Union insofar as the instrument establishing that body, office or agency does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the Official Journal of the European Union. This statement may be supplemented by specific assessments for each major area of Union activity.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound. In doing so, it shall report in particular on any cases of irregularity.

The audit of revenue shall be carried out on the basis of the amounts established as due and the amounts actually paid to the Union.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Union, on the premises of any body which manages revenue or expenditure on behalf of the Union and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit **bodies, offices or agencies** or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit **bodies, offices or agencies** of the Member States shall cooperate in a spirit of trust while maintaining their independence. These **bodies, offices or agencies** or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions of the Union, any **bodies, offices or agencies** managing revenue or expenditure on behalf of the Union, any natural or legal person in receipt of payments from the budget, and the national audit **bodies, offices or agencies** or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

In respect of the European Investment Bank's activity in managing Union expenditure and revenue, the Court's rights of access to information held by the Bank shall be governed by an agreement between the Court, the Bank and the Commission. In the absence of an agreement, the Court shall nevertheless have access to information necessary for the audit of Union expenditure and revenue managed by the Bank.

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions, or on the premises of any body, office or agency which manages revenue or expenditure on behalf of the Union and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions, any bodies, offices or agencies managing revenue or expenditure on behalf of the Union, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

In respect of the European Investment Bank's activity in managing Union revenue and expenditure, rights of access by the Court of Auditors to information held by the Bank shall be governed by an agreement between the Court of Auditors, the Bank and the Commission. In the absence of a agreement, the Court of Auditors shall nevertheless have access to information necessary for the audit of Union expenditure and revenue managed by the Bank.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Union and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the Official Journal of the European Union.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Union.

It shall adopt its annual reports, special reports or opinions by a majority of its Members. However, it may establish internal chambers in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

The Court of Auditors shall draw up its Rules of Procedure. Those rules shall require the approval of the Council, acting by a qualified majority.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the Official Journal of the European Union.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions.

It shall adopt its annual reports, special reports or opinions by a majority of its component members. However, it may establish internal chambers in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

It shall adopt its Rules of Procedure. Those rules shall require the consent of the Council .

CHAPTER 2  
LEGAL ACTS OF THE UNION, ADOPTION PROCEDURES AND  
OTHER PROVISIONS  
SECTION 1  
THE LEGAL ACTS OF THE UNION

ARTICLE 249

**To exercise the Union's competences, the institutions shall adopt regulations, directives, recommendations and opinions.**

A regulation shall have general application.

It shall be binding in its entirety and directly applicable in all Member States.

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

**A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.**

TITLE V  
EXERCISE OF UNION COMPETENCE  
CHAPTER I  
COMMON PROVISIONS  
ARTICLE I-33

The legal acts of the Union

1. To exercise the Union's competences the institutions shall use as legal instruments, in accordance with Part III, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.

A European law shall be a legislative act of general application. It shall be binding in its entirety and directly applicable in all Member States.

A European framework law shall be a legislative act binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A European regulation shall be a non-legislative act of general application for the implementation of legislative acts and of certain provisions of the Constitution. It may either be binding in its entirety and directly applicable in all Member States, or be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A European decision shall be a non-legislative act, binding in its entirety. A decision which specifies those to whom it is

<p>Recommendations and opinions shall have no binding force.</p>	<p>addressed shall be binding only on them.</p> <p>Recommendations and opinions shall have no binding force.</p> <p>2. When considering draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the relevant legislative procedure in the area in question.</p>
<p style="text-align: center;"><b>ARTICLE 249a</b></p> <p>1. The ordinary legislative procedure shall consist in the joint adoption by the European Parliament and the Council of a regulation, directive or decision on a proposal from the Commission. This procedure is defined in Article [III-396].</p> <p>2. A special legislative procedure shall consist in the adoption of a regulation, directive or decision by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament.</p> <p>3. Legal acts adopted by legislative procedure shall constitute legislative acts.</p>	<p style="text-align: center;"><b>ARTICLE I-34</b> Legislative acts</p> <p>1. European laws and framework laws shall be adopted, on the basis of proposals from the Commission, jointly by the European Parliament and the Council under the ordinary legislative procedure as set out in Article III-396. If the two institutions cannot reach agreement on an act, it shall not be adopted.</p> <p>2. In the specific cases provided for in the Constitution, European laws and framework laws shall be adopted by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament, in accordance with special legislative procedures.</p> <p>3. In the specific cases provided for in the Constitution, European laws and framework laws may be adopted at the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.</p>

ARTICLE 249b

1. A legislative act may delegate to the Commission the power to adopt non-legislative acts to supplement or amend certain non-essential elements of the legislative act. The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts. The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power.

2. Legislative acts shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

(a) the European Parliament or the Council may decide to revoke the delegation;

(b) the delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

3. The adjective "delegated" shall be inserted in the title of delegated acts.

ARTICLE I-36  
Delegated European regulations

1. European laws and framework laws may delegate to the Commission the power to adopt delegated European regulations to supplement or amend certain non-essential elements of the law or framework law.

The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the European laws and framework laws. The essential elements of an area shall be reserved for the European law or framework law and accordingly shall not be the subject of a delegation of power.

2. European laws and framework laws shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

(a) the European Parliament or the Council may decide to revoke the delegation;

(b) the delegated European regulation may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the European law or framework law. For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

<p style="text-align: center;">ARTICLE 249c</p> <p>1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.</p> <p>2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Article [I-40], on the Council.</p> <p>3. For the purposes of paragraph 2, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.</p> <p>4. The word "implementing" shall be inserted in the title of implementing acts.</p>	<p style="text-align: center;">ARTICLE I-37 Implementing acts</p> <p>1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.</p> <p>2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Article I-40, on the Council.</p> <p>3. For the purposes of paragraph 2, European laws shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.</p> <p>4. Union implementing acts shall take the form of European implementing regulations or European implementing decisions.</p>
<p style="text-align: center;">ARTICLE 249d</p> <p>The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the Treaties provide that it shall adopt acts on a proposal from the Commission. It shall act unanimously in those areas in which unanimity is required for the adoption of a Union act. The Commission, and the European Central Bank in the specific cases provided for in the Treaties, shall adopt recommendations.</p>	<p style="text-align: center;">ARTICLE I-35 Non-legislative acts</p> <p>3. The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the Constitution provides that it shall adopt acts on a proposal from the Commission. It shall act unanimously in those areas in which unanimity is required for the adoption of a Union act. The Commission, and the European Central Bank in the specific cases provided for in the Constitution, shall adopt recommendations.</p>

<p style="text-align: center;">Section 2 PROCEDURES FOR THE ADOPTION OF ACTS AND OTHER PROVISIONS</p> <p style="text-align: center;">ARTICLE 250</p> <p>1. Where, pursuant to the Treaties, the Council acts on a proposal from the Commission, the Council may amend that proposal only by acting unanimously, except in the cases referred to in Articles [I-55, I56, III-396(10) and (13), III-404 and III-405(2)].</p> <p>2. As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a <b>Union</b> act.</p>	<p style="text-align: center;">ARTICLE III-395</p> <p>1. Where, pursuant to the Constitution, the Council acts on a proposal from the Commission, it may amend that proposal only by acting unanimously, except in the cases referred to in Articles I-55, I-56, III-396(10) and (13), III-404 and III-405(2).</p> <p>2. As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Union act.</p>
<p style="text-align: center;">ARTICLE 251</p> <p>1. Where reference is made in the Treaties to the <b>ordinary legislative procedure</b> for the adoption of an act, the following procedure shall apply.</p> <p>2. The Commission shall submit a proposal to the European Parliament and the Council.</p> <p><b>First reading</b></p> <p>3. The European Parliament shall adopt its position at first reading and communicate it to the Council.</p> <p>4. If the Council approves the European Parliament's</p>	<p style="text-align: center;">ARTICLE III-396</p> <p>1. Where, pursuant to the Constitution, European laws or framework laws are adopted under the ordinary legislative procedure, the following provisions shall apply.</p> <p>2. The Commission shall submit a proposal to the European Parliament and the Council.</p> <p><b>First reading</b></p> <p>3. The European Parliament shall adopt its position at first reading and communicate it to the Council.</p> <p>4. If the Council approves the European Parliament's position,</p>



<p>position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.</p> <p>5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.</p> <p>6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.</p> <p>Second reading</p> <p>7. If, within three months of such communication, the European Parliament:</p> <p>(a) approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;</p> <p>(b) rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;</p> <p>(c) proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.</p>	<p>the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.</p> <p>5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.</p> <p>6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.</p> <p>Second reading</p> <p>7. If, within three months of such communication, the European Parliament:</p> <p>(a) approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;</p> <p>(b) rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;</p> <p>(c) proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.</p>
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<p>If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:</p> <p>(a) approves all those amendments, the act in question shall be deemed to have been adopted;</p> <p>(b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.</p> <p>9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.</p> <p>Conciliation</p> <p>10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority<sup>59</sup> of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.</p> <p>11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.</p>	<p>8. If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:</p> <p>(a) approves all those amendments, the act in question shall be deemed to have been adopted;</p> <p>(b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.</p> <p>9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.</p> <p>Conciliation</p> <p>10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.</p> <p>11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.</p>
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12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

#### Third reading

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.

14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

#### Special provisions

15. Where, in the cases provided for in the Treaties, a legislative act is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the

12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

#### Third reading

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.

14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

#### Special provisions

15. Where, in the cases provided for in the Constitution, a law or framework law is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the opinion of the Commission

<p>opinion of the Commission throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee in accordance with paragraph 11.</p>	<p>throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee in accordance with paragraph 11.</p>
<p style="text-align: center;">ARTICLE 252</p> <p>The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature.</p>	<p style="text-align: center;">ARTICLE III-397</p> <p>The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Constitution, conclude interinstitutional agreements which may be of a binding nature.</p>
<p style="text-align: center;">ARTICLE 253</p> <p>Where the Treaties do not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality.</p> <p>Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Treaties.</p> <p>When considering draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the relevant legislative procedure in the area in question</p>	<p style="text-align: center;">ARTICLE I-38</p> <p style="text-align: center;">Principles common to the Union's legal acts</p> <p>1. Where the Constitution does not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality referred to in Article I-11.</p> <p>2. Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Constitution.</p> <hr/> <p style="text-align: center;">ARTICLE I-33</p> <p>2. When considering draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the relevant legislative procedure in the area in question.</p>

ARTICLE 254

1. Legislative acts adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

Legislative acts adopted under a special legislative procedure shall be signed by the President of the institution which adopted them.

Legislative acts shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

2. Non-legislative acts adopted in the form of regulations, directives or decisions, when the latter do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

Regulations and directives which are addressed to all Member States, as well as decisions which do not specify to whom they are addressed, shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

Other directives, and decisions which specify to whom they are addressed, shall be notified to those to whom they are addressed and shall take effect upon such notification.

ARTICLE I-39

Publication and entry into force

1. European laws and framework laws adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

In other cases they shall be signed by the President of the institution which adopted them.

European laws and framework laws shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following their publication.

2. European regulations, and European decisions which do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

European regulations, and European decisions when the latter do not specify to whom they are addressed, shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

3. European decisions other than those referred to in paragraph 2 shall be notified to those to whom they are addressed and shall take effect upon such notification.

<p style="text-align: center;"><b>ARTICLE 254a</b></p> <p>1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.</p> <p>2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of [Article III-427], the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish provisions to that end.</p>	<p style="text-align: center;"><b>ARTICLE III-398</b></p> <p>1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.</p> <p>2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of Article III-427, European laws shall establish provisions to that end.</p>
<p><i>Article 255 amended, becomes Article 21a. No article to replace it</i></p>	
<p style="text-align: center;"><b>ARTICLE 256</b></p> <p><b>Acts of the Council or of the Commission or of the European Central Bank</b> which impose a pecuniary obligation on persons other than States, shall be enforceable.</p> <p>Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission and to the Court of Justice.</p> <p>When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing</p>	<p style="text-align: center;"><b>ARTICLE III-401</b></p> <p>Acts of the Council, of the Commission or of the European Central Bank which impose a pecuniary obligation on persons other than Member States shall be enforceable.</p> <p>Enforcement shall be governed by the rules of civil procedure in force in the Member State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission and the Court of Justice of the European Union.</p> <p>When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement by bringing the matter directly before the competent authority, in</p>

<p>the matter directly before the competent authority.</p> <p>Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.</p>	<p>accordance with the national law.</p> <p>Enforcement may be suspended only by a decision of the Court of Justice of the European Union. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.</p>
<p style="text-align: center;"><b>CHAPTER 3</b> <b>THE UNION'S ADVISORY BODIES</b></p> <p style="text-align: center;"><b>ARTICLE 256a</b></p> <p><b>1. The European Parliament, the Council and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee, exercising advisory functions.</b></p> <p><b>2. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.</b></p> <p><b>3. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas.</b></p> <p><b>4. The members of the Committee of the Regions and the Economic and Social Committee shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the</b></p>	<p style="text-align: center;"><b>ARTICLE I-32</b> <b>The Union's advisory bodies</b></p> <p><b>1. The European Parliament, the Council and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee, exercising advisory functions.</b></p> <p><b>2. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.</b></p> <p><b>3. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas.</b></p> <p><b>4. The members of the Committee of the Regions and the Economic and Social Committee shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the Union's general interest.</b></p>

<p>Union's general interest.</p> <p>5. Rules governing the composition of these Committees, the designation of their members, their powers and their operations are set out in Articles [III-386 to III-392].</p> <p>The rules referred to in paragraphs 2 and 3 governing the nature of their composition shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union. The Council, on a proposal from the Commission, shall adopt decisions to that end.</p>	<p>5. Rules governing the composition of these Committees, the designation of their members, their powers and their operations are set out in Articles III-386 to III-392.</p> <p>The rules referred to in paragraphs 2 and 3 governing the nature of their composition shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union. The Council, on a proposal from the Commission, shall adopt European decisions to that end.</p>
<p>Article 257 repealed. No article to replace it.</p>	
<p style="text-align: center;">ARTICLE 258</p> <p>The number of members of the Economic and Social Committee shall not exceed 350.</p> <p>The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition.</p>	<p style="text-align: center;">ARTICLE III-389</p> <p>The number of members of the Economic and Social Committee shall not exceed 350.</p> <p>The Council, acting by a qualified majority, shall determine the allowances of members of the Committee.</p>
<p style="text-align: center;">ARTICLE 259</p> <p>1. The members of the Committee shall be appointed for five years. The Council, acting by a qualified majority, shall adopt the list of members drawn up in accordance with the proposals made by each Member State. The term of office of the members of the Committee shall be renewable.</p> <p>2. The Council shall act after consulting the Commission. It may obtain the opinion of European bodies which are</p>	<p style="text-align: center;">ARTICLE III-390</p> <p>The members of the Economic and Social Committee shall be appointed for five years. Their term of office shall be renewable. The Council shall adopt the European decision establishing the list of members drawn up in accordance with the proposals made by each Member State.</p> <p>The Council shall act after consulting the Commission. It may obtain the opinion of European bodies which are representative</p>



<p>representative of the various economic and social sectors and of civil society to which the Union's activities are of concern.</p>	<p>of the various economic and social sectors and of civil society to which the Union's activities are of concern.</p>
<p style="text-align: center;">ARTICLE 260</p> <p>The Committee shall elect its chairman and officers from among its members for a term of <del>two years</del> <b>two and a half years</b>.</p> <p>It shall adopt its Rules of Procedure.</p> <p>The Committee shall be convened by its chairman at the request <b>of the European Parliament</b>, of the Council or of the Commission. It may also meet on its own initiative.</p>	<p style="text-align: center;">ARTICLE III-391</p> <p>The Economic and Social Committee shall elect its chairman and officers from among its members for a term of two and a half years.</p> <p>It shall be convened by its chairman at the request of the European Parliament, of the Council or of the Commission. It may also meet on its own initiative.</p> <p>It shall adopt its Rules of Procedure.</p>
<p style="text-align: center;">Article 261 repealed. No article to replace it.</p>	
<p style="text-align: center;">ARTICLE 262</p> <p>The Committee <del>must</del> <b>shall</b> be consulted by the <b>European Parliament</b>, Council or by the Commission where <del>the Treaties</del> so provides. The Committee may be consulted by these institutions in all cases in which they consider it appropriate. It may issue an opinion on its own initiative in cases in which it considers such action appropriate.</p> <p>The <b>European Parliament</b>, Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.</p>	<p style="text-align: center;">ARTICLE III-392</p> <p>The Economic and Social Committee shall be consulted by the European Parliament, by the Council or by the Commission where the Constitution so provides. It may be consulted by these institutions in all cases in which they consider it appropriate. It may also issue an opinion on its own initiative.</p> <p>The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time-limit which shall not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time-limit, the absence of an opinion shall not prevent further action.</p>

<p>The opinion of the Committee <del>and that of the specialised section</del>, together with a record of the proceedings, shall be forwarded to the <b>European Parliament</b>, Council and to the Commission.</p> <p><del>The Committee may be consulted by the European Parliament.</del></p>	<p>The opinion of the Committee, together with a record of its proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.</p>
<p style="text-align: center;">ARTICLE 263</p> <p><del>A committee, hereinafter referred to as 'the Committee of the Regions', consisting of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly, is hereby established with advisory status.</del></p> <p>The number of members of the Committee of the Regions shall not exceed 350.</p> <p><b>The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition.</b></p> <p>The members of the Committee and an equal number of alternate members shall be appointed for five years, <del>on proposals from the respective Member States</del>. Their term of office shall be renewable. The Council, acting by a qualified majority, shall adopt the list of members and alternate members drawn up in accordance with the proposals made by each Member State. When the mandate referred to in <b>Article [I-32](2),</b> on the basis of which they were proposed comes to an end, the term of office of members of the Committee shall</p>	<p style="text-align: center;">ARTICLE III-386</p> <p>The number of members of the Committee of the Regions shall not exceed 350.</p> <p>The Council, acting unanimously on a proposal from the Commission, shall adopt a European decision determining the Committee's composition.</p> <p>The members of the Committee and an equal number of alternate members shall be appointed for five years. Their term of office shall be renewable. No member of the Committee shall at the same time be a member of the European Parliament. The Council shall adopt the European decision establishing the list of members and alternate members drawn up in accordance with the proposals made by each Member State. When the mandate referred to in Article I-32(2) on the basis of which they were proposed comes to an end, the term</p>

<p>terminate automatically and they shall then be replaced for the remainder of the said term of office in accordance with the same procedure. No member of the Committee shall at the same time be a Member of the European Parliament.</p> <p><del>The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.</del></p>	<p>of office of members of the Committee shall terminate automatically and they shall then be replaced for the remainder of the said term of office in accordance with the same procedure.</p>
<p style="text-align: center;">ARTICLE 264</p> <p>The Committee of the Regions shall elect its chairman and officers from among its members for a term of <del>two years</del> <b>two and a half years</b>.</p> <p>It shall adopt its Rules of Procedure.</p> <p>The Committee shall be convened by its chairman at the request <b>of the European Parliament</b>, of the Council or of the Commission. It may also meet on its own initiative.</p>	<p style="text-align: center;">ARTICLE III-387</p> <p>The Committee of the Regions shall elect its chairman and officers from among its members for a term of two and a half years.</p> <p>It shall be convened by its chairman at the request of the European Parliament, of the Council or of the Commission. It may also meet on its own initiative.</p> <p>It shall adopt its Rules of Procedure.</p>
<p style="text-align: center;">ARTICLE 265</p> <p>The Committee of the Regions shall be consulted by <b>the European Parliament</b>, the Council or by the Commission where <del>the Treaties</del> so provides and in all other cases, in particular those which concern cross-border cooperation, in which one of these two institutions considers it appropriate.</p> <p><b>The European Parliament</b>, the Council or the Commission shall, if it considers it necessary, set the Committee, for the</p>	<p style="text-align: center;">ARTICLE III-388</p> <p>The Committee of the Regions shall be consulted by the European Parliament, by the Council or by the Commission where the Constitution so provides and in all other cases in which one of these institutions considers it appropriate, in particular those which concern cross-border cooperation.</p> <p>The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the</p>

<p>submission of its opinion, a time limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.</p> <p>Where the Economic and Social Committee is consulted pursuant to Article 262, the Committee of the Regions shall be informed by <b>the European Parliament</b>, the Council or the Commission of the request for an opinion. Where it considers that specific regional interests are involved, the Committee of the Regions may issue an opinion on the matter.</p> <p><del>The Committee of the Regions may be consulted by the European Parliament.</del></p> <p>It may issue an opinion on its own initiative in cases in which it considers such action appropriate.</p> <p>The opinion of the Committee, together with a record of the proceedings, shall be forwarded to <b>the European Parliament</b>, the Council and to the Commission.</p>	<p>submission of its opinion, a time-limit which shall not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time-limit, the absence of an opinion shall not prevent further action.</p> <p>Where the Economic and Social Committee is consulted, the Committee of the Regions shall be informed by the European Parliament, the Council or the Commission of the request for an opinion. Where it considers that specific regional interests are involved, the Committee of the Regions may issue an opinion on the matter. It may also issue an opinion on its own initiative.</p> <p>The opinion of the Committee, together with a record of its proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.</p>
<p style="text-align: center;">ARTICLE 266</p> <p>The European Investment Bank shall have legal personality.</p> <p>The members of the European Investment Bank shall be the Member States.</p> <p>The Statute of the European Investment Bank is laid down in a Protocol annexed to <b>the Treaties</b>. The Council acting unanimously <b>in accordance with a special legislative</b></p>	<p style="text-align: center;">ARTICLE III-393</p> <p>The European Investment Bank shall have legal personality.</p> <p>Its members shall be the Member States.</p> <p>The Statute of the European Investment Bank is laid down in a Protocol. A European law of the Council may amend the Statute of the European Investment Bank. The Council shall act</p>

<p><b>procedure</b>, at the request of the European Investment Bank and after consulting the European Parliament and the Commission, or <b>on a proposal from the Commission</b> and after consulting the European Parliament and the European Investment Bank, <del>may amend Articles 4, 11 and 12 and Article 18(5) of the Statute of the Bank.</del></p>	<p>unanimously, either at the request of the European Investment Bank and after consulting the European Parliament and the Commission, or on a proposal from the Commission and after consulting the European Parliament and the European Investment Bank.</p>
<p style="text-align: center;">ARTICLE 267</p> <p>The task of the European Investment Bank shall be to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the <b>internal market</b> in the interest of the <b>Union</b>. For this purpose the Bank shall, operating on a non-profit-making basis, grant loans and give guarantees which facilitate the financing of the following projects in all sectors of the economy:</p> <p>(a) projects for developing less-developed regions;</p> <p>(b) projects for modernising or converting undertakings or for developing fresh activities called for by the <del>progressive</del> establishment or <b>functioning</b> of the <b>internal market</b>, where these projects are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States;</p> <p>(c) projects of common interest to several Member States which are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States.</p>	<p style="text-align: center;">ARTICLE III-394</p> <p>The task of the European Investment Bank shall be to contribute, by having recourse to the capital markets and utilising its own resources, to the balanced and steady development of the internal market in the Union's interest. For this purpose the European Investment Bank shall, operating on a non-profit-making basis, in particular grant loans and give guarantees which facilitate the financing of the following projects in all sectors of the economy:</p> <p>(a) projects for developing less-developed regions;</p> <p>(b) projects for modernising or converting undertakings or for developing fresh activities called for by the establishment or functioning of the internal market, where these projects are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States;</p> <p>(c) projects of common interest to several Member States which are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States.</p>

<p>In carrying out its task, the Bank shall facilitate the financing of investment programmes in conjunction with assistance from the Structural Funds and other <b>Union</b> Financial Instruments.</p>	<p>In carrying out its task, the European Investment Bank shall facilitate the financing of investment programmes in conjunction with assistance from the Structural Funds and other Union financial instruments.</p>
<p style="text-align: center;"><b>ARTICLE 268</b></p> <p>1. All items of revenue and expenditure of the <b>Union</b>, <del>including those relating to the European Social Fund</del>, shall be included in estimates to be drawn up for each financial year and shall be shown in the budget. <b>The Union's annual budget shall be established by the European Parliament and the Council in accordance with Article [III-404].</b></p> <p>2. <b>The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the regulation referred to in Article [III-412].</b></p> <p>3. <b>The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the regulation referred to in Article [III-412], except in cases for which that law provides.</b></p> <p>4. <b>With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union's own resources and in compliance with the multiannual financial framework referred to in Article [I-55].</b></p>	<p style="text-align: center;"><b>ARTICLE I-53</b> Budgetary and financial principles</p> <p>1. All items of Union revenue and expenditure shall be included in estimates drawn up for each financial year and shall be shown in the Union's budget, in accordance with Part III.</p> <p>2. The revenue and expenditure shown in the budget shall be in balance.</p> <p>3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the European law referred to in Article III-412.</p> <p>4. The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the European law referred to in Article III-412, except in cases for which that law provides.</p> <p>5. With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union's own resources and in compliance with the multiannual financial framework referred to in Article I-55.</p>

<p>5. The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.</p> <p>6. The Union and the Member States, in accordance with Article [III-415], shall counter fraud and any other illegal activities affecting the financial interests of the Union.</p> <p>The revenue and expenditure shown in the budget shall be in balance.</p>	<p>6. The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.</p> <p>7. The Union and the Member States, in accordance with Article III-415, shall counter fraud and any other illegal activities affecting the financial interests of the Union.</p>
<p style="text-align: center;"><b>THE UNION'S OWN RESOURCES</b></p> <p style="text-align: center;">ARTICLE 269</p> <p>The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.</p> <p>Without prejudice to other revenue, the budget shall be financed wholly from own resources.</p> <p>The Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament adopt a regulation laying down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. That regulation shall not enter into force until it is approved by the Member States in accordance with their respective</p>	<p style="text-align: center;">ARTICLE I-54</p> <p style="text-align: center;">The Union's own resources</p> <p>1. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.</p> <p>2. Without prejudice to other revenue, the Union's budget shall be financed wholly from its own resources.</p> <p>3. A European law of the Council shall lay down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. The Council shall act unanimously after consulting the European Parliament. That law shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.</p>

<p>constitutional requirements.</p> <p>The Council, acting in accordance with a special legislative procedure, shall lay down implementing measures of the Union's own resources system insofar as this is provided for in the regulation adopted on the basis of the first paragraph. The Council shall act after obtaining the consent of the European Parliament.</p>	<p>4. A European law of the Council shall lay down implementing measures of the Union's own resources system insofar as this is provided for in the European law adopted on the basis of paragraph 3. The Council shall act after obtaining the consent of the European Parliament.</p>
<p>Article 270 repealed.</p>	
<p style="text-align: center;"><b>CHAPTER 2</b> <b>THE MULTIANNUAL FINANCIAL FRAMEWORK</b></p> <p style="text-align: center;"><b>ARTICLE 270a</b></p> <p>1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources. It shall determine the amounts of the annual ceilings of appropriations for commitments by category of expenditure.</p> <p>It shall be established for a period of at least five years.</p> <p>The annual budget of the Union shall comply with the multiannual financial framework.</p> <p>2. The Council, acting in accordance with a special legislative procedure, shall adopt a regulation laying down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.</p>	<p style="text-align: center;"><b>ARTICLE I-55</b> The multiannual financial framework</p> <p>1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources. It shall determine the amounts of the annual ceilings of appropriations for commitments by category of expenditure in accordance with Article III-402.</p> <p>2. A European law of the Council shall lay down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.</p> <p>3. The annual budget of the Union shall comply with the</p>



<p>The European Council may, unanimously, adopt a decision authorising the Council to act by a qualified majority<sup>60</sup> when adopting the regulation referred to in the first paragraph.</p> <p>3. The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity.</p> <p>The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly.</p> <p>4. Where no Council act determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that act is adopted.</p> <p>5. Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate the successful completion of the procedure.</p>	<p>multiannual financial framework.</p> <p>4. The European Council may, unanimously, adopt a European decision authorising the Council to act by a qualified majority when adopting the European law of the Council referred to in paragraph 2.</p> <hr/> <p style="text-align: center;">ARTICLE III-402</p> <p>1. The multiannual financial framework shall be established for a period of at least five years in accordance with Article I-55.</p> <p>2. The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity.</p> <p>3. The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly.</p> <p>4. Where no European law of the Council determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that law is adopted.</p> <p>5. Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate the successful completion of the procedure.</p>
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<p style="text-align: center;"><b>ARTICLE 270b<sup>61</sup></b></p> <p style="text-align: center;"><b>THE UNION'S ANNUAL BUDGET</b></p> <p>The financial year shall run from 1 January to 31 December.</p>	<p style="text-align: center;"><b>THE UNION'S ANNUAL BUDGET</b></p> <p style="text-align: center;"><b>ARTICLE III-403</b></p> <p>The financial year shall run from 1 January to 31 December.</p>
<p>Article 271 is amended and becomes Article 273a. No new article given to replace it.</p>	
<p style="text-align: center;"><b>ARTICLE 272</b></p> <p>The European Parliament and the Council, acting in accordance with a special legislative procedure, shall establish the Union's annual budget in accordance with the following provisions.</p> <p>1. Each institution shall, before 1 July, draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget which may contain different estimates.</p> <p>The draft budget shall contain an estimate of revenue and an estimate of expenditure.</p> <p>2. The Commission shall submit a proposal containing the draft budget to the European Parliament and to the Council not later than 1 September of the year preceding that in which the budget is to be implemented.</p> <p>The Commission may amend the draft budget during the</p>	<p style="text-align: center;"><b>ARTICLE III-404</b></p> <p>European laws shall establish the Union's annual budget in accordance with the following provisions:</p> <p>1. Each institution shall, before 1 July, draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget which may contain different estimates.</p> <p>The draft budget shall contain an estimate of revenue and an estimate of expenditure.</p> <p>2. The Commission shall submit a proposal containing the draft budget to the European Parliament and to the Council not later than 1 September of the year preceding that in which the budget is to be implemented.</p> <p>The Commission may amend the draft budget during the</p>

<p>procedure until such time as the Conciliation Committee, referred to in paragraph 5, is convened.</p> <p>3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1 October of the year preceding that in which the budget is to be implemented. The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.</p> <p>4. If, within forty-two days of such communication, the European Parliament:</p> <p>(a) approves the position of the Council, the budget shall be adopted;</p> <p>(b) has not taken a decision, the budget shall be deemed to have been adopted;</p> <p>(c) adopts amendments by a majority of its component members, the amended draft shall be forwarded to the Council and to the Commission. The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the draft being forwarded the Council informs the European Parliament that it has approved all its amendments, the Conciliation Committee shall not meet.</p> <p>5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a</p>	<p>procedure until such time as the Conciliation Committee, referred to in paragraph 5, is convened.</p> <p>3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1 October of the year preceding that in which the budget is to be implemented. The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.</p> <p>4. If, within forty-two days of such communication, the European Parliament:</p> <p>(a) approves the position of the Council, the European law establishing the budget shall be adopted;</p> <p>(b) has not taken a decision, the European law establishing the budget shall be deemed to have been adopted;</p> <p>(c) adopts amendments by a majority of its component members, the amended draft shall be forwarded to the Council and to the Commission. The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the draft being forwarded the Council informs the European Parliament that it has approved all its amendments, the Conciliation Committee shall not meet.</p> <p>5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a</p>
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joint text, by a qualified majority<sup>62</sup> of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council. The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

6. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.

7. If, within the period of fourteen days referred to in paragraph 6:

(a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the budget shall be deemed to be definitively adopted in accordance with the joint text, or

(b) the European Parliament, acting by a majority of its component members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission, or

(c) the European Parliament, acting by a majority of its

qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council. The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

6. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.

7. If, within the period of fourteen days referred to in paragraph 6:

(a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the European law establishing the budget shall be deemed to be definitively adopted in accordance with the joint text, or

(b) the European Parliament, acting by a majority of its component members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission, or

(c) the European Parliament, acting by a majority of its

<p>component members, rejects the joint text while the Council approves it, a new draft budget shall be submitted by the Commission, or</p> <p>(d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation committee on the budget heading which is the subject of the amendment shall be retained. The budget shall be deemed to be definitively adopted on this basis.</p> <p>8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.</p> <p>9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the budget has been definitively adopted.</p> <p>10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Treaties and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure.</p>	<p>component members, rejects the joint text while the Council approves it, a new draft budget shall be submitted by the Commission, or</p> <p>(d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation committee on the budget heading which is the subject of the amendment shall be retained. The European law establishing the budget shall be deemed to be definitively adopted on this basis.</p> <p>8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.</p> <p>9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the European law establishing the budget has been definitively adopted.</p> <p>10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Constitution and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure.</p>
ARTICLE 273	ARTICLE III-405

If, at the beginning of a financial year, the budget has not yet been **definitively adopted**, a sum equivalent to not more than one twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter ~~or other subdivision~~ of the budget in accordance with the provisions of the regulations made pursuant to Article 279; **that sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget.**

The Council, on a proposal of the Commission may, acting by a qualified majority, provided that the other conditions laid down in the first subparagraph are observed, authorise expenditure in excess of one twelfth, **in accordance with the Regulations made pursuant to Article 279. The Council shall forward the decision immediately to the European Parliament.**

~~If the decision relates to expenditure which does not necessarily result from this Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the European Parliament; within 30 days the European Parliament, acting by a majority of its Members and three fifths of the votes cast, may adopt a different decision on the expenditure in excess of the one twelfth referred to in the first subparagraph. This part of the decision of the Council shall be suspended until the European Parliament has taken its decision. If within the said period the European Parliament has not taken a decision which differs from the decision of the Council, the latter shall be deemed to be finally adopted.~~

The decision referred to in the second paragraph shall lay

1. If at the beginning of a financial year no European law establishing the budget has been definitively adopted, a sum equivalent to not more than one twelfth of the budget appropriations entered in the chapter in question of the budget for the preceding financial year may be spent each month in respect of any chapter in accordance with the European law referred to in Article III-412; that sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget.

2. The Council, on a proposal by the Commission and in compliance with the other conditions laid down in paragraph 1, may adopt a European decision authorising expenditure in excess of one twelfth, in accordance with the European law referred to in Article III-412. The Council shall forward the decision immediately to the European Parliament.

The European decision shall lay down the necessary measures

<p>down the necessary measures relating to resources to ensure application of this Article, in accordance with the acts referred to in Article [269].</p> <p>It shall enter into force thirty days following its adoption if the European Parliament, acting by a majority of its component members, has not decided to reduce this expenditure within that time-limit.</p>	<p>relating to resources to ensure application of this Article, in accordance with the European laws referred to in Article I-54(3) and (4).</p> <p>It shall enter into force thirty days following its adoption if the European Parliament, acting by a majority of its component members, has not decided to reduce this expenditure within that time-limit.</p>
<p style="text-align: center;">ARTICLE 273a</p> <p><del>The expenditure shown in the budget shall be authorised for one financial year, unless the regulations made pursuant to Article 279 provide otherwise.</del></p> <p>In accordance with conditions to be laid down pursuant to Article 279, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.</p> <p>Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, <del>as far as may be necessary</del>, in accordance with the regulations made pursuant to Article 279.</p> <p>The expenditure of the European Parliament, the European Council, the Council, the Commission and the Court of Justice of the European Union shall be set out in separate parts of the budget, without prejudice to special arrangements for certain common items of expenditure.</p>	<p style="text-align: center;">ARTICLE III-406</p> <p>In accordance with the conditions laid down by the European law referred to in Article III-412, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.</p> <p>Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided in accordance with the European law referred to in Article III-412.</p> <p>The expenditure of</p> <ul style="list-style-type: none"> <li>- the European Parliament,</li> <li>- the European Council and the Council,</li> <li>- the Commission, and</li> <li>- the Court of Justice of the European Union shall be set out in separate sections of the budget, without prejudice to special arrangements for certain common items of expenditure.</li> </ul>

IMPLEMENTATION OF THE BUDGET AND DISCHARGE

ARTICLE 274

The Commission shall implement the budget **in cooperation with the Member States**, in accordance with the provisions of the regulations made pursuant to Article 279, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management.

**The regulations shall lay down the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities. They shall also lay down the responsibilities and detailed rules for each institution concerning its part in effecting its own expenditure**

Within the budget, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 279, transfer appropriations from one chapter to another or from one subdivision to another.

IMPLEMENTATION OF THE BUDGET AND DISCHARGE

ARTICLE III-407

The Commission shall implement the budget in cooperation with the Member States, in accordance with the European law referred to in Article III-412, on its own responsibility and within the limits of the appropriations allocated, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with those principles.

The European law referred to in Article III-412 shall establish the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities. It shall establish the responsibilities and detailed rules for each institution concerning its part in effecting its own expenditure.

Within the budget the Commission may, subject to the limits and conditions laid down by the European law referred to in Article III-412, transfer appropriations from one chapter to another or from one subdivision to another.



<p style="text-align: center;">ARTICLE 275</p> <p>The Commission shall submit annually to the <b>European Parliament and the Council</b> the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the <b>Union</b>.</p>	<p style="text-align: center;">ARTICLE III-408</p> <p>The Commission shall submit annually to the European Parliament and to the Council the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the Union's assets and liabilities. The Commission shall also submit to the European Parliament and to the Council an evaluation report on the Union's finances based on the results achieved, in particular in relation to the indications given by the European Parliament and the Council pursuant to Article III-409.</p>
<p style="text-align: center;">ARTICLE 276</p> <p>1. The European Parliament, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine <b>the accounts, the financial statement and the evaluation report referred to in Article [275]</b>, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, the statement of assurance referred to in Article 248(1), second subparagraph and any relevant special reports by the Court of Auditors.</p> <p>2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation</p>	<p style="text-align: center;">ARTICLE III-409</p> <p>1. The European Parliament, on a recommendation from the Council, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts, the financial statement and the evaluation report referred to in Article III-408, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, the statement of assurance referred to in the second subparagraph of Article III-384(1) and any relevant special reports by the Court of Auditors.</p> <p>2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control</p>

<p>of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.</p> <p>3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.</p> <p>At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget. These reports shall also be forwarded to the Court of Auditors.</p>	<p>systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.</p> <p>3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.</p> <p>4. At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget. These reports shall also be forwarded to the Court of Auditors.</p>
<p style="text-align: center;"><b>COMMON PROVISIONS</b></p> <p style="text-align: center;">ARTICLE 277</p> <p><b>The multiannual financial framework and the annual budget shall be drawn up in euro.</b></p>	<p style="text-align: center;"><b>COMMON PROVISIONS</b></p> <p style="text-align: center;">ARTICLE III-410</p> <p>The multiannual financial framework and the annual budget shall be drawn up in euro.</p>

<p style="text-align: center;">ARTICLE 278</p> <p>The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings in the currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of <b>the Treaties</b>. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.</p> <p>The Commission shall deal with each Member State through the authority designated by the State concerned. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institution approved by that State.</p>	<p style="text-align: center;">ARTICLE III-411</p> <p>The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings in the currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of the Constitution. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.</p> <p>The Commission shall deal with each Member State concerned through the authority designated by that State. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institution approved by that State.</p>
<p style="text-align: center;">ARTICLE 279</p> <p><b>1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Court of Auditors shall:</b></p> <p><b>(a) adopt financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;</b></p> <p><b>(b) lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers, <u>and concerning appropriate arrangements for inspection</u></b></p>	<p style="text-align: center;">ARTICLE III-412</p> <p>1. European laws shall establish:</p> <p>(a) the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;</p> <p>(b) rules providing for checks on the responsibility of financial actors, in particular authorising officers and accounting officers.</p> <p>Such European laws shall be adopted after consultation of the</p>

<p>2. The Council, acting <del>unanimously</del> on a proposal from the Commission and after consulting the European Parliament and obtaining the <del>opinion</del> <i>[amendment sic]</i> of the Court of Auditors, shall determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the <b>Union's</b> own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements.</p>	<p>Court of Auditors.</p> <p>2. The Council shall, on a proposal from the Commission, adopt a European regulation laying down the methods and procedure whereby the budget revenue provided under the arrangements relating to the Union's own resources shall be made available to the Commission, and the measures to be applied, if need be, to meet cash requirements. The Council shall act after consulting the European Parliament and the Court of Auditors.</p> <p>3. The Council shall act unanimously until 31 December 2006 in all the cases referred to by this Article.</p>
<p style="text-align: center;"><b>ARTICLE 279a</b></p> <p>The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.</p>	<p style="text-align: center;"><b>ARTICLE III-413</b></p> <p>The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.</p>
<p style="text-align: center;"><b>ARTICLE 279b</b></p> <p>Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened, on the initiative of the Commission, under the budgetary procedures referred to in this Chapter. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the institutions over which they preside in order to facilitate the implementation of this Title.</p>	<p style="text-align: center;"><b>ARTICLE III-414</b></p> <p>Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened, on the initiative of the Commission, under the budgetary procedures referred to in this Chapter. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the institutions over which they preside in order to facilitate the implementation of this Chapter.</p>

## COMBATTING FRAUD

### ARTICLE 280

1. The **Union** and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the **Union** through measures to be taken in accordance with this article, which shall act as a deterrent and be such as to afford effective protection in the Member States **and in all the Union's institutions, bodies, offices and agencies.**

2. Member States shall take the same measures to counter fraud affecting the financial interests of the **Union** as they take to counter fraud affecting their own financial interests.

3. Without prejudice to other provisions of **the Treaties**, the Member States shall coordinate their action aimed at protecting the financial interests of the **Union** against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.

4. **The European Parliament and Council, acting in accordance with the ordinary legislative procedure**, after consulting the Court of Auditors, shall adopt the necessary measures in the fields of the prevention of and fight against fraud affecting the financial interests of the **Union** with a view to affording effective and equivalent protection in the Member States. ~~These measures shall not concern the application of national criminal law or the national administration of justice.~~

## COMBATING FRAUD

### ARTICLE III-415

1. The Union and the Member States shall counter fraud and any other illegal activities affecting the Union's financial interests through measures taken in accordance with this Article. These measures shall act as a deterrent and be such as to afford effective protection in the Member States and in all the Union's institutions, bodies, offices and agencies.

2. Member States shall take the same measures to counter fraud affecting the Union's financial interests as they take to counter fraud affecting their own financial interests.

3. Without prejudice to other provisions of the Constitution, the Member States shall coordinate their action aimed at protecting the Union's financial interests against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.

4. European laws or framework laws shall lay down the necessary measures in the fields of the prevention of and fight against fraud affecting the Union's financial interests with a view to affording effective and equivalent protection in the Member States and in all the Union's institutions, bodies, offices and agencies. They shall be adopted after consultation of the Court of Auditors.

<p>5. The Commission, in cooperation with Member States, shall each year submit to the European Parliament and to the Council a report on the measures taken for the implementation of this article.</p>	<p>5. The Commission, in cooperation with Member States, shall each year submit to the European Parliament and to the Council a report on the measures taken for the implementation of this Article.</p>
<p style="text-align: center;"><b>ENHANCED COOPERATION</b></p> <p style="text-align: center;"><b>ARTICLE 280a</b></p> <p>Any enhanced cooperation shall comply with the Treaties and the law of the Union.</p> <p>Such cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.</p>	<p style="text-align: center;"><b>ENHANCED COOPERATION</b></p> <p style="text-align: center;"><b>ARTICLE III-416</b></p> <p>Any enhanced cooperation shall comply with the Constitution and the law of the Union.</p> <p>Such cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.</p>
<p style="text-align: center;"><b>ARTICLE 280b</b></p> <p>Any enhanced cooperation shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.</p>	<p style="text-align: center;"><b>ARTICLE III-417</b></p> <p>Any enhanced cooperation shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.</p>
<p style="text-align: center;"><b>ARTICLE 280c</b></p> <p>1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the authorising decision. It shall also be open to them at any other time,</p>	<p style="text-align: center;"><b>ARTICLE III-418</b></p> <p>1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the European authorising decision. It shall also be open to them at any other</p>

<p>subject to compliance with the acts already adopted within that framework, in addition to any such conditions. The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.</p> <p>2. The Commission and, where appropriate, the High Representative of the Union for Foreign Affairs and Security Policy shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.</p>	<p>time, subject to compliance with the acts already adopted within that framework, in addition to any such conditions. The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.</p> <p>2. The Commission and, where appropriate, the Union Minister for Foreign Affairs shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.</p>
<p style="text-align: center;">ARTICLE 280d</p> <p>1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Treaties, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so. Authorisation to proceed with the enhanced cooperation referred to in paragraph 1 shall be granted by the Council, on a proposal from the Commission and after obtaining the consent of the European Parliament.</p> <p>2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to</p>	<p style="text-align: center;">ARTICLE III-419</p> <p>1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Constitution, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so. Authorisation to proceed with enhanced cooperation shall be granted by a European decision of the Council, which shall act on a proposal from the Commission and after obtaining the consent of the European Parliament.</p> <p>2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the Union</p>

<p>the High Representative of the Union for Foreign Affairs and Security Policy, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information. Authorisation to proceed with enhanced cooperation shall be granted by a decision of the Council acting unanimously.</p>	<p>Minister for Foreign Affairs, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information. Authorisation to proceed with enhanced cooperation shall be granted by a European decision of the Council acting unanimously.</p>
<p style="text-align: center;"><b>ARTICLE 280e</b></p> <p>All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. Unanimity shall be constituted by the votes of the representatives of the participating Member States only. A qualified majority shall be defined in accordance with Article 205(3).</p>	<p style="text-align: center;"><b>ARTICLE I-44 (3)</b></p> <p>All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. Unanimity shall be constituted by the votes of the representatives of the participating Member States only. A qualified majority shall be defined as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.</p>
<p style="text-align: center;"><b>ARTICLE 280f</b></p> <p>1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article [III-419(1)] shall notify its intention to the Council and the Commission. The Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. It shall note where necessary that the conditions of participation have been fulfilled and shall</p>	<p style="text-align: center;"><b>ARTICLE III-420</b></p> <p>1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article III-419(1) shall notify its intention to the Council and the Commission. The Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. It shall note where necessary that the conditions of participation have been fulfilled and shall adopt any transitional measures necessary with regard to the</p>



adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request. On the expiry of that deadline, it shall re-examine the request, in accordance with the procedure set out in the second subparagraph. If the Commission considers that the conditions of participation have still not been met, the Member State concerned may refer the matter to the Council, which shall decide on the request. The Council shall act in accordance with Article [I-44](3). It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, the High Representative of the Union for Foreign Affairs and Security Policy and the Commission.

The Council shall confirm the participation of the Member State concerned, after consulting the High Representative of the Union for Foreign Affairs and Security Policy and after noting, where necessary, that the conditions of participation have been fulfilled. The Council, on a proposal from the High Representative, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the

application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request. On the expiry of that deadline, it shall re-examine the request, in accordance with the procedure set out in the second subparagraph. If the Commission considers that the conditions of participation have still not been met, the Member State concerned may refer the matter to the Council, which shall decide on the request. The Council shall act in accordance with Article I-44(3). It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, the Union Minister for Foreign Affairs and the Commission.

The Council shall confirm the participation of the Member State concerned, after consulting the Union Minister for Foreign Affairs and after noting, where necessary, that the conditions of participation have been fulfilled. The Council, on a proposal from the Union Minister for Foreign Affairs, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the

<p>framework of enhanced cooperation. However, if the Council considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request for participation.</p> <p>For the purposes of this paragraph, the Council shall act unanimously and in accordance with Article [I-44](3).</p>	<p>conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request for participation.</p> <p>For the purposes of this paragraph, the Council shall act unanimously and in accordance with Article I-44(3).</p>
<p style="text-align: center;"><b>ARTICLE 280g</b></p> <p>Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.</p>	<p style="text-align: center;"><b>ARTICLE III-421</b></p> <p>Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.</p>
<p style="text-align: center;"><b>ARTICLE 280h</b></p> <p>1. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article [I-44](3), may adopt a decision stipulating that it will act by a qualified majority.</p> <p>2. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt acts under a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article [I-44](3), may adopt a decision stipulating that it will act under the</p>	<p style="text-align: center;"><b>ARTICLE III-422</b></p> <p>1. Where a provision of the Constitution which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article I-44(3), may adopt a European decision stipulating that it will act by a qualified majority.</p> <p>2. Where a provision of the Constitution which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt European laws or framework laws under a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article I-44(3), may adopt a European decision stipulating that it will act</p>

<p>ordinary legislative procedure. The Council shall act after consulting the European Parliament.</p> <p>3. Paragraphs 1 and 2 shall not apply to decisions having military or defence implications.</p>	<p>under the ordinary legislative procedure. The Council shall act after consulting the European Parliament.</p> <p>3. Paragraphs 1 and 2 shall not apply to decisions having military or defence implications.</p>
<p style="text-align: center;">ARTICLE 280i</p> <p>The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end."</p>	<p style="text-align: center;">ARTICLE III-423</p> <p>The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end.</p>
<p>Article 281 repealed. No new article in its place.</p>	
<p style="text-align: center;">ARTICLE 282</p> <p>In each of the Member States, the <b>Union</b> shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the <b>Union</b> shall be represented by the Commission. <b>However, the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation.</b></p>	<p style="text-align: center;">ARTICLE III-426</p> <p>In each of the Member States, the Union shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Union shall be represented by the Commission. However, the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation.</p>

<p style="text-align: center;">ARTICLE 283</p> <p>The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure on a proposal from the Commission and after consulting the other institutions concerned, lay down the Staff Regulations of officials of the <b>European Union</b> and the conditions of employment of other servants of those Communities.</p>	<p style="text-align: center;">ARTICLE III-427</p> <p>The Staff Regulations of officials and the Conditions of Employment of other servants of the Union shall be laid down by a European law. It shall be adopted after consultation of the institutions concerned.</p>
<p style="text-align: center;">ARTICLE 284</p> <p>The Commission may, within the limits and under conditions laid down by the Council, acting by a simple majority in accordance with the provisions of the Treaties, collect any information and carry out any checks required for the performance of the tasks entrusted to it.</p>	<p style="text-align: center;">ARTICLE III-428</p> <p>The Commission may, within the limits and under conditions laid down by a European regulation or decision adopted by a simple majority by the Council, collect any information and carry out any checks required for the performance of the tasks entrusted to it.</p>
<p style="text-align: center;">ARTICLE 285</p> <p>1. Without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, the Council, acting in accordance with the <b>ordinary legislative procedure</b>, shall adopt measures for the production of statistics where necessary for the performance of the activities of the <b>Union</b>.</p> <p>2. The production of <b>Union</b> statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality; it shall not entail excessive burdens on economic operators.</p>	<p style="text-align: center;">ARTICLE III-429</p> <p>1. Without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, measures for the production of statistics shall be laid down by a European law or framework law where necessary for the performance of the Union's activities.</p> <p>2. The production of statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality. It shall not entail excessive burdens on economic operators.</p>
<p style="text-align: center;">Article 286 repealed. No new article to replace it.</p>	

<p style="text-align: center;">ARTICLE 287</p> <p>The members of the institutions of the <b>Union</b>, the members of committees, and the officials and other servants of the <b>Union</b> shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.</p>	<p style="text-align: center;">ARTICLE III-430</p> <p>The members of the Union's institutions, the members of committees, and the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.</p>
<p style="text-align: center;">ARTICLE 288</p> <p>The contractual liability of the <b>Union</b> shall be governed by the law applicable to the contract in question.</p> <p>In the case of non-contractual liability, the <b>Union</b> shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.</p> <p><b>Notwithstanding the second paragraph, the European Central Bank shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties.</b></p> <p>The personal liability of its servants towards the <b>Union</b> shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of employment applicable to them.</p>	<p style="text-align: center;">ARTICLE III-431</p> <p>The Union's contractual liability shall be governed by the law applicable to the contract in question.</p> <p>In the case of non-contractual liability, the Union shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.</p> <p>Notwithstanding the second paragraph, the European Central Bank shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties.</p> <p>The personal liability of its servants towards the Union shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of Employment applicable to them.</p>

<p style="text-align: center;">ARTICLE 289</p> <p>The seat of the institutions of the <b>Union</b> shall be determined by common accord of the governments of the Member States.</p>	<p style="text-align: center;">ARTICLE III-432</p> <p>The seat of the Union's institutions shall be determined by common accord of the governments of the Member States.</p>
<p style="text-align: center;">ARTICLE 290</p> <p>The rules governing the languages of the institutions of the <b>Union</b> shall, without prejudice to the provisions contained in the <b>Statute of the Court of Justice of the European Union</b>, be determined by the Council, acting unanimously.</p>	<p style="text-align: center;">ARTICLE III-433</p> <p>The Council shall adopt unanimously a European regulation laying down the rules governing the languages of the Union's institutions, without prejudice to the Statute of the Court of Justice of the European Union.</p>
<p style="text-align: center;">ARTICLE 291</p> <p>The <b>Union</b> shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol of 8 April 1965 on the privileges and immunities of the <b>European Union</b>. The same shall apply to the European Central Bank, and the European Investment Bank.</p>	<p style="text-align: center;">ARTICLE III-434</p> <p>The Union shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union.</p>
<p style="text-align: center;">ARTICLE 292</p> <p>Member States undertake not to submit a dispute concerning the interpretation or application of <b>the Treaties</b> to any method of settlement other than those provided for therein.</p>	<p style="text-align: center;">ARTICLE III-375<sup>63</sup></p> <p>Member States undertake not to submit a dispute concerning the interpretation or application of the Constitution to any method of settlement other than those provided for therein.</p>
<p style="text-align: center;">Article 293 repealed. No new article to replace it.</p>	
<p style="text-align: center;">Article 294 becomes Article 48a. No new article to replace it.</p>	

<p style="text-align: center;">ARTICLE 295</p> <p>This Treaty shall in no way prejudice the rules in Member States governing the system of property ownership.</p>	<p style="text-align: center;">ARTICLE III-425</p> <p>The Constitution shall in no way prejudice the rules in Member States governing the system of property ownership.</p>
<p style="text-align: center;">ARTICLE 296</p> <p>1. The provisions of <b>the Treaties</b> shall not preclude the application of the following rules:</p> <p>(a) no Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;</p> <p>(b) any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the <b>internal market</b> regarding products which are not intended for specifically military purposes.</p> <p>2. The Council may, acting unanimously on a proposal from the Commission, make changes to the list, which it drew up on 15 April 1958, of the products to which the provisions of paragraph 1(b) apply.</p>	<p style="text-align: center;">ARTICLE III-436</p> <p>1. The Constitution shall not preclude the application of the following rules:</p> <p>(a) no Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;</p> <p>(b) any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the internal market regarding products which are not intended for specifically military purposes.</p> <p>2. The Council, on a proposal from the Commission, may unanimously adopt a European decision making changes to the list of 15 April 1958 of the products to which the provisions of paragraph 1(b) apply.</p>

<p style="text-align: center;">ARTICLE 297</p> <p>Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the <b>internal market</b> being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war, serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.</p>	<p style="text-align: center;">ARTICLE III-131</p> <p>Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the internal market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war, serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.</p>
<p style="text-align: center;">ARTICLE 298</p> <p>If measures taken in the circumstances referred to in Articles 296 and 297 have the effect of distorting the conditions of competition in the <b>internal market</b>, the Commission shall, together with the State concerned, examine how these measures can be adjusted to the rules laid down in the Treaty.</p> <p>By way of derogation from the procedure laid down in Articles 226 and 227, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Articles 296 and 297. The Court of Justice shall give its ruling in camera.</p>	<p style="text-align: center;">ARTICLE III-132</p> <p>If measures taken in the circumstances referred to in Articles III-131 and III-436 have the effect of distorting the conditions of competition in the internal market, the Commission shall, together with the Member State concerned, examine how these measures can be adjusted to the rules laid down in the Constitution.</p> <p>By way of derogation from the procedure laid down in Articles III-360 and III-361, the Commission or any Member State may bring the matter directly before the Court of Justice if the Commission or Member State considers that another Member State is making improper use of the powers provided for in Articles III-131 and III-436. The Court of Justice shall give its ruling in camera.</p>
<p style="text-align: center;">ARTICLE 299</p> <p>Taking account of the structural social and economic situation of Guadeloupe, French Guiana, Martinique, Réunion, the</p>	<p style="text-align: center;">ARTICLE III-424</p> <p>Taking account of the structural economic and social situation of Guadeloupe, French Guiana, Martinique, Réunion, the</p>



<p>Azores, Madeira and the Canary Islands, which is compounded by their remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development, the Council, <del>acting by a qualified majority</del> on a proposal from the Commission and after consulting the European Parliament, shall adopt specific measures aimed, in particular, at laying down the conditions of application of the present Treaty to those regions, including common policies. <b><u>Such acts shall take the form of legislative acts where the legal basis for the adoption of Union measures in the area concerned provides for the adoption of legislative acts.</u></b></p> <p>The acts referred to in the first paragraph concern in particular areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of access to structural funds and to horizontal Union programmes.</p> <p>The Council shall adopt the measures referred to in the second subparagraph taking into account the special characteristics and constraints of the outermost regions without undermining the integrity and the coherence of the <b>Union</b> legal order, including the internal market and common policies.</p>	<p>Azores, Madeira and the Canary Islands, which is compounded by their remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development, the Council, on a proposal from the Commission, shall adopt European laws, framework laws, regulations and decisions aimed, in particular, at laying down the conditions of application of the Constitution to those regions, including common policies. It shall act after consulting the European Parliament.</p> <p>The acts referred to in the first paragraph concern in particular areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of access to structural funds and to horizontal Union programmes.</p> <p>The Council shall adopt the acts referred to in the first paragraph taking into account the special characteristics and constraints of the outermost regions without undermining the integrity and the coherence of the Union legal order, including the internal market and common policies.</p>
<p>Articles 300 and 301 are being replaced by Articles 188n and 188k respectively and Articles 302 to 304 are being replaced by Article 188p. No new article given to replace them.</p>	

<p style="text-align: center;">ARTICLE 304</p> <p>The <b>Union</b> shall establish close cooperation with the Organisation for Economic Cooperation and Development, the details of which shall be determined by common accord.</p>	<p style="text-align: center;">ARTICLE III-327</p> <p>1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.</p> <p>The Union shall also maintain such relations as are appropriate with other international organisations.</p>
<p>Article 305 is being repealed. No New article given to replace it.</p>	
<p style="text-align: center;">ARTICLE 306</p> <p>The provisions of <b>the Treaties</b> shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of <b>the Treaties</b>.</p>	<p style="text-align: center;">ARTICLE IV-441 Regional unions</p> <p>This Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of the said Treaty.</p>
<p style="text-align: center;">ARTICLE 307</p> <p>The rights and obligations arising from agreements concluded before 1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the provisions of <b>the Treaties</b>.</p> <p>To the extent that such agreements are not compatible with <b>the Treaties</b>, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities</p>	<p style="text-align: center;">ARTICLE III-435</p> <p>The rights and obligations arising from agreements concluded before 1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the Constitution.</p> <p>To the extent that such agreements are not compatible with the Constitution, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities</p>

<p>established.</p> <p>Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.</p> <p>In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under <b>the Treaties</b> by each Member State form an integral part of the establishment of the <b>Union</b> and are thereby inseparably linked with the creation of common institutions, the conferring of powers upon them and the granting of the same advantages by all the other Member States.</p>	<p>established.</p> <p>Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.</p> <p>In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under the Constitution by each Member State form an integral part of the Union and are thereby inseparably linked with the creation of institutions on which powers have been conferred by the Constitution and the granting of identical advantages by all the other Member States.</p>
<p style="text-align: center;">ARTICLE 308</p> <p>1. If action by the Union should prove necessary, within the framework of the policies defined by the Treaties, to attain one of the objectives set out by the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures.</p> <p>2. Using the procedure for monitoring the subsidiarity principle referred to in Article [I-11](3) of the Treaty on European Union, the Commission shall draw national Parliaments' attention to proposals based on this Article.</p> <p>3. Measures based on this Article shall not entail</p>	<p style="text-align: center;">ARTICLE I-18 Flexibility clause</p> <p>1. If action by the Union should prove necessary, within the framework of the policies defined in Part III, to attain one of the objectives set out in the Constitution, and the Constitution has not provided the necessary powers, the Council of Ministers, acting unanimously on a proposal from the European Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures.</p> <p>2. Using the procedure for monitoring the subsidiarity principle referred to in Article I-11(3), the European Commission shall draw national Parliaments' attention to proposals based on this Article.</p> <p>3. Measures based on this Article shall not entail harmonisation</p>

<p>harmonisation of Member States' laws or regulations in cases where the Treaties exclude such harmonisation.</p> <p><u>4. This Article cannot serve as a basis for attaining objectives pertaining to the common foreign and security policy and shall respect the limits set out in Article [III-308, second paragraph].</u></p>	<p>of Member States' laws or regulations in cases where the Constitution excludes such harmonisation.</p>
<p style="text-align: center;"><u>Article 308a</u></p> <p><u>Article [IV-444] of the Treaty on European Union shall not apply to the following Articles:</u></p> <ul style="list-style-type: none"> <li>- <u>201b, point (a),</u></li> <li>- <u>201b, point (b),</u></li> <li>- <u>211,</u></li> <li>- <u>256a(3) second subparagraph,</u></li> <li>- <u>269, third and fourth paragraphs,</u></li> <li>- <u>270a(2),</u></li> <li>- <u>308,</u></li> <li>- <u>309, and</u></li> <li>- <u>313(6).</u></li> </ul>	
<p style="text-align: center;">ARTICLE 309</p> <p>For the purposes of Article [I-59] of the Treaty on European Union on the suspension of certain rights resulting from Union membership, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2 of that Article.</p>	<p style="text-align: center;">ARTICLE I-59</p> <p>5. For the purposes of this Article, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2. Abstentions by members present in person or represented shall not prevent the adoption of European decisions referred to in paragraph 2.</p>

<p>Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2 of that Article.</p> <p>For the adoption of the decisions referred to in paragraphs 3 and 4 of that Article, a qualified majority shall be defined in accordance with Article 205(3)(b).</p> <p>Where, following a decision to suspend voting rights adopted pursuant to paragraph 3 of that Article, the Council acts by a qualified majority<sup>64</sup> on the basis of a provision of the Treaties, that qualified majority shall be defined as in the second paragraph, or, where the Council acts on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, in accordance with Article 205(3)(a).</p> <p>For the purposes of Article [I-59], the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component members.</p>	<p>For the adoption of the European decisions referred to in paragraphs 3 and 4, a qualified majority shall be defined as at least 72% of the members of the Council, representing the participating Member States, comprising at least 65% of the population of these States.</p> <p>Where, following a decision to suspend voting rights adopted pursuant to paragraph 3, the Council acts by a qualified majority on the basis of a provision of the Constitution, that qualified majority shall be defined as in the second subparagraph, or, where the Council acts on a proposal from the Commission or from the Union Minister for Foreign Affairs, as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States. In the latter case, a blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.</p> <p>6. For the purposes of this Article, the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component members.</p>
<p>Article 310 becomes Article 188m. No new article to replace it.</p>	

<p style="text-align: center;">ARTICLE 311</p> <p>The protocols annexed to this Treaty by common accord of the Member States shall form an integral part thereof.</p>	<p style="text-align: center;">ARTICLE IV-442 Protocols and Annexes</p> <p>The Protocols and Annexes to this Treaty shall form an integral part thereof.</p>
<p style="text-align: center;">ARTICLE 312</p> <p>This Treaty is concluded for an unlimited period.</p>	<p style="text-align: center;">ARTICLE IV-446 Duration</p> <p>This Treaty is concluded for an unlimited period.</p>
<p style="text-align: center;">ARTICLE 313</p> <p><i>[new text of Article 313 combines Article 299(2) first subparagraph and Article 299(3) to (6), with amendments as shown]</i></p> <p><b>In addition to the provisions of Article [IV-440] of the Treaty on European Union relating to the territorial scope of the Treaties, the following provisions shall apply:</b></p> <p>1. The provisions of the Treaties shall apply to <b>Guadeloupe, French Guiana, Martinique, Réunion, the Azores, Madeira and the Canary Islands in accordance with Article [III-424].</b></p> <p>2. The special arrangements for association set out in part four of <del>this Treaty</del> shall apply to the overseas countries and territories listed in Annex II to the Treaties.</p> <p>This Treaty shall not apply to those overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in the aforementioned list.</p>	<p style="text-align: center;">ARTICLE IV-440 Scope</p> <p>1. This Treaty shall apply to the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.</p> <p>2. This Treaty shall apply to Guadeloupe, French Guiana, Martinique, Réunion, the Azores, Madeira and the Canary Islands in accordance with Article III-424.</p> <p>3. The special arrangements for association set out in Title IV of Part III shall apply to the overseas countries and territories listed in Annex II.</p>

<p>3. The provisions of <b>the Treaties</b> shall apply to the European territories for whose external relations a Member State is responsible.</p> <p>4. The provisions of <b>the Treaties</b> shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.</p> <p>5. <b>Notwithstanding Article [IV-440] of the Treaty on European Union and paragraphs 1 to 4:</b></p> <p>(a) <b>the Treaties</b> shall not apply to the Faeroe Islands;</p> <p>(b) <b>the Treaties</b> shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;</p>	<p>This Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.</p> <p>4. This Treaty shall apply to the European territories for whose external relations a Member State is responsible.</p> <p>5. This Treaty shall apply to the Åland Islands with the derogations which originally appeared in the Treaty referred to in Article IV-437(2)(d) and which have been incorporated in Section 5 of Title V of the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.</p> <p>6. <b>Notwithstanding paragraphs 1 to 5:</b></p> <p>(a) <b>the Treaties</b> shall not apply to the Faeroe Islands;</p> <p>(b) <b>this Treaty</b> shall apply to Akrotiri and Dhekelia, the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, only to the extent necessary to ensure the implementation of the arrangements originally provided for in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, annexed to the Act of Accession which is an integral part of the Treaty referred to in Article IV-437(2)(e), and which have been incorporated in Title III of Part II of the Protocol on the Treaty and Act of Accession of the Czech</p>
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<p>(c) <b>the Treaties</b> shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.</p> <p><b>6. The European Council may, on the initiative of the Member State concerned, adopt a decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 1 and 2. The European Council shall act unanimously after consulting the Commission.</b></p>	<p>Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic;</p> <p>(c) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands originally set out in the Treaty referred to in Article IV-437(2)(a), and which have been incorporated in Section 3 of Title II of the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.</p> <p><b>4. The European Council may, on the initiative of the Member State concerned, adopt a European decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 2 and 3. The European Council shall act unanimously after consulting the Commission.</b></p>
<p style="text-align: center;">ARTICLE 314</p> <p><b>The final provisions of the Treaty on European Union shall apply to the Treaties.</b></p>	



## Table of equivalences

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I-3	Article 3 TEU
I-4	Article 17 TFEU
I-5	Article 4 TEU
I-6	Legal primacy - now a declaration
I-7	Article 32 TEU
I-8	Symbols of the EU - removed
I-9	Article 6 TEU
I-10	Article 17b TFEU
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I-12	Article 2 TFEU
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I-24	Articles 9c TEU; 201b TFEU

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I-31	Article 246 TFEU
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I-38	Article 253 TFEU
I-39	Article 254 TFEU
I-40	Article 17a TEU
I-41	Article 27 TEU
I-42	Article 61 TFEU; 8c ( c ) TEU
I-43	Article 188r TFEU
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I-51	Articles 24 TEU; 21b TFEU
I-52	Article 15 TFEU
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I-58	Article 34 TEU
I-59	Articles 7 TEU; 309 TFEU
I-60	Article 35 TEU
Part II - Charter of Fundamental Rights	Cross-reference made in protocol giving it "same legal value" as the rest of the treaties
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III-115	Article 7 TFEU
III-116	Article 8 TFEU
III-117	Article 9 TFEU

III-118	Article 10 TFEU
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III-124	Article 17a TFEU
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III-126	Article 19 TFEU
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III-130	Articles 22a TFEU; 22b TFEU
III-131	Article 297 TFEU
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FOLKETINGET



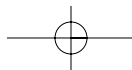
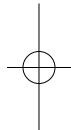
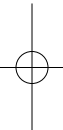
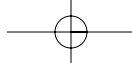
## Udkast til Lissabon-traktaten

BIND 1  
TRAKTATER

Sammenskrevet udgave af  
udkastet til Lissabon-traktaten  
og det gældende traktatgrundlag

Opdateret med ændringerne  
fra Det Europæiske Råds  
møde den 19. oktober 2007  
i Lissabon

Folketingets EU-Oplysning, Christiansborg, DK-1240 København K  
Telefon 3337 3337, Email: [euopl@ft.dk](mailto:euopl@ft.dk), Internettet: [www.euo.dk](http://www.euo.dk)





## FORORD

På Det Europæiske Råds uformelle møde den 19. oktober 2007 i Lissabon blev EU's stats- og regeringschefer enige om et traktatudkast, som lægger op til ændringer af traktaten om Den Europæiske Union og af traktaten om oprettelse af Det Europæiske Fællesskab, samt af tilhørende protokoller. Udkastet til Lissabon-traktaten vil blive undertegnet af stats- og regeringscheferne den 13. december 2007 i Lissabon, hvorefter det skal ratificeres i de enkelte medlemsstater i overensstemmelse med landenes respektive forfatningsmæssige bestemmelser.

Denne tekstsamling indeholder en sammenskrivning af udkastet til Lissabon-traktaten og de gældende traktater og protokoller, samt de foreslåede nye protokoller og erklæringer. I samlingen er bestemmelser, ord og tekstafsnit, der foreslås tilføjet til traktaterne og protokollerne, fremhævet med fed skrift. Nye protokoller og erklæringer er ligeledes fremhævet med fed skrift. Visse bestemmelser, som ifølge udkastet erstattes af nye bestemmelser, men som i realiteten indeholder tekst fra eksisterende bestemmelser, er i videst mulige omfang gengivet således, at kun de nye ord og passager er fremhævet. Hvor eksisterende artikler eller bestemmelser er flyttet eller omnummereret, er der så vidt muligt henvist til artikelnummeret i de gældende traktater.

Ophævede bestemmelser og protokoller samt ord og tekstafsnit, der ophæves eller slettes fra det gældende traktatgrundlag, er ikke medtaget. Dette valg beror på, at formålet med sammenskrivningen er at skabe et samlet billede af alle bestemmelserne i traktatgrundlaget efter en evt. vedtagelse af Lissabon-traktaten samt at sikre, at teksten fremstår så læsevenlig som muligt.

Ændringerne til Euratom-traktaten samt visse bilag, protokoller og erklæringer er af pladshensyn udeladt. Disse tekster er tilgængelige på internettet: [www.euo/dokumenter/traktater](http://www.euo/dokumenter/traktater), hvor også udkastet til Lissabon-traktaten kan findes.

Der er indsat forklarende overskrifter - angivet i kursiv - til hver enkelt artikel i de to traktater. Disse overskrifter er ikke en del af selve traktatteksten.

Tekstsamlingen er udarbejdet af Folketingets EU-konsulent i samarbejde med Folketingets EU-oplysning.

Der tages forbehold for eventuelle fejl i tekst og opsætning.

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**PROTOKOLLER****Protokoller, der skal knyttes som bilag til traktaten om Den Europæiske Union, til traktaten om Den Europæiske Unions funktionsmåde og, hvor det er relevant, til traktaten om oprettelse af Det Europæiske Atomenergifællesskab.**

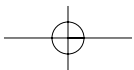
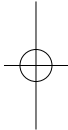
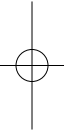
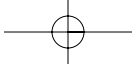
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## **PRÆAMBEL**

**SOM ØNSKER** at fuldende den proces, der blev indledt med Amsterdam-traktaten og Nice-traktaten, med henblik på at styrke Unionens effektivitet og demokratiske legitimitet og forbedre sammenhængen i dens indsats,

**HAR BESLUTTET** at ændre traktaten om Den Europæiske Union, traktaten om oprettelse af Det Europæiske Fællesskab og traktaten om oprettelse af Det Europæiske Atomenergifællesskab,

og har med dette mål for øje som befuldmægtigede udpeget:

(...)

**SOM** efter at have udvekslet deres fuldmagter, der er fundet i god og behørig form,

**ER BLEVET ENIGE OM FØLGENDE BESTEMMELSER:**

(...)

## TRAKTAT OM DEN EUROPÆISKE UNION

HANS MAJESTÆT BELGIERNES KONGE, HENDES MAJESTÆT DANMARKS DRONNING, PRÆSIDENTEN FOR FORBUNDSREPUBLIKKEN TYSKLAND, PRÆSIDENTEN FOR DEN HELLENSKE REPUBLIK, HANS MAJESTÆT KONGEN AF SPANIEN, PRÆSIDENTEN FOR DEN FRANSKE REPUBLIK, PRÆSIDENTEN FOR IRLAND, PRÆSIDENTEN FOR DEN ITALIENSKE REPUBLIK, HENDES KONGELIGE HØJHED STORHERTUGINDEN AF LUXEMBOURG, HENDES MAJESTÆT DRONNINGEN AF NEDERLANDENE, PRÆSIDENTEN FOR DEN PORTUGISKE REPUBLIK, HENDES MAJESTÆT DRONNINGEN AF DET FORENEDE KONGERIGE STORBRITANNIEN OG NORDIRLAND (1),

SOM ER BESLUTTET PÅ at markere en ny fase i den europæiske integrationsproces, der blev indledt med oprettelsen af De Europæiske Fællesskaber,

**SOM HAR LADET SIG INSPIRERE af Europas kulturelle, religiøse og humanistiske arv, der er grundlaget for udviklingen af de universelle værdier: det enkelte menneskes ukrænkelige og umistelige rettigheder samt frihed, demokrati, lighed og retsstaten,**

SOM ERINDRER OM den historiske betydning af at bringe det europæiske kontinents deling til ophør og om behovet for at tilvejebringe et solidt grundlag for opbygningen af fremtidens Europa,

SOM BEKRÆFTER den betydning, de tillægger principperne om frihed, demokrati og respekt for menneskerettighederne samt de grundlæggende frihedsrettigheder og retsstatsprincippet,

SOM BEKRÆFTER den betydning, de tillægger de grundlæggende arbejdsmarkedsretsmæssige og sociale rettigheder som defineret i den europæiske socialpagt, der blev undertegnet i Torino den 18. oktober 1961, og i fællesskabspagten om arbejdstagernes grundlæggende arbejdsmarkedsretsmæssige og sociale rettigheder fra 1989,

SOM ØNSKER at styrke solidariteten mellem deres folk, samtidig med at de respekterer disses historie, kultur og traditioner,

SOM ØNSKER at udbygge institutionernes demokratiske og effektive virkemåde yderligere for at sætte disse i stand til inden for en fælles institutionel ramme bedre at udføre de opgaver, der pålægges dem,

SOM HAR DET FORSÆT at opnå en styrkelse af og konvergens mellem deres økonomier og at indføre en Økonomisk og Monetær Union, som i overensstemmelse med **denne traktat og traktaten om Den Europæiske Unions funktionsmåde** omfatter en fælles og stabil valuta,

SOM ER BESLUTTET PÅ at fremme økonomiske og sociale fremskridt for deres

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**Note 1:** Den Tjekkiske Republik, Republikken Estland, Republikken Cypern, Republikken Letland, Republikken Litauen, Republikken Ungarn, Republikken Malta, Republikken Østrig, Republikken Polen, Republikken Slovenien, Den Slovakiske Republik, Republikken Finland, Kongeriget Sverige, Republikken Bulgarien og Republikken Rumænien er efterfølgende blevet medlemmer af Den Europæiske Union.

folk under hensyn til princippet om bæredygtig udvikling og som led i gennemførelsen af det indre marked samt i tilvejebringelsen af øget samhørighed og miljøbeskyttelse, og på at gennemføre politikker, der sikrer, at fremskridt med hensyn til økonomisk integration ledsages af parallelle fremskridt på andre områder,

SOM HAR DET FORSÆT at indføre et fælles borgerskab for statsborgerne i deres lande,

SOM HAR DET FORSÆT at gennemføre en fælles udenrigs- og sikkerhedspolitik, herunder gradvis udformning af en fælles forsvarspolitik, som vil kunne føre til et fælles forsvar i overensstemmelse med artikel 27, og derved styrke den europæiske identitet og uafhængighed med det formål at fremme fred, sikkerhed og fremskridt i Europa og i verden som helhed,

SOM ER BESLUTTET PÅ at lette den frie bevægelighed for personer, samtidig med at deres befolkningers sikkerhed og tryghed sikres ved oprettelsen af et område med frihed, sikkerhed og retfærdighed i overensstemmelse med bestemmelserne i **denne traktat og traktaten om Den Europæiske Unions funktionsmåde**,

SOM HAR DET FORSÆT at videreføre processen hen imod en stadig snævrere sammenslutning mellem de europæiske folk, i hvilken beslutningerne træffes så nært på borgerne som muligt i overensstemmelse med subsidiaritetsprincippet,

SOM TAGER de yderligere skridt i betragtning, der skal tages for at fremme den europæiske integration,

HAR VEDTAGET at oprette en Europæisk Union, og har med dette mål for øje udpeget som befuldmægtigede: (listen over befuldmægtigede er ikke gengivet)

SOM, efter at have udvekslet deres fuldmagter og fundet dem i god og behørig form, er blevet enige om følgende bestemmelser:

## AFSNIT I

### ALMINDELIGE BESTEMMELSER

#### Artikel 1 EU

##### *Oprettelse af Unionen*

Ved denne traktat opretter de HØJE KONTRAHERENDE PARTER indbyrdes en EUROPÆISK UNION, i det følgende benævnt »Unionen«, **som medlemsstaterne tildeler kompetencer for at nå deres fælles mål.**

Denne traktat udgør en ny fase i processen hen imod en stadig snævrere union mellem de europæiske folk, hvor beslutningerne træffes så åbent som muligt og så tæt på borgerne som muligt.

**Unionens grundlag er denne traktat samt traktaten om Den Europæiske Unions funktionsmåde (i det følgende benævnt "traktaterne"). Disse to traktater har samme juridiske værdi. Unionen træder i stedet for og efterfølger Det Europæiske Fællesskab.**

**Artikel 2 EU***Unionens værdier*

Unionen bygger på værdierne respekt for den menneskelige værdighed, frihed, demokrati, ligestilling, retsstaten og respekt for menneskerettighederne, herunder rettigheder for personer, der tilhører mindretal. Dette er medlemsstaternes fælles værdigrundlag i et samfund præget af pluralisme, ikke-forskelsbehandling, tolerance, retfærdighed, solidaritet og ligestilling mellem kvinder og mænd.

**Artikel 3 EU (tidligere art. 2 EU)***Unionens mål*

**1. Unionens mål er at fremme freden, sine værdier og befolkningernes velfærd.**

**2. Unionen giver borgerne et område med frihed, sikkerhed og retfærdighed uden indre grænser, hvor der er fri bevægelighed for personer, kombineret med passende foranstaltninger vedrørende kontrol ved de ydre grænser, asyl, indvandring og forebyggelse og bekæmpelse af kriminalitet.**

**3. Unionen opretter et indre marked. Den arbejder for en bæredygtig udvikling i Europa baseret på en afbalanceret økonomisk vækst og prisstabilitet, en social markedsøkonomi med høj konkurrenceevne, hvor der tilstræbes fuld beskæftigelse og sociale fremskridt, og et højt niveau for beskyttelse og forbedring af miljøkvaliteten.**

Den fremmer videnskabelige og teknologiske fremskridt.

Den bekæmper social udstødelse og forskelsbehandling og fremmer social retfærdighed og beskyttelse, ligestilling mellem kvinder og mænd, solidaritet mellem generationerne og beskyttelse af børns rettigheder.

Den fremmer økonomisk, social og territorial samhørighed og solidaritet mellem medlemsstaterne.

Den respekterer medlemsstaternes rige kulturelle og sproglige mangfoldighed og sikrer, at den europæiske kulturarv beskyttes og udvikles.

**4. Unionen opretter en økonomisk og monetær union, der har euroen som valuta.**

**5. Unionen forsvarer og fremmer i forbindelserne med den øvrige verden sine værdier og interesser og bidrager til beskyttelsen af sine borgere. Den bidrager til fred, sikkerhed, bæredygtig udvikling af jorden, solidaritet og gensidig respekt folkene imellem, fri og fair handel, udryddelse af fattigdom og beskyttelse af menneskerettighederne, især børns rettigheder, samt nøje overholdelse og udvikling af folkeretten, herunder overholdelse af principperne i De Forenede Nationers pagt.**

**6. Unionen forfølger sine mål med passende midler inden for de beføjelser, der er tildelt den i traktaterne.**

Artikel 4 EU  
(tidligere art. 10 EF)

*Forholdet mellem Unionen og medlemsstaterne, loyalitetsprincippet*

**1. I overensstemmelse med artikel 5 forbliver beføjelser, der ikke er tildelt Unionen i traktaterne, hos medlemsstaterne.**

**2. Unionen respekterer medlemsstaternes lighed over for traktaterne samt deres nationale identitet, som den kommer til udtryk i deres grundlæggende politiske og forfatningsmæssige strukturer, herunder regionalt og lokalt selvstyre. Den respekterer deres centrale statslige funktioner, herunder sikring af statens territoriale integritet, opretholdelse af lov og orden samt beskyttelse af den nationale sikkerhed. Navnlig forbliver den nationale sikkerhed den enkelte medlemsstats eneansvar.**

**3. I medfør af princippet om loyalt samarbejde respekterer Unionen og medlemsstaterne hinanden og bistår hinanden ved gennemførelsen af de opgaver, der følger af traktaterne.**

Medlemsstaterne træffer alle almindelige eller særlige foranstaltninger for at sikre opfyldelsen af de forpligtelser, der følger af **traktaterne** eller af retsakter **vedtaget af EU-institutionerne**.

**Medlemsstaterne bistår Unionen** i gennemførelsen af **dens** opgaver **og** afholder sig fra at træffe foranstaltninger, der **kan** bringe virkeliggørelsen af **Unionens mål** i fare.

Artikel 5  
(tidligere art. 5 EF)

*Grundlæggende principper vedrørende beføjelser*

**1. Afgrænsningen af Unionens beføjelser er underlagt princippet om kompetencetildeling.**

**Udøvelsen af Unionens beføjelser er underlagt nærhedsprincippet og proportionalitetsprincippet.**

**2. I medfør af princippet om kompetencetildeling handler Unionen kun inden for rammerne af de beføjelser, som medlemsstaterne har tildelt den i traktaterne, med henblik på at opfylde de mål, der er fastsat heri. Beføjelser, der ikke er tildelt Unionen i traktaterne, forbliver hos medlemsstaterne.**

**3. I medfør af nærhedsprincippet handler Unionen på de områder, der ikke hører ind under dens enekompetence, kun hvis og i det omfang målene for den påtænkte handling ikke i tilstrækkelig grad kan opfyldes af medlemsstaterne på centralt, regionalt eller lokalt plan, men på grund af den påtænkte handlingens omfang eller virkninger bedre kan nås på EU-plan.**

**Unionens institutioner anvender nærhedsprincippet i overensstemmelse med protokollen om anvendelse af nærhedsprincippet og proportionalitetsprincippet. De nationale parlamenter sikrer, at dette princip overholdes i overensstemmelse med proceduren i denne protokol.**

4. I medfør af proportionalitetsprincippet går indholdet og formen af Unionens handling ikke videre end nødvendigt for at nå målene i traktaterne.

Unionens institutioner anvender proportionalitetsprincippet i overensstemmelse med protokollen om anvendelse af nærhedsprincippet og proportionalitetsprincippet.

#### Artikel 6 EU

##### *Grundlæggende rettigheder*

1. Unionen anerkender de rettigheder, friheder og principper, der findes i chartret om grundlæggende rettigheder af 7. december 2000 som tilpasset den [... 2007], der har samme juridiske værdi som traktaterne.

Chartrets bestemmelser udvider ikke på nogen måde Unionens beføjelser som fastsat i traktaterne.

Rettighederne, frihederne og principperne i chartret skal fortolkes i overensstemmelse med de almindelige bestemmelser i chartrets afsnit VII vedrørende fortolkning og anvendelse af chartret og under behørigt hensyn til de forklaringer, der henvises til i chartret, og som anfører kilderne til disse bestemmelser.

2. Unionen tiltræder den europæiske konvention til beskyttelse af menneskerettigheder og grundlæggende frihedsrettigheder. Tiltrædelse af denne konvention ændrer ikke Unionens beføjelser som fastsat i traktaterne.

3. De grundlæggende rettigheder, som de er garanteret ved den europæiske konvention til beskyttelse af menneskerettigheder og grundlæggende frihedsrettigheder, og som de følger af medlemsstaternes fælles forfatningsmæssige traditioner, udgør generelle principper i EU-retten.

#### Artikel 7 EU

##### *Suspension af visse rettigheder, der følger af medlemskab af Unionen*

1. På begrundet forslag af en tredjedel af medlemsstaterne, Europa-Parlamentet eller Kommissionen kan Rådet med et flertal på fire femtedele af sine medlemmer efter **godkendelse** af Europa-Parlamentet fastslå, at der er en klar fare for, at en medlemsstat groft overtræder **de værdier, der er nævnt i artikel 2**. Inden Rådet fastslår dette, hører det den berørte medlemsstat, **og det kan efter samme fremgangsmåde rette henstillinger til denne medlemsstat**.

Rådet efterprøver regelmæssigt, om de forhold, der har fået Rådet til at fastslå ovennævnte, stadig er gældende.

2. **Det Europæiske Råd kan med enstemighed** på forslag af en tredjedel af medlemsstaterne eller Kommissionen og efter **godkendelse** fra Europa-Parlamentet fastslå, at en medlemsstat groft og vedvarende overtræder **de værdier, der er nævnt i artikel 2** efter at have opfordret **denne stat** til at fremsætte sine bemærkninger.

3. Hvis en overtrædelse som omhandlet i stk. 2 er fastslået, kan Rådet med kvalificeret flertal beslutte at suspendere visse af de rettigheder, der følger af anvendelsen af **traktaterne** på den pågældende medlemsstat, herunder de stemmerettigheder, der er tillagt repræsentanten for den pågældende medlemsstats regering i Rådet. Rådet tager i så fald hensyn til en sådan suspensions mulige følger for fysiske og juridiske personers rettigheder og forpligtelser.

Den pågældende medlemsstat er under alle omstændigheder fortsat bundet af sine forpligtelser i henhold til **traktaterne**.

4. Rådet kan senere med kvalificeret flertal beslutte at ændre eller tilbagekalde foranstaltninger, der er truffet i medfør af stk. 3, som følge af ændringer i den situation, som har ført til, at de blev indført.

**5. De afstemningsregler, der gælder for Europa-Parlamentet, Det Europæiske Råd og Rådet i forbindelse med anvendelsen af denne artikel, er fastsat i artikel 309 i traktaten om Den Europæiske Unions funktionsmåde.**

#### Artikel 7a EU

##### *Unionen og dens nærområder*

1. Unionen udvikler særlige forbindelser med sine nabolande med henblik på at skabe et område med velstand og godt naboskab, der bygger på Unionens værdier og er kendetegnet ved tætte og fredelige forbindelser baseret på samarbejde.

2. Med henblik på stk. 1 kan Unionen indgå særlige aftaler med de berørte lande. Disse aftaler kan omfatte gensidige rettigheder og forpligtelser samt muligheden for fælles aktiviteter. Der holdes regelmæssigt samråd om aftalernes gennemførelse.

#### AFSNIT II

#### BESTEMMELSER OM DE DEMOKRATISKE PRINCIPPER

#### Artikel 8 EU

##### *Princippet om demokratisk lighed*

Unionen respekterer i alle sine aktiviteter princippet om lighed mellem dens borgere, der nyder lige stor opmærksomhed fra EU-institutionernes, -organernes, -kontorenes og agenturernes side. Enhver, der er statsborger i en medlemsstat, har unionsborgerskab. Unionsborgerskabet er et supplement til det nationale statsborgerskab og træder ikke i stedet for dette.

#### Artikel 8 A

##### *Princippet om repræsentativt demokrati*

1. Unionens funktionsmåde bygger på det repræsentative demokrati.

**2. Borgerne repræsenteres direkte på EU-plan i Europa-Parlamentet.**

Medlemsstaterne repræsenteres i Det Europæiske Råd af deres stats- eller regeringschef og i Rådet af deres regeringer, der selv er demokratisk ansvarlige enten over for deres nationale parlamenter eller over for deres borgere.

**3. Enhver borger har ret til at deltage i Unionens demokratiske liv. Beslutningerne træffes så åbent som muligt og så tæt på borgerne som muligt.**

**4. Politiske partier på europæisk plan bidrager til at skabe en europæisk politisk bevidsthed og til at udtrykke unionsborgernes vilje.**

**Artikel 8 B***Princippet om deltagelsesdemokrati*

**1. Institutionerne giver på passende måder borgere og repræsentative sammenslutninger mulighed for at give udtryk for deres opfattelser angående alle Unionens arbejdsområder og for at diskutere dem offentligt.**

**2. Institutionerne fører en åben, gennemsigtig og regelmæssig dialog med de repræsentative sammenslutninger og civilsamfundet.**

**3. Kommissionen foretager brede høringer af de berørte parter for at sikre sammenhæng og gennemsigtighed i Unionens handlinger.**

**4. Et antal unionsborgere på mindst en million, der kommer fra et betydeligt antal medlemsstater, kan tage initiativ til at opfordre Kommissionen til inden for rammerne af sine beføjelser at fremsætte et egnet forslag om spørgsmål, hvor en EU-retsakt efter borgernes opfattelse er nødvendig til gennemførelse af traktaterne.**

De procedurer og betingelser, der er nødvendige for fremsættelsen af et sådant initiativ, fastlægges i overensstemmelse med artikel 21, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde.

**Artikel 8 C***De nationale parlamenters rolle*

De nationale parlamenter bidrager aktivt til, at Unionen kan fungere tilfredsstillende:

- a) de holdes orienteret af Unionens institutioner og får tilsendt udkast til europæiske lovgivningsmæssige retsakter i overensstemmelse med protokollen om de nationale parlamenters rolle i Den Europæiske Union.
- b) de sikrer, at nærhedsprincippet overholdes i overensstemmelse med procedurerne i protokollen om anvendelse af nærhedsprincippet og proportionalitetsprincippet



- c) de deltager i forbindelse med området med frihed, sikkerhed og retfærdighed i mekanismer til evaluering af gennemførelsen af Unionens politikker på dette område i overensstemmelse med artikel 64 i traktaten om Den Europæiske Unions funktionsmåde og inddrages i den politiske kontrol med Europol og evalueringen af Eurojusts aktiviteter i overensstemmelse med artikel 69 K og 69 H i nævnte traktat
- d) de deltager i procedurer til revision af traktaterne i overensstemmelse med artikel 33 i denne traktat
- e) de underrettes om ansøgninger om medlemskab af Unionen i overensstemmelse med artikel 34 i denne traktat
- f) de deltager i det interparlamentariske samarbejde mellem de nationale parlamenter og med Europa-Parlamentet i overensstemmelse med protokollen om de nationale parlameters rolle i Den Europæiske Union.

### AFSNIT III

#### BESTEMMELSER OM INSTITUTIONERNE

##### Artikel 9 EU

(tidligere art. 7 EF)

##### *Unionens institutioner*

1. Unionen har en institutionel ramme, der tager sigte på at fremme dens værdier, at forfølge dens mål, at tjene dens, dens borgeres og medlemsstaternes interesser samt at sikre sammenhæng, effektivitet og kontinuitet i dens politikker og tiltag.

Unionens institutioner er:

- Europa-Parlamentet
- Det Europæiske Råd
- Rådet
- Europa-Kommissionen (i det følgende benævnt "Kommissionen")
- Den Europæiske Unions Domstol
- Den Europæiske Centralbank
- Revisionsretten.

2. Hver institution handler inden for rammerne af de beføjelser, der er tildelt den ved traktaterne, og i overensstemmelse med de procedurer og betingelser og mål, der er fastsat i disse. Institutionerne samarbejder loyalt med hinanden.

3. Bestemmelserne om Den Europæiske Centralbank og Revisionsretten samt detaljerede bestemmelser om de øvrige institutioner findes i traktaten om Den Europæiske Unions funktionsmåde.

4. Europa-Parlamentet, Rådet og Kommissionen bistås af et Økonomisk og Socialt Udvalg og et Regionsudvalg med rådgivende funktioner.

## Artikel 9 A

*Europa-Parlamentet*

1. Europa-Parlamentet udøver sammen med Rådet den lovgivende funktion og budgetfunktionen. Det udøver politiske kontrolfunktioner og rådgivende funktioner på de betingelser, der er fastsat i traktaterne. Det vælger Kommissionens formand.

2. Europa-Parlamentet består af repræsentanter for Unionens borgere. Antallet af medlemmer må ikke overstige 750 plus formanden. Borgerne repræsenteres degressivt proportionalt med en mindstetærskel på seks medlemmer for hver medlemsstat. Ingen medlemsstat tildeles mere end 96 pladser.

Det Europæiske Råd vedtager med enstemmighed på Europa-Parlamentets initiativ og med dets godkendelse en afgørelse om sammensætningen af Europa-Parlamentet i overensstemmelse med principperne i første afsnit.

3. Europa-Parlamentets medlemmer vælges ved direkte almindelige, frie og hemmelige valg for en mandatperiode på fem år.

4. Europa-Parlamentet vælger sin formand og sit præsidium blandt sine medlemmer.

## Artikel 9 B

(tidligere art. 4 EU)

*Det Europæiske Råd og dets formand*

1. Det Europæiske Råd tilføjer Unionen den fremdrift, der er nødvendig for dens udvikling, og fastlægger dens overordnede politiske retningslinjer **og prioriteter**. **Det udøver ingen lovgivende funktioner.**

2. Det Europæiske Råd består af **medlemsstaternes** stats- og regeringschefer samt af **sin formand** og Kommissionens formand. **Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik deltager i dets arbejde.**

3. Det Europæiske Råd træder sammen **to gange hvert halve år efter indkaldelse fra sin formand**. Når dagsordenen kræver det, kan hver af Det Europæiske Råds medlemmer beslutte at lade sig bistå af en minister og for Kommissionens formands vedkommende af et medlem af Kommissionen. Når situationen kræver det, indkalder formanden til et ekstraordinært møde i Det Europæiske Råd.

4. Det Europæiske Råd træffer afgørelse ved konsensus, medmindre andet er fastsat i traktaterne.

5. Det Europæiske Råd vælger sin formand med kvalificeret flertal for en periode på to et halvt år med mulighed for genvalg en gang. Hvis formanden får forfald eller har begået en alvorlig forseelse, kan Det Europæiske Råd bringe hans eller hendes mandat til ophør efter samme procedure.

## 6. Det Europæiske Råds formand:

- a) leder Det Europæiske Råds arbejde og giver impulser hertil
- b) sikrer forberedelsen og kontinuiteten af Det Europæiske Råds arbejde i samarbejde med formanden for Kommissionen og på grundlag af arbejdet i Rådet for Almindelige Anliggender
- c) bestræber sig på at fremme sammenhold og konsensus i Det Europæiske Råd
- d) forelægger Europa-Parlamentet en rapport efter hvert møde i Det Europæiske Råd.

Det Europæiske Råds formand varetager i denne egenskab på sit niveau Unionens repræsentation udadtil på de områder, der hører under den fælles udenrigs- og sikkerhedspolitik, uden at dette berører de beføjelser, der er tildelt Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik.

Det Europæiske Råds formand må ikke bestride et nationalt embede.

## Artikel 9 C

### *Rådet, Rådets formandskab og definitionen af kvalificeret flertal*

1. Rådet udøver sammen med Europa-Parlamentet den lovgivende funktion og budgetfunktionen. Det udøver politikformulerende og koordinerende funktioner på de betingelser, der er fastsat i traktaterne.
2. Rådet består af en repræsentant for hver medlemsstat på ministerniveau, der er beføjet til at forpligte regeringen i den medlemsstat, han eller hun repræsenterer, og til at udøve stemmeretten.
3. Rådet træffer afgørelse med kvalificeret flertal, medmindre andet er fastsat i traktaterne.
4. Fra den 1. november 2014 defineres kvalificeret flertal som mindst 55 % af Rådets medlemmer, der omfatter mindst femten af disse og repræsenterer medlemsstater med tilsammen mindst 65 % af Unionens befolkning.

Et blokerende mindretal skal omfatte mindst fire rådsmedlemmer; er der ikke et sådant mindretal, anses det kvalificerede flertal for opnået.

De øvrige regler vedrørende kvalificeret flertal findes i artikel 205, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde.

5. De overgangsbestemmelser vedrørende definitionen af kvalificeret flertal, der gælder indtil den 31. oktober 2014, samt dem, der gælder mellem den 1. november 2014 og den 31. marts 2017, er fastlagt i protokollen om overgangsbestemmelser.

6. Rådet samles i forskellige sammensætninger, og listen over disse vedtages i overensstemmelse med artikel 201 b, litra), i traktaten om Den Europæiske Unions funktionsmåde.

Rådet for Almindelige Anliggender sikrer sammenhæng i de forskellige råds-sammensætningers arbejde. Det forbereder Det Europæiske Råds møder og sørger for opfølgningen heraf sammen med formanden for Det Europæiske Råd og Kommissionen.

Rådet for Udenrigsanliggender fastlægger Unionens optræden udadtil på grundlag af strategiske retningslinjer fastlagt af Det Europæiske Råd og sikrer sammenhæng i Unionens indsats.

7. En komité af faste repræsentanter for medlemsstaternes regeringer har til opgave at forberede Rådets arbejde.

8. Rådets samlinger er offentlige, når det forhandler og stemmer om udkast til lovgivningsmæssige retsakter. Med henblik herpå er alle samlinger i Rådet opdelt i to dele, der vedrører henholdsvis forhandlinger om Unionens lovgivningsmæssige retsakter og aktiviteter af ikke-lovgivningsmæssig karakter.

9. Formandskabet for rådssammensætningerne bortset fra Rådet for Udenrigsanliggender varetages af medlemsstaternes repræsentanter i Rådet på grundlag af en ordning med ligelig rotation på betingelser fastsat i overensstemmelse med artikel 201 b litra b), i traktaten om Den Europæiske Unions funktionsmåde.

#### **Artikel 9 D**

(erstatte delvis artikel 213 EF)

*Europa-Kommissionen og dens formand*

1. Kommissionen fremmer Unionens almene interesser og tager passende initiativer med henblik herpå. Den drager omsorg for gennemførelsen af traktaterne og af de foranstaltninger, der vedtages af institutionerne på grundlag heraf. Den fører tilsyn med gennemførelsen af EU-retten under Den Europæiske Unions Domstols kontrol. Den gennemfører budgettet og forvalter programmerne. Den udøver koordinerings-, gennemførelses- og forvaltningsfunktioner på de betingelser, der er fastsat i traktaterne. Bortset fra den fælles udenrigs- og sikkerhedspolitik og de øvrige tilfælde, der er nævnt i traktaterne, varetager den Unionens repræsentation udadtil. Den er initiativtager til Unionens årlige og flerårige programmering med henblik på indgåelse af interinstitutionelle aftaler.

2. Lovgivningsmæssige EU-retsakter kan kun vedtages på forslag af Kommissionen, medmindre andet er fastsat i traktaterne. Andre retsakter vedtages på forslag af Kommissionen, når dette er fastsat i traktaterne.

3. Kommissionens tjenesteperiode er fem år.

Kommissionens medlemmer vælges under hensyn til deres almindelige duelighed og europæiske engagement blandt personer, hvis uafhængighed er uomtvistelig.

Kommissionen udfører sine opgaver i fuldkommen uafhængighed. **Kommissionens medlemmer må hverken søge eller modtage instruktioner fra nogen regering, nogen institution, noget andet organ eller nogen anden organisation, jf. dog artikel 9 E, stk. 2.** De afholder sig fra enhver handling, der er uforenelig med deres hverv eller udførelsen af deres opgaver.

4. Den Kommission, der udnævnes mellem datoen for ikrafttrædelsen af traktaten om ændring af Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab og den 31. oktober 2014, skal bestå af en statsborger fra hver medlemsstat, herunder formanden for Kommissionen og Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, der skal være en af dens næstformænd.

5. Fra den 1. november 2014 skal Kommissionen bestå af et antal medlemmer, herunder formanden for Kommissionen og Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, der svarer til to tredjedele af antallet af medlemsstater, medmindre Det Europæiske Råd med enstemmighed beslutter at ændre dette antal.

Kommissionens medlemmer vælges blandt medlemsstaternes statsborgere på grundlag af en ordning med strengt ligelig rotation mellem medlemsstaterne, der gør det muligt at afspejle den demografiske og geografiske spredning i samtlige medlemsstater. Denne ordning fastsættes med enstemmighed af Det Europæiske Råd i overensstemmelse med artikel 211 i traktaten om Den Europæiske Unions funktionsmåde.

6. Formanden for Kommissionen:

- a) fastlægger retningslinjerne for Kommissionens udøvelse af sine hverv
- b) træffer afgørelse om Kommissionens interne organisation for at sikre, at den optræder sammenhængende, effektivt og som et kollegium
- c) udnævner næstformænd, bortset fra Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, blandt Kommissionens medlemmer.

Medlemmer af Kommissionen træder tilbage, hvis formanden anmoder herom. Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik træder i overensstemmelse med proceduren i artikel 9 E, stk. 1, tilbage, hvis formanden anmoder herom.

7. Under hensyntagen til valget til Europa-Parlamentet og efter passende høringer foreslår Det Europæiske Råd med kvalificeret flertal Europa-Parlamentet en kandidat til posten som formand for Kommissionen. Denne kandidat vælges af Europa-Parlamentet med et flertal af dets medlemmer. Hvis denne kandidat ikke opnår et sådant flertal, foreslår Det Europæiske Råd med kvalificeret flertal inden en måned en ny kandidat, der vælges af Europa-Parlamentet efter samme procedure.

Rådet vedtager efter fælles overenskomst med den valgte formand listen over de øvrige personer, som det foreslår udnævnt til medlemmer af Kommissionen. De udvælges på grundlag af medlemsstaternes forslag i overensstemmelse med de kriterier, der er fastsat i stk. 3, andet afsnit, og stk. 5, andet afsnit.

Formanden, Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik og de øvrige medlemmer af Kommissionen skal godkendes samlet ved en afstemning i Europa-Parlamentet. På grundlag af denne godkendelse udnævnes Kommissionen af Det Europæiske Råd, der træffer afgørelse med kvalificeret flertal.

8. Kommissionen er samlet ansvarlig over for Europa-Parlamentet. Europa-Parlamentet kan vedtage et mistillidsvotum til Kommissionen efter artikel 201 i traktaten om Den Europæiske Unions funktionsmåde. Hvis der vedtages et sådant mistillidsvotum, skal medlemmerne af Kommissionen samlet nedlægge deres hverv, og Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik skal nedlægge sit hverv i Kommissionen.

### Artikel 9 E

#### *Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik*

1. Det Europæiske Råd udnævner Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik med kvalificeret flertal og med samtykke fra Kommissionens formand. Det Europæiske Råd kan bringe hans eller hendes tjenesteperiode til ophør efter samme procedure.

2. Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik varetager Unionens fælles udenrigs- og sikkerhedspolitik. Han eller hun bidrager med sine forslag til udformningen af denne politik og gennemfører den som Rådets bemyndigede. Det samme gælder den fælles sikkerheds- og forsvarspolitik.

3. Den højtstående repræsentant er formand for Rådet for Udenrigsanliggender.

4. Den højtstående repræsentant er en af Kommissionens næstformænd. Han eller hun påser, at der er sammenhæng i Unionens optræden udadtil. Han eller hun varetager i Kommissionen de ansvarsområder, Kommissionen har med hensyn til eksterne forbindelser, samt koordineringen af de andre aspekter af Unionens optræden udadtil. I forbindelse med varetagelsen af disse ansvarsområder i Kommissionen og kun med hensyn til disse er den højtstående repræsentant underlagt de procedurer, der gælder for Kommissionen, for så vidt dette er i overensstemmelse med stk. 2 og 3.

### Artikel 9 F

(erstatte delvis artikel 220-223 EF)

#### *Den Europæiske Unions Domstol*

1. Den Europæiske Unions Domstol omfatter Domstolen, Retten og et antal specialretter. Den sikrer overholdelse af lov og ret ved fortolkningen og anvendelsen af traktaterne.

Medlemsstaterne tilvejebringer den nødvendige adgang til domstolsprøvelse for at sikre en effektiv retsbeskyttelse på de områder, der er omfattet af EU-retten.

2. Domstolen består af en dommer fra hver medlemsstat. Den bistås af generaladvokater.

**Retten består af mindst en dommer fra hver medlemsstat.**

Til dommere og generaladvokater ved Domstolen **og dommere ved Retten** vælges personer, hvis uafhængighed er uomtvistelig, og som opfylder betingelserne i **artikel 223 og 224 i traktaten om Den Europæiske Unions funktionsmåde**. De udnævnes af medlemsstaternes regeringer ved fælles overenskomst for et tidsrum af seks år. Afgående dommere og generaladvokater kan genudnævnes.

3. **Den Europæiske Unions Domstol træffer afgørelse i henhold til traktaterne:**

- a) i sager anlagt af en medlemsstat, en institution eller fysiske eller juridiske personer
- b) i præjudicielle spørgsmål efter anmodning fra de nationale domstole om fortolkning af EU-retten eller om gyldigheden af retsakter vedtaget af institutionerne
- c) i de øvrige tilfælde, der er nævnt i traktaterne.

#### AFSNIT IV

#### BESTEMMELSER OM FORSTÆRKET SAMARBEJDE

##### Artikel 10 EU

##### *Forstærket samarbejde*

1. Medlemsstater, der ønsker at indføre et forstærket indbyrdes samarbejde inden for rammerne af Unionens ikke-eksklusive kompetencer, kan anvende Unionens institutioner og udøve disse kompetencer ved anvendelse af de relevante bestemmelser i traktaterne med de begrænsninger og efter de procedurer, der er fastsat i denne artikel og i artikel 280 A til 280 I i traktaten om Den Europæiske Unions funktionsmåde.

Et forstærket samarbejde tager sigte på at fremme Unionens mål, beskytte dens interesser og styrke integrationsprocessen. Det er til enhver tid åbent for alle medlemsstater i overensstemmelse med artikel 280 C i traktaten om Den Europæiske Unions funktionsmåde.

2. Afgørelsen om bemyndigelse til et forstærket samarbejde vedtages af Rådet som en sidste udvej, når det fastslår, at de hermed tilstræbte mål ikke kan nås inden for en rimelig frist af Unionen som helhed, og på den betingelse, at mindst ni medlemsstater deltager deri. Rådet træffer afgørelse efter proceduren i artikel 280 D i traktaten om Den Europæiske Unions funktionsmåde.

3. Alle Rådets medlemmer kan deltage i dets forhandlinger, men kun medlemmer af Rådet, som repræsenterer medlemsstater, der deltager i et forstærket samarbejde, deltager i afstemningen. Afstemningsreglerne findes i artikel 280 E i traktaten om Den Europæiske Unions funktionsmåde.

4. Retsakter, der vedtages inden for rammerne af et forstærket samarbejde, er kun bindende for de deltagende medlemsstater. De betragtes ikke som gældende ret, der skal accepteres af stater, der søger om optagelse i Unionen

## AFSNIT V

### ALMINDELIGE BESTEMMELSER OM UNIONENS OPTRÆDEN UDADTIL OG SÆRLIGE BESTEMMELSER OM DEN FÆLLES UDENRIGS- OG SIKKERHEDSPOLITIK

#### KAPITEL 1

##### Almindelige bestemmelser om Unionens optræden udadtil

##### Artikel 10 A

##### *Grundlag og formål*

1. Unionens optræden på den internationale scene bygger på de principper, der har ligget til grund for dens egen oprettelse, udvikling og udvidelse, og som den tilstræber at fremme i den øvrige verden: demokrati, retsstatsprincippet, menneskerettighedernes og de grundlæggende rettigheders universalitet og udelelighed, respekt for den menneskelige værdighed, principperne om lighed og solidaritet samt respekt for grundsætningerne i De Forenede Nationers pagt og folkeretten.

Unionen bestræber sig på at udvikle forbindelser og skabe partnerskaber med tredjelande samt internationale, regionale eller globale organisationer, der er enige i de i første afsnit nævnte principper. Den vil fremme multilaterale løsninger på fælles problemer, især inden for De Forenede Nationers rammer.

2. Unionen fastlægger og gennemfører fælles politikker og tiltag og arbejder for en høj grad af samarbejde på alle områder i tilknytning til internationale forbindelser med henblik på:

- a) at værne om sine værdier og grundlæggende interesser samt sin sikkerhed, uafhængighed og integritet
- b) at konsolidere og styrke demokrati, retsstatsprincippet, menneskerettigheder og folkerettens principper
- c) at bevare freden, forebygge konflikter og styrke den internationale sikkerhed i overensstemmelse med formålene og grundsætningerne i De Forenede Nationers pagt samt principperne i Helsingfors-slutakten og målene i Paris-chartret, herunder de principper og de mål, der vedrører de ydre grænse
- d) at fremme en bæredygtig udvikling i økonomisk, social og miljømæssig henseende i udviklingslandene med det hovedformål at udrydde fattigdommen
- e) at tilskynde til alle landes integration i den internationale økonomi, herunder gennem gradvis afskaffelse af hindringer for international handel



- f) at bidrage til udarbejdelsen af internationale foranstaltninger med henblik på at beskytte og forbedre miljøkvaliteten og en bæredygtig forvaltning af de globale naturressourcer med det formål at sikre bæredygtig udvikling
- g) at bistå befolkninger, lande og regioner, der står over for naturkatastrofer eller menneskeskabte katastrofer, og
- h) at fremme et internationalt system, der bygger på stærkere multilateralt samarbejde og god global styring.

3. Unionen respekterer de principper og forfølger de mål, der er nævnt i stk. 1 og 2, i forbindelse med udarbejdelsen og gennemførelsen af sin optræden udadtil på de forskellige områder, der er omfattet af dette afsnit og af femte del af traktaten om Den Europæiske Unions funktionsmåde, samt af de øvrige politikker for så vidt angår deres eksterne aspekter.

Unionen påser, at der er sammenhæng mellem de forskellige områder inden for dens optræden udadtil og mellem disse og dens øvrige politikker. Rådet og Kommissionen, der bistås af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, sikrer denne sammenhæng og samarbejder i den henseende.

#### Artikel 10 B

##### *Unionens strategiske interesser og mål*

1. Det Europæiske Råd fastlægger Unionens strategiske interesser og mål på grundlag af de principper og mål, der er nævnt i artikel 10 A.

Det Europæiske Råds afgørelser om Unionens strategiske interesser og mål vedrører såvel den fælles udenrigs- og sikkerhedspolitik som andre områder i forbindelse med Unionens optræden udadtil. De kan vedrøre Unionens forbindelser med et land eller et område eller have en tematisk tilgang. De

indeholder bestemmelser om varighed samt om de midler, der skal stilles til rådighed af Unionen og medlemsstaterne.

Det Europæiske Råd træffer afgørelse med enstemmighed efter en henstilling fra Rådet, som dette vedtager efter de nærmere bestemmelser, der er fastsat

for hvert område. Det Europæiske Råds afgørelser gennemføres i overensstemmelse med procedurerne i traktaterne.

2. Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik og Kommissionen kan, for så vidt angår henholdsvis den fælles udenrigs- og sikkerhedspolitik og andre områder i forbindelse med Unionens optræden udadtil, forelægge Rådet fælles forslag.

**KAPITEL 2****SÆRLIGE BESTEMMELSER OM DEN FÆLLES UDENRIGS- OG SIKKERHEDSPOLITIK****1. AFDELING****FÆLLES BESTEMMELSER**

## Artikel 10 C

*Grundlaget for Unionens optræden udadtil*

Unionens optræden på den internationale scene i henhold til dette kapitel bygger på principperne i, forfølger målene i og varetages i overensstemmelse med de almindelige bestemmelser om Unionens optræden udadtil, der er fastlagt i kapitel 1.

## Artikel 11 EU

*Målsætninger, medlemsstaternes loyalitet og solidaritet*

1. Unionens kompetence inden for den fælles udenrigs- og sikkerhedspolitik omfatter alle udenrigspolitiske områder samt alle spørgsmål vedrørende Unionens sikkerhed, herunder gradvis udformning af en fælles forsvarspolitik, der kan føre til et fælles forsvar.

Den fælles udenrigs- og sikkerhedspolitik er underlagt særlige regler og procedurer. Den fastlægges og gennemføres af Det Europæiske Råd og Rådet, der træffer afgørelse med enstemmighed, medmindre andet er fastsat i traktaterne. Vedtagelse af lovgivningsmæssige retsakter er udelukket. Denne politik gennemføres af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik og af medlemsstaterne i overensstemmelse med traktaterne. Europa-Parlamentets og Kommissionens specifikke rolle på dette område er fastlagt i traktaterne. Den Europæiske Unions Domstol har ingen kompetence med hensyn til disse bestemmelser, bortset fra dens kompetence til at kontrollere overholdelsen af artikel 25 i denne traktat og prøve lovligheden af visse afgørelser, jf. artikel 240 A, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde.

2. Inden for rammerne af principperne og målene for Unionens optræden udadtil varetager, fastlægger og gennemfører denne en fælles udenrigs- og sikkerhedspolitik, der bygger på udvikling af gensidig politisk solidaritet mellem medlemsstaterne, fastlæggelse af spørgsmål af almen interesse og opnåelse af en stadig stigende konvergens i medlemsstaternes optræden.

3. Medlemsstaterne støtter aktivt og uforbeholdent **Unionens** udenrigs- og sikkerhedspolitik i en ånd af loyalitet og gensidig solidaritet **og respekterer Unionens indsats på dette område.**

Medlemsstaterne samarbejder for at styrke og udvikle deres gensidige politiske solidaritet. De afstår fra enhver handling, som strider imod **Unionens** interesser,

eller som kan skade dens effektivitet som en sammenhængende faktor i internationale forbindelser.

**Rådet og den højtstående repræsentant påser, at disse principper overholdes.**

#### Artikel 12 EU

##### *Virkeliggørelse af målene*

**Unionen varetager den fælles udenrigs- og sikkerhedspolitik ved:**

- a) at fastlægge de overordnede retningslinjer**
- b) at vedtage afgørelser, der fastlægger:**
  - i) de aktioner, der skal gennemføres af Unionen**
  - ii) de holdninger, der skal indtages af Unionen**
  - iii) de nærmere bestemmelser for gennemførelsen af de afgørelser, der vedrører nr. i) og ii)**
- c) at styrke det systematiske samarbejde mellem medlemsstaterne om deres politik.**

#### Artikel 13 EU

##### *Fastlæggelse af principper og overordnede retningslinjer; fælles strategier og mål*

1. Det Europæiske Råd **definerer Unionens strategiske interesser og fastlægger målene og de overordnede retningslinjer** for den fælles udenrigs- og sikkerhedspolitik, herunder for anliggender, der har indvirkning på forsvarsområdet. **Det vedtager de nødvendige afgørelser.**

Hvis den internationale udvikling kræver det, indkalder formanden for Det Europæiske Råd til et ekstraordinært møde i Det Europæiske Råd med henblik på at definere de strategiske linjer for Unionens politik i forhold til denne udvikling.

2. Rådet udformer den fælles udenrigs- og sikkerhedspolitik og træffer de afgørelser, der er nødvendige for fastlæggelsen og iværksættelsen af denne politik på grundlag af de overordnede retningslinjer og de strategiske linjer, som Det Europæiske Råd har fastlagt.

Rådet og Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik påser, at Unionens aktion fremtræder som en helhed, er sammenhængende og effektiv.

3. Den fælles udenrigs- og sikkerhedspolitik gennemføres af den højtstående repræsentant og medlemsstaterne under anvendelse af nationale midler og Unionens midler.

**Artikel 13a***Unionens højtstående FUSP-repræsentant*

- 1. Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, der er formand for Rådet for Udenrigsanliggender, bidrager med sine forslag til udarbejdelsen af den fælles udenrigs- og sikkerhedspolitik og sikrer gennemførelsen af de afgørelser, der vedtages af Det Europæiske Råd og Rådet.**
- 2. Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik repræsenterer Unionen i anliggender vedrørende den fælles udenrigs- og sikkerhedspolitik. Han eller hun fører på Unionens vegne den politiske dialog med tredjeparter og udtrykker Unionens holdning i internationale organisationer og på internationale konferencer.**
- 3. Under udøvelsen af sit hverv bistår Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik af en tjeneste for EU's optræden udadtil. Denne tjeneste arbejder sammen med medlemsstaternes diplomatiske tjenester og omfatter tjenestemænd fra relevante tjenestegrene i Generalsekretariatet for Rådet og Kommissionen samt udstationeret personale fra medlemsstaternes nationale diplomatiske tjenester. Rådet fastsætter ved en afgørelse, hvordan Tjenesten for EU's Optræden Udadtil skal tilrettelægges og fungere. Rådet træffer afgørelse på forslag af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik efter høring af Europa-Parlamentet og efter Kommissionens godkendelse.**

**Artikel 14 EU***Vedtagelse af fælles aktioner*

- 1. Hvis en international situation kræver en operationel aktion fra Unionens side, vedtager Rådet de nødvendige afgørelser.** De fastsætter mål og rækkevidde, de midler, der skal stilles til rådighed for Unionen, om nødvendigt deres varighed, og betingelserne for deres gennemførelse.
- 2. Hvis der sker en ændring af forholdene, der har væsentlig betydning for et spørgsmål, der er genstand for afgørelse som nævnt i stk. 1, reviderer Rådet principperne og målene for denne aktion og vedtager de nødvendige afgørelser.**
- 3. De i stk. 1 nævnte afgørelser** forpligter medlemsstaterne i deres stillingtagen og handlinger.
- 4. Enhver national stillingtagen eller handling i henhold til en afgørelse som nævnt i stk. 1 meddeles af den berørte medlemsstat i så god tid, at der om nødvendigt kan holdes forudgående samråd i Rådet.** Forpligtelsen til at give forhåndsunderretning gælder ikke for foranstaltninger, som alene indebærer transformation til det nationale plan af rådsafgørelser.
- 5. Gør forholdenes udvikling det påtrængende nødvendigt, og revideres rådsafgørelsen som nævnt i stk. 1 ikke, kan medlemsstaterne straks træffe de foranstaltninger, der er absolut nødvendige under hensyntagen til de almindelige mål for denne afgørelse.** En medlemsstat, der træffer sådanne foranstaltninger, underretter omgående Rådet herom.

6. Volder iværksættelsen af en **afgørelse efter denne artikel** alvorlige vanskeligheder for en medlemsstat, skal denne forelægge sagen for Rådet, der skal drøfte den og søge passende løsninger. Disse må ikke stride imod målene for **den i stk. 1 nævnte afgørelse** eller være til skade for dens effektivitet.

#### Artikel 15 EU

##### *Spørgsmål af geografisk eller tematisk karakter*

**Rådet vedtager afgørelser, som fastlægger Unionens** tilgang til et bestemt spørgsmål af geografisk eller tematisk karakter. Medlemsstaterne drager omsorg for, at deres nationale politik er i overensstemmelse med **Unionens holdninger**.

#### Artikel 16 EU (tidligere art. 22 EU)

##### *Forslag fra medlemsstater, den højtstående FUSP-repræsentant og Kommissionen*

1. **Enhver medlemsstat, Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik eller den højtstående repræsentant med støtte fra Kommissionen kan forelægge Rådet** alle spørgsmål vedrørende den fælles udenrigs- og sikkerhedspolitik og **forelægge det henholdsvis initiativer eller forslag**.

2. I tilfælde, hvor der hurtigt skal træffes en afgørelse, **indkalder den højtstående repræsentant** enten på egen foranledning **eller på anmodning af en medlemsstat** inden for 48 timer eller, hvor en afgørelse er uopsættelig, inden for en endnu kortere frist til en ekstraordinær samling i Rådet.

#### Artikel 17 EU (tidligere art. 22 EU)

##### *Procedurer*

1. **Afgørelser i henhold til dette kapitel vedtages af Det Europæiske Råd og Rådet med enstemmighed, medmindre andet er fastsat i dette kapitel. Der kan ikke vedtages lovgivningsmæssige retsakter.**

Hvis et medlem af Rådet afholder sig fra at stemme i forbindelse med afstemninger, kan medlemmet kvalificere sin stemmeundladelse ved at afgive en formel erklæring i henhold til dette afsnit. I så fald er det pågældende medlem ikke forpligtet til at anvende afgørelsen, men accepterer, at afgørelsen forpligter Unionen. Under udvisning af gensidig solidaritet afholder den pågældende medlemsstat sig fra enhver handling, som vil kunne komme i konflikt med eller hindre en handling fra **Unionens** side på grundlag af den pågældende afgørelse, og de øvrige medlemsstater respekterer dens holdning. **Hvis de medlemmer af Rådet, der på denne måde knytter en erklæring til deres stemmeundladelse, udgør mindst en tredjedel af medlemsstaterne med tilsammen mindst en tredjedel af Unionens befolkning, er afgørelsen ikke vedtaget.**

2. Uanset stk. 1 træffer Rådet afgørelse med kvalificeret flertal,

— **når det vedtager afgørelser, der fastlægger en EU-aktion eller en EU-holdning på grundlag af en afgørelse truffet af Det Europæiske Råd vedrørende Unionens strategiske interesser og mål som nævnt i artikel 10 B, stk. 1**

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- når det vedtager en afgørelse, der fastlægger en EU-aktion eller en EU-holdning, på forslag af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik efter en specifik anmodning fra Det Europæiske Råd fremsat på dettes eget initiativ eller på initiativ af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik.
- når det træffer afgørelse om iværksættelse af en afgørelse, der fastlægger en EU-aktion eller en EU-holdning
- når det udpeger en særlig repræsentant i henhold til artikel 18.

Hvis et medlem af Rådet erklærer, at det af **vitale**, nærmere anførte årsager, der vedrører den nationale politik, agter at stemme imod vedtagelsen af en afgørelse, der skal træffes med kvalificeret flertal, finder der ikke afstemning sted. **Den højtstående repræsentant søger i tæt samråd med den pågældende medlemsstat at opnå en løsning, som den kan acceptere. Hvis der ikke opnås et resultat, kan Rådet med kvalificeret flertal anmode om, at sagen henvises til Det Europæiske Råd med henblik på en enstemmig afgørelse.**

**3. Det Europæiske Råd kan med enstemmighed vedtage en afgørelse om, at Rådet træffer afgørelse med kvalificeret flertal i andre tilfælde end dem, der er nævnt i stk. 2 i nærværende artikel.**

**4. Stk. 2 og 3 gælder ikke for afgørelser, der har indvirkning på militær- eller forsvarsområdet.**

**5. I procedurespørgsmål træffer Rådet afgørelse med et flertal af medlemmernes stemmer.**

Artikel 17A EU (tidligere art. 16 EU)

*Samordnet og konvergent optræden*

Medlemsstaterne rådfører sig med hinanden i **Det Europæiske Råd og Rådet** om alle udenrigs- og sikkerhedspolitiske spørgsmål, som er af almindelig interesse, **med henblik på at fastlægge en fælles tilgang. Den enkelte medlemsstat konsulterer, før den træffer foranstaltninger på den internationale scene eller indgår forpligtelser, der kan berøre Unionens interesser, de øvrige medlemsstater i Det Europæiske Råd eller i Rådet. Medlemsstaterne sikrer gennem en konvergent optræden, at Unionen kan gøre sine interesser og værdier gældende på den internationale scene. Medlemsstaterne er indbyrdes solidariske.**

Når Det Europæiske Råd eller Rådet har fastlagt en fælles EU-tilgang i henhold til stk. 1, samordner Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik og medlemsstaternes udenrigsministre deres aktiviteter i Rådet.

Medlemsstaternes diplomatiske missioner og Unionens delegationer i tredjelande og ved internationale organisationer samarbejder indbyrdes og bidrager til udformningen og iværksættelsen af den fælles tilgang.

## Artikel 18 EU

*Formandskabets rolle*

Rådet kan, **på forslag af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik**, udpege en særlig repræsentant med et mandat i forbindelse med særlige politikspørgsmål. **Den særlige repræsentant udøver sit mandat under den højtstående repræsentants myndighed.**

## Artikel 19 EU

*Samordnet optræden i internationale sammenhænge*

1. Medlemsstaterne samordner deres optræden i internationale organisationer og på internationale konferencer. De forsvare **Unionens holdninger** i disse fora. **Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik varetager tilrettelæggelsen af denne samordning.**

I internationale organisationer og på internationale konferencer, hvori ikke alle medlemsstaterne deltager, forsvare de medlemsstater, der deltager, **Unionens** holdning.

2. **I overensstemmelse med artikel 11, stk. 3, skal de medlemsstater**, der er repræsenteret i internationale organisationer eller på internationale konferencer, hvor ikke alle medlemsstaterne er repræsenteret, holde disse **samt den højtstående repræsentant** underrettet om alle spørgsmål af fælles interesse.

De medlemsstater, der også er medlemmer af De Forenede Nationers Sikkerhedsråd, rådfører sig med hinanden og holder de øvrige medlemsstater **samt den højtstående repræsentant** fuldt ud underrettet. De medlemsstater, der er medlemmer af Sikkerhedsrådet, forsvare i udøvelsen af deres funktion **Unionens** holdninger og interesser, uden at dette dog berører det ansvar, der påhviler dem i medfør af De Forenede Nationers pagt.

**Når Unionen har fastlagt en holdning til et emne på dagsordenen for De Forenede Nationers Sikkerhedsråd, anmoder de medlemsstater, der sidder i Sikkerhedsrådet, om, at den højtstående repræsentant indbydes til at fremlægge Unionens holdning.**

## Artikel 20

*Samarbejde mellem diplomatiske og konsulære missioner*

Medlemsstaternes diplomatiske og konsulære missioner og **Unionens** delegationer i tredjelande og på internationale konferencer samt deres repræsentationer ved internationale organisationer samarbejder for at sikre, at de **afgørelser om fastlæggelse af EU-holdninger og -aktioner, der er vedtaget i medfør af dette kapitel, overholdes og iværksættes.**

De intensiverer deres samarbejde ved at udveksle oplysninger, **og foretage fælles vurderinger.**

**De bidrager til iværksættelsen af europæiske borgeres ret til beskyttelse på tredjelandes område, jf. artikel 17 b, stk. 2, litra c), i traktaten om Unionens funktionsmåde, samt af foranstaltninger vedtaget i henhold til artikel 20 i nævnte traktat.**

## Artikel 21 EU

*Høring og underretning af Europa-Parlamentet*

Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik hører regelmæssigt Europa-Parlamentet om de vigtigste aspekter og grundlæggende valg i forbindelse med den fælles udenrigs- og sikkerhedspolitik og den fælles sikkerheds- og forsvarspolitik og underretter det om udviklingen i disse politikker. Han eller hun påser, at der tages behørigt hensyn til Europa-Parlamentets synspunkter. De særlige repræsentanter kan inddrages i underretningen af Europa-Parlamentet.

Europa-Parlamentet kan stille spørgsmål eller rette henstillinger til Rådet og **Unionens højtstående repræsentant**. Det drøfter **to gange** om året de fremskridt, der er gjort med iværksættelsen af den fælles udenrigs- og sikkerhedspolitik, **herunder den fælles sikkerheds- og forsvarspolitik**.

## Artikel 22 EU (tidligere art. 24 EU)

*Internationale aftaler*

Unionen kan indgå aftaler med en eller flere stater eller internationale organisationer på de områder, der hører under dette kapitel.

## Artikel 23 EU (tidligere art. 25 EU)

*Den Udenrigs- og sikkerhedspolitisk komité*

Med forbehold af artikel 207 i **traktaten om Den Europæiske Unions funktionsmåde** følger en udenrigs- og sikkerhedspolitisk komité den internationale situation på de områder, der henhører under den fælles udenrigs- og sikkerhedspolitik, og bidrager til at fastlægge politikken ved at afgive udtalelser til Rådet på dets foranledning **på foranledning af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik** eller på eget initiativ. Komitéen følger ligeledes iværksættelsen af den vedtagne politik **med forbehold af den højtstående repræsentants beføjelser**.

Inden for dette kapitels område varetager Den Udenrigs- og Sikkerhedspolitisk Komité under Rådets og den højtstående repræsentants ansvar den politiske kontrol med og den strategiske ledelse af krisestyringsoperationer som omhandlet i artikel 28.

Rådet kan med henblik på en krisestyringsoperation og for hele dennes varighed, som fastlagt af Rådet, bemyndige komitéen til at træffe relevante afgørelser vedrørende den politiske kontrol med og den strategiske ledelse af operationen.

## Artikel 24 EU (tidligere art. 26 EU)

*Beskyttelse af personoplysninger*

I overensstemmelse med artikel 15a i **traktaten om Den Europæiske Unions funktionsmåde** vedtager Rådet uanset stk. 2 heri en afgørelse, der fastsætter regler for beskyttelse af fysiske personer i forbindelse med medlemsstaternes behandling



af personoplysninger under udøvelse af aktiviteter, der er omfattet dette kapitel, samt regler for den frie udveksling af disse oplysninger. Overholdelsen af disse regler kontrolleres af uafhængige myndigheder

Artikel 25 EU (tidligere art. 47 EU)

*Anvendelse af institutionernes procedurer og beføjelser*

Gennemførelsen af den fælles udenrigs- og sikkerhedspolitik berører ikke anvendelsen af institutionernes procedurer og omfanget af deres beføjelser som fastsat i traktaterne med henblik på udøvelsen af Unionens kompetencer i artikel 3 - 6 i traktaten om Den Europæiske Unions funktionsmåde.

På samme måde berører gennemførelsen af politikkerne i disse artikler ikke anvendelsen af institutionernes procedurer og omfanget af deres beføjelser som fastsat i traktaterne med henblik på udøvelsen af Unionens kompetencer i henhold til dette kapitel.

Artikel 26 EU (tidligere art. 28 EU)

*Finansiering af udgifter*

1. Institutionernes administrationsudgifter i forbindelse med **iværksættelsen af dette kapitel**, afholdes over **Unionens** budget.

2. Aktionsudgifter til iværksættelsen af dette kapitel afholdes ligeledes over **Unionens** budget bortset fra udgifter til operationer, der har indvirkning på militær eller forsvarsområdet, og tilfælde, hvor Rådet med enstemmighed træffer anden afgørelse.

Såfremt udgifterne ikke afholdes over **Unionens** budget, afholdes de af medlemsstaterne efter fordelingsnøglen baseret på bruttonationalindkomsten, medmindre Rådet med enstemmighed træffer anden afgørelse. Hvad angår udgifter til operationer, der har indvirkning på militær- eller forsvarsområdet, er medlemsstater, hvis repræsentant i Rådet har afgivet en formel erklæring i henhold til artikel 17, ikke forpligtet til at bidrage til finansieringen heraf.

3. Rådet vedtager en afgørelse om indførelse af særlige procedurer for at sikre hurtig adgang til bevillinger på Unionens budget til hastefinansiering af initiativer som led i den fælles udenrigs- og sikkerhedspolitik, navnlig forberedende aktiviteter i forbindelse med en opgave som omhandlet i artikel 27, stk. 1, og artikel 28. Det træffer afgørelse efter høring af Europa- Parlamentet.

Forberedende aktiviteter i forbindelse med opgaver som nævnt i artikel 27, stk. 1, og artikel 28, der ikke opføres på Unionens budget, finansieres af en opstartsfond, der består af bidrag fra medlemsstaterne.

Rådet vedtager med kvalificeret flertal på forslag af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik afgørelser til fastlæggelse af:

- a) de nærmere bestemmelser for oprettelse og finansiering af opstartsfonden, navnlig de finansielle midler, der tildeles fonden

- b) de nærmere bestemmelser for forvaltning af opstarts-fonden
- c) de nærmere bestemmelser for finansiel kontrol.

Når den opgave, der påtænkes i overensstemmelse med artikel 27, stk. 1, og artikel 28, ikke kan opføres på Unionens budget, bemyndiger Rådet Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik til at anvende denne fond. Den højtstående repræsentant aflægger rapport til Rådet om udøvelsen af dette mandat.

## 2. AFDELING

### BESTEMMELSERNE OM DEN FÆLLES SIKKERHEDS- OG FORSVARSPOLITIK

Artikel 27 EU (tidligere art. 17 EU)

*Rækkevidden af den fælles udenrigs- og sikkerhedspolitik*

1. Den fælles sikkerheds- og forsvarspolitik udgør en integrerende del af den fælles udenrigs- og sikkerhedspolitik. Den sikrer Unionen en operationel kapacitet, der gør brug af civile og militære midler. Unionen kan anvende disse i forbindelse med opgaver uden for Unionens område med henblik på fredsbevarelse, konfliktforebyggelse og styrkelse af den internationale sikkerhed i overensstemmelse med principperne i De Forenede Nationers pagt.

Udførelsen af disse hverv bygger på kapaciteter tilvejebragt af medlemsstaterne.

2. Den fælles sikkerheds- og forsvarspolitik omfatter gradvis udformning af en fælles EU-forsvarspolitik. Denne vil føre til et fælles forsvar, når Det Europæiske Råd med enstemmighed træffer afgørelse herom. Det henstiller i så fald til medlemsstaterne, at de vedtager en sådan afgørelse i overensstemmelse med deres forfatningsmæssige bestemmelser.

Unionens politik i denne afdelings betydning berører ikke den særlige karakter af visse medlemsstaters sikkerheds- og forsvarspolitik og skal overholde de forpligtelser, som visse medlemsstater, hvis fælles forsvar foregår i Den Nordatlantiske Traktats Organisation (NATO), har i henhold til den nordatlantiske traktat, og skal være forenelig med den fælles sikkerheds- og forsvarspolitik, der er fastlagt inden for denne ramme.

3. Medlemsstaterne stiller civil og militær kapacitet til rådighed for Unionen til gennemførelse af den fælles sikkerheds- og forsvarspolitik med henblik på at bidrage til opfyldelsen af de mål, Rådet har opstillet. De medlemsstater, der opretter multinationale styrker i fællesskab, kan ligeledes stille disse styrker til rådighed for den fælles sikkerheds- og forsvarspolitik.

Medlemsstaterne forpligter sig til gradvis at forbedre deres militære kapacitet. Agenturet klarlægger de operationelle behov på området udvikling af forsvarskapaciteter, forskning, anskaffelser og forsvarsmateriel (Det Europæiske Forsvarsagentur), fremmer foranstaltninger til opfyldelse heraf, bidrager til at påpege og eventuelt iværksætte alle hensigtsmæssige foranstaltninger til styrkelse af forsvarssektorens

industrielle og teknologiske basis, deltager i udformningen af en europæisk kapacitets- og forsvarsmaterielpolitik og bistår Rådet med at evaluere forbedringen af den militære kapacitet.

4. Afgørelser om den fælles sikkerheds- og forsvarspolitik, herunder afgørelser om iværksættelse af en opgave som omhandlet i denne artikel, vedtages af Rådet, der træffer afgørelse med enstemmighed på forslag af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik eller på initiativ af en medlemsstat. Den højtstående repræsentant kan, eventuelt sammen med Kommissionen, stille forslag om anvendelse af både nationale midler og EU-instrumenter.

5. Rådet kan overdrage gennemførelsen af en opgave på EU-plan til en gruppe af medlemsstater med henblik på at bevare Unionens værdier og tjene dens interesser. Gennemførelsen af en sådan opgave er omfattet af artikel 29.

6. De medlemsstater, der opfylder højere kriterier for militær kapacitet, og som har indgået mere bindende forpligtelser på dette område med henblik på mere krævende opgaver, etablerer et permanent struktureret samarbejde inden for rammerne af Unionen. Dette samarbejde er omfattet af artikel 31. Det berører ikke bestemmelserne i artikel 28.

7. Hvis en medlemsstat udsættes for et væbnet angreb på sit område, skal de øvrige medlemsstater i overensstemmelse med artikel 51 i De Forenede Nationers pagt yde den pågældende medlemsstat al den hjælp og bistand, der ligger inden for deres formåen. Dette berører ikke den særlige karakter af visse medlemsstaters sikkerheds- og forsvarspolitik.

Forpligtelserne og samarbejdet på dette område skal være i overensstemmelse med de forpligtelser, der er indgået inden for NATO, som for de stater, der er medlemmer heraf, fortsat er grundlaget for deres kollektive forsvar og organet for dets iværksættelse.

## Artikel 28

### *Opgaver, hvortil civile og militære midler kan anvendes*

1. De opgaver, der er omhandlet i artikel 27, stk. 1, i forbindelse med hvilke Unionen kan anvende civile og militære midler, omfatter fælles aktioner på nedrustningsområdet, humanitære opgaver og redningsopgaver, rådgivnings og bistandsopgaver på det militære område, konfliktforebyggende og fredsbevarende opgaver og kampstyrkers opgaver i forbindelse med krisestyring, herunder fredsskabelse og post-konflikt-stabiliseringsoperationer. Alle disse opgaver kan bidrage til bekæmpelse af terrorisme, herunder gennem den støtte, som ydes tredjelande til bekæmpelse af terrorisme på deres område.

2. Rådet vedtager afgørelser om de opgaver, der er omhandlet i stk. 1, idet det fastlægger deres mål og rækkevidde samt de overordnede betingelser for deres gennemførelse. Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik forestår med reference til Rådet og i nær permanent kontakt med Den Udenrigs- og Sikkerhedspolitiske Komité samordningen af opgavernes civile og militære aspekter.

**Artikel 29***Overdragelse af opgaver til medlemsstaterne*

1. Rådet kan i medfør af de afgørelser, det vedtager i henhold til artikel 28, overdrage gennemførelsen af en opgave til en gruppe af medlemsstater, der ønsker det og råder over den fornødne kapacitet til at udføre en sådan opgave. Disse medlemsstater aftaler indbyrdes sammen med Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, hvorledes opgaven skal forvaltes.
2. De medlemsstater, der deltager i gennemførelsen af opgaven, aflægger regelmæssigt situationsrapport til Rådet på eget initiativ eller på anmodning af en anden medlemsstat. De deltagende medlemsstater forelægger øjeblikkeligt sagen for Rådet, såfremt gennemførelsen af opgaven får væsentlige følger eller nødvendiggør en ændring af målet, rækkevidden eller betingelserne for opgaven, jf. de afgørelser, der er nævnt i stk. 1. I sådanne tilfælde vedtager Rådet de nødvendige afgørelser.

**Artikel 30***Det Europæiske Forsvarsagenturs opgaver*

1. Det Europæiske Forsvarsagentur, der er nævnt i artikel 27, stk. 3, og placeret under Rådets myndighed, har til opgave:
  - a) at bidrage til fastlæggelse af målene for medlemsstaternes militære kapacitet og vurdere, om de kapacitetstilsagn, som medlemsstaterne har givet, overholdes
  - b) at fremme harmonisering af de operationelle behov samt vedtagelse af effektive og indbyrdes forenelige procedurer i forbindelse med materielanskaffelser
  - c) at foreslå multilaterale projekter med henblik på at opfylde målene for militær kapacitet og sikre koordineringen af de programmer, der gennemføres af medlemsstaterne, og forvaltningen af specifikke samarbejdsprogrammer
  - d) at støtte forskningen i forsvarsteknologi samt koordinere og planlægge fælles forskningsaktiviteter og undersøgelser af tekniske løsninger, der imødekommer de fremtidige operationelle behov
  - e) at bidrage til at identificere og eventuelt gennemføre alle nyttige foranstaltninger med henblik på at styrke forsvarssektorens industrielle og teknologiske basis og øge effektiviteten af de militære udgifter.
2. Det Europæiske Forsvarsagentur er åbent for alle medlemsstater, der ønsker at deltage. Rådet vedtager med kvalificeret flertal en afgørelse med henblik på at fastlægge statuten, hjemstedet og de nærmere bestemmelser for agenturets drift. Denne afgørelse tager hensyn til omfanget af den faktiske deltagelse i agenturets aktiviteter. Inden for agenturet oprettes der specifikke grupper, der omfatter de medlemsstater, som gennemfører fælles projekter. Agenturet udfører efter behov sine opgaver i samråd med Kommissionen.

## Artikel 31

### *Deltagelse i permanent struktureret samarbejde*

1. De medlemsstater, der ønsker at deltage i et permanent struktureret samarbejde, jf. artikel 27, stk. 6, og som opfylder kriterierne og tiltræder forpligtelserne med hensyn til militær kapacitet i protokollen om permanent struktureret samarbejde, underretter Rådet og Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik.

2. Senest tre måneder efter den i stk. 1 nævnte underretning vedtager Rådet en afgørelse om etablering af et permanent struktureret samarbejde med en liste over de deltagende medlemsstater.

Rådet træffer afgørelse med kvalificeret flertal efter høring af den højtstående repræsentant.

3. Enhver medlemsstat, der på et senere tidspunkt ønsker at deltage i det permanente strukturerede samarbejde, underretter Rådet og den højtstående repræsentant.

Rådet vedtager en afgørelse, der bekræfter deltagelsen af den pågældende medlemsstat, der overholder kriterierne og tiltræder forpligtelserne i artikel 1 og 2 i protokollen om permanent struktureret samarbejde. Rådet træffer afgørelse med kvalificeret flertal efter høring af den højtstående repræsentant. Kun de medlemmer af Rådet, der repræsenterer de deltagende medlemsstater, deltager i afstemningen.

Kvalificeret flertal defineres som angivet i artikel 205, stk. 3, litra a), i traktaten om Den Europæiske Unions funktionsmåde.

4. Hvis en deltagende medlemsstat ikke længere opfylder kriterierne eller ikke længere er i stand til at overholde forpligtelserne i artikel 1 og 2 i protokollen om permanent struktureret samarbejde, kan Rådet vedtage en afgørelse om suspension af den pågældende medlemsstats deltagelse.

Rådet træffer afgørelse med kvalificeret flertal. Kun de medlemmer af Rådet, der repræsenterer de deltagende medlemsstater, bortset fra den pågældende medlemsstat, deltager i afstemningen.

Kvalificeret flertal defineres som angivet i artikel 205, stk. 3, litra a), i traktaten om Den Europæiske Unions funktionsmåde.

5. Hvis en deltagende medlemsstat ønsker at forlade det permanente strukturerede samarbejde, underretter den Rådet om sin beslutning, og Rådet tager til efterretning, at den pågældende medlemsstats deltagelse ophører.

6. Rådets afgørelser og henstillinger inden for rammerne af det permanente strukturerede samarbejde, bortset fra dem, der er nævnt i stk. 2-5, vedtages med enstemmighed. Med henblik på nærværende stykke tæller i forbindelse med enstemmighed kun de deltagende medlemsstaters repræsentanters stemmer.

## Artikel 32

### *Retlig status*

Unionen har status som juridisk person.

## Afsnit VI

## Afsluttende bestemmelser

## Artikel 33

*Procedurer for revision af traktaterne*

1. Traktaterne kan ændres efter en almindelig revisionsprocedure. De kan ligeledes ændres efter forenkledede revisionsprocedurer.

*Den almindelige revisionsprocedure*

2. Enhver medlemsstats regering, Europa-Parlamentet eller Kommissionen kan forelægge Rådet forslag til revision af traktaterne. Disse forslag kan blandt andet tage sigte på at udvide eller indskrænke de beføjelser, der er tildelt Unionen i traktaterne. Disse forslag fremsendes af Rådet til Det Europæiske Råd og meddeles de nationale parlamenter.

3. Hvis Det Europæiske Råd efter høring af Europa-Parlamentet og Kommissionen med simpelt flertal vedtager en afgørelse om at behandle de foreslåede ændringer, indkalder formanden for Det Europæiske Råd et konvent sammensat af repræsentanter for de nationale parlamenter, medlemsstaternes stats- og regeringschefer, Europa-Parlamentet og Kommissionen. Den Europæiske Centralbank skal også høres, hvis det drejer sig om institutionelle ændringer på det monetære område. Konventet behandler udkastene til revision og vedtager ved konsensus en anbefaling til en konference mellem repræsentanterne for medlemsstaternes regeringer som nævnt i stk. 4.

Det Europæiske Råd kan med simpelt flertal og efter Europa-Parlamentets godkendelse beslutte ikke at indkalde et konvent, hvis ændringernes omfang ikke berettiger hertil. I så fald fastlægger Det Europæiske Råd mandatet til en konference mellem repræsentanterne for medlemsstaternes regeringer.

4. En konference mellem repræsentanterne for medlemsstaternes regeringer indkaldes af formanden for Rådet for efter fælles overenskomst at fastlægge de ændringer, der skal foretages i traktaterne.

Ændringerne træder i kraft efter at være blevet ratificeret af alle medlemsstaterne i overensstemmelse med deres forfatningsmæssige bestemmelser.

5. Hvis fire femtedele af medlemsstaterne to år efter undertegnelsen af en traktat om ændring af traktaterne har ratificeret denne, og en eller flere medlemsstater er stødt på vanskeligheder i forbindelse med ratifikationen, tager Det Europæiske Råd spørgsmålet op.

*De forenkledede revisionsprocedurer*

6. Enhver medlemsstats regering, Europa-Parlamentet eller Kommissionen kan forelægge Det Europæiske Råd forslag til revision af alle eller en del af bestemmelserne i tredje del af traktaten om Den Europæiske Unions funktionsmåde vedrørende Unionens interne politikker og foranstaltninger.

Det Europæiske Råd kan vedtage en afgørelse om ændring af alle eller en del af bestemmelserne i tredje del af traktaten om Den Europæiske Unions funktionsmåde. Det Europæiske Råd træffer afgørelse med enstemmighed efter høring af Europa-Parlamentet og Kommissionen samt Den Europæiske Centralbank i tilfælde af institutionelle ændringer på det monetære område. En sådan afgørelse træder først i kraft, når medlemsstaterne har godkendt den i overensstemmelse med deres forfatningsmæssige bestemmelser.

Den afgørelse, der er nævnt i andet afsnit, kan ikke udvide de kompetencer, der er tildelt Unionen i traktaterne.

7. Når Rådet i henhold til tredje del af traktaten om Den Europæiske Unions funktionsmåde eller afsnit V i nærværende traktat træffer afgørelse med enstemmighed på et bestemt område eller i et bestemt tilfælde, kan Det Europæiske Råd vedtage en afgørelse, der gør det muligt for Rådet at træffe afgørelse med kvalificeret flertal på dette område eller i dette tilfælde. Dette afsnit gælder ikke for afgørelser, der har indvirkning på militær- eller forsvarsområdet.

Når lovgivningsmæssige retsakter i henhold til traktaten om Den Europæiske Unions funktionsmåde skal vedtages af Rådet efter en særlig lovgivningsprocedure, kan Det Europæiske Råd vedtage en afgørelse, der gør det muligt at vedtage sådanne retsakter efter den almindelige lovgivningsprocedure.

Ethvert initiativ, som Det Europæiske Råd tager på grundlag af første eller andet afsnit, fremsendes til de nationale parlamenter. Hvis et nationalt parlament gør indsigelse inden for en frist på seks måneder efter denne fremsendelse, vedtages den i første eller andet afsnit nævnte afgørelse ikke. Hvis der ikke gøres indsigelse, kan Det Europæiske Råd vedtage den pågældende afgørelse.

I forbindelse med vedtagelsen af de afgørelser, der er nævnt i første og andet afsnit, træffer Det Europæiske Råd afgørelse med enstemmighed, når Europa-Parlamentet har givet sin godkendelse med et flertal af sine medlemmer.

#### Artikel 34 EU (tidligere 49 EU)

##### *Kriterier for medlemskab og procedure for tiltrædelse af Unionen*

Enhver europæisk stat, som respekterer værdierne i artikel 2 og forpligter sig til at fremme dem, kan ansøge, om at blive medlem af Unionen. Europa-Parlamentet og de nationale parlamenter underrettes om denne ansøgning. Den ansøgende stat retter sin ansøgning til Rådet, som træffer afgørelse med enstemmighed efter høring af Kommissionen og efter godkendelse fra Europa-Parlamentet, der udtaler sig med flertal blandt sine medlemmer. De kriterier for medlemskab, som Det Europæiske Råd er nået til enighed om, skal tages i betragtning.

Vilkårene for optagelsen og sådanne tilpasninger af de til grund for Unionen liggende traktater, som optagelsen medfører, fastlægges ved en aftale mellem medlemsstaterne og den ansøgende stat. Denne aftale forelægges samtlige kontraherende stater til ratifikation i overensstemmelse med deres forfatningsmæssige bestemmelser.

**Artikel 35***Frivillig udtræden af Unionen*

1. Enhver medlemsstat kan i overensstemmelse med sine forfatningsmæssige bestemmelser beslutte at udtræde af Unionen.
  2. Hvis en medlemsstat beslutter at udtræde, meddeler den det til Det Europæiske Råd. På baggrund af Det Europæiske Råds retningslinjer forhandler og indgår Unionen en aftale med den pågældende stat om de nærmere bestemmelser for statens udtræden under hensyn til rammen for dens fremtidige forbindelser med Unionen. Denne aftale forhandles i overensstemmelse med artikel 188 N, stk. 3, i traktaten om Den Europæiske Unions funktionsmåde. Den indgås på Unionens vegne af Rådet, der træffer afgørelse med kvalificeret flertal efter Europa- Parlamentets godkendelse.
  3. Traktaterne ophører med at finde anvendelse på den pågældende medlemsstat på datoen for udtrædelsesaftalens ikrafttræden eller, hvis en sådan aftale ikke foreligger, to år efter meddelelsen i stk. 2, medmindre Det Europæiske Råd efter aftale med den pågældende medlemsstat med enstemmighed beslutter at forlænge denne frist.
  4. Ved anvendelsen af stk. 2 og 3 deltager det medlem af Det Europæiske Råd og Rådet, der repræsenterer den udtrædende medlemsstat, ikke i Det Europæiske Råds eller Rådets drøftelser eller afgørelser vedrørende denne stat.
- Kvalificeret flertal defineres som angivet i artikel 205, stk. 3, litra b), i traktaten om Den Europæiske Unions funktionsmåde.
5. Hvis en stat, der er udtrådt af Unionen, på ny anmoder om medlemskab, behandles dens anmodning efter proceduren i artikel 34.

**Artikel 36***Protokoller og bilag*

Protokollerne og bilagene til traktaterne udgør en integrerende del af disse.

**Artikel 37***Territorialt anvendelsesområde*

1. Traktaterne gælder for Kongeriget Belgien, Republikken Bulgarien, Den Tjekkiske Republik, Kongeriget Danmark, Forbundsrepublikken Tyskland, Republikken Estland, Irland, Den Helleniske Republik, Kongeriget Spanien, Den Franske Republik, Irland, Den Italienske Republik, Republikken Cypern, Republikken Letland, Republikken Litauen, Storhertugdømmet Luxembourg, Republikken Ungarn, Republikken Malta, Kongeriget Nederlandene, Republikken Østrig, Republikken Polen, Den Portugisiske Republik, Rumænien, Republikken Slovenien, Den Slovakiske Republik, Republikken Finland, Kongeriget Sverige og Det Forenede Kongerige Storbritannien og Nordirland.



**2. Traktaternes territoriale anvendelsesområde er præciseret i artikel 311 i traktaten om Den Europæiske Unions funktionsmåde.**

Artikel 38 (tidligere art. 51 EU)

*Varighed*

**Traktaterne er indgået** for ubegrænset tid.

Artikel 39 (tidligere art. 52 EU)

*Ratifikation og ikrafttræden*

**Disse traktater** skal ratificeres af De Høje Kontraherende Parter i overensstemmelse med deres forfatningsmæssige bestemmelser. Ratifikationsdokumenterne deponeres hos Den Italienske Republiks regering.

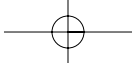
**Disse traktater** træder i kraft ...

Artikel 40 (tidligere art. 53 EU)

*Autentiske tekster og oversættelser*

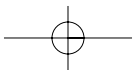
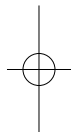
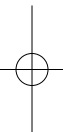
**1. Traktaterne**, der er udarbejdet i et eksemplar på bulgarsk, dansk, engelsk, estisk, finsk, fransk, græsk, irsk, italiensk, lettisk, litauisk, maltesisk, nederlandsk, polsk, portugisisk, rumænsk, slovakisk, slovensk, spansk, tjekkisk, tysk og ungarsk, hvilke tekster alle har samme gyldighed, deponeres i Den Italienske Republiks regerings arkiver. Denne regering fremsender en bekræftet genpart til hver af de øvrige signatarstaters regeringer.

**2. Denne traktat kan også oversættes til ethvert andet sprog som fastlagt af medlemsstaterne blandt de sprog, der i overensstemmelse med deres forfatningsmæssige orden har officiel status på hele eller en del af deres område. En bekræftet genpart af sådanne oversættelser tilvejebringes af de pågældende medlemsstater og deponeres i Rådets arkiver.**



Traktat om Den Europæiske Union

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## TRAKTAT OM DEN EUROPÆISKE UNIONS FUNKTIONSMÅDE

HANS MAJESTÆT BELGIERNES KONGE, PRÆSIDENTEN FOR FORBUNDSREPUBLIKKEN TYSKLAND, PRÆSIDENTEN FOR DEN FRANSKE REPUBLIK, PRÆSIDENTEN FOR DEN ITALIENSKE REPUBLIK, HENDES KONGELIGE HØJHED STORHERTUGINDEN AF LUXEMBOURG, HENDES MAJESTÆT DRONNINGEN AF NEDERLANDENE (1),

SOM ER BESLUTTET PÅ at skabe grundlag for en stadig snævrere sammenslutning mellem de europæiske folk,

SOM HAR DET FORSÆT gennem fælles handling at sikre økonomiske og sociale fremskridt for deres **stater** ved at fjerne de skranker, der deler Europa,

SOM SÆTTER DET som et væsentligt mål for deres bestræbelser stadig at forbedre deres folks levevilkår og beskæftigelsesforhold,

SOM ERKENDER, at fjernelsen af bestående hindringer kræver fælles indsats med henblik på at sikre en vedvarende ekspansion, ligevægt i samhandelen og redelig konkurrence,

SOM TILSTRÆBER at styrke enheden i deres økonomier og at fremme disses harmoniske udvikling ved at formindske ulighederne mellem de forskellige områder og forbedre de mindre begunstigede områders stilling,

SOM ØNSKER gennem en fælles handelspolitik at bidrage til gradvis ophævelse af restriktionerne i den internationale samhandel,

SOM ER SINDET at bekræfte den solidaritet, der knytter Europa og de oversøiske lande sammen, og som ønsker at sikre disse lande øget velstand i overensstemmelse med grundsætningerne i De Forenede Nationers pagt,

SOM HAR SAT SIG FOR ved denne forening af de økonomiske kræfter at bevare og styrke freden og friheden, og som opfordrer de øvrige europæiske folk, der deler dette ideal, til at tilslutte sig disse bestræbelser,

SOM ER BESLUTTET PÅ at tilskynde til, at deres folk opnår det højst mulige videniveau gennem bred adgang til uddannelse og vedvarende ajourføring heraf,

HAR **med henblik herpå** udpeget som befuldmægtigede:  
(listen over befuldmægtigede er ikke gengivet)

SOM, efter at de har udvekslet deres fuldmagter og fundet dem i god og behørig form, er blevet enige om følgende bestemmelser:

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Note 1: Den Tjekkiske Republik, Kongeriget Danmark, Republikken Estland, Den Helleniske Republik, Kongeriget Spanien, Irland, Republikken Cypern, Republikken Letland, Republikken Litauen, Republikken Ungarn, Republikken Malta, Republikken Østrig, Republikken Polen, Den Portugisiske Republik, Republikken Slovenien, Den Slovakiske Republik, Republikken Finland, Kongeriget Sverige og Det Forenede Kongerige Storbritannien og Nordirland, Republikken Bulgarien og Republikken Rumænien er efterfølgende blevet medlemmer af Den Europæiske Union.

## FØRSTE DEL

## PRINCIPPERNE

**Artikel 1***Traktatens genstand*

1. Denne traktat omhandler Unionens funktionsmåde og fastlægger de områder, der er omfattet af dens beføjelser, samt afgrænsningen af og de nærmere bestemmelser for udøvelsen af disse beføjelser.
2. Denne traktat og traktaten om Den Europæiske Union udgør de traktater, som Unionen bygger på. Disse to traktater, der har samme juridiske værdi, betegnes "traktaterne".

## AFSNIT I

## UNIONENS KOMPETENKATEGORIER OG -OMRÅDER

**Artikel 2***Kompetencekategorier*

1. Når Unionen i traktaterne tildeles enekompetence på et bestemt område, er det kun Unionen, der kan lovgive og vedtage juridisk bindende retsakter, og medlemsstaterne har kun beføjelse hertil efter bemyndigelse fra Unionen eller med henblik på at gennemføre EU-retsakter.
2. Når Unionen i traktaterne på et bestemt område tildeles en kompetence, som den deler med medlemsstaterne, kan Unionen og medlemsstaterne lovgive og vedtage juridisk bindende retsakter på dette område. Medlemsstaterne udøver deres kompetence, i det omfang Unionen ikke har udøvet sin. Medlemsstaterne udøver på ny deres kompetence, i det omfang Unionen har besluttet at ophøre med at udøve sin.
3. Medlemsstaterne samordner deres økonomiske politikker og beskæftigelsespolitikker efter de nærmere bestemmelser i denne traktat, som Unionen har kompetence til at fastsætte.
4. Unionen har i overensstemmelse med bestemmelserne i traktaten om Den Europæiske Union kompetence til at definere og gennemføre en fælles udenrigs- og sikkerhedspolitik, herunder gradvis udformning af en fælles forsvarspolitik.
5. På visse områder og på de betingelser, der er fastlagt i traktaterne, har Unionen beføjelse til at gennemføre tiltag for at understøtte, koordinere eller supplere medlemsstaternes indsats, uden at denne beføjelse dog træder i stedet for medlemsstaternes beføjelser på disse områder.

Juridisk bindende EU-retsakter vedtaget på grundlag af traktaternes bestemmelser vedrørende disse områder kan ikke omfatte harmonisering af medlemsstaternes love og administrative bestemmelser.

6. Omfanget af og de nærmere bestemmelser for Unionens udøvelse af beføjelser fastlægges i de specifikke bestemmelser for de enkelte områder i traktaterne.

### Artikel 3

#### *Områder med enekompetence*

1. Unionen har enekompetence på følgende områder:
  - a) toldunionen
  - b) fastlæggelse af de konkurrenceregler, der er nødvendige for det indre markeds funktion
  - c) den monetære politik for de medlemsstater, der har euroen som valuta
  - d) bevarelse af havets biologiske ressourcer inden for rammerne af den fælles fiskeripolitik
  - e) den fælles handelspolitik.
2. Unionen har ligeledes enekompetence til at indgå internationale aftaler, når indgåelsen har hjemmel i en lovgivningsmæssig EU-retsakt, eller når den er nødvendig for at give Unionen mulighed for at udøve sin kompetence på internt plan, eller for så vidt den kan berøre fælles regler eller ændre deres rækkevidde.

### Artikel 4

#### *Områder med delt kompetence*

1. Unionen deler kompetence med medlemsstaterne, når traktaterne tildeler den en kompetence, der ikke vedrører de områder, der er nævnt i artikel 3 og 6.
2. Der er delt kompetence mellem Unionen og medlemsstaterne på følgende hovedområder:
  - a) det indre marked
  - b) social- og arbejdsmarkedspolitik for så vidt angår de aspekter, der er fastlagt i denne traktat
  - c) økonomisk, social og territorial samhørighed
  - d) landbrug og fiskeri, undtagen bevarelse af havets biologiske ressourcer
  - e) miljø

- f) **forbrugerbeskyttelse**
- g) **transport**
- h) **transeuropæiske net**
- i) **energi**
- j) **området med frihed, sikkerhed og retfærdighed**
- k) **fælles sikkerhedsudfordringer på folkesundhedsområdet for så vidt angår de aspekter, der er fastlagt i denne traktat.**

3. På områderne forskning, teknologisk udvikling og rummet har Unionen kompetence til at gennemføre tiltag, navnlig til at fastlægge og iværksætte programmer, dog således at udøvelsen af denne kompetence ikke kan føre til, at medlemsstaterne forhindres i at udøve deres kompetence.

4. På områderne udviklingssamarbejde og humanitær bistand har Unionen kompetence til at gennemføre tiltag og føre en fælles politik, dog således at udøvelsen af denne kompetence ikke kan føre til, at medlemsstaterne forhindres i at udøve deres kompetence.

#### **Artikel 5**

##### *Samordning af økonomiske politikker og beskæftigelsespolitikker*

1. Medlemsstaterne samordner deres økonomiske politikker i Unionen. Med henblik herpå vedtager Rådet foranstaltninger, navnlig overordnede retningslinjer for disse politikker. Der gælder særlige bestemmelser for de medlemsstater, der har euroen som valuta.
2. Unionen træffer foranstaltninger med henblik på at sikre samordning af medlemsstaternes beskæftigelsespolitikker, navnlig ved at fastlægge retningslinjer for disse politikker.
3. Unionen kan tage initiativer med henblik på at sikre samordning af medlemsstaternes social- og arbejdsmarkedspolitik.

#### **Artikel 6**

##### *Områder med understøttende, koordinerende eller supplerende tiltag*

Unionen har kompetence til at gennemføre tiltag for at understøtte, koordinere eller supplere medlemsstaternes tiltag. De områder, hvor sådanne tiltag på europæisk plan kan gennemføres, er:

- a) **beskyttelse og forbedring af menneskers sundhed**
- b) **industri**
- c) **kultur**

- d) turisme
- e) uddannelse, erhvervsuddannelse, ungdom og sport
- f) civilbeskyttelse
- g) administrativt samarbejde.

## AFSNIT II

## ALMINDELIGE BESTEMMELSER

**Artikel 7**

*Sammenhæng mellem politikker, princippet om kompetencetildeling*

Unionen sørger for sammenhæng mellem sine forskellige politikker og aktiviteter under hensyn til alle sine mål og i overensstemmelse med princippet om kompetencetildeling.

**Artikel 8**

*Fremme af ligestilling mellem kønnene*

I alle sine aktiviteter tilstræber Unionen at fjerne uligheder og fremme ligestilling mellem mænd og kvinder.

**Artikel 9**

*Hensyn til beskæftigelsesniveau, social beskyttelse, social udstødelse, uddannelse, menneskers sundhed*

Ved fastlæggelsen og gennemførelsen af sine politikker og aktiviteter tager Unionen hensyn til de krav, der er knyttet til fremme af et højt beskæftigelsesniveau, sikring af passende social beskyttelse, bekæmpelse af social udstødelse samt et højt niveau for uddannelse, erhvervsuddannelse og beskyttelse af menneskers sundhed.

**Artikel 10**

*Bekæmpelse af forskelsbehandling*

Ved udformningen og gennemførelsen af sine politikker og aktiviteter tilstræber Unionen at bekæmpe enhver form for forskelsbehandling på grund af køn, race eller etnisk oprindelse, religion eller tro, handicap, alder eller seksuel orientering.

## Traktat om Den Europæiske Unions funktionsmåde

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### Artikel 11 (tidligere artikel 6 EF)

#### *Integration af miljøhensyn i EU's politikker*

Miljøbeskyttelseskrav skal integreres i udformningen og gennemførelsen af **Unionens** politikker og aktioner, især med henblik på at fremme en bæredygtig udvikling.

### Artikel 12 (tidligere artikel 153, stk. 2 EF)

#### *Inddragelse af forbrugerbeskyttelsehensyn i EU's politikker*

Forbrugerbeskyttelsehensyn inddrages ved udformningen og gennemførelsen af andre af **Unionens** politikker og -aktiviteter.

### Artikel 13 (tidligere protokollen om dyrebeskyttelse og dyrevelfærd)

#### *Hensyn til dyrevelfærd i EU's politikker*

Når **Unionens** politikker inden for landbrug, **fiskeri**, transport, det indre marked, **forskning og teknologisk udvikling** samt rummet fastlægges og gennemføres, tager Unionen og medlemsstaterne fuldt hensyn til **velfærden hos dyr som følende væsener**, samtidig med at de respekterer medlemsstaternes love og administrative bestemmelser samt deres skikke, navnlig med hensyn til religiøse ritualer, kulturelle traditioner og regionale skikke.

### Artikel 14 (tidligere artikel 16)

#### *Tjenesteydelser af almen økonomisk interesse*

Med forbehold af **artikel 4 i traktaten om den Europæiske Union** og af **artikel 73, 86 og 87 i denne traktat** og i betragtning af den plads, som tjenesteydelser af almen økonomisk interesse indtager i **Unionens** fælles værdinormer, og den rolle, som de spiller med henblik på at fremme social og territorial samhørighed, sørger **Unionen** og medlemsstaterne inden for deres respektive kompetenceområde og inden for rammerne af **traktaternes** anvendelsesområde for, at sådanne tjenester ydes på grundlag af principper og vilkår, **navnlig økonomiske og finansielle**, der gør det muligt for dem at opfylde deres opgaver. **Europa-Parlamentet og Rådet fastlægger ved forordning efter den almindelige lovgivningsprocedure disse principper og vilkår, uden at dette anfægter medlemsstaternes kompetence til under overholdelse af traktaterne at levere, udlægge og finansiere sådanne tjenesteydelser.**

### Artikel 15 (tidligere artikel 255 EF)

#### *Åbenhed og aktindsigt i EU-dokumenter*

**1. For at fremme gode styreformer og sikre civilsamfundets deltagelse arbejder Unionens institutioner, organer, kontorer og agenturer så åbent som muligt.**



**2. Europa-Parlamentets møder er offentlige, og det gælder også Rådets samlinger, når det forhandler og stemmer om udkast til lovgivningsmæssige retsakter.**

3. Alle unionsborgere og alle fysiske og juridiske personer, der har bopæl eller **vedtægtsmæssigt** hjemsted i en medlemsstat, har ret til aktindsigt i dokumenter fra **Unionens institutioner, organer, kontorer og agenturer, uanset medium**, efter de principper og på de betingelser, der fastsættes i henhold til **dette stykke**.

Generelle principper for og begrænsninger i denne aktindsigt af hensyn til offentlige eller private interesser, fastsættes **ved forordning af Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure**.

**Institutionerne sikrer åbenhed i deres arbejde og indarbejder hver især særlige bestemmelser vedrørende aktindsigt i deres forretningsordener i overensstemmelse med den retsakt, der er nævnt i andet afsnit.**

**Den Europæiske Unions Domstol, Den Europæiske Centralbank og Den Europæiske Investeringsbank er kun omfattet af dette stykke, når de udøver administrative funktioner.**

**Europa-Parlamentet og Rådet sikrer offentliggørelse af dokumenterne i forbindelse med lovgivningsprocedurerne på de betingelser, der er fastsat i den retsakt, der er nævnt i andet afsnit.**

#### **Artikel 15 a**

(tidligere artikel 286 EF)

##### *Beskyttelse af personoplysninger*

**1. Enhver har ret til beskyttelse af personoplysninger, der vedrører ham/hende.**

**2. Europa-Parlamentet og Rådet fastsætter efter den almindelige lovgivningsprocedure regler for beskyttelse af fysiske personer i forbindelse med behandling af personoplysninger foretaget af Unionens institutioner, organer, kontorer og agenturer samt af medlemsstaterne under udøvelse af aktiviteter, der er omfattet af EU-retten, og regler for den frie udveksling af personoplysninger. Overholdelsen af disse regler kontrolleres af uafhængige myndigheder.**

**Regler vedtaget på grundlag af denne artikel berører ikke de specifikke regler, der findes i artikel 24 i traktaten om Den Europæiske Union.**

#### **Artikel 15 b**

##### *Respekt af kirkers og konfessionsløse organisationers status*

**1. Unionen respekterer og må ikke anfægte den status, som kirker og religiøse sammenslutninger eller samfund har i medlemsstaterne i henhold til national lovgivning.**

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**2. Unionen respekterer ligeledes den status, som filosofiske og konfessionsløse organisationer har i henhold til national lovgivning.**

**3. Unionen opretholder en åben, gennemsigtig og regelmæssig dialog med disse kirker og organisationer i anerkendelse af deres identitet og specifikke bidrag.**

## ANDEN DEL

### IKKE-FORSKELSBEHANDLING OG UNIONSBERGERSKAB.

Artikel 17 (tidligere artikel 12 EF)

*Forbud mod forskelsbehandling på grundlag af nationalitet*

Inden for **traktaternes** anvendelsesområde og med forbehold af **disses** særlige bestemmelser er al forskelsbehandling, der udøves på grundlag af nationalitet, forbudt.

**Efter den almindelige lovgivningsprocedure kan Europa-Parlamentet og Rådet** give forskrifter med henblik på at forbyde sådan forskelsbehandling.

Artikel 17a (tidligere artikel 13 EF)

*Foranstaltninger mod forskelsbehandling pga. køn, race, etnisk oprindelse m.v.*

1. Med forbehold af **traktaternes** øvrige bestemmelser og inden for rammerne af de beføjelser, som **traktaterne** tillægger **Unionen**, kan Rådet, **der træffer afgørelse efter en særlig lovgivningsprocedure, med enstemmighed og med Europa-Parlamentets godkendelse** træffe hensigtsmæssige foranstaltninger til at bekæmpe forskelsbehandling på grund af køn, race eller etnisk oprindelse, religion eller tro, handicap, alder eller seksuel orientering.

2. **Uanset stk. 1 kan Europa-Parlamentet og Rådet, efter den almindelige lovgivningsprocedure, uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser, vedtage EU-tilskyndelsesforanstaltninger til støtte for medlemsstaternes aktioner med henblik på at bidrage til virkeliggørelsen af målene i stk. 1.**

Artikel 17b (tidligere artikel 17 EF)

*Indførelse af et unionsborgerskab*

1. Der indføres et unionsborgerskab. Unionsborgerskab har enhver, der er statsborger i en medlemsstat. Unionsborgerskab er et supplement til det nationale statsborgerskab og træder ikke i stedet for dette.

2. **Unionsborgere** har de rettigheder og er **underlagt** de pligter, der er indeholdt i **traktaterne**. De har bl.a. følgende rettigheder:

- a) de har ret til at færdes og opholde sig frit på medlemsstaternes område
- b) de har valgret og er valgbare ved valg til Europa-Parlamentet og ved kommunale valg i den medlemsstat, hvor de har bopæl, på samme betingelser som statsborgerne i denne stat
- c) de nyder i tredjelande, hvor den medlemsstat, som de er statsborgere i, ikke er repræsenteret, beskyttelse hos enhver medlemsstats diplomatiske og konsulære myndigheder på samme vilkår som statsborgere i denne medlemsstat
- d) de har ret til at indgive andragender til Europa-Parlamentet og til at henvende sig til Den Europæiske Ombudsmand samt til Unionens institutioner og rådgivende organer på et af traktaternes sprog og få svar på samme sprog.

Disse rettigheder udøves med de begrænsninger og på de betingelser, der er fastsat i traktaterne og i foranstaltninger vedtaget med henblik på deres gennemførelse.

#### Artikel 18

##### *Unionsborgernes ret til fri bevægelighed og opholdsret*

1. Enhver unionsborger har ret til at færdes og opholde sig frit på medlemsstaternes område med de begrænsninger og på de betingelser, der er fastsat i **traktaterne** og i gennemførelsesbestemmelserne hertil.
2. Såfremt en handling fra **Unionens** side viser sig påkrævet for at nå dette mål, og **traktaterne** ikke indeholder fornøden hjemmel hertil, **kan Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure** vedtage bestemmelser, der skal gøre det lettere at udøve de rettigheder, der er nævnt i stk. 1.
3. Med samme mål for øje som i stk. 1 kan Rådet, hvis traktaterne ikke indeholder fornøden hjemmel hertil, efter en særlig lovgivningsprocedure fastsætte foranstaltninger vedrørende social sikring eller social beskyttelse. Rådet træffer afgørelse med enstemmighed efter høring af Europa-Parlamentet.

#### Artikel 19

##### *Valgret og valgbarhed ved kommunalvalg og EP-valg*

1. Enhver unionsborger, der har bopæl i en medlemsstat, hvor han ikke er statsborger, har valgret og er valgbar ved kommunale valg i den medlemsstat, hvor han har bopæl, på samme betingelser som statsborgerne i denne stat. Denne ret udøves med forbehold af de nærmere bestemmelser, som Rådet, der træffer afgørelse **efter en særlig lovgivningsprocedure**, med enstemmighed og efter

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høring af Europa-Parlamentet, har vedtaget; de nærmere bestemmelser kan omfatte undtagelser, når specifikke problemer i en medlemsstat tilsiger dette.

2. Med forbehold af artikel 190, **stk. 1**, og gennemførelsesbestemmelserne hertil, har enhver unionsborger, der har bopæl i en medlemsstat, hvor han ikke er statsborger, valgret og er valgbar ved valg til Europa-Parlamentet i den medlemsstat, hvor han har bopæl, på samme betingelser som statsborgerne i denne stat. Denne ret kan udøves med forbehold af de nærmere bestemmelser, som Rådet, der træffer afgørelse **efter en særlig lovgivningsprocedure, med** enstemmighed og efter høring af Europa-Parlamentet, har vedtaget; de nærmere bestemmelser kan omfatte undtagelser, når specifikke problemer i en medlemsstat tilsiger dette.

### Artikel 20

#### *Unionsborgeres beskyttelse hos andre landes konsulære myndigheder*

Enhver unionsborger nyder i tredjelande, hvor den medlemsstat, hvori han er statsborger, ikke er repræsenteret, enhver medlemsstats diplomatiske og konsulære myndigheds beskyttelse på samme vilkår som statsborgere i denne medlemsstat. Medlemsstaterne indleder de påkrævede internationale forhandlinger med henblik på at sikre denne beskyttelse.

**Rådet kan efter en særlig lovgivningsprocedure og efter høring af Europa-Parlamentet vedtage direktiver om de koordinations- og samarbejdsforanstaltninger, der er nødvendige for at lette denne beskyttelse.**

### Artikel 21

#### *Princippet om deltagelsesdemokrati, sprog*

**Europa-Parlamentet og Rådet fastlægger ved forordning efter den almindelige lovgivningsprocedure bestemmelser om de procedurer og betingelser, der er nødvendige for fremsættelsen af et borgerinitiativ som nævnt i artikel 8 B i traktaten om Den Europæiske Union, herunder det minimumsantal medlemsstater, som borgerne skal komme fra.**

Enhver unionsborger har ret til at indgive andragender til Europa-Parlamentet i medfør af artikel 194.

Enhver unionsborger kan henvende sig til den ombudsmandsinstitution, der indføres i overensstemmelse med artikel 195.

Enhver unionsborger kan skrive til enhver af de **institutioner, organer, kontorer eller agenturer**, der er nævnt i denne artikel eller i **artikel 9 i traktaten om den Europæiske Union**, på et af de i **samme traktats artikel 41, stk. 1**, nævnte sprog og få svar på samme sprog.

## Artikel 22

*Bestemmelser om unionsborgerskab*

Kommissionen aflægger rapport til Europa-Parlamentet, Rådet og Det Økonomiske og Sociale Udvalg hvert tredje år om gennemførelsen af bestemmelserne i denne del. Denne rapport skal omfatte spørgsmålet om **Unionens** udvikling.

På grundlag heraf og med forbehold af de øvrige bestemmelser i **traktaterne** kan Rådet, der træffer afgørelse **efter en særlig lovgivningsprocedure**, med enstemmighed og **med Europa-Parlamentets godkendelse**, vedtage bestemmelser med henblik på at styrke eller udbygge de rettigheder, der er **nævnt i artikel 17b, stk. 2. Disse bestemmelser træder i kraft, når medlemsstaterne har godkendt dem** i overensstemmelse med deres forfatningsmæssige bestemmelser.

## TREDJE DEL

## INTERNE POLITIKKER OG FORANSTALTNINGER

## AFSNIT I

## DET INDRE MARKED

## Artikel 22a (tidligere artikel 14 EF)

*Oprettelse af det indre marked med fri bevægelighed for varer, personer, tjenesteydelser og kapital*

- 1. Unionen vedtager foranstaltninger med henblik på oprettelse af det indre marked eller sikring af dets funktion i henhold til de relevante bestemmelser i traktaterne.**
2. Det indre marked indebærer et område uden indre grænser med fri bevægelighed for varer, personer, tjenesteydelser og kapital i overensstemmelse med bestemmelserne i **traktaterne**.
3. Rådet, på forslag af Kommissionen, fastlægger de retningslinjer og betingelser, der er nødvendige for at sikre afbalancerede fremskridt i alle berørte sektorer.

## Artikel 22b (tidligere artikel 15 EF)

*Midlertidige undtagelser med mindst mulige forstyrrelser for det indre markeds funktion*

Ved udarbejdelsen af forslagene med henblik på virkeliggørelsen af målene i artikel **22a** tager Kommissionen hensyn til omfanget af den indsats, der inden for økonomier på forskellige udviklingsstrin må gøres **med henblik på oprettelsen af det indre marked**, og den kan fremsætte forslag om hensigtsmæssige bestemmelser.

Hvis disse bestemmelser tager form af undtagelser, skal de være af midlertidig karakter og medføre de mindste forstyrrelser i **det indre markeds** funktion.

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AFSNIT IA

FRIE VAREBEVÆGELSER

Artikel 23

*Toldunion*

1. **Unionen er bl.a. en toldunion**, som omfatter al vareudveksling, og som indebærer forbud mod told ved indførsel fra og ved udførsel til andre medlemsstater, såvel som mod alle afgifter med tilsvarende virkning, samt indførelse af en fælles toldtarif over for tredjeland.

2. Bestemmelserne i artikel 25 og i kapitel 2 i dette afsnit finder anvendelse på varer med oprindelse i medlemsstaterne, og på de varer hidrørende fra tredjeland, som frit kan omsættes i medlemsstaterne.

Artikel 24

*Fri omsætning af varer fra tredjelande*

Ved varer, som frit kan omsættes i en medlemsstat, forstås sådanne fra tredjeland hidrørende varer, for hvilke de af vedkommende medlemsstat foreskrevne formaliteter i forbindelse med indførelsen er blevet opfyldt, og for hvilke denne medlemsstat har opkrævet gældende told og afgifter med tilsvarende virkning, og for hvilke disse told- og afgiftsbeløb ikke er blevet helt eller delvis godtgjort.

KAPITEL 1

TOLDUNIONEN

Artikel 25

*Forbud mod told og andre afgifter mellem medlemsstaterne*

Told ved indførsel og udførsel og andre afgifter med tilsvarende virkning er forbudt mellem medlemsstaterne. Dette gælder også finanstold.

Artikel 26

*Vedtagelser af todsatser i den fælles toldtarif*

Rådet fastsætter på forslag af Kommissionen todsatserne i den fælles toldtarif.

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Artikel 27

*Kommissionens opgaver*

Kommissionen tager under udøvelsen af de hverv, der er betroet den i medfør af dette kapitel, hensyn til:

- a) nødvendigheden af at fremme samhandelen mellem medlemsstaterne og tredjeland
- b) udviklingen af konkurrencevilkårene inden for **Unionen** i det omfang, denne udvikling medfører en styrkelse af virksomhedernes konkurrenceevne
- c) **Unionens** behov for forsyninger med råvarer og halvfabrikata, idet den samtidig bør påse, at konkurrencevilkårene mellem medlemsstaterne med hensyn til færdigvarer ikke fordrejes
- e) nødvendigheden af at undgå alvorlige forstyrrelser i medlemsstaternes økonomiske liv og af at sikre en rationel udvikling af produktionen og en forøgelse af forbruget inden for **Unionen**.

KAPITEL 1A

TOLDSAMARBEJDE

Artikel 27a (tidligere artikel 135 EF)

*Styrkelse af tolsamarbejdet*

Inden for **traktaternes** anvendelsesområde træffer **Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure** foranstaltninger til styrkelse af tolsamarbejdet mellem medlemsstaterne og mellem disse og Kommissionen.

KAPITEL 2

FORBUD MOD KVANTITATIVE RESTRIKTIONER MELLEM MEDLEMSSTATERNE

Artikel 28

*Forbud mod kvantitative indførselsrestriktioner*

Kvantitative indførselsrestriktioner såvel som alle foranstaltninger med tilsvarende virkning er forbudt mellem medlemsstaterne.

Artikel 29

*Forbud mod kvantitative udførselsrestriktioner*

Kvantitative udførselsrestriktioner såvel som alle foranstaltninger med tilsvarende virkning er forbudt mellem medlemsstaterne.

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### Artikel 30

#### *Undtagelser fra forbudet mod handelsrestriktioner*

Bestemmelserne i artikel 28 og 29 er ikke til hinder for sådanne forbud eller restriktioner vedrørende indførsel, udførsel eller transit, som er begrundet i hensynet til den offentlige sædelighed, den offentlige orden, den offentlige sikkerhed, beskyttelse af menneskers og dyrs liv og sundhed, beskyttelse af planter, beskyttelse af nationale skatte af kunstnerisk, historisk eller arkæologisk værdi, eller beskyttelse af industriel og kommerciel ejendomsret. Disse forbud eller restriktioner må dog hverken udgøre et middel til vilkårlig forskelsbehandling eller en skjult begrænsning af samhandelen mellem medlemsstaterne.

### Artikel 31

#### *Statslige handelsmonopoler, forbud mod forskelsbehandling*

1. Medlemsstaterne tilpasser de statslige handelsmonopoler, således at enhver forskelsbehandling af medlemsstaternes statsborgere med hensyn til forsynings- og afsætningsvilkår er udelukket.

Denne artikels bestemmelser finder anvendelse på ethvert organ, gennem hvilket en medlemsstat, de jure eller de facto, direkte eller indirekte, kontrollerer, leder eller øver mærkbar indflydelse på indførsel eller udførsel mellem medlemsstaterne. Disse bestemmelser finder også anvendelse på statskoncessionerede monopoler.

2. Medlemsstaterne afholder sig fra at indføre nye foranstaltninger, som strider mod de i stk. 1 anførte principper, eller som begrænser rækkevidden af de artikler, der angår forbudet mod told og kvantitative restriktioner mellem medlemsstaterne.

3. I tilfælde af, at et statsligt handelsmonopol indebærer en regulering, der tilsigter at lette afsætningen eller sikre en bedre udnyttelse af landbrugsprodukter, skal der ved anvendelse af bestemmelserne i denne artikel sikres tilsvarende garantier for de pågældende producenters beskæftigelse og levestandard.

## AFSNIT II

### LANDBRUG OG FISKERI

#### Artikel 32

#### *Fastlæggelse af en landbrugs- og fiskeripolitik*

1. **Unionen fastlægger og gennemfører en fælles landbrugs- og fiskeripolitik.**

**Det indre marked** omfatter tillige landbruget, **fiskeriet** og handelen med landbrugsvarer. Ved landbrugsvarer forstås jordbrugsprodukter, husdyrbrugsprodukter og fiskeriprodukter samt varer, der direkte er forbundet med disse produkter, og som har undergået en første bearbejdning. **Ved omtale af den fælles landbrugspolitik eller af landbruget og ved anvendelse af udtrykket "landbrugs-" er fiskeri også omfattet under hensyntagen til denne sektors særlige karakteristika.**



2. Bestemmelserne vedrørende **det indre markeds** oprettelse **og funktion** finder anvendelse på landbrugsvarer, medmindre andet er bestemt i artiklerne 33-38.
3. De varer, på hvilke bestemmelserne i artiklerne 33-38 finder anvendelse, er opregnet i listen i bilag I til **traktaterne**.
4. **Det indre markeds** funktion og udvikling skal for så vidt angår landbrugsvarerne ledsages af udformningen af en fælles landbrugspolitik.

### Artikel 33

#### *Målsætningen for den fælles landbrugs- og fiskeripolitik*

1. Den fælles landbrugspolitik har til formål:
  - a) at forøge landbrugets produktivitet ved fremme af den tekniske udvikling, ved rationalisering af landbrugsproduktionen og ved den bedst mulige anvendelse af produktionsfaktorerne, især arbejdskraften
  - b) herigennem at sikre landbrugsbefolkningen en rimelig levestandard, især ved en forhøjelse af de individuelle indkomster for de i landbruget beskæftigede personer
  - c) at stabilisere markederne
  - d) at sikre forsyningerne
  - e) at sikre forbrugerne rimelige priser på landbrugsvarer.
2. Ved udarbejdelsen af den fælles landbrugspolitik og de særlige foranstaltninger, som den kan medføre, tages der hensyn til:
  - a) landbrugserhvervets særlige karakter, der følger af landbrugets sociale struktur og af de strukturelle og naturbetingede forskelle mellem de forskellige landbrugsområder
  - b) nødvendigheden af, at ønskelige tilpasninger gennemføres gradvis
  - c) den kendsgerning, at landbruget i medlemsstaterne udgør en sektor, som er snævert forbundet med økonomien som helhed.

### Artikel 34

#### Fælles markedsordning for landbrugsvarer

1. Med henblik på at nå de i artikel 33 nævnte mål oprettes en fælles ordning af markederne for landbrugsvarer.

Alt efter varernes art skal denne markedsordning antage en af nedennævnte former:

- a) fælles konkurrenceregler
- b) en tvungen samordning af de forskellige nationale markedsordninger
- c) en europæisk markedsordning.

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2. Den fælles ordning under en af de i stk. 1 nævnte former kan omfatte alle foranstaltninger, der er nødvendige for at nå de i artikel 33 fastsatte mål, især prisregulering, støtte til såvel produktion som afsætning af de forskellige varer, oplagrings- og udligningsordninger samt fælles ordninger til stabilisering af ind- eller udførsel.

Den fælles ordning skal begrænses til at forfølge de i artikel 33 anførte mål og bør udelukke enhver form for forskelsbehandling af **Unionens** producenter eller forbrugere.

En eventuel fælles prispolitik skal baseres på fælles kriterier og ensartede beregningsmetoder.

3. Med henblik på at muliggøre, at formålet med den i stk. 1 omhandlede fælles ordning nås, kan der oprettes et eller flere struktur- og garantifonde for landbruget.

### Artikel 35

#### *Fælles landbrugsprojekter og -foranstaltninger*

Med henblik på at nå de i artikel 33 anførte mål kan der inden for rammerne af den fælles landbrugspolitik navnlig fastsættes bestemmelser om:

- a) en effektiv samordning af de bestræbelser, der udfoldes inden for den faglige uddannelses, forskningens og den landbrugsfaglige oplysnings område; denne samordning kan indebære, at projekter eller institutioner finansieres i fællesskab
- b) fælles foranstaltninger med henblik på udvidelse af forbruget af visse varer.

### Artikel 36

#### *Undtagelser fra de fælles konkurrenceregler (landbrugsstøtte)*

Bestemmelserne i kapitlet om konkurrenceregler finder kun anvendelse på produktionen af og handelen med landbrugsvarer i det omfang, **Europa-Parlamentet og Rådet** beslutter dette inden for rammerne af de bestemmelser og i overensstemmelse med den fremgangsmåde, der er fastsat i artikel 37, stk. 2, samt under hensyntagen til den i artikel 33 angivne målsætning.

#### **Rådet kan på forslag af Kommissionen tillade ydelse af støtte:**

- a) med henblik på at beskytte bedrifter, der er ugunstigt stillet som følge af strukturelle eller naturbetingede forhold
- b) inden for rammerne af økonomiske udviklingsprogrammer.

### Artikel 37

#### *Retningslinjer for landbrugspolitikken; fælles ordning for landbrugsprodukter*

1. **Kommissionen fremlægger forslag** vedrørende udarbejdelse og iværksættelse af den fælles landbrugspolitik, herunder også om afløsning af nationale markedsordninger med en af de i artikel 34, stk. 1, nævnte former for fælles ordning, såvel som om iværksættelsen af de i dette afsnit særligt nævnte foranstaltninger.

Disse forslag skal tage hensyn til sammenhængen mellem de landbrugsspørgsmål, som er omhandlet i dette afsnit.

**2. Europa-Parlamentet og Rådet fastsætter efter den almindelige lovgivningsprocedure og efter høring af Det Økonomiske og Sociale Udvalg den fælles ordning for markederne for landbrugsvarer, der er nævnt i artikel 34, stk. 1, samt de øvrige bestemmelser, der er nødvendige for at virkeliggøre målsætningerne for den fælles landbrugs- og fiskeripolitik.**

**2a. Rådet vedtager på forslag af Kommissionen foranstaltninger vedrørende fastsættelse af priser, afgifter, støtte og kvantitative begrænsninger samt vedrørende fastsættelse og fordeling af fiskerimuligheder.**

**3. På de i stk. 2 anførte betingelser kan den fælles ordning, der er nævnt i artikel 34, stk. 1, afløse nationale markedsordninger, såfremt:**

- a) den fælles ordning yder medlemsstater, der modsætter sig en sådan afløsning, og som har en national ordning for vedkommende produktion, tilsvarende garantier for de pågældende producenters beskæftigelse og levestandard, når der tages hensyn til det tempo, hvori den mulige tilpasning og nødvendige specialisering kan gennemføres, og
- b) denne ordning sikrer samhandelen inden for **Unionen** betingelser svarende til dem, der gælder på et nationalt marked.

**4. Såfremt der er tilvejebragt en fælles ordning for visse råvarer, medens der endnu ikke findes en fælles ordning for de hertil svarende forarbejdede produkter, kan de pågældende råvarer indføres fra lande uden for **Unionen**, hvis de anvendes til fremstilling af forarbejdede produkter, som er bestemt til udførsel til tredjeland.**

#### Artikel 38

##### *Udligningsafgifter*

Såfremt en vare i en medlemsstat er underkastet en national markedsordning eller en anden indenlandsk regulering med tilsvarende virkning, som i konkurrencemæssig henseende påvirker en lignende produktion i en anden medlemsstat, pålægger medlemsstaterne vedkommende vare en udligningsafgift ved indførslen fra den medlemsstat, i hvilken markedsordningen eller reguleringen findes, medmindre denne medlemsstat pålægger en udligningsafgift ved udførslen.

Kommissionen fastsætter disse afgifter på det niveau, som er nødvendigt for at genoprette ligevægten; den kan ligeledes tillade anvendelsen af andre foranstaltninger på de vilkår og i den nærmere udformning, som den fastsætter.

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AFSNIT III

DEN FRIE BEVÆGELIGHED FOR PERSONER, TJENESTEYDELSER OG KAPITAL

KAPITEL 1

ARBEJDSKRAFTEN

Artikel 39

*Fri bevægelighed og ophold*

1. Arbejdskraftens frie bevægelighed sikres inden for **Unionen**.
2. Den forudsætter afskaffelse af enhver i nationaliteten begrundet forskelsbehandling af medlemsstaternes arbejdstagere, for så vidt angår beskæftigelse, aflønning og øvrige arbejdsvilkår.
3. Med forbehold af de begrænsninger, der retfærdiggøres af hensynet til den offentlige orden, den offentlige sikkerhed og den offentlige sundhed, indebærer den retten til:
  - a) at søge faktisk tilbudte stillinger
  - b) frit at bevæge sig inden for medlemsstaternes område i dette øjemed
  - c) at tage ophold i en af medlemsstaterne for der at have beskæftigelse i henhold til de ved lov eller administrativt fastsatte bestemmelser, der gælder for indenlandske arbejdstageres beskæftigelse
  - d) at blive boende på en medlemsstats område på de af Kommissionen ved forordninger fastsatte vilkår efter at have haft ansættelse der.
4. Bestemmelserne i denne artikel gælder ikke for ansættelser i den offentlige administration.

Artikel 40

*Direktiver og forordninger om fri bevægelighed*

**Europa-Parlamentet og Rådet vedtager efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg ved udstedelse af direktiver eller forordninger de foranstaltninger, der er nødvendige for at gennemføre arbejdskraftens frie bevægelighed, således som denne er bestemt i artikel 39, især ved at:

- a) sikre et snævert samarbejde mellem de nationale arbejdskraftmyndigheder
- b) afskaffe sådanne administrative fremgangsmåder og sådan administrativ praksis samt de for adgangen til ledige stillinger fastsatte frister, som hidrører enten fra indenlandsk lovgivning eller fra tidligere indgåede aftaler mellem medlemsstaterne, og hvis bibeholdelse ville hindre arbejdskraftens frie bevægelighed

- c) afskaffe alle frister og andre begrænsninger, som er fastsat enten i indenlandsk lovgivning eller i aftaler, der tidligere er indgået mellem medlemsstaterne, og som byder arbejdstagere fra de øvrige medlemsstater andre vilkår for det frie beskæftigelsesvalg end dem, der gælder for indenlandske arbejdstagere
- d) iværksætte ordninger, der kan formidle og skabe ligevægt mellem udbud og efterspørgsel på arbejdsmarkedet på en måde, som udelukker alvorlig fare for levestandarden og beskæftigelsen i de forskellige egne og industrier.

## Artikel 41

*Vedtagelse af foranstaltninger til gennemførelse af den frie bevægelighed*

Inden for rammerne af et fælles program fremmer medlemsstaterne udvekslingen af unge arbejdstagere.

## Artikel 42

*Social tryghed for vandrende arbejdstagere, selvstændige og pårørende*

**Europa-Parlamentet og Rådet vedtager efter den almindelige lovgivningsprocedure** de foranstaltninger vedrørende social tryghed, der er nødvendige for at gennemføre arbejdskraftens frie bevægelighed, især ved at indføre en ordning, som gør det muligt at sikre vandrende arbejdstagere og **selvstændige samt** deres ydelsesberettigede pårørende:

- a) sammenlægning af alle tidsrum, der i de forskellige nationale lovgivninger tages i betragtning med henblik på at indrømme og opretholde retten til ydelser og på beregning af disse
- b) betaling af ydelser til personer, der bor inden for medlemsstaternes områder.

**Hvis et medlem af Rådet erklærer, at et udkast til en lovgivningsmæssig retsakt som nævnt i stk. 1 vil berøre vigtige aspekter af den pågældende medlemsstats sociale sikringssystem, herunder anvendelsesområde, omkostninger og økonomisk struktur, eller berøre dette systems finansielle balance, kan medlemmet anmode om, at spørgsmålet forelægges Det Europæiske Råd. I så fald suspenderes den almindelige lovgivningsprocedure. Efter drøftelse skal Det Europæiske Råd inden fire måneder efter denne suspension enten:**

- a) forelægge Rådet udkastet på ny, hvilket bringer suspensionen af den almindelige lovgivningsprocedure til ophør, eller
- b) undlade at handle eller anmode Kommissionen om at forelægge et nyt forslag; i så fald anses den oprindeligt foreslåede retsakt for ikke-vedtaget.

## KAPITEL 2

## ETABLERINGSRETEN

## Artikel 43

*Fri etableringsret og forbud mod restriktioner*

Inden for rammerne af nedennævnte bestemmelser er der forbud mod restriktioner, som hindrer statsborgere i en medlemsstat i frit at etablere sig på en anden medlemsstats område. Dette forbud omfatter også hindringer for, at statsborgere i en medlemsstat, bosat på en medlemsstats område, opretter agenturer, filialer eller datterselskaber.

Med forbehold af bestemmelserne i kapitlet vedrørende kapitalen indebærer etableringsfriheden adgang til at optage og udøve selvstændig erhvervsvirksomhed samt til at oprette og lede virksomheder, herunder navnlig selskaber i den i artikel 48 anførte betydning, på de vilkår, som i etableringslandets lovgivning er fastsat for landets egne statsborgere.

## Artikel 44

*Direktiver om etableringsfrihed*

1. **Efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg udsteder **Europa-Parlamentet og Rådet** direktiver om gennemførelse af etableringsfriheden inden for en bestemt erhvervsgrænse.
2. **Europa-Parlamentet, Rådet og Kommissionen** udfører de opgaver, som er overdraget dem i henhold til ovennævnte bestemmelser, navnlig ved:
  - a) i almindelighed i første række at behandle de erhverv, for hvis vedkommende etableringsfrihed i særlig grad vil fremme udviklingen af produktion og handel
  - b) at sikre et snævert samarbejde mellem de kompetente nationale myndigheder med henblik på at lære de særlige forhold at kende, der gør sig gældende inden for **Unionen** på de forskellige erhvervsområder
  - c) at ophæve de administrative fremgangsmåder og sådan administrativ praksis, som hidrører fra indenlandsk lovgivning eller fra tidligere indgåede aftaler mellem medlemsstaterne, og hvis bibeholdelse ville være en hindring for etableringsfriheden
  - d) at påse, at arbejdstagere fra en medlemsstat, som er beskæftiget på en anden medlemsstats område, kan forblive på dette område for der at udøve selvstændig erhvervsvirksomhed, såfremt de opfylder de betingelser, som de skulle opfylde, hvis de kom ind i denne stat på det tidspunkt, hvor de ville påbegynde denne virksomhed
  - e) at gøre det muligt for statsborgere i en medlemsstat at erhverve og udnytte fast ejendom, der ligger i en anden medlemsstat, for så vidt dette ikke strider mod principperne i artikel 33, stk. 2

- f) at lade den gradvise fjernelse af hindringerne for etableringsfriheden inden for hver af de pågældende erhvervsgrøne gælde både betingelserne for at oprette agenturer, filialer eller datterselskaber på en medlemsstats område, og betingelserne for, at personale fra hovedvirksomheden kan indtræde i disses ledende eller kontrollerende organer
- g) i det nødvendige omfang og med det formål at gøre dem lige byrdefulde at samordne de garantier, som kræves i medlemsstaterne af de i artikel 48, stk. 2, nævnte selskaber til beskyttelse af såvel selskabsdeltagernes som tredjemands interesser
- h) at sikre, et etableringsvilkårene ikke fordrejes som følge af støtteforanstaltninger fra medlemsstaternes side.

## Artikel 45

*Udøvelse af offentlig myndighed; undtagne erhverv*

Virksomhed, som varigt eller lejlighedsvis er forbundet med udøvelse af offentlig myndighed i en medlemsstat, er i den pågældende stat ikke omfattet af bestemmelserne i dette kapitel.

**Europa-Parlamentet og Rådet kan efter den almindelige lovgivningsprocedure** undtage visse erhverv fra bestemmelserne i dette kapitel.

## Artikel 46

*Særlige regler for fremmede statsborgere begrundet i offentlig orden, sikkerhed og sundhed*

1. Bestemmelserne i dette kapitel og de forholdsregler, der træffes i medfør heraf, udelukker ikke anvendelse af love eller administrativt fastsatte bestemmelser, der indeholder særlige regler for fremmede statsborgere, og som er begrundet i hensynet til den offentlige orden, den offentlige sikkerhed eller den offentlige sundhed.
2. **Europa-Parlamentet og Rådet udsteder efter den almindelige lovgivningsprocedure** direktiver om samordning af ovennævnte love og bestemmelser.

## Artikel 47

*Direktiver om gensidig anerkendelse af eksamensbeviser m.v.*

1. For at lette adgangen til at optage og udøve selvstændig erhvervsvirksomhed udsteder **Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure** direktiver om gensidig anerkendelse af eksamensbeviser, certifikater og andre kvalifikationsbeviser **samt om samordning af medlemsstaternes love og administrative bestemmelser om adgang til at optage og udøve selvstændig erhvervsvirksomhed.**
2. For så vidt angår udøvelse af lægegering eller lignende virksomhed eller af farmaceutisk virksomhed, forudsætter den gradvise **afskaffelse** af restriktionerne en samordning af de betingelser, der er opstillet af de forskellige medlemsstater for udøvelse af sådanne erhverv.

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### Artikel 48

#### *Ligestilling af selskaber i EU med statsborgere i EU*

Selskaber, som er oprettet i overensstemmelse med en medlemsstats lovgivning, og hvis vedtægtsmæssige hjemsted, hovedkontor eller hovedvirksomhed er beliggende inden for **Unionen**, ligestilles, for så vidt angår anvendelsen af bestemmelserne i dette kapitel, med personer, der er statsborgere i medlemsstaterne.

Ved selskaber forstås privatretlige selskaber, heri indbefattet kooperative selskaber, samt alle andre juridiske personer, der henhører under den offentlige ret eller privatretten, med undtagelse af selskaber, som ikke arbejder med gevinst for øje.

### Artikel 48a (tidligere artikel 294 EF)

#### *Ligestilling af statsborgere ved kapitalanbringelser*

Med forbehold af de øvrige bestemmelser i **traktaterne** indrømmer medlemsstaterne de øvrige medlemsstaters statsborgere national behandling for så vidt angår kapitalanbringelser i de i artikel 48 nævnte selskaber.

## KAPITEL 3

### TJENESTEYDELSER

### Artikel 49

#### *Fri udveksling af tjenesteydelser og forbud mod restriktioner*

Inden for rammerne af nedennævnte bestemmelser er der forbud mod restriktioner, der hindrer fri udveksling af tjenesteydelser inden for **Unionen**, for så vidt angår statsborgere i medlemsstaterne, der er bosat i **en anden medlemsstat** end modtageren af den pågældende ydelse.

**Europa-Parlamentet og Rådet kan efter den almindelige lovgivningsprocedure** udstrække anvendelsen af bestemmelserne i dette kapitel til tjenesteydere, der er statsborgere i et tredjeland og bosat inden for Unionen.

### Artikel 50

#### *Definition af tjenesteydelser*

Som tjenesteydelser i **traktaternes** forstand betragtes de ydelser, der normalt udføres mod betaling, i det omfang de ikke omfattes af bestemmelserne vedrørende den frie bevægelighed for varer, kapital og personer.

Tjenesteydelserne omfatter især:

- a) virksomhed af industriel karakter
- b) virksomhed af handelsmæssig karakter



- c) virksomhed af håndværksmæssig karakter
- d) de liberale erhvervs virksomhed.

Med forbehold af bestemmelserne i kapitlet om etableringsretten kan tjenesteyderen midlertidigt udøve sin virksomhed i **den medlemsstat**, hvor ydelsen præsteres, på samme vilkår, som **den pågældende stat** fastsætter for sine egne statsborgere.

#### Artikel 51

##### *Tjenesteydelser vedr. transport, banker og forsikringselskaber*

1. Den frie udveksling af tjenesteydelser på transportområdet omfattes af bestemmelserne i afsnittet vedrørende transport.
2. Liberaliseringen af de af bankernes og forsikringselskabernes tjenesteydelser, som er forbundet med kapitalbevægelser, skal gennemføres sideløbende med liberalisering af kapitalbevægelserne.

#### Artikel 52

##### *Direktiver om liberalisering af tjenesteydelser*

1. **Europa-Parlamentet og Rådet udsteder efter den almindelige lovgivningsprocedure og efter høring af Det Økonomiske og Sociale Udvalg** direktiver om gennemførelse af liberaliseringen af en bestemt tjenesteydelse.
2. De i stk. 1 omhandlede direktiver skal i almindelighed i første række tage sigte på tjenesteydelser, som direkte påvirker produktionsomkostningerne, eller hvis liberalisering bidrager til at lette vareudvekslingen.

#### Artikel 53

##### *Videregående liberalisering af tjenesteydelser*

Medlemsstaterne **bestræber sig på** at gennemføre liberaliseringen af tjenesteydelser i videre udstrækning, end de er forpligtet til i henhold til de direktiver, der er udstedt i medfør af artikel 52, stk. 1, hvis deres almindelige økonomiske situation og forholdene i vedkommende erhvervsgren gør det muligt.

Kommissionen retter henstillinger til de pågældende medlemsstater herom.

#### Artikel 54

##### *Overgangsregler*

Så længe begrænsningerne i den frie udveksling af tjenesteydelser ikke er afskaffet, anvender hver medlemsstat dem over for alle de i artikel 49, stk. 1, omhandlede tjenesteydere, uanset disses nationalitet eller opholdssted.

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### Artikel 55

#### *Anvendelse af bestemmelserne om etableringsfrihed*

Bestemmelserne i artiklerne 45-48 finder anvendelse på det i dette kapitel omhandlede sagsområde.

## KAPITEL 4

### KAPITAL OG BETALINGER

#### Artikel 56

#### *Frie kapitalbevægelser og forbud mod restriktioner*

1. Inden for rammerne af bestemmelserne i dette kapitel er alle restriktioner for kapitalbevægelser mellem medlemsstaterne indbyrdes og mellem medlemsstaterne og tredjelande forbudt.
2. Inden for rammerne af bestemmelserne i dette kapitel er alle restriktioner for betalinger mellem medlemsstaterne indbyrdes og mellem medlemsstaterne og tredjelande forbudt.

#### Artikel 57

#### *Begrænsninger i frie kapitalbevægelser til og fra tredjelande*

1. Bestemmelserne i artikel 56 berører ikke anvendelsen over for tredjelande af restriktioner, der den 31. december 1993 eksisterer i henhold til national lovgivning eller **EU**-lovgivning med hensyn til sådanne kapitalbevægelser til eller fra tredjelande, som vedrører direkte investeringer, herunder investering i fast ejendom, etablering, levering af finansielle tjenesteydelser eller værdipapirers adgang til kapitalmarkeder. For så vidt angår restriktioner, der eksisterer i henhold til national lovgivning i Bulgarien, Estland og Ungarn, er den relevante dato den 31. december 1999.
2. Idet det tilstræbes at virkeliggøre målsætningen om fri kapitalbevægelighed mellem medlemsstater og tredjelande i den størst mulige udstrækning, og uden at de øvrige kapitler i **traktaterne** berøres heraf, **vedtager Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure** de foranstaltninger om kapitalbevægelser til eller fra tredjelande, som vedrører direkte investeringer, herunder investering i fast ejendom, etablering, levering af finansielle tjenesteydelser eller værdipapirers adgang til kapitalmarkeder.
3. **Uanset stk. 2 kan Rådet alene efter en særlig lovgivningsprocedure med enstemmighed og efter høring af Europa-Parlamentet vedtage** foranstaltninger, **der** er et tilbageskridt i **EU**-lovgivningen med hensyn til liberalisering af kapitalbevægelser til eller fra tredjelande

## Artikel 58

*Medlemsstaternes ret til at anvende egne bestemmelser i skattelovgivningen*

1. Bestemmelserne i artikel 56 griber ikke ind i medlemsstaternes ret til:
  - a) at anvende de relevante bestemmelser i deres skattelovgivning, som sondrer imellem skatteydere, hvis situation er forskellig med hensyn til deres bopælssted eller med hensyn til det sted, hvor deres kapital er investeret
  - b) at træffe de nødvendige foranstaltninger for at hindre overtrædelser af deres nationale ret og forskrifter, især på skatte- og afgiftsområdet og i forbindelse med tilsynet med finansielle institutioner, eller til af administrative eller statistiske hensyn at fastlægge procedurer for anmeldelse af kapitalbevægelser eller til at træffe foranstaltninger, der er begrundet i hensynet til den offentlige orden eller den offentlige sikkerhed.
2. Bestemmelserne i dette kapitel griber ikke ind i muligheden for at anvende sådanne restriktioner for etableringsretten, der er forenelige med **traktaterne**.
3. De foranstaltninger og fremgangsmåder, der er nævnt i stk. 1 og 2, må ikke udgøre et middel til vilkårlig forskelsbehandling eller en skjult begrænsning af den frie bevægelighed for kapital og betalinger, som defineret i artikel 56.
4. **Er der ikke vedtaget foranstaltninger i medfør af artikel 57, stk. 3, kan Kommissionen vedtage en afgørelse, hvorefter restriktive skatteforanstaltninger vedtaget af en medlemsstat over for et eller flere tredjelande skal anses for at være forenelige med traktaterne, hvis de er begrundet ved et af Unionens mål og er forenelige med det indre markeds funktion, og det samme kan Rådet, hvis Kommissionen inden for en periode på tre måneder fra modtagelsen af den pågældende medlemsstats anmodning ikke har vedtaget nogen afgørelse. Rådet træffer afgørelse med enstemmighed på anmodning af en medlemsstat.**

## Artikel 59

*Midlertidige beskyttelsesforanstaltninger over for tredjelande*

Hvis kapitalbevægelser til eller fra tredjelande under ganske særlige omstændigheder medfører eller truer med at medføre alvorlige vanskeligheder for Den Økonomiske og Monetære Unions funktion, kan Rådet, der træffer afgørelse på forslag af Kommissionen og efter høring af **Den Europæiske Centralbank**, træffe beskyttelsesforanstaltninger for en periode på højst seks måneder over for tredjelande, hvis sådanne foranstaltninger er strengt nødvendige.

## AFSNIT IV

## ET OMRÅDE MED FRIHED, SIKKERHED OG RETFÆRDIGHED

## KAPITEL 1

## ALMINDELIGE BESTEMMELSER

## Artikel 61

*Mål og midler for et område med frihed, sikkerhed og retfærdighed*

1. Unionen udgør et område med frihed, sikkerhed og retfærdighed, hvor de grundlæggende rettigheder og medlemsstaternes forskellige retssystemer og retstraditioner respekteres.
2. Unionen sikrer, at der ikke foretages personkontrol ved de indre grænser, og den udformer en fælles politik for asyl, indvandring og kontrol ved de ydre grænser, der bygger på solidaritet mellem medlemsstaterne, og som er retfærdig over for tredjelandstatsborgere. I forbindelse med dette afsnit sidestilles statsløse med tredjelandstatsborgere.
3. Unionen bestræber sig på at sikre et højt sikkerhedsniveau ved hjælp af foranstaltninger til forebyggelse og bekæmpelse af kriminalitet, racisme og fremmedhad, ved koordinerings og samarbejdsforanstaltninger mellem politimyndigheder, strafferetlige myndigheder og øvrige kompetente myndigheder samt ved gensidig anerkendelse af strafferetlige afgørelser og om nødvendigt indbyrdes tilnærmelse af medlemsstaternes straffelovgivning.
4. Unionen letter adgangen til domstolene, navnlig på grundlag af princippet om gensidig anerkendelse af retsafgørelser og udenretslige afgørelser om civile spørgsmål.

## Artikel 62

*Det Europæiske Råd udformer de overordnede retningslinjer*

Det Europæiske Råd udformer strategiske retningslinjer for den lovgivningsmæssige og operationelle programudformning i området med frihed, sikkerhed og retfærdighed.

## Artikel 63

*De nationale parlamenters kontrol af nærhedsprincippet*

De nationale parlamenter overvåger i forbindelse med lovgivningsforslag og -initiativer, der forelægges inden for rammerne af kapitel 4 og 5, at nærhedsprincippet overholdes i overensstemmelse med de nærmere bestemmelser i protokollen om anvendelse af nærhedsprincippet og proportionalitetsprincippet.

**Artikel 64***Evaluering af medlemsstaternes gennemførelse af EU-politikker på området*

Rådet kan på forslag af Kommissionen vedtage foranstaltninger om, hvordan medlemsstaterne i samarbejde med Kommissionen foretager en objektiv og upartisk evaluering af deres myndigheders gennemførelse af Unionens politikker i dette afsnit, især for at fremme den fulde anvendelse af princippet om gensidig anerkendelse, jf. dog artikel 226 til 228. Europa-Parlamentet og de nationale parlamenter underrettes om indholdet og resultaterne af denne evaluering.

**Artikel 65***Stående komité for det operationelle samarbejde*

Der nedsættes en stående komité i Rådet, der skal sikre, at det operationelle samarbejde om den indre sikkerhed fremmes og styrkes i Unionen. Uanset artikel 207 skal komitéen lette samordningen af medlemsstaternes kompetente myndigheders indsats. Repræsentanter for Unionens berørte organer, kontorer og agenturer kan inddrages i komitéens arbejde. Europa-Parlamentet og de nationale parlamenter holdes underrettet om arbejdet.

**Artikel 66***Opretholdelse af lov og orden i medlemsstaterne*

Dette afsnit er ikke til hinder for, at medlemsstaterne kan udøve deres beføjelser med hensyn til opretholdelse af lov og orden og beskyttelse af den indre sikkerhed.

**Artikel 66 a***Samarbejde og koordinering mellem medlemsstaterne*

Det står medlemsstaterne frit for indbyrdes og under eget ansvar at etablere sådanne former for samarbejde og koordinering, som de finder hensigtsmæssige, mellem de kompetente instanser inden for deres administration, der er ansvarlige for beskyttelse af den nationale sikkerhed.

**Artikel 67***Administrativt samarbejde mellem nationale myndigheder*

Rådet vedtager foranstaltninger med henblik på at sikre administrativt samarbejde mellem de kompetente myndigheder i medlemsstaterne på de områder, der er omfattet af dette afsnit, og mellem disse myndigheder og Kommissionen. Det træffer afgørelse på forslag af Kommissionen, jf. dog artikel 68, og efter høring af Europa-Parlamentet.

**Artikel 67a**

*Foranstaltninger til forebyggelse og bekæmpelse af terrorisme m.v.*

Hvis det er nødvendigt for at nå målene i artikel 61 for så vidt angår forebyggelse og bekæmpelse af terrorisme og dermed beslægtede aktiviteter, fastsætter Europa-Parlamentet og Rådet ved forordning efter den almindelige lovgivningsprocedure en ramme for administrative foranstaltninger vedrørende kapitalbevægelser og betalinger, herunder indefrysning af midler, finansielle aktiver eller økonomiske gevinster, der tilhører, ejes eller besiddes af fysiske eller juridiske personer, grupper eller ikke-statslige enheder.

Rådet vedtager på forslag af Kommissionen foranstaltninger for at gennemføre den i stk. 1 nævnte ramme.

De retsakter, der er nævnt i denne artikel, skal indeholde de nødvendige bestemmelser om retsgarantier.

**Artikel 68**

*Delt initiativret*

Retsakter som nævnt i kapitel 4 og 5 samt foranstaltninger som nævnt i artikel 67, der skal sikre administrativt samarbejde på de områder, der er nævnt i disse kapitler, vedtages:

- a) på forslag af Kommissionen eller
- b) på initiativ af en fjerdedel af medlemsstaterne.

## KAPITEL 2

**POLITIKKERNE FOR GRÆNSEKONTROL, ASYL OG INDVANDRING****Artikel 69**

*Mål og kompetence for den fælles politik for grænsekontrol*

1. Unionen udformer en politik, der skal sikre,
  - a) at personer uanset nationalitet ikke kontrolleres ved passage af de indre grænser
  - b) at der foretages personkontrol og effektiv overvågning ved passage af de ydre grænser
  - c) at der gradvis indføres et integreret system for forvaltningen af de ydre grænser.

2. Med henblik på stk. 1 vedtager Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure foranstaltninger på følgende områder:

- a) den fælles politik for visa og andre tilladelser til kortvarigt ophold
- b) personkontrol ved passage af de ydre grænser
- c) betingelser for tredjelandstatsborgeres muligheder for frit at rejse inden for Unionen i en kortere periode
- d) nødvendige tiltag til den gradvise udvikling af et integreret system for forvaltningen af de ydre grænser
- e) reglerne om, at personer uanset nationalitet ikke kontrolleres ved passage af de indre grænser.

3. Såfremt en handling fra Unionens side viser sig påkrævet for at gøre det lettere at udøve den ret, der er nævnt i artikel 17b, stk. 2, litra a), og hvis traktaterne ikke indeholder fornøden hjemmel hertil, kan Rådet efter en særlig lovgivningsprocedure fastsætte bestemmelser vedrørende pas, identitetskort, opholdsbeviser eller andre dokumenter, der er sidestillet hermed. Rådet træffer afgørelse med enstemmighed efter høring af Europa-Parlamentet.

4. Denne artikel berører ikke medlemsstaternes kompetence med hensyn til geografisk afgrænsning af deres grænser i overensstemmelse med folkeretten.

#### Artikel 69 A

(tidligere artikel 63, stk. 2 og 3, og artikel 64, stk. 2 EF)

##### *Den fælles asylpolitik*

1. Unionen udformer en fælles politik for asyl, subsidiær beskyttelse og midlertidig beskyttelse med henblik på at tilbyde en passende status til enhver tredjelandstatsborger, der har behov for international beskyttelse, og på at sikre overholdelse af non refoulement-princippet. Denne politik skal være i overensstemmelse med Genèvekonventionen af 28. juli 1951, protokollen af 31. januar 1967 om flygtnings retsstilling og andre relevante traktater.

2. Med henblik på stk. 1 vedtager Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure foranstaltninger vedrørende et fælles europæisk asylsystem, der omfatter:

- a) en ensartet asylstatus for tredjelandstatsborgere, der gælder i hele Unionen
- b) en ensartet status for subsidiær beskyttelse for tredjelandstatsborgere, der ikke har opnået europæisk asyl, men har behov for international beskyttelse
- c) et fælles system, der tager sigte på midlertidig beskyttelse af fordrevne i tilfælde af massetilstrømning
- d) fælles procedurer for tildeling og fratagelse af ensartet status for asyl eller subsidiær beskyttelse

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- e) kriterier og procedurer til **bestemmelse** af, hvilken medlemsstat der er ansvarlig for behandlingen af en ansøgning om asyl **eller subsidiær beskyttelse**
- f) standarder for modtagelse af asylansøgere **eller ansøgere om subsidiær beskyttelse**
- g) **partnerskab og samarbejde med tredjelande for at styre tilstrømningen af personer, der ansøger om asyl eller subsidiær eller midlertidig beskyttelse.**

3. Hvis en eller flere medlemsstater står over for en nødsituation i form af en pludselig tilstrømning af tredjelandsstatsborgere, kan Rådet på forslag af Kommissionen vedtage midlertidige foranstaltninger til fordel for den eller de berørte medlemsstater. **Det træffer afgørelse efter høring af Europa-Parlamentet.**

**Artikel 69 B**

(tidligere artikel 63, stk. 3 EF)

*Den fælles indvandringspolitik*

1. **Unionen udformer en fælles indvandringspolitik med henblik på at sikre en effektiv styring af migrationsstrømme i alle faser, en retfærdig behandling af tredjelandsstatsborgere, der opholder sig lovligt i medlemsstaterne, samt forebyggelse og øget bekæmpelse af ulovlig indvandring og menneskehandel.**

2. **Med henblik på stk. 1 vedtager Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure foranstaltninger på følgende områder:**

- a) betingelser for indrejse og ophold **samt** standarder for medlemsstaternes udstedelse af langtidsvisa og opholdstilladelser, bl.a. med henblik på familiesammenføring
- b) definition af rettighederne for tredjelandsstatsborgere, **der opholder sig** lovligt i en medlemsstat, **herunder betingelserne for fri bevægelighed og ophold i de øvrige medlemsstater**
- c) ulovlig indvandring og ulovligt ophold, herunder udsendelse og repatriering af personer med ulovligt ophold
- d) **bekæmpelse af menneskehandel, især handel med kvinder og børn.**

3. **Unionen kan indgå tilbagetagelsesaftaler med tredjelande vedrørende tilbagevenden til det oprindelige hjemland eller tidligere opholdsland af tredjelandsstatsborgere, der ikke opfylder eller ikke længere opfylder betingelserne for indrejse, tilstedeværelse eller ophold i en af medlemsstaterne.**

4. **Europa-Parlamentet og Rådet kan efter den almindelige lovgivningsprocedure fastsætte foranstaltninger, der skal fremme og støtte medlemsstaternes indsats med henblik på at fremme integration af tredjelandsstatsborgere, der opholder sig lovligt på deres område, uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser.**

5. **Denne artikel berører ikke medlemsstaternes ret til at fastlægge antallet af tredjelandsstatsborgere, der kan indrejse fra tredjelande på deres område for at søge et arbejde som lønmodtager eller selvstændig erhvervsdrivende.**



**Artikel 69 C***Solidaritet og ansvarsfordeling*

De EU-politikker, der er omhandlet i dette kapitel, samt gennemførelsen heraf er underlagt princippet om solidaritet og rimelig ansvarsfordeling mellem medlemsstaterne, herunder for så vidt angår de finansielle aspekter. Når det er nødvendigt, skal EU-retsakter vedtaget i henhold til dette kapitel indeholde passende bestemmelser vedrørende anvendelsen af dette princip.

**KAPITEL 3****SAMARBEJDE OM CIVILRETTLIGE SPØRGSMÅL****Artikel 69 D** (tidligere artikel 65 EF)*Etablering af civilretligt samarbejde*

1. **Unionen etablerer** et samarbejde om civilretlige spørgsmål med grænseoverskridende virkninger, **der bygger på princippet om gensidig anerkendelse af retsafgørelser og udenretslige afgørelser. Dette samarbejde kan omfatte vedtagelse af foranstaltninger vedrørende indbyrdes tilnærmelse af medlemsstaternes love og administrative bestemmelser.**

2. **Med henblik på stk. 1 vedtager Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure, navnlig når det er nødvendigt for det indre markeds funktion, foranstaltninger, der skal sikre:**

- a) **gensidig anerkendelse mellem medlemsstaterne af retsafgørelser og udenretslige afgørelser samt fuldbyrdelse heraf**
- b) forkyndelse af retslige og udenretslige dokumenter på tværs af grænserne
- c) forenelighed mellem medlemsstaternes regler om lovvalg og **om retternes kompetence**
- d) samarbejde om bevisoptagelse
- e) **effektiv adgang til domstolene**
- f) fjernelse af hindringer for **en tilfredsstillende afvikling** af civile retssager, om nødvendigt ved at fremme foreneligheden mellem medlemsstaternes civile retsplejeregler
- g) **udformning af alternative metoder til tvistbilæggelse**
- h) **støtte til uddannelse af dommere samt andet personale i retsvæsenet.**

3. **Uanset stk. 2 fastlægges foranstaltninger vedrørende familieret med grænseoverskridende virkninger af Rådet efter en særlig lovgivningsprocedure. Rådet træffer afgørelse med enstemmighed efter høring af Europa-Parlamentet.**

Rådet kan på forslag af Kommissionen vedtage en afgørelse om, hvilke familieretlige aspekter med grænseoverskridende virkninger der kan være omfattet af retsakter vedtaget efter den almindelige lovgivningsprocedure. Rådet træffer afgørelse med enstemmighed efter høring af Europa-Parlamentet.

Det forslag, der er nævnt i andet afsnit, fremsendes til de nationale parlamenter. Hvis et nationalt parlament gør indsigelse inden for en frist på seks måneder efter denne fremsendelse, vedtages den i stk. 2 nævnte afgørelse ikke. Hvis der ikke gøres indsigelse, kan Rådet vedtage den pågældende afgørelse.

## KAPITEL 4

### RETLIGT SAMARBEJDE I STRAFFESAGER

#### Artikel 69 E

*Principper, mål og midler for det strafferetlige samarbejde*

1. Det retlige samarbejde i straffesager i Unionen bygger på princippet om gensidig anerkendelse af domme og retsafgørelser og omfatter indbyrdes tilnærmelse af medlemsstaternes love og administrative bestemmelser på de områder, der er nævnt i stk. 2 og i artikel 69 F.

Europa-Parlamentet og Rådet vedtager efter den almindelige lovgivningsprocedure foranstaltninger med henblik på:

- a) at fastlægge regler og procedurer, der skal sikre anerkendelse af alle former for domme og retsafgørelser i hele Unionen
- b) at forebygge og løse konflikter mellem medlemsstaterne om retternes kompetence
- c) at støtte uddannelse af dommere og anklagere samt andet personale i retsvæsenet
- d) at fremme samarbejdet mellem judicielle eller tilsvarende myndigheder i medlemsstaterne i forbindelse med strafforfølgning og fuldbyrdelse af afgørelser.

2. I den udstrækning det er nødvendigt for at lette den gensidige anerkendelse af domme og retsafgørelser samt det politimæssige og retlige samarbejde i straffesager med en grænseoverskridende dimension, kan Europa-Parlamentet og Rådet fastsætte minimumsregler ved direktiver efter den almindelige lovgivningsprocedure. Disse minimumsregler tager hensyn til forskellene mellem medlemsstaternes retstraditioner og retssystemer.

Reglerne vedrører:

- a) gensidig anerkendelse af bevismidler mellem medlemsstaterne
- b) enkeltpersoners rettigheder inden for strafferetsplejen

c) kriminalitetsofres rettigheder

- d) andre særlige elementer i strafferetsplejen, som Rådet forudgående har fastsat ved en afgørelse; ved vedtagelsen af denne afgørelse træffer Rådet afgørelse med enstemmighed efter Europa-Parlamentets godkendelse.

Vedtagelse af de minimumsregler, der er omhandlet i dette stykke, er ikke til hinder for, at medlemsstaterne kan opretholde eller indføre et højere beskyttelsesniveau for personer.

3. Hvis et medlem af Rådet finder, at et udkast til direktiv som nævnt i stk. 2 vil berøre grundlæggende aspekter af den pågældende medlemsstats strafferetlige system, kan medlemmet anmode om, at udkastet til direktiv forelægges Det Europæiske Råd. I så fald suspenderes den almindelige lovgivningsprocedure. Efter drøftelse skal Det Europæiske Råd i tilfælde af konsensus inden fire måneder efter denne suspension forelægge Rådet udkastet på ny, hvilket bringer suspensionen af den almindelige lovgivningsprocedure til ophør.

I tilfælde af uenighed og hvis mindst ni medlemsstater ønsker at indføre et forstærket samarbejde på grundlag af det pågældende udkast til direktiv, underretter de inden for samme tidsfrist Europa-Parlamentet, Rådet og Kommissionen herom. I et sådant tilfælde anses den bemyndigelse til at indlede et forstærket samarbejde, der er nævnt i artikel 10, stk. 2, i traktaten om Den Europæiske Union og artikel 180 D, stk. 1, i denne traktat for at være givet, og bestemmelserne om forstærket samarbejde finder anvendelse.

## Artikel 69 F

### *Minimumsharmonisering af strafbare handlinger og strafferammer*

1. Europa-Parlamentet og Rådet kan ved direktiv efter den almindelige lovgivningsprocedure fastsætte minimumsregler for, hvad der skal anses for strafbare handlinger, samt for straffene herfor på områder med kriminalitet af særlig grov karakter, der har en grænseoverskridende dimension som følge af overtrædelsernes karakter eller konsekvenser eller af et særligt behov for at bekæmpe dem på fælles grundlag.

Der er tale om følgende kriminalitetsområder: terrorisme, menneskehandel og seksualudnyttelse af kvinder og børn, ulovlig narkotikahandel, ulovlig våbenhandel, hvidvaskning af penge, korruption, forfalskning af betalingsmidler, edb-kriminalitet og organiseret kriminalitet.

På baggrund af udviklingen i kriminaliteten kan Rådet vedtage en afgørelse om andre kriminalitetsområder, der opfylder de i dette stykke omhandlede kriterier. Det træffer afgørelse med enstemmighed efter Europa-Parlamentets godkendelse.

2. Når en indbyrdes tilnærmelse af medlemsstaternes love og administrative bestemmelser på det strafferetlige område viser sig absolut nødvendig for at sikre effektiv gennemførelse af en EU-politik på et område, der er omfattet af harmoniseringsforanstaltninger, kan der ved direktiver fastsættes minimumsregler for, hvad der skal anses for strafbare handlinger, samt for straffene herfor på det pågældende område. Disse direktiver vedtages efter en almindelig eller særlig lovgivningsprocedure, der er identisk med den, der anvendes til vedtagelse af de pågældende harmoniseringsforanstaltninger, jf. dog artikel 68.

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3. Hvis et medlem af Rådet finder, at et udkast til direktiv som nævnt i stk. 1 eller 2 vil berøre grundlæggende aspekter af den pågældende medlemsstats strafferetlige system, kan medlemmet anmode om, at udkastet til direktiv forelægges Det Europæiske Råd. I så fald suspenderes den almindelige lovgivningsprocedure. Efter drøftelse skal Det Europæiske Råd i tilfælde af konsensus inden fire måneder efter denne suspension forelægge Rådet udkastet på ny, hvilket bringer suspensionen af den almindelige lovgivningsprocedure til ophør.

I tilfælde af uenighed og hvis mindst ni medlemsstater ønsker at indføre et forstærket samarbejde på grundlag af det pågældende udkast til direktiv, underretter de inden for samme tidsfrist Europa-Parlamentet, Rådet og Kommissionen herom. I et sådant tilfælde anses den bemyndigelse til at indlede et forstærket samarbejde, der er nævnt i artikel 10, stk. 2, i traktaten om Den Europæiske Union og artikel 280 D, stk. 1, i denne traktat for at være givet, og bestemmelserne om forstærket samarbejde finder anvendelse.

Artikel 69 G

*Kriminalitetsforebyggelse*

Europa-Parlamentet og Rådet kan efter den almindelige lovgivningsprocedure fastsætte foranstaltninger for at fremme og støtte medlemsstaternes indsats inden for kriminalitetsforebyggelse, uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser.

Artikel 69 H

*Eurojust*

1. Eurojusts opgave er at støtte og styrke koordineringen og samarbejdet mellem de nationale myndigheder, der har til opgave at efterforske og forfølge grov kriminalitet, der berører to eller flere medlemsstater eller kræver retsforfølgning på fælles basis, på grundlag af operationer foretaget af medlemsstaternes myndigheder og Europol samt oplysninger fra disse.

Med henblik herpå fastlægger Europa-Parlamentet og Rådet ved forordning efter den almindelige lovgivningsprocedure Eurojusts struktur, funktionsmåde, indsatsområde og opgaver. Disse opgaver kan omfatte:

- a) iværksættelse af efterforskning af straffesager samt forslag til de nationale kompetente myndigheder om at indlede retsforfølgning, især vedrørende overtrædelser, der skader Unionens finansielle interesser
- b) koordinering af efterforskning og retsforfølgning som omhandlet i litra a)
- c) styrkelse af det retlige samarbejde, herunder gennem løsning af konflikter om retternes kompetence og gennem et tæt samarbejde med Det Europæiske Retlige Netværk.

I disse forordninger fastlægges ligeledes de nærmere bestemmelser for Europa-Parlamentets og de nationale parlamenters tilknytning til evalueringen af Eurojusts virke.

2. I forbindelse med retsforfølgning som omhandlet i stk. 1, og uden at dette berører artikel 69 I, foretager de kompetente nationale personer de formelle handlinger inden for retsplejen.

#### Artikel 69 I

##### *Oprettelse af en europæisk anklagemyndighed*

1. For at bekæmpe lovovertrædelser, der skader Unionens finansielle interesser, kan Rådet ved forordning efter en særlig lovgivningsprocedure oprette en europæisk anklagemyndighed ud fra Eurojust. Rådet træffer afgørelse med enstemmighed efter Europa-Parlamentets godkendelse.

I tilfælde af manglende enstemmighed kan en gruppe på mindst ni medlemsstater anmode om, at udkastet til forordning forelægges Det Europæiske Råd. I så fald suspenderes proceduren i Rådet. Efter drøftelse og i tilfælde af konsensus skal Det Europæiske Råd inden fire måneder efter denne suspension forelægge Rådet udkastet på ny med henblik på vedtagelse.

I tilfælde af uenighed og hvis mindst ni medlemsstater ønsker at indføre et forstærket samarbejde på grundlag af det pågældende udkast til forordning, underretter de inden for samme tidsfrist Europa-Parlamentet, Rådet og Kommissionen herom. I et sådant tilfælde anses den bemyndigelse til at indlede et forstærket samarbejde, der er nævnt i artikel 10, stk. 2, i traktaten om Den Europæiske Union og artikel 280 D, stk. 1, i denne traktat, for at være givet, og bestemmelserne om forstærket samarbejde finder anvendelse.

2. Den Europæiske Anklagemyndighed har kompetence til eventuelt i samarbejde med Europol at foretage efterforskning og retsforfølgning i forbindelse med gerningsmænd og medvirkende til lovovertrædelser, der skader Unionens finansielle interesser, som fastlagt i den i stk. 1 nævnte forordning, samt til at stille dem for en domstol. Den Europæiske Anklagemyndighed optræder som offentlig anklager ved medlemsstaternes kompetente domstole.

3. Ved den forordning, der er nævnt i stk. 1, fastsættes statuten for Den Europæiske Anklagemyndighed, betingelserne for udøvelsen af dens funktioner, procedureregler for dens virksomhed samt regler om anerkendelse af bevismidler og regler om domstolskontrol med de processkrifter, som Den Europæiske Anklagemyndighed udarbejder under udøvelsen af sit hverv.

4. Det Europæiske Råd kan samtidig eller efterfølgende vedtage en afgørelse om ændring af stk. 1 for at udvide Den Europæiske Anklagemyndigheds beføjelser til at omfatte bekæmpelse af grov kriminalitet med en grænseoverskridende dimension og som en konsekvens heraf om ændring af stk. 2 for så vidt angår gerningsmænd og medvirkende til grov kriminalitet, der berører flere medlemsstater. Det Europæiske Råd træffer afgørelse med enstemmighed efter Europa-Parlamentets godkendelse og efter høring af Kommissionen.

**KAPITEL 5****POLITISAMARBEJDE****Artikel 69 J**

(delvis tidligere artikel 30 EU)

*Omfang, mål og midler*

1. Unionen etablerer et politisamarbejde, der inddrager alle medlemsstaternes kompetente myndigheder, herunder politi, toldmyndigheder og andre særlige retshåndhævende myndigheder inden for forebyggelse, afsløring og efterforskning af strafbare handlinger.

2. Med henblik på stk. 1 kan Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure fastlægge foranstaltninger vedrørende:

- a) indsamling, opbevaring, behandling, analyse og udveksling af relevante oplysninger
- b) støtte til uddannelse af personale og samarbejde om udveksling af personale, om udstyr og om kriminalitetsforskning
- c) fælles efterforskningsteknikker **vedrørende** afsløring af grove former for organiseret kriminalitet.

3. Rådet kan efter en særlig lovgivningsprocedure fastlægge foranstaltninger vedrørende operationelt samarbejde mellem de myndigheder, der er omhandlet i denne artikel. Rådet træffer afgørelse med enstemmighed efter høring af Europa-Parlamentet.

I tilfælde af manglende enstemmighed kan en gruppe på mindst ni medlemsstater anmode om, at udkastet til foranstaltninger forelægges Det Europæiske Råd. I så fald suspenderes proceduren i Rådet. Efter drøftelse og i tilfælde af konsensus skal Det Europæiske Råd inden fire måneder efter denne suspension forelægge Rådet udkastet på ny med henblik på vedtagelse.

I tilfælde af uenighed og hvis mindst ni medlemsstater ønsker at indføre et forstærket samarbejde på grundlag af det pågældende udkast til foranstaltninger, underretter de inden for samme tidsfrist Europa-Parlamentet, Rådet og Kommissionen herom. I et sådant tilfælde anses den bemyndigelse til at indlede et forstærket samarbejde, der er nævnt i artikel 10, stk. 2, i traktaten om Den Europæiske Union og artikel 280 D, stk. 1, i denne traktat, for at være givet, og bestemmelserne om forstærket samarbejde finder anvendelse.

Den særlige procedure, der er fastsat i andet og tredje afsnit, finder ikke anvendelse på retsakter, der udgør en udvikling af Schengen-reglerne.

**Artikel 69 K***Europol*

1. Europols opgave er at støtte og styrke indsatsen hos medlemsstaternes politimyndigheder og andre retshåndhævende myndigheder og deres indbyrdes samarbejde om forebyggelse og bekæmpelse af grov kriminalitet, der berører to eller flere medlemsstater, terrorisme og de former for kriminalitet, der skader en fælles interesse, som er omfattet af en EU-politik.

2. Europa-Parlamentet og Rådet fastlægger ved forordning efter den almindelige lovgivningsprocedure Europols struktur, funktionsmåde, indsatsområde og opgaver. Disse opgaver kan omfatte:

a) indsamling, opbevaring, behandling, analyse og udveksling af oplysninger, der fremsendes af bl.a. medlemsstaternes eller tredjelandes myndigheder eller eksterne organisationer

b) samordning, tilrettelæggelse og udførelse af efterforskning og operative aktioner, der gennemføres sammen med medlemsstaternes kompetente myndigheder eller inden for rammerne af fælles efterforskningshold, eventuelt i samarbejde med Eurojust.

I disse forordninger fastlægges ligeledes de nærmere bestemmelser for Europa-Parlamentets kontrol af Europols aktiviteter sammen med de nationale parlamenter.

3. Alle Europols operative aktioner skal foretages i samarbejde og i forståelse med myndighederne i den eller de medlemsstater, hvis område er berørt. Anvendelse af tvangsindgreb hører udelukkende ind under de kompetente nationale myndigheder.

**Artikel 69 L**

(tidligere artikel 32 EU)

*Myndighedsudøvelse på en anden medlemsstats område*

Rådet fastlægger efter en særlig lovgivningsprocedure de betingelser og begrænsninger, hvorunder medlemsstaternes kompetente myndigheder, jf. artikel 69 F og 69 J, kan arbejde på en anden medlemsstats område i samarbejde og i forståelse med denne stats myndigheder. Rådet træffer afgørelse med enstemmighed efter høring af Europa-Parlamentet.

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AFSNIT V

TRANSPORT

Artikel 70

*Fælles transportpolitik*

På det i dette afsnit omhandlede sagsområde **soeges traktaternes** mål **nået** inden for rammerne af en fælles transportpolitik.

Artikel 71

*Procedure for vedtagelse af fælles regler for transportområdet*

1. Med henblik på gennemførelsen af artikel 70 og under hensyntagen til transportspørgsmålenes særlige karakter fastsætter **Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget:

- a) fælles regler for international transport til eller fra en medlemsstats område eller gennem en eller flere medlemsstaters områder
- b) de betingelser, under hvilke transportvirksomheder har adgang til at udføre interne transporter i en medlemsstat, hvor de ikke er hjemmehørende
- c) foranstaltninger til forbedring af transportsikkerheden
- d) alle andre formålstjenlige bestemmelser.

2. **I forbindelse med vedtagelsen af foranstaltningerne som nævnt i stk. 1 tages der hensyn til tilfælde, hvor deres** anvendelse **i alvorlig grad** vil kunne påvirke levestandarden og beskæftigelsen i visse områder samt udnyttelsen af transportmateriellet.

Artikel 72

*Overgangsregler*

Indtil de i artikel 71, stk. 1, omhandlede bestemmelser er fastsat, kan ingen medlemsstat, **uden at Rådet med enstemighed vedtager en foranstaltning om fravigelse**, ændre de bestemmelser, der gælder på transportområdet den 1. januar 1958 eller for tiltrædende staters vedkommende på datoen for tiltrædelsen på en sådan måde, at de direkte eller indirekte bliver mindre gunstige for transportvirksomheder fra andre medlemsstater end for indenlandske transportvirksomheder.

Artikel 73

*Særlige støtteforanstaltninger der er forenelige med traktaten*

Støtteforanstaltninger, som modsvarer behovet for en samordning af transportvæsenet, eller som udgør godtgørelse for visse forpligtelser, der har sammenhæng med begrebet offentlig tjenesteydelse, er forenelige med **traktaterne**.



## Artikel 74

*Foranstaltninger vedr. transportpriser og -vilkår*

Enhver foranstaltning, der træffes inden for rammerne af **traktaterne** vedrørende transportpriser og -vilkår, skal tage hensyn til transportvirksomhedernes økonomiske situation.

## Artikel 75

*Afskaffelse af forskelsbehandling vedr. transportpriser og -vilkår*

1. I samfærdselen inden for **Unionen forbydes** enhver forskelsbehandling, som består i, at en transportvirksomhed for samme transportforbindelse anvender forskellige transportpriser og -vilkår på samme slags gods, alt efter godsets oprindelses- eller bestemmelsesland.
2. Bestemmelsen i stk. 1 udelukker ikke, at andre foranstaltninger kan vedtages af **Europa-Parlamentet og Rådet** i medfør af artikel 71, stk. 1.
3. På forslag af Kommissionen og efter høring af **Europa-Parlamentet og Det Økonomiske og Sociale Udvalg** fastsætter Rådet regler, der sikrer gennemførelsen af bestemmelserne i stk. 1.

Det kan især fastsætte de bestemmelser, der er nødvendige for at gøre det muligt for **Unionens** institutioner at påse overholdelsen af den i stk. 1 nævnte regel og for at sikre brugerne den fulde fordel af denne.

4. På eget initiativ eller efter anmodning af en medlemsstat undersøger Kommissionen de i stk. 1 omhandlede tilfælde af forskelsbehandling, og efter at have indhentet udtalelse fra de pågældende medlemsstater træffer den de nødvendige beslutninger inden for rammerne af de i overensstemmelse med bestemmelserne i stk. 3 fastlagte regler.

## Artikel 76

*Forbud mod national understøttelse eller beskyttelse af virksomheder*

1. Ved transport inden for **Unionen** er det forbudt medlemsstaterne at anvende priser og vilkår, der indebærer nogen form for understøttelse eller beskyttelse til fordel for en eller flere bestemte virksomheder eller industrier, medmindre Kommissionen giver bemyndigelse dertil.
  2. Kommissionen undersøger på eget initiativ eller på begæring af en medlemsstat de i stk. 1 omhandlede priser og vilkår, idet den på den ene side især tager hensyn til de krav, som en hensigtsmæssig regional økonomisk politik stiller, til de underudviklede områders behov og til problemerne i områder, der er alvorligt berørt af politiske forhold, og på den anden side til virkningerne af disse priser og vilkår på konkurrencen mellem de forskellige transportgrene.
- Efter at have indhentet udtalelse fra de pågældende medlemsstater træffer Kommissionen de fornødne beslutninger.
3. Det i stk. 1 omhandlede forbud gælder ikke konkurrencetariffer.

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### Artikel 77

#### *Nedbringelse af afgifter og gebyrer ved grænsepassage*

Afgifter eller gebyrer, som en transportvirksomhed ved grænsepassage opkræver ud over transportpriserne, må ikke overstige et rimeligt niveau i betragtning af de med passagen faktisk forbundne omkostninger.

Medlemsstaterne bestræber sig på gradvis at nedbringe disse omkostninger.

Kommissionen kan rette henstillinger til medlemsstaterne med henblik på anvendelsen af denne artikel.

### Artikel 78

#### *Særregel for Tyskland*

Bestemmelserne i dette afsnit af traktaten udgør ingen hindring for de foranstaltninger, der er truffet i Forbundsrepublikken Tyskland, for så vidt disse er nødvendige for at opveje de af Tysklands deling forårsagede ulemper for økonomien i visse af Forbundsrepublikkens områder, der berøres af denne deling. **Fem år efter ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab kan Rådet på forslag af Kommissionen vedtage en afgørelse om ophævelse af denne artikel.**

### Artikel 79

#### *Høring af et rådgivende udvalg i transportspørgsmål*

Der oprettes et rådgivende udvalg for Kommissionen sammensat af sagkyndige udpeget af medlemsstaternes regeringer. Kommissionen hører dette udvalg i transportspørgsmål, når den skønner det hensigtsmæssigt.

### Artikel 80

#### *Transportafsnittets anvendelse på transport med jernbane, ad landeveje og vandveje*

1. Bestemmelserne i dette afsnit finder anvendelse på transporter med jernbane, ad landeveje og sejlbare vandveje.

**2. Europa-Parlamentet og Rådet kan efter den almindelige lovgivningsprocedure fastsætte passende bestemmelser vedrørende sø- og luftfart. De træffer afgørelse efter høring af Regionsudvalget og Det Økonomiske og Sociale Udvalg.**

Procedurebestemmelserne i artikel 71 finder anvendelse.

## AFSNIT VI

DE FÆLLES REGLER OM KONKURRENCE, FISKALE SPØRGSMÅL OG INDBYRDES  
TILNÆRMELSE AF LOVGIVNINGERNE

## KAPITEL 1

## KONKURRENCEREGLERNE

## 1. AFDELING

## REGLER FOR VIRKSOMHEDERNE

## Artikel 81

*Forbud mod konkurrencebegrænsende aftaler*

1. Alle aftaler mellem virksomheder, alle vedtagelser inden for sammenslutninger af virksomheder og alle former for samordnet praksis, der kan påvirke handelen mellem medlemsstater, og som har til formål eller til følge at hindre, begrænse eller fordreje konkurrencen inden for **det indre marked**, er uforenelige med **det indre marked** og er forbudt, navnlig sådanne, som består i:

- a) direkte eller indirekte fastsættelse af købs- eller salgspriser eller af andre forretningsbetingelser
- b) begrænsning af eller kontrol med produktion, afsætning, teknisk udvikling eller investeringer
- c) opdeling af markeder eller forsyningskilder
- d) anvendelse af ulige vilkår for ydelser af samme værdi over for handelspartnere, som derved stilles ringere i konkurrencen
- e) at det stilles som vilkår for indgåelse af en aftale, at medkontrahenten godkender tillægsydelser, som efter deres natur eller ifølge handelssædvane ikke har forbindelse med aftalens genstand.

2. De aftaler eller vedtagelser, som er forbudt i medfør af denne artikel, har ingen retsvirkning.

3. Bestemmelserne i stk. 1 kan dog erklæres uanvendelige på:

- enhver aftale eller kategori af aftaler mellem virksomheder
- enhver vedtagelse eller kategori af vedtagelser inden for sammenslutninger af virksomheder,
- og
- enhver samordnet praksis eller kategori deraf

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som bidrager til at forbedre produktionen eller fordelingen af varerne eller til at fremme den tekniske eller økonomiske udvikling, samtidig med at de sikrer forbrugerne en rimelig andel af fordelene herved, og uden at der:

- a) pålægges de pågældende virksomheder begrænsninger, som ikke er nødvendige for at nå disse mål
- b) gives disse virksomheder mulighed for at udelukke konkurrencen for en væsentlig del af de pågældende varer.

### Artikel 82

#### *Forbud mod misbrug af dominerende stilling*

En eller flere virksomheders misbrug af en dominerende stilling på **det indre marked** eller en væsentlig del heraf er uforenelig med **det indre marked** og forbudt, i den udstrækning samhandelen mellem medlemsstater herved kan påvirkes.

Misbrug kan især bestå i:

- a) direkte eller indirekte påtvingelse af urimelige købs- eller salgspriser eller af andre urimelige forretningsbetingelser
- b) begrænsning af produktion, afsætning eller teknisk udvikling til skade for forbrugerne
- c) anvendelse af ulige vilkår for ydelser af samme værdi over for handelspartnere, som derved stilles ringere i konkurrencen
- d) at det stilles som vilkår for indgåelse af en aftale, at medkontrahenten godkender tillægsydelser, som efter deres natur eller ifølge handelssædvane ikke har forbindelse med aftalens genstand.

### Artikel 83

#### *Procedure for vedtagelse af retsakter om anvendelsen af art. 81 og 82*

1. De fornødne forordninger eller direktiver om anvendelsen af principperne i artikel 81 og 82 udstedes af Rådet på forslag af Kommissionen og efter høring af Europa-Parlamentet.
2. Bestemmelserne i stk. 1 har især til formål:
  - a) ved indførelse af bøder og tvangsbøder at sikre overholdelsen af de i artikel 81, stk. 1, og artikel 82 nævnte forbud
  - b) at fastlægge de nærmere retningslinjer for anvendelsen af bestemmelsen i artikel 81, stk. 3, under hensyntagen til nødvendigheden af dels at sikre et effektivt tilsyn, dels at forenkle den administrative kontrol mest muligt
  - c) i påkommende tilfælde at træffe nærmere bestemmelse om anvendelsesområdet for bestemmelserne i artiklerne 81 og 82 inden for de forskellige erhvervsgrøner

- d) at fastlægge opgavefordelingen mellem Kommissionen og **Den Europæiske Unions Domstol** i forbindelse med anvendelsen af de i dette stykke nævnte bestemmelser
- e) at bestemme forholdet mellem den nationale lovgivning på den ene side, og på den anden side bestemmelserne i denne afdeling samt de bestemmelser, der er fastsat i medfør af denne artikel.

#### Artikel 84

##### *Medlemsstaternes lovgivning indtil ikrafttrædelsen af art. 81, stk. 3 og art 82*

Indtil de i medfør af artikel 83 trufne bestemmelser træder i kraft, træffer medlemsstaternes myndigheder i overensstemmelse med deres lovgivning og bestemmelserne i artiklerne 81, navnlig stk. 3, og 82 afgørelse om aftalers tilladelighed samt om misbrug af en dominerende stilling på **det indre marked**.

#### Artikel 85

##### *Kommissionens beføjelser ved overtrædelser*

1. Under forbehold af bestemmelserne i artikel 84 påser Kommissionen, at de i artiklerne 81 og 82 fastlagte principper anvendes. På begæring af en medlemsstat eller på eget initiativ undersøger den sammen med medlemsstatens kompetente myndigheder, der skal bistå den, tilfælde af formodet overtrædelse af forannævnte principper. Finder Kommissionen, at der har fundet en overtrædelse sted, foreslår den passende midler til at bringe denne til ophør.
2. Bringes en overtrædelse ikke til ophør, fastslår Kommissionen ved en beslutning, der skal ledsages af grunde, at der foreligger en overtrædelse. Den kan offentliggøre beslutningen og bemyndige medlemsstaterne til at træffe de nødvendige modforanstaltninger på de vilkår og i den nærmere udformning, som den fastsætter.
3. Kommissionen kan vedtage forordninger vedrørende de kategorier af aftaler, hvorom Rådet har vedtaget en forordning eller et direktiv i overensstemmelse med artikel 83, stk. 2, litra b).

#### Artikel 86

##### *Regler for offentlige og monopollignende virksomheder*

1. Medlemsstaterne afstår for så vidt angår offentlige virksomheder og virksomheder, som de indrømmer særlige eller eksklusive rettigheder, fra at træffe eller opretholde foranstaltninger, som er i strid med **traktaternes** bestemmelser, navnlig de i artiklerne 12 og 81-89 nævnte.
2. Virksomheder, der har fået overdraget at udføre tjenesteydelser af almindelig økonomisk interesse, eller som har karakter af fiskale monopoler, er underkastet **traktaternes** bestemmelser, navnlig konkurrencereglerne, i det omfang anvendelsen af disse bestemmelser ikke retligt eller faktisk hindrer opfyldelsen af de særlige opgaver, som er betroet dem. Udviklingen af samhandelen må ikke påvirkes i et sådant omfang, at det strider mod **Unionens** interesse.

**3. Kommissionen påser, at bestemmelserne i denne artikel bringes i anvendelse, og meddeler, såfremt det er påkrævet, medlemsstaterne passende direktiver eller beslutninger.**

## 2. AFDELING

### STATSSTØTTE

#### Artikel 87

##### *Forbud mod statsstøtte og undtagelser fra forbudet*

1. Bortset fra de i **traktaterne** hjemlede undtagelser er statsstøtte eller støtte, som ydes ved hjælp af statsmidler under enhver tænkelig form, og som fordrejer eller truer med at fordreje konkurrencevilkårene ved at begunstige visse virksomheder eller visse produktioner, uforenelig med **det indre marked** i det omfang, den påvirker samhandelen mellem medlemsstaterne.
2. Forenelige med **det indre marked** er:
  - a) støtte af social karakter til enkelte forbrugere, forudsat at den ydes uden forskelsbehandling med hensyn til varernes oprindelse
  - b) støtte, hvis formål er at råde bod på skader, der er forårsaget af naturkatastrofer eller af andre usædvanlige begivenheder
  - c) støtteforanstaltninger for økonomien i visse af Forbundsrepublikken Tysklands områder, som er påvirket af Tysklands deling, i det omfang de er nødvendige for at opveje de økonomiske ulemper, som denne deling har forårsaget. **Fem år efter ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab kan Rådet på forslag af Kommissionen vedtage en afgørelse om ophævelse af dette litra.**
3. Som forenelige med **det indre marked** kan betragtes:
  - a) støtte til fremme af den økonomiske udvikling i områder, hvor levestandarden er usædvanlig lav, eller hvor der hersker en alvorlig underbeskæftigelse **samt i de områder, der er nævnt i artikel 299, under hensyn til deres strukturelle, økonomiske og sociale situation**
  - b) støtte, der kan fremme virkeliggørelsen af vigtige projekter af fælleseuropæisk interesse eller afhjælpe en alvorlig forstyrrelse i en medlemsstats økonomi
  - c) støtte til fremme af udviklingen af visse erhvervsgrøner eller økonomiske regioner, når den ikke ændrer samhandelsvilkårene på en måde, der strider mod den fælles interesse
  - d) støtte til fremme af kulturen og bevarelse af kulturarven, når den ikke ændrer samhandels- og konkurrencevilkårene i **Unionen** i et omfang, der strider mod de fælles interesser
  - e) andre former for støtte, hvorom Rådet på forslag af Kommissionen træffer beslutning.

## Artikel 88

*Procedure for vedtagelse af retsakter om statsstøtte; Kommissionens beføjelser*

1. Kommissionen foretager sammen med medlemsstaterne en løbende undersøgelse af de støtteordninger, som findes i disse stater. Den foreslår dem sådanne foranstaltninger, som **det indre markeds** funktion eller gradvise udvikling kræver.

2. Finder Kommissionen — efter at have givet de interesserede parter en frist til at fremsætte deres bemærkninger — at en støtte, som ydes af en stat eller med statsmidler, ifølge artikel 87 ikke er forenelig med **det indre marked**, eller at denne støtte misbruges, træffer den beslutning om, at den pågældende stat skal ophæve eller ændre støtteforanstaltningen inden for den tidsfrist, som Kommissionen fastsætter.

Såfremt den pågældende stat ikke retter sig efter denne beslutning inden udløbet af den fastsatte frist, kan Kommissionen eller en anden interesseret stat, uanset bestemmelserne i artiklerne 226 og 227, indbringe sagen direkte for **Den Europæiske Unions Domstol**.

På begæring af en medlemsstat kan Rådet med enstemmighed beslutte, at en af denne stat ydet eller planlagt støtte, uanset bestemmelserne i artikel 87 eller de i artikel 89 nævnte forordninger, skal betragtes som forenelig med **det indre marked**, hvis ganske særlige omstændigheder berettiger en sådan beslutning. Har Kommissionen indledt den i dette stykkes første afsnit fastsatte fremgangsmåde med hensyn til denne støtteforanstaltning, bevirker den pågældende stats begæring til Rådet, at sagens behandling udsættes, indtil Rådet har taget stilling til spørgsmålet.

Dog træffer Kommissionen beslutning, såfremt Rådet ikke har taget stilling inden tre måneder efter, at begæringen er fremsat.

3. Kommissionen skal underrettes så betids om enhver påtænkt indførelse eller ændring af støtteforanstaltninger, at den kan fremsætte sine bemærkninger hertil. Er Kommissionen af den opfattelse, at det påtænkte er uforeneligt med **det indre marked** i henhold til artikel 87, iværksætter den uopholdeligt den i stk. 2 fastsatte fremgangsmåde. Den pågældende medlemsstat må ikke gennemføre de påtænkte foranstaltninger, før den nævnte fremgangsmåde har ført til endelig beslutning.

**4. Kommissionen kan vedtage forordninger vedrørende de former for statsstøtte, som Rådet i overensstemmelse med artikel 89 har bestemt kan være undtaget fra proceduren i stk. 3 i nærværende artikel.**

## Artikel 89

*Procedure for vedtagelse af retsakter mht. anvendelsen af art. 87 og 88 m.v.*

Rådet, på forslag fra Kommissionen og efter høring af Europa-Parlamentet, kan udstede de fornødne forordninger med henblik på anvendelsen af artikel 87 og 88 og især fastlægge betingelser for anvendelsen af artikel 88, stk. 3, og de former for støtte, som skal være undtaget fra denne fremgangsmåde.

## KAPITEL 2

## FISKALE BESTEMMELSER

## Artikel 90

*Forbud mod diskriminerende interne afgifter*

Ingen medlemsstat må direkte eller indirekte pålægge varer fra andre medlemsstater interne afgifter af nogen art, som er højere end de afgifter, der direkte eller indirekte pålægges lignende indenlandske varer.

Endvidere må ingen medlemsstat pålægge varer fra andre medlemsstater interne afgifter, som indirekte vil kunne beskytte andre produkter.

## Artikel 91

*Forbud mod godtgørelse for interne afgifter ved udførsel af varer*

Ved udførsel af varer til en medlemsstats område kan der ikke ydes godtgørelse for interne afgifter ud over det beløb, der har været pålagt dem direkte eller indirekte.

## Artikel 92

*Godkendelse af godtgørelse af afgifter ved udførsel til andre medlemsstater*

For så vidt angår andre skatter end omsætningsafgifter, forbrugsafgifter og andre indirekte skatter kan fritagelse for afgiftsbetaling eller godtgørelse af afgifter ved udførsel til andre medlemsstater ikke ydes, og udligningsafgifter ved indførsel fra medlemsstater ikke pålægges, medmindre Rådet på forhånd og på Kommissionens forslag har godkendt de påtænkte foranstaltninger for en begrænset periode.

## Artikel 93

*Harmonisering af lovgivninger om indirekte skatter*

Rådet, der træffer afgørelse **efter en særlig lovgivningsprocedure**, med enstemmighed og efter høring af Europa-Parlamentet og Det Økonomiske og Sociale Udvalg, vedtager bestemmelser om harmonisering af lovgivningerne vedrørende omsætningsafgifter, punkt-afgifter og andre indirekte skatter, i det omfang en sådan harmonisering er nødvendig for at sikre det indre markeds oprettelse og funktion og **undgå konkurrenceforvriddning**.



## KAPITEL 3

## TILNÆRMELSE AF LOVGIVNINGERNE

Artikel 94  
(tidligere artikel 95 EF)*Harmonisering af medlemsstaternes lovgivninger vedr. det indre markeds funktion;  
miljøgaranti*

1. Medmindre andet er bestemt i **traktaterne**, finder følgende bestemmelser anvendelse med henblik på virkeliggørelsen af de i artikel **22a og 22b** fastsatte mål. **Europa-Parlamentet og Rådet**, der træffer afgørelse efter **den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg, vedtager de foranstaltninger med henblik på indbyrdes tilnærmelse af medlemsstaternes love og administrative bestemmelser, der vedrører det indre markeds oprettelse og funktion.

2. Stk. 1 finder ikke anvendelse på fiskale bestemmelser, bestemmelser vedrørende den frie bevægelighed for personer og bestemmelser vedrørende ansattes rettigheder og interesser.

3. Kommissionens forslag i henhold til stk. 1 inden for sundhed, sikkerhed, miljøbeskyttelse og forbrugerbeskyttelse skal bygge på et højt beskyttelsesniveau under hensyntagen til navnlig enhver ny udvikling baseret på videnskabelige kendsgerninger. Inden for deres respektive kompetenceområder bestræber Europa-Parlamentet og Rådet sig også på at nå dette mål.

4. Hvis en medlemsstat, efter at **Europa-Parlamentet og Rådet**, Rådet eller Kommissionen har vedtaget en harmoniseringsforanstaltning, finder det nødvendigt at opretholde nationale bestemmelser, som er begrundet i vigtige behov, hvortil der henvises i artikel 30, eller som vedrører miljøbeskyttelse eller beskyttelse af arbejdsmiljøet, giver den Kommissionen meddelelse om disse bestemmelser og om grundene til deres opretholdelse.

5. Hvis en medlemsstat endvidere med forbehold af stk. 4 og efter at **Europa-Parlamentet og Rådet**, Rådet eller Kommissionen har vedtaget en harmoniseringsforanstaltning, finder det nødvendigt at indføre nationale bestemmelser baseret på nyt videnskabeligt belæg vedrørende miljøbeskyttelse eller beskyttelse af arbejdsmiljøet på grund af et problem, der er specifikt for den pågældende medlemsstat, og som viser sig efter vedtagelsen af harmoniseringsforanstaltningen, giver den Kommissionen meddelelse om de påtænkte bestemmelser og om grundene til deres indførelse.

6. Kommissionen bekræfter eller forkaster inden seks måneder efter meddelelsen som omhandlet i stk. 4 og 5 de pågældende nationale bestemmelser efter at have konstateret, om de er et middel til vilkårlig forskelsbehandling eller en skjult begrænsning af samhandelen mellem medlemsstaterne, og om de udgør en hindring for det indre markeds funktion.

Hvis Kommissionen ikke har truffet nogen afgørelse inden for dette tidsrum betragtes de i stk. 4 og 5 omhandlede nationale bestemmelser som godkendt.

Hvis det er begrundet i spørgsmålets kompleksitet, og hvis der ikke foreligger risiko for menneskers sundhed, kan Kommissionen meddele den pågældende medlemsstat, at den i dette stykke omhandlede periode kan forlænges med en ny periode på indtil seks måneder.

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7. Hvis en medlemsstat i medfør af stk. 6 bemyndiges til at opretholde eller indføre nationale bestemmelser, der er en undtagelse fra en harmoniseringsforanstaltning, undersøger Kommissionen omgående, om den skal foreslå en tilpasning af denne foranstaltning.

8. Hvis en medlemsstat rejser et specifikt problem vedrørende folkesundheden på et område, der har været omfattet af tidligere harmoniseringsforanstaltninger, underretter den Kommissionen, der omgående undersøger, om den skal foreslå Rådet passende foranstaltninger.

9. Uanset den i artikel 226 og 227 fastsatte fremgangsmåde kan Kommissionen eller en medlemsstat henvende sig direkte til **Den Europæiske Unions Domstol**, hvis de finder, at en anden medlemsstat misbruger de i nærværende artikel fastsatte beføjelser.

10. De ovennævnte harmoniseringsforanstaltninger indeholder i de relevante tilfælde en beskyttelsesklausul, der bemyndiger medlemsstaterne til med en eller flere af de ikke-økonomiske begrundelser, der er nævnt i artikel 30, at træffe foreløbige foranstaltninger, der er undergivet en **EU**-kontrolprocedure.

### Artikel 95 (tidligere artikel 94 EF)

#### *Harmonisering af medlemsstaternes lovgivninger med direkte indvirkning på det indre markeds funktion*

**Uanset artikel 94 udsteder** Rådet, der træffer afgørelse **efter en særlig lovgivningsprocedure**, med enstemmighed og efter høring af Europa-Parlamentet og Det Økonomiske og Sociale Udvalg, direktiver om indbyrdes tilnærmelse af medlemsstaternes love og administrative bestemmelser, der direkte indvirker på **det indre markeds** oprettelse eller funktion.

### Artikel 96

#### *Fjernelse af forskelle som forvansker konkurrencevilkårene*

Finder Kommissionen, at bestående forskelle i medlemsstaternes ved lov eller administrativt fastsatte bestemmelser forvansker konkurrencevilkårene på **det indre marked** og derved fremkalder en fordrejning, som bør fjernes, holder den samråd med de pågældende medlemsstater herom.

Fører dette samråd ikke til en aftale, som fjerner den pågældende fordrejning, udsteder **Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure** de dertil nødvendige direktiver. **Alle** andre formålstjenlige foranstaltninger, der har hjemmel i **traktaterne, kan vedtages.**

### Artikel 97

#### *Indførelse af nationale foranstaltninger som kan fordreje konkurrencevilkårene*

1. Når der er grund til at frygte, at indførelse eller ændring af en ved lov eller administrativt fastsat bestemmelse fremkalder en fordrejning som nævnt i artikel 96, skal den medlemsstat, som vil gennemføre foranstaltningen, rådføre sig med Kommissionen. Efter samråd med medlemsstaterne henstiller Kommissionen til de pågældende stater at træffe formålstjenlige foranstaltninger med henblik på at undgå den omhandlede fordrejning.

2. Såfremt den medlemsstat, som vil indføre eller ændre nationale bestemmelser, ikke følger en henstilling, som Kommissionen har rettet til den, kan det ikke i medfør af artikel 96 kræves, at de øvrige medlemsstater ændrer deres nationale bestemmelser med henblik på at fjerne denne forbrejning. Fremkalder en medlemsstat, som ikke har taget hensyn til Kommissionens henstilling, en forbrejning udelukkende til egen skade, finder bestemmelserne i artikel 96 ikke anvendelse.

### Artikel 97a

#### *Ensartet beskyttelse af intellektuelle ejendomsrettigheder*

Som led i det indre markeds oprettelse eller funktion fastsætter Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure foranstaltninger vedrørende indførelse af europæiske beskyttelsesbeviser for at sikre en ensartet beskyttelse af intellektuelle ejendomsrettigheder i Unionen samt indførelse af centraliserede tilladelses-, koordinations- og kontrolordninger på EU-niveau.

Rådet fastsætter ved forordning efter en særlig lovgivningsprocedure sprogordningen for de europæiske beskyttelsesbeviser. Det træffer afgørelse med enstemmighed efter høring af Europa-Parlamentet.

### Artikel 97b (tidligere artikel 4 EF)

#### *Samordning af økonomiske politikker, fælles penge- og valutapolitik, fælles valuta*

1. Med de i artikel 3 i **traktaten om den Europæiske Union** nævnte mål for øje skal medlemsstaternes og **Unionens** virke under de betingelser, som er foreskrevet i **traktaterne**, indebære gennemførelse af en økonomisk politik, der bygger på snæver samordning af medlemsstaternes økonomiske politikker, på det indre marked og på fastlæggelse af fælles mål, og som føres i overensstemmelse med princippet om en åben markedsøkonomi med fri konkurrence.

2. Sideløbende hermed og i overensstemmelse med **traktaternes** bestemmelser og **procedurer** skal dette virke indebære en fælles valuta, **euroen**, og fastlæggelse og gennemførelse af en fælles penge- og valutakurspolitik, der skal have som hovedmål at fastholde prisstabilitet samt, uden at dette mål berøres heraf, at støtte de generelle økonomiske politikker i **Unionen** i overensstemmelse med princippet om en åben markedsøkonomi med fri konkurrence.

3. Medlemsstaterne og **Unionen** skal i deres virke handle i overensstemmelse med følgende principper: stabile priser, sunde offentlige finanser og monetære vilkår og en holdbar betalingsbalance.

## AFSNIT VII

## DEN ØKONOMISKE OG MONETÆRE POLITIK

## KAPITEL 1

## DEN ØKONOMISKE POLITIK

## Artikel 98

*Målsætninger for den økonomiske politik*

Medlemsstaterne fører deres økonomiske politikker med henblik på at bidrage til virkeliggørelsen af **Unionens** mål, som disse er fastlagt i artikel 3 i **traktaten om Den Europæiske Union**, og i forbindelse med de overordnede retningslinjer, der er nævnt i artikel 99, stk. 2. Medlemsstaterne og **Unionen** handler i overensstemmelse med princippet om en åben markedsøkonomi med fri konkurrence, der fremmer en effektiv ressourceallokering, og i overensstemmelse med principperne i artikel 97b.

## Artikel 99

*Samordning af medlemsstaternes økonomiske politikker*

1. Medlemsstaterne betragter deres økonomiske politikker som et spørgsmål af fælles interesse og samordner dem i Rådet i overensstemmelse med artikel 98.
2. Rådet, på grundlag af en henstilling fra Kommissionen, udarbejder et udkast til de overordnede retningslinjer for medlemsstaternes og **Unionens** økonomiske politikker og forelægger sine resultater for Det Europæiske Råd.

Det Europæiske Råd drøfter på grundlag af denne rapport fra Rådet en konklusion med hensyn til de overordnede retningslinjer for medlemsstaternes og **Unionens** økonomiske politikker.

På grundlag af denne konklusion vedtager Rådet, en henstilling, hvori disse overordnede retningslinjer er fastlagt. Rådet underretter Europa-Parlamentet om sin henstilling.

3. For at sikre en snævrere samordning af de økonomiske politikker og en varig konvergens mellem medlemsstaternes økonomiske resultater skal Rådet på grundlag af rapporter fra Kommissionen overvåge den økonomiske udvikling i hver medlemsstat og i **Unionen** samt de økonomiske politikkers overensstemmelse med de overordnede retningslinjer, der er omhandlet i stk. 2, og regelmæssigt foretage en samlet bedømmelse.

Med henblik på denne multilaterale overvågning tilsender medlemsstaterne Kommissionen oplysning om vigtige foranstaltninger, som de har truffet inden for deres økonomiske politik, samt andre oplysninger, som de måtte finde nødvendige.

4. Viser det sig i forbindelse med **proceduren** i stk. 3, at en medlemsstats økonomiske politik ikke er i overensstemmelse med de overordnede retningslinjer, der er nævnt i stk. 2, eller at der er risiko for, at den bringer Den Økonomiske og Monetære Unions rette virkemåde i fare, kan Kommissionen, rette **en advarsel** til den pågældende medlemsstat. **Rådet**

kan på grundlag af en henstilling fra Kommissionen rette de nødvendige henstillinger til den pågældende medlemsstat. Rådet, på forslag af Kommissionen, kan beslutte at offentliggøre sine henstillinger.

Inden for rammerne af dette stykke træffer Rådet afgørelse uden at tage stemmeafgivningen fra det medlem af Rådet, der repræsenterer den pågældende medlemsstat, i betragtning.

Det kvalificerede flertal af de øvrige medlemmer af Rådet defineres som angivet i artikel 205, stk. 3, litra a).

5. Formanden for Rådet og Kommissionen aflægger rapport til Europa-Parlamentet om resultaterne af den multilaterale overvågning. Formanden for Rådet kan opfordres til at give møde i Europa-Parlamentets kompetente udvalg, hvis Rådet har offentliggjort henstillingerne.

6. **Europa-Parlamentet og Rådet kan ved forordning efter den almindelige lovgivningsprocedure** vedtage nærmere bestemmelser for den multilaterale overvågningsprocedure, der er omhandlet i stk. 3 og 4 i nærværende artikel.

#### Artikel 100

##### *Vedtagelse af foranstaltninger i tilfælde af vanskeligheder i en medlemsstat*

1. Med forbehold af de øvrige **procedurer i traktaterne** kan Rådet, der træffer afgørelse på forslag af Kommissionen, i **en ånd af solidaritet mellem medlemsstaterne** vedtage foranstaltninger, der er afpasset efter den økonomiske situation, navnlig hvis der opstår alvorlige forsyningsvanskeligheder med hensyn til visse produkter, **især på energiområdet**.

2. I tilfælde af vanskeligheder eller alvorlig risiko for store vanskeligheder i en medlemsstat som følge af naturkatastrofer eller usædvanlige begivenheder, som den ikke selv er herre over, kan Rådet, på forslag af Kommissionen, på bestemte betingelser yde den pågældende medlemsstat finansiel støtte fra **Unionen**. Formanden for Rådet underretter Europa-Parlamentet om den afgørelse, der er truffet.

#### Artikel 101

##### *Forbud mod overtræk i nationale centralbanker*

1. Det er **Den Europæiske Centralbank** og medlemsstaternes centralbanker, i det følgende benævnt »de nationale centralbanker«, forbudt at give **EU-institutioner, -organer, -kontorer eller -agenturer**, centralregeringer, regionale, lokale eller andre offentlige myndigheder, andre organer inden for den offentlige sektor eller offentlige foretagender i medlemsstaterne mulighed for at foretage overtræk eller at yde dem andre former for kreditfaciliteter, og det samme gælder **Den Europæiske Centralbanks** og de nationale centralbankers køb af gældsinstrumenter direkte fra disse.

2. Bestemmelserne i stk. 1 gælder ikke for offentligt ejede kreditinstitutter, som i forbindelse med forsyningen med reserver fra centralbankernes side skal have samme behandling af de nationale centralbanker og **Den Europæiske Centralbank** som private kreditinstitutter.

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### Artikel 102

#### *Forbud mod privilegeret adgang til finansiering*

Enhver foranstaltning, der ikke er baseret på tilsynsmæssige hensyn, og hvorved der gives **EU**-institutioner eller -organer, centralregeringer, regionale, lokale eller andre offentlige myndigheder, andre organer inden for den offentlige sektor eller offentlige foretagender i medlemsstaterne privilegeret adgang til finansielle institutioner, er forbudt.

### Artikel 103

#### *Forbud mod hæftelse for medlemsstaternes gæld*

1. **Unionen** hæfter ikke for og må heller ikke påtage sig forpligtelser indgået af centralregeringer, regionale, lokale eller andre offentlige myndigheder, andre organer inden for den offentlige sektor eller offentlige foretagender i en medlemsstat, idet dette dog ikke gælder for gensidige finansielle garantier for gennemførelsen af et bestemt projekt i fællesskab. En medlemsstat hæfter ikke for og påtager sig ikke forpligtelser indgået af centralregeringer, regionale, lokale eller andre offentlige myndigheder, andre organer inden for den offentlige sektor eller offentlige foretagender i en anden medlemsstat, idet dette dog ikke gælder for gensidige finansielle garantier for gennemførelsen af et bestemt projekt i fællesskab.

2. Rådet, der træffer afgørelse **på forslag af Kommissionen og efter høring af Europa-Parlamentet, kan om nødvendigt** fastlægge definitioner med henblik på gennemførelsen af de forbud, der er **nævnt** i artikel 101 **og 102** samt i nærværende artikel.

### Artikel 104

#### *Overvågning og sanktioner vedr. uforholdsmæssigt store offentlige underskud*

1. Medlemsstaterne skal undgå uforholdsmæssigt store offentlige underskud.
2. Kommissionen overvåger udviklingen i medlemsstaternes budgetsituation og i deres offentlige gæld med henblik på at identificere alvorlige fejl. Den skal navnlig undersøge, om budgetdisciplinen overholdes på grundlag af følgende to kriterier:
  - a) hvorvidt den procentdel, som det forventede eller faktiske offentlige underskud udgør af bruttonationalproduktet, overstiger en given referenceværdi, medmindre
    - denne procentdel er faldet væsentligt og vedvarende og har nået et niveau, der ligger tæt på referenceværdien
    - eller overskridelsen af referenceværdien kun er exceptionel og midlertidig, og nævnte procentdel fortsat ligger tæt på referenceværdien
  - b) hvorvidt den procentdel, som den offentlige gæld udgør af bruttonationalproduktet, overstiger en given referenceværdi, medmindre denne procentdel mindskes tilstrækkeligt og nærmer sig referenceværdien med en tilfredsstillende hastighed.

Referenceværdierne er fastsat i den protokol om proceduren i forbindelse med uforholdsmæssigt store underskud, der er knyttet som bilag til **traktaterne**.

3. Hvis en medlemsstat ikke opfylder kravene i forbindelse med et af eller begge disse kriterier, udarbejder Kommissionen en rapport. I Kommissionens rapport tages der ligeledes hensyn til, om det offentlige underskud overstiger de offentlige investeringsudgifter, samt til alle andre relevante forhold, herunder medlemsstatens økonomiske og budgetmæssige situation på mellemlang sigt.

Kommissionen kan ligeledes udarbejde en rapport, hvis den, selv om kravene efter kriterierne er opfyldt, er af den opfattelse, at der er risiko for et uforholdsmæssigt stort underskud i en medlemsstat.

4. **Det Økonomiske og Finansielle Udvalg** afgiver udtalelse om Kommissionens rapport.

5. Hvis Kommissionen finder, at der er eller kan opstå et uforholdsmæssigt stort underskud i en medlemsstat, skal den afgive en udtalelse til **den pågældende medlemsstat og underrette Rådet herom.**

6. Rådet, på grundlag af **et forslag** fra Kommissionen og under hensyntagen til de bemærkninger, som den pågældende medlemsstat måtte ønske at fremsætte, fastslår efter en generel vurdering, om der foreligger et uforholdsmæssigt stort underskud.

7. **Hvis Rådet** i henhold til stk. 6, **fastslår**, at der foreligger et uforholdsmæssigt stort underskud, **vedtager det uden unødigt forsinkelse på grundlag af en henstilling fra Kommissionen henstillinger, som det retter til den pågældende medlemsstat, for at den skal bringe denne situation til ophør inden for en given frist.**

8. Konstaterer Rådet, at dets henstillinger ikke er fulgt op af virkningsfulde foranstaltninger inden for den fastsatte frist, kan det offentliggøre sine henstillinger.

9. Undlader en medlemsstat fortsat at efterkomme Rådets henstillinger, kan Rådet beslutte at pålægge medlemsstaten inden for en bestemt frist at træffe foranstaltninger til den nedbringelse af underskuddet, som Rådet skønner nødvendig for at rette op på situationen.

I et sådant tilfælde kan Rådet anmode den pågældende medlemsstat om at forelægge rapporter i henhold til en bestemt tidsplan for at undersøge denne medlemsstats tilpasningsbestræbelser.

10. Den i artikel 226 og 227 fastsatte klageret kan ikke udøves i forbindelse med stk. 1-9 i nærværende artikel.

11. Så længe en medlemsstat ikke efterkommer en beslutning, der er truffet i overensstemmelse med stk. 9, kan Rådet beslutte at anvende eller forstærke, alt efter situationen, en eller flere af følgende foranstaltninger:

- kræve, at den pågældende medlemsstat offentliggør yderligere oplysninger, der skal specificeres af Rådet, før den udsteder obligationer og andre værdipapirer
- opfordre Den Europæiske Investeringsbank til at tage sin udlånspolitik over for den pågældende medlemsstat op til fornyet overvejelse
- kræve, at den pågældende medlemsstat deponerer et ikke-rentebærende beløb af en passende størrelse hos **Unionen**, indtil det uforholdsmæssigt store underskud efter Rådets opfattelse er blevet korrigeret
- pålægge bod af en passende størrelse.

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Formanden for Rådet underretter Europa-Parlamentet om de afgørelser, der er truffet.

12. Rådet ophæver nogle af eller alle sine afgørelser **eller henstillinger** som omhandlet i stk. 6-9 og stk. 11, i det omfang det uforholdsmæssigt store underskud i den pågældende medlemsstat efter Rådets opfattelse er blevet korrigeret. Hvis Rådet tidligere er fremkommet med offentlige henstillinger, fremsætter det, så snart afgørelsen efter stk. 8 er ophævet, en offentlig erklæring om, at der ikke længere er et uforholdsmæssigt stort underskud i den pågældende medlemsstat.

**13. Når Rådet vedtager de afgørelser eller henstillinger, der er nævnt i stk. 8, 9, 11 og 12, træffer det afgørelse på grundlag af en henstilling fra Kommissionen.**

**Når Rådet vedtager de foranstaltninger, der er nævnt i stk. 6-9, 11 og 12, træffer det afgørelse uden at tage stemmeafgivningen fra det medlem af Rådet, der repræsenterer den pågældende medlemsstat, i betragtning.**

**Det kvalificerede flertal af de øvrige medlemmer af Rådet defineres som angivet i artikel 205, stk. 3, litra a).**

14. Den protokol om proceduren i forbindelse med uforholdsmæssigt store underskud, der er knyttet som bilag til **traktaterne**, indeholder yderligere bestemmelser vedrørende gennemførelsen af den procedure, der er beskrevet i denne artikel.

Rådet, der træffer afgørelse **efter en særlig lovgivningsprocedure**, med enstemmighed og efter høring af Europa-Parlamentet og **Den Europæiske Centralbank**, vedtager passende bestemmelser, som derefter erstatter ovennævnte protokol.

Med forbehold af de øvrige bestemmelser i dette stykke fastsætter Rådet, på forslag af Kommissionen og efter høring af Europa-Parlamentet, de nærmere regler og definitioner for anvendelsen af bestemmelserne i nævnte protokol.

## KAPITEL 2

### DEN MONETÆRE POLITIK

#### Artikel 105

##### *ESCB's opgaver, prisstabilitet, høring af Den Europæiske Centralbank*

1. Hovedmålet for **Det Europæiske System af Centralbanker, i det følgende benævnt "ESCB"**, er at fastholde prisstabilitet. Uden at målsætningen om prisstabilitet derved berøres, støtter ESCB de generelle økonomiske politikker i **Unionen** med henblik på at bidrage til gennemførelsen af **Unionens** mål som fastsat i artikel 3 i traktaten om den Europæiske Union. ESCB handler i overensstemmelse med princippet om en åben markedsøkonomi med fri konkurrence, som fremmer en effektiv ressourceallokering, og i overensstemmelse med principperne i artikel **97b**.



2. De grundlæggende opgaver, der skal udføres af ESCB, er:
    - at formulere og gennemføre **Unionens** monetære politik
    - at foretage transaktioner i udenlandsk valuta i overensstemmelse med bestemmelserne i artikel **188o**
    - at besidde og forvalte medlemsstaternes officielle valutaeserver
    - at fremme betalingssystemernes smidige funktion.
  3. Stk. 2, tredje led, berører ikke medlemsstaternes regeringers besiddelse og forvaltning af arbejdsbeholdninger i udenlandske valutaer.
  4. **Den Europæiske Centralbank** skal høres
    - om ethvert forslag til **EU**-retsakt inden for dens kompetenceområder
    - af de nationale myndigheder om ethvert udkast til retsforordning inden for dens kompetenceområder, men inden for de rammer og på de betingelser, der fastsættes af Rådet efter fremgangsmåden i 107, stk. 6.
- Den Europæiske Centralbank** kan forelægge udtalelser for de relevante **EU**-institutioner eller -organer eller nationale myndigheder om spørgsmål inden for dens kompetenceområder.
5. ESCB bidrager til en smidig gennemførelse af de kompetente myndigheders politikker vedrørende tilsyn med kreditinstitutter og det finansielle systems stabilitet.
  6. Rådet kan ved forordning efter en særlig lovgivningsprocedure med enstemmighed og efter høring af Europa-Parlamentet og **Den Europæiske Centralbank** overdrage **Den Europæiske Centralbank** specifikke opgaver i forbindelse med politikker vedrørende tilsyn med kreditinstitutter og andre finansielle institutioner bortset fra forsikringselskaber.

## Artikel 106

*Udstedelse af eurosedler og euromønter*

1. **Den Europæiske Centralbank** har eneret til at bemyndige udstedelse af **eurosedler** i **Unionen**. **Den Europæiske Centralbank** og de nationale centralbanker kan udstede **eurosedler**. De **eurosedler**, der udstedes af **Den Europæiske Centralbank** og de nationale centralbanker, er de eneste, der har status som lovlige betalingsmidler i **Unionen**.
2. Medlemsstaterne kan udstede **euromønter** med forbehold af **Den Europæiske Centralbanks** godkendelse af omfanget heraf. **Rådet kan på forslag af Kommissionen og efter høring af Europa-Parlamentet og Den Europæiske Centralbank** vedtage foranstaltninger med henblik på at harmonisere den pålydende værdi og de tekniske specifikationer for alle **euromønter**, som er bestemt til at sættes i omløb, i den udstrækning det er nødvendigt af hensyn til mønternes smidige omløb i **Unionen**.

## Artikel 107

*ESCB's organisation, statuten for ESCB og ECB*

1. **Det Europæiske System af Centralbanker, i det følgende benævnt "ESCB", styres af Den Europæiske Centralbanks besluttende organer, som er Styrelsesrådet og direktionen.**
2. **Statuten for Det Europæiske System af Centralbanker og Den Europæiske Centralbank, i det følgende benævnt "statuten for ESCB og ECB", er nedfældet i en protokol, der er knyttet som bilag til traktaterne.**
3. Artikel 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1.a) og 36 i **statuten for ESCB og ECB** kan ændres af **Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure**. De træffer afgørelse **enten** på grundlag af en henstilling fra **Den Europæiske Centralbank** og efter høring af Kommissionen eller på forslag af Kommissionen og efter høring af **Den Europæiske Centralbank**.
4. Rådet, enten på forslag af Kommissionen og efter høring af Europa-Parlamentet og **Den Europæiske Centralbank** eller på grundlag af en henstilling fra **Den Europæiske Centralbank** og efter høring af Europa-Parlamentet og Kommissionen, vedtager de bestemmelser, der er nævnt i artikel 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 og 34.3 i **statuten for ESCB og ECB**.

## Artikel 108

*Den Europæiske Centralbank og de nationale centralbankers uafhængighed*

Under udøvelsen af de beføjelser og gennemførelsen af de opgaver og pligter, som de har fået pålagt ved **traktaterne og statuten for ESCB og ECB**, må hverken **Den Europæiske Centralbank**, de nationale centralbanker eller medlemmerne af disses besluttende organer søge eller modtage instrukser fra **EU-institutioner eller -organer**, fra medlemsstaternes regeringer eller fra nogen anden side. **Unionens** institutioner og organer samt medlemsstaternes regeringer forpligter sig til at respektere dette princip og til ikke at søge at øve indflydelse på, hvordan medlemmerne af **Den Europæiske Centralbanks** eller af de nationale centralbankers besluttende organer udfører deres opgaver.

## Artikel 109

*Medlemsstaternes lovgivning om nationale centralbanker*

Hver medlemsstat **sørger** for, at dens nationale lovgivning, herunder statutterne for dens nationale centralbank, er forenelig med **traktaterne og statuten for ESCB og ECB**.

## Artikel 110

*Den Europæiske Centralbanks opgaver*

1. Med henblik på at udføre de opgaver, der er pålagt ESCB, skal **Den Europæiske Centralbank** i overensstemmelse med bestemmelserne i **traktaterne** og på de betingelser, der er fastsat i **statutten for ESCB og ECB**:

- udstede forordninger i det omfang, det er nødvendigt for at gennemføre de opgaver, der er fastlagt i artikel 3.1, første led, og i artikel 19.1, 22 eller 25.2 i **statutten for ESCB og ECB**, samt i tilfælde, der fastsættes i de retsakter vedtaget af Rådet, der er nævnt i artikel 107, **stk. 4**
- vedtage de beslutninger, der er nødvendige for at udføre de opgaver, der er pålagt ESCB efter **traktaterne** og **statutten for ESCB og ECB**
- rette henstillinger og afgive udtalelser.

2. **Den Europæiske Centralbank** kan beslutte at offentliggøre sine beslutninger, henstillinger og udtalelser.

3. Inden for de grænser og på de vilkår, der vedtages af Rådet efter fremgangsmåden i artikel 107, **stk. 4**, skal **Den Europæiske Centralbank** være berettiget til at pålægge foretagender bøder eller tvangsbøder i tilfælde af manglende opfyldelse af forpligtelser i henhold til dens forordninger og beslutninger.

## Artikel 111

*Foranstaltninger til anvendelse af euroen som fælles valuta*

**Med forbehold af Den Europæiske Centralbanks beføjelser fastsætter Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure de foranstaltninger, der er nødvendige for anvendelsen af euroen som fælles valuta. Disse foranstaltninger vedtages efter høring af Den Europæiske Centralbank**

## KAPITEL 3

## BESTEMMELSER VEDRØRENDE INSTITUTIONERNE

## Artikel 112 (tidligere artikel 114)

*Oprettelse af Det Økonomiske og Finansielle Udvalg*

1. Med henblik på at fremme en samordning af medlemsstaternes politik i det fulde omfang, der er nødvendigt for det indre markeds funktion, oprettes der et **økonomisk og finansielt udvalg**.

2. Det Økonomiske og Finansielle Udvalg har til opgave:

- at afgive udtalelser, enten på opfordring af Rådet eller Kommissionen eller på eget initiativ, til brug for disse institutioner

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- at følge medlemsstaternes og **Unionens** økonomiske og finansielle situation og aflægge regelmæssige beretninger herom til Rådet og Kommissionen, især om de finansielle forbindelser med tredjelande og internationale institutioner
- med forbehold af artikel 207 at bidrage til forberedelsen af Rådets arbejde som nævnt i artikel 59, **67a**, artikel 99, stk. 2-6, artikel 100, 102, 103, 104, artikel 105, stk. 6, artikel 106, stk. 2, artikel 107, **stk. 3 og 4**, artikel 117, stk.2 og 3, artikel 119, artikel 120, stk. 2 og 3, og artikel 188o at udføre andre rådgivende og forberedende opgaver, som Rådet har pålagt det
- mindst en gang om året at undersøge situationen med hensyn til kapitalbevægelser og friheden til at foretage betalinger, som den følger af anvendelsen af traktaten og af Rådets foranstaltninger; undersøgelsen skal omfatte alle foranstaltninger vedrørende kapitalbevægelser og betalinger; udvalget aflægger beretning til Kommissionen og Rådet om resultaterne af denne undersøgelse.

Medlemsstaterne, Kommissionen og **Den Europæiske Centralbank** udnævner hver højst to medlemmer af udvalget.

3. Rådet, på forslag af Kommissionen og efter høring af **Den Europæiske Centralbank** og det i denne artikel omhandlede udvalg, fastlægger nærmere bestemmelser for sammensætningen af Det Økonomiske og Finansielle Udvalg. Formanden for Rådet underretter Europa-Parlamentet om den pågældende afgørelse.

4. Ud over de opgaver, der er anført i stk. 2, følger udvalget, såfremt og så længe der findes medlemsstater med en dispensation som nævnt i artikel **116** og **117**, disse medlemsstaters monetære og finansielle situation samt deres generelle betalingssystem og aflægger regelmæssige beretninger herom til Rådet og Kommissionen.

### Artikel 113 (tidligere artikel 115 EF)

#### *Henstillinger og forslag vedr. art. 99, stk. 4*

For så vidt angår spørgsmål, der falder ind under anvendelsesområdet for artikel 99, stk. 4, artikel 104, bortset fra stk. 14, artikel 188 o og 117, kan Rådet eller en medlemsstat anmode Kommissionen om, alt efter tilfældet, at fremsætte en henstilling eller et forslag. Kommissionen behandler sådanne anmodninger og forelægger straks Rådet sine konklusioner.

**KAPITEL 3a****SPECIFIKKE BESTEMMELSER FOR DE MEDLEMSSTATER, DER HAR EUROEN SOM VALUTA****Artikel 114**

*Samordningen og overvågning af eurolandenes budgetdisciplin, økonomisk-politiske retningslinjer*

1. For at medvirke til Den Økonomiske og Monetære Unions rette virkemåde og i overensstemmelse med de relevante bestemmelser i traktaterne vedtager Rådet efter den relevante procedure blandt dem, der er nævnt i artikel 99 og 104, undtagen proceduren i artikel 104, stk. 14, foranstaltninger for de medlemsstater, der har euroen som valuta:

- a) med henblik på at styrke samordningen og overvågningen af deres budgetdisciplin
- b) med henblik på for disse medlemsstater at udarbejde økonomisk-politiske retningslinjer, som skal være i overensstemmelse med dem, der er vedtaget for hele Unionen, samt at sikre overvågningen heraf.

2. I forbindelse med de foranstaltninger, der er nævnt i stk. 1, stemmer kun de medlemmer af Rådet, der repræsenterer medlemsstater, der har euroen som valuta.

Det kvalificerede flertal af disse medlemsstater defineres som angivet i artikel 205, stk. 3, litra a).

**Artikel 115**

*Møder mellem finansministrene, eurogruppen*

De nærmere bestemmelser for afholdelsen af møder mellem ministrene fra de medlemsstater, der har euroen som valuta, fastlægges i protokollen vedrørende Eurogruppen.

**Artikel 115a**

*Euroens plads i det internationale valutasystem*

1. For at sikre euroens plads i det internationale valutasystem vedtager Rådet på forslag af Kommissionen en afgørelse, der fastlægger fælles holdninger vedrørende spørgsmål af særlig interesse for Den Økonomiske og Monetære Union inden for rammerne af de kompetente internationale finansielle institutioner og konferencer. Rådet træffer afgørelse efter høring af Den Europæiske Centralbank.

2. Rådet kan på forslag af Kommissionen vedtage passende foranstaltninger for at sikre en samlet repræsentation inden for rammerne af de internationale finansielle institutioner og konferencer. Rådet træffer afgørelse efter høring af Den Europæiske Centralbank.

**3. I forbindelse med de foranstaltninger, der er nævnt i stk. 1 og 2, stemmer kun de medlemmer af Rådet, der repræsenterer medlemsstater, der har euroen som valuta. Det kvalificerede flertal af disse medlemsstater defineres som angivet i artikel 205, stk. 3, litra a).**

## KAPITEL 4

### OVERGANGSBESTEMMELSER

#### Artikel 116

##### *Medlemsstater med dispensation - stemmeregler*

- 1. Medlemsstater, med hensyn til hvilke Rådet ikke har besluttet, at de opfylder de nødvendige betingelser for indførelse af euroen, benævnes i det følgende: "medlemsstater med dispensation".**
- 2. Følgende bestemmelser i traktaterne gælder ikke for medlemsstater med dispensation:**
  - a) vedtagelse af de dele af de overordnede retningslinjer for de økonomiske politikker, der vedrører euroområdet generelt (artikel 99, stk. 2).
  - b) bindende midler til at afhjælpe uforholdsmæssigt store underskud (artikel 104, stk. 9 og 11)
  - c) mål og opgaver for Det Europæiske System af Centralbanker (artikel 105, stk. 1, 2, 3 og 5)
  - d) udstedelse af euro (artikel 106)
  - e) Den Europæiske Centralbanks retsakter (artikel 110)
  - f) foranstaltninger vedrørende anvendelsen af euroen (artikel 111)
  - g) monetære aftaler og andre foranstaltninger vedrørende valutakurspolitikken (artikel 188 O)
  - h) udnævnelse af medlemmerne af Den Europæiske Centralbanks direktion (artikel 245 B, stk. 2)
  - i) afgørelser, der fastlægger fælles holdninger vedrørende spørgsmål af særlig interesse for Den Økonomiske og Monetære Union inden for rammerne af de kompetente internationale finansielle institutioner og konferencer (artikel 115 A, stk. 1)
  - j) foranstaltninger for at sikre en samlet repræsentation inden for rammerne af internationale finansielle institutioner og konferencer (artikel 115 A, stk. 2).

I de i litra a)-j) nævnte artikler forstås derfor ved "medlemsstater" medlemsstater, der har euroen som valuta.

**3. Medlemsstater med dispensation og deres nationale centralbanker er udelukket fra rettighederne og forpligtelserne inden for Det Europæiske System af Centralbanker i overensstemmelse med kapitel IX i statuten for Det Europæiske System af Centralbanker og Den Europæiske Centralbank.**

**4. Stemmerettighederne for de medlemmer af Rådet, der repræsenterer medlemsstater med dispensation, suspenderes i forbindelse med Rådets vedtagelse af de foranstaltninger, der er nævnt i de i stk. 2 anførte artikler, samt i forbindelse med:**

- a) henstillinger rettet til medlemsstater, der har euroen som valuta, som led i den multilaterale overvågning, herunder vedrørende stabilitetsprogrammer og advarsler (artikel 99, stk. 4)
- b) foranstaltninger vedrørende uforholdsmæssigt store underskud for medlemsstater, der har euroen som valuta (artikel 104, stk. 6, 7, 8, 12 og 13).

**Det kvalificerede flertal af de øvrige medlemmer af Rådet defineres som angivet i artikel 205, stk. 3, litra a).**

Artikel 117 (Erstatter delvis artikel 121, 122 og 123 EF)

*Beretning om opfyldelse af forpligtelserne vedrørende ØMU'en;  
ophævelse af dispensation*

**1. Mindst en gang hvert andet år eller på anmodning af en medlemsstat med dispensation aflægger Kommissionen og Den Europæiske Centralbank beretning til Rådet om de fremskridt, der gøres af medlemsstater med dispensation for så vidt angår opfyldelse af deres forpligtelser med hensyn til virkeliggørelsen af Den Økonomiske og Monetære Union. Disse beretninger skal omfatte en undersøgelse af, hvorvidt hver af de pågældende medlemsstaters nationale lovgivning, herunder den nationale centralbanks statut, er forenelig med artikel 108 og 109, samt med statuten for ESCB og ECB. I beretningerne skal det ligeledes undersøges, om der er opnået en høj grad af vedvarende konvergens ved, at hver medlemsstat har opfyldt følgende kriterier:**

- en høj grad af prisstabilitet; dette vil fremgå af en inflationstakt, som ligger tæt op ad inflationstakten i de højst tre medlemsstater, der har nået de bedste resultater med hensyn til prisstabilitet
- holdbare offentlige finanser; dette vil fremgå af, at medlemsstaten har opnået en offentlig budgetstilling, der ikke udviser et uforholdsmæssigt stort underskud som fastslået i henhold til artikel 104, stk. 6
- overholdelse af de normale udsvingsmargener i det europæiske monetære systems valutakursmekanisme i mindst to år uden devaluering over for euroen
- den varige karakter af den konvergens, medlemsstaten med dispensation har opnået, samt af dens deltagelse i valutakursmekanismen, som afspejlet i de langfristede rentesatser.

De fire kriterier, der er nævnt i dette stykke, og de relevante tidsrum, de skal overholdes i, er præciseret nærmere i en protokol, der er knyttet som bilag til **traktaterne**. Kommissionens og EMI's beretninger skal også omhandle resultaterne af markedsintegrationen, situationen for og udviklingen i betalingsbalancens løbende poster og en redegørelse for udviklingen i enhedslønomsprognoser og andre prisindeks.

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2. Efter høring af Europa-Parlamentet og efter drøftelse i **Det Europæiske Råd**, træffer Rådet på forslag af Kommissionen afgørelse om, hvilke medlemsstater med dispensation der opfylder de nødvendige betingelser baseret på kriterierne i **stk. 1**, og ophæver de pågældende medlemsstaters dispensation.

**Rådet træffer afgørelse efter at have modtaget en henstilling fra et kvalificeret flertal af de af dets medlemmer, som repræsenterer medlemsstater, der har euroen som valuta. Disse medlemmer træffer afgørelse inden seks måneder efter, at Rådet har modtaget Kommissionens forslag.**

**Det kvalificerede flertal af medlemsstater som nævnt i andet afsnit defineres som angivet i artikel 205, stk. 3, litra a).**

3. Hvis det i overensstemmelse med **proceduren i stk. 2**, besluttes at ophæve en dispensation, **fastsætter** Rådet **uigenkaldeligt** med enstemmighed blandt **de medlemsstater, der har euroen som valuta** og den berørte medlemsstat, på forslag af Kommissionen og efter høring af **Den Europæiske Centralbank**, den kurs, til hvilken **euroen** træder i stedet for den berørte medlemsstats valuta, og træffer de andre foranstaltninger, som er nødvendige for indførelse af euroen som fælles valuta i den pågældende medlemsstat.

### Artikel 118

(tidligere artikel 117 EF og 123 EF)

#### *ECB's opgaver i relation til medlemsstater med dispensation*

1. Hvis og så længe der er medlemsstater med dispensation, og med forbehold af artikel **107, stk. 1**, i **traktaterne**, nedsættes **Den Europæiske Centralbanks** Generelle Råd, jf. artikel **43, stk. 1**, i **statutten for ESCB og ECB**, som **Den Europæiske Centralbanks** tredje besluttede organ.

**2. Hvis og så længe der er medlemsstater med dispensation, har Den Europæiske Centralbank for så vidt angår de pågældende medlemsstater til opgave at:**

- styrke samarbejdet mellem medlemsstaternes centralbanker
- styrke samordningen af medlemsstaternes monetære politik med henblik på at sikre prisstabilitet
- overvåge **valutakursmekanismens** funktion
- afholde konsultationer vedrørende spørgsmål, der falder ind under de nationale centralbankers kompetence, og som berører de finansielle institutioners og markeds stabilitet
- **udøve de** opgaver, **der oprindeligt blev udøvet** af Den Europæiske Fond for Monetært Samarbejde, **og dernæst af Det Europæiske Monetære Institut.**



Artikel 118a  
(tidligere artikel 124 EF)

*Medlemsstaternes valutakurspolitik*

1. **Hver medlemsstat** med dispensation behandler sin valutakurspolitik som et spørgsmål af fælles interesse. Medlemsstaterne tager i denne forbindelse hensyn til erfaringer fra samarbejdet inden for rammerne af **valutakursmekanismen**.

2. Fra indledningen af tredje fase og så længe en medlemsstat har dispensation, finder stk. 1 tilsvarende anvendelse på den pågældende medlemsstats valutakurspolitik.

Artikel 119

*En medlemsstats vanskeligheder mht. sin betalingsbalance*

1. I tilfælde af, at en medlemsstat **med dispensation** har vanskeligheder eller alvorligt trues af vanskeligheder med hensyn til sin betalingsbalance, enten som følge af uligevægt på dens globale betalingsbalance eller som følge af arten af den valuta, den råder over, og navnlig når disse vanskeligheder vil kunne bringe det **indre markeds** funktion eller **virke-liggørelsen** af den fælles handelspolitik i fare, indleder Kommissionen straks en undersøgelse af situationen i den pågældende stat og af de foranstaltninger, som denne har truffet eller kan træffe i henhold til bestemmelserne i **traktaterne** under anvendelse af alle til rådighed stående midler. Kommissionen angiver de foranstaltninger, som den henstiller til den pågældende stat at træffe.

Såfremt de af en medlemsstat **med dispensation** trufne forholdsregler og de af Kommissionen foreslåede foranstaltninger viser sig utilstrækkelige til at afhjælpe de opståede eller truende vanskeligheder, skal Kommissionen efter at have indhentet udtalelse fra **Det Økonomiske og Finansielle Udvalg** rette henstilling til Rådet om gensidig bistandsydelse og passende former herfor.

Kommissionen holder regelmæssigt Rådet underrettet om situationen og dens udvikling.

2. Rådet træffer afgørelse om ydelse af gensidig bistand; det udsteder direktiver eller vedtager beslutninger, som fastlægger vilkårene for og den nærmere udformning af denne bistand. Den gensidige bistand kan især gå ud på:

- a) fælles optræden over for andre internationale organisationer, til hvilke **medlemsstater med dispensation** kan henvende sig
- b) foranstaltninger, som er nødvendige for at undgå omlægninger i samhandelen, når den **medlemsstat med dispensation**, der er i vanskeligheder, opretholder eller genindfører kvantitative restriktioner over for tredjelande
- c) ydelse af kreditter i begrænset omfang fra de øvrige medlemsstater under forbehold af deres samtykke.

3. Godkender Rådet ikke den gensidige bistand, hvormod Kommissionen har rettet henstilling, eller er den ydede bistand og de trufne foranstaltninger utilstrækkelige, bemyndiger Kommissionen den **medlemsstat med dispensation**, der er i vanskeligheder, til at træffe beskyttelsesforanstaltninger på de vilkår og i den nærmere udformning, som Kommissionen fastsætter.

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Rådet kan tilbagekalde denne bemyndigelse og ændre vilkårene for og udformningen af beskyttelsesforanstaltningerne.

### Artikel 120

#### *Beskyttelsesforanstaltninger ved pludselig betalingsbalancekrise*

1. Opstår der en pludselig betalingsbalancekrise, og træffes der ikke omgående beslutning i henhold til artikel 119, stk. 2, kan **en medlemsstat med dispensation** i forebyggende øjemed træffe de nødvendige beskyttelsesforanstaltninger. Disse foranstaltninger skal medføre mindst mulig forstyrrelse i det **indre markeds** funktion og må ikke gå ud over, hvad der er absolut nødvendigt for at afhjælpe de pludseligt opståede vanskeligheder.
2. Kommissionen og de øvrige medlemsstater skal underrettes om disse beskyttelsesforanstaltninger senest ved deres ikrafttræden. Kommissionen kan anbefale Rådet, at der ydes gensidig bistand i henhold til artikel 119.
3. Efter **henstilling** fra Kommissionen og høring af **Det Økonomiske og Finansielle Udvalg** kan Rådet beslutte, at den pågældende medlemsstat skal ændre, udsætte eller ophæve ovennævnte beskyttelsesforanstaltninger.

## AFSNIT VIII

### BESKÆFTIGELSE

#### Artikel 125

#### *Samordnet strategi for beskæftigelse*

Medlemsstaterne og **Unionen** arbejder i henhold til dette traktatafsnit på at udvikle en samordnet strategi for beskæftigelse og især for fremme af en veluddannet, velkvalificeret og smidig arbejdsstyrke og arbejdsmarkeder, som reagerer på økonomiske forandringer, med henblik på at nå de mål, der er fastsat i artikel 3 i traktaten om Den Europæiske Union.

#### Artikel 126

#### *Medlemsstaternes beskæftigelsespolitikker; beskæftigelsesfremme*

1. Medlemsstaterne bidrager med deres beskæftigelsespolitikker til at nå de mål, der er nævnt i artikel 125, på en måde, som er i overensstemmelse med de overordnede retningslinjer for medlemsstaternes og **Unionens** økonomiske politik, som vedtages i henhold til artikel 99, stk. 2.
2. Under hensyn til national praksis for så vidt angår arbejdsmarkedets parter ansvar betragter medlemsstaterne beskæftigelsesfremme som et spørgsmål af fælles interesse og samordner deres indsats i den henseende i Rådet i overensstemmelse med artikel 128.

## Artikel 127

*Målsætning om et højt beskæftigelsesniveau*

1. **Unionen** bidrager til et højt beskæftigelsesniveau ved at tilskynde til samarbejde mellem medlemsstaterne og ved at støtte og i nødvendigt omfang supplere deres foranstaltninger. Det respekterer i den forbindelse medlemsstaternes kompetence.
2. Målsætningen om et højt beskæftigelsesniveau skal tages med i overvejelserne ved udformningen og gennemførelsen af **Unionens** politikker og aktiviteter.

## Artikel 128

*Retningslinjer for medlemsstaternes beskæftigelsespolitikker*

1. Det Europæiske Råd overvejer hvert år beskæftigelsessituationen i **Unionen** og vedtager konklusioner herom på grundlag af en fælles årsrapport fra Rådet og Kommissionen.
2. På grundlag af Det Europæiske Råds konklusioner fastlægger Rådet hvert år på forslag af Kommissionen og efter høring af Europa-Parlamentet, Det Økonomiske og Sociale Udvalg, Regionsudvalget og Beskæftigelsesudvalget i artikel 130 retningslinjer, som medlemsstaterne skal tage hensyn til i deres egne beskæftigelsespolitikker. Disse retningslinjer skal være i overensstemmelse med de overordnede retningslinjer, der vedtages i henhold til artikel 99, stk. 2.
3. Hver medlemsstat forelægger Rådet og Kommissionen en årsrapport om de vigtigste foranstaltninger, den har truffet til gennemførelse af sin beskæftigelsespolitik på baggrund af retningslinjerne for beskæftigelse, som nævnt i stk. 2.
4. På grundlag af de rapporter, der er nævnt i stk. 3, og efter at have hørt Beskæftigelsesudvalget foretager Rådet hvert år en gennemgang af gennemførelsen af medlemsstaternes politikker på baggrund af retningslinjerne for beskæftigelse. Rådet kan efter henstilling fra Kommissionen rette henstillinger til medlemsstaterne, hvis det finder det hensigtsmæssigt på baggrund af gennemgangen.
5. På grundlag af resultaterne af denne gennemgang forelægger Rådet og Kommissionen Det Europæiske Råd en fælles årsrapport om beskæftigelsessituationen i **Unionen** og om gennemførelsen af retningslinjerne for beskæftigelsen.

## Artikel 129

*Tilskyndelsesforanstaltninger på beskæftigelsesområdet*

**Europa-Parlamentet** og Rådet kan efter **den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget vedtage tilskyndelsesforanstaltninger, der skal fremme samarbejdet mellem medlemsstaterne og støtte deres indsats på beskæftigelsesområdet gennem initiativer, der tager sigte på at udvikle en udveksling af oplysninger og gode erfaringer, og som skal sikre komparativ analysevirksomhed og rådgivning samt fremme fornyende metoder og evaluere erfaringer, navnlig ved hjælp af pilotprojekter.

Disse foranstaltninger indebærer ikke harmonisering af medlemsstaternes love og administrative bestemmelser.

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Artikel 130

*Det rådgivende beskæftigelsesudvalg*

Rådet, **der træffer afgørelse med simpelt flertal**, nedsætter efter høring af Europa-Parlamentet et beskæftigelsesudvalg af rådgivende karakter, som skal fremme samordningen mellem medlemsstaterne vedrørende beskæftigelses- og arbejdsmarkedspolitikkerne. Udvalget har til opgave:

- at overvåge beskæftigelsessituationen og beskæftigelsespolitikkerne i medlemsstaterne og **Unionen**
- med forbehold af artikel 207 at afgive udtalelser på Rådets eller Kommissionens anmodning eller på eget initiativ og at bidrage til forberedelsen af Rådets arbejde som nævnt i artikel 128.

Udvalget hører under opfyldelsen af sit mandat arbejdsmarkedets parter.

Hver medlemsstat og Kommissionen udpeger to medlemmer af udvalget.

AFSNIT IX

SOCIAL- OG ARBEJDSMARKEDSPOLITIKKEN

Artikel 136

*Målsætninger om beskæftigelsesfremme og forbedring af leve- og arbejdsvilkår*

**Unionen** og medlemsstaterne, der er opmærksomme på de grundlæggende arbejdsmarkedsmæssige og sociale rettigheder som bl.a. er fastlagt i den europæiske socialpagt undertegnet i Torino den 18. oktober 1961 og fællesskabspagten af 1989 om arbejdstageres grundlæggende arbejdsmarkedsmæssige og sociale rettigheder, har som mål at fremme beskæftigelsen, en forbedring af leve- og arbejdsvilkårene for herigennem at muliggøre en udligning af disse vilkår på et stadigt stigende niveau, en passende social beskyttelse, dialogen på arbejdsmarkedet, en udvikling af de menneskelige ressourcer, der skal muliggøre et varigt højt beskæftigelsesniveau, og bekæmpelse af social udstødelse.

Med henblik herpå iværksætter **Unionen** og medlemsstaterne foranstaltninger, der tager hensyn til forskellene i national praksis, særlig på overenskomstområdet, samt til nødvendigheden af at opretholde **EU**-økonomiens konkurrenceevne.

De er af den opfattelse, at en sådan udvikling vil blive en følge såvel af **det indre markeds** virksomhed, der vil fremme en harmonisering af de sociale ordninger, som af de i **traktaterne** foreskrevne fremgangsmåder og af den indbyrdes tilnærmelse af love og administrativt fastsatte bestemmelser.

**Artikel 136a***Arbejdsmarkedets parter og den sociale dialog*

**Unionen anerkender og fremmer arbejdsmarkedsparternes rolle på EU-plan under hensyntagen til de nationale systemers forskelligartede karakter. Den letter dialogen mellem dem og respekterer deres uafhængighed.**

**Sociale trepartstopmøder om vækst og beskæftigelse bidrager til den sociale dialog.**

**Artikel 137***Unionens indsatsområde til virkeliggørelse af målsætningerne*

1. Med henblik på at virkeliggøre de i artikel 136 fastlagte mål støtter og supplerer **Unionen** medlemsstaternes indsats på følgende områder:

- a) forbedring af især arbejdsmiljøet for at beskytte arbejdstagernes sikkerhed og sundhed
- b) arbejdsvilkårene
- c) arbejdstagernes sociale sikring og sociale beskyttelse
- d) beskyttelse af arbejdstagere ved ophævelse af en arbejdskontrakt
- e) information og høring af arbejdstagerne
- f) repræsentation af og kollektivt forsvar for arbejdstagernes og arbejdsgivernes interesser, herunder medbestemmelse, jf. dog stk. 5
- g) beskæftigelsesvilkår for tredjelandsstatsborgere, der opholder sig lovligt på **Unionens** område
- h) integration af personer, der er udstødt fra arbejdsmarkedet, jf. dog artikel 150
- i) lige muligheder for mænd og kvinder på arbejdsmarkedet og ligebehandling i arbejdet
- j) bekæmpelse af social udstødelse
- k) modernisering af de sociale beskyttelsessystemer, jf. dog litra c).

2. Med henblik herpå kan **Europa-Parlamentet og Rådet**:

- a) vedtage foranstaltninger til fremme af samarbejdet mellem medlemsstaterne gennem initiativer, der tager sigte på at opnå større viden, udvikle udvekslingen af oplysninger og god praksis, fremme nytænkning og vurdere erfaringerne, men uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser

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- b) på de i stk. 1, litra a)-i), nævnte områder ved udstedelse af direktiver vedtage minimumsforskrifter, der skal gennemføres gradvis under hensyn til de vilkår og tekniske bestemmelser, der gælder i hver af medlemsstaterne. I disse direktiver skal det undgås at pålægge administrative, finansielle og retlige byrder af en sådan art, at de hæmmer oprettelse og udvikling af små og mellemstore virksomheder.

**Europa-Parlamentet og Rådet træffer afgørelse efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget.

På de områder, der er nævnt i denne artikels stk. 1, litra c), d), f) og g), **træffer** Rådet afgørelse **efter en særlig lovgivningsprocedure** med enstemmighed og efter høring af Europa-Parlamentet og de nævnte udvalg.

Rådet kan med enstemmighed på forslag af Kommissionen og efter høring af Europa-Parlamentet beslutte at lade **den almindelige lovgivningsprocedure** finde anvendelse på nærværende artikels stk. 1, litra d), f) og g).

3. En medlemsstat kan overlade det til arbejdsmarkedets parter, efter en fælles anmodning fra disse, at gennemføre direktiver, der er udstedt i henhold til stk. 2, eller, **når det er relevant, at gennemføre en rådsafgørelse, der er vedtaget i henhold til artikel 139.**

I så tilfælde sikrer den sig, at arbejdsmarkedets parter senest på den dato, hvor et direktiv eller en afgørelse skal være gennemført **eller iværksat**, har indført de nødvendige bestemmelser ad aftalemæssig vej, idet den skal træffe de nødvendige foranstaltninger for på et hvilket som helst tidspunkt at være i stand til at sikre de resultater, der er foreskrevet i det pågældende direktiv **eller den pågældende afgørelse.**

4. Bestemmelser, som vedtages i henhold til denne artikel,
- anfægter ikke medlemsstaternes mulighed for at fastlægge de grundlæggende principper i deres sociale sikringsordninger og må ikke i væsentligt omfang berøre den økonomiske balance i disse ordninger
  - er ikke til hinder for, at de enkelte medlemsstater opretholder eller indfører strengere beskyttelsesforanstaltninger, når de er forenelige med **traktaterne.**
5. Bestemmelserne i denne artikel gælder ikke for lønforhold, organisationsret, strejkeret eller ret til lockout.

### Artikel 138

#### *Konsultation med arbejdsmarkedets parter*

1. Kommissionen har til opgave at fremme konsultationen af arbejdsmarkedets parter på **EU-plan** og træffer alle nødvendige foranstaltninger med henblik på at lette dialogen mellem dem, idet den samtidig sørger for en afbalanceret støtte til begge parter.
2. Med henblik herpå konsulterer Kommissionen arbejdsmarkedets parter om de mulige retningslinjer for en **EU-indsats**, før den fremsætter forslag på det sociale og arbejdsmarkedspolitiske område.
3. Hvis Kommissionen efter denne konsultation finder en **EU-indsats** hensigtsmæssig, konsulterer den arbejdsmarkedets parter om indholdet af det påtænkte forslag.

Arbejdsmarkedets parter afgiver en udtalelse eller om nødvendigt en henstilling til Kommissionen.

4. I forbindelse med **den i stk. 2 og 3 nævnte** konsultation kan arbejdsmarkedets parter meddele Kommissionen, at de ønsker at indlede processen i artikel 139. Varigheden af **denne proces** må ikke overstige 9 måneder, medmindre arbejdsmarkedets parter og Kommissionen i fællesskab træffer beslutning om en forlængelse.

#### Artikel 139

##### *Overenskomster og aftaler på EU-plan*

1. Dialogen mellem arbejdsmarkedets parter på **EU-plan** kan, hvis parterne finder det ønskeligt, føre til overenskomstmæssige forbindelser, herunder aftaler.

2. Iværksættelsen af aftaler, der indgås på **EU-plan**, finder sted — enten efter de fremgangsmåder og den praksis, arbejdsmarkedets parter og medlemsstaterne normalt anvender — eller i spørgsmål under artikel 137 efter fælles anmodning fra de underskrivende parter, ved en afgørelse, som Rådet træffer på forslag af Kommissionen. **Europa-Parlamentet underrettes.**

Rådet træffer afgørelse med **enstemmighed, når** den pågældende aftale indeholder en eller flere bestemmelser, der vedrører et af de områder, hvor der kræves enstemmighed i henhold til artikel 137, stk. 2.

#### Artikel 140

##### *Samarbejde inden for social- og arbejdsmarkedspolitikken*

Med henblik på at virkeliggøre de i artikel 136 fastlagte mål og med forbehold af de øvrige bestemmelser i **traktaterne** fremmer Kommissionen samarbejdet mellem medlemsstaterne og letter samordningen af deres indsats på samtlige områder inden for social- og arbejdsmarkedspolitikken, der er omfattet af dette kapitel, navnlig i spørgsmål vedrørende:

- beskæftigelse
- arbejdsretten og arbejdsvilkårene
- den almindelige og videregående faglige uddannelse
- social sikring
- forebyggelse af arbejdsulykker og erhvervssygdomme
- sundhedsforskrifter for arbejde
- organisationsretten og retten til kollektive forhandlinger mellem arbejdsgivere og arbejdstagere.

Med henblik herpå skal Kommissionen i nær kontakt med medlemsstaterne foretage undersøgelser, afgive udtalelser og tilrettelægge samråd både med hensyn til spørgsmål af national karakter og til spørgsmål af interesse for internationale organisationer, **navnlig**

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**initiativer, der tager sigte på at opstille retningslinjer og indikatorer, tilrettelægge udveksling af bedste praksis og udarbejde de nødvendige elementer til periodisk overvågning og evaluering. Europa-Parlamentet holdes fuldt underrettet.**

Kommissionen hører Det Økonomiske og Sociale Udvalg, inden den afgiver de i denne artikel omhandlede udtalelser.

Artikel 141

*Ligeløn og ligebehandling*

1. Hver medlemsstat gennemfører princippet om lige løn til mænd og kvinder for samme arbejde eller arbejde af samme værdi.
2. Ved løn forstås i denne artikel den almindelige grund- eller minimumsløn og alle andre ydelser, som arbejdstageren som følge af arbejdsforholdet modtager fra arbejdsgiveren direkte eller indirekte i penge eller naturalier.

Lige løn uden forskelsbehandling baseret på køn indebærer:

- a) at den løn, der ydes for samme akkordlønnede arbejde, fastsættes på samme beregningsgrundlag
- b) at den løn, der ydes for tidlønnet arbejde, er den samme for samme slags arbejde.

3. **Europa-Parlamentet og Rådet vedtager efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg foranstaltninger, der skal sikre anvendelsen af princippet om lige muligheder for og ligebehandling af mænd og kvinder i forbindelse med beskæftigelse og erhverv, herunder princippet om lige løn for samme arbejde eller arbejde af samme værdi.

4. For at sikre fuld ligestilling mellem mænd og kvinder i praksis på arbejdsmarkedet er princippet om ligebehandling ikke til hinder for, at de enkelte medlemsstater opretholder eller vedtager foranstaltninger, der tager sigte på at indføre specifikke fordele, der har til formål at gøre det lettere for det underrepræsenterede køn at udøve en erhvervsaktivitet eller at forebygge eller opveje ulemper i den erhvervsmæssige karriere.

Artikel 142

*Betalt frihed*

Medlemsstaterne bestræber sig på at opretholde det bestående ligeværd mellem deres ordninger vedrørende betalt frihed.

Artikel 143

*Kommissionens rapport om gennemførelsen af målene i artikel 136*

Kommissionen udarbejder hvert år en rapport om gennemførelsen af målene i artikel 136, herunder om udviklingen i den demografiske situation i **Unionen**. Den fremsender denne rapport til Europa-Parlamentet, Rådet og Det Økonomiske og Sociale Udvalg.



## Artikel 144

*Det rådgivende udvalg for social beskyttelse*

Rådet, **der træffer afgørelse med simpelt flertal**, nedsætter efter høring af Europa-Parlamentet et udvalg for social beskyttelse af rådgivende karakter, der skal fremme samarbejdet om social beskyttelse mellem medlemsstaterne samt mellem disse og Kommissionen. Udvalget har til opgave:

- at følge den sociale situation og udviklingen i politikkerne vedrørende social beskyttelse i medlemsstaterne og i **Unionen**
- at fremme udvekslingen af oplysninger, erfaringer og god praksis mellem medlemsstaterne og med Kommissionen
- med forbehold af artikel 207 at udarbejde rapporter, afgive udtalelser eller iværksætte andre aktiviteter på de områder, der hører under dets kompetence, på Rådets eller Kommissionens anmodning eller på eget initiativ.

Under udøvelsen af sit mandat etablerer udvalget hensigtsmæssige kontakter med arbejdsmarkedets parter.

Hver medlemsstat og Kommissionen udpeger to medlemmer af udvalget.

## Artikel 145

*Kommissionens årlige rapport (jf. art 143)*

Kommissionens årsberetning til Europa-Parlamentet skal indeholde et særligt kapitel om udviklingen af de sociale forhold i **Unionen**.

Europa-Parlamentet kan opfordre Kommissionen til at afgive redegørelser om særlige spørgsmål vedrørende de sociale forhold.

**AFSNIT X**

## DEN EUROPÆISKE SOCIALFOND

## Artikel 146

*Oprettelse af Den Europæiske Socialfond (ESF)*

For at forbedre arbejdskraftens beskæftigelsesmuligheder inden for det indre marked og således bidrage til en højnelse af levestandarden oprettes der inden for rammerne af nedenævnte bestemmelser en Europæisk Socialfond, som skal lette arbejdskraftens adgang til beskæftigelse og fremme dens geografiske og faglige bevægelighed inden for **Unionen** samt lette tilpasningen til industrielle ændringer og til ændringer i produktionssystemerne, navnlig ved erhvervsuddannelse og omskoling.

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### Artikel 147

#### *Administration af fonden*

Fondens administration påhviler Kommissionen.

Kommissionen bistås i dette arbejde af et udvalg, som ledes af et medlem af Kommissionen, og som er sammensat af repræsentanter for regeringerne samt for arbejdstager- og arbejdsgiverorganisationerne.

### Artikel 148

#### *Vedtagelse af gennemførelsesforordninger vedr. ESF*

**Europa-Parlamentet og Rådet vedtager efter den almindelige lovgivningsprocedure og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget gennemførelsesforordninger** vedrørende Den Europæiske Socialfond.

## AFSNIT XI

### UDDANNELSE, ERHVERVSUDDANNELSE, UNGDOM OG SPORT

#### Artikel 149

##### *Målsætningen vedr. uddannelse; sport i Europa*

1. **Unionen** bidrager til udviklingen af et højt uddannelsesniveau ved at fremme samarbejdet mellem medlemsstaterne og om nødvendigt at støtte og supplere disses indsats, med fuld respekt for medlemsstaternes ansvar for undervisningsindholdet og opbygningen af uddannelsessystemerne samt deres kulturelle og sproglige mangfoldighed.

**Unionen bidrager til fremme af sport i Europa og tager i den forbindelse hensyn til sportens specifikke forhold, dens strukturer, der bygger på frivillighed, og dens sociale og uddannende funktion.**

2. Målene for **Unionens indsats** er

- at udvikle den europæiske dimension på uddannelsesområdet, navnlig gennem undervisning i og udbredelse af medlemsstaternes sprog
- at begunstige studerendes og læreres mobilitet, bl.a. ved at fremme den akademiske anerkendelse af eksamensbeviser og studieperioder
- at fremme samarbejdet mellem uddannelsesinstitutionerne
- at fremme udvekslingen af oplysninger og erfaringer om spørgsmål, som er fælles for medlemsstaternes uddannelsessystemer
- at tilskynde til udvikling af udvekslingen af unge og ungdomsledere **og fremme de unges deltagelse i det demokratiske liv i Europa**
- at tilskynde til udvikling af fjernundervisning.

- **at udvikle sportens europæiske dimension ved at fremme retfærdighed og åbenhed i sportskonkurrencer og samarbejde mellem de organisationer og myndigheder, der har ansvar for sport, samt ved at beskytte sportsudøvernes, især de yngstes, fysiske og moralske integritet.**
3. **Unionen** og medlemsstaterne fremmer samarbejdet med tredjelande og med de internationale organisationer, der beskæftiger sig med uddannelsesforhold **og sport**, herunder navnlig Europarådet.
4. For at bidrage til virkeliggørelse af målene i denne artikel
- **vedtager Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget: tilskyndelsesforanstaltninger, men uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser
  - **vedtager Rådet** på forslag af Kommissionen: henstillinger.

#### Artikel 150

##### *Målsætningen vedr. erhvervsuddannelse*

1. **Unionen** iværksætter en erhvervsuddannelsespolitik, der støtter og supplerer medlemsstaternes aktioner med fuld respekt for, at ansvaret for undervisningsindholdet og tilrettelæggelsen af erhvervsuddannelserne ligger hos medlemsstaterne.
2. Målene for **Unionens** indsats er
- at lette tilpasningen til den industrielle udvikling, navnlig ved erhvervsuddannelse og omskoling
  - at forbedre den grundlæggende erhvervsuddannelse samt efter- og videreuddannelsen for at lette den erhvervsmæssige integration og reintegrations på arbejdsmarkedet
  - at lette adgangen til erhvervsuddannelse og begunstige mobiliteten for erhvervslærere og personer under uddannelse, navnlig unge
  - at stimulere samarbejdet om erhvervsuddannelse mellem uddannelsesinstitutioner og virksomheder
  - at fremme udvekslingen af oplysninger og erfaringer om spørgsmål, der er fælles for medlemsstaternes uddannelsessystemer.
3. **Unionen** og medlemsstaterne fremmer samarbejdet med tredjelande og med de internationale organisationer, der beskæftiger sig med erhvervsuddannelsesforhold.
4. **Europa-Parlamentet og Rådet** vedtager **efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget foranstaltninger, som kan bidrage til virkeliggørelsen af de mål, der er anført i denne artikel, men uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser, **og Rådet vedtager henstillinger på forslag af Kommissionen.**

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AFSNIT XII

KULTUR

Artikel 151

*Målsætning og procedure for vedtagelse af tilskyndelsesforanstaltninger*

1. **Unionen** bidrager til, at medlemsstaternes kulturer kan udfolde sig, idet det respekterer den nationale og regionale mangfoldighed og samtidig fremhæver den fælles kulturarv.
2. **Unionen** skal ved sin indsats fremme samarbejdet mellem medlemsstaterne og om nødvendigt støtte og udbygge medlemsstaternes indsats på følgende områder:
  - forbedring af kendskabet til og formidlingen af de europæiske folkeslags kultur og historie
  - bevarelse og beskyttelse af den kulturarv, der er af europæisk betydning
  - ikke-kommercielle udvekslinger
  - kunstneriske og litterære frembringelser, herunder i den audiovisuelle sektor.
3. **Unionen** og dets medlemsstater fremmer samarbejdet med tredjelande og med de internationale organisationer, der beskæftiger sig med kulturelle forhold, herunder navnlig Europarådet.
4. **Unionen** tager hensyn til de kulturelle aspekter i sin indsats i henhold til andre bestemmelser i **traktaterne**, navnlig med henblik på at respektere og fremme sine kulturers mangfoldighed.
5. For at bidrage til virkeliggørelse af målene i denne artikel
  - **vedtager Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure** og efter høring af Regionsudvalget: tilskyndelsesforanstaltninger, men uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser;
  - **vedtager Rådet** på forslag af Kommissionen: henstillinger.

AFSNIT XIII

FOLKESUNDHED

Artikel 152

*Målsætning og procedure for vedtagelse af foranstaltninger*

1. Der skal sikres et højt sundhedsbeskyttelsesniveau ved fastlæggelsen og gennemførelsen af alle **Unionens** politikker og aktiviteter.

**Unionens** indsats, der skal være et supplement til de nationale politikker, skal være rettet mod at forbedre folkesundheden og forebygge sygdomme hos mennesker samt imødegå forhold, der kan indebære risiko for **den fysiske og mentale** sundhed. Indsatsen skal omfatte bekæmpelse af de største trusler mod sundheden ved at fremme forskning i deres årsager, spredning og forebyggelse samt sundhedsoplysning og –uddannelse, **samt overvågning af alvorlige grænseoverskridende sundhedstrusler, varsling i tilfælde af sådanne trusler og bekæmpelse heraf.**

**Unionen** supplerer medlemsstaternes indsats for at begrænse narkotikarelaterede helbredsskader, herunder ved oplysning og forebyggelse.

2. **Unionen** fremmer samarbejdet mellem medlemsstaterne på de områder, der er omhandlet i denne artikel, og støtter om nødvendigt deres indsats. **Den fremmer navnlig samarbejde mellem medlemsstaterne med henblik på at få deres sundhedstjenester til at supplere hinanden bedre i grænseregioner.**

Medlemsstaterne samordner indbyrdes og i kontakt med Kommissionen deres politikker og programmer på de i stk. 1 omhandlede områder. Kommissionen kan i nær kontakt med medlemsstaterne tage ethvert passende initiativ for at fremme denne samordning, **navnlig initiativer, der tager sigte på at opstille retningslinjer og indikatorer, tilrettelægge udveksling af bedste praksis og udarbejde de nødvendige elementer til periodisk overvågning og evaluering. Europa-Parlamentet holdes fuldt underrettet.**

3. **Unionen** og medlemsstaterne fremmer samarbejdet med tredjelande og med de internationale organisationer, der beskæftiger sig med folkesundhed.

4. **Uanset artikel 2, stk. 5, og artikel 6, litra a), og i overensstemmelse med artikel 4, stk. 2, litra k), bidrager Rådet** efter den almindelige lovgivningsprocedure og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget til virkeliggørelse af målene i nærværende artikel ved, **for at imødegå de fælles sikkerhedsudfordringer:**

- a) at vedtage foranstaltninger til fastsættelse af en høj standard for kvaliteten og sikkerheden af organer og stoffer af menneskelig oprindelse, blod og blodprodukter; disse foranstaltninger er ikke til hinder for, at den enkelte medlemsstat opretholder eller indfører strengere beskyttelsesforanstaltninger
- b) at vedtage foranstaltninger på veterinær- og plantesundhedsområdet, der direkte har til formål at beskytte folkesundheden
- c) **at vedtage foranstaltninger til fastsættelse af høje standarder for kvaliteten og sikkerheden af lægemidler og medicinsk udstyr.**

5 **Europa-Parlamentet og Rådet** kan ligeledes efter den almindelige lovgivningsprocedure og efter høring af Regionsudvalget og Det Økonomiske og Sociale Udvalg vedtage tilskyndelsesforanstaltninger med henblik på beskyttelse og forbedring af folkesundheden **og navnlig bekæmpelse af større grænseoverskridende trusler mod sundheden, foranstaltninger, der vedrører overvågning af alvorlige grænseoverskridende sundhedstrusler, varsling i tilfælde af sådanne trusler og bekæmpelse heraf, samt foranstaltninger med direkte henblik på beskyttelse af folkesundheden i forbindelse med tobak og alkoholmisbrug**, uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser.

6. Rådet kan også på forslag af Kommissionen vedtage henstillinger med henblik på at nå målene i denne artikel.

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7. **Unionens** indsats på folkesundhedsområdet respekterer fuldt ud medlemsstaternes ansvar for **udformningen af deres sundhedspolitik samt for** organisation og levering af sundhedstjenesteydelser og behandling **på sundhedsområdet. Medlemsstaternes ansvar omfatter forvaltningen af sundhedstjenesteydelser og behandling på sundhedsområdet samt for fordelingen af de midler, der afsættes hertil. De** i stk. 4, litra a), **nævnte** foranstaltninger **berører** ikke nationale bestemmelser om donation eller medicinsk anvendelse af organer og blod.

#### AFSNIT XIV

#### FORBRUGERBESKYTTELSE

#### Artikel 153

##### *Målsætning og foranstaltninger vedr. forbrugerbeskyttelse*

1. For at fremme forbrugernes interesser og sikre et højt forbrugerbeskyttelsesniveau bidrager **Unionen** til at beskytte forbrugernes sundhed, sikkerhed og økonomiske interesser og til at fremme deres ret til oplysning og uddannelse og til at organisere sig for at beskytte deres interesser.
2. **Unionen** bidrager til at nå målene i stk. 1 ved
  - a) foranstaltninger, som det vedtager i henhold til artikel **94** som led i gennemførelsen af det indre marked
  - b) foranstaltninger, som støtter, supplerer og overvåger den politik, medlemsstaterne fører.
3. **Europa-Parlamentet og Rådet** vedtager **efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg de foranstaltninger, der er omhandlet i stk. 2, litra b).
4. Foranstaltninger, som vedtages i medfør af stk. 3, er ikke til hinder for, at den enkelte medlemsstat opretholder eller indfører strengere beskyttelsesforanstaltninger. Disse foranstaltninger skal være forenelige med **traktaterne**. De meddeles Kommissionen.

#### AFSNIT XV

#### TRANSEUROPEISKE NET

#### Artikel 154

##### *Oprettelse og udvikling af transeuropæiske net på transport-, telekommunikations- og energiinfrastrukturområdet*

1. For at bidrage til virkeliggørelsen af målene i **artikel 22a** og 158 og give unionsborgerne, de erhvervsdrivende og de regionale og lokale administrative enheder mulighed for fuldt

ud at udnytte de fordele, som etableringen af et område uden indre grænser medfører, bidrager **Unionen** til oprettelse og udvikling af transeuropæiske net på transport-, telekommunikations- og energiinfrastrukturområdet.

2. Inden for rammerne af et åbent og konkurrencepræget markedssystem tager **Unionens** indsats sigte på at fremme de nationale nets indbyrdes sammenkobling og interoperabilitet samt adgangen til disse net. I denne indsats tilgodeses især nødvendigheden af at skabe forbindelse mellem på den ene side ømråder, indlandsområder og randområder og på den anden side **Unionens** centrale områder.

## Artikel 155

### *Målsætninger og prioriteter*

1. Med henblik på virkeliggørelsen af målene i artikel 154:
  - skal **Unionen** opstille et sæt retningslinjer omfattende mål og prioriteter samt hovedlinjerne i de aktioner, der påtænkes gennemført for transeuropæiske net; i disse retningslinjer fastlægges projekter af fælles interesse
  - skal **Unionen** iværksætte enhver form for aktion, som måtte være nødvendig for at sikre nettenes interoperabilitet, navnlig inden for harmonisering af tekniske standarder
  - kan **Unionen** støtte projekter af fælles interesse, der støttes af medlemsstater, og som fastlægges inden for rammerne af de retningslinjer, der er omhandlet i første led, navnlig i form af forundersøgelser, lånegarantier eller rentegodtgørelser; **Unionen** kan også gennem den samhörighedsfond, der er oprettet i overensstemmelse med artikel 161, bidrage til finansieringen af specifikke projekter i medlemsstaterne på transportinfrastrukturområdet.

I **Unionens** indsats tages der hensyn til projekternes økonomiske levedygtighed.

2. Medlemsstaterne samordner indbyrdes, i kontakt med Kommissionen, den politik, der føres på nationalt plan, og som kan få væsentlig indflydelse på gennemførelsen af målene i artikel 154. Kommissionen kan i snævret samarbejde med medlemsstaterne tage ethvert egnet initiativ for at fremme denne samordning.

3. **Unionen** kan beslutte at samarbejde med tredjelande for at fremme projekter af gensidig interesse og sikre nettenes interoperabilitet.

## Artikel 156

### *Procedure for vedtagelser af foranstaltninger*

De i artikel 155, stk. 1, omhandlede retningslinjer og andre foranstaltninger vedtages af **Europa-Parlamentet og Rådet** efter **den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget.

Retningslinjer og projekter af fælles interesse, der vedrører en medlemsstats område, kræver den pågældende medlemsstats godkendelse.

## AFSNIT XVI

## INDUSTRI

## Artikel 157

*Målsætninger og procedure for vedtagelse af foranstaltninger*

1. **Unionen** og medlemsstaterne sørger for, at de nødvendige betingelser for udviklingen af **EU**-industriens konkurrenceevne er til stede.

Med henblik herpå tager deres indsats i overensstemmelse med et åbnet og konkurrencepræget markedssystem sigte på:

- at industrien hurtigere kan tilpasse sig strukturforandringerne
- at fremme et klima, der er gunstigt for initiativer og udvikling af virksomheder overalt i **Unionen**, navnlig små og mellemstore virksomheder
- at fremme et klima, der er gunstigt for samarbejde mellem virksomheder
- at fremme udnyttelsen af det industrielle potentiale i politikkerne for innovation, forskning og teknologisk udvikling.

2. Medlemsstaterne rådfører sig med hinanden i kontakt med Kommissionen og samordner om nødvendigt deres aktioner. Kommissionen kan tage de initiativer, den finder hensigtsmæssige for at fremme deres samordning, **navnlig initiativer, der tager sigte på at opstille retningslinjer og indikatorer, tilrettelægge udveksling af bedste praksis og udarbejde de nødvendige elementer til periodisk overvågning og evaluering. Europa-Parlamentet holdes fuldt underrettet.**

3. **Unionen** bidrager til gennemførelsen af målene i stk. 1 gennem de politikker og aktioner, som det iværksætter i henhold til andre bestemmelser i **traktaterne. Europa-Parlamentet og Rådet** kan efter **den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg træffe beslutning om specifikke foranstaltninger til støtte for medlemsstaternes aktioner med henblik på virkeliggørelse af målene i stk. 1, **uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser.**

Dette traktatafsnit danner ikke grundlag for **Unionens** indførelse af nogen form for foranstaltning, der kan fordreje konkurrencen, eller som indeholder fiskale bestemmelser eller bestemmelser vedrørende ansattes rettigheder og interesser.



## AFSNIT XVII

## ØKONOMISK, SOCIAL OG TERRITORIAL SAMHØRIGHED

## Artikel 158

*Målsætninger*

For at fremme en harmonisk udvikling af **Unionen** som helhed udvikler og fortsætter dette sin indsats for at styrke sin økonomiske, sociale og territoriale samhørighed.

**Unionen** stræber navnlig efter at formindske forskellene mellem de forskellige områders udviklingsniveauer og forbedre situationen for de mindst begunstigede områder.

**Blandt de berørte områder lægges der særlig vægt på landdistrikter, områder i en industriel overgangsproces og områder, der lider af alvorlige naturbetingede eller demografiske ulemper af permanent art, bl.a. de nordligste meget tyndt befolkede områder samt ømråder, grænseoverskridende områder og bjergområder.**

## Artikel 159

*Strukturfondene, vedtagelse af særlige aktioner*

Medlemsstaterne fører deres økonomiske politik og samordner denne med henblik på tillige at nå de mål, der er fastlagt i artikel 158. Udformningen og gennemførelsen af **Unionens** politikker og aktioner samt gennemførelsen af det indre marked skal ske under hensyntagen til målene i artikel 158 og skal bidrage til deres virkeliggørelse. **Unionen** støtter ligeledes denne virkeliggørelse med den virksomhed, som det udøver gennem strukturfondene (Den Europæiske Udviklings- og Garantifond for Landbruget, Udviklingssektionen, Den Europæiske Socialfond og Den Europæiske Fond for Regionaludvikling), Den Europæiske Investeringsbank og andre eksisterende finansielle instrumenter.

Kommissionen aflægger hvert tredje år rapport til Europa-Parlamentet, Rådet, Det Økonomiske og Sociale Udvalg og Regionsudvalget om fremskridtene i forbindelse med virkeliggørelsen af den økonomiske, sociale og territoriale samhørighed, og om hvordan de forskellige midler efter denne artikel har bidraget hertil. Rapporten ledsages i givet fald af passende forslag.

Hvis det viser sig nødvendigt med særlige aktioner ud over fondene og med forbehold af de foranstaltninger, der træffes som led i **Unionens** øvrige politikker, kan disse aktioner vedtages af **Europa-Parlamentet og Rådet**, der træffer afgørelse efter **den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget.

## Artikel 160

*Målsætning for Den Europæiske Regionalfond*

Den Europæiske Fond for Regionaludvikling skal bidrage til at udligne de største regionale skævheder i **Unionen** ved at deltage i udviklingen og strukturtilpasningen af de områder, der er bagefter i udvikling, og i omstillingen af de industriområder, der er i tilbagegang.

## Artikel 161

*Strukturfondens opgaver; Samhørighedsfonden*

Med forbehold af artikel 162 definerer **Europa-Parlamentet og Rådet ved forordning efter den almindelige lovgivningsprocedure**, og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget, strukturfondenes opgaver, hovedmål og indretning, hvilket kan medføre en sammenlægning af fondene. **Efter samme procedure fastsættes også** de almindelige regler, der skal gælde for fondene, samt de nødvendige bestemmelser for at sikre disses effektivitet og samordningen mellem fondene indbyrdes og med andre eksisterende finansielle instrumenter.

En Samhørighedsfond, oprettet efter samme fremgangsmåde, yder finansielle bidrag til projekter inden for miljø og transeuropæiske net på transportinfrastrukturområdet.

## Artikel 162

*Gennemførelsesbeslutninger vedr. fonden for regionaludvikling*

Gennemførelsesbeslutningerne vedrørende Den Europæiske Fond for Regionaludvikling træffes af Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure, og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget.

For så vidt angår Den Europæiske Udviklings- og Garantifond for Landbruget, Udviklingssektionen, og Den Europæiske Socialfond, finder henholdsvis artikel 37 og 148 fortsat anvendelse.

## AFSNIT XVIII

## FORSKNING, TEKNOLOGISK UDVIKLING OG RUMMET

## Artikel 163

*Målsætningen om styrkelse af det videnskabelige og teknologiske grundlag*

1. **Unionen** har som mål at styrke **sit** videnskabelige og teknologiske grundlag **ved gennemførelse af et europæisk forskningsrum med fri bevægelighed for forskere samt videnskabelig og teknologisk viden**, at fremme udviklingen af **sin** konkurrenceevne, **herunder industriens konkurrenceevne**, samt at fremme alle de **forskningsaktiviteter**, der skønnes nødvendige i medfør af andre kapitler i **traktaterne**.
2. I dette øjemed opmuntrer **den** i hele **Unionen** virksomheder, herunder små og mellemstore virksomheder, forskningscentre og universiteter i deres indsats for forskning og teknologisk udvikling af høj kvalitet; det støtter deres samarbejdsbestræbelser, idet **den** i særdeleshed søger at gøre det muligt **for forskerne at samarbejde frit på tværs af grænserne, og** for virksomhederne at udnytte mulighederne i det indre marked fuldt ud, især ved at skabe fri adgang til de enkelte landes offentlige aftaler, ved at fastlægge fælles standarder og ved at fjerne juridiske og fiskale hindringer for dette samarbejde.
3. Alle **Unionens** aktioner i henhold til **traktaterne**, herunder demonstrationsaktioner, vedrørende forskning og teknologisk udvikling vedtages og iværksættes efter bestemmelserne i dette afsnit.

## Artikel 164

*Iværksættelse af aktioner og programmer*

Med henblik på at nå disse mål gennemfører **Unionen** følgende aktioner, som skal suppleres af de aktioner, der iværksættes i medlemsstaterne:

- a) iværksættelse af programmer for forskning, teknologisk udvikling og demonstration gennem fremme af samarbejdet med og mellem virksomheder, forskningscentre og universiteter
- b) fremme af samarbejdet vedrørende forskning, teknologisk udvikling og demonstration i Unionen med tredjelande og internationale organisationer
- c) formidling og nyttiggørelse af resultaterne af aktiviteter vedrørende forskning, teknologisk udvikling og demonstration i **Unionen**
- d) fremme af uddannelse og mobilitet for forskere i **Unionen**.

## Artikel 165

*Samordning af nationale politikker med Unionen*

1. **Unionen** og medlemsstaterne samordner deres indsats inden for forskning og teknologisk udvikling for at sikre den indbyrdes sammenhæng mellem de nationale politikker og **Unionens** politik, navnlig **initiativer, der tager sigte på at opstille retningslinjer og indikatorer, tilrettelægge udveksling af bedste praksis og udarbejde de nødvendige elementer til periodisk overvågning og evaluering. Europa-Parlamentet holdes fuldt underrettet.**

2. Kommissionen kan i nært samarbejde med medlemsstaterne tage ethvert initiativ, der kan bidrage til at fremme den i stk. 1 nævnte samordning.

## Artikel 166

*Vedtagelse af flerårige rammeprogrammer*

1. **Europa-Parlamentet og Rådet** vedtager **efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg et flerårigt rammeprogram, som omfatter samtlige **Unionens** aktioner.

I rammeprogrammet:

- fastsættes de videnskabelige og teknologiske mål, der skal opnås ved de i artikel 164 omhandlede aktioner, samt prioriteringerne i forbindelse hermed
  - angives hovedlinjerne i disse aktioner
  - fastsættes det samlede maksimumsbeløb og de nærmere vilkår for **Unionens** finansielle deltagelse i rammeprogrammet samt de påtænkte aktioners respektive andele.
2. Rammeprogrammet tilpasses eller udbygges på baggrund af udviklingen.

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3. Rammeprogrammet iværksættes ved hjælp af særprogrammer, der udarbejdes inden for hver enkelt af aktionerne. I hvert særprogram angives de nærmere bestemmelser for programmets gennemførelse, varigheden af dette og de midler, der skønnes nødvendige hertil. Summen af de beløb, der skønnes nødvendige, og som fastsættes i særprogrammerne, må ikke overstige det samlede maksimumsbeløb for rammeprogrammet og for hver enkelt aktion.

4. Rådet, **der træffer afgørelse efter en særlig lovgivningsprocedure**, og efter høring af Europa-Parlamentet og Det Økonomiske og Sociale Udvalg, vedtager særprogrammerne.

**5. Som et supplement til aktiviteterne i det flerårige rammeprogram fastsætter Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure og efter høring af Det Økonomiske og Sociale Udvalg de nødvendige foranstaltninger til gennemførelse af det europæiske forskningsrum.**

### Artikel 167

#### *Virksomheders og universiteters deltagelse i rammeprogrammer*

Med henblik på iværksættelsen af det flerårige rammeprogram fastsætter **Unionen**:

- reglerne for virksomheders, forskningscentres og universiteters deltagelse
- reglerne for formidling af forskningsresultater.

### Artikel 168

#### *Rammeprogrammer med deltagelse af flere medlemsstater*

Under iværksættelsen af det flerårige rammeprogram kan der vedtages supplerende programmer, hvori der kun deltager visse medlemsstater, som sikrer finansieringen med forbehold af eventuel deltagelse fra **Unionens** side.

**Unionen** vedtager de regler, der skal finde anvendelse på de supplerende programmer, navnlig vedrørende videnformidling og andre medlemsstaters adgang.

### Artikel 169

#### *Forsknings- og udviklingsprogrammer med deltagelse af flere medlemsstater*

Under iværksættelsen af det flerårige rammeprogram kan **Unionen** i forståelse med de pågældende medlemsstater åbne mulighed for deltagelse i forsknings- og udviklingsprogrammer, der iværksættes af flere medlemsstater, herunder deltagelse i de strukturer, der oprettes for gennemførelsen af disse programmer.

## Artikel 170

*Samarbejde med tredjelande vedr. forskning og teknologisk udvikling*

Under iværksættelsen af det flerårige rammeprogram kan **Unionen** åbne mulighed for et samarbejde vedrørende forskning, teknologisk udvikling og demonstration i **Unionen** med tredjelande eller internationale organisationer.

De nærmere bestemmelser for dette samarbejde kan fastlægges ved aftaler mellem **Unionen** og de pågældende tredjeparter.

## Artikel 171

*Oprettelse af fællesforetagender m.v.*

**Unionen** kan oprette fællesforetagender eller enhver anden struktur, der er nødvendig for korrekt gennemførelse af programmerne for forskning, teknologisk udvikling og demonstration i **Unionen**.

## Artikel 172

*Procedure for vedtagelse af bestemmelser*

Rådet vedtager på forslag af Kommissionen og efter høring af Europa-Parlamentet og Det Økonomiske og Sociale Udvalg de i artikel 171 omhandlede bestemmelser.

**Europa-Parlamentet og Rådet** vedtager efter **den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg de i artikel 167, 168 og 169 omhandlede bestemmelser. Vedtagelsen af de supplerende programmer kræver endvidere de pågældende medlemsstaters samtykke.

## Artikel 172a

*En europæisk rumpolitik; forbindelser med Den Europæiske Rumorganisation*

1. **Unionen** udarbejder en europæisk rumpolitik for at fremme det videnskabelige og tekniske fremskridt, industriens konkurrenceevne og iværksættelsen af sine politikker. Med henblik herpå kan den fremme fælles initiativer, støtte forskning og teknologisk udvikling og koordinere den nødvendige indsats for at udforske og udnytte rummet.
2. For at bidrage til gennemførelsen af de mål, der er nævnt i stk. 1, fastsætter Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure de nødvendige foranstaltninger, der kan tage form af et europæisk rumprogram, uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser.
3. **Unionen** etablerer de relevante forbindelser med Den Europæiske Rumorganisation.
4. Denne artikel berører ikke de øvrige bestemmelser i dette afsnit.

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Artikel 173

*Kommissionens årsrapport om aktiviteter vedr. forskning og teknologisk udvikling m.v.*

I begyndelsen af hvert år forelægger Kommissionen en rapport for Europa-Parlamentet og Rådet. Denne rapport omhandler navnlig de aktiviteter, der har fundet sted det foregående år inden for forskning og teknologisk udvikling og resultatformidling, samt arbejdsprogrammet for det igangværende år.

AFSNIT XIX

MILJØ

Artikel 174

*Målsætninger på miljøområdet*

1. **Unionens** politik på miljøområdet skal bidrage til forfølgelse af nedennævnte mål:

- bevarelse, beskyttelse og forbedring af miljøkvaliteten
- beskyttelse af menneskers sundhed
- en forsigtig og rationel udnyttelse af naturressourcerne
- fremme på internationalt plan af foranstaltninger til løsning af de regionale og globale miljøproblemer, **og navnlig bekæmpelse af klimaændringer.**

2. **Unionens** politik på miljøområdet tager sigte på et højt beskyttelsesniveau under hensyntagen til de forskelligartede forhold, der gør sig gældende i de forskellige områder i **Unionen**. Den bygger på forsigtighedsprincippet og princippet om forebyggende indsats, princippet om indgrib over for miljøskader fortrinsvis ved kilden og princippet om, at forureneren betaler.

I den forbindelse omfatter de harmoniseringsforanstaltninger, der skal iværksættes for at opfylde miljøbeskyttelseskravene, i relevante tilfælde en beskyttelsesklausul, der giver medlemsstaterne bemyndigelse til af ikke-økonomiske miljøhensyn at træffe foreløbige foranstaltninger, der underkastes en **EU**-kontrolprocedure.

3. Ved udarbejdelsen af **Unionens** politik på miljøområdet tages der hensyn til:

- eksisterende videnskabelige og tekniske data
- de miljømæssige forhold i de forskellige områder i **Unionen**
- fordele og ulemper ved foranstaltningens gennemførelse eller undladelse af at gennemføre den
- den økonomiske og sociale udvikling i **Unionen** som helhed og den afbalancerede udvikling i dets områder.

4. Inden for rammerne af deres respektive beføjelser samarbejder **Unionen** og medlemsstaterne med tredjelande og med de kompetente internationale organisationer. De nærmere bestemmelser vedrørende samarbejdet, for så vidt angår **Unionen**, kan nedfældes i aftaler mellem dette og de pågældende tredje parter.

Det foregående afsnit berører ikke medlemsstaternes kompetence til at forhandle i internationale organer og indgå internationale aftaler.

#### Artikel 175

##### *Procedure for vedtagelse af retsakter m.v. på miljøområdet*

1. **Europa-Parlamentet og Rådet træffer efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget afgørelse om de aktioner, der skal iværksættes af Unionen med henblik på at gennemføre de mål, der er anført i artikel 174.

2. Uanset den i stk. 1 nævnte fremgangsmåde for beslutningstagning og med forbehold af artikel 94 vedtager Rådet, **der træffer afgørelse efter en særlig lovgivningsprocedure**, med enstemmighed og efter høring af Europa-Parlamentet, Det Økonomiske og Sociale Udvalg og Regionsudvalget

- a) bestemmelser af hovedsagelig fiskal karakter
- b) foranstaltninger, der berører
  - fysisk planlægning
  - kvantitativ forvaltning af vandressourcerne, eller som direkte eller indirekte berører disse ressourcers disponibilitet
  - arealanvendelse, bortset fra affaldshåndtering
- c) foranstaltninger, der i væsentlig grad berører en medlemsstats valg mellem forskellige energikilder og den generelle sammensætning af dens energiforsyning.

**Rådet kan med enstemmighed på forslag af Kommissionen og efter høring af Europa-Parlamentet, Det Økonomiske og Sociale Udvalg og Regionsudvalget vedtage, at den almindelige lovgivningsprocedure skal finde anvendelse på de spørgsmål, der er nævnt i første afsnit.**

3. **Europa-Parlamentet og Rådet vedtager efter den almindelige lovgivningsprocedure** og efter høring af Det Økonomiske og Sociale Udvalg og Regionsudvalget generelle handlingsprogrammer for prioriterede mål, som skal virkeliggøres.

**De foranstaltninger, der er nødvendige for disse programmets iværksættelse, vedtages efter betingelserne i stk. 1 eller stk. 2 alt efter omstændighederne.**

4. Med forbehold af visse foranstaltninger **vedtaget af Unionen** finansieres og gennemføres miljøpolitikken af medlemsstaterne.

5. Med forbehold af princippet om, at forureneren betaler, **skal foranstaltninger**, der bygger på stk. 1, **og som** indebærer udgifter, der skønnes uforholdsmæssigt store for en medlemsstats offentlige myndigheder, **i en passende form give mulighed for:**

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- undtagelser af midlertidig karakter og/eller
- finansiel støtte fra den Samhørighedsfond, der er oprettet i henhold til artikel 161.

### Artikel 176

#### Indførelse af strengere nationale beskyttelsesforanstaltninger

Beskyttelsesforanstaltninger, som vedtages i henhold til artikel 175, er ikke til hinder for, at de enkelte medlemsstater opretholder eller indfører strengere beskyttelsesforanstaltninger. Disse foranstaltninger skal være forenelige med **traktaterne**. De meddeles Kommissionen.

## AFSNIT XX

### ENERGI

#### Artikel 176 A

##### *Mål og midler*

1. Som led i det indre markeds oprettelse og funktion og under hensyn til kravet om at bevare og forbedre miljøet sigter Unionens politik på energiområdet mod i en ånd af solidaritet mellem medlemsstaterne:

- a) at sikre energimarkedets funktion
- b) at sikre energiforsynings sikkerheden i Unionen
- c) at fremme energieffektivitet og energibesparelser samt udvikling af nye og vedvarende energikilder
- d) at fremme sammenkobling af energinet.

2. Europa-Parlamentet og Rådet fastsætter efter den almindelige lovgivningsprocedure de foranstaltninger, der er nødvendige for at nå de mål, der er nævnt i stk. 1, dog således at anvendelsen af andre bestemmelser i traktaterne ikke berøres herved. Disse foranstaltninger vedtages efter høring af Regionsudvalget og Det Økonomiske og Sociale Udvalg.

De berører ikke en medlemsstats ret til at fastsætte betingelserne for udnyttelsen af dens energiressourcer, dens valg mellem forskellige energikilder og den generelle sammensætning af dens energiforsyning, jf. dog artikel 175 stk. 2, litra c).

3. Uanset stk. 2 fastsætter Rådet efter en særlig lovgivningsprocedure med enstemmighed og efter høring af Europa-Parlamentet de deri nævnte foranstaltninger, hvis de er af hovedsagelig fiskal karakter.



**AFSNIT XXI****TURISME****Artikel 176 B**

*Fremme af konkurrenceevne inden for turistsektoren*

1. Unionen supplerer medlemsstaternes indsats i turistsektoren, især ved at fremme konkurrenceevnen for Unionens virksomheder inden for denne sektor.

Med henblik herpå er målene for Unionens indsats:

- a) at tilskynde til tilvejebringelse af et gunstigt klima for udvikling af virksomhederne inden for denne sektor
- b) at fremme samarbejdet mellem medlemsstaterne, navnlig ved udveksling af god praksis.

2. Europa-Parlamentet og Rådet fastsætter efter den almindelige lovgivningsprocedure med henblik på at opfylde målene i denne artikel særlige foranstaltninger, der skal supplere medlemsstaternes indsats, men uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser.

**AFSNIT XXII****CIVILBESKYTTELSE****Artikel 176 C**

*Forebyggelse af og beskyttelse mod katastrofer*

1. Unionen fremmer samarbejde mellem medlemsstaterne for at gøre ordningerne for forebyggelse af og beskyttelse mod naturkatastrofer eller menneskeskabte katastrofer mere effektive.

Målene for Unionens indsats er:

- a) at støtte og supplere medlemsstaternes tiltag på nationalt, regionalt og lokalt plan med hensyn til risikoforebyggelse, beredskab hos indsatspersonellet på civilbeskyttelsesområdet i medlemsstaterne og indsats i tilfælde af naturkatastrofer eller menneskeskabte katastrofer i Unionen
- b) at fremme et hurtigt og effektivt operationelt samarbejde i Unionen mellem de nationale tjenester på civilbeskyttelsesområdet
- c) at fremme sammenhængen i internationalt arbejde på civilbeskyttelsesområdet.

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2. Europa-Parlamentet og Rådet fastsætter efter den almindelige lovgivningsprocedure de foranstaltninger, der er nødvendige for at bidrage til virkeliggørelsen af målene i stk. 1, uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser.

## AFSNIT XXIII

### ADMINISTRATIVT SAMARBEJDE

#### Artikel 176 D

##### *Støtte til national gennemførelse af EU-retten*

1. En effektiv gennemførelse af EU-retten i medlemsstaterne er af afgørende betydning for, at Unionen kan fungere tilfredsstillende, og betragtes som et område af fælles interesse.

2. Unionen kan støtte medlemsstaternes bestræbelser for at forbedre deres administrative kapacitet til at gennemføre EU-retten. En sådan indsats kan omfatte hjælp til udveksling af oplysninger og embedsmænd samt støtte til uddannelsesprogrammer. Ingen medlemsstat er forpligtet til at tage imod en sådan støtte. Europa-Parlamentet og Rådet fastsætter efter den almindelige lovgivningsprocedure de foranstaltninger, der er nødvendige med henblik herpå, men uden at der er tale om nogen form for harmonisering af medlemsstaternes love og administrative bestemmelser.

3. Denne artikel berører ikke medlemsstaternes pligt til at gennemføre EU-retten eller Kommissionens rettigheder og pligter. Den berører heller ikke andre bestemmelser i traktaterne om administrativt samarbejde mellem medlemsstaterne og mellem dem og Unionen.

## FJERDE DEL

### DE OVERSØISKE LANDE OG TERRITORIERS ASSOCIERING

#### Artikel 182

##### *Associering med oversøiske lande og territorier med særlige forbindelser med EU-lande*

Medlemsstaterne er enige om at associere de ikke-europæiske lande og territorier, der opretholder særlige forbindelser med Danmark, Frankrig, Nederlandene og Det Forenede Kongerige, med **Unionen**. Disse lande og territorier, i det følgende benævnt »lande og territorier«, er opregnet i **listen i bilag II**.

Formålet med associeringen er at fremme den økonomiske og sociale udvikling i disse lande og territorier og at oprette nære økonomiske forbindelser mellem disse og **Unionen** som helhed.

I overensstemmelse med principperne i **traktaternes** præambel skal associeringen først og fremmest åbne mulighed for at tjene befolkningernes interesser i disse lande og territorier og øge deres velstand for herved at lede dem frem til den økonomiske, sociale og kulturelle udvikling, som de tilstræber.

### Artikel 183

#### Målsætninger

##### *Associeringen tilstræber nedennævnte mål:*

- 1) Medlemsstaterne anvender i deres samhandel med disse lande og territorier samme regler, som de i henhold til **traktaterne** anvender indbyrdes.
- 2) Hvert land eller territorium anvender i sin samhandel med medlemsstaterne og de øvrige lande og territorier samme regler, som det anvender over for den europæiske stat, med hvilken det opretholder særlige forbindelser.
- 3) Medlemsstaterne bidrager til de investeringer, som den fremskridende udvikling af disse lande og territorier kræver.
- 4) For så vidt angår de investeringer, der finansieres af **Unionen**, er deltagelse i licitationer og leverancer åben på lige betingelser for alle fysiske og juridiske personer, som henholdsvis er statsborgere eller hjemmehørende i medlemsstaterne eller i disse lande og territorier.
- 5) Medmindre der træffes særlige bestemmelser i henhold til artikel 187, gælder i forholdet mellem medlemsstaterne og disse lande og territorier uden nogen form for forskelsbehandling de i kapitlet om etableringsretten nævnte bestemmelser for deres statsborgeres og selskabers ret til at etablere sig, ligesom de dér nævnte fremgangsmåder finder tilsvarende anvendelse.

### Artikel 184

#### Indførelse af toldfri varer fra oversøiske lande og territorier

1. Varer med oprindelse i disse lande og territorier nyder ved indførelse til medlemsstaterne godt af forbuddet mod told mellem medlemsstaterne, som gælder i overensstemmelse med **traktaternes** bestemmelser.
2. Ved indførelse i hvert af disse lande eller territorier er told, der pålægges varer fra medlemsstaterne og de øvrige lande og territorier, forbudt i overensstemmelse med bestemmelserne i artikel 25.
3. Disse lande og territorier kan dog opkræve sådan told, som er nødvendig for deres udvikling og industrialisering, eller som er finanstold og har til formål af skaffe midler til deres offentlige budgetter.

De i foregående afsnit nævnte toldsatsler kan ikke overstige samme niveau som dem, der pålægges varer, der hidrører fra den medlemsstat, med hvilken det pågældende land eller territorium opretholder særlige forbindelser.

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4. Stk. 2 finder ikke anvendelse på de lande og territorier, der som følge af særlige internationale forpligtelser anvender en toldtarif, der ikke hjemler forskelsbehandling.

5. Indførelse eller ændring af toldsatter for varer, der indføres i disse lande og territorier, må hverken retligt eller faktisk føre til direkte eller indirekte forskelsbehandling af varer, der hidrører fra forskellige medlemsstater.

### Artikel 185

#### *Foranstaltninger ved omlægning af samhandelen*

Såfremt toldsaternes niveau for varer hidrørende fra tredjeland ved indførelse til et land eller territorium, når bestemmelserne i artikel 184, stk. 1, finder anvendelse, vil kunne fremkalde omlægninger af samhandelen til skade for en medlemsstat, kan denne begære, at Kommissionen foreslår de øvrige medlemsstater nødvendige foranstaltninger for at afhjælpe denne situation.

### Artikel 186

#### *Fri bevægelighed for arbejdskraften fra oversøiske lande og territorier*

Med forbehold af bestemmelserne vedrørende den offentlige sundhed, den offentlige sikkerhed og den offentlige orden **reguleres den** fri bevægelighed for arbejdskraften fra disse lande og territorier inden for medlemsstaterne og for arbejdskraften fra medlemsstaterne inden for disse lande og territorier ved **retsakter vedtaget i overensstemmelse med artikel 187**.

### Artikel 187

#### *Oversøiske landes og territoriers associering med Unionen*

Rådet vedtager med udgangspunkt i de resultater, der er opnået som led i disse lande og territoriers associering med **Unionen**, og på grundlag af de principper, der er nedfældet i **traktaterne, med enstemmighed og på forslag af Kommissionen** de nærmere retningslinjer for og fremgangsmåden ved de pågældende lande og territoriers associering med **Unionen**. Når sådanne bestemmelser vedtages af Rådet efter en særlig lovgivningsprocedure, træffer dette afgørelse med enstemmighed på forslag af Kommissionen og efter høring af Europa-Parlamentet.

### Artikel 188

#### *Særlige bestemmelser vedr. Grønland*

Bestemmelserne i artikel 182-187 finder anvendelse på Grønland, medmindre andet følger af de særlige bestemmelser for Grønland, der er fastsat i den protokol om den særlige ordning for Grønland, der er knyttet som bilag til **traktaterne**.

## FEMTE DEL

UNIONENS OPTRÆDEN UDADTIL PÅ ANDRE OMRÅDER END  
DEN FÆLLES UDENRIGS- OG SIKKERHEDSPOLITIK

## AFSNIT I

## ALMINDELIGE BESTEMMELSER OM UNIONENS OPTRÆDEN UDADTIL

## Artikel 188 A

*Principperne for Unionens optræden udadtil*

Unionens optræden på den internationale scene i henhold til denne del bygger på principperne i, forfølger målene i og varetages i overensstemmelse med de almindelige bestemmelser om Unionens optræden udadtil, der er fastlagt i kapitel 1 i afsnit V i traktaten om Den Europæiske Union.

## AFSNIT II

## DEN FÆLLES HANDELSPOLITIK

## Artikel 188 B (tidligere artikel 131 EF)

*Toldunionen og målsætningen for handelspolitikken*

Med oprettelsen af en toldunion i overensstemmelse med artikel 23-27 bidrager Unionen i fælles interesse til en harmonisk udvikling af verdenshandelen, en gradvis afskaffelse af restriktionerne i den internationale handel og **de direkte udenlandske investeringer og til en sænkning af toldskrænker og andre hindringer.**

## Artikel 188 C (tidligere artikel 133 EF)

*Bestemmelser vedr. den fælles handelspolitik*

1. Den fælles handelspolitik bygger på ensartede principper, navnlig for så vidt angår toldændringer, indgåelse af told- og handelsaftaler **vedrørende handel med varer og tjenesteydelser, handelsrelaterede aspekter af intellektuel ejendomsret, direkte udenlandske investeringer**, gennemførelse af ensartethed i liberaliseringsforanstaltninger, eksportpolitik og handelspolitiske beskyttelsesforanstaltninger, herunder foranstaltninger mod dumping og subsidieordninger. **Den fælles handelspolitik føres inden for rammerne af principperne og målene for Unionens optræden udadtil.**

2. Europa-Parlamentet og Rådet vedtager ved forordning efter den almindelige lovgivningsprocedure foranstaltninger til fastlæggelse af rammerne for gennemførelsen af den fælles handelspolitik.

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3. Skal der føres forhandlinger om **og indgås** aftaler med en eller flere stater eller internationale organisationer, **finder artikel 188 N anvendelse, jf. dog de særlige bestemmelser i nærværende artikel.**

Kommissionen **retter** henstillinger til Rådet, som bemyndiger den til at indlede de nødvendige forhandlinger. Rådet og Kommissionen skal sikre, at de **forhandlede aftaler** er i overensstemmelse med **Unionens** interne politikker og regler.

Disse forhandlinger føres af Kommissionen i samråd med et særligt udvalg udpeget af Rådet til at bistå den i dette arbejde og **inden for rammerne af direktiver, som Rådet kan meddele den.** Kommissionen aflægger regelmæssigt beretning til det særlige udvalg **og til Europa-Parlamentet** om, hvordan forhandlingerne skrider frem.

4. **For så vidt angår forhandling og indgåelse af aftaler som nævnt i stk. 3** træffer Rådet afgørelse med kvalificeret flertal.

**For så vidt angår** forhandling og indgåelse af aftaler på områderne handel med tjenesteydelser og handelsrelaterede aspekter af intellektuel ejendomsret **samt direkte udenlandske investeringer** træffer Rådet afgørelse med enstemmighed, hvis **aftalen** omfatter bestemmelser, hvor der kræves enstemmighed for vedtagelse af interne regler.

Rådet træffer **ligeledes** afgørelse med enstemmighed om forhandling og indgåelse af aftaler:

- a) **på området** handel med kulturelle og audiovisuelle tjenesteydelser, **når disse aftaler indebærer en risiko for, at den kulturelle og sproglige mangfoldighed i Unionen bringes i fare**
- b) **på området** handel med sociale, uddannelsesmæssige og sundhedsmæssige tjenesteydelser, **når disse aftaler indebærer en risiko for, at den nationale tilrettelæggelse af sådanne tjenester forstyrres alvorligt, og at medlemsstaternes ansvar for levering heraf bringes i fare.**

5. Forhandling og indgåelse af internationale aftaler på transportområdet er omfattet af afsnit III, kapitel III, 7. afdeling, samt af artikel 188 N.

6. **Udøvelsen af de beføjelser, som denne artikel tillægger på området den fælles handelspolitik, berører ikke afgrænsningen af beføjelserne mellem Unionen og medlemsstaterne og vil ikke føre til en harmonisering af medlemsstaternes love og administrative bestemmelser, i det omfang traktaterne udelukker en sådan harmonisering.**

## AFSNIT III

## SAMARBEJDE MED TREDJELANDE OG HUMANITÆR BISTAND

## KAPITEL 1

## UDVIKLINGSSAMARBEJDE

Artikel 188 D (tidligere artikel 177 EF)

*Målsætninger*

**1. Unionens politik med hensyn til udviklingssamarbejde føres inden for rammerne af principperne og målene for Unionens optræden udadtil. Unionens og medlemsstaternes politik med hensyn til udviklingssamarbejde supplerer og styrker gensidigt hinanden.**

**Hovedmålet for Unionens politik på dette område er at nedbringe og på sigt udrydde fattigdommen. Unionen tager hensyn til målene for udviklingssamarbejdet i forbindelse med iværksættelse af politikker, der kan påvirke udviklingslandene.**

**2. Unionen og medlemsstaterne respekterer de forpligtelser og tager hensyn til de målsætninger, som de har godkendt inden for rammerne af De Forenede Nationer og andre kompetente internationale organisationer.**

Artikel 188 E (tidligere artikel 179 EF)

*Foranstaltninger til gennemførelse af politikken for udviklingssamarbejde*

**1. Europa-Parlamentet og Rådet fastsætter efter den almindelige lovgivningsprocedure de foranstaltninger, der er nødvendige for at gennemføre politikken for udviklingssamarbejde, og som kan vedrøre flerårige samarbejdsprogrammer med udviklingslande eller programmer med en tematisk tilgang.**

**2. Unionen kan med tredjelande og kompetente internationale organisationer indgå aftaler, der kan bidrage til at nå målene i artikel 10 A i traktaten om Den Europæiske Union og artikel 188 D i denne traktat.**

**Første afsnit berører ikke medlemsstaternes kompetence til at forhandle i internationale organer og indgå aftaler.**

**3. Den Europæiske Investeringsbank bidrager på de betingelser, der er fastsat i dens vedtægter, til iværksættelsen af de foranstaltninger, der er nævnt i stk. 1.**

Artikel 188 F (tidligere artikel 180 EF)

*Samordning af Unionens og medlemsstaternes politikker, herunder bistandsprogrammer*

**1. For at styrke komplementariteten og effektiviteten af deres indsats samordner Unionen og medlemsstaterne deres politik med hensyn til udviklingssamarbejde og fører**

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samråd om deres bistandsprogrammer, herunder i internationale organisationer og på internationale konferencer. De kan iværksætte fælles aktioner. Medlemsstaterne bidrager om nødvendigt til iværksættelsen af **Unionens** bistandsprogrammer.

2. Kommissionen kan tage ethvert passende initiativ for at fremme den i stk. 1 omhandlede samordning.

### Artikel 188 G (tidligere artikel 181 EF)

#### *Samarbejde med tredjelande og internationale organisationer*

Inden for rammerne af deres respektive beføjelser samarbejder **Unionen** og medlemsstaterne med tredjelande og med kompetente internationale organisationer.

## KAPITEL 2

### ØKONOMISK, FINANSIELT OG TEKNISK SAMARBEJDE MED TREDJELANDE

### Artikel 188 H (tidligere artikel 181 A EF)

#### *Samarbejde med tredjelande og vedtagelse af foranstaltninger*

1. Med forbehold af de øvrige bestemmelser i **traktaterne**, især i **artikel 188 D-188 G**, iværksætter **Unionen** samarbejdsaktioner med **andre** tredjelande **end udviklingslande** på det økonomiske, finansielle og tekniske område, **herunder bistandsforanstaltninger især på det finansielle område. Disse foranstaltninger skal være i overensstemmelse med Unionens udviklingspolitik og gennemføres inden for rammerne af principperne og målene for Unionens optræden udadtil. Unionens og medlemsstaternes aktiviteter supplerer og styrker gensidigt hinanden.**

2. **Europa-Parlamentet og Rådet fastsætter efter den almindelige lovgivningsprocedure** de foranstaltninger, der er nødvendige for at gennemføre stk. 1.

3. Inden for rammerne af deres respektive beføjelser samarbejder **Unionen** og medlemsstaterne med tredjelande og med kompetente internationale organisationer. De nærmere bestemmelser vedrørende **Unionens** samarbejde kan nedfældes i aftaler mellem dette og de pågældende tredjeparter.

Første afsnit berører ikke medlemsstaternes kompetence til at forhandle i internationale organer og indgå internationale aftaler.

### Artikel 188 I

#### *Akut finansiel bistand til et tredjeland*

**Når situationen i et tredjeland kræver akut finansiel bistand fra Unionens side vedtager Rådet på forslag af Kommissionen de nødvendige afgørelser.**



**KAPITEL 3****HUMANITÆR BISTAND****Artikel 188 J***Principper og mål for humanitær bistand*

1. Unionens aktiviteter på området humanitær bistand gennemføres inden for rammerne af principperne og målene for Unionens optræden udadtil. Formålet med disse aktiviteter er i specifikke situationer at yde bistand, hjælp og beskyttelse til befolkninger i tredjelande, der er ofre for naturkatastrofer eller menneskeskabte katastrofer, med henblik på opfyldelse af de humanitære behov, der opstår i disse forskellige situationer. Unionens og medlemsstaternes aktiviteter supplerer og styrker gensidigt hinanden.
2. Unionens humanitære bistandsaktiviteter gennemføres i overensstemmelse med principperne i folkeretten og principperne om upartiskhed, neutralitet og ikke-forskelsbehandling.
3. Europa-Parlamentet og Rådet fastsætter efter den almindelige lovgivningsprocedure foranstaltninger til fastlæggelse af rammerne for gennemførelsen af Unionens humanitære bistandsaktiviteter.
4. Unionen kan med tredjelande og kompetente internationale organisationer indgå aftaler, der kan bidrage til at nå målene i stk. 1 og i artikel 10 A i traktaten om Den Europæiske Union.  
  
Første afsnit berører ikke medlemsstaternes kompetence til at forhandle i internationale organer og indgå aftaler.
5. Der oprettes et frivilligt europæisk korps for humanitær bistand, der kan danne ramme for europæiske unges fælles bidrag til Unionens humanitære bistandsaktiviteter. Europa-Parlamentet og Rådet fastsætter ved forordning efter den almindelige lovgivningsprocedure statuten og de nærmere bestemmelser om funktionsmåden for et sådant korps.
6. Kommissionen kan tage ethvert passende initiativ for at fremme samordningen mellem Unionens og medlemsstaternes aktiviteter med henblik på at styrke effektiviteten og komplementariteten af Unionens og de nationale humanitære bistandsforanstaltninger.
7. Unionen påser, at dens humanitære bistandsaktiviteter samordnes og hænger sammen med de tiltag, der gennemføres af internationale organisationer og organer, især dem, der indgår i FN-systemet.

**AFSNIT IV****RESTRIKTIVE FORANSTALTNINGER****Artikel 188 K** (Erstatter artikel 301)*Økonomiske sanktioner over for tredjelande*

1. Såfremt en afgørelse, der er vedtaget på grundlag af kapitel 2 i afsnit V i traktaten om Den Europæiske Union, tager sigte på helt eller delvis at afbryde eller indskrænke de økonomiske og finansielle forbindelser med et eller flere tredjelande, vedtager Rådet de nødvendige foranstaltninger med kvalificeret flertal på fælles forslag af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik og Kommissionen. Det underretter Europa-Parlamentet herom.
2. Såfremt en afgørelse, der er vedtaget på grundlag af kapitel 2 i afsnit V i traktaten om Den Europæiske Union, giver mulighed herfor, kan Rådet efter proceduren i stk. 1 vedtage restriktive foranstaltninger over for fysiske og juridiske personer, grupper eller ikke-statslige enheder.
3. De retsakter, der er nævnt i denne artikel, skal indeholde de nødvendige bestemmelser om retsgarantier.

**AFSNIT V****INTERNATIONALE AFTALER****Artikel 188 L***Betingelser for indgåelse af aftaler med tredjelande og internationale organisationer*

1. Unionen kan indgå en aftale med et eller flere tredjelande eller en eller flere internationale organisationer, når der i traktaterne er fastsat bestemmelser herom, eller når indgåelsen af en aftale enten er nødvendig for i forbindelse med Unionens politikker at nå et af de mål, der er fastlagt i traktaterne, eller er foreskrevet i en juridisk bindende EU-retsakt, eller kan berøre fælles regler eller ændre deres rækkevidde.
2. De aftaler, som Unionen indgår, er bindende for EU-institutionerne og medlemsstaterne.

**Artikel 188 M** (tidligere artikel 310 EF)*Aftaler om associering med tredjelande*

**Unionen** kan med **et** eller flere **tredjelande** eller internationale organisationer indgå aftaler, hvorved der skabes en associering med gensidige rettigheder og forpligtelser, fælles optræden og særlige procedureregler.

**Artikel 188 N** (erstatte artikel 300 EF)*Procedure for indgåelse af aftaler med tredjelande og internationale organisationer*

1. Med forbehold af de særlige bestemmelser i artikel 188 C forhandles og indgås aftaler mellem Unionen og tredjelande eller internationale organisationer efter nedenstående procedure.
2. Rådet godkender indledningen af forhandlinger, vedtager forhandlingsdirektiver, bemyndiger undertegnelse og indgår aftalerne.
3. Kommissionen - eller Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, når aftalen udelukkende eller hovedsagelig vedrører den fælles udenrigs- og sikkerhedspolitik - forelægger henstillinger for Rådet, som vedtager en europæisk afgørelse om bemyndigelse til at indlede forhandlinger og, afhængigt af emnet for den påtænkte aftale, om udpegelse af Unionens forhandler eller chefen for Unionens forhandlingsdelegation.
4. Rådet kan give forhandleren direktiver og udpege et særligt udvalg, som der skal føres samråd med under forhandlingerne.
5. Rådet vedtager på forslag af forhandleren en afgørelse om bemyndigelse til undertegnelse af aftalen samt eventuelt om midlertidig anvendelse heraf inden ikrafttrædelsen.
6. Rådet vedtager på forslag af forhandleren en afgørelse om indgåelse af aftalen.

Medmindre aftalen udelukkende vedrører den fælles udenrigs- og sikkerhedspolitik, vedtager Rådet afgørelsen om indgåelse af aftalen

- a) efter godkendelse fra Europa-Parlamentet i følgende tilfælde:
  - i) associeringsaftaler
  - ii) aftale om tiltrædelse af den europæiske konvention til beskyttelse af menneskerettigheder og grundlæggende frihedsrettigheder
  - iii) aftaler, hvorved der etableres en specifik institutionel ramme med samarbejdsprocedurer
  - iv) aftaler, som har betydelige budgetmæssige virkninger for **Unionen**
  - v) aftaler, som dækker områder, hvor den almindelige lovgivningsprocedure eller, når der kræves godkendelse af Europa-Parlamentet, den særlige lovgivningsprocedure finder anvendelse.

Europa-Parlamentet og Rådet kan i hastetilfælde aftale en frist for **godkendelsen**.

- b) efter høring af Europa-Parlamentet i de øvrige tilfælde. Europa-Parlamentet afgiver udtalelse inden for en frist, som Rådet kan fastsætte, alt efter hvor meget sagen haster. Hvis der ikke er afgivet udtalelse ved fristens udløb, kan Rådet træffe afgørelse.

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7. Uanset stk. 5, 6 og 9 kan Rådet, når det indgår en aftale, bemyndige **forhandleren til på Unionens vegne** at godkende ændringer af **aftalen, hvis disse ændringer ifølge aftalen skal vedtages ved en forenklet procedure eller vedtages af et organ, der nedsættes ved aftalen**. Rådet kan knytte særlige betingelser til en sådan bemyndigelse.

8. **Rådet træffer afgørelse med kvalificeret flertal under hele proceduren.**

Det træffer dog afgørelse med enstemmighed, når aftalen vedrører et område, hvor der kræves enstemmighed ved vedtagelse af en EU-retsakt, samt for så vidt angår associeringsaftaler og de i artikel 188 H nævnte aftaler med stater, der er kandidater til tiltrædelse af Unionen. Rådet træffer ligeledes afgørelse med enstemmighed om aftalen om tiltrædelse af den europæiske konvention til beskyttelse af menneskerettigheder og grundlæggende frihedsrettigheder; afgørelsen om indgåelse af denne aftale træder i kraft efter medlemsstaternes godkendelse heraf i overensstemmelse med deres forfatningsmæssige bestemmelser.

9. Rådet vedtager på forslag af Kommissionen eller Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik en afgørelse om suspension af anvendelsen af en aftale og om fastlæggelse af, hvilke holdninger der skal indtages på Unionens vegne i et organ nedsat ved en aftale, når dette organ skal vedtage retsakter, der har retsvirkninger, bortset fra retsakter, der supplerer eller ændrer den institutionelle ramme for aftalen.

10. Europa-Parlamentet skal straks underrettes fuldt ud om alle faser i proceduren.

11. En medlemsstat, **Europa-Parlamentet, Rådet eller Kommissionen** kan indhente udtalelse fra Domstolen om en påtænkt aftales forenelighed med **traktaterne**. I tilfælde af negativ udtalelse fra Domstolen kan den påtænkte aftale kun træde i kraft, hvis den ændres, eller traktaterne revideres.

Artikel 188 O (tidligere artikel 111 EF)

Internationale aftaler om valutakurser i valutakurspolitik

1. Uanset artikel 188 N kan Rådet, **enten** på grundlag af en henstilling fra **Den Europæiske Centralbank** eller **på grundlag af en henstilling fra** Kommissionen og efter høring af **Den Europæiske Centralbank**, hvor det tilstræbes at opnå en konsensus, der er i overensstemmelse med målsætningen om prisstabilitet, indgå formelle aftaler om et valutakurssystem for **euroen** over for **tredjelandsvalutaer**. Rådet træffer afgørelse med **enstemmighed efter høring af Europa-Parlamentet i overensstemmelse med proceduren i stk. 3**.

Rådet, **enten** på grundlag af en henstilling fra **Den Europæiske Centralbank** eller **på grundlag af en henstilling fra** Kommissionen og efter høring af **Den Europæiske Centralbank**, hvor det tilstræbes at opnå en konsensus, der er i overensstemmelse med målsætningen om prisstabilitet, kan vedtage, ændre eller ophæve centralkurserne for **euroen** inden for valutakurssystemet. Formanden for Rådet underretter Europa-Parlamentet om enhver vedtagelse, ændring eller ophævelse af centralkurserne for **euroen**.

2. Såfremt der ikke findes noget valutakurssystem i forhold til en eller flere **tredjelandsvalutaer** som nævnt i stk. 1, kan Rådet, enten på grundlag af en henstilling fra Kommissionen og efter høring af **Den Europæiske Centralbank** eller på grundlag af en

henstilling fra **Den Europæiske Centralbank**, udarbejde generelle retningslinjer for valutakurspolitikken i forhold til disse valutaer. Disse generelle retningslinjer berører ikke ESCB's hovedmålsætning om at fastholde prisstabilitet.

3. Såfremt **Unionen** skal forhandle aftaler om monetære spørgsmål eller spørgsmål vedrørende valutakursordninger med en eller flere **tredjelande** eller internationale organisationer, fastlægger Rådet, på grundlag af en henstilling fra Kommissionen og efter høring af **Den Europæiske Centralbank**, uanset artikel 300 arrangementer for forhandling og indgåelse af sådanne aftaler. Disse arrangementer skal sikre, at **Unionen** udtrykker én enkelt holdning. Kommissionen tilknyttes forhandlingerne fuldt ud.

4. Med forbehold af **Unionens** kompetence og **Unionens** aftaler for så vidt angår Den Økonomiske og Monetære Union, kan medlemsstaterne forhandle i internationale organer og indgå internationale aftaler.

## AFSNIT VI

### UNIONENS FORBINDELSER MED INTERNATIONALE ORGANISATIONER OG TREDJELANDE SAMT UNIONENS DELEGATIONER

#### Artikel 188 P (erstatte artikel 302-304 EF)

##### *Unionens samarbejde med FN og andre internationale organisationer*

1. **Unionen** indleder ethvert formålstjenligt samarbejde med De Forenede Nationers organer og særorganisationer, Europarådet, Organisationen for Sikkerhed og Samarbejde i Europa og Organisationen for Økonomisk Samarbejde og Udvikling.

**Unionen** opretholder i øvrigt passende forbindelser med andre internationale organisationer.

2. **Unionens** højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik og Kommissionen står for gennemførelsen af denne artikel.

#### Artikel 188 Q

##### *Unionens delegationer*

1. **Unionens** delegationer i tredjelande og ved internationale organisationer sikrer **Unionens** repræsentation.

2. **Unionens** delegationer står under den højtstående repræsentants ansvar. De handler i tæt samarbejde med medlemsstaternes diplomatiske og konsulære missioner.

## AFSNIT VII

## SOLIDARITETSBESTEMMELSE

## Artikel 188 R

*Indhold og gennemførelse*

1. Unionen og dens medlemsstater handler i fællesskab på et solidarisk grundlag, hvis en medlemsstat udsættes for et terrorangreb eller er offer for en naturkatastrofe eller en menneskeskabt katastrofe. Unionen tager alle de instrumenter i brug, der står til dens rådighed, herunder de militære midler, medlemsstaterne stiller til dens rådighed, med henblik på:

- a) - at forebygge terrortruslen på medlemsstaternes område
  - at beskytte de demokratiske institutioner og civilbefolkningen mod et eventuelt terrorangreb
  - at yde bistand til en medlemsstat på dennes område efter anmodning fra dens politiske myndigheder i tilfælde af et terrorangreb
- b) at yde bistand til en medlemsstat på dennes område efter anmodning fra dens politiske myndigheder i tilfælde af en naturkatastrofe eller en menneskeskabt katastrofe.

2. Hvis en medlemsstat udsættes for et terrorangreb eller er offer for en naturkatastrofe eller en menneskeskabt katastrofe, kommer de øvrige medlemsstater denne medlemsstat til undsætning på anmodning af dens politiske myndigheder. Med henblik herpå foretager medlemsstaterne en samordning i Rådet.

3. De nærmere regler for Unionens gennemførelse af denne solidaritetsbestemmelse fastlægges ved en afgørelse vedtaget af Rådet på fælles forslag af Kommissionen og Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik. Når denne afgørelse har indvirkning på forsvarsområdet, træffer Rådet afgørelse i henhold til artikel 17, stk. 1, i traktaten om Den Europæiske Union. Det underretter Europa-Parlamentet herom.

I forbindelse med dette stykke og med forbehold af artikel 207 bistås Rådet af Den Udenrigs- og Sikkerhedspolitiske Komité med støtte fra de organer, der er oprettet som led i den fælles sikkerheds- og forsvarspolitik, og af den komité, der er nævnt i artikel 65, der, når det er relevant, forelægger Rådet fælles udtalelser.

4. For at Unionen og dens medlemsstater skal kunne optræde effektivt, foretager Det Europæiske Råd regelmæssige vurderinger af de trusler, som Unionen står over for.

## SJETTE DEL

## INSTITUTIONELLE OG BUDGETMÆSSIGE BESTEMMELSER

## AFSNIT I

## BESTEMMELSER VEDRØRENDE INSTITUTIONERNE

## KAPITEL 1

## INSTITUTIONERNE

## 1. AFDELING

## EUROPA-PARLAMENTET

## Artikel 190

*Europa-Parlamentets sammensætning; direkte valg*

1. Europa-Parlamentet udarbejder forslag **med henblik på fastsættelse af de bestemmelser, der er nødvendige for, at dets medlemmer kan vælges ved** almindelige direkte valg ifølge en i alle medlemsstater ensartet fremgangsmåde eller efter principper, der er fælles for alle medlemsstater.

Rådet, der træffer afgørelse med enstemmighed, **fastsætter de nødvendige bestemmelser efter en særlig lovgivningsprocedure og efter godkendelse** fra Europa-Parlamentet, der **udtaler sig med** et flertal af dets medlemmer. **Disse bestemmelser træder i kraft**, når medlemsstaterne **har godkendt dem** i overensstemmelse med deres forfatningsmæssige bestemmelser.

2. Europa-Parlamentet fastsætter **på eget initiativ ved forordning efter en særlig lovgivningsprocedure** sine medlemmers statut og de almindelige betingelser for udøvelsen af deres hverv efter høring af Kommissionen og med godkendelse fra Rådet. Alle bestemmelser og betingelser i forbindelse med beskatningsordningen for medlemmer og forhenværende medlemmer vedtages med enstemmighed af Rådet.

## Artikel 191

*Politiske partier på europæisk plan*

**Europa-Parlamentet og Rådet fastsætter ved forordning efter den almindelige lovgivningsprocedure** statuten for politiske partier på europæisk plan **som nævnt i artikel 8 A, stk. 4, i traktaten om Den Europæiske Union** og navnlig reglerne for deres finansiering.

## Traktat om Den Europæiske Unions funktionsmåde

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### Artikel 192

#### *Europa-Parlamentet og Parlamentets mulighed for anmodning om forslag til retsakter*

Europa-Parlamentet kan med et flertal **af sine medlemmer** anmode Kommissionen om at fremsætte passende forslag om spørgsmål, som efter dets opfattelse kræver udarbejdelse af en **EU-retsakt** til gennemførelse af **traktaterne**. **Hvis Kommissionen ikke fremsætter noget forslag, giver den Europa-Parlamentet en begrundelse herfor.**

### Artikel 193

#### *Nedsættelse af undersøgelsesudvalg*

Under udførelsen af sine opgaver kan Europa-Parlamentet efter anmodning fra en fjerdedel af sine medlemmer nedsætte et midlertidigt undersøgelsesudvalg, der, uden at de beføjelser, som **traktaterne** har tillagt andre institutioner eller organer, derved berøres, skal undersøge påstande om overtrædelser eller om fejl eller forsømmelser i forbindelse med gennemførelsen af **EU-retten**, medmindre de påståede forhold er under retslig behandling, i hvilket tilfælde denne retslige behandling først skal afsluttes.

Det midlertidige undersøgelsesudvalg ophører med at bestå, når det afgiver sin beretning.

De nærmere vilkår for udøvelse af undersøgelsesbeføjelsen **fastsættes af Europa-Parlamentet, der træffer afgørelse på eget initiativ ved forordning efter en særlig lovgivningsprocedure og efter Rådets og Kommissionens godkendelse.**

### Artikel 194

#### *Borgernes ret til at indgive andragender*

Enhver unionsborger samt enhver fysisk eller juridisk person med bopæl eller hjemsted i en medlemsstat er berettiget til på egen hånd eller i samvirke med andre borgere eller personer at indgive andragender til Europa-Parlamentet om forhold, der henhører under områder, som **Unionen** beskæftiger sig med, og som vedrører den pågældende direkte.

### Artikel 195

#### *Ombudsmandens udnævnelse og opgaver*

1. **En europæisk ombudsmand valgt af Europa-Parlamentet** er beføjet til at modtage klager fra enhver unionsborger eller enhver fysisk eller juridisk person med bopæl eller hjemsted i en medlemsstat over tilfælde af fejl eller forsømmelser i forbindelse med handlinger foretaget af **Unionens institutioner, organer, kontorer eller agenturer**, med undtagelse af **Den Europæiske Unions Domstol** under udøvelsen af dens domstolsfunktioner. **Den Europæiske Ombudsmand undersøger klagerne og aflægger beretning herom.**

Ombudsmanden skal i overensstemmelse med sit hverv foretage de undersøgelser, som han finder berettigede, enten på eget initiativ eller på grundlag af de klager, der forelægges ham direkte eller gennem et medlem af Europa-Parlamentet, medmindre de påståede forhold er under eller har været under retslig behandling. Konstaterer ombudsmanden, at der foreligger fejl eller forsømmelser, forelægger han sagen for den pågældende institution, **det**



**pågældende organ, kontor eller agentur**, som har en frist på tre måneder til at meddele ham sin udtalelse. Ombudsmanden sender derpå en rapport til Europa-Parlamentet og til den pågældende institution, **det pågældende organ, kontor eller agentur**. Den person, som klagen hidrører fra, underrettes om resultatet af disse undersøgelser.

Ombudsmanden aflægger en årlig beretning til Europa-Parlamentet om resultatet af sine undersøgelser.

2. Ombudsmanden **vælges** efter hvert valg til Europa-Parlamentet for dets valgperiode. Han kan genudnævnes.

Domstolen kan på begæring af Europa-Parlamentet afskedige ombudsmanden, hvis han ikke længere opfylder de nødvendige betingelser for at udøve sit hverv, eller hvis han har begået en alvorlig forseelse.

3. Ombudsmanden udfører sit hverv i fuldstændig uafhængighed. Han må ved udøvelsen af sine pligter hverken søge eller modtage instruktioner fra **nogen anden institution** eller **noget andet organ, kontor eller agentur**. Ombudsmanden må, så længe hans embedsperiode varer, ikke udøve nogen anden — lønnet eller ulønnet — erhvervsmæssig virksomhed.

4. Europa-Parlamentet fastsætter **på eget initiativ ved forordning efter en særlig lovgivningsprocedure** ombudsmandens statut og de almindelige betingelser for udøvelsen af hans hverv efter høring af Kommissionen og med godkendelse af Rådet.

#### Artikel 196

##### *Afholdelse af årlige og ekstraordinære sessioner*

Europa-Parlamentet afholder en årlig session. Det træder uden indkaldelse sammen den anden tirsdag i marts.

Europa-Parlamentet kan **ekstraordinært** træde sammen til **møde** efter anmodning af et flertal af dets medlemmer, af Rådet eller af Kommissionen.

#### Artikel 197

##### *Det Europæiske Råds, Rådets og Kommissionens deltagelse i møder*

**Kommissionen** har adgang til alle møder og til at tage ordet på **begæring**.

Kommissionen besvarer mundtligt eller skriftligt de spørgsmål, som Europa-Parlamentet eller dets medlemmer stiller den.

**Det Europæiske Råd** og Rådet udtaler sig for Europa-Parlamentet på betingelser **fastsat i henholdsvis Det Europæiske Råd og Rådets** forretningsorden.

## Traktat om Den Europæiske Unions funktionsmåde

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### Artikel 198

#### *Afstemningsregler*

Medmindre andet er fastsat i **traktaterne**, træffer Europa-Parlamentet sine afgørelser med flertal af de afgivne stemmer.

Forretningsordenen fastsætter det beslutningsdygtige antal medlemmer.

### Artikel 199

#### *Europa-Parlamentets forretningsorden; offentliggørelse af aktstykker*

Europa-Parlamentet fastsætter sin forretningsorden; hertil kræves et flertal af medlemmernes stemmer.

Europa-Parlamentets aktstykker offentliggøres i henhold til **traktaternes og dets forretningsordens** bestemmelser.

### Artikel 200

#### *Åben drøftelse af Kommissionens årlige beretning*

Europa-Parlamentet drøfter i et offentligt møde den almindelige årsberetning, som Kommissionen forelægger det.

### Artikel 201

#### *Mistillidsvotum til Kommissionen*

Indbringes forslag om mistillidsvotum vedrørende Kommissionens virksomhed, kan Europa-Parlamentet tidligst tage stilling hertil tre dage efter forslaget indbringelse og kun ved en offentlig afstemning.

Såfremt forslaget om mistillidsvotum vedtages med to tredjedels flertal af de afgivne stemmer og af et flertal af Europa-Parlamentets medlemmer, skal Kommissionens medlemmer samlet nedlægge deres hverv, **og Unionens højtstående repræsentant for udenrigsaffænder og sikkerhedspolitik nedlægger de hverv, denne udøver i Kommissionen**. De fungerer og viderefører dog de løbende forretninger, indtil deres efterfølgere er blevet udnævnt i henhold til **artikel 9 D i traktaten om Den Europæiske Union**. I dette tilfælde udløber tjenesteperioden for de medlemmer af Kommissionen, der er udnævnt til at efterfølge dem, på den dato, hvor tjenesteperioden for de medlemmer af Kommissionen, der samlet har måttet nedlægge deres hverv, **ville** være udløbet.

**AFDELING 1a****DET EUROPÆISKE RÅD****Artikel 201a**

Stemmeregler og deltagelse af Parlamentets formand

**1. Hvert medlem af Det Europæiske Råd kan kun modtage fuldmagt til at stemme fra ét af de øvrige medlemmer.**

**Artikel 9 C, stk. 4, i traktaten om Den Europæiske Union og artikel 205, stk. 2, i denne traktat finder anvendelse på Det Europæiske Råd, når det træffer afgørelse med kvalificeret flertal. Når Det Europæiske Råd træffer afgørelse ved afstemning, deltager dets formand og Kommissionens formand ikke i afstemningen.**

**Det forhold, at medlemmer, der er til stede eller repræsenteret, undlader at stemme, hindrer ikke vedtagelsen af de af Det Europæiske Råds afgørelser, der kræver enstemmighed.**

**2. Det Europæiske Råd kan indbyde formanden for Europa-Parlamentet til at blive hørt.**

**3. Det Europæiske Råd træffer afgørelse med simpelt flertal i forbindelse med procedurespørgsmål samt i forbindelse med vedtagelsen af sin forretningsorden.**

**4. Det Europæiske Råd bistås af Generalsekretariatet for Rådet.**

**Artikel 201b**

*Liste over rådsformationer*

**Det Europæiske Råd vedtager med kvalificeret flertal:**

- a) en afgørelse, der fastlægger en liste over andre rådssammensætninger end dem, der er nævnt i artikel 9 C, stk. 6, andet og tredje afsnit, i traktaten om Den Europæiske Union;**
- b) en afgørelse om formandskabet for andre rådssammensætninger end udenrigs-anliggender i overensstemmelse med artikel 9 C, stk. 9, i traktaten om Den Europæiske Union.**

## 2. AFDELING

## RÅDET

## Artikel 204

*Indkaldelse af Rådet*

Rådet træder sammen efter indkaldelse fra formanden på initiativ af denne, af et medlem af Rådet eller af Kommissionen.

## Artikel 205

*Afstemning, stemmeregler, simpelt og kvalificeret flertal*

**1. Ved afgørelser, der kræver simpelt flertal, træffer Rådet afgørelse med et flertal af medlemmernes stemmer.**

**2. Hvis Rådet ikke træffer afgørelse på forslag af Kommissionen eller Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, defineres kvalificeret flertal uanset stk. 4 i artikel 9 C i traktaten om Den Europæiske Union fra den 1. november 2014 og med forbehold af overgangsbestemmelserne i artikel 9 C, stk. 5, i traktaten om Den Europæiske Union som mindst 72% af Rådets medlemmer, der repræsenterer medlemsstater med tilsammen mindst 65% af Unionens befolkning.**

**3. I de tilfælde, hvor ikke alle Rådets medlemmer deltager i afstemningen, defineres kvalificeret flertal fra den 1. november 2014 og med forbehold af overgangsbestemmelserne i protokollen om overgangsbestemmelser således:**

- a) Kvalificeret flertal defineres som mindst 55% af de medlemmer af Rådet, der repræsenterer de deltagende medlemsstater, idet dette flertal skal omfatte mindst 65% af befolkningen i disse medlemsstater.

Et blokerende mindretal skal som minimum omfatte det mindste antal medlemmer af Rådet, der repræsenterer mere end 35% af befolkningen i de deltagende medlemsstater, plus ét; er der ikke et sådant mindretal, anses det kvalificerede flertal for opnået.

- b) Hvis Rådet ikke træffer afgørelse på forslag af Kommissionen eller Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, defineres kvalificeret flertal uanset litra a) som mindst 72% af de medlemmer af Rådet, der repræsenterer de deltagende medlemsstater, idet dette flertal skal omfatte mindst 65% af befolkningen i disse medlemsstater.

**4. Det forhold, at medlemmer, der er til stede eller repræsenteret, undlader at stemme, hindrer ikke vedtagelsen af de af Rådets afgørelser, der kræver enstemmighed.**

## Artikel 206

*Fuldmagt til at stemme på anden medlemsstats vegne*

Hvert medlem af Rådet kan kun fra ét af de øvrige medlemmer modtage fuldmagt til at stemme.

## Artikel 207

*COREPER; Generalsekretariatet; Rådets forretningsorden*

1. En komité **sammensat af de faste repræsentanter for medlemsstaternes regeringer, er ansvarlig for** at forberede Rådets arbejde og udføre de hverv, der tildeles **den** af Rådet. Komitéen kan vedtage procedureafgørelser i de tilfælde, der er nævnt i Rådets forretningsorden.
  2. Rådet bistås af et generalsekretariat, **der** ledes af en generalsekretær **udnævnt af Rådet**.
- Rådet træffer afgørelse om generalsekretariatets organisation med simpelt flertal.
3. Rådet **træffer afgørelse med simpelt flertal i forbindelse med procedurespørgsmål samt i forbindelse med vedtagelsen af** sin forretningsorden.

## Artikel 208

*Anmodning til Kommissionen om undersøgelser*

Rådet, **der træffer afgørelse med simpelt flertal**, kan anmode Kommissionen om at foretage sådanne undersøgelser, som det anser for hensigtsmæssige for at virkeliggøre de fælles mål, og om at forelægge det dertil egnede forslag. **Hvis Kommissionen ikke fremsætter noget forslag, giver den Rådet en begrundelse herfor.**

## Artikel 209

*Fastsættelse af vedtægter for udvalg*

Efter **høring af** Kommissionen udfærdiger Rådet, **der træffer afgørelse med simpelt flertal**, vedtægterne for de i traktaterne forudsete udvalg.

## Artikel 210

*Løn og pension til medlemmer af Kommissionen og Den Europæiske Unions Domstol*

Rådet fastsætter lønninger, godtgørelser og pensioner **for Det Europæiske Råds formand**, for Kommissionens formand, **for Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik**, for Kommissionens medlemmer, **for Den Europæiske Unions Domstols præsidenter, medlemmer og justitssekretærer**, samt **for Rådets generalsekretær**. Det fastsætter ligeledes alle godtgørelser, der ydes som vederlag.

## 3. AFDELING

## KOMMISSIONEN

## Artikel 211

*Kommissionens sammensætning*

I overensstemmelse med artikel 9 D, stk. 5, i traktaten om Den Europæiske Union vælges Kommissionens medlemmer på grundlag af en rotationsordning fastsat med enstemmighed af Det Europæiske Råd ud fra følgende principper:

- a) Medlemsstaterne behandles fuldstændig ligeligt for så vidt angår fastlæggelsen af rækkefølgen og varigheden af deres statsborgeres medlemskab af Kommissionen; følgelig kan differencen mellem det samlede antal tjenesteperioder varetaget af statsborgere fra to givne medlemsstater aldrig overstige én.
- b) Hver af de på hinanden følgende Kommissioner sammensættes således, at den demografiske og geografiske spredning i samtlige medlemsstater afspejles på tilfredsstillende måde, jf. dog litra a).

## Artikel 213

*Kommissionens uafhængighed*

Kommissionens medlemmer afholder sig fra enhver handling, som er uforenelig med karakteren af deres hverv. **Medlemsstaterne respekterer deres uafhængighed og forsøger ikke** at påvirke dem under udførelsen af deres hverv.

Kommissionens medlemmer må ikke, så længe deres tjeneste varer, udøve nogen anden — lønnet eller ulønnet — erhvervsmæssig virksomhed. Ved indsættelsen i hvervet afgiver de en højtidelig forsikring, hvorefter de, såvel i deres tjenesteperiode som efter at denne er afsluttet, vil overholde de forpligtelser, der følger med deres hverv, i særdeleshed pligten til efter tjenesteperiodens ophør at udvise hæderlighed og tilbageholdenhed med hensyn til overtagelse af visse hverv eller opnåelse af visse fordele. Overtrædes disse forpligtelser, kan Domstolen på begæring af Rådet, **som træffer afgørelse med simpelt flertal**, eller af Kommissionen — alt efter omstændighederne — afskedige de pågældende fra hans stilling i henhold til artikel 216 eller fratage ham retten til pension eller andre tilsvarende fordele.

## Artikel 215

*Frivillig fratræden og afskedigelse*

Bortset fra ordinære nyansættelser og dødsfald ophører tjenesten for et medlem af Kommissionen ved frivillig fratræden eller ved afskedigelse.

For resten af det fratrådte, afskedigede eller afdøde medlems tjenesteperiode udnævner Rådet i **forståelse med Kommissionens formand** et nyt medlem **af samme nationalitet efter høring af Europa-Parlamentet og i overensstemmelse med de kriterier, der er fastsat i artikel 9 D, stk. 3, andet afsnit, i traktaten om Den Europæiske Union**. Rådet kan med enstemmighed **på forslag af Kommissionens** formand beslutte, at der ikke

skal udnævnes nogen efterfølger, **navnlig når der kun er kort tid tilbage af det pågældende medlems tjenesteperiode.**

Ved frivillig fratræden, afskedigelse eller dødsfald udnævnes der en efterfølger for formanden for resten af dennes tjenesteperiode. Udnævnelse af en efterfølger for formanden sker efter fremgangsmåden i artikel **9 D, stk. 7, første afsnit, i traktaten om Den Europæiske Union.**

**Ved frivillig fratræden, afskedigelse eller dødsfald udnævnes der en efterfølger for Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik for resten af dennes tjenesteperiode i henhold til artikel 9 E, stk. 1, i traktaten om Den Europæiske Union.**

**Hvis alle medlemmer af Kommissionen fratræder frivilligt, viderefører de de løbende forretninger og fungerer, indtil deres efterfølgere er blevet udnævnt for resten af deres embedsperiode i henhold til artikel 9 D i traktaten om Den Europæiske Union.**

#### Artikel 216

##### *Afskedigelse af et medlem af Kommissionen*

Ethvert medlem af Kommissionen kan afskediges af Domstolen på begæring af Rådet, **der træffer afgørelse med simpelt flertal**, eller Kommissionen, hvis han ikke længere opfylder de nødvendige betingelser for at udøve sit hverv, eller hvis han har begået en alvorlig forseelse.

#### Artikel 217

##### *Kommissionens organisation; formand, næstformænd*

Kommissionens ansvarsområder struktureres og fordeles mellem dens medlemmer af formanden **i henhold til artikel 9 D, stk. 6, i traktaten om Den Europæiske Union, jf. dog artikel 9 E, stk. 4, i nævnte traktat.** Formanden kan ændre fordelingen af disse ansvarsområder i løbet af en mandatperiode. Kommissionens medlemmer udøver de hverv, der tillægges dem af formanden, under dennes tilsyn.

#### Artikel 218

(Erstatter delvis tidligere artikel 212 EF)

##### *Kommissionens forretningsorden og årlig beretning om EU*

1. Kommissionen fastsætter sin forretningsorden med henblik på at sikre sin egen og sine tjenestegrenes virksomhed. Den drager omsorg for, at forretningsordenen offentliggøres.
2. Hvert år og senest en måned før åbningen af Europa-Parlamentets session offentliggør Kommissionen en almindelig beretning om **Unionens** virksomhed.

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Artikel 219

*Afstemning i Kommissionen, beslutningsdygtighed*

Kommissionens afgørelser træffes af et flertal af **dens** medlemmer.

**Dens** forretningsorden fastsætter det beslutningsdygtige antal medlemmer.

4. AFDELING

**DEN EUROPÆISKE UNIONS DOMSTOL**

Artikel 221

*Domstolens sammensætning, organisation*

Domstolen sættes i afdelinger eller i den store afdeling i overensstemmelse med de regler herfor, der er fastsat i **statutten for Den Europæiske Unions Domstol**.

Domstolen kan endvidere sættes i plenum, hvor statuten giver mulighed herfor.

Artikel 222

*Generaladvokater*

Domstolen bistås af otte generaladvokater. På Domstolens begæring kan Rådet med enstemmighed vedtage at forøge antallet af generaladvokater.

Generaladvokaten skal fuldstændig upartisk og uafhængigt offentligt fremsætte begrundede forslag til afgørelse af de sager, som i henhold til **statutten for Den Europæiske Unions Domstol** kræver hans medvirken.

Artikel 223

*Udnævnelse af dommere, generaladvokater, nybesættelse*

Til dommere og generaladvokater ved Domstolen vælges personer, hvis uafhængighed er uomtvistelig, og som i deres hjemland opfylder betingelserne for at indtage de højeste dommerembeder, eller som er jurister, hvis faglige kvalifikationer er almindeligt anerkendt. De udnævnes af medlemsstaternes regeringer efter fælles overenskomst for et tidsrum af seks år **efter høring af det udvalg, der er omhandlet i artikel 224 A**.

Hvert tredje år finder en delvis nybesættelse af dommerembederne og generaladvokaternes embeder sted på de betingelser, der er fastsat i **statutten for Den Europæiske Unions Domstol**.

Dommerne vælger af deres midte for et tidsrum af tre år Domstolens præsident. Denne kan genvælges.



De afgående dommere og generaladvokater kan genudnævnes.

Domstolen fastsætter sit procesreglement. Reglementet skal godkendes af Rådet.

#### Artikel 224

##### *Retten; dommere*

Antallet af dommere i **Retten** fastsættes i **statutten for Den Europæiske Unions Domstol**. Det kan i statutten bestemmes, at Retten bistås af generaladvokater.

Til medlemmer af Retten vælges personer, hvis uafhængighed er uomtvistelig, og som har de nødvendige kvalifikationer til at varetage høje retslige funktioner. De udnævnes af medlemsstaternes regeringer efter fælles overenskomst for et tidsrum af seks år. En delvis fornyelse finder sted hvert tredje år. Afgående medlemmer kan genudnævnes **efter høring af det udvalg, der er omhandlet i artikel 224 A**.

Dommerne vælger af deres midte for et tidsrum af tre år præsidenten for Retten. Denne kan genvælges.

Retten fastsætter med Domstolens tiltrædelse sit procesreglement. Reglementet skal godkendes af Rådet.

Medmindre andet er fastsat i **statutten for Den Europæiske Unions Domstol**, finder **traktaternes** bestemmelser om Domstolens anvendelse på Retten.

#### Artikel 224 A

##### *Udvalg til bedømmelse af kandidaternes kvalifikationer*

Der nedsættes et udvalg, der skal afgive udtalelse om kandidaternes kvalifikationer til at udøve embederne som dommer og generaladvokat ved Domstolen og Retten, inden medlemsstaternes regeringer foretager udnævnelser i overensstemmelse med artikel 223 og 224.

Udvalget skal bestå af syv personer, der er valgt blandt tidligere medlemmer af Domstolen og Retten, medlemmer af de højeste nationale retter og jurister, hvis faglige kvalifikationer er almindeligt anerkendt, heraf én foreslået af Europa-Parlamentet. Rådet vedtager en afgørelse om reglerne for dette udvalgs funktionsmåde og en afgørelse om udpegelse af medlemmerne. Det træffer afgørelse på initiativ af Domstolens præsident.

#### Artikel 225

##### *Retten kompetence*

1. Retten har kompetence til som første instans at træffe afgørelse i de sager, der er omhandlet i artikel 230, 232, 235, 236 og 238, bortset fra sager, der henvises til en **specialret oprettet i medfør af artikel 225 A**, eller sager, der i henhold til statutten er forbeholdt Domstolen. Det kan fastsættes i statutten, at Retten har kompetence i andre arter af sager.

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De afgørelser, der træffes af Retten i medfør af dette stykke, kan appelleres til Domstolen, dog kun for så vidt angår retsspørgsmål, på de betingelser og med de begrænsninger, der er fastsat i statuten.

2. Retten har kompetence til at træffe afgørelse i sager, der indbringes vedrørende afgørelser truffet af **specialretter**.

De afgørelser, der træffes af Retten i medfør af dette stykke, kan på de betingelser og med de begrænsninger, der er fastsat i **statuten for Den Europæiske Unions Domstol**, undtagelsesvis underkastes fornyet prøvelse ved Domstolen, hvis der er alvorlig risiko for, at EU-rettens ensartede anvendelse eller sammenhæng kan påvirkes.

3. Retten har kompetence til at afgøre præjudicielle spørgsmål, som forelægges den i medfør af artikel 234, inden for særlige områder fastlagt i statuten.

Hvis Retten finder, at sagen kræver en principafgørelse, der kan påvirke **EU-rettens** ensartede anvendelse eller sammenhæng, kan den henvise sagen til Domstolen, for at denne skal træffe afgørelse.

De afgørelser, der træffes af Retten om præjudicielle spørgsmål, kan på de betingelser og med de begrænsninger, der er fastsat i **statuten for Den Europæiske Unions Domstol**, undtagelsesvis underkastes fornyet prøvelse ved Domstolen, hvis der er alvorlig risiko for, at EU-rettens ensartede anvendelse eller sammenhæng kan påvirkes.

### Artikel 225 A

#### *Oprettelse af specialretter*

**Europa-Parlamentet og Rådet kan efter den almindelige lovgivningsprocedure oprette specialretter tilknyttet Retten**, der i første instans skal træffe afgørelse i visse arter af sager inden for særlige områder. **Europa-Parlamentet og Rådet træffer afgørelse ved forordning enten på forslag af Kommissionen og efter høring af Domstolen eller på begæring af Domstolen og efter høring af Kommissionen.**

I **forordningen om oprettelse af en specialret** fastsættes bestemmelserne om sammensætningen af denne ret samt omfanget af dens beføjelser.

**Specialretternes** afgørelser kan appelleres til Retten, dog kun for så vidt angår retsspørgsmål samt, hvis dette er fastsat i afgørelsen om oprettelse af **specialretten**, spørgsmål vedrørende sagens faktiske omstændigheder.

Til medlemmer af **specialretterne** vælges personer, hvis uafhængighed er uomtvistelig, og som har de nødvendige kvalifikationer til at varetage retslige funktioner. De udnævnes af Rådet med enstemmighed.

**Specialretterne** fastsætter med Domstolens tiltrædelse deres procesreglement. Reglementet skal godkendes af Rådet.

Medmindre andet er fastsat i **forordningen** om oprettelse af **specialretten**, finder **traktaternes** bestemmelser om **Den Europæiske Unions Domstol** og bestemmelserne i **statuten for Den Europæiske Unions Domstol** anvendelse på **specialretterne**. **Afsnit I i statuten og artikel 64 i denne finder under alle omstændigheder anvendelse på specialretterne.**

## Artikel 226

*Traktatkrænkelingsprocedure iværksat af Kommissionen*

Finder Kommissionen, at en medlemsstat ikke har overholdt en forpligtelse, der påhviler den i henhold til **traktaterne**, fremsætter den en begrundet udtalelse herom efter at have givet den pågældende stat lejlighed til at fremsætte sine bemærkninger.

Retter den pågældende stat sig ikke efter den fremsatte udtalelse inden for den frist, der er fastsat af Kommissionen, kan denne indbringe sagen for **Den Europæiske Unions Domstol**.

## Artikel 227

*Traktatkrænkelingsprocedure iværksat af en medlemsstat*

En medlemsstat, der finder, at en anden medlemsstat ikke har overholdt en forpligtelse, der påhviler den i henhold til **traktaterne**, kan indbringe sagen for **Den Europæiske Unions Domstol**.

Før en medlemsstat indbringer en klage over en anden medlemsstat på grund af en påstået overtrædelse af de forpligtelser, der påhviler denne i henhold til **traktaterne**, skal den forelægge sagen for Kommissionen.

Efter at de pågældende stater har haft lejlighed til skriftligt og mundtligt at fremsætte deres bemærkninger i sagen og til det af modparten anførte, afgiver Kommissionen en begrundet udtalelse.

Såfremt Kommissionen ikke har afgivet sin udtalelse inden tre måneder efter sagens forelæggelse, skal dette ikke være til hinder for, at klagen indbringes for Domstolen.

## Artikel 228

*Opfyldelse af domme, tvangsbøder og faste beløb*

1. Såfremt **Den Europæiske Unions Domstol** fastslår, at en medlemsstat ikke har overholdt en forpligtelse, som påhviler den i henhold til **traktaterne**, skal denne stat gennemføre de til dommens opfyldelse nødvendige foranstaltninger.

2. Hvis Kommissionen finder, at den pågældende medlemsstat ikke har truffet **de foranstaltninger, der er nødvendige for opfyldelsen af Domstolens dom, kan den indbringe sagen for Den Europæiske Unions Domstol efter at have givet denne stat lejlighed til at fremsætte sine bemærkninger**. Den angiver i denne forbindelse størrelsen af det faste beløb eller den tvangsbøde, **som den under omstændighederne finder det passende, at den pågældende medlemsstat betaler**.

Hvis Domstolen fastslår, at den pågældende medlemsstat ikke har efterkommet dens dom, kan den pålægge den betaling af et fast beløb eller en tvangsbøde.

Denne fremgangsmåde berører ikke bestemmelserne i artikel 227.

3. Når Kommissionen indbringer en sag for Den Europæiske Unions Domstol i henhold til artikel 226, fordi den finder, at den pågældende medlemsstat ikke har overholdt sin forpligtelse til at meddele gennemførelsesforanstaltninger til et direktiv vedtaget efter en lovgivningsprocedure, kan den, når den finder det hensigtsmæssigt, angive størrelsen af det faste beløb eller den tvangsbøde, som den under omstændighederne finder det passende, at den pågældende stat betaler.

Hvis Domstolen fastslår en overtrædelse, kan den pålægge den pågældende medlemsstat at betale et fast beløb eller en tvangsbøde, der ikke overstiger det af Kommissionen anførte beløb. Betalingspligten får virkning på den dato, Domstolen fastsætter i sin dom.

#### Artikel 229

Den Europæiske Unions Domstols prøvelse af sanktioner i forordninger

Forordninger udstedt af Europa-Parlamentet og Rådet i fællesskab eller af Rådet i henhold til **traktaternes** bestemmelser, kan tillægge **Den Europæiske Unions Domstol** fuld prøvelsesret vedrørende de i disse forordninger omhandlede sanktioner.

#### Artikel 229 A

##### *Tillæggelse af nye kompetencer*

Med forbehold af **traktaternes** øvrige bestemmelser kan Rådet med enstemmighed efter **en særlig lovgivningsprocedure og efter høring af Europa-Parlamentet** vedtage bestemmelser med henblik på at tillægge **Den Europæiske Unions Domstol** kompetence i et omfang, der fastsættes af Rådet, til at afgøre tvister vedrørende anvendelsen af retsakter vedtaget på grundlag af **traktaterne**, hvorved der indføres europæiske industrielle ejendomsrettigheder. **Disse bestemmelser træder i kraft, når medlemsstaterne har godkendt dem** i overensstemmelse med deres forfatningsmæssige bestemmelser.

#### Artikel 230

##### *Annulationssøgsmål*

**Den Europæiske Unions Domstol** prøver lovligheden af **lovgivningsmæssige** retsakter, af **retsakter** vedtaget af Rådet, Kommissionen eller af **Den Europæiske Centralbank**, bortset fra henstillinger og udtalelser, samt de af Europa-Parlamentets og **Det Europæiske Råds** retsakter, der skal have retsvirkning over for tredjemand. **Den prøver ligeledes lovligheden af de af Unionens organers, kontorer og agenturers retsakter, der skal have retsvirkning over for tredjemand.**

I denne henseende har **Den Europæiske Unions Domstol** kompetence til at udtale sig om klager, der af en medlemsstat, af Europa-Parlamentet, af Rådet eller af Kommissionen indbringes under påberåbelse af inkompetence, væsentlige formelle mangler, overtrædelse af **traktaterne** eller af retsregler vedrørende dens gennemførelse samt af magtfordrejning.

**Den Europæiske Unions Domstol** har på samme grundlag kompetence til at udtale sig om klager, der indbringes af Revisionsretten, af **Den Europæiske Centralbank** samt af **Regionsudvalget** med henblik på at bevare disses prærogativer.

Enhver fysisk eller juridisk person kan på **det grundlag, der er omhandlet i stk. 1 og 2, anlægge sag til prøvelse af retsakter**, der retter sig til ham, **eller som berører ham umiddelbart og individuelt samt af regelfastsættende retsakter, der berører ham umiddelbart, og som ikke omfatter gennemførelsesforanstaltninger.**

**Retsakter om oprettelse af EU-organer, -kontorer og -agenturer kan fastsætte særlige betingelser og vilkår for sager, som fysiske eller juridiske personer anlægger til prøvelse af retsakter vedtaget af disse organer, kontorer og agenturer, som skal have retsvirkning for dem.**

De i denne artikel omhandlede klager skal indgives inden to måneder, efter at retsakten, alt efter sin art, er offentliggjort eller meddelt klageren eller, i mangel heraf senest to måneder efter, at klageren har fået kendskab til den.

#### Artikel 231

##### *Retsvirkninger af annulationssøgsmål*

Såfremt klagen findes berettiget, erklærer **Den Europæiske Unions Domstol** den anfægtede retsakt for ugyldig.

Domstolen **angiver** dog, dersom den skønner det nødvendigt, hvilke af den annullerede **retsakts** virkninger der skal betragtes som bestående.

#### Artikel 232

##### *Passivitetssøgsmål mod EU-institutioner m.v.*

Undlader Europa-Parlamentet, **Det Europæiske Råd**, Rådet, Kommissionen **eller Den Europæiske Centralbank** i strid med **traktaterne** at træffe afgørelse, kan medlemsstaterne eller **Unionens** andre institutioner indbringe klage for **Den Europæiske Unions Domstol** for at få fastslået denne overtrædelse af traktaten. **Denne artikel finder på samme betingelser anvendelse på Unionens organer, kontorer og agenturer, hvis de undlader at træffe afgørelse.**

En sådan klage kan kun antages til behandling, hvis den pågældende institution, **eller det pågældende organ, kontor eller agentur**, har været opfordret til at handle. Hvis institutionen, **organet, kontoret eller agenturet** ikke har taget stilling inden to måneder efter denne opfordring, kan klagen indbringes inden for en frist på yderligere to måneder.

På de i de foregående stykker fastsatte betingelser kan enhver fysisk eller juridisk person indbringe klage til Domstolen over, at en af **Unionens** institutioner **eller et af dens organer, kontorer eller agenturer** har undladt at udstede en retsakt til ham, henstillinger og udtalelser dog undtaget.

#### Artikel 233

##### *Institutionernes pligt til opfyldelse af domme*

Den institution **eller det organ, kontor eller agentur**, fra hvilken en annulleret retsakt hidrører, eller hvis undladelse er erklæret stridende mod **traktaterne**, har pligt til at gennemføre de til dommens opfyldelse nødvendige foranstaltninger.

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Denne pligt berører ikke den forpligtelse, som måtte følge af anvendelsen af artikel 288, stk. 2.

### Artikel 234

#### *Præjudicielle spørgsmål*

**Den Europæiske Unions Domstol** har kompetence til at afgøre præjudicielle spørgsmål:

- a) om fortolkningen af **traktaterne**
- b) om gyldigheden og fortolkningen af retsakter udstedt af **Unionens institutioner, organer, kontorer eller agenturer**.

Såfremt et sådant spørgsmål rejses ved en ret i en af medlemsstaterne, kan denne ret, hvis den skønner, at en afgørelse af dette spørgsmål er nødvendig, før den afsiger sin dom, anmode **Den Europæiske Unions Domstol** om at afgøre spørgsmålet.

Såfremt et sådant spørgsmål rejses under en retssag ved en national ret, hvis afgørelser ifølge de nationale retsregler ikke kan appelleres, er retten pligtig at indbringe sagen for **Den Europæiske Unions Domstol**.

**Hvis et sådant spørgsmål rejses under en retssag ved en national ret, der vedrører en person, der er frihedsberøvet, træffer Den Europæiske Unions Domstol afgørelse hurtigst muligt.**

### Artikel 235

#### *Søgsmål mod Unionen vedr. erstatning uden for kontraktforhold*

Den Europæiske Unions Domstol har kompetence til at afgøre tvister vedrørende de i artikel 288, stk. 2 og 3, omhandlede skadeserstatninger.

### Artikel 235a

#### *Domstolens kompetence i forhold til suspension af medlemsstats rettigheder*

**Domstolen har kun kompetence til at udtale sig om lovligheden af en retsakt vedtaget af Det Europæiske Råd eller Rådet i henhold til artikel 7 i traktaten om Den Europæiske Union efter anmodning fra den medlemsstat, hvormed Det Europæiske Råd eller Rådet har fastslået, at der foreligger en situation som omhandlet i nævnte artikel, og kun for så vidt angår overholdelsen af artiklens procedurebestemmelser.**

**Anmodningen skal fremsættes inden for en frist på en måned, efter at Rådet har fastslået, at den pågældende situation foreligger. Domstolen træffer afgørelse inden for en måned fra den dato, hvor anmodningen fremsættes.**

## Artikel 236

*Kompetence i personalesager*

**Den Europæiske Unions Domstol** har kompetence til at afgøre alle tvister mellem **Unionen** og **dens** ansatte med de begrænsninger og på de betingelser, der er fastsat i vedtægten for **Unionens** tjenestemænd, **og** de ansættelsesvilkår, der gælder for **dens** øvrige ansatte.

## Artikel 237

*Søgsmål vedr. EIB, ECB og ESCB*

Med de nedenfor nævnte begrænsninger har **Den Europæiske Unions Domstol** kompetence til at afgøre tvister, som vedrører:

- a) opfyldelse af medlemsstaternes forpligtelse ifølge vedtægterne for Den Europæiske Investeringsbank. Bankens bestyrelse har i dette tilfælde de beføjelser, der i henhold til artikel 226 er tillagt Kommissionen
- b) afgørelser truffet af Den Europæiske Investeringsbanks styrelsesråd. Hver medlemsstat, Kommissionen og Bankens bestyrelse kan herom indbringe klage på de i artikel 230 fastsatte betingelser
- c) afgørelser truffet af Den Europæiske Investeringsbanks bestyrelse. Klager over disse afgørelser kan kun indbringes af medlemsstaterne eller af Kommissionen på de i artikel 230 fastsatte betingelser og kun for overtrædelse af de i artikel **19**, stk. 2, 5, 6 og 7, i vedtægterne for Banken fastsatte formforskrifter
- d) de nationale centralbankers opfyldelse af deres forpligtelser ifølge **traktaterne og statuten for ESCB og ECB**. **Styrelsesrådet for Den Europæiske Centralbank** har i dette tilfælde over for de nationale centralbanker de beføjelser, der i henhold til artikel 226 er tillagt Kommissionen over for medlemsstaterne. Såfremt **Den Europæiske Unions Domstol** fastslår, at en national centralbank ikke har overholdt en forpligtelse, som påhviler den i henhold til **traktaterne**, skal denne centralbank gennemføre de til dommens opfyldelse nødvendige foranstaltninger.

## Artikel 238

*Voldgiftsbestemmelser i Unionens aftaler*

**Den Europæiske Unions Domstol** har kompetence til at træffe afgørelse i henhold til en voldgiftsbestemmelse, som indeholdes i en af **Unionen** eller i en på dets vegne indgået offentligretlig eller privatretlig aftale.

## Artikel 239

*Voldgiftssager mellem medlemsstater*

Domstolen har kompetence til at afgøre enhver tvistighed mellem medlemsstaterne, der har forbindelse med **traktaternes** sagsområde, såfremt tvistigheden forelægges den i henhold til en voldgiftsaftale.

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### Artikel 240

#### *Nationale domstoles kompetence i tvister*

Med forbehold af den kompetence, der er tillagt **Den Europæiske Unions Domstol** ved **traktaterne**, er de tvister, i hvilke **Unionen** er part, ikke af den grund unddraget de nationale dømmende myndigheders kompetence.

### Artikel 240a

#### *Domstolens kompetence vedr. FUSP*

**Den Europæiske Unions Domstol har ingen kompetence for så vidt angår bestemmelserne vedrørende den fælles udenrigs- og sikkerhedspolitik eller for så vidt angår retsakter vedtaget på grundlag af disse bestemmelser.**

Domstolen har dog kompetence til at kontrollere overholdelsen af artikel 25 i traktaten om Den Europæiske Union og træffe afgørelse i sager anlagt på de betingelser, der fremgår af artikel 230, stk. 4, i denne traktat vedrørende prøvelsen af lovligheden af afgørelser om restriktive foranstaltninger over for fysiske eller juridiske personer vedtaget af Rådet på grundlag af afsnit V, kapitel 2, i traktaten om Den Europæiske Union.

### Artikel 240b

#### *Domstolens kompetence vedr. straffesager og politisamarbejde*

Under udøvelsen af sine beføjelser vedrørende bestemmelserne i afsnit III kapitel V, 4. og 5. afdeling, vedrørende et område med frihed, sikkerhed og retfærdighed har **Den Europæiske Unions Domstol ingen kompetence til at prøve gyldigheden eller proportionaliteten af operationer, som udføres af en medlemsstats politi eller andre retshåndhævende myndigheder, eller udøvelsen af medlemsstaternes beføjelser med hensyn til opretholdelse af lov og orden og beskyttelse af den indre sikkerhed.**

### Artikel 241

#### *Uanvendelighedsindsigelse*

Uanset udløbet af den frist, der er fastsat i artikel 230, stk. 6, kan hver part i en retstvist, der angår en **almengyldig retsakt vedtaget af en institution, et organ, et kontor eller et agentur under Unionen, over for Den Europæiske Unions Domstol** påberåbe sig de i artikel 230, stk. 2, nævnte grunde og gøre gældende, at retsakten ikke kan finde anvendelse.

### Artikel 242

#### *Opsættende virkning af søgsmål*

Indbringelse af klager for **Den Europæiske Unions Domstol** har ikke opsættende virkning. **Den Europæiske Unions Domstol** kan dog, hvis den skønner, at forholdene kræver det, udsætte gennemførelsen af den anfægtede retsakt.



## Artikel 243

*Foreløbige forholdsregler*

I sager, der er indbragt for **Den Europæiske Unions Domstol**, kan den foreskrive de nødvendige foreløbige forholdsregler.

## Artikel 244

*Fuldbyrdelse af domme*

De af **Den Europæiske Unions Domstol** afsagte domme fuldbyrdes i overensstemmelse med de i artikel 256 fastsatte regler.

## Artikel 245

*Statutten for Den Europæiske Unions Domstol og procesreglement*

Statutten for **Den Europæiske Unions Domstol** er fastsat i en særlig protokol.

**Europa-Parlamentet og Rådet kan efter den almindelige lovgivningsprocedure ændre bestemmelserne i statutten, bortset fra afsnit I og artikel 64 heri. Europa-Parlamentet og Rådet træffer afgørelse enten på begæring af Domstolen og efter høring af Kommissionen eller på forslag af Kommissionen og efter høring af Domstolen.**

## AFDELING 4a

## DEN EUROPÆISKE CENTRALBANK

## Artikel 245a

*Det Europæiske System af Centralbanker*

1. Det Europæiske System af Centralbanker udgøres af Den Europæiske Centralbank og de nationale centralbanker. Den Europæiske Centralbank og de nationale centralbanker i de medlemsstater, der har euroen som valuta – som tilsammen udgør eurosystemet – fører Unionens monetære politik.
2. Det Europæiske System af Centralbanker styres af Den Europæiske Centralbanks besluttende organer. Hovedmålet for Det Europæiske System af Centralbanker er at fastholde prisstabilitet. Uden at dette mål herved berøres, støtter systemet de generelle økonomiske politikker i Unionen for at bidrage til gennemførelsen af Unionens mål.
3. Den Europæiske Centralbank har status som juridisk person. Den har eneret til at bemyndige udstedelse af euro. Den er uafhængig i udøvelsen af sine beføjelser og i forvaltningen af sine finanser. Unionens institutioner, organer, kontorer og agenturer samt medlemsstaternes regeringer respekterer denne uafhængighed.

4. **Den Europæiske Centralbank** vedtager de foranstaltninger, der er nødvendige for udøvelsen af dens funktioner, i henhold til artikel 105 - 111 og 115 A og på de betingelser, der er fastsat i statuten for **Det Europæiske System af Centralbanker og Den Europæiske Centralbank**. I henhold til nævnte artikler bevarer de medlemsstater, der ikke har euroen som valuta, og deres centralbanker deres beføjelser på det monetære område.

5. **Den Europæiske Centralbank** skal på sine beføjelsesområder høres om ethvert udkast til EU-retsakt og om ethvert udkast til national retsforordning og kan afgive udtalelse.

#### **Artikel 245b** (tidligere artikel 112 EF)

##### *Den Europæiske Centralbanks styrelsesråd*

1. **Den Europæiske Centralbanks** Styrelsesråd består af medlemmerne af **Den Europæiske Centralbanks** direktion og cheferne for de nationale centralbanker i **de medlemsstater, der har euroen som valuta**.

2. Direktionen består af formanden, næstformanden og fire andre medlemmer.

Formanden og næstformanden samt de øvrige medlemmer af direktionen udnævnes blandt personer, som er værdige i almindeligt omdømme, og som har professionel erfaring i monetære forhold eller i bankvæsen, **af Det Europæiske Råd med kvalificeret flertal** på grundlag af en indstilling fra Rådet, efter høring af Europa-Parlamentet og Styrelsesrådet for **Den Europæiske Centralbank**.

Deres embedsperiode er på 8 år, og mandatet kan ikke fornyes.

Kun statsborgere i medlemsstaterne kan være medlemmer af direktionen.

#### **Artikel 245c** (tidligere artikel 113 EF)

##### *Deltagelse i Den Europæiske Centralbanks og Rådets møder*

1. Formanden for Rådet og et medlem af Kommissionen kan uden stemmeret deltage i møderne i **Den Europæiske Centralbanks** Styrelsesråd.

Formanden for Rådet kan fremsætte forslag til drøftelse i **Den Europæiske Centralbanks** Styrelsesråd.

2. Formanden for **Den Europæiske Centralbank** opfordres til at deltage i Rådets møder, når dette behandler spørgsmål vedrørende ESCB's mål og opgaver.

3. **Den Europæiske Centralbank** fremsender en årsberetning om ESCB's aktiviteter og om den monetære politik i det foregående og det indeværende år til Europa-Parlamentet, Rådet og Kommissionen og også til Det Europæiske Råd. Formanden for **Den Europæiske Centralbank** forelægger beretningen for Rådet og for Europa-Parlamentet, som kan foranstalte en generel drøftelse på grundlag heraf.

Formanden for **Den Europæiske Centralbank** og de øvrige medlemmer af direktionen kan på anmodning af Europa-Parlamentet eller på eget initiativ høres af Europa-Parlamentets kompetente udvalg.

## 5. AFDELING

### REVISIONSRETEN

#### Artikel 246

##### *Revisionsrettens beføjelser*

Revisionsretten varetager revisionen af **Unionens regnskaber**.

**Den reviderer regnskaberne for alle Unionens indtægter og udgifter og sikrer sig, at den økonomiske forvaltning har været forsvarlig.**

**Den består af en statsborger fra hver medlemsstat. Medlemmerne udfører deres hverv i fuldkommen uafhængighed og i Unionens almene interesse.**

#### Artikel 247

##### *Revisionsrettens sammensætning, udnævnelse, uafhængighed*

1. Revisionsrettens medlemmer udvælges blandt personer, som i deres respektive **stater** tilhører eller har tilhørt eksterne kontrolinstitutioner, eller som er særligt kvalificerede til dette hverv. Deres uafhængighed skal være uomtvistelig.

2. Revisionsrettens medlemmer udnævnes for seks år. Rådet vedtager efter høring af Europa-Parlamentet den liste over medlemmer, der er udarbejdet i overensstemmelse med hver enkelt medlemsstats indstilling. Revisionsrettens medlemmer kan genudnævnes.

De udpeger af deres midte Revisionsrettens formand for et tidsrum af tre år. Hans mandat kan fornyes.

3. Ved udførelsen af deres pligter må **Revisionsrettens medlemmer** ikke søge eller modtage instruktioner fra nogen regering eller noget andet organ. De afholder sig fra enhver handling, som er uforenelig med karakteren af deres hverv.

4. Revisionsrettens medlemmer må ikke, så længe deres tjeneste varer, udøve nogen anden — lønnet eller ulønnet — erhvervsmæssig virksomhed. Ved indsættelsen i hvervet afgiver **Revisionsrettens medlemmer** en højtidelig forsikring om, at de, såvel i deres tjenesteperiode som efter at denne er afsluttet, vil overholde de forpligtelser, der følger af deres hverv, i særdeleshed pligten til efter tjenesteperiodens ophør at udvise hæderlighed og tilbageholdenhed med hensyn til overtagelse af visse hverv eller opnåelse af visse fordele.

5. Bortset fra ordinære nybesættelser og dødsfald ophører tjenesten for et medlem af Revisionsretten ved frivillig fratræden eller ved afskedigelse, der fastslås af Domstolen i overensstemmelse med bestemmelserne i stk. 6.

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For resten af den pågældende tjenesteperiode udnævnes en efterfølger.

Bortset fra afskedigelse fungerer Revisionsrettens medlemmer, indtil deres efterfølger er udpeget.

6. Revisionsrettens medlemmer kan hverken afskediges eller fratages retten til pension eller til andre fordele, der træder i stedet herfor, medmindre Domstolen på Revisionsrettens begæring fastslår, at de ikke længere opfylder de nødvendige betingelser eller ikke længere iagttager de forpligtelser, der følger med hvervet.

7. Rådet fastsætter arbejdsvilkår, navnlig vederlag, godtgørelser og pensioner for Revisionsrettens formand og dens medlemmer. Det fastsætter ligeledes med samme flertal alle godtgørelser, der træder i stedet for vederlag.

8. Bestemmelserne i protokollen vedrørende **Unionens** privilegier og immuniteter, der gælder for dommerne ved **Den Europæiske Unions Domstol**, gælder ligeledes for Revisionsrettens medlemmer.

### Artikel 248

#### *Revisionens omfang og grundlag, årsberetninger; forretningsorden*

1. Revisionsretten reviderer regnskaberne over samtlige **Unionens** indtægter og udgifter. Den reviderer endvidere regnskaberne vedrørende samtlige indtægter og udgifter for ethvert af **Unionen** oprettet organ, **kontor eller agentur**, for så vidt oprettelsesakten ikke udelukker det.

Revisionsretten afgiver en erklæring til Europa-Parlamentet og Rådet om regnskaberne rigtighed og de underliggende transaktioners lovlighed og formelle rigtighed; erklæringen offentliggøres i Den Europæiske Unions Tidende. Erklæringen kan suppleres med specifikke vurderinger for hvert enkelt af **Unionens** større aktivitetsområder.

2. Revisionsretten efterprøver lovligheden og den formelle rigtighed af indtægterne og udgifterne og sikrer sig, at den økonomiske forvaltning har været forsvarlig. I forbindelse hermed aflægger den navnlig beretning om eventuelle uregelmæssigheder.

Revision af indtægterne sker på grundlag af fastlæggelser og indbetalinger af indtægter til **Unionen**.

Revision af udgifterne sker på grundlag af indgåede forpligtelser og afholdte udgifter.

Sådan revision kan foretages inden afslutningen af regnskaberne for det pågældende regnskabsår.

3. Revisionen foretages på grundlag af regnskabsbilag og i fornødent omfang ved undersøgelser på stedet i **Unionens** øvrige institutioner, i organer, der forvalter indtægter eller udgifter på **Unionens** vegne, og i medlemsstaterne, herunder hos enhver fysisk eller juridisk person, der modtager betalinger fra budgettet. Revision i medlemsstaterne foretages i forbindelse med de nationale revisionsinstitutioner eller, såfremt disse ikke har de fornødne beføjelser, i forbindelse med de kompetente nationale myndigheder. Revisionsretten og medlemsstaternes revisionsinstitutioner skal samarbejde på grundlag af tillid, men samtidig således, at de bevarer deres uafhængighed. Disse institutioner eller myndigheder meddeler Revisionsretten, om de er indforstået med at deltage i revisionen.

**Unionens** øvrige institutioner, de organer, der forvalter indtægter eller udgifter på **Unionens** vegne, enhver fysisk eller juridisk person, der modtager betalinger fra budgettet, og de nationale revisionsinstitutioner eller, såfremt disse ikke har de fornødne beføjelser, de kompetente nationale myndigheder afgiver på Revisionsrettens begæring alle dokumenter eller oplysninger, der er nødvendige til gennemførelse af Revisionsrettens opgaver.

I forbindelse med Den Europæiske Investeringsbanks forvaltning af **Unionens** udgifter og indtægter reguleres Revisionsrettens adgang til oplysninger, som Banken ligger inde med, af en aftale mellem Revisionsretten, Banken og Kommissionen. Hvis der ikke indgås nogen aftale, skal Revisionsretten ikke desto mindre have adgang til oplysninger, der er nødvendige for revisionen af de af **Unionens** udgifter og indtægter, som Banken forvalter.

4. Efter hvert regnskabsårs udløb udarbejder Revisionsretten en årsberetning. Denne beretning oversendes til **Unionens** øvrige institutioner og offentliggøres i Den Europæiske Unions Tidende sammen med de nævnte institutioners besvarelser af Revisionsrettens bemærkninger.

Revisionsretten kan endvidere når som helst fremkomme med bemærkninger, navnlig i form af særberetninger, til særlige spørgsmål og på begæring fra en af **Unionens** øvrige institutioner afgive udtalelser.

Den vedtager sine årsberetninger, sine særberetninger eller sine udtalelser med et flertal af sine medlemmers stemmer. Dog kan den af sin midte oprette afdelinger med henblik på vedtagelse af bestemte typer beretninger eller udtalelser på betingelser fastsat i dens forretningsorden.

Den bistår Europa-Parlamentet og Rådet i forbindelse med revisionen af og gennemførelsen af budgettet.

Revisionsretten fastsætter selv sin forretningsorden. Denne skal godkendes af Rådet

## KAPITEL 2

### UNIONENS RETSAKTER, VEDTAGELSESPROCEDURER OG ANDRE BESTEMMELSER.

#### 1. AFDELING

#### UNIONENS RETSAKTER

##### Artikel 249

*Forordninger, direktiver, afgørelser, henstillinger og udtalelser*

**For at udøve Unionens beføjelser vedtager institutionerne forordninger, direktiver, afgørelser, henstillinger og udtalelser.**

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En forordning er almenyldig. Den er bindende i alle enkeltheder og gælder umiddelbart i hver medlemsstat.

Et direktiv er med hensyn til det tilsigtede mål bindende for enhver medlemsstat, som det rettes til, men overlader det til de nationale myndigheder at bestemme form og midler for gennemførelsen.

En **afgørelse** er bindende i alle enkeltheder. **Når den angiver, hvem den er rettet til, er den kun bindende for disse.**

Henstillinger og udtalelser er ikke bindende.

### Artikel 249 A

#### *Lovgivningsmæssige retsakter*

1. Den almindelige lovgivningsprocedure består i, at en forordning, et direktiv eller en afgørelse vedtages af Europa-Parlamentet og Rådet i fællesskab på forslag af Kommissionen. Denne procedure er fastlagt i artikel 251.
2. I specifikke tilfælde, der er fastsat i traktaterne, vedtages forordningen, direktivet eller afgørelsen af Europa-Parlamentet med deltagelse af Rådet eller Rådet med deltagelse af Europa-Parlamentet fra Domstolen eller den Europæiske Investeringsbank, og dette udgør en særlig lovgivningsprocedure.
3. Retsakter vedtaget ved en lovgivningsprocedure er lovgivningsmæssige retsakter.
4. I specifikke tilfælde, der er fastsat i traktaterne, kan retsakter vedtages på initiativ af en gruppe medlemsstater eller af Europa-Parlamentet efter henstilling fra Den Europæiske Centralbank eller efter anmodning fra Domstolen eller Den Europæiske Investeringsbank.

### Artikel 249 B

#### *Delegerede retsakter*

1. Kommissionen kan i en lovgivningsmæssig retsakt få delegeret beføjelse til at vedtage almenyldige, ikke-lovgivningsmæssige retsakter, der udbygger eller ændrer visse ikke-væsentlige elementer i den lovgivningsmæssige retsakt.

De lovgivningsmæssige retsakter afgrænser udtrykkeligt delegationens formål, indhold, omfang og varighed. De væsentlige elementer på et område er forbeholdt den lovgivningsmæssige retsakt og kan derfor ikke være omfattet af delegation.

2. De lovgivningsmæssige retsakter fastlægger udtrykkeligt de betingelser, der gælder for delegationen, og som kan være følgende:
  - a) Europa-Parlamentet eller Rådet kan beslutte at tilbagekalde delegationen
  - b) den delegerede retsakt kan kun træde i kraft, hvis Europa-Parlamentet eller Rådet ikke gør indsigelse inden for den frist, der er fastsat i den lovgivningsmæssige retsakt.

I de tilfælde, der er nævnt i litra a) og b), træffer Europa-Parlamentet afgørelse med et flertal af medlemmernes stemmer, og Rådet træffer afgørelse med kvalificeret flertal.

3. Adjektivet "delegeret" indsættes i de delegerede retsakters overskrift.

#### Artikel 249 C

##### *Gennemførelsesretsakter*

1. Medlemsstaterne træffer alle de nationale foranstaltninger, der er nødvendige for at gennemføre Unionens juridisk bindende retsakter.
2. Når ensartede betingelser for gennemførelse af Unionens juridisk bindende retsakter er nødvendige, tildeler disse retsakter Kommissionen eller – i specifikke behørigt begrundede tilfælde samt i de tilfælde, der er fastsat i artikel 11 og 13 i traktaten om Den Europæiske Union – Rådet gennemførelsesbeføjelser.
3. Med henblik på stk. 2 fastsætter Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure på forhånd generelle regler og principper for, hvordan medlemsstaterne skal kontrollere Kommissionens udøvelse af gennemførelsesbeføjelser.
4. Orddelen "gennemførelses-" eller ordene "om gennemførelse af" indsættes i gennemførelsesretsakternes overskrift.

#### Artikel 249 D

##### Henstillinger

Rådet vedtager henstillinger. Det træffer afgørelse på forslag af Kommissionen i alle de tilfælde, hvor det i henhold til traktaterne skal vedtage retsakter på forslag af Kommissionen. Det træffer afgørelse med enstemmighed på de områder, hvor der kræves enstemmighed ved vedtagelse af en EU-retsakt. Kommissionen samt Den Europæiske Centralbank i de specifikke tilfælde, der er fastsat i traktaterne, vedtager henstillinger.

## 2. AFDELING

### PROCEDURER FOR VEDTAGELSE AF RETSAKTER OG ANDRE BESTEMMELSER

#### Artikel 250

##### *Rådets ændring af Kommissionens forslag; Kommissionens ændring eller tilbagetrækning af forslag*

1. Når Rådet i medfør af **traktaterne** træffer afgørelse på forslag af Kommissionen, kan **Rådet** kun ændre dette forslag **med enstemmighed, jf. dog artikel 270 A og 268, artikel 251, stk. 10 og 13, artikel 272 og artikel 273, stk. 2.**

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2. Så længe Rådet ikke har truffet afgørelse, kan Kommissionen ændre sit forslag under hele forløbet af de procedurer, der fører frem til vedtagelse af en **EU-retsakt**.

### Artikel 251

#### *Den almindelige lovgivningsprocedure*

1. Når der i **traktaterne** henvises til **den almindelige lovgivningsprocedure** med henblik på vedtagelse af en retsakt, anvendes følgende fremgangsmåde:

2. Kommissionen forelægger Europa-Parlamentet og Rådet et forslag.

#### **Førstebehandling**

3. **Europa-Parlamentet fastlægger sin førstebehandlingsholdning og meddeler Rådet den.**

4. **Hvis Rådet godkender Europa-Parlamentets holdning, vedtages den pågældende retsakt i en formulering, der svarer til Europa-Parlamentets holdning.**

5. **Hvis Rådet ikke godkender Europa-Parlamentets holdning, fastlægger det sin førstebehandlingsholdning og meddeler Europa-Parlamentet den.**

6. **Rådet giver Europa-Parlamentet en udførlig redegørelse for grundene til sin førstebehandlingsholdning. Kommissionen giver Europa-Parlamentet en udførlig redegørelse for sin holdning.**

#### **Andenbehandling**

7. Hvis Europa-Parlamentet inden for en frist på tre måneder efter meddelelsen

- a) godkender **Rådets førstebehandlings**holdning eller ikke har udtalt sig, anses den pågældende retsakt for vedtaget i den **formulering, der svarer til Rådets** holdning
- b) med **et** flertal **af** sine medlemmer forkaster **Rådets førstebehandlings**holdning, anses den pågældende retsakt for ikke-vedtaget
- c) med **et** flertal **af** sine medlemmer foreslår ændringer til **Rådets førstebehandlings**holdning, sendes den således ændrede tekst til Rådet og til Kommissionen, som afgiver udtalelse om disse ændringer.

8. **Hvis Rådet, der træffer afgørelse** med kvalificeret flertal, inden for en frist på tre måneder efter modtagelsen af Europa-Parlamentets ændringer

- a) **godkender** alle disse ændringer, anses den pågældende retsakt for vedtaget
- b) ikke godkender alle ændringerne, indkalder formanden for Rådet efter aftale med formanden for Europa-Parlamentet inden for en frist på seks uger til et møde i Forligsudvalget.

9. **Rådet træffer afgørelse med enstemmighed om de ændringer, som Kommissionen har afgivet negativ udtalelse om.**



### Forligsprocedure

10. Forligsudvalget, der sammensættes af Rådets medlemmer eller deres repræsentanter og et tilsvarende antal **medlemmer, der repræsenterer** Europa-Parlamentet, har til opgave at skabe enighed om et fælles udkast, som kan accepteres af et kvalificeret flertal af Rådets medlemmer eller disses repræsentanter og **et flertal af de medlemmer, der repræsenterer Europa-Parlamentet, inden for en frist på seks uger efter indkaldelsen på grundlag af Europa-Parlamentets og Rådets andenbehandlingsholdninger.**

11. Kommissionen deltager i Forligsudvalgets arbejde og tager de nødvendige initiativer med **henblik** på at **forlige** Europa-Parlamentets og Rådets holdninger.

12. Hvis Forligsudvalget inden for en frist på seks uger efter indkaldelsen ikke godkender noget fælles udkast, anses den foreslåede retsakt for ikke-vedtaget.

### Tredjebehandling

13. Hvis Forligsudvalget inden for denne frist godkender et fælles udkast, har Europa-Parlamentet og Rådet hver især en frist på seks uger fra godkendelsen til at vedtage den pågældende retsakt i overensstemmelse med det fælles udkast, idet Europa-Parlamentet træffer afgørelse med et flertal af de afgivne stemmer og Rådet med kvalificeret flertal. Hvis dette ikke sker, anses den foreslåede retsakt for ikke-vedtaget.

14. De i denne artikel anførte frister på tre måneder og seks uger forlænges på Europa-Parlamentets eller Rådets initiativ med henholdsvis højst en måned og højst to uger.

### Særlige bestemmelser

15. Når en lovgivningsmæssig retsakt i de tilfælde, der er fastsat i traktaterne, underkastes den almindelige lovgivningsprocedure på initiativ af en gruppe af medlemsstater, efter henstilling fra Den Europæiske Centralbank eller på anmodning af Domstolen, finder stk. 2, stk. 6, andet punktum, og stk. 9 ikke anvendelse.

I disse tilfælde sender Europa-Parlamentet og Rådet udkastet til retsakt samt deres første- og andenbehandlingsholdninger til Kommissionen. Europa-Parlamentet eller Rådet kan anmode om en udtalelse fra Kommissionen under hele forløbet af proceduren, ligesom Kommissionen kan afgive udtalelse på eget initiativ. Den kan, hvis den finder det nødvendigt, deltage i Forligsudvalget i overensstemmelse med stk. 11.

### Artikel 252

#### *Interinstitutionelt samarbejde*

Europa-Parlamentet, Rådet og Kommissionen holder indbyrdes samråd og aftaler i fællesskab formerne for deres samarbejde. Med henblik herpå kan de inden for traktaternes rammer indgå interinstitutionelle aftaler, der kan antage bindende karakter.

## Artikel 253

*Begrundelsespligt for retsakter*

Når det ikke er fastsat i traktaterne, hvilken type retsakt der skal vedtages, tager institutionerne i hvert enkelt tilfælde stilling hertil under overholdelse af gældende procedurer og proportionalitetsprincippet.

**Retsakter** skal begrundes og henvise til de forslag, **initiativer, henstillinger, anmodninger** og udtalelser, **der kræves** i henhold til traktaterne.

Når Europa-Parlamentet og Rådet får forelagt et udkast til en lovgivningsmæssig retsakt, kan de ikke vedtage retsakter, der ikke er omhandlet i den lovgivningsprocedure, der gælder på det pågældende område.

## Artikel 254

*Offentliggørelse og ikrafttræden; EU-Tidende*

1. Lovgivningsmæssige retsakter, der vedtages efter den almindelige lovgivningsprocedure, undertegnes af både formanden for Europa-Parlamentet og formanden for Rådet.

Lovgivningsmæssige retsakter, der vedtages efter en særlig lovgivningsprocedure, undertegnes af formanden for den institution, der har vedtaget dem.

Lovgivningsmæssige retsakter offentliggøres i Den Europæiske Unions Tidende. De træder i kraft på det tidspunkt, der er fastsat i retsakterne, eller, hvis et sådant ikke er angivet, på tyvendedagen efter offentliggørelsen.

2. Ikke-lovgivningsmæssige retsakter vedtaget i form af forordninger, direktiver og afgørelser, der ikke angiver, hvem de er rettet til, undertegnes af formanden for den institution, der har vedtaget dem.

Forordninger, direktiver, der er rettet til alle medlemsstaterne, samt afgørelser, der ikke angiver, hvem de er rettet til, offentliggøres i Den Europæiske Unions Tidende. De træder i kraft på det tidspunkt, der er fastsat i retsakterne, eller, hvis et sådant ikke er angivet, på tyvendedagen efter offentliggørelsen.

Andre direktiver samt afgørelser, der angiver, hvem de er rettet til, meddeles dem, de er rettet til, og får virkning ved denne meddelelse

## Artikel 254a

*Åben, effektiv og uafhængig europæisk forvaltning*

1. Under udførelsen af deres opgaver støtter Unionens institutioner, organer, kontorer og agenturer sig på en åben, effektiv og uafhængig europæisk forvaltning.

2. Under overholdelse af den vedtægt og de ansættelsesvilkår, der er vedtaget på grundlag af artikel 283, fastsætter Europa-Parlamentet og Rådet ved forordning efter den almindelige lovgivningsprocedure bestemmelser med henblik herpå.

## Artikel 256

*Tvangsfuldbyrdelse af Rådets, Kommissionens og ECB's retsakter*

De af Rådets, Kommissionens og Den **Europæiske Centralbanks retsakter**, der indebærer en forpligtelse for andre end stater til at betale en pengeydelse, kan tvangsfuldbyrdes.

Tvangsfuldbyrdelsen sker efter den borgerlige retsplejes regler i den medlemsstat, på hvis område den finder sted. Fuldbydelsespåtegning skal efter en prøvelse, der kun omfatter ægtheden af det pågældende fuldbydelsesgrundlag, påføres af den nationale myndighed, som hver af medlemsstaternes regeringer har udpeget og anmeldt for Kommissionen og **Den Europæiske Unions Domstol**.

Når disse formkrav er opfyldt på rekvirentens begæring, kan denne lade tvangsfuldbyrdelsen udføre ved indbringelse direkte for den myndighed, der ifølge den nationale lovgivning er kompetent hertil.

Tvangsfuldbyrdelsen kan kun udsættes efter beslutning af **Den Europæiske Unions Domstol**. Prøvelsen af fuldbydelsesforanstaltningernes lovlighed falder dog inden for de nationale dømmende myndigheders kompetence.

## KAPITEL 3

## UNIONENS RÅDGIVENDE ORGANER

## Artikel 256a (Erstatter delvis artikel 263 EF)

*Bistand af Regionsudvalget og Det Økonomiske og Sociale Udvalg*

1. Europa-Parlamentet, Rådet og Kommissionen bistås af et Regionsudvalg og et Økonomisk og Socialt Udvalg med rådgivende funktioner.
2. Regionsudvalget består af repræsentanter for regionale og lokale myndigheder, der enten skal være valgt til en regional eller lokal myndighed eller være politisk ansvarlige over for en valgt forsamling.
3. Det Økonomiske og Sociale Udvalg består af repræsentanter for arbejdsgiver- og arbejdstagerorganisationer og for organisationer for andre aktører, der er repræsentative for civilsamfundet, navnlig på det socioøkonomiske, borgerretlige, faglige og kulturelle område.
4. Regionsudvalgets og Det Økonomiske og Sociale Udvalgs medlemmer må ikke være bundet af nogen instruktion. De udfører deres hverv i fuldkommen uafhængighed og i Unionens almene interesse.
5. Reglerne i stk. 2 og 3 om karakteren af disse udvalgs sammensætning revideres med jævne mellemrum af Rådet for at tage hensyn til den økonomiske, sociale og demografiske udvikling i Unionen. Rådet vedtager på forslag af Kommissionen afgørelser herom.

## 1. AFDELING

### DET ØKONOMISKE OG SOCIALE UDVALG

#### Artikel 258

##### *Antallet af medlemmer, sammensætning*

Antallet af medlemmer i Det Økonomiske og Sociale Udvalg må ikke overstige 350.

**Rådet, der træffer afgørelse med enstemmighed på forslag af Kommissionen, vedtager en afgørelse om udvalgets sammensætning.**

#### Artikel 259

##### *Udnævnelsesprocedure, embedsperiode*

1. Udvalgets medlemmer beskikkes for **fem** år. Rådet vedtager den liste over medlemmer, der er udarbejdet i overensstemmelse med hver medlemsstats indstilling. Genbeskikkelse af udvalgets medlemmer kan finde sted.

2. Rådet **træffer afgørelse efter høring af** Kommissionen. Det kan indhente udtalelser fra europæiske organisationer, der repræsenterer de forskellige økonomiske og sociale sektorer **og civilsamfundet**, som berøres af **Unionens** virksomhed.

#### Artikel 260

##### *Valg af formand og præsidium, forretningsorden*

Udvalget vælger af sin midte sin formand og sit præsidium for et tidsrum af to **et halvt** år.

Det fastsætter selv sin forretningsorden.

Udvalget indkaldes af formanden efter **Europa-Parlamentets**, Rådets eller Kommissionens anmodning. Det kan ligeledes træde sammen på eget initiativ.

#### Artikel 262

##### *Høring, udtalelse på eget initiativ*

Udvalget **høres** i de tilfælde, der er nævnt i denne traktat, af **Europa-Parlamentet**, Rådet eller Kommissionen. Disse institutioner kan høre udvalget i alle tilfælde, hvor de finder det hensigtsmæssigt. Udvalget kan selv tage initiativ til at afgive udtalelse i tilfælde, hvor det finder det hensigtsmæssigt.

Hvis af **Europa-Parlamentet**, Rådet eller Kommissionen finder det nødvendigt, giver de udvalget en frist for fremsættelsen af dets udtalelse. Denne frist skal være på mindst en måned fra det tidspunkt, hvor formanden har fået meddelelse herom. Efter fristens udløb kan sagen behandles, uanset at udtalelse ikke foreligger.

Udvalgets udtalelse samt et referat af forhandlingerne tilstilles af **Europa-Parlamentet**, Rådet og Kommissionen.

## 2. AFDELING

### REGIONSUDVALGET

#### Artikel 263

##### *Sammensætning, beskikkelse, uafhængighed m.v.*

Antallet af medlemmer i Regionsudvalget må ikke overstige 350.

**Rådet, der træffer afgørelse med enstemmighed på forslag af Kommissionen, vedtager en afgørelse om udvalgets sammensætning.**

Udvalgets medlemmer samt et tilsvarende antal suppleanter beskikkes for **fem** år. Genbeskikkelse kan finde sted. Rådet vedtager den liste over medlemmer og suppleanter, der er udarbejdet efter indstilling fra hver enkelt medlemsstat. Ved udløbet af det i **artikel 256 A, stk. 2**, omhandlede mandat, som kvalificerede de pågældende til indstillingen, ophører deres mandat i udvalget automatisk, og der beskikkes efter samme fremgangsmåde en efterfølger for den resterende del af mandatperioden. Et medlem af udvalget kan ikke samtidig være medlem af Europa-Parlamentet.

#### Artikel 264

##### *Valg af formand og præsidium, forretningsorden*

Regionsudvalget vælger af sin midte sin formand og sit præsidium for et tidsrum af to **et halvt** år.

Det fastsætter selv sin forretningsorden.

Udvalget indkaldes af formanden efter **Europa-Parlamentets**, Rådets eller Kommissionens anmodning. Det kan ligeledes træde sammen på eget initiativ.

#### Artikel 265

##### *Høring, udtalelse på eget initiativ*

Regionsudvalget høres af **Europa-Parlamentet**, Rådet eller Kommissionen i de tilfælde, der er nævnt i **traktaterne**, og i alle andre tilfælde, især vedrørende grænseoverskridende samarbejde, hvor en af disse institutioner finder det hensigtsmæssigt.

Hvis **Europa-Parlamentet**, Rådet eller Kommissionen finder det nødvendigt, giver de udvalget en frist for fremsættelsen af dets udtalelse. Denne frist skal være på mindst en måned fra det tidspunkt, hvor formanden har fået meddelelse herom. Efter fristens udløb kan sagen behandles, uanset at udtalelsen ikke foreligger.

Når Det Økonomiske og Sociale Udvalg høres i henhold til artikel 262, underrettes Regionsudvalget af **Europa-Parlamentet**, Rådet eller Kommissionen om denne anmodning om udtalelse. Regionsudvalget kan, når det finder, at der er særlige regionale interesser på spil, afgive en udtalelse herom.

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Det kan afgive udtalelse på eget initiativ i de tilfælde, hvor det finder det hensigtsmæssigt.

Udvalgets udtalelser samt et referat af forhandlingerne tilstilles Rådet og Kommissionen.

### KAPITEL 5

#### DEN EUROPÆISKE INVESTERINGSBANK

##### Artikel 266

###### *Juridisk status, medlemmer, vedtægter*

Den Europæiske Investeringsbank har status som juridisk person.

Den Europæiske Investeringsbanks medlemmer er medlemsstaterne.

Den Europæiske Investeringsbanks vedtægter indeholdes i en protokol, der knyttes som bilag til **traktaterne**. Rådet kan på anmodning af Den Europæiske Investeringsbank og efter høring af Europa-Parlamentet og Kommissionen eller på **forslag** af Kommissionen og efter høring af Europa-Parlamentet og Den Europæiske Investeringsbank med enstemmighed **efter en særlig lovgivningsprocedure** ændre Bankens vedtægter.

##### Artikel 267

###### *EIB's opgaver*

Den Europæiske Investeringsbank har til opgave ved anvendelse dels af midler lånt på kapitalmarkedet, dels af egne midler, i **Unionens** interesse at bidrage til en afbalanceret og gnidningsløs udvikling af det **indre marked**. I dette øjemed letter den, ved ydelse af lån og garantier og uden sigte på fortjeneste, finansieringen af nedennævnte projekter inden for alle erhvervssektorer:

- a) projekter, som har ophjælpning af mindre udviklede områder for øje
- b) projekter, som tager sigte på modernisering eller omstilling af virksomheder eller skabelse af nye beskæftigelsesmuligheder, foranlediget af det **indre markeds** gennemførelse **eller funktion**, men som på grund af deres omfang eller karakter ikke fuldt ud kan finansieres ved udnyttelse af de i de enkelte medlemsstater tilstedeværende midler
- c) projekter af fælles interesse for flere medlemsstater, som på grund af deres omfang eller karakter ikke fuldt ud kan finansieres ved udnyttelse af de i de enkelte medlemsstater tilstedeværende midler.

Under udførelsen af sine opgaver letter Banken finansieringen af investeringsprogrammer sammen med støtte fra strukturfondene og andre af **Unionens** finansielle instrumenter.

## AFSNIT II

## FINANSIELLE BESTEMMELSER

## Artikel 268

*Budgettet*

1. Alle **Unionens** indtægter og udgifter, skal anslås for hvert regnskabsår og optages i budgettet.

**Unionens årlige budget fastlægges af Europa-Parlamentet og Rådet i overensstemmelse med artikel 272.**

2. De udgifter, der er opført på budgettet, bevilges for et regnskabsår ad gangen i overensstemmelse med den forordning, der er nævnt i artikel 279.

3. Før der kan afholdes udgifter på budgettet, skal der vedtages en juridisk bindende EU-retsakt, der giver et retsgrundlag for Unionens tiltag og for afholdelsen af den dertil svarende udgift i overensstemmelse med den forordning, der er nævnt i artikel 279, med de undtagelser, der måtte være fastsat heri.

4. For at sikre budgetdisciplin vedtager Unionen ingen retsakter, der kan have betydelig indvirkning på budgettet, uden at afgive forsikring om, at de udgifter, der følger af disse retsakter, kan finansieres inden for rammerne af Unionens egne indtægter og under overholdelse af den flerårige finansielle ramme, der er nævnt i artikel 270 A.

5. Budgettet gennemføres i overensstemmelse med princippet om forsvarlig økonomisk forvaltning. Medlemsstaterne og Unionen samarbejder med henblik på at sikre, at bevillingerne på budgettet anvendes i overensstemmelse med dette princip.

6. Unionen og medlemsstaterne bekæmper i overensstemmelse med artikel 280 svig og enhver anden ulovlig aktivitet, der skader Unionens finansielle interesser.

Indtægter og udgifter på budgettet skal balancere.

## KAPITEL 1

## UNIONENS EGNE INDTÆGTER

## Artikel 269

*Unionens egne indtægter*

**Unionen tilvejebringer de nødvendige midler med henblik på at nå sine mål og gennemføre sin politik.**

Budgettet finansieres med forbehold af andre indtægter fuldt ud af egne indtægter.

**Rådet vedtager efter en særlig lovgivningsprocedure med enstemmighed og efter høring af Europa-Parlamentet en afgørelse, der fastlægger bestemmelser vedrørende**

ordningen for Unionens egne indtægter. Inden for denne ramme kan der også indføres nye kategorier af egne indtægter, og en eksisterende kategori kan ophæves. Denne afgørelse træder først i kraft, når medlemsstaterne har godkendt den i overensstemmelse med deres forfatningsmæssige bestemmelser.

Rådet fastsætter ved forordning efter en særlig lovgivningsprocedure gennemførelsesforanstaltningerne i forbindelse med ordningen for Unionens egne indtægter, for så vidt dette er fastsat i den afgørelse, der er vedtaget på grundlag af stk. 3. Rådet træffer afgørelse efter at have indhentet Europa-Parlamentets godkendelse.

## KAPITEL 2

### DEN FLERÅRIGE FINANSIELLE RAMME

#### Artikel 270a

*Formål, periode, indhold*

1. Formålet med den flerårige finansielle ramme er at sikre en velordnet udvikling i Unionens udgifter inden for rammerne af dens egne indtægter.

Den fastlægges for en periode på mindst fem år.

Unionens årlige budget overholder den flerårige finansielle ramme.

2. Rådet vedtager efter en særlig lovgivningsprocedure en forordning, der fastlægger den flerårige finansielle ramme. Rådet træffer afgørelse med enstemmighed, når Europa-Parlamentet har givet sin godkendelse med et flertal af sine medlemmer.

Det Europæiske Råd kan med enstemmighed vedtage en afgørelse, der gør det muligt for Rådet at vedtage den forordning, der er nævnt i første afsnit, med kvalificeret flertal.

3. Den finansielle ramme fastlægger de årlige lofter for bevillinger til forpligtelser for hver enkelt udgiftskategori og det årlige loft for bevillinger til betalinger. Udgiftskategorierne, hvoraf der er et begrænset antal, svarer til Unionens vigtigste aktivitetsområder.

Den finansielle ramme omfatter alle andre bestemmelser, der kan medvirke til en problemfri afvikling af den årlige budgetprocedure.

4. Hvis Rådet ved udløbet af den foregående finansielle ramme ikke har vedtaget en forordning om en ny finansielle ramme, forlænges gyldighedsperioden for de lofter og andre bestemmelser, der gælder for den foregående finansielle rammes sidste år, indtil denne retsakt er vedtaget.

5. Europa-Parlamentet, Rådet og Kommissionen træffer under hele proceduren frem til vedtagelsen af den finansielle ramme de nødvendige foranstaltninger med henblik på at lette denne vedtagelse.



## KAPITEL 3

## UNIONENS ÅRLIGE BUDGET

**Artikel 270b** (tidligere artikel 272, stk. 1 EF)*Regnskabsåret*

Regnskabsåret løber fra den 1. januar til den 31. december.

## Artikel 272

*Vedtagelse af Unionens årlige budget*

**Europa-Parlamentet og Rådet fastlægger efter en særlig lovgivningsprocedure Unionens årlige budget i overensstemmelse med følgende bestemmelser:**

1. Hver **institution, bortset fra Den Europæiske Centralbank**, opstiller inden den 1. juli et overslag over sine udgifter **for det følgende regnskabsår**. Kommissionen sammenfatter disse overslag i et budgetforslag, der kan indeholde afvigende overslag.

Dette forslag indeholder et overslag over indtægterne og et overslag over udgifterne.

2. Kommissionen forelægger **Europa-Parlamentet og Rådet et forslag, som indeholder budgetforslaget**, senest den 1. september i det år, der ligger forud for det, forslaget vedrører.

**Kommissionen kan ændre budgetforslaget under procedurens forløb indtil indkaldelsen af det forligsudvalg, der er nævnt i stk. 5.**

3. **Rådet vedtager sin holdning til budgetforslaget og sender den til Europa-Parlamentet** senest den 1. oktober i det år, der ligger forud for det, forslaget vedrører. **Det giver Europa-Parlamentet en udførlig redegørelse for grundene til sin holdning.**

4. Hvis Europa-Parlamentet inden for **en frist på 42 dage efter modtagelsen**

- a) **godkender Rådets holdning, er budgettet vedtaget;**
- b) **ikke har udtalt sig, anses budgettet for vedtaget;**
- c) med et flertal af sine medlemmer vedtager **ændringer, sendes det således ændrede forslag til Rådet og Kommissionen. Formanden for Europa-Parlamentet indkalder efter aftale med formanden for Rådet straks til et møde i Forligsudvalget. Forligsudvalget træder imidlertid ikke sammen, hvis Rådet inden for en frist på ti dage efter fremsendelsen meddeler Europa-Parlamentet, at det godkender alle dets ændringer.**

5. **Forligsudvalget, der sammensættes af Rådets medlemmer eller deres repræsentanter og et tilsvarende antal medlemmer, der repræsenterer Europa-Parlamentet, har til opgave på grundlag af Europa-Parlamentets og Rådets holdninger inden for en frist på 21 dage efter indkaldelsen at skabe enighed om et fælles udkast, som kan**

accepteres af et kvalificeret flertal af Rådets medlemmer eller disses repræsentanter og et flertal af de medlemmer, der repræsenterer Europa-Parlamentet.

Kommissionen deltager i Forligsudvalgets arbejde og tager de nødvendige initiativer med henblik på at forlige Europa-Parlamentets og Rådets holdninger.

6. Hvis Forligsudvalget inden for den frist på 21 dage, der er omhandlet i stk. 5, når til enighed om et fælles udkast, har Europa-Parlamentet og Rådet hver især en frist på fjorten dage fra datoen for opnåelsen af denne enighed til at godkende det fælles udkast.

7. Hvis inden for den frist på 14 dage, der er omhandlet i stk. 6,

- a) Europa-Parlamentet og Rådet begge godkender det fælles udkast eller undlader at træffe afgørelse, eller hvis en af disse institutioner godkender det fælles udkast, mens den anden undlader at træffe afgørelse, anses budgettet for endeligt vedtaget i overensstemmelse med det fælles udkast, eller
- b) Europa-Parlamentet, der træffer afgørelse med et flertal af sine medlemmer, og Rådet begge forkaster det fælles udkast, eller hvis en af disse institutioner forkaster det fælles udkast, mens den anden undlader at træffe afgørelse, forelægger Kommissionen et nyt budgetforslag, eller
- c) Europa-Parlamentet, der træffer afgørelse med et flertal af sine medlemmer, forkaster det fælles udkast, mens Rådet godkender det, forelægger Kommissionen et nyt budgetforslag, eller
- d) Europa-Parlamentet godkender det fælles udkast, mens Rådet forkaster det, kan Europa-Parlamentet, der træffer afgørelse med et flertal af sine medlemmer og tre femtedele af de afgivne stemmer, inden for en frist på fjorten dage fra datoen for Rådets forkastelse beslutte at bekræfte alle eller nogle af de ændringer, der er nævnt i stk. 4, litra c). Hvis en ændring foretaget af Europa-Parlamentet ikke bekræftes, bevares den holdning, der er godkendt i Forligsudvalget, med hensyn til den budgetpost, som den pågældende ændring vedrører. Budgettet anses for endeligt vedtaget på dette grundlag.

8. Hvis Forligsudvalget inden for den frist på 21 dage, der er omhandlet i stk. 5, ikke når til enighed om et fælles udkast, forelægger Kommissionen et nyt budgetforslag.

9. Når den i denne artikel foreskrevne procedure er afsluttet, fastslår Europa-Parlamentets formand, at budgettet er endeligt vedtaget.

10. Hver institution udøver de beføjelser, der tilkommer den i henhold til denne artikel, under iagttagelse af **traktaterne** og de i medfør af **disse** udstedte retsakter, navnlig **vedrørende Unionens** egne indtægter og balancen mellem indtægter og udgifter.

#### Artikel 273

##### *Midlertidigt budget, tolvte dele*

Såfremt budgettet ikke er **endeligt** vedtaget ved regnskabsårets begyndelse, kan der i henhold til bestemmelserne i det i medfør af artikel 279 udstedte regnskabsregulativ på grund-

lag af hver hovedkonto affholdes månedlige udgifter på indtil en tolvtedel af de bevillinger, der er opført under det pågældende kapitel i budgettet for det forrige regnskabsår, dog uden mulighed for overskridelse af en tolvtedel af de bevillinger, der er opført i samme kapitel i budgetforslaget.

Under forudsætning af, at de øvrige betingelser i stk. 1 iagttages, kan Rådet på forslag af Kommissionen tillade udgifter, der overstiger denne tolvtedel i overensstemmelse med det i medfør af artikel 279 udstedte forordning. Det sender straks sin afgørelse til Europa-Parlamentet.

Den afgørelse, der er nævnt i stk. 2, fastsætter de nødvendige foranstaltninger vedrørende indtægter med henblik på at sikre gennemførelsen af denne artikel under overholdelse af de retsakter, der er nævnt i artikel 269.

Den træder i kraft tredive dage efter vedtagelsen, hvis Europa-Parlamentet, der træffer afgørelse med et flertal af sine medlemmer, inden for denne frist ikke beslutter at reducere disse udgifter.

#### Artikel 273a (tidligere artikel 271 EF)

##### *Bevilling af udgifter og overførsel af bevillinger*

På de betingelser, der fastsættes i medfør af artikel 279, kan bevillinger, som ikke er beregnet til dækning af personaleudgifter, og som ikke er udnyttede ved regnskabsårets udløb, overføres, men kun til det følgende regnskabsår.

Bevillingerne opdeles i hovedkonti efter udgifternes art eller formål og opdeles yderligere i overensstemmelse med den i medfør af artikel 279 udstedte forordning.

Europa-Parlamentets, Det Europæiske Råds, Rådets og Kommissionens samt Den Europæiske Unions Domstols udgifter opføres i særskilte afsnit i budgettet, dog således at en særlig ordning kan gennemføres for visse fællesudgifter.

## KAPITEL 4

### GENNEMFØRELSE AF BUDGETTET OG DECHARGE

#### Artikel 274

##### *Gennemførelse af budgettet*

Inden for rammerne af de givne bevillinger og i overensstemmelse med bestemmelserne i det i medfør af artikel 279 udstedte regnskabsregulativ gennemfører Kommissionen budgettet i samarbejde med medlemsstaterne på eget ansvar i overensstemmelse med princippet om forsvarlig økonomisk forvaltning. Medlemsstaterne samarbejder med Kommissionen med henblik på at sikre, at bevillingerne anvendes i overensstemmelse med princippet om forsvarlig økonomisk forvaltning.

**Forordningen fastsætter medlemsstaternes kontrol- og revisionsforpligtelser i forbindelse med gennemførelsen af budgettet og det deraf følgende ansvar. Det fastsætter også det ansvar og de særlige bestemmelser, der gælder i forbindelse med den enkelte institutions medvirken ved afholdelsen af egne udgifter.**

Med de begrænsninger og på de betingelser, der fastsættes i **den** i medfør af artikel 279 udstedte **forordning**, kan Kommissionen inden for budgettets rammer overføre bevillinger dels fra en hovedkonto til en anden hovedkonto, dels fra en underkonto til en anden underkonto.

#### Artikel 275

##### *Regnskab*

Kommissionen forelægger hvert år **Europa-Parlamentet og Rådet** regnskabet vedrørende anvendelsen af budgettets poster i det forløbne regnskabsår. Den forelægger endvidere en oversigt over **Unionens aktiver** og passiver.

**Kommissionen forelægger ligeledes Europa-Parlamentet og Rådet en evalueringsrapport om Unionens finanser på grundlag af de resultater, der er opnået især i forhold til bemærkningerne fra Europa-Parlamentet og Rådet i henhold til artikel 276.**

#### Artikel 276

##### *Decharge*

1. Europa-Parlamentet meddeler efter henstilling fra Rådet, Kommissionen decharge for gennemførelsen af budgettet. Med henblik herpå gennemgår det næst efter Rådet **det regnskab, den oversigt og den evalueringsrapport, der er nævnt i artikel 275**, Revisionsrettens årsberetning med tilhørende svar fra de kontrollerede institutioner til Revisionsrettens bemærkninger, den revisionserklæring, der er omhandlet i artikel 248, stk. 1, andet afsnit, samt Revisionsrettens særberetninger.

2. Før Europa-Parlamentet meddeler Kommissionen decharge, og når det ellers finder det påkrævet i forbindelse med Kommissionens udøvelse af dennes beføjelser med hensyn

til gennemførelsen af budgettet, kan det anmode Kommissionen om at redegøre for afholdelsen af udgifterne eller for, hvorledes de finansielle kontrolsystemer fungerer. Kommissionen forelægger alle fornødne oplysninger for Europa-Parlamentet på dettes begæring.

3. Kommissionen træffer alle egnede foranstaltninger til at efterkomme bemærkningerne i afgørelserne om decharge og andre bemærkninger fra Europa-Parlamentet i forbindelse med afholdelsen af udgifterne samt de kommentarer, der ledsager de henstillinger om decharge, som Rådet vedtager.

Kommissionen aflægger efter anmodning fra Europa-Parlamentet eller Rådet beretning om, hvilke foranstaltninger den har truffet på baggrund af disse bemærkninger og kommentarer, navnlig om instrukserne til de tjenestegrene, der varetager budgettets gennemførelse. Sådanne beretninger tilsendes ligeledes Revisionsretten.

**KAPITEL 5****FÆLLES BESTEMMELSER**

## Artikel 277

*Regningsenhed*

**Den flerårige finansielle ramme og det årlige budget opstilles i euro.**

## Artikel 278

*Valutatransaktioner og finansielle transaktioner*

Under forudsætning af, at Kommissionen underretter de kompetente myndigheder i de pågældende medlemsstater, kan den overføre sine tilgodehavender i en medlemsstats valuta til en anden medlemsstats valuta i det omfang, det er påkrævet for at kunne anvende disse tilgodehavender til de i **traktaterne** fastsatte formål. Hvis Kommissionen har disponible tilgodehavender eller tilgodehavender, der kan frigøres, i de valutaer, den har brug for, skal den så vidt muligt undgå at foretage sådanne overførsler.

Kommissionen står i forbindelse med hver medlemsstat gennem en af medlemsstaten udpeget myndighed. Ved gennemførelsen af sine finansielle transaktioner anvender den den pågældende medlemsstats seddelbank eller et andet af medlemsstaten godkendt pengeinstitut.

## Artikel 279

*Finansielle regler m.v.*

**1. Europa-Parlamentet og Rådet, der træffer afgørelse efter den almindelige lovgivningsprocedure og efter høring af Revisionsretten, vedtager ved forordning:**

- a) **finansielle regler, der navnlig fastsætter** de nærmere retningslinjer for opstillingen og gennemførelsen af budgettet og for regnskabsaflæggelsen og revisionen
- b) **regler for kontrollen med de finansielle aktører og navnlig** de anvisningsberettigedes og regnskabsførernes ansvar.

2. På forslag af Kommissionen og efter høring af Europa-Parlamentet og Revisionsretten skal Rådet fastsætte de retningslinjer og den fremgangsmåde, hvorefter de i ordningen om **Unionens** egne indtægter fastsatte budgetindtægter stilles til rådighed for Kommissionen, samt fastlægge de foranstaltninger, der skal træffes for i givet fald at imødekomme likviditetsbehovet.

## Artikel 279a

*Rådighed over tilstrækkelige finansielle midler*

**Europa-Parlamentet, Rådet og Kommissionen sørger for, at der er tilstrækkelige finansielle midler til rådighed til, at Unionen kan opfylde sine juridiske forpligtelser over for tredjemand.**

## Artikel 279b

*Samarbejde om at lette gennemførelsen af budgettet*

**Formændene for Europa-Parlamentet, Rådet og Kommissionen indkaldes på Kommissionens initiativ med jævne mellemrum til møde som led i de budgetprocedurer, der er nævnt i dette kapitel. Formændene træffer alle foranstaltninger, der er nødvendige for at fremme samråd og indbyrdes tilnærmelse af deres respektive institutioners holdninger med henblik på at lette gennemførelsen af dette kapitel.**

## KAPITEL 6

## BEKÆMPELSE AF SVIG

## Artikel 280

*Bekæmpelse af svig m.v.*

1. **Unionen** og medlemsstaterne bekæmper svig og enhver anden ulovlig aktivitet, der skader **Unionens** finansielle interesser, ved hjælp af foranstaltninger, der træffes i overensstemmelse med denne artikel, som virker afskrækkende og er af en sådan art, at de yder en effektiv beskyttelse i medlemsstaterne **samt i Unionens institutioner, organer, kontorer og agenturer.**
2. Medlemsstaterne træffer de samme foranstaltninger til bekæmpelse af svig, der skader **Unionens** finansielle interesser, som til bekæmpelse af svig, der skader deres egne finansielle interesser.
3. Med forbehold af andre bestemmelser i **traktaterne** samordner medlemsstaterne deres optræden med henblik på at beskytte **Unionens** finansielle interesser mod svig. Med henblik herpå tilrettelægger de sammen med Kommissionen et snævert, løbende samarbejde mellem de kompetente myndigheder.
4. **Europa-Parlamentet og Rådet** vedtager **efter den almindelige lovgivningsprocedure** og efter høring af Revisionsretten de nødvendige foranstaltninger til forebyggelse og bekæmpelse af svig, der skader **Unionens** finansielle interesser, med henblik på at yde en effektiv og ensartet beskyttelse i medlemsstaterne **samt i Unionens institutioner, organer, kontorer og agenturer.**
5. Kommissionen aflægger, i samarbejde med medlemsstaterne, årligt rapport til Europa-Parlamentet og Rådet om de foranstaltninger, der er truffet for at gennemføre denne artikel.

## AFSNIT III

## FORSTÆRKET SAMARBEJDE

## Artikel 280 A

*Generelle betingelser for forstærket samarbejde*

**Et forstærket samarbejde skal overholde traktaterne og gældende EU-ret.**

**Det må ikke skade det indre marked eller den økonomiske, sociale og territoriale samhørighed. Det må ikke indebære begrænsning af eller forskelsbehandling i samhandelen mellem medlemsstaterne og må ikke fordreje konkurrencevilkårene mellem dem.**

## Artikel 280 B

*Krav om respekt af ikke-deltagende medlemsstater*

**Et forstærket samarbejde respekterer ikke-deltagende medlemsstaters beføjelser, rettigheder og forpligtelser. Disse medlemsstater må ikke hæmme de deltagende medlemsstaters gennemførelse heraf.**

## Artikel 280 C

*Betingelser for deltagelse*

**1. Et forstærket samarbejde er åbent for alle medlemsstater, når det indføres, forudsat at medlemsstaterne opfylder de eventuelle betingelser for deltagelse, der er fastsat i den bemyndigende afgørelse. Det er ligeledes åbent for alle medlemsstater når som helst derefter, forudsat at medlemsstaterne foruden de nævnte betingelser efterkommer de retsakter, der allerede er vedtaget i henhold hertil.**

**Kommissionen og de medlemsstater, der deltager i et forstærket samarbejde, skal tilskynde til det størst mulige antal medlemsstaters deltagelse heri.**

**2. Kommissionen og, når det er relevant, Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik underretter regelmæssigt Europa-Parlamentet og Rådet om udviklingen inden for forstærket samarbejde.**

## Artikel 280 D

*Procedure for indførelse af forstærket samarbejde*

**1. Medlemsstater, der ønsker at indføre et forstærket indbyrdes samarbejde på et af de områder, der er nævnt i traktaterne, dog med undtagelse af områder med enekompetence og den fælles udenrigs- og sikkerhedspolitik, retter en anmodning til Kommissionen, hvori de nærmere angiver anvendelsesområdet for det påtænkte forstærkede samarbejde og de mål, der tilstræbes opfyldt hermed. Kommissionen kan**

forelægge Rådet et forslag herom. Hvis Kommissionen ikke fremsætter noget forslag, giver den de berørte medlemsstater en begrundelse herfor.

Bemyndigelsen til at indlede et forstærket samarbejde som nævnt i første afsnit gives af Rådet på forslag af Kommissionen og efter Europa-Parlamentets godkendelse.

2. De medlemsstater, der ønsker at indføre et forstærket indbyrdes samarbejde inden for rammerne af den fælles udenrigs- og sikkerhedspolitik, retter anmodning til Rådet. Anmodningen sendes til Unionens højtstående repræsentant for udenrigs- og sikkerhedspolitik, der afgiver udtalelse om sammenhængen mellem det påtænkte forstærkede samarbejde og Unionens fælles udenrigs- og sikkerhedspolitik, samt til Kommissionen, der afgiver udtalelse, navnlig om sammenhængen mellem det påtænkte forstærkede samarbejde og Unionens øvrige politikker. Anmodningen sendes ligeledes til Europa-Parlamentet til orientering.

Bemyndigelsen til at indlede et forstærket samarbejde gives i form af en afgørelse vedtaget af Rådet med enstemmighed.

#### Artikel 280 E

##### *Deltagelse i forhandlinger og afstemninger*

Alle Rådets medlemmer kan deltage i dets forhandlinger, men kun medlemmer af Rådet, som repræsenterer medlemsstater, der deltager i et forstærket samarbejde, deltager i afstemningen.

Ved enstemmighed tæller kun de deltagende medlemsstaters repræsentanters stemmer.

Kvalificeret flertal defineres som angivet i artikel 205, stk. 3.

#### Artikel 280 F

##### *Procedure for de øvrige medlemsstaters deltagelse*

1. En medlemsstat, der ønsker at deltage i et igangværende forstærket samarbejde på et af de områder, der er nævnt i artikel 280 D, stk. 1, meddeler dette til Rådet og Kommissionen. Inden fire måneder efter datoen for modtagelsen af meddelelsen bekræfter Kommissionen den pågældende medlemsstats deltagelse. Den anfører om nødvendigt, at betingelserne for deltagelse er opfyldt, og vedtager de overgangsforanstaltninger, der er nødvendige i forbindelse med gennemførelsen af retsakter, der allerede er vedtaget inden for rammerne af det forstærkede samarbejde.

Hvis Kommissionen imidlertid finder, at betingelserne for deltagelse ikke er opfyldt, angiver den, hvilke bestemmelser der skal træffes for at opfylde disse betingelser, og fastsætter en tidsfrist for fornyet behandling af anmodningen. Efter udløbet af denne tidsfrist tager den anmodningen op til fornyet behandling i overensstemmelse med den procedure, der er omhandlet i andet afsnit. Hvis Kommissionen finder, at betingelserne for deltagelse fortsat ikke er opfyldt, kan den pågældende medlemsstat henvise sagen til Rådet, der tager stilling til anmodningen. Rådet træffer afgørelse i



henhold til artikel 280 E. Det kan ligeledes på forslag af Kommissionen vedtage de overgangsforanstaltninger, der er nævnt i andet afsnit.

2. En medlemsstat, der ønsker at deltage i et allerede etableret forstærket samarbejde inden for rammerne af den fælles udenrigs- og sikkerhedspolitik, meddeler dette til Rådet, til Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik og til Kommissionen.

Rådet bekræfter den pågældende medlemsstats deltagelse efter høring af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik og efter eventuelt at have fastslået, at betingelserne for deltagelse er opfyldt. Rådet kan ligeledes på forslag af den højtstående repræsentant vedtage de overgangsforanstaltninger, der er nødvendige i forbindelse med gennemførelsen af retsakter, der allerede er vedtaget inden for rammerne af det forstærkede samarbejde. Hvis Rådet imidlertid finder, at betingelserne for deltagelse ikke er opfyldt, angiver det, hvilke bestemmelser der skal træffes for at opfylde disse betingelser, og fastsætter en tidsfrist for fornyet behandling af anmodningen.

Med henblik på dette stykke træffer Rådet afgørelse med enstemmighed i henhold til artikel 280 E.

#### Artikel 280 G

##### *Udgifter til gennemførelse af forstærket samarbejde*

De udgifter, bortset fra institutionernes administrationsomkostninger, som gennemførelsen af et forstærket samarbejde medfører, afholdes af de deltagende medlemsstater, medmindre Rådet efter høring af Europa-Parlamentet beslutter andet med enstemmighed blandt alle sine medlemmer.

#### Artikel 280 H

##### *Passerelle i forstærket samarbejde*

1. Når Rådet i henhold til en bestemmelse i traktaterne, der kan anvendes i forbindelse med et forstærket samarbejde, skal træffe afgørelse med enstemmighed, kan det med enstemmighed efter reglerne i artikel 280 E, vedtage en afgørelse om, at det skal træffe afgørelse med kvalificeret flertal.

2. Når Rådet i henhold til en bestemmelse i traktaterne, der kan anvendes i forbindelse med et forstærket samarbejde, skal vedtage retsakter efter en særlig lovgivningsprocedure, kan det med enstemmighed efter reglerne i artikel 280 E, vedtage en afgørelse om, at det skal træffe afgørelse efter den almindelige lovgivningsprocedure. Rådet træffer afgørelse efter høring af Europa-Parlamentet.

3. Stk. 1 og 2 gælder ikke for afgørelser, der har indvirkning på militær- eller forsvarsområdet.

**Artikel 280 I***Sammenhæng i Unionens politikker*

**Rådet og Kommissionen sikrer sammenhæng i de foranstaltninger, der gennemføres inden for rammerne af et forstærket samarbejde, samt sammenhæng mellem disse foranstaltninger og Unionens politikker, og de samarbejder med henblik herpå.**

**SYVENDE DEL**

## ALMINDELIGE OG AFSLUTTENDE BESTEMMELSER

## Artikel 282

*Unionens rets- og handleevne*

**Unionen** har i hver medlemsstat den videstgående rets- og handleevne, som vedkommende stats lovgivning tillægger juridiske personer; det kan i særdeleshed erhverve og afhænde fast ejendom og løsøre og optræde som part i retssager. I denne henseende repræsenteres det af Kommissionen. **Unionen repræsenteres dog af hver af institutionerne inden for rammerne af deres administrative autonomi for så vidt angår de spørgsmål, der vedrører deres respektive funktioner.**

## Artikel 283

*Vedtægten for tjenestemænd*

**Europa-Parlamentet og Rådet udfærdiger ved forordning efter den almindelige lovgivningsprocedure og efter høring af de øvrige interesserede institutioner** vedtægten for tjenestemænd i **Unionen** og ansættelsesvilkårene for **Unionens** øvrige ansatte.

## Artikel 284

*Kommissionens mulighed for indhentelse af oplysninger*

Med henblik på gennemførelsen af de opgaver, der er overdraget den, kan Kommissionen med de begrænsninger og på de betingelser, der er fastsat af Rådet, **der træffer afgørelse med simpelt flertal**, i overensstemmelse med **traktaternes** bestemmelser, indhente alle nødvendige oplysninger og foretage alle nødvendige undersøgelser.

## Artikel 285

*EU-statistikker*

1. Med forbehold af artikel 5 i protokollen om statuten for Det Europæiske System af Centralbanker og Den Europæiske Centralbank, vedtager **Europa-Parlamentet og Rådet efter den almindelige lovgivningsprocedure** foranstaltninger til udarbejdelse af statistikker, hvor det er nødvendigt for, at **Unionen** kan udøve sin virksomhed.

2. Udarbejdelsen af **EU**-statistikker skal være karakteriseret ved upartiskhed, pålidelighed, objektivitet, videnskabelig uafhængighed, omkostningseffektivitet og de statistiske oplysningers fortrolighed; den må ikke medføre uforholdsmæssigt store byrder for erhvervslivet.

#### Artikel 287

##### *Tavshedspligt*

Medlemmer af **Unionens** institutioner, medlemmerne af udvalgene samt **Unionens** tjenestemænd og øvrige ansatte har — selv efter at deres hverv er ophørt — forpligtelse til ikke at give oplysninger om forhold, som ifølge deres natur er tjenestehemmeligheder, navnlig oplysninger om virksomheder og om deres forretningsforbindelser eller omkostningsforhold.

#### Artikel 288

##### *Unionens ansvar i og uden for kontraktforhold*

**Unionens** ansvar i kontraktforhold bestemmes efter den lovgivning, der finder anvendelse på den pågældende kontrakt.

For så vidt angår ansvar uden for kontraktforhold, skal **Unionen** i overensstemmelse med de almindelige retsgrundsætninger, der er fælles for medlemsstaternes retssystemer, erstatte skader forvoldt af dets institutioner eller af dets ansatte under udøvelsen af deres hverv.

**Uanset stk. 2 skal Den Europæiske Centralbank i overensstemmelse med de almindelige retsgrundsætninger, der er fælles for medlemsstaternes retssystemer, erstatte skader forvoldt af den selv eller af dens ansatte under udøvelsen af deres hverv.**

De ansattes personlige ansvar over for **Unionen** fastsættes i den vedtægt eller i de ansættelsesvilkår, der gælder for dem.

#### Artikel 289

##### *Hjemstedet for Unionens institutioner*

Hjemstedet for **Unionens** institutioner fastlægges ved overenskomst mellem medlemsstaternes regeringer.

#### Artikel 290

##### *Sprog*

Med forbehold af de i statuten for **Den Europæiske Unions Domstol** fastsatte bestemmelser fastlægger Rådet **ved forordning** med enstemmighed den ordning, der skal gælde for **Unionens** institutioner på det sproglige område.

#### Artikel 291

##### *Privilegier og immuniteter*

**Unionen** nyder på medlemsstaternes område de for udførelsen af dets opgave nødvendi-

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ge privilegier og immuniteter på de betingelser, der er fastsat i protokollen af 8. april 1965 vedrørende **Unionens** privilegier og immuniteter. Dette gælder også Den Europæiske Centralbank og Den Europæiske Investeringsbank.

### Artikel 292

#### *Forbud mod alternativ afgørelse af tvister*

Medlemsstaterne forpligter sig til ikke at søge tvister vedrørende fortolkningen eller anvendelsen af **traktaterne** afgjort på anden måde end fastsat i traktaten.

### Artikel 295

#### *Ejendomsretlige ordninger i medlemsstaterne*

De ejendomsretlige ordninger i medlemsstaterne berøres ikke af **traktaterne**.

### Artikel 296

#### *Medlemsstaternes væsentlige sikkerhedsinteresser*

1. **Traktaternes** bestemmelser er ikke til hinder for følgende regler:
  - a) ingen medlemsstat er forpligtet til at meddele oplysninger, hvis udbredelse efter dens opfattelse ville stride mod dens væsentlige sikkerhedsinteresser
  - b) hver medlemsstat kan træffe de foranstaltninger, som den anser for nødvendige til beskyttelse af sine væsentlige sikkerhedsinteresser, og som vedrører fabrikation af eller handel med våben, ammunition og krigsmateriel; disse foranstaltninger må ikke forringe konkurrencevilkårene inden for **det indre marked** for varer, som ikke er bestemt specielt til militære formål.
2. Rådet fastlægger med enstemmighed på forslag af Kommissionen ændringer til den liste, det har fastlagt den 15. april 1958, over de varer, hvorpå bestemmelserne i stk. 1, litra b), finder anvendelse.

### Artikel 297

#### *Konsultation ved alvorlige indre uroligheder, som kan påvirke det indre markeds funktion*

Medlemsstaterne rådfører sig med hinanden med henblik på i fællesskab at træffe de bestemmelser, der er nødvendige for at undgå, at **det indre markeds** funktion påvirkes af de foranstaltninger, som en medlemsstat kan føle sig foranlediget til at træffe i tilfælde af alvorlige indre uroligheder, der forstyrrer den offentlige orden, i tilfælde af krig eller alvorlig international spænding, der udgør en krigstrussel, eller for at opfylde de forpligtelser, som den har indgået med henblik på bevarelse af freden og den internationale sikkerhed.

## Artikel 298

*Fordrejning af konkurrencevilkårene*

Såfremt foranstaltninger, der er truffet i de i artiklerne 296 og 297 nævnte tilfælde, medfører, at konkurrencevilkårene inden for **det indre marked** fordrejes, undersøger Kommissionen sammen med den pågældende stat betingelserne for, at disse foranstaltninger kan tilpasses bestemmelserne i **traktaterne**.

Uanset den i artiklerne 226 og 227 fastsatte fremgangsmåde kan Kommissionen eller en medlemsstat henvende sig direkte til Domstolen, hvis de finder, at en anden medlemsstat misbruger de i artiklerne 296 og 297 fastsatte beføjelser. Domstolen træffer afgørelse for lukkede døre.

## Artikel 299

*Traktatens geografiske udstrækning*

For at tage hensyn til den strukturelle sociale og økonomiske situation **på Guadeloupe, i Fransk Guyana, på Martinique, Réunion, Saint-Barthélemy og Saint-Martin** samt på Azorerne, Madeira og De Kanariske Øer, der forværres af deres fjerne beliggenhed, deres status som øsamfund, deres lille areal, deres vanskelige topografiske og klimatiske forhold, deres økonomiske afhængighed af nogle få produkter, forhold, som er vedvarende og kumulative, og som alvorligt hæmmer disse regioner i deres udvikling, vedtager Rådet imidlertid på forslag af Kommissionen og efter høring af Europa-Parlamentet særlige foranstaltninger, der navnlig tager sigte på at fastsætte betingelserne for anvendelsen af **traktaterne** i de pågældende regioner, herunder fælles politikker. **Når sådanne særlige foranstaltninger vedtages af Rådet efter en særlig lovgivningsprocedure, træffer dette ligeledes afgørelse på forslag af Kommissionen og efter høring af Europa-Parlamentet.**

**De foranstaltninger, der er nævnt i stk. 1, vedrører navnlig** told- og handelspolitik, finanspolitik, frizoner, landbrugs- og fiskeripolitik, betingelser for levering af råvarer og nødvendige forbrugsvarer, statsstøtte samt betingelser for adgang til strukturfondene og **Unionens** horisontale programmer.

Rådet vedtager de i **stk. 1** nævnte foranstaltninger under hensyn til de særlige karakteristika og begrænsninger i forbindelse med regionerne i den yderste periferi uden at underminere **EU**-rettens, herunder det indre markeds og de fælles politikkers, integritet og sammenhæng.

## Artikel 306

*Unionen mellem Benelux-landene*

Bestemmelserne i **traktaterne** er ikke til hinder for, at de regionale unioner mellem Belgien og Luxembourg, og mellem Belgien, Luxembourg og Nederlandene fortsat består og gennemføres, i det omfang disse regionale unioners mål ikke nås ved anvendelsen af **traktaterne**.

## Artikel 307

*Konventioner indgået forud for nye medlemsstaters tiltrædelse*

De rettigheder og forpligtelser, der følger af konventioner, som før den 1. januar 1958 eller før tiltrædelsesdatoen for tiltrædende medlemsstaters vedkommende er indgået mellem på den ene side en eller flere medlemsstater og på den anden side et eller flere tredjelande, berøres ikke af bestemmelserne i **traktaterne**.

I det omfang, disse konventioner er uforenelige med **traktaterne**, bringer den eller de pågældende medlemsstater alle egnede midler i anvendelse med henblik på at fjerne de konstaterede uoverensstemmelser.

Om fornødent bistår medlemsstaterne hinanden i dette øjemed og indtager i påkommende tilfælde en fælles holdning.

Ved anvendelsen af de konventioner, der omtales i stk. 1, tager medlemsstaterne i betragtning, at de fordele, hvorom de hver især har givet tilsagn i **traktaterne**, indgår som integrerende dele af **Unionens** tilblivelsesproces, og derfor uløseligt hænger sammen med oprettelsen af fælles institutioner, med overdragelsen af beføjelser til disse og med de andre medlemsstaters indrømmelse af samme fordele.

## Artikel 308

*Vedtagelse af retsakter uden specifik hjemmel*

1. Såfremt en handling fra **Unionens** side **forekommer** påkrævet **inden for rammerne af de politikker, der er fastlagt i traktaterne, for at nå et af målene i heri, og disse** ikke indeholder fornøden hjemmel hertil, **vedtager** Rådet **med enstemmighed** på forslag af Kommissionen og **med Europa-Parlamentets godkendelse passende bestemmelser hertil. Hvis de pågældende bestemmelser vedtages af Rådet efter en særlig lovgivningsprocedure, træffer dette ligeledes afgørelse med enstemmighed på forslag af Kommissionen og med Europa-Parlamentets godkendelse.**

2. **Kommissionen gør inden for rammerne af proceduren for kontrol med overholdelsen af nærhedsprincippet i artikel 5, stk. 3, i traktaten om Den Europæiske Union de nationale parlamenter opmærksom på forslag, der fremsættes på grundlag af nærværende artikel.**

3. **Foranstaltninger, der vedtages på grundlag af denne artikel, kan ikke omfatte harmonisering af medlemsstaternes love og administrative bestemmelser i tilfælde, hvor traktaterne udelukker en sådan harmonisering.**

4. **Denne artikel kan ikke tjene som grundlag for at nå mål henhørende under den fælles udenrigs- og sikkerhedspolitik og skal respektere de begrænsninger, der er fastsat i artikel 25, stk. 2, i traktaten om Den Europæiske Union.**

**Artikel 308a***Undtagelsesbestemmelse*

**Artikel 33 i traktaten om Den Europæiske Union finder ikke anvendelse på følgende artikler:**

- 269, stk. 3 og 4
- 270a, stk. 2, første afsnit
- 308 og
- 309.

## Artikel 309

*Suspension af visse rettigheder, der følger af medlemskab af EU*

Ved anvendelsen af artikel 7 i traktaten om Den Europæiske Union vedrørende suspension af visse rettigheder, der følger af medlemskab af Unionen, deltager det medlem af Det Europæiske Råd eller Rådet, der repræsenterer den pågældende medlemsstat, ikke i afstemningen, og den pågældende medlemsstat tages ikke i betragtning ved beregningen af den tredjedel eller de fire femtedele af medlemsstaterne, der er nævnt i stk. 1 og 2 i nævnte artikel. Hvis medlemmer, der er til stede eller repræsenteret, undlader at stemme, hindrer dette ikke vedtagelsen af afgørelser som nævnt i stk. 2 i nævnte artikel.

I forbindelse med vedtagelsen af afgørelser som nævnt i stk. 3 og 4 i nævnte artikel defineres kvalificeret flertal som angivet i artikel 205, stk. 3, litra b).

Når Rådet som følge af en afgørelse om suspension af stemmerettighederne vedtaget i henhold til stk. 3 i nævnte artikel træffer afgørelse med kvalificeret flertal på grundlag af en af traktaternes bestemmelser, defineres dette kvalificerede flertal som angivet i artikel 205, stk. 3, litra b), eller, hvis Rådet handler på forslag af Kommissionen eller Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, som angivet i artikel 205, stk. 3, litra a).

Ved anvendelsen af nævnte artikel træffer Europa-Parlamentet afgørelse med et flertal på to tredjedele af de afgivne stemmer, der repræsenterer et flertal af dets medlemmer.

## AFSLUTTENDE BESTEMMELSER

Artikel 311 (tidligere artikel 299 EF)

*Traktatens geografiske udstrækning*

**Ud over bestemmelserne i artikel 37 i traktaten om Den Europæiske Union vedrørende traktaternes territoriale anvendelsesområde finder følgende bestemmelser anvendelse:**

1. **Traktaterne** gælder for **Guadeloupe, Fransk Guyana, Martinique, Réunion, Saint-Barthélemy og Saint-Martin**, Azorerne, Madeira og De Kanariske Øer i **overensstemmelse med artikel 299**.

2. På de oversøiske lande og territorier, der er opregnet i listen i bilag II, anvendes den særlige associeringsordning, som er nærmere fastlagt i fjerde del.

**Traktaterne** finder ikke anvendelse på de oversøiske lande og territorier der opretholder særlige forbindelser med Det Forenede Kongerige Storbritannien og Nordirland, og som ikke er nævnt i ovenstående liste.

3. **Traktaternes** bestemmelser finder anvendelse på de europæiske områder, hvis udenrigsanliggender varetages af en medlemsstat.

4. **Traktaternes** bestemmelser finder anvendelse på Ålandsøerne i overensstemmelse med bestemmelserne i protokol nr. 2 i akten vedrørende vilkårene for Republikken Østrigs, Republikken Finlands og Kongeriget Sveriges tiltrædelse.

5. Uanset **artikel 37 i traktaten om Den Europæiske Union og stk. 1-4** gælder følgende:

a) **Traktaterne** finder ikke anvendelse på Færøerne.

b) **Traktaterne** finder kun anvendelse på baseområderne Akrotiri og Dhekelia i Cypern, hvorover Det Forenede Kongerige udøver overhøjhed, i det omfang, det er nødvendigt for at sikre gennemførelsen af de ordninger, der er fastsat i den protokol om de baseområder i Cypern, hvorover det Forenede Kongerige Storbritannien og Nordirland udøver overhøjhed, som er knyttet til akten vedrørende vilkårene for Den Tjekkiske Republiks, Republikken Estlands, Republikken Cyperns, Republikken Letlands, Republikken Litauens, Republikken Ungarns, Republikken Maltas, Republikken Polens, Republikken Sloveniens og Den Slovakiske Republiks tiltrædelse af Den Europæiske Union, og efter bestemmelserne i nævnte protokol.

c) Bestemmelserne i **traktaterne** finder kun anvendelse på Kanaløerne og øen Man i det omfang, det er nødvendigt for at sikre anvendelsen på disse øer af den ordning, der er fastsat i traktaten vedrørende de nye medlemsstats tiltrædelse af Det Europæiske Økonomiske Fællesskab og af Det Europæiske Atomenergifællesskab, undertegnet den 22. januar 1972.

6. **Det Europæiske Råd kan på den berørte medlemsstats initiativ vedtage en afgørelse om ændring af den status, som de i stk. 1 og 2 nævnte danske, franske eller nederlandske lande eller territorier har i forhold til Unionen. Det Europæiske Råd træffer afgørelse med enstemmighed efter høring af Kommissionen.**



## Artikel 314

*Artikel 40 i EU-traktaten*

Bestemmelserne i artikel 40 i traktaten om Den Europæiske Union finder anvendelse på denne traktat

**AFSLUTTENDE BESTEMMELSER 1)****Artikel 3**

Denne traktat er indgået for ubegrænset tid.

**Artikel 4**

1. Protokol nr. 11, der er knyttet som bilag til denne traktat, indeholder ændringerne til de protokoller, der er knyttet som bilag til traktaten om Den Europæiske Union, traktaten om oprettelse af Det Europæiske Fællesskab og traktaten om oprettelse af Det Europæiske Atomenergifællesskab.

2. Protokol nr. 12, der er knyttet som bilag til denne traktat, indeholder ændringerne til traktaten om oprettelse af Det Europæiske Atomenergifællesskab.

**Artikel 5**

1. Artiklerne, delene, afsnittene, kapitlerne og afdelingerne i traktaten om Den Europæiske Union og traktaten om Den Europæiske Unions funktionsmåde som ændret ved denne traktat omnummereres i overensstemmelse med ækvivalenstabellerne i bilaget til denne traktat.

2. Krydshenvisningerne til artikler, dele, afsnit, kapitler og afdelinger i traktaten om Den Europæiske Union og traktaten om Den Europæiske Unions funktionsmåde samt mellem traktaterne indbyrdes tilpasses i overensstemmelse hermed. Det samme gælder henvisninger i de øvrige traktater og primære retsakter, som Unionen bygger på, til artikler, dele, afsnit, kapitler og afdelinger i traktaten om Den Europæiske Union og traktaten om Unionens funktionsmåde.

3. Henvisningerne i andre instrumenter eller retsakter til artikler, dele, afsnit, kapitler og afdelinger i traktaten om Den Europæiske Union og traktaten om Den Europæiske Unions funktionsmåde betragtes som henvisninger til artikler, dele, afsnit, kapitler og afdelinger i nævnte traktater som omnummereret i overensstemmelse med stk. 1 samt til stykker i disse artikler som omnummereret ved visse bestemmelser i denne traktat.

**Note 1:** Afsluttende bestemmelser:

Disse afsluttende bestemmelser udgør en række horisontale artikler, som finder anvendelse for både TEU og TEUF i ændringstraktaten.

Grunden til, at de afsluttende bestemmelser starter med artikel 3 er, at tekstændringerne til TEU og TEUF er indeholdt i henholdsvis artikel 1 og 2 i ændringstraktaten.

Traktat om Den Europæiske Unions funktionsmåde

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**Artikel 6**

- 1. Denne traktat ratificeres af De Høje Kontraherende Parter i overensstemmelse med deres forfatningsmæssige bestemmelser. Ratifikationsinstrumenterne deponeres hos Den Italienske Republiks regering.**
- 2. Denne traktat træder i kraft den 1. januar 2009, forudsat at samtlige ratifikationsinstrumenter er deponeret, eller, hvis dette ikke er tilfældet, den første dag i den måned, der følger efter deponeringen af det sidste ratifikationsinstrument.**

**Artikel 7**

**Denne traktat, der er udfærdiget i ét eksemplar på bulgarsk, dansk, engelsk, estisk, finsk, fransk, græsk, irsk, italiensk, lettisk, litauisk, maltesisk, nederlandsk, polsk, portugisisk, rumænsk, slovakisk, slovensk, spansk, svensk, tjekkisk, tysk og ungarsk, idet hver af disse tekster alle har samme gyldighed, deponeres i Den Italienske Republiks regerings arkiver. Denne regering fremsender en bekræftet genpart til hver af de øvrige signatarstateres regeringer.**

**TIL BEKRÆFTELSE HERAF har undertegnede befuldmægtigede underskrevet denne traktat.**

**Udfærdiget i ..., den ...**

FOLKETINGET



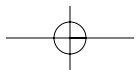
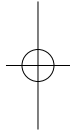
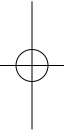
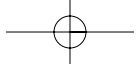
## Udkast til Lissabon-traktaten

BIND 2  
PROTOKOLLER OG  
ERKLÆRINGER

Sammenskrevet udgave af  
udkastet til Lissabon-traktaten  
og det gældende traktatgrundlag

Opdateret med ændringerne  
fra Det Europæiske Råds  
møde den 19. oktober 2007  
i Lissabon

Folketingets EU-Oplysning, Christiansborg, DK-1240 København K  
Telefon 3337 3337, Email: euopl@ft.dk, Internettet: www.euo.dk



**A. PROTOKOLLER, DER SKAL KNYTTES SOM BILAG TIL TRAKTATEN OM DEN EUROPÆISKE UNION, TIL TRAKTATEN OM DEN EUROPÆISKE UNIONS FUNKTIONSMÅDE OG, HVOR DET ER RELEVANT, TIL TRAKTATEN OM OPRETTELSE AF DET EUROPÆISKE ATOMENERGIFÆLLESSKAB**

**PROTOKOL (nr. 1)**

**OM DE NATIONALE PARLAMENTERS ROLLE I DEN EUROPÆISKE UNION**

**DE HØJE KONTRAHERENDE PARTER,**

**SOM MINDER OM**, at den måde, hvorpå de nationale parlamenter udøver kontrol med deres regering i relation til Den Europæiske Unions aktiviteter, falder ind under den enkelte medlemsstats særlige forfatningsmæssige system og praksis,

**SOM ØNSKER** at tilskynde til, at de nationale parlamenter i højere grad inddrages i Den Europæiske Unions aktiviteter, og at øge deres muligheder for at udtrykke deres synspunkter vedrørende såvel udkast til Unionens lovgivningsmæssige retsakter som andre spørgsmål, der kan være af særlig interesse for dem,

**ER BLEVET ENIGE OM** følgende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union, til traktaten om Den Europæiske Unions funktionsmåde og til traktaten om oprettelse af Det Europæiske Atomenergifællesskab:

**AFSNIT I**

**INFORMATION TIL DE NATIONALE PARLAMENTER**

**Artikel 1**

Kommissionen sender sine høringsdokumenter (grøn- og hvidbøger og meddelelser) direkte til de nationale parlamenter, så snart de bliver offentliggjort. Kommissionen sender ligeledes det årlige lovgivningsprogram og alle andre instrumenter vedrørende programmering af lovgivningen eller politikstrategi til de nationale parlamenter samtidig med fremsendelsen til Europa-Parlamentet og Rådet.

**Artikel 2**

Udkast til lovgivningsmæssige retsakter, der forelægges Europa-Parlamentet og Rådet, sendes samtidig til de nationale parlamenter.

I denne protokol forstås ved udtrykket "udkast til lovgivningsmæssig retsakt" forslag fra Kommissionen, initiativer fra en gruppe medlemsstater, initiativer fra Europa-Parlamentet, anmodninger fra Domstolen, henstillinger fra Den Europæiske Centralbank og anmodninger fra Den Europæiske Investeringsbank, der tager sigte på vedtagelsen af en lovgivningsmæssig retsakt.

Kommissionen sender sine udkast til lovgivningsmæssige retsakter direkte til de nationale parlamenter samtidig med fremsendelsen til Europa-Parlamentet og Rådet.

Europa-Parlamentet sender sine udkast til lovgivningsmæssige retsakter direkte til de nationale parlamenter.

Rådet sender de udkast til lovgivningsmæssige retsakter, der hidrører fra en gruppe medlemsstater, Domstolen, Den Europæiske Centralbank eller Den Europæiske Investeringsbank, til de nationale parlamenter.

#### Artikel 3

De nationale parlamenter kan efter den procedure, der er fastlagt i protokollen om anvendelse af nærhedsprincippet og proportionalitetsprincippet, sende formændene for Europa-Parlamentet, Rådet og Kommissionen en begrundet udtalelse om, hvorvidt et udkast til lovgivningsmæssig retsakt overholder nærhedsprincippet.

Hvis udkastet til lovgivningsmæssig retsakt hidrører fra en gruppe medlemsstater, sender Rådets formand den eller de begrundede udtalelser til disse medlemsstaters regeringer.

Hvis udkastet til lovgivningsmæssig retsakt hidrører fra Domstolen, Den Europæiske Centralbank eller Den Europæiske Investeringsbank, sender Rådets formand den eller de begrundede udtalelser til den pågældende institution eller det pågældende organ.

#### Artikel 4

Der skal forløbe en periode på otte uger mellem det tidspunkt, hvor et udkast til lovgivningsmæssig retsakt stilles til rådighed for de nationale parlamenter på Unionens officielle sprog, og det tidspunkt, hvor det sættes på Rådets foreløbige dagsorden med henblik på vedtagelse eller vedtagelse af en holdning inden for rammerne af en lovgivningsprocedure. Denne frist kan dog fraviges i tilfælde af en sags hastende karakter, som begrundes i retsaktens eller Rådets holdning. Bortset fra i behørigt begrundede hastetilfælde kan der ikke i denne otteugers periode fastslås enighed om et udkast til lovgivningsmæssig retsakt. Bortset fra i behørigt begrundede hastetilfælde skal der gå ti dage mellem det tidspunkt, hvor et udkast til lovgivningsmæssig retsakt optages på Rådets foreløbige dagsorden, og Rådets vedtagelse af en holdning.

#### Artikel 5

Rådets dagsordener og resultaterne af Rådets samlinger, herunder protokollerne fra de samlinger, hvor Rådet har drøftet udkast til lovgivningsmæssige retsakter, sendes direkte til de nationale parlamenter samtidig med fremsendelsen til medlemsstaternes regeringer.

#### Artikel 6

Når Det Europæiske Råd påtænker at gøre brug af artikel 33, stk. 1 eller 2, i traktaten om Den Europæiske Union, underrettes de nationale parlamenter om Det Europæiske Råds initiativ mindst seks måneder før vedtagelsen af en afgørelse.

#### Artikel 7

Revisionsretten sender sin årsberetning til de nationale parlamenter til orientering samtidig med fremsendelsen til Europa-Parlamentet og Rådet.

**Artikel 8**

Hvis det nationale parlamentariske system ikke er et etkammersystem, finder artikel 1-7 anvendelse på de kamre, det består af.

**AFSNIT II****INTERPARLAMENTARISK SAMARBEJDE****Artikel 9**

Europa-Parlamentet og de nationale parlamenter fastlægger i fællesskab tilrettelæggelsen af og fremmer et effektivt og regelmæssigt interparlamentarisk samarbejde inden for Unionen.

**Artikel 10**

En konference af parlamentariske organer med ansvar for EU-anliggender kan forelægge Europa-Parlamentet, Rådet og Kommissionen de bidrag, som den finder hensigtsmæssige. Denne konference fremmer endvidere udveksling af oplysninger og bedste praksis mellem de nationale parlamenter og Europa-Parlamentet, herunder mellem deres fagudvalg. Den kan ligeledes afholde interparlamentariske konferencer om specifikke emner, navnlig for at drøfte spørgsmål vedrørende den fælles udenrigs- og sikkerhedspolitik, herunder den fælles sikkerheds- og forsvarspolitik. Bidrag fra konferencen forpligter ikke de nationale parlamenter og foregriber ikke deres holdning.

**PROTOKOL (nr. 2)**  
**OM ANVENDELSE AF**  
**NÆRHEDSPRINCIPPET OG PROPORTIONALITETSPRINCIPPET**

**DE HØJE KONTRAHERENDE PARTER,**

**SOM ØNSKER, at beslutningerne træffes så tæt på borgerne som muligt,**

**SOM ER BESLUTTET PÅ at fastsætte betingelser for anvendelse af nærhedsprincippet og proportionalitetsprincippet som defineret i artikel 5 i traktaten om Den Europæiske Union samt at indføre et system for kontrol med anvendelsen af disse principper,**

**ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union og til traktaten om Den Europæiske Unions funktionsmåde:**

**Artikel 1**

Hver enkelt institution sikrer til stadighed, at nærhedsprincippet og proportionalitetsprincippet som defineret i artikel 5 i traktaten om Den Europæiske Union overholdes.

**Artikel 2**

Inden Kommissionen fremsætter forslag til en lovgivningsmæssig retsakt, foretager den omfattende konsultationer. Disse konsultationer skal, når det er relevant, tage hensyn til de planlagte foranstaltningers regionale og lokale dimension. I ekstraordinært hastende tilfælde foretager Kommissionen ikke sådanne konsultationer. Den begrundes sin beslutning i forslaget.

**Artikel 3**

I denne protokol forstås ved udtrykket "udkast til lovgivningsmæssig retsakt" forslag fra Kommissionen, initiativer fra en gruppe medlemsstater, initiativer fra Europa-Parlamentet, anmodninger fra Domstolen, henstillinger fra Den Europæiske Centralbank og anmodninger fra Den Europæiske Investeringsbank, der tager sigte på vedtagelse af en lovgivningsmæssig retsakt.

**Artikel 4**

Kommissionen sender sine udkast til lovgivningsmæssige retsakter samt sine ændrede udkast til medlemsstaternes nationale parlamenter samtidig med fremsendelsen til EU-lovgiveren.

Europa-Parlamentet sender sine udkast til lovgivningsmæssige retsakter samt sine ændrede udkast til de nationale parlamenter.

Rådet sender de udkast til lovgivningsmæssige retsakter, der hidrører fra en gruppe medlemsstater, Domstolen, Den Europæiske Centralbank eller Den Europæiske Investeringsbank, samt ændrede udkast til medlemsstaternes nationale parlamenter.



Så snart Europa-Parlamentets lovgivningsmæssige beslutninger og Rådets holdninger er vedtaget, sendes de til de nationale parlamenter.

#### Artikel 5

Udkastene til lovgivningsmæssige retsakter begrundes med hensyn til nærhedsprincippet og proportionalitetsprincippet.

Ethvert udkast til lovgivningsmæssig retsakt bør indeholde en detaljeret analyse, der gør det muligt at vurdere overholdelsen af nærhedsprincippet og proportionalitetsprincippet.

Analysen bør omfatte oplysninger, der gør det muligt at vurdere de finansielle virkninger og, når der er tale om et direktiv, følgerne for den lovgivning, som medlemsstaterne skal iværksætte, herunder eventuelt regional lovgivning. Begrundelsen for at fastslå, at et af Unionens mål bedre kan nås på EU-plan, underbygges af kvalitative og om muligt kvantitative indikatorer. Der skal i udkastene til lovgivningsmæssige retsakter tages hensyn til, at enhver byrde af finansiell eller administrativ art, der pålægges Unionen, nationale regeringer, regionale eller lokale myndigheder, erhvervsdrivende og borgere, skal begrænses mest muligt og stå i rimeligt forhold til det mål, der skal nås.

#### Artikel 6

Ethvert nationalt parlament eller ethvert kammer i et af disse parlamenter kan senest otte uger efter fremsendelsen af et udkast til lovgivningsmæssig retsakt sende formændene for Europa-Parlamentet, Rådet og Kommissionen en begrundet udtalelse, der forklarer, hvorfor det mener, at det pågældende udkast ikke er i overensstemmelse med nærhedsprincippet. De nationale parlamenter eller kamrene i de nationale parlamenter skal, når det er relevant, konsultere de regionale parlamenter med lovgivningskompetence.

Hvis udkastet til lovgivningsmæssig retsakt hidrører fra en gruppe medlemsstater, sender Rådets formand udtalelsen til disse medlemsstaters regeringer.

Hvis udkastet til lovgivningsmæssig retsakt hidrører fra Domstolen, Den Europæiske Centralbank eller Den Europæiske Investeringsbank, sender Rådets formand udtalelsen til den pågældende institution eller det pågældende organ.

#### Artikel 7

1. Europa-Parlamentet, Rådet og Kommissionen samt i givet fald gruppen af medlemsstater, Domstolen, Den Europæiske Centralbank eller Den Europæiske Investeringsbank, hvis udkastet til lovgivningsmæssig retsakt hidrører fra en af disse, tager hensyn til de begrundede udtalelser, der fremsættes af de nationale parlamenter eller af et kammer i et af disse parlamenter.

Hvert nationalt parlament råder over to stemmer fordelt alt efter det nationale parlamentariske system. I et nationalt parlamentarisk tokammersystem råder hvert af de to kamre over én stemme.

2. Såfremt de begrundede udtalelser, der anfører, at et udkast til lovgivningsmæssig retsakt ikke er i overensstemmelse med nærhedsprincippet, repræsenterer mindst en tredjedel af samtlige de stemmer, der er tildelt de nationale parlamenter i overensstemmelse med stk. 1, andet afsnit, skal udkastet tages op til fornyet overvejelse. Denne tærskel er en fjerdedel, når der er tale om et udkast til lovgivningsmæssig retsakt, der forelægges med hjemmel i artikel 68 i traktaten om Den Europæiske Unions funktionsmåde vedrørende området med frihed, sikkerhed og retfærdighed.

Efter denne fornyede overvejelse kan Kommissionen eller i givet fald gruppen af medlemsstater, Europa-Parlamentet, Domstolen, Den Europæiske Centralbank eller Den Europæiske Investeringsbank, hvis udkastet til lovgivningsmæssig retsakt hidrører fra en af disse, beslutte at opretholde udkastet, ændre det eller trække det tilbage. Beslutningen skal begrundes.

3. Endvidere gælder det under den almindelige lovgivningsprocedure, at såfremt de begrundede udtalelser, der anfører, at et udkast til lovgivningsmæssig retsakt ikke er i overensstemmelse med nærhedsprincippet, repræsenterer mindst et simpelt flertal af de stemmer, der er tildelt de nationale parlamenter i overensstemmelse med stk. 1, andet afsnit, skal udkastet tages op til fornyet overvejelse.

Efter denne fornyede overvejelse kan Kommissionen beslutte at opretholde udkastet, ændre det eller trække det tilbage.

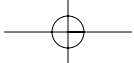
Hvis Kommissionen beslutter at opretholde udkastet, skal den i en begrundet udtalelse underbygge sin opfattelse af, at det er i overensstemmelse med nærhedsprincippet. Denne begrundede udtalelse såvel som de begrundede udtalelser fra de nationale parlamenter skal sendes til EU-lovgiveren til overvejelse i proceduren:

- a) inden afslutningen af førstebehandlingen overvejer lovgiveren (Rådet og Parlamentet) lovgivningsforslagets overensstemmelse med nærhedsprincippet under særlig hensyntagen til de begrundelser, som flertallet af de nationale parlamenter har givet udtryk for og deler, samt Kommissionens begrundede udtalelse
- b) hvis lovgiveren med et flertal på 55% af Rådets medlemmer eller et flertal af de stemmer, der er afgivet i Europa-Parlamentet, er af den opfattelse, at forslaget ikke er i overensstemmelse med nærhedsprincippet, behandles lovgivningsforslaget ikke yderligere.

#### Artikel 8

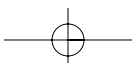
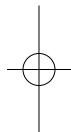
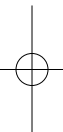
Den Europæiske Unions Domstol har kompetence til at træffe afgørelse i sager vedrørende lovgivningsmæssige retsakters overtrædelse af nærhedsprincippet, der anlægges i henhold til de nærmere bestemmelser i artikel 230 i traktaten om Den Europæiske Unions funktionsmåde af en medlemsstat eller forelægges af denne i overensstemmelse med dens interne retssystem på vegne af dens nationale parlament eller et kammer i dette parlament.

I overensstemmelse med nævnte artikel kan Regionsudvalget også anlægge sådanne sager vedrørende lovgivningsmæssige retsakter, hvis vedtagelse det ifølge traktaten om Den Europæiske Unions funktionsmåde skal høres om.



### Artikel 9

**Kommissionen forelægger hvert år Det Europæiske Råd, Europa-Parlamentet, Rådet og de nationale parlamenter en rapport om anvendelsen af artikel 5 i traktaten om Den Europæiske Union. Årsrapporten sendes også til Regionsudvalget og Det Økonomiske og Sociale Udvalg.**



**PROTOKOL (nr. 3)**  
**OM EUROGRUPPEN**

**DE HØJE KONTRAHERENDE PARTER,**

**SOM ØNSKER** at fremme betingelserne for en stærkere økonomisk vækst i Den Europæiske Union og med henblik herpå at udvikle en stadig tættere samordning af de økonomiske politikker i euroområdet,

**SOM ER OPMÆRKSOMME PÅ** nødvendigheden af at fastlægge særlige bestemmelser med henblik på en styrket dialog mellem de medlemsstater, der har euroen som valuta, indtil euroen bliver valutaen i alle Unionens medlemsstater,

**ER BLEVET ENIGE OM** følgende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union og til traktaten om Den Europæiske Unions funktionsmåde:

**Artikel 1**

Ministrene fra de medlemsstater, der har euroen som valuta, mødes uformelt. Disse møder finder sted efter behov for at drøfte spørgsmål i tilknytning til det specifikke ansvar, som de deler for så vidt angår den fælles valuta. Kommissionen deltager i møderne. Den Europæiske Centralbank opfordres til at deltage i disse møder, som forberedes af repræsentanterne for finansministrene fra de medlemsstater, der har euroen som valuta, og for Kommissionen.

**Artikel 2**

Ministrene fra de medlemsstater, der har euroen som valuta, vælger med et flertal af disse medlemsstater en formand for to et halvt år.

**PROTOKOL (nr. 4)****OM PERMANENT STRUKTURERET SAMARBEJDE  
ETABLERET VED ARTIKEL 27 I TRAKTATEN OM DEN EUROPÆISKE UNION**

**DE HØJE KONTRAHERENDE PARTER,**

**SOM HENVISER TIL artikel 27, stk. 6, og artikel 31 i traktaten om Den Europæiske Union,**

**SOM MINDER OM, at Unionen fører en fælles udenrigs- og sikkerhedspolitik, der bygger på opnåelse af en stadig stigende konvergens i medlemsstaternes optræden,**

**SOM MINDER OM, at den fælles sikkerheds- og forsvarspolitik udgør en integrerende del af den fælles udenrigs- og sikkerhedspolitik, at den sikrer Unionen en operationel kapacitet, der gør brug af civile og militære midler, at Unionen kan anvende disse i forbindelse med de i artikel 28 i traktaten om Den Europæiske Union nævnte opgaver uden for Unionens område med henblik på fredsbevarelse, konfliktforebyggelse og styrkelse af den internationale sikkerhed i overensstemmelse med principperne i De Forenede Nationers pagt, og at udførelsen af disse opgaver bygger på militære kapaciteter tilvejebragt af medlemsstaterne i overensstemmelse med princippet om "kun ét sæt styrker",**

**SOM MINDER OM, at Unionens fælles sikkerheds- og forsvarspolitik ikke berører den særlige karakter af visse medlemsstaters sikkerheds- og forsvarspolitik,**

**SOM MINDER OM, at Unionens fælles sikkerheds- og forsvarspolitik overholder de forpligtelser, der følger af den nordatlantiske traktat for de medlemsstater, der betragter deres fælles forsvar som omfattet af Den Nordatlantiske Traktats Organisation, der fortsat udgør grundlaget for dens medlemmers kollektive forsvar, og at den er forenelig med den fælles sikkerheds- og forsvarspolitik, der er fastlagt inden for denne ramme,**

**SOM ER OVERBEVIST OM, at en mere aktiv rolle for Unionen på sikkerheds- og forsvarsområdet vil bidrage til en livskraftig fornyet atlantisk alliance i overensstemmelse med "Berlin plus"-ordningerne,**

**SOM ER BESLUTTET PÅ, at Unionen fuldt ud skal kunne påtage sig det ansvar, der påhviler den inden for det internationale samfund,**

**SOM ANERKENDER, at De Forenede Nationer kan anmode om Unionens bistand, hvis der meget hurtigt skal udføres opgaver i henhold til kapitel VI og VII i De Forenede Nationers pagt,**

**SOM ANERKENDER, at en styrkelse af den fælles sikkerheds- og forsvarspolitik vil kræve en indsats fra medlemsstaternes side med hensyn til kapaciteter,**

**SOM ER KLAR OVER, at der, for at man kan komme videre til næste fase i udviklingen af den europæiske sikkerheds- og forsvarspolitik, forudsættes en beslutsom indsats fra de medlemsstater, der er rede til det,**

**SOM MINDER OM, at det er vigtigt, at Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik inddrages fuldt ud i arbejdet inden for det permanente strukturerede samarbejde,**

**ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union og til traktaten om Den Europæiske Unions funktionsmåde:**

#### **Artikel 1**

Det permanente strukturerede samarbejde i artikel 27, stk. 6, i traktaten om Den Europæiske Union er åbent for enhver medlemsstat, der fra datoen for ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab forpligter sig til:

- a) at intensivere udviklingen af sine forsvarskapaciteter gennem udvikling af sine nationale bidrag og eventuelt gennem deltagelse i multinationale styrker, i de vigtigste europæiske materiel-programmer og i Agenturet for Udvikling af Forsvarskapaciteter, Forskning, Anskaffelse og Forsvarsmateriel (Det Europæiske Forsvarsagentur) og til
- b) senest i 2010 enten nationalt eller som en del af multinationale grupper af styrker at kunne levere kampenheder, der er specielt uddannet til de påtænkte opgaver, som på det taktiske plan er sammensat som kampgrupper med støtteelementer, herunder transport og logistik, som er i stand til inden for 5-30 dage at gennemføre opgaver som omhandlet i artikel 28 i traktaten om Den Europæiske Union, især for at imødekomme anmodninger fra De Forenede Nationer, og som har forsyninger til at klare sig i en første periode på 30 dage, der kan forlænges til mindst 120 dage.

#### **Artikel 2**

De medlemsstater, der deltager i det permanente strukturerede samarbejde, forpligter sig med henblik på at opfylde målene i artikel 1 til:

- a) fra og med ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab at samarbejde med henblik på at nå de aftalte mål for niveauet for investeringsudgifter til forsvarsmateriel og at tage disse mål op til vurdering med jævne mellemrum på baggrund af sikkerhedssituationen og Unionens internationale ansvar;
- b) så vidt muligt at tilnærme deres forsvarsinstrumenter til hinanden, især ved at harmonisere fastlæggelsen af de militære behov, ved at samle og eventuelt specialisere deres forsvarsaktiver og -kapaciteter og ved at fremme samarbejde inden for uddannelse og logistik;
- c) at træffe konkrete foranstaltninger for at øge deres styrkers disponibilitet, interoperabilitet, fleksibilitet og deployeringsevne, navnlig ved at fastlægge fælles mål med hensyn til styrkeprojektion, herunder ved eventuelt at revidere deres nationale beslutningsprocedurer;
- d) at samarbejde for at sikre sig, at de træffer de nødvendige foranstaltninger med henblik på, bl.a. gennem multinationale tiltag og med forbehold af deres relevante forpligtelser inden for NATO, at afhjælpe de mangler, der konstateres inden for rammerne af kapacitetsudviklingsmekanismen;
- e) eventuelt at deltage i udvikling af fælles eller europæiske programmer for større materiel inden for rammerne af Det Europæiske Forsvarsagentur.

### Artikel 3

Det Europæiske Forsvarsagentur medvirker til en regelmæssig evaluering af de deltagende medlemsstaters kapacitetsbidrag, navnlig bidrag ydet efter de kriterier, der fastsættes bl.a. på grundlag af artikel 2, og aflægger mindst en gang om året rapport herom. Evalueringen kan danne grundlag for de henstillinger og afgørelser, som Rådet vedtager i overensstemmelse med artikel 31 i traktaten om Den Europæiske Union.

**PROTOKOL (nr. 5)****VEDRØRENDE ARTIKEL 6, STK. 2,  
I TRAKTATEN OM DEN EUROPÆISKE UNION  
OM UNIONENS TILTRÆDELSE AF DEN EUROPÆISKE KONVENTION  
TIL BESKYTTELSE AF MENNESKERETTIGHEDER OG GRUNDLÆGGENDE  
FRIHEDSRETTIGHEDER****DE HØJE KONTRAHERENDE PARTER**

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union og til traktaten om Den Europæiske Unions funktionsmåde:

**Artikel 1**

Aftalen om Unionens tiltrædelse af den europæiske konvention til beskyttelse af menneskerettigheder og grundlæggende frihedsrettigheder, i det følgende benævnt "den europæiske menneskerettighedskonvention", jf. artikel 6, stk. 2, i traktaten om Den Europæiske Union, skal afspejle nødvendigheden af at bevare Unionens og EU-rettens særlige karakteristika, navnlig for så vidt angår:

- a) de nærmere bestemmelser for Unionens eventuelle deltagelse i den europæiske menneskerettighedskonventions kontrolinstanser
- b) de mekanismer, der er nødvendige for at sikre, at sager indbragt af ikke-medlemsstater samt individuelle klager henføres korrekt til medlemsstaterne og/eller Unionen afhængigt af det enkelte tilfælde.

**Artikel 2**

Den aftale, der er nævnt i artikel 1, skal sikre, at tiltrædelsen hverken berører Unionens kompetencer eller institutionernes beføjelser. Den skal sikre, at intet heri berører medlemsstaternes situation i forhold til den europæiske menneskerettighedskonvention, navnlig i forhold til protokollerne hertil, foranstaltninger truffet af medlemsstaterne, der fraviger konventionen i overensstemmelse med dennes artikel 15, og forbehold med hensyn til konventionen, som medlemsstater har taget i overensstemmelse med dennes artikel 57.

**Artikel 3**

Den aftale, der er nævnt i artikel 1, berører ikke artikel 292, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde.



**PROTOKOL (nr. 6)**

**OM DET INDRE MARKED OG KONKURRENCE**

**DE HØJE KONTRAHERENDE PARTER,**

**SOM FINDER, at det indre marked, jf. artikel 3 i traktaten om Den Europæiske Union, omfatter et system, der sikrer, at konkurrencen ikke forvrides,**

**ER BLEVET ENIGE OM, at Unionen med henblik herpå om nødvendigt træffer foranstaltninger inden for rammerne af traktaternes bestemmelser, herunder artikel 308 i traktaten om Den Europæiske Unions funktionsmåde.**

**Denne protokol knyttes som bilag til traktaten om Den Europæiske Union og til traktaten om Den Europæiske Unions funktionsmåde.**

**PROTOKOL (nr. 7)****OM ANVENDELSEN AF CHARTRET OM GRUNDLÆGGENDE RETTIGHEDER  
I POLEN OG DET FORENEDE KONGERIGE**

**DE HØJE KONTRAHERENDE PARTER,**

**SOM TAGER I BETRAGTNING,** at Unionen i artikel 6 i traktaten om Den Europæiske Union anerkender de rettigheder, friheder og principper, der er fastlagt i chartret om grundlæggende rettigheder,

**SOM TAGER I BETRAGTNING,** at chartret skal anvendes i nøje overensstemmelse med bestemmelserne i ovennævnte artikel 6 og chartrets afsnit VII,

**SOM TAGER I BETRAGTNING,** at chartret ifølge ovennævnte artikel 6 skal anvendes og fortolkes af Polens og Det Forenede Kongeriges domstole i nøje overensstemmelse med de forklaringer, der er anført i denne artikel,

**SOM TAGER I BETRAGTNING,** at chartret indeholder både rettigheder og principper,

**SOM TAGER I BETRAGTNING,** at chartret indeholder både bestemmelser af civil og politisk karakter og bestemmelser af økonomisk og social karakter,

**SOM TAGER I BETRAGTNING,** at chartret bekræfter de rettigheder, friheder og principper, der er anerkendt i Unionen, og gør dem mere synlige, men ikke skaber nye rettigheder og principper,

**SOM ERINDRER OM** Polens og Det Forenede Kongeriges forpligtelser i henhold til traktaten om Den Europæiske Union, traktaten om Den Europæiske Unions funktionsmåde og Unionens lovgivning i almindelighed,

**SOM NOTERER SIG** Polens og Det Forenede Kongeriges ønske om at præcisere visse aspekter med hensyn til chartrets anvendelse,

**SOM DERFOR TILSTRÆBER** at præcisere chartrets anvendelse i forhold til Polens og Det Forenede Kongeriges lovgivning og administrative praksis og mulighederne for juridisk håndhævelse i Polen og Det Forenede Kongerige,

**SOM PÅ NY BEKRÆFTER,** at henvisninger i denne protokol til anvendelsen af specifikke bestemmelser i chartret på ingen måde berører anvendelsen af andre bestemmelser i chartret,

**SOM PÅ NY BEKRÆFTER,** at denne protokol ikke berører chartrets anvendelse i andre medlemsstater,

**SOM PÅ NY BEKRÆFTER,** at denne protokol ikke berører Polens og Det Forenede Kongeriges andre forpligtelser i henhold til traktaten om Den Europæiske Union, traktaten om Den Europæiske Unions funktionsmåde og Unionens lovgivning i almindelighed,

**ER BLEVET ENIGE OM** følgende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union og til traktaten om Den Europæiske Unions funktionsmåde:

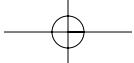
### Artikel 1

1. Chartret giver ikke øget kompetence til Den Europæiske Unions Domstol eller til nogen domstol i Polen eller Det Forenede Kongerige til at træffe kendelse om, at Polens eller Det Forenede Kongeriges love og administrative bestemmelser, praksis eller foranstaltninger er i modstrid med de grundlæggende rettigheder, friheder og principper, som chartret bekræfter.

2. Det skal navnlig udtrykkelig fastslås, at chartrets afsnit IV på ingen måde skaber rettigheder, der kan håndhæves juridisk i Polen eller Det Forenede Kongerige, medmindre Polen eller Det Forenede Kongerige har sådanne rettigheder i sin nationale lovgivning.

### Artikel 2

Såfremt en bestemmelse i chartret henviser til national praksis og nationale rettigheder, finder den kun anvendelse i Polen eller Det Forenede Kongerige, for så vidt de rettigheder og principper, den indeholder, er anerkendt i Polens eller Det Forenede Kongeriges lovgivning og praksis.



Protokoller

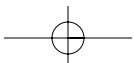
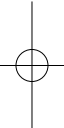
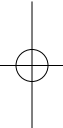
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**PROTOKOL (nr. 8)**  
**OM DELT KOMPETENCE**

**DE HØJE KONTRAHERENDE PARTER**

**ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union og til traktaten om Den Europæiske Unions funktionsmåde:**  
**Eneste artikel**

**Når Unionen tager initiativer på et bestemt område, omfatter denne udøvelse af kompetence kun de elementer, der indgår i den pågældende EU-retsakt, og omfatter derfor ikke hele området, jf. artikel 2, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde om delt kompetence.**



**PROTOKOL (nr. 9)**  
**OM TJENESTEYDELSER AF ALMEN INTERESSE**

**DE HØJE KONTRAHERENDE PARTER,**

**DER ØNSKER at understrege vigtigheden af tjenesteydelser af almen interesse**

**ER BLEVET ENIGE OM følgende fortolkende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union og til traktaten om Den Europæiske Unions funktionsmåde:**

**Artikel 1**

**Unionens fælles værdier med hensyn til tjenesteydelser af almen økonomisk interesse, jf. artikel 14 i traktaten om Den Europæiske Unions funktionsmåde, omfatter især**

- nationale, regionale og lokale myndigheders vigtige rolle og vide skønsbeføjelser med hensyn til at levere, udlægge og tilrettelægge tjenesteydelser af almen økonomisk interesse så tæt på brugernes behov som muligt
- diversiteten i forskellige tjenesteydelser af almen økonomisk interesse og forskellene mellem brugernes behov og præferencer, der kan være et resultat af forskellige geografiske, sociale eller kulturelle situationer
- et højt niveau for kvalitet, sikkerhed og overkommelige priser, lige behandling og fremme af universel adgang og af brugerrettigheder.

**Artikel 2**

**Traktaternes bestemmelser berører på ingen måde medlemsstaternes beføjelse til at levere, udlægge og tilrettelægge ikke-økonomiske tjenesteydelser af almen interesse.**

**PROTOKOL (nr. 9a)****OM RÅDETS AFGØRELSE**

**OM GENNEMFØRELSE AF ARTIKEL 9 C, STK. 4, I TRAKTATEN OM DEN EUROPÆISKE UNION OG ARTIKEL 205, STK. 2, I TRAKTATEN OM DEN EUROPÆISKE UNIONS FUNKTIONSMÅDE DELS MELLEML DEN 1. NOVEMBER 2014 OG DEN 31. MARTS 2017 OG DELS FRA DEN 1. APRIL 2017**

**DE HØJE KONTRAHERENDE PARTER,**

**SOM TAGER HENSYN TIL den grundlæggende betydning af at nå til enighed om Rådets afgørelse om gennemførelse af artikel 9 C, stk. 4, i traktaten om Den Europæiske Union og artikel 205, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde dels mellem den 1. november 2014 og den 31. marts 2017 og dels fra den 1. april 2017 (i det følgende benævnt "afgørelsen") i forbindelse med godkendelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab,**

**ER NÅET TIL ENIGHED OM følgende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union og traktaten om Den Europæiske Unions funktionsmåde:**

**Eneste artikel**

**Inden Rådet behandler et udkast, der tager sigte på enten at ændre eller ophæve afgørelsen eller nogen af dens bestemmelser eller på indirekte at ændre dens rækkevidde eller betydning i kraft af ændring af en anden EU-retsakt, har Det Europæiske Råd en foreløbig drøftelse om udkastet og træffer afgørelse ved konsensus i overensstemmelse med artikel 9 B, stk. 4, i traktaten om Den Europæiske Union."**

**PROTOKOL (nr. 10)**  
**OM OVERGANGSBESTEMMELSER**

**DE HØJE KONTRAHERENDE PARTER,**

**SOM TAGER I BETRAGTNING, at det for at tilrettelægge overgangen fra de institutionelle bestemmelser i traktaterne, der finder anvendelse inden ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab, til de bestemmelser, der er fastsat i nævnte traktat, er nødvendigt at fastlægge overgangsbestemmelser,**

**ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union, til traktaten om Den Europæiske Unions funktionsmåde og til traktaten om oprettelse af Det Europæiske Atomenergifællesskab:**

**Artikel 1**

**I denne protokol forstås ved "traktaterne" traktaten om Den Europæiske Union, traktaten om Den Europæiske Unions funktionsmåde og traktaten om oprettelse af Det Europæiske Atomenergifællesskab.**

**AFSNIT I**

**BESTEMMELSER VEDRØRENDE EUROPA-PARLAMENTET**

**Artikel 2**

**I god tid inden Europa-Parlaments-valget i 2009 vedtager Det Europæiske Råd i overensstemmelse med artikel 9 A, stk. 2, andet afsnit, i traktaten om Den Europæiske Union en afgørelse om sammensætningen af Europa-Parlamentet.**

**Indtil udløbet af valgperioden 2004-2009 forbliver sammensætningen og antallet af medlemmer af Europa-Parlamentet, som de var ved ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab.**

**AFSNIT II**

**BESTEMMELSER VEDRØRENDE KVALIFICERET FLERTAL**

**Artikel 3**

**1. I overensstemmelse med artikel 9C, stk. 4, i traktaten om Den Europæiske Union træder bestemmelserne i dette stykke og bestemmelserne i artikel 205, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde om definitionen af kvalificeret flertal i Det Europæiske Råd og Rådet i kraft den 1. november 2014.**

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 Protokoller
 

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2. Mellem den 1. november 2014 og den 31. marts 2017 kan et medlem af Rådet, når en afgørelse skal vedtages med kvalificeret flertal, kræve, at afgørelsen træffes med kvalificeret flertal som defineret i stk. 3. Stk. 3 og 4 finder i så fald anvendelse.

3. Indtil den 31. oktober 2014 gælder følgende bestemmelser med forbehold af artikel 201a, stk. 1, andet afsnit, i traktaten om Den Europæiske Unions funktionsmåde:

Ved afgørelser i Det Europæiske Råd og Rådet, der kræver kvalificeret flertal, tildeles medlemmernes stemmer følgende vægt:

Belgien	.12	Malta	.3
Bulgarien	.10	Nederlandene	.13
Cypern	.4	Polen	.27
Danmark	.7	Portugal	.12
Estland	.4	Rumænien	.14
Finland	.7	Slovakiet	.7
Det Forenede Kongerige (UK)	.29	Slovenien	.4
Frankrig	.29	Spanien	.27
Grækenland	.12	Sverige	.10
Irland	.7	Den Tjekkiske Republik	.12
Italien	.29	Tyskland	.29
Letland	.4	Ungarn	.12
Litauen	.7	Østrig	.10
Luxembourg	.4	I alt	<u>.345</u>

Rådets afgørelser træffes med mindst 255 stemmer for afgivet af et flertal af medlemmerne, når afgørelsen i henhold til traktaterne skal træffes på forslag af Kommissionen. I alle andre tilfælde træffes Rådets afgørelser med mindst 255 stemmer for afgivet af mindst to tredjedele af medlemmerne.

Når Det Europæiske Råd eller Rådet vedtager en retsakt med kvalificeret flertal, kan et medlem af Det Europæiske Råd eller Rådet kræve, at det kontrolleres, at de medlemsstater, der udgør dette kvalificerede flertal, repræsenterer mindst 62 % af Unionens samlede befolkning. Hvis det viser sig, at denne betingelse ikke er opfyldt, er den pågældende retsakt ikke vedtaget.

4. I de tilfælde, hvor ikke alle Rådets medlemmer deltager i afstemningen, det vil sige i de tilfælde, hvor der henvises til kvalificeret flertal som defineret i artikel 205, stk. 3, i traktaten om Den Europæiske Unions funktionsmåde, defineres kvalificeret flertal indtil den 31. oktober 2014 som samme forholdsmæssige andel af de vægtede stemmer og samme forholdsmæssige andel af antallet af rådsmedlemmer samt eventuelt samme procentdel af de berørte medlemsstaters befolkning som dem, der er fastsat i stk. 3.

### AFSNIT III

#### BESTEMMELSER VEDRØRENDE RÅDETS SAMMENSÆTNINGER

##### Artikel 4

Indtil ikrafttrædelsen af den afgørelse, der er nævnt i artikel 9 C, stk. 6, første afsnit, i traktaten om Den Europæiske Union kan Rådet mødes i de sammensætninger, der



er nævnt i artikel 9 C, stk. 6, andet og tredje afsnit, samt i de øvrige sammensætninger, der angives på en liste i en afgørelse vedtaget med simpelt flertal af Rådet for Almindelige Anliggender.

#### AFSNIT IV

##### BESTEMMELSER VEDRØRENDE KOMMISSIONEN, HERUNDER UNIONENS HØJTSTÅENDE REPRÆSENTANT FOR UDENRIGSANLIGGENDER OG SIKKERHEDSPOLITIK

###### Artikel 5

De medlemmer af Kommissionen, der fungerer på den dato, hvor traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab træder i kraft, skal fungere, indtil deres tjenesteperiode udløber. Dog ophører tjenesteperioden for det medlem, der har samme nationalitet som Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, på datoen for den højtstående repræsentants udnævnelse.

#### AFSNIT V

##### BESTEMMELSER VEDRØRENDE GENERALSEKRETÆREN FOR RÅDET, DEN HØJTSTÅENDE REPRÆSENTANT FOR DEN FÆLLES UDENRIGS- OG SIKKERHEDSPOLITIK OG VICEGENERALSEKRETÆREN FOR RÅDET

###### Artikel 6

Tjenesteperioden for generalsekretæren for Rådet, den højtstående repræsentant for den fælles udenrigs- og sikkerhedspolitik og vicegeneralsekretæren for Rådet ophører på den dato, hvor traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab træder i kraft. Rådet udnævner en generalsekretær i overensstemmelse med artikel 207, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde.

## AFSNIT VI

## BESTEMMELSER VEDRØRENDE DE RÅDGIVENDE ORGANER

## Artikel 7

Indtil ikrafttrædelsen af den afgørelse, der er nævnt i artikel 263 i traktaten om Den Europæiske Unions funktionsmåde, er fordelingen af Regionsudvalgets medlemmer således:

Belgien	.12	Malta	.5
Bulgarien	.12	Nederlandene	.12
Cypern	.6	Polen	.21
Danmark	.9	Portugal	.12
Estland	.7	Rumænien	.15
Finland	.9	Slovakiet	.9
Det Forenede Kongerige (UK)	.24	Slovenien	.7
Frankrig	.24	Spanien	.21
Grækenland	.12	Sverige	.12
Irland	.9	Den Tjekkiske Republik	.12
Italien	.24	Tyskland	.24
Letland	.7	Ungarn	.12
Litauen	.9	Østrig	.12
Luxembourg	.6	I alt	<u>.344</u>

## Artikel 8

Indtil ikrafttrædelsen af den afgørelse, der er nævnt i artikel 258 i traktaten om Den Europæiske Unions funktionsmåde, er fordelingen af Det Økonomiske og Sociale Udvalgs medlemmer således:

Belgien	.12	Malta	.5
Bulgarien	.12	Nederlandene	.12
Cypern	.6	Polen	.21
Danmark	.9	Portugal	.12
Estland	.7	Rumænien	.15
Finland	.9	Slovakiet	.9
Det Forenede Kongerige (UK)	.24	Slovenien	.7
Frankrig	.24	Spanien	.21
Grækenland	.12	Sverige	.12
Irland	.9	Den Tjekkiske Republik	.12
Italien	.24	Tyskland	.24
Letland	.7	Ungarn	.12
Litauen	.9	Østrig	.12
Luxembourg	.6	I alt	<u>.344</u>

## AFSNIT VII

### OVERGANGSBESTEMMELSER VEDRØRENDE RETSAKTER VEDTAGET PÅ GRUNDLAG AF AFSNIT V OG VI I TRAKTATEN OM DEN EUROPÆISKE UNION INDEN IKRAFTTRÆDELSEN AF TRAKTATEN OM ÆNDRING AF TRAKTATEN OM DEN EUROPÆISKE UNION OG TRAKTATEN OM OPRETTELSE AF DET EUROPÆISKE FÆLLESSKAB

#### Artikel 9

Retsvirkningerne af retsakter, der er vedtaget af Unionens institutioner, organer, kontorer og agenturer på grundlag af traktaten om Den Europæiske Union inden ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab, bevares, så længe disse retsakter ikke er ophævet, annulleret eller ændret i medfør af traktaterne.

Det samme gælder de konventioner, som medlemsstaterne har indgået på grundlag af traktaten om Den Europæiske Union.

#### Artikel 10

1. Som overgangsforanstaltning og med hensyn til Unionens retsakter på området politisamarbejde og retligt samarbejde i straffesager, der er vedtaget inden ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab, skal institutionernes beføjelser være følgende på datoen for ikrafttrædelsen af nævnte traktat:

Kommissionens beføjelser i henhold til artikel 226 i traktaten om Den Europæiske Unions funktionsmåde finder ikke anvendelse, og Den Europæiske Unions Domstols beføjelser i henhold til afsnit VI i traktaten om Den Europæiske Union i den udgave, der gælder inden ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab, forbliver de samme, også når de er godkendt i henhold til artikel 35, stk. 1, i nævnte traktat om Den Europæiske Union.

2. Ændringen af en retsakt som omhandlet i stk. 1 medfører, at de i stk. 1 nævnte institutioners beføjelser som fastsat i traktaterne finder anvendelse med hensyn til den ændrede retsakt for de medlemsstater, som den ændrede retsakt finder anvendelse på.

3. I alle tilfælde ophører overgangsforanstaltningerne i stk. 1 med at have virkning fem år efter datoen for ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab.

4. Senest seks måneder inden udløbet af overgangsperioden i stk. 3 kan Det Forenede Kongerige meddele Rådet, at det med hensyn til de i stk. 1 omhandlede retsakter ikke godkender de i stk. 1 nævnte institutioners beføjelser som fastsat i traktaterne. Såfremt Det Forenede Kongerige har givet denne meddelelse, ophører alle retsakter som omhandlet i stk. 1 med at finde anvendelse på Det Forenede Kongerige fra datoen for udløbet af overgangsperioden i stk. 3. Dette afsnit gælder ikke med hensyn til de ændrede retsakter, der finder anvendelse på Det Forenede Kongerige, jf. stk. 2.

## Protokoller

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Rådet, der træffer afgørelse med kvalificeret flertal på forslag af Kommissionen, fastsætter de nødvendige følge- og overgangsordninger. Det Forenede Kongerige deltager ikke i vedtagelsen af denne afgørelse. Kvalificeret flertal i Rådet defineres som angivet i artikel 205, stk. 3, litra a), i traktaten om Den Europæiske Unions funktionsmåde.

Rådet, der træffer afgørelse med kvalificeret flertal på forslag af Kommissionen, kan også vedtage en afgørelse om, at Det Forenede Kongerige afholder eventuelle direkte finansielle følger, der nødvendigvis og uundgåeligt opstår, fordi Det Forenede Kongerige ikke længere deltager i disse retsakter.

5. Det Forenede Kongerige kan på et hvilket som helst senere tidspunkt meddele Rådet, at det ønsker at deltage i retsakter, der ikke længere finder anvendelse på Det Forenede Kongerige i henhold til stk. 4, første afsnit. I så fald finder de relevante bestemmelser i protokollen om integration af Schengen-reglerne i Den Europæiske Union eller protokollen om Det Forenede Kongeriges og Irlands stilling for så vidt angår området med frihed, sikkerhed og retfærdighed anvendelse, alt efter omstændighederne. Institutionernes beføjelser med hensyn til disse retsakter er dem, der er fastsat i traktaterne. Når EU-institutionerne og Det Forenede Kongerige handler i henhold til de relevante protokoller, søger de at genoprette den videst mulige grad af deltagelse for Det Forenede Kongerige i gældende EU-ret for så vidt angår området med frihed, sikkerhed og retfærdighed, uden at det alvorligt berører den praktiske gennemførelse af de forskellige dele heraf, og samtidig med at sammenhængen mellem disse dele respekteres.

**B. PROTOKOLLER, DER SKAL KNYTTES SOM BILAG TIL TRAKTATEN OM ÆNDRING AF TRAKTATEN OM DEN EUROPÆISKE UNION OG TRAKTATEN OM OPRETTELSE AF DET EUROPÆISKE FÆLLESSKAB**

**PROTOKOL (nr. 11)**

**OM ÆNDRING AF DE PROTOKOLLER, DER ER KNYTTET SOM BILAG TIL TRAKTATEN OM DEN EUROPÆISKE UNION, TIL TRAKTATEN OM OPRETTELSE AF DET EUROPÆISKE FÆLLESSKAB OG/ELLER TIL TRAKTATEN OM OPRETTELSE AF DET EUROPÆISKE ATOMENERGIFÆLLESSKAB**

DE HØJE KONTRAHERENDE PARTER

SOM ØNSKER at ændre de protokoller, der er knyttet som bilag til traktaten om Den Europæiske Union, til traktaten om oprettelse af Det Europæiske Fællesskab og/eller til traktaten om oprettelse af Det Europæiske Atomenergifællesskab, for at tilpasse dem til de nye regler, der er fastsat ved traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab,

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab:

Eneste artikel

1) De protokoller, der er i kraft på datoen for denne traktats ikrafttrædelse, og som er knyttet som bilag til traktaten om Den Europæiske Union og/eller til traktaten om oprettelse af Det Europæiske Fællesskab og/eller til traktaten om oprettelse af Det Europæiske Atomenergifællesskab, ændres i overensstemmelse med bestemmelserne i denne artikel

## Protokol om statuten for Den Europæiske Unions Domstol

DE HØJE KONTRAHERENDE PARTER,

SOM ØNSKER at fastsætte den statut for **Den Europæiske Unions Domstol**, der er omhandlet i artikel 245 i **traktaten om Den Europæiske Unions funktionsmåde** og artikel 160 i traktaten om oprettelse af Det Europæiske Atomenergifællesskab,

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til **traktaten om Den Europæiske Union og traktaten om Unionens funktionsmåde**:

### Artikel 1

**Den Europæiske Unions Domstol** træder sammen og udøver sin virksomhed i overensstemmelse med bestemmelserne i traktaterne og denne statut.

### AFSNIT I

#### DOMMERNE OG GENERALADVOKATERNE

### Artikel 2

Enhver dommer skal, inden han påbegynder sin embedsvirksomhed, i et offentligt retsmøde aflægge ed **for Domstolen** på at ville udføre sit hverv med fuldstændig upartiskhed og samvittighedsfuldhed og bevare tavshed om Domstolens rådslagninger og afstemninger.

### Artikel 3

Dommerne er fritaget for retsforfølgning. For så vidt angår deres embedshandlinger, herunder mundtlige og skriftlige ytringer, nyder de denne immunitet også efter ophøret af deres embedsvirksomhed.

Domstolen kan i plenum ophæve immuniteten. **Vedrører afgørelsen et medlem af Retten eller en specialret, træffer Domstolen afgørelse efter høring af den berørte ret.**

Indledes der efter immunitetens ophævelse strafferetlig forfølgning mod en dommer, kan denne i enhver af medlemsstaterne kun stilles for den ret, der er kompetent til at behandle sager mod medlemmerne af landets øverste domstol.

Artikel **11-14** og artikel **17** i protokollen vedrørende **Den Europæiske Unions** privilegier og immuniteter finder anvendelse på **Den Europæiske Unions Domstols** dommere, generaladvokater, justitssekretær og assisterende referenter dog med forbehold af bestemmelserne i de foregående afsnit vedrørende dommernes fritagelse for retsforfølgning.

### Artikel 4

Dommerne må ikke varetage noget politisk eller administrativt hverv.

De må ikke udøve nogen - lønnet eller ulønnet - erhvervsmæssig virksomhed, medmindre Rådet **med simpelt flertal** undtagelsesvis giver tilladelse hertil.

Ved deres tiltræden afgiver de en højtidelig forsikring, hvorefter de under deres embedsvirksomhed og efter dennes ophør vil overholde de forpligtelser, der følger med deres hverv, i særdeleshed pligten til, efter at deres embedsvirksomhed er ophørt, at udvise hæderlighed og tilbageholdenhed med hensyn til påtagelse af visse hverv eller opnåelse af visse fordele.

I tvivlstilfælde træffer Domstolen afgørelse. **Vedrører afgørelsen et medlem af Retten eller en specialret, træffer Domstolen afgørelse efter høring af den berørte ret.**

#### Artikel 5

Bortset fra ordinære nybesættelser samt dødsfald ophører en dommers embedsvirksomhed ved fratræden.

Ved en dommers fratræden indgives afskedsansøgningen til Domstolens præsident, der videresender den til Rådets formand. Ved sidstnævnte meddelelse bliver embedet ledigt.

Bortset fra tilfælde, hvor artikel 6 finder anvendelse, fungerer enhver dommer i embedet, indtil hans efterfølger er tiltrådt.

#### Artikel 6

En dommer kan hverken afskediges eller frakendes retten til pension eller til andre fordele, der træder i stedet herfor, medmindre han efter Domstolens dommeres og generaladvokaters enstemmige opfattelse ikke længere opfylder de nødvendige forudsætninger eller lever op til de forpligtelser, der følger med embedet. Den pågældende dommer medvirker ikke ved sådanne afgørelser. **Er den pågældende medlem af Retten eller af en specialret, træffer Domstolen afgørelse efter høring af den berørte ret.**

Justitssekretæren underretter Europa-Parlamentets formand og Kommissionens formand om Domstolens afgørelse og oversender den til Rådets formand. Såfremt en dommer ved en sådan afgørelse afskediges fra sit embede, bliver embedet ledigt ved meddelelsen til Rådets formand.

#### Artikel 7

Ophører en dommer med at udøve sit hverv inden embedsperiodens udløb, udnævnes en efterfølger for resten af perioden.

#### Artikel 8

Bestemmelserne i artikel 2-7 finder anvendelse på generaladvokaterne.

### AFSNIT II

#### DOMSTOLENS ORGANISATION

#### Artikel 9

Ved den delvise nybesættelse af dommerembederne, der finder sted hvert tredje år, afgår der skiftevis fjorten og tretten dommere.

Ved den delvise nybesættelse af generaladvokaternes embeder, der finder sted hvert tredje år, afgår der hver gang fire generaladvokater.

## Artikel 10

Justitssekretæren aflægger for Domstolen ed på at ville udøve sin virksomhed med fuldstændig upartiskhed og samvittighedsfuldhed og på at bevare tavshed om Domstolens rådslagninger og afstemninger.

## Artikel 11

Domstolen udfærdiger bestemmelser om afløsning af justitssekretæren for tilfælde, hvor denne får forfald.

## Artikel 12

Til Domstolen knyttes tjenestemænd og andre ansatte, for at den skal kunne udøve sin virksomhed. De er undergivet justitssekretæren under præsidentens tilsyn.

## Artikel 13

På **anmodning** af Domstolen kan **Europa-Parlamentet og Rådet** efter **den almindelige lovgivningsprocedure** tillade udnævnelsen af assisterende referenter og træffe bestemmelse om deres stilling. De assisterende referenter kan på vilkår, der fastsættes i procesreglementet, kaldes til at deltage i forberedelsen af sager, der er indbragt for Domstolen, og til at samarbejde med den refererende dommer.

Til assisterende referenter vælges personer, hvis uafhængighed er uomtvistelig, og som kan dokumentere den nødvendige juridiske egnethed; de udnævnes af Rådet **med simpelt flertal**. De aflægger for Domstolen ed på at ville udføre deres hverv med fuldstændig upartiskhed og samvittighedsfuldhed og på at bevare tavshed om Domstolens rådslagninger og afstemninger.

## Artikel 14

Dommerne, generaladvokaterne og justitssekretæren er forpligtet til at have bopæl ved Domstolens sæde.

## Artikel 15

Domstolen udøver sin virksomhed vedvarende. Retsferiernes længde fastsættes af Domstolen under hensyn til tjenestens krav.

## Artikel 16

Domstolen opretter af sin midte afdelinger, der sættes af tre eller fem dommere. Dommerne vælger af deres midte formænd for afdelingerne. Formændene for afdelinger med fem dommere vælges for et tidsrum af tre år. De kan genvælges én gang.

Den store afdeling sættes af tretten dommere. Dens forsæde føres af Domstolens præsident. Den store afdeling sammensættes endvidere af formændene for afdelingerne med fem dommere og af andre dommere udpeget i henhold til regler, der fastsættes i procesreglementet.

Domstolen sættes som stor afdeling, når en medlemsstat eller en af **Unionens** institutioner, som er part i sagen, anmoder herom.



Domstolen sættes i plenum, når den behandler sager, der er indbragt for den i henhold til artikel 195, stk. 2, artikel 213, stk. 2, artikel 216 eller artikel 247, stk. 6, i **traktaten om Den Europæiske Unions funktionsmåde**, eller Euratom-traktatens artikel 107 D, stk. 2, artikel 126, stk. 2, artikel 129 eller artikel 160 B, stk. 7.

Finder Domstolen, at en sag, der er indbragt for den, er af særlig vigtighed, kan den desuden efter at have hørt generaladvokaten beslutte at henvise sagen til Domstolens plenum.

#### Artikel 17

Domstolens afgørelser kan kun gyldigt træffes af et ulige antal dommere.

Afgørelser truffet af afdelinger, der sættes af tre eller fem dommere, er kun gyldige, hvis de træffes af tre dommere.

Afgørelser truffet af den store afdeling er kun gyldige, når ni dommere er til stede.

Afgørelser truffet af Domstolen i plenum er kun gyldige, når femten dommere er til stede. Får en dommer i en afdeling forfald, kan en dommer fra en anden afdeling tilkaldes i henhold til regler, der fastsættes i procesreglementet.

#### Artikel 18

Dommerne og generaladvokaterne kan ikke deltage i afgørelsen af nogen sag, hvori de tidligere har optrådt som befuldmægtiget, rådgiver eller advokat for en af parterne, eller hvorom de har måttet udtale sig som medlem af en ret eller en undersøgelseskommission eller i anden egenskab.

Mener en dommer eller en generaladvokat, at han af særlige grunde ikke kan deltage i afgørelsen eller i undersøgelsen af en bestemt sag, underretter han præsidenten herom. Finder præsidenten, at en dommer eller en generaladvokat af særlige grunde ikke bør sidde med eller fremkomme med forslag til afgørelser i en bestemt sag, gør han den pågældende opmærksom herpå.

Opstår der vanskeligheder angående anvendelsen af denne artikel, træffer Domstolen afgørelse.

En part kan ikke begære sammensætningen af Domstolen eller af en af dens afdelinger ændret under påberåbelse det være sig af en dommers nationalitet eller af, at der ikke til Domstolen eller en af dens afdelinger er knyttet nogen dommer af partens nationalitet.

### AFSNIT III

#### RETTERGANGSMÅDEN FOR DOMSTOLEN

#### Artikel 19

Medlemsstaterne såvel som **Unionens** institutioner repræsenteres for Domstolen af en befuldmægtiget, der udpeges for hver enkelt sag; den befuldmægtigede kan bistås af en rådgiver eller af en advokat.

## Protokoller

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De stater, som er parter i aftalen om Det Europæiske Økonomiske Samarbejdsområde, bortset fra medlemsstaterne, samt den i aftalen omhandlede EFTA-Tilsynsmyndighed repræsenteres på samme måde.

Andre parter skal repræsenteres af en advokat.

Kun en advokat, der har beskikkelse i en medlemsstat eller i en anden stat, som er part i aftalen om Det Europæiske Økonomiske Samarbejdsområde, kan repræsentere eller bistå en part for Domstolen.

De befuldmægtigede, rådgivere og advokater, der møder for Domstolen, nyder på vilkår, der fastsættes i procesreglementet, de rettigheder og garantier, der er nødvendige for, at de kan udøve deres hverv uafhængigt.

Domstolen skal i henhold til procesreglementets bestemmelser over for de rådgivere og advokater, der møder for den, have de beføjelser, der normalt tilkommer domstole. Lærere ved højere læreanstalter, der er statsborgere i medlemsstater, hvis lovgivning tillader dem at være rettergangsfuldmægtige, nyder for Domstolen samme rettigheder, som i denne artikel indrømmes advokater.

### Artikel 20

Retsforhandlingerne for Domstolen opdeles i to stadier: et skriftligt og et mundtligt.

Den skriftlige forhandling omfatter overgivelsen til parterne og til de institutioner i Unionen, hvis beslutninger omtvistes, af stævninger, indlæg, svarskrifter og erklæringer tillige med eventuelle replikker og duplikker samt af alle påberåbte bilag og aktstykker eller af bekræftede genparter deraf.

Overgivelsen varetages af justitssekretæren i den rækkefølge og inden for de frister, der er fastsat i procesreglementet.

Den mundtlige forhandling omfatter oplæsningen af den rapport, der forelægges af den refererende dommer, Domstolens påhør af de befuldmægtigede, rådgiverne og advokaterne samt af generaladvokatens forslag til afgørelser og i påkommende tilfælde afhøringen af vidner og sagkyndige.

Finder Domstolen, at sagen ikke rejser nogen nye retsspørgsmål, kan den efter at have hørt generaladvokaten beslutte, at sagen skal pådømmes uden generaladvokatens forslag til afgørelse.

### Artikel 21

Sag anlægges ved Domstolen ved indlevering af stævning til justitssekretæren. Stævningen skal angive sagsøgerens navn og bopæl, underskriverens stilling, den part eller de parter, mod hvem stævningen udtages, søgsmålets genstand, påstandene og en kort fremstilling af søgsmålsgrundene.

Stævningen ledsages i påkommende tilfælde af det aktstykke, der begæres kendt ugyldigt, eller i det i artikel 232 i **traktaten om Den Europæiske Unions funktionsmåde** og Euratom-traktatens artikel 148 omhandlede tilfælde af dokumentation vedrørende tidspunktet for den opfordring, der omhandles i nævnte artikler. Er disse dokumenter ikke vedlagt stævningen, opfordrer justitssekretæren vedkommende part til at fremskaffe dem inden en passende frist; søgsmålet kan ikke afvises, fordi forholdet først bringes i orden efter klagefristens udløb.

## Artikel 22

I de tilfælde, der er omhandlet i Euratom-traktatens artikel 18, anlægges sag ved Domstolen ved indgivelse af søgsmålet til justitssekretæren. Søgsmålet skal angive sagsøgerens navn og bopæl, underskriverens stilling, den afgørelse der anfægtes, modparterne, tvistens genstand, påstandene og en kort fremstilling af søgsmålsgrundene.

Søgsmålet ledsages af en bekræftet genpart af den anfægtede afgørelse fra Voldgiftsudvalget.

Hvis Domstolen ikke giver sagsøgeren medhold, bliver Voldgiftsudvalgets afgørelse endelig.

Hvis Domstolen ophæver Voldgiftsudvalgets afgørelse, kan sagen i givet fald på foranledning af en af parterne på ny forelægges Voldgiftsudvalget. Dette er bundet af Domstolens afgørelse af retsspørgsmål.

## Artikel 23

I de tilfælde, der er omhandlet i artikel 234 i **traktaten om Den Europæiske Unions funktionsmåde** og i Euratom-traktatens artikel 150, påhviler det den nationale ret, der beslutter at udsætte en sag og retter henvendelse til Domstolen, at oversende denne beslutning til Domstolen. Domstolens justitssekretær giver herefter meddelelse om beslutningen til sagens parter, medlemsstaterne og Kommissionen samt til den institution, det organ, det kontor eller det agentur i Unionen, der har vedtaget den retsakt, hvis gyldighed eller fortolkning omtvistet.

Parterne, medlemsstaterne, Kommissionen og i påkommende tilfælde **den institution, det organ, det kontor eller det agentur i Unionen, der har vedtaget den retsakt, hvis gyldighed eller fortolkning omtvistet**, kan inden to måneder fra sidstnævnte meddelelse indgive indlæg eller andre skriftlige udtalelser til Domstolen.

I de tilfælde, der er omhandlet i artikel 234 i **traktaten om Den Europæiske Unions funktionsmåde**, giver Domstolens justitssekretær endvidere meddelelse om den nationale rets beslutning til de stater, som er parter i aftalen om Det Europæiske Økonomiske Samarbejdsområde, bortset fra medlemsstaterne samt til den i aftalen omhandlede EFTA-Tilsynsmyndighed, som alle inden to måneder efter meddelelsen kan indgive indlæg eller andre skriftlige udtalelser til Domstolen, såfremt sagen hører under aftalens anvendelsesområde.

Når der af Rådet er indgået en aftale med et eller flere tredjelande vedrørende et nærmere bestemt sagsområde, og det deri er bestemt, at disse tredjelande kan indgive skriftlige indlæg eller udtalelser i tilfælde, hvor en ret i en medlemsstat har forelagt Domstolen et præjudicielt spørgsmål, der vedrører den pågældende aftales anvendelsesområde, gives der ligeledes meddelelse om den nationale rets beslutning, hvori et sådant spørgsmål stilles, til de pågældende tredjelande, som inden to måneder fra meddelelsen kan indgive indlæg eller andre skriftlige udtalelser til Domstolen.

## Artikel 24

Domstolen kan forlange, at parterne fremlægger ethvert dokument og meddeler enhver oplysning, som den finder ønskelig. I tilfælde af at dette nægtes, fastslår Domstolen dette udtrykkeligt.

## Protokoller

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Domstolen kan ligeledes afkræve medlemsstaterne og de institutioner, **organer, kontorer eller agenturer**, der ikke er parter i retssagen, enhver oplysning, som den finder nødvendig for sagens behandling.

### Artikel 25

Domstolen kan til enhver tid efter eget valg betro enkeltpersoner, grupper, bureauer, kommissioner eller organer den opgave at foretage en sagkyndig undersøgelse.

### Artikel 26

Der kan afhøres vidner i overensstemmelse med procesreglementets bestemmelser.

### Artikel 27

Domstolen kan i henhold til regler, der fastsættes i procesreglementet, over for udeblevne vidner udøve de beføjelser, der sædvanligt tilkommer domstole, og kan ikende bøder.

### Artikel 28

Vidner og sagkyndige kan afhøres under ed ved benyttelse af den edsformular, der er foreskrevet i procesreglementet, eller på den måde, der er fastsat i vidnets eller den sagkyndiges nationale lovgivning.

### Artikel 29

Domstolen kan beslutte, at et vidne eller en sagkyndig skal afhøres for den ret, i hvis område vidnet eller den sagkyndige har bopæl.

Denne beslutning tilstilles i overensstemmelse med procesreglementets bestemmelser vedkommende ret til udførelse. De dokumenter, der udfærdiges i forbindelse med udførelsen af denne retsanmodning, skal i henhold til samme bestemmelser sendes tilbage til Domstolen. Domstolen påtager sig de hermed forbundne udgifter, men kan i påkommende tilfælde pålægge sagens parter disse omkostninger.

### Artikel 30

Hver medlemsstat anser vidners eller sagkyndiges edsbrud som den tilsvarende lovovertrædelse begået for en national ret i et civilt søgsmål. Efter Domstolens anmeldelse indleder vedkommende medlemsstat retsforfølgning mod gerningsmanden for den kompetente nationale ret.

### Artikel 31

Retsmøderne er offentlige, medmindre Domstolen af egen drift eller på begæring af parterne, af vægtige grunde, træffer anden bestemmelse.

### Artikel 32

Under retsforhandlingerne kan Domstolen afhøre de sagkyndige, vidnerne samt parterne selv. De sidstnævnte kan dog kun forhandle mundtligt gennem deres rettergangsfuldmægtige.

### Artikel 33

Om hvert retsmøde føres en retsbog, der underskrives af præsidenten og justitssekretæren.

## Artikel 34

Retslisten fastlægges af præsidenten.

## Artikel 35

Domstolens rådslagninger og afstemninger er og forbliver hemmelige.

## Artikel 36

Dommene skal begrundes. De skal angive navnene på de dommere, der har medvirket ved afgørelsen.

## Artikel 37

Dommene underskrives af præsidenten og justitssekretæren. De afsiges i et offentligt retsmøde.

## Artikel 38

Domstolen træffer afgørelse om sagsomkostningerne.

## Artikel 39

Under anvendelse af en summarisk fremgangsmåde, der fastlægges i procesreglementet, og som i fornødent omfang kan afvige fra visse af bestemmelserne i denne statut, kan Domstolens præsident på begæring træffe afgørelse enten om udsættelse som nævnt i artikel 242 i **traktaten om Den Europæiske Unions funktionsmåde** og Euratom-traktatens artikel 157, eller om anvendelse af foreløbige forholdsregler som nævnt i artikel 243 i **traktaten om Den Europæiske Unions funktionsmåde** eller Euratom-traktatens artikel 158, eller om udsættelse af tvangsfuldbyrdelse i overensstemmelse med artikel 256, stk. 4 i **traktaten om Den Europæiske Unions funktionsmåde**, eller Euratom-traktatens artikel 164, stk. 3.

I tilfælde af præsidentens forfald træder en anden dommer i hans sted i overensstemmelse med bestemmelserne i procesreglementet.

Afgørelser, der træffes af præsidenten eller af dennes stedfortræder, er kun foreløbige og foregriber på ingen måde Domstolens afgørelse i hovedsagen.

## Artikel 40

Medlemsstaterne og **Unionens** institutioner kan indtræde i retstvister, der er indbragt for Domstolen.

Samme ret tilkommer **Unionens organer, kontorer og agenturer samt alle andre personer, hvis de kan godtgøre, at de har en berettiget interesse i afgørelsen af en for Domstolen indbragt retsvist. Fysiske eller juridiske personer kan ikke indtræde i sager mellem medlemsstater, mellem Unionens institutioner eller medlemsstater på den ene side og Unionens institutioner på den anden side.**

Med forbehold af stk. 2 kan de stater, som er parter i aftalen om Det Europæiske Økonomiske Samarbejdsområde, bortset fra medlemsstaterne, samt den i aftalen omhandlede EFTA-Tilsynsmyndighed indtræde i retstvister, der er indbragt for Domstolen, når disse tvister vedrører et af aftalens anvendelsesområder.

## Protokoller

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Påstande, der fremsættes i en begæring om intervention, kan kun gå ud på at understøtte en af parternes påstande.

### Artikel 41

Undlader den, der behørigt er indstævnet, at indgive svarskrift, afsiges der en udeblivelsesdom over den pågældende. Inden en måned efter forkyndelsen af dom i sagen kan der fremsendes indsigelse imod den. Medmindre Domstolen træffer anden bestemmelse, har en sådan fremsendelse af indsigelse ikke opsættende virkning på fuldbyrdelsen af udeblivelsesdommen.

### Artikel 42

Medlemsstaterne, **Unionens** institutioner og alle andre fysiske eller juridiske personer kan i tilfælde og i henhold til regler, der fastsættes i procesreglementet, rejse tredjemandsindsigelse mod dommen i en sag, i hvilken de ikke er blevet tilvarslet, hvis dommen gør indgreb i deres rettigheder.

### Artikel 43

Opstår der vanskeligheder vedrørende betydningen og rækkevidden af en dom, tilkommer det Domstolen at fortolke denne på begæring af en part eller en af **Unionens** institutioner, der godtgør at have en berettiget interesse heri.

### Artikel 44

En pådømt sag kan kun begæres genoptaget af Domstolen, hvis der fremkommer en faktisk omstændighed af afgørende betydning, der inden dommens afsigelse var ukendt for Domstolen og for den part, der begærer sagen genoptaget.

Genoptagelsessagen indledes med en kendelse, hvorved Domstolen udtrykkeligt fastslår tilstedeværelsen af en ny faktisk omstændighed, anerkender, at denne har de egenskaber, der kan begrunde genoptagelse af sagen, og erklærer, at begæringen derfor kan imødekommes.

Begæringen om genoptagelse kan ikke fremsættes senere end ti år efter dommens afsigelse.

### Artikel 45

Særlige frister, der tager hensyn til afstandene, fastsættes i procesreglementet.

Overskridelse af fristerne bevirker intet retstab, når den pågældende part godtgør, at der foreligger omstændigheder, som ikke kunne forudses, eller force majeure.

### Artikel 46

Krav mod **Unionen**, der støttes på ansvar uden for kontraktforhold, forældes fem år efter, at den omstændighed, der ligger til grund for kravet, er indtrådt. Forældelsen afbrydes enten ved indgivelse af stævning til Domstolen, eller ved, at den skadelidte forud gør sit krav gældende over for vedkommende EU-institution. I sidstnævnte tilfælde skal sag anlægges inden den frist på to måneder, der er omhandlet i artikel 230 i **traktaten om Den Europæiske Unions funktionsmåde** og Euratom-traktatens artikel 146; i påkommende tilfælde finder bestemmelserne i henholdsvis artikel 232, stk. 2 i **traktaten om Den Europæiske Unions funktionsmåde**, og Euratom-traktatens artikel 148, stk. 2, anvendelse.

**Denne artikel finder også anvendelse på krav mod Den Europæiske Centralbank, der støttes på ansvar uden for kontraktforhold.**

#### AFSNIT IV

#### RETTE

##### Artikel 47

Artikel **9, stk. 1**, artikel 14 og 15, artikel 17, stk. 1, 2, 4 og 5, samt artikel 18 finder anvendelse på Retten og dens medlemmer.

Artikel 10, 11 og 14 finder tilsvarende anvendelse på Rettens justitssekretær.

##### Artikel 48

Retten består af syvogtyve dommere.

##### Artikel 49

Rettens medlemmer kan udpeges til at udøve hvervet som generaladvokat.

Generaladvokaten skal med henblik på at bistå Retten i udførelsen af dens opgave fuldstændig upartisk og uafhængigt offentligt fremsætte begrundede forslag til afgørelse af visse sager, der indbringes for Retten.

Kriterierne for fastlæggelse af, i hvilke sager dette skal ske, samt reglerne for udpegelse af generaladvokaterne fastsættes i procesreglementet for Retten.

Et medlem af Retten, der er udpeget til generaladvokat i en sag, kan ikke deltage i afgørelsen af den pågældende sag.

##### Artikel 50

Retten sættes i form af afdelinger bestående af tre eller fem dommere. Dommerne vælger af deres midte formænd for afdelingerne. Formændene for afdelinger med fem dommere vælges for et tidsrum af tre år. De kan genvælges én gang.

I procesreglementet fastsættes regler om oprettelse af afdelingerne og om sagsfordelingen. I visse tilfælde, som fastlægges nærmere i procesreglementet, kan Retten sættes af samtlige medlemmer eller af en enedommer.

Det kan i procesreglementet ligeledes fastsættes, at Retten sættes som stor afdeling i tilfælde og i henhold til regler, der fastsættes i dette reglement.

##### Artikel 51

Som en undtagelse fra bestemmelsen i artikel 225, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde, og Euratom-traktatens artikel 140 A, stk. 1, har Domstolen enekompetence i de søgsmål, som er omhandlet i artikel 230 og 232 i **traktaten om Den Europæiske Unions funktionsmåde** og Euratom-traktatens artikel 146 og 148, som er anlagt af en medlemsstat, og som er rettet mod:

## Protokoller

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- a) en retsakt udstedt af Europa-Parlamentet eller af Rådet eller af de to institutioner i fællesskab, eller rettet mod en af disse institutioners undladelse af at træffe afgørelse, eller mod begge disse institutioners undladelse af i fællesskab at træffe afgørelse, dog bortset fra
- beslutninger truffet af Rådet i medfør af artikel 88, stk. 2, tredje afsnit, i **traktaten om Den Europæiske Unions funktionsmåde**,
  - retsakter vedtaget af Rådet i medfør af en rådsforordning om handelspolitiske beskyttelsesforanstaltninger som omhandlet i artikel **188 C i traktaten om Den Europæiske Unions funktionsmåde**,
  - Rådets retsakter, hvorved det udøver gennemførelsesbeføjelser i henhold til artikel **249 C, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde**
- b) en retsakt udstedt af Kommissionen eller Kommissionens undladelse af at træffe afgørelse i medfør af artikel 280 D i **traktaten om Den Europæiske Unions funktionsmåde**.

Ligeledes har Domstolen enekompetence i de søgsmål, som er omhandlet i de nævnte bestemmelser, og som er anlagt af en af **EU**-institutionerne, til prøvelse af en retsakt udstedt af Europa-Parlamentet, Rådet, de to institutioner i fællesskab eller af Kommissionen, eller til prøvelse af den omstændighed, at Europa-Parlamentet, Rådet, de to institutioner i fællesskab eller Kommissionen har undladt at træffe afgørelse, og det samme gælder søgsmål, som er anlagt af en af **Unionens** institutioner til prøvelse af en retsakt udstedt af Den Europæiske Centralbank eller af, at Den Europæiske Centralbank har undladt at træffe afgørelse.

### Artikel 52

Domstolens præsident og Rettens præsident fastsætter efter fælles aftale regler, hvorefter tjenestemænd og øvrige ansatte ved Domstolen skal kunne gøre tjeneste ved Retten med henblik på udøvelsen af dennes virksomhed. Visse tjenestemænd eller øvrige ansatte er undergivet Rettens justitssekretær under Rettens præsidents tilsyn.

### Artikel 53

Afsnit III i denne statut finder anvendelse på rettergangsmåden ved Retten. I nødvendigt omfang præciseres og udfyldes disse regler i Rettens procesreglement. Procesreglementet kan fravige artikel 40, stk. 4, og artikel 41 for at tage hensyn til de særlige forhold, der gør sig gældende for sager om intellektuel ejendomsret. Uanset artikel 20, stk. 4, kan generaladvokaten fremsætte sine begrundede forslag til afgørelse skriftligt.

### Artikel 54

Indgives en stævning eller et processkrift, der er stilet til Retten, fejlagtigt til Domstolens justitssekretær, fremsender denne straks dokumentet til Rettens justitssekretær; på samme måde når en stævning eller et andet processkrift, der er stilet til Domstolen, fejlagtigt indgives til Rettens justitssekretær, fremsender denne straks dokumentet til Domstolens justitssekretær.

Finder Retten, at den ikke er kompetent til at påkende en sag, der er omfattet af Domstolens kompetence, henviser den sagen til Domstolen; når Domstolen finder, at en sag henhører



under Rettens kompetence, henviser den på samme måde sagen til Retten, der i så fald ikke kan erklære sig inkompetent.

Såfremt der indbringes sager for Domstolen og Retten, som har samme genstand, som rejser de samme fortolknings spørgsmål, eller hvori gyldigheden af den samme retsakt anfægtes, kan Retten, efter at have hørt parterne, udsætte sin behandling af den pågældende sag, indtil Domstolen har afsagt dom, eller kan, når der er tale om søgsmål, der er anlagt i medfør af artikel 230 i **traktaten om Den Europæiske Unions funktionsmåde** eller Euratom-traktatens artikel 146, erklære sig inkompetent, således at Domstolen kan træffe afgørelse i sagen. Under de samme betingelser kan Domstolen ligeledes beslutte at udsætte sin behandling af sagen; i så fald fortsætter behandlingen ved Retten.

Anfægter en medlemsstat og en af **Unionens** institutioner den samme retsakt, erklærer Retten sig inkompetent, således at Domstolen kan træffe afgørelse.

#### Artikel 55

Afgørelser, hvorved en sags behandling ved Retten afsluttes, samt afgørelser, der afgør en del af en sags realitet, eller hvorved der tages stilling til en formalitetsindsigelse vedrørende Rettens kompetence eller en påstand om afvisning af sagen, skal af Rettens justitssekretær forkyndes for alle sagens parter samt alle medlemsstater og **EU**-institutioner, selv om disse ikke har interveneret i sagen for Retten.

#### Artikel 56

Der kan iværksættes appel til Domstolen, senest to måneder efter forkyndelsen af den pågældende anfægtede afgørelse, af afgørelser, hvorved den pågældende sags behandling ved Retten er blevet afsluttet, samt af afgørelser, der afgør en del af en sags realitet, eller hvorved der tages stilling til en formalitetsindsigelse vedrørende Rettens kompetence eller en påstand om afvisning af sagen.

Appel kan iværksættes af enhver part, som helt eller delvis ikke har fået medhold. Andre intervenienter end medlemsstaterne og **EU**-institutionerne kan dog kun iværksætte appel, såfremt den af Retten truffne afgørelse berører dem umiddelbart.

Undtagen i sager imellem **Unionen** og **dennes** ansatte kan appel ligeledes iværksættes af medlemsstater og **EU**-institutioner, der ikke har interveneret i den pågældende sag for Retten. I sådanne tilfælde har de pågældende medlemsstater eller institutioner den samme retsstilling som medlemsstater eller institutioner, der har interveneret i første instans.

#### Artikel 57

Den, hvis begæring om intervention ikke er blevet taget til følge af Retten, kan appellere afgørelsen til Domstolen senest to uger efter forkyndelsen af afgørelsen om, at begæringen ikke tages til følge.

Afgørelser truffet af Retten i henhold til artikel 242, 243 eller artikel 256, stk. 4 i **traktaten om Den Europæiske Unions funktionsmåde**, eller Euratom-traktatens artikel 157, 158 eller artikel 164, stk. 3, kan appelleres af parterne i sagen inden to måneder efter, at afgørelsen er forkyndt for dem.

Appel efter stk. 1 og 2 i nærværende artikel påkendes efter fremgangsmåden i artikel 39.

## Artikel 58

Appel til Domstolen er begrænset til retsspørgsmål. Den kan kun støttes på, at Retten savner kompetence, at der er begået rettergangsfejl, som krænker appellantens interesser, eller at Retten har overtrådt EU-retten.

Appel kan ikke iværksættes alene til forandring af afgørelser om sagsomkostningerne eller om disses størrelse.

## Artikel 59

Når en afgørelse fra Retten appelleres, består retsforhandlingerne ved Domstolen af en skriftlig og en mundtlig forhandling. I henhold til regler, der fastsættes i procesreglementet, kan Domstolen efter at have hørt generaladvokaten og parterne træffe afgørelse uden mundtlig forhandling.

## Artikel 60

Appel har ikke opsættende virkning, jf. dog artikel 242 og 243 i **traktaten om Den Europæiske Unions funktionsmåde** og Euratom-traktatens artikel 157 og 158.

Uanset artikel 244 i **traktaten om Den Europæiske Unions funktionsmåde** og Euratom-traktatens artikel 159 har en afgørelse fra Retten om annullation af en forordning først retsvirkning fra udløbet af den frist, der er omhandlet i artikel 56, stk. 1, i denne statut, eller, såfremt appel er iværksat inden for denne frist, fra stadfæstelsen eller fra afvisningen af appellen, dog med forbehold af muligheden for en part til at fremsætte begæring til Domstolen om midlertidig ophævelse af retsvirkningerne af den annullerede forordning eller om andre foreløbige forholdsregler i medfør af artikel 242 og 243 i **traktaten om Den Europæiske Unions funktionsmåde** eller Euratom-traktatens artikel 157 og 158.

## Artikel 61

Giver Domstolen appellanten medhold, ophæver den den af Retten truffe afgørelse. Domstolen kan i denne forbindelse enten selv træffe endelig afgørelse, hvis sagen er moden til påkendelse, eller hjemvise den til Retten til afgørelse.

I tilfælde af hjemvisning er Retten bundet af de afgørelser om retsspørgsmål, der er indeholdt i Domstolens afgørelse.

Når der under en appel, der iværksættes af en medlemsstat eller en **EU**-institution, der ikke har interveneret i den pågældende sag for Retten, gives appellanten medhold, kan Domstolen, dersom den skønner det nødvendigt, angive, hvilke af virkningerne af den af Retten truffe afgørelse, som er blevet ophævet, der skal betragtes som endelige for parterne i sagen.

## Artikel 62

I de tilfælde, der er omhandlet i artikel 225, stk. 2 og 3 i **traktaten om Den Europæiske Unions funktionsmåde**, og Euratom-traktatens artikel 140 A, stk. 2 og 3, kan førstegeneraladvokaten, når han finder, at der er en alvorlig risiko for, at **EU**-rettens ensartede anvendelse eller sammenhæng kan påvirkes, foreslå Domstolen, at den afgørelse, der er truffet af Retten, underkastes en prøvelse.

Forslaget skal fremsættes en måned efter, at Retten har truffet afgørelsen. Domstolen beslutter, inden en måned efter at førstegeneraladvokaten har fremsat sit forslag, om afgørelsen skal underkastes en prøvelse.

## Artikel 62 a

Domstolen træffer i henhold til en hasteprocedure afgørelse vedrørende de spørgsmål, der er genstand for en fornyet prøvelse, på grundlag af de sagsakter, som Retten har fremsendt til den.

De berørte parter, som er omhandlet i artikel 23 i denne statut, samt, i de tilfælde, der er omhandlet i artikel 225, stk. 2 i **traktaten om Den Europæiske Unions funktionsmåde**, og i Euratom-traktatens artikel 140 A, stk. 2, parterne i sagen ved Retten, har ret til at afgive indlæg eller skriftlige bemærkninger til Domstolen om de spørgsmål, der er genstand for en fornyet prøvelse, inden for en herfor fastsat frist.

Domstolen kan beslutte at indlede den mundtlige forhandling inden den træffer afgørelse.

## Artikel 62 b

I de tilfælde, der er omhandlet i artikel 225, stk. 2 i **traktaten om Den Europæiske Unions funktionsmåde**, og i Euratom-traktatens artikel 140 A, stk. 2, med forbehold af artikel 242 og 243 i **traktaten om Den Europæiske Unions funktionsmåde**, har et forslag om en fornyet prøvelse og en beslutning om at indlede proceduren for en fornyet prøvelse ikke opsættende virkning. Fastslår Domstolen, at Rettens afgørelse kan påvirke EU-rettens ensartede anvendelse eller sammenhæng, hjemvises sagen til Retten, som er bundet af Domstolens afgørelser om retsspørgsmål. Domstolen kan angive de virkninger af Rettens afgørelse, der skal betragtes som endelige for parterne i sagen. Følger sagens afgørelse under hensyn til resultatet af den fornyede prøvelse af de faktiske omstændigheder, som Rettens afgørelse er baseret på, træffer Domstolen endelig afgørelse.

I de tilfælde, der er omhandlet i artikel 225, stk. 3 i **traktaten om Den Europæiske Unions funktionsmåde**, og i Euratom-traktatens artikel 140 A, stk. 3, hvor der ikke er fremsat forslag om en fornyet prøvelse eller truffet beslutning om at indlede proceduren for en fornyet prøvelse, får den eller de afgørelser, der er truffet af Retten med hensyn til de spørgsmål, der var forelagt den, virkning efter udløbet af de frister, der er fastsat herfor i artikel 62, andet afsnit. Indledes en procedure for fornyet prøvelse, får den eller de afgørelser, som er genstand for fornyet prøvelse, virkning efter udløbet af denne procedure, medmindre Domstolen træffer anden bestemmelse. Fastslår Domstolen, at Rettens afgørelse kan påvirke EU-rettens ensartede anvendelse eller sammenhæng, træder Domstolens afgørelse af de spørgsmål, der er genstand for en fornyet prøvelse, i stedet for Rettens afgørelse.

## AFSNIT IV

## Specialretterne

## Artikel 62 c

Bestemmelserne om de **specialretter**, der oprettes i henhold til artikel 225 A i **traktaten om Den Europæiske Unions funktionsmåde** og i Euratom-traktatens artikel 140 B, hvad angår disses kompetence, sammensætning, organisation og rettergangsmåde, findes i bilaget til denne statut.

## AFSNIT V

## AFSLUTTENDE BESTEMMELSER

## Artikel 63

Procesreglementet for Domstolen og procesreglementet for Retten skal indeholde alle forskrifter, der er nødvendige for at anvende og om fornødent udfylde denne statut.

## Artikel 64

**Den ordning, der skal gælde for Den Europæiske Unions Domstol på det sproglige område, fastsættes ved en forordning vedtaget af Rådet, der træffer afgørelse med enstemmighed. Denne forordning vedtages enten efter anmodning fra Domstolen og efter høring af Kommissionen og Europa-Parlamentet eller på forslag af Kommissionen og efter høring af Domstolen og Europa-Parlamentet.**

Indtil vedtagelsen af disse regler, finder reglerne om sprog i procesreglementet for Domstolen og i procesreglementet for Retten fortsat anvendelse. **Uanset artikel 195 og 224 i traktaten om Den Europæiske Unions funktionsmåde kræver enhver ændring eller ophævelse af disse bestemmelser Rådets enstemmige godkendelse.**

## Bilag I

**Retten i EU-personalesager**

(Gengives ikke)

**Protokol**  
**om statuten for Det Europæiske System af Centralbanker og**  
**Den Europæiske Centralbank**

DE HØJE KONTRAHERENDE PARTER,

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til traktaten om **Den Europæiske Union og traktaten om Den Europæiske Unions funktionsmåde**.

KAPITEL I

ETABLERINGEN AF ESCB

Artikel 1

Det Europæiske System af Centralbanker

**Den Europæiske Centralbank (ECB) og de nationale centralbanker udgør i overensstemmelse med artikel 245a, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde Det Europæiske System af Centralbanker (ESCB). ECB og de nationale centralbanker i de medlemsstater, der har euroen som valuta, udgør Eurosystemet.**

**ESCB og ECB** udøver deres funktioner og deres virksomhed i overensstemmelse med bestemmelserne i **traktaterne** og i denne statut.

KAPITEL II

ESCB'S MÅL OG OPGAVER

Artikel 2

Mål

I overensstemmelse med artikel 105, stk. 1 og **artikel 245a stk. 2, i traktaten om Den Europæiske Unions funktionsmåde**, er hovedmålet for ESCB at fastholde prisstabilitet. Uden at målsætningen om prisstabilitet derved berøres, støtter ESCB de generelle økonomiske politikker i Unionen med henblik på at bidrage til gennemførelsen af **Unionens** mål, som fastsat i **artikel 3 i traktaten om Den Europæiske Union**. ESCB handler i overensstemmelse med princippet om en åben markedsøkonomi med fri konkurrence, som fremmer en effektiv ressourceallokering, og i overensstemmelse med principperne i **artikel 97b i traktaten om Den Europæiske Unions funktionsmåde** .

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## Artikel 3

## Opgaver

3.1. I overensstemmelse med artikel 105, stk. 2, i **traktaten om Den Europæiske Unions funktionsmåde** er de grundlæggende opgaver, der skal udføres af ESCB:

- at formulere og gennemføre **Unionens** monetære politik
- at foretage transaktioner i udenlandsk valuta i overensstemmelse med bestemmelserne i artikel **188 o** i **traktaten om Den Europæiske Unions funktionsmåde**
- at besidde og forvalte medlemsstaternes officielle valutareserver
- at fremme betalingssystemernes smidige funktion.

3.2. I overensstemmelse med artikel 105, stk. 3, i **traktaten om Den Europæiske Unions funktionsmåde** berører artikel 3.1, tredje led, ikke medlemsstaternes regeringers besiddelse og forvaltning af arbejdsbeholdninger i udenlandske valutaer.

3.3. I overensstemmelse med artikel 105, stk. 5, i **traktaten om Den Europæiske Unions funktionsmåde** bidrager ESCB til en smidig gennemførelse af de kompetente myndigheders politikker vedrørende tilsyn med kreditinstitutterne og det finansielle systems stabilitet.

## Artikel 4

## Rådgivende funktioner

I overensstemmelse med artikel 105, stk. 4, i **traktaten om Den Europæiske Unions funktionsmåde**

- a) skal ECB høres
  - om ethvert forslag til **EU**-retsakt inden for dens kompetenceområder
  - af de nationale myndigheder om ethvert udkast til retsforordning inden for dens kompetenceområder, men inden for de rammer og på de betingelser, der fastsættes af Rådet efter fremgangsmåden i artikel **41**.
- b) ECB kan forelægge udtalelser for **Unionens** institutioner, **organer, kontorer eller agenturer** eller nationale myndigheder om spørgsmål inden for dens kompetenceområder.

## Artikel 5

## Indsamling af statistisk information

5.1. ECB skal med støtte fra de nationale centralbanker indsamle den statistiske information, som er nødvendig for at udføre ESCB's opgaver, enten fra de kompetente nationale myndigheder eller direkte fra de økonomiske enheder. ECB skal samarbejde om disse spørgsmål med Unionens -institutioner, organer, **kontorer eller -agenturer** samt med de kompetente myndigheder i medlemsstaterne eller i tredjelande og med internationale organisationer.

5.2. De nationale centralbanker skal i videst muligt omfang udføre de opgaver, der er beskrevet i artikel 5.1.

5.3. ECB skal bidrage til harmoniseringen, når denne er nødvendig, af de regler og den praksis, der gælder for indsamling, udarbejdelse og udgivelse af statistikker inden for dens kompetenceområder.

5.4. Rådet fastsætter i overensstemmelse med fremgangsmåden i artikel 41 hvilke fysiske og juridiske personer, der er undergivet anmeldelseskrav, forskrifter om tavshedspligt og passende regler om håndhævelse.

#### Artikel 6

##### Internationalt samarbejde

6.1. I spørgsmål om internationalt samarbejde, som vedrører ESCB's opgaver, afgør ECB, hvordan ESCB skal repræsenteres.

6.2. ECB og — med dennes godkendelse — de nationale centralbanker kan deltage i internationale monetære institutioner.

6.3. Bestemmelserne i artikel 6.1 og 6.2 berører ikke bestemmelserne i artikel **115a, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde.**

### KAPITEL III

#### ESCB's ORGANISATION

#### Artikel 7

##### Uafhængighed

I overensstemmelse med artikel 108 i **traktaten om Den Europæiske Unions funktionsmåde** må hverken ECB, de nationale centralbanker eller medlemmerne af disses besluttede organer under udøvelsen af de beføjelser og gennemførelsen af de opgaver og pligter, som denne traktat og denne statut pålægger dem, søge eller modtage instrukser fra Unionens institutioner, organer, **kontorer eller agenturer** eller fra nogen regering i en medlemsstat eller fra noget andet organ. **Unionens** institutioner, organer, **kontorer og agenturer** samt medlemsstaternes regeringer forpligter sig til at respektere dette princip og til ikke at søge at øve indflydelse på, hvordan medlemmerne af ECB's og de nationale centralbankers besluttende organer udfører deres opgaver.

#### Artikel 8

##### Generelt princip

ESCB skal styres af ECB's besluttende organer.

#### Artikel 9

##### Den Europæiske Centralbank

9.1. ECB, som i overensstemmelse med artikel **107, stk. 2 og 245a, stk. 3, i traktaten om Den Europæiske Unions funktionsmåde**, har status som juridisk person, nyder i hver

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medlemsstat den mest vidtgående rets- og handleevne, som den pågældende stats lovgivning tillægger juridiske personer.

9.2. ECB skal sikre, at de opgaver, som er overdraget ESCB i medfør af artikel 105, stk. 2, 3 og 5, i **traktaten om Den Europæiske Unions funktionsmåde** bliver udført, enten ved ECB's egne aktiviteter i henhold til nærværende statut eller af de nationale centralbanker i henhold til artikel 12.1 og 14.

**9.3. I overensstemmelse med artikel 107, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde** er ECB's besluttende organer Styrelsesrådet og direktionen.

### Artikel 10

#### Styrelsesrådet

10.1. I overensstemmelse med artikel **245b, stk 1, i traktaten om Den Europæiske Unions funktionsmåde** består Styrelsesrådet af medlemmerne af direktionen og cheferne for de nationale centralbanker i **medlemsstaterne uden dispensation som omhandlet i artikel 116 i nævnte traktat**.

10.2. Hvert medlem af Styrelsesrådet har én stemme. Fra det tidspunkt, hvor antallet af medlemmer af Styrelsesrådet overstiger 21, har hvert medlem af direktionen én stemme, og antallet af centralbankchefer med stemmeret udgør 15. Sidstnævnte stemmerettigheder fordeles og roterer som følger:

- Når antallet af centralbankchefer overstiger 15, og indtil det udgør 22, indeles centralbankcheferne i to grupper, på grundlag af en fordeling efter størrelsen af deres NCB'ers medlemsstats andel af det aggregerede bruttonationalprodukt til markedspriser og af den samlede aggregerede balance for de monetære finansielle institutioner i medlemsstater, der har euroen som valuta. Andelene af det aggregerede bruttonationalprodukt til markedspriser og af den samlede aggregerede balance for de monetære finansielle institutioner tildeles vægte på henholdsvis 5/6 og 1/6. Den første gruppe består af 5 centralbankchefer og den anden gruppe af de øvrige centralbankchefer. Den hyppighed, hvormed centralbankcheferne i den første gruppe kan udøve stemmeret, kan ikke være lavere end den hyppighed, som gælder for centralbankcheferne i den anden gruppe. Den første gruppe tildeles 4 stemmerettigheder og den anden gruppe 11, jf. dog foregående punktum.
- Når antallet af centralbankchefer udgør 22, indeles centralbankcheferne i tre grupper på grundlag af en fordeling efter størrelse i henhold til ovennævnte kriterier. Den første gruppe består af 5 centralbankchefer og tildeles 4 stemmerettigheder. Den anden gruppe består af halvdelen af det samlede antal centralbankchefer, i givet fald rundet op til nærmeste tal, og tildeles 8 stemmerettigheder. Den tredje gruppe består af de øvrige centralbankchefer og tildeles 3 stemmerettigheder.
- Inden for hver gruppe udøver centralbankcheferne stemmeret i lige lange perioder.
- Ved beregningen af andelene i det aggregerede bruttonationalprodukt til markedspriser finder artikel 29.2 anvendelse. Den samlede aggregerede balance for de monetære finansielle institutioner beregnes i overensstemmelse med det statistiske grundlag, som gælder i Unionen på tidspunktet for beregningen.
- Når det aggregerede bruttonationalprodukt i markedspriser justeres i henhold til artikel 29.3, eller når antallet af centralbankchefer øges, justeres størrelsen og/eller sammensætningen af grupperne i overensstemmelse med ovennævnte principper.



- Styrelsesrådet, som træffer afgørelse med to tredjedeles flertal blandt alle medlemmer, såvel med som uden stemmeret, vedtager alle nødvendige foranstaltninger til gennemførelse af ovennævnte principper og kan beslutte at udskyde starten af rotationsystemet indtil det tidspunkt, hvor antallet af centralbankchefer overstiger 18.

Udøvelse af stemmeretten kan kun ske ved personlig tilstedeværelse. Som en undtagelse fra denne regel kan den i artikel 12.3 omhandlede forretningsorden fastsætte, at Styrelsesrådets medlemmer kan afgive deres stemme ved anvendelse af telekonferencer. I denne forretningsorden skal det endvidere fastsættes, at et medlem af Styrelsesrådet, som er forhindret i at deltage i Styrelsesrådets møder i en længere periode, kan udpege en stedfortræder som medlem af Styrelsesrådet.

Bestemmelserne i de foregående led berører ikke stemmerettigheder for alle medlemmer af Styrelsesrådet i henhold til artikel 10.3, artikel 10.6 og artikel **40.2.** og **40.3.**

Medmindre andet er fastsat i denne statut, træffer Styrelsesrådet afgørelse med simpelt flertal. Ved stemmelighed er formandens stemme afgørende.

Styrelsesrådet er beslutningsdygtigt, når mindst to tredjedele af de medlemmer, som kan udøve stemmeret, er til stede. Hvis Styrelsesrådet ikke er beslutningsdygtigt, kan formanden indkalde til et ekstraordinært møde, på hvilket der kan træffes afgørelse uden hensyn til reglen om beslutningsdygtighed.

10.3. Ved beslutninger, der træffes i henhold til artikel 28, 29, 30, 32 og 33, skal Styrelsesrådets medlemmers stemmer vægtes i overensstemmelse med de nationale centralbankers andel af ECB's indskudte kapital. Direktionsmedlemmernes stemmewægt er nul. En afgørelse anses for at være vedtaget med kvalificeret flertal, hvis dette flertal udgør mindst to tredjedele af ECB's indskudte kapital og repræsenterer mindst halvdelen af indehaverne af kapitalandele. Hvis en centralbankchef er forhindret i at være til stede, kan denne udpege en stedfortræder, der afgiver den vægtede stemme.

10.4. Møderne er fortrolige. Styrelsesrådet kan beslutte at offentliggøre resultatet af sine drøftelser.

10.5. Styrelsesrådet mødes mindst 10 gange om året.

#### Artikel 11

##### Direktionen

11.1. I overensstemmelse med artikel **245b** stk. 2, litra a), i **traktaten om Den Europæiske Unions funktionsmåde** består direktionen af formanden, næstformanden og fire andre medlemmer.

Medlemmerne skal udføre deres hverv på fuld tid. Intet medlem må, medmindre Styrelsesrådet undtagelsesvis giver tilladelse hertil, påtage sig nogen anden beskæftigelse, uanset om den aflønnes eller ej.

11.2. I overensstemmelse med artikel **245b**, stk. 2, litra b), i **traktaten om Den Europæiske Unions funktionsmåde** udnævnes formanden, næstformanden samt de øvrige medlemmer af direktionen blandt personer, som er værdige i almindeligt omdømme, og som har professionel erfaring i monetære forhold eller i bankvæsen, **af Det Europæiske Råd med kvalificeret flertal** på grundlag af en indstilling fra Rådet, efter høring af Europa-Parlamentet og Styrelsesrådet.

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Deres embedsperiode er på 8 år, og mandatet kan ikke fornyes.

Kun statsborgere i medlemsstaterne kan være medlemmer af direktionen.

11.3. Ansættelsesvilkårene for direktionens medlemmer, især deres aflønning, pensioner og andre sociale ydelser, aftales i kontrakter med ECB og fastsættes af Styrelsesrådet efter forslag fra en komité, der består af tre medlemmer udnævnt af Styrelsesrådet og tre medlemmer udnævnt af Rådet. Direktionens medlemmer har ikke stemmeret i spørgsmål, som er omfattet af dette stykke.

11.4. Hvis et direktionsmedlem ikke længere opfylder de betingelser, som er nødvendige for udførelsen af medlemmets pligter, eller hvis vedkommende har begået en alvorlig forseelse, kan Domstolen afskedige medlemmet efter indstilling fra Styrelsesrådet eller direktionen.

11.5. Alle personligt tilstedeværende direktionsmedlemmer har ret til at stemme og har til det formål én stemme. Hvis ikke andet er fastsat, træffer direktionen afgørelse med simpelt flertal af de afgivne stemmer. Ved stemmelighed er formandens stemme afgørende. De nærmere bestemmelser for afstemning fastlægges i den i artikel 12.3 omhandlede forretningsorden.

11.6. Direktionen er ansvarlig for ECB's løbende forretninger.

11.7. Hvis en stilling som medlem af direktionen bliver ledig, skal der udnævnes et nyt medlem efter bestemmelserne i artikel 11.2.

## Artikel 12

### De besluttende organers ansvarsområder

12.1. Styrelsesrådet fastsætter de retningslinjer og træffer de beslutninger, der er nødvendige for at udføre de opgaver, der er pålagt ESCB i henhold til **traktaterne** og denne statut. Styrelsesrådet udformer **Unionens** monetære politik, herunder — når det er hensigtsmæssigt — beslutninger om mellemliggende pengepolitiske målsætninger, om officielle rentesatser og om forsyningen med reserver i ESCB, og fastsætter de nødvendige retningslinjer for beslutningernes gennemførelse.

Direktionen skal gennemføre den monetære politik i overensstemmelse med de retningslinjer og beslutninger, der er vedtaget af Styrelsesrådet. I den forbindelse skal direktionen give de nationale centralbanker de nødvendige instrukser. Endvidere kan direktionen få delegeret visse beføjelser ved beslutning truffet af Styrelsesrådet.

I det omfang, det skønnes muligt og hensigtsmæssigt, og med forbehold af bestemmelserne i denne artikel, anvender ECB de nationale centralbanker til at udføre transaktioner, der henhører under ESCB's opgaver.

12.2. Direktionen er ansvarlig for forberedelsen af møderne i Styrelsesrådet.

12.3. Styrelsesrådet vedtager en forretningsorden, som fastlægger den interne organisation af ECB og dens besluttende organer.

12.4. De rådgivende funktioner, som er anført i artikel 4, skal udføres af Styrelsesrådet.

12.5. Styrelsesrådet skal træffe de beslutninger, der er anført i artikel 6.

## Artikel 13

## Formanden

13.1. Formanden, eller i dennes fravær næstformanden, leder møderne i ECB's Styrelsesråd og direktion.

13.2. Med forbehold af artikel **38** repræsenterer formanden eller en af denne udpeget person ECB i forhold til omverdenen.

## Artikel 14

## De nationale centralbanker

14.1. I overensstemmelse med artikel 109 i **traktaten om Den Europæiske Unions funktionsmåde** sikrer hver medlemsstat, at dens nationale lovgivning, herunder statutterne for dens nationale centralbank, er forenelige med **traktaterne** og denne statut.

14.2. Statutterne for de nationale centralbanker skal især tilsikre, at embedsperioden for en chef for en national centralbank er mindst 5 år.

En centralbankchef kan kun afskediges, hvis vedkommende ikke længere opfylder de betingelser, som er nødvendige for udførelsen af dennes pligter, eller hvis vedkommende har begået en alvorlig forseelse. En beslutning om afskedigelse kan af den pågældende centralbankchef eller af Styrelsesrådet indbringes for Domstolen under påberåbelse af, at traktaterne eller en gennemførelsesretsakt hertil er overtrådt. Sagen skal anlægges inden to måneder fra offentliggørelsen af nævnte beslutning, eller dens meddelelse til klageren, eller i mangel heraf fra den dato, på hvilken klageren blev bekendt med beslutningen.

14.3. De nationale centralbanker udgør en integrerende del af ESCB og skal udføre deres funktioner i overensstemmelse med ECB's retningslinjer og instrukser. Styrelsesrådet træffer de nødvendige foranstaltninger for at sikre, at retningslinjer og instrukser fra ECB efterleves, og det kan forlange, at alle nødvendige oplysninger stilles til rådighed for det.

14.4. De nationale centralbanker kan udføre funktioner, som ikke er nævnt i nærværende statut, medmindre Styrelsesrådet med et flertal på to tredjedele af de afgivne stemmer beslutter, at disse funktioner strider mod ESCB's mål og opgaver. Sådanne funktioner udføres på de nationale centralbankers eget ansvar og for deres egen regning og risiko og betragtes ikke som en del af ESCB's funktioner.

## Artikel 15

## Pligt til at aflægge beretninger

15.1. ECB skal mindst hvert kvartal udarbejde og offentliggøre beretninger om ESCB's aktiviteter.

15.2. En konsolideret oversigt over ESCB's finansielle stilling skal offentliggøres hver uge.

15.3. I overensstemmelse med artikel **245c**, stk. 3, i **traktaten om Den Europæiske Unions funktionsmåde** skal ECB fremsende en årsberetning om ESCB's aktiviteter og om den monetære politik i det foregående og det indeværende år til Europa-Parlamentet, Rådet og Kommissionen og også til Det Europæiske Råd.

## Protokoller

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15.4. De i denne artikel nævnte beretninger og oversigter stilles vederlagsfrit til rådighed for interesserede.

### Artikel 16

#### Eurosedler

I overensstemmelse med artikel 106, stk. 1, i **traktaten om Den Europæiske Unions funktionsmåde** har Styrelsesrådet eneret til at bemyndige udstedelse af eurosedler i Unionen. ECB og de nationale centralbanker kan udstede sådanne **pengesedler**. De **eurosedler**, der udstedes af ECB og de nationale centralbanker, er de eneste, der har status som lovlige betalingsmidler i **Unionen**.

ECB skal så vidt muligt overholde eksisterende praksis for udstedelse og udformning af eurosedler.

## KAPITEL IV

### ESCB's MONETÆRE FUNKTIONER OG TRANSAKTIONER

#### Artikel 17

##### Konti i ECB og de nationale centralbanker

Til gennemførelse af deres transaktioner kan ECB og de nationale centralbanker åbne konti for kreditinstitutter, offentlige myndigheder og andre markedsdeltagere og kan modtage aktiver, herunder indskrevne værdipapirer, som sikkerhed.

#### Artikel 18

##### Markedsoperationer og långivning

18.1. For at opfylde ESCB's mål og udføre sine opgaver kan ECB og de nationale centralbanker:

- deltage i de finansielle markeder dels ved at købe og sælge fordringer og pengeomærkede instrumenter (til omgående levering eller på termin), dels ved genkøbsforretninger og dels ved långivning og låntagning i sådanne fordringer og instrumenter, i euro eller andre valutaer samt ædelmetaller
- udføre lånetransaktioner med kreditinstitutter og andre markedsdeltagere, hvor lån ydes imod passende sikkerhed.

18.2. ECB fastlægger generelle principper for markedsoperationer og långivning, der udføres af ECB eller af de nationale centralbanker, herunder for offentliggørelse af de betingelser, hvorunder de er rede til at indgå i sådanne transaktioner.

#### Artikel 19

##### Mindstereserver

19.1. ECB kan kræve, at kreditinstitutter, der er etableret i medlemsstaterne, holder mindstereserver på konti hos ECB og de nationale centralbanker for at opfylde målene for den monetære politik, jf. dog artikel 2. Reglerne om beregning og fastsættelse af de krævede

mindstereserver kan udfærdiges af Styrelsesrådet. I tilfælde af manglende overholdelse af reservekravene er ECB berettiget til at pålægge strafrente og andre sanktioner med tilsvarende virkning.

19.2. Med henblik på anvendelsen af denne artikel skal Rådet efter fremgangsmåden i artikel 41 fastsætte grundlaget for mindstereserverne og de maksimale tilladte forhold mellem disse reserver og grundlaget herfor samt passende sanktioner i tilfælde af manglende efterlevelse.

#### Artikel 20

##### Andre instrumenter til monetær kontrol

Styrelsesrådet kan med et flertal på to tredjedele af de afgivne stemmer beslutte at anvende andre metoder til monetær kontrol, som det finder hensigtsmæssige under hensyn til artikel 2.

Rådet skal efter fremgangsmåden i artikel 41 fastlægge sådanne metoders omfang, hvis de indebærer forpligtelser for tredjemand.

#### Artikel 21

##### Transaktioner med offentlige myndigheder

21.1. I overensstemmelse med artikel 101 i **traktaten om Den Europæiske Unions funktionsmåde** er det ECB og de nationale centralbanker forbudt at give **Unionens** institutioner, organer, **kontorer og agenturer**, centralregeringer, regionale, lokale eller andre offentlige myndigheder, andre organer inden for den offentlige sektor eller offentlige foretagender i medlemsstaterne mulighed for at foretage overtræk eller at yde dem andre former for kreditfaciliteter, og det samme gælder ECB's og de nationale centralbankers køb af gældsinstrumenter direkte fra disse.

21.2. ECB og de nationale centralbanker kan optræde som fiskal agent for de i artikel 21.1 omhandlede institutioner, organer mv.

21.3. Bestemmelserne i denne artikel omfatter ikke offentligt ejede kreditinstitutter, der i forbindelse med forsyning med reserver fra centralbanker skal have samme behandling fra de nationale centralbankers og ECB's side som private kreditinstitutter.

#### Artikel 22

##### Clearing- og betalingssystemer

Med henblik på at sikre effektive og pålidelige clearing- og betalingssystemer inden for Unionen og over for tredjelande kan ECB og de nationale centralbanker tilbyde faciliteter, og ECB kan udstede forordninger.

#### Artikel 23

##### Eksterne transaktioner

ECB og de nationale centralbanker kan:

- etablere relationer med centralbanker og finansielle institutioner i andre lande og, hvis det er hensigtsmæssigt, med internationale organisationer

## Protokoller

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- erhverve og sælge enhver form for valutaaktiver og ædelmetaller til omgående levering eller på termin; begrebet "valutaaktiv" omfatter værdipapirer og alle andre aktiver i hvilken som helst form, der lyder på regningsenheder eller ethvert lands valuta
- besidde og forvalte de i denne artikel nævnte aktiver
- udføre alle slags bankforretninger med tredjelande og internationale organisationer, herunder låntagning og långivning.

### Artikel 24

#### Andre transaktioner

Ud over de transaktioner, der følger af systemets opgaver, kan ECB og de nationale centralbanker foretage transaktioner vedrørende deres administration eller deres personale.

## KAPITEL V

### TILSYNSVIRKSOMHED

#### Artikel 25

##### Tilsynsvirksomhed

25.1. ECB kan rådgive og blive konsulteret af Rådet, Kommissionen og medlemsstaternes kompetente myndigheder angående anvendelsesområdet for og gennemførelsen af **EU**-lovgivningen vedrørende tilsynet med kreditinstitutter og stabiliteten af det finansielle system.

25.2. I overensstemmelse med en **forordning vedtaget af Rådet** i henhold til artikel 105, stk. 6, i **traktaten om Den Europæiske Unions funktionsmåde** kan ECB udføre specifikke opgaver vedrørende politikker med hensyn til tilsynet med kreditinstitutter og andre finansielle institutioner bortset fra forsikringselskaber.

## KAPITEL VI

### FINANSIELLE BESTEMMELSER FOR ESCB

#### Artikel 26

##### Regnskab

26.1. Regnskabsåret for ECB og de nationale centralbanker begynder den første dag i januar og udløber den sidste dag i december.

26.2. ECB's årsregnskab skal udfærdiges af direktionen efter principper fastlagt af Styrelsesrådet. Regnskabet skal godkendes af Styrelsesrådet og derefter offentliggøres.

26.3. Direktionen skal til analytiske og operationelle formål udfærdige en konsolideret balance for ESCB, som skal omfatte de af de nationale centralbankers aktiver og passiver, som hører ind under ESCB.

26.4. Med henblik på anvendelsen af denne artikel fastsætter Styrelsesrådet de nødvendige regler for en standardisering af bogføringen og af beretningerne om de transaktioner, der er foretaget af de nationale centralbanker.

#### Artikel 27

##### Revision

27.1. ECB's og de nationale centralbankers regnskaber revideres af uafhængige eksterne revisorer, der indstilles af Styrelsesrådet og godkendes af Rådet. Revisorerne skal have fri adgang til alle ECB's og de nationale centralbankers bøger og konti og skal have adgang til al information om disses transaktioner.

27.2. **Artikel 248 i traktaten om Den Europæiske Unions funktionsmåde** gælder kun for efterprøvning af, hvor effektiv ECB's forvaltning er i operationel henseende.

#### Artikel 28

##### ECB's kapital

28.1. ECB's kapital skal udgøre 5000 mio. **euro**. Kapitalen kan udvides med de beløb, som Styrelsesrådet beslutter med det i artikel 10.3 omhandlede kvalificerede flertal inden for de grænser og under de vilkår, der fastsættes af Rådet efter fremgangsmåden i artikel **41**.

28.2. De nationale centralbanker er de eneste indskydere og ejere af ECB's kapital. Kapitalindskuddet bestemmes efter den fordelingsnøgle, der er fastsat i overensstemmelse med artikel 29.

28.3. Styrelsesrådet fastsætter med det i artikel 10.3 omhandlede kvalificerede flertal, i hvilket omfang og i hvilken form kapitalen skal indbetales.

28.4. Med forbehold af artikel 28.5 kan de nationale centralbankers kapitalandele i ECB ikke overdrages, pantsættes eller gøres til genstand for udlæg.

28.5. Såfremt den fordelingsnøgle, som der henvises til i artikel 29, ændres, omfordeler de nationale centralbanker deres kapitalandele imellem sig i nødvendigt omfang for at sikre, at fordelingen af kapitalandelene svarer til den ændrede fordelingsnøgle. Styrelsesrådet fastlægger de nærmere vilkår for sådanne omfordelinger.

#### Artikel 29

##### Fordelingsnøgle for kapitalindskud

29.1. **Fordelingsnøglen for kapitalindskuddet i ECB, der for første gang blev fastsat i 1998 i forbindelse med oprettelsen af ESCB, fastsættes ved at tildele** hver national centralbank en vægt i denne fordelingsnøgle, der er lig med summen af:

- 50 % af den pågældende medlemsstats andel af **Unionens** befolkning det næstsidste år forud for ESCB's oprettelse
- 50 % af den pågældende medlemsstats andel af **Unionens** bruttonationalprodukt i markedspriser, som opgjort de seneste fem år forud for det næstsidste år før ESCB's oprettelse.

Procentdelene rundes **ned eller** op til det nærmeste multiplum af **0,0001** procentpoint.

## Protokoller

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29.2. De statistiske data med henblik på anvendelsen af denne artikel tilvejebringes af Kommissionen i overensstemmelse med de regler, der vedtages af Rådet efter fremgangsmåden i artikel 41.

29.3. De vægte, der tildeles de nationale centralbanker, justeres hvert femte år efter ESCB's oprettelse i analogi med bestemmelserne i artikel 29.1. Den ændrede fordelingsnøgle får virkning den første dag i det følgende år.

29.4. Styrelsesrådet træffer alle andre foranstaltninger, der er nødvendige for anvendelsen af denne artikel.

### Artikel 30

#### Overførsel af valutareserveaktiver til ECB

30.1. Med forbehold af artikel 28 forsynes ECB af de nationale centralbanker med valutareserveaktiver, bortset fra medlemsstaternes valutaer, **euro**, IMF-reservestillinger og SDR, svarende til et beløb på op til 50000 mio. **euro**. Styrelsesrådet beslutter, hvor stor en del der skal indbetales til ECB efter dens oprettelse, og hvor store beløb der skal indbetales på senere tidspunkter. ECB skal have fuld ret til at besidde og forvalte de valutareserver, der overføres til den, og anvende dem til de formål, der er fastsat i denne statut.

30.2. Den enkelte nationale centralbanks bidrag fastsættes i forhold til dens andel i ECB's indskudte kapital.

30.3. ECB krediterer hver national centralbank med en fordring, der svarer til bidragets størrelse. Styrelsesrådet fastsætter pålydende og forrentning af disse fordringer.

30.4. ECB kan indkalde valutareserveaktiver ud over den i artikel 30.1 fastlagte grænse i overensstemmelse med artikel 30.2 inden for de grænser og på de vilkår, der fastsættes af Rådet efter fremgangsmåden i artikel 41.

30.5. ECB kan besidde og forvalte IMF-reservestillinger og SDR samt sørge for sammenlægning af sådanne aktiver.

30.6. Styrelsesrådet træffer alle andre foranstaltninger, der er nødvendige for anvendelsen af denne artikel.

### Artikel 31

#### De nationale centralbankers valutareserveaktiver

31.1. De nationale centralbanker har ret til at udføre transaktioner til opfyldelse af deres forpligtelser over for internationale organisationer i overensstemmelse med artikel 23.

31.2. Alle andre transaktioner i valutareserveaktiver, som forbliver i de nationale centralbanker efter de overførsler, der er nævnt i artikel 30, samt medlemsstaternes transaktioner med deres arbejdsbeholdninger i udenlandske valutaer skal over en bestemt grænse, der skal fastsættes i medfør af artikel 31.3, godkendes af ECB for at sikre overensstemmelse med **Unionens** valutakurspolitik og pengepolitik.

31.3. Styrelsesrådet skal udstede retningslinjer med henblik på at lette gennemførelsen af disse transaktioner.



## Artikel 32

## Fordeling af de nationale centralbankers monetære indtægter

32.1. De nationale centralbankers indtægter i forbindelse med deres udførelse af ESCB's pengepolitiske opgaver, i det følgende benævnt "de monetære indtægter", fordeles ved udgangen af hvert regnskabsår i overensstemmelse med bestemmelserne i denne artikel.

32.2. **Størrelsen** af den enkelte nationale centralbanks monetære indtægter er identisk med den årlige indtægt, som den har af de aktiver, den besidder som modværdi for seddelomløbet samt for forpligtelserne i forbindelse med kreditinstitutternes indlån. Disse aktiver øremærkes af de nationale centralbanker i overensstemmelse med de retningslinjer, som Styrelsesrådet fastsætter.

32.3. Hvis Styrelsesrådet efter **euroens indørelse** finder, at de nationale centralbankers balancestruktur ikke giver mulighed for at anvende artikel 32.2, kan det med kvalificeret flertal beslutte, at de monetære indtægter uanset artikel 32.2 skal beregnes efter en anden metode i en periode, der højst må være på fem år.

32.4. Den enkelte nationale centralbanks monetære indtægter reduceres med et beløb svarende til den pågældende centralbanks rentebetalinger på forpligtelser i forbindelse med kreditinstitutters indlån i overensstemmelse med artikel 19.

Styrelsesrådet kan beslutte at yde de nationale centralbanker en kompensation for deres udgifter i forbindelse med seddeludstedelse eller under exceptionelle omstændigheder for særlige tab i forbindelse med transaktioner som led i den monetære politik, der er udført for ESCB. Kompensationen skal have en form, som Styrelsesrådet finder passende; sådanne beløb kan udignes med de nationale centralbankers monetære indtægter.

32.5. Summen af de nationale centralbankers monetære indtægter fordeles mellem disse banker indbyrdes i forhold til deres indbetalte andele i ECB's kapital med forbehold af beslutninger, der måtte blive truffet af Styrelsesrådet i overensstemmelse med artikel 33.2.

32.6. Udligningen og betalingen af saldi hidrørende fra fordelingen af de monetære indtægter foretages af ECB i overensstemmelse med de retningslinjer, der fastsættes af Styrelsesrådet.

32.7. Styrelsesrådet træffer alle andre foranstaltninger, der er nødvendige for anvendelsen af denne artikel.

## Artikel 33

## Fordeling af ECB's nettooverskud og -tab

33.1. ECB's nettooverskud overføres på følgende måde:

- a) Et beløb, hvis størrelse fastsættes af Styrelsesrådet, og som ikke må overstige 20 % af nettooverskuddet, overføres til den almindelige reservefond inden for en grænse på 100 % af kapitalen.
- b) Det resterende nettooverskud fordeles til indehaverne af kapitalandele i ECB i forhold til deres andel i den indskudte kapital.

33.2. Hvis ECB lider et tab, kan dette udlignes af ECB's almindelige reservefond og om nødvendigt efter en beslutning truffet af Styrelsesrådet, af de monetære indtægter i det pågældende regnskabsår i forhold til og op til de beløb, der fordeles mellem de nationale centralbanker i overensstemmelse med artikel 32.5.

## KAPITEL VII

### ALMINDELIGE BESTEMMELSER

#### Artikel 34

##### Retsakter

34.1. I overensstemmelse med artikel 110 i **traktaten om Den Europæiske Unions funktionsmåde skal ECB**

- udstede forordninger i det omfang, det er nødvendigt for at gennemføre de opgaver, der er fastlagt i artikel 3.1, første led, og i artikel 19.1, 22 eller 25.2, samt i tilfælde, der fastsættes i de retsakter vedtaget af Rådet, der er nævnt i artikel 41
- vedtage de beslutninger, der er nødvendige for at udføre de opgaver, der er pålagt ESCB efter **traktaterne** og denne statut
- rette henstillinger og afgive udtalelser.

34.2. ECB kan beslutte at offentliggøre sine beslutninger, henstillinger og udtalelser.

34.3. Inden for de grænser og på de vilkår, der vedtages af Rådet efter fremgangsmåden i artikel 41, skal ECB være berettiget til at pålægge foretagender bøder eller tvangsbøder i tilfælde af manglende opfyldelse af forpligtelser i henhold til dens forordninger og beslutninger.

#### Artikel 35

##### Domstolskontrol mv.

35.1. ECB's handlinger eller undladelser bedømmes eller fortolkes af **Den Europæiske Unions Domstol** i de tilfælde og på de vilkår, der er fastlagt i **traktaterne**. ECB kan anlægge sag i de tilfælde og på de vilkår, der er fastlagt i **traktaterne**.

35.2. Tvister mellem ECB på den ene side og dens kreditorer, debitorer eller nogen anden person på den anden side afgøres af de kompetente nationale domstole, medmindre **Den Europæiske Unions Domstol** er tillagt kompetence.

35.3. ECB er ansvarlig efter artikel 288 i **traktaten om Den Europæiske Unions funktionsmåde**. De nationale centralbanker er ansvarlige efter deres respektive nationale lovgivning.

35.4. **Den Europæiske Unions Domstol** har kompetence til at træffe afgørelse i henhold til en voldgiftsklausul, som indeholdes i en af ECB eller en på ECB's vegne indgået offentligretlig eller privatretlig aftale.

35.5. ECB's afgørelse om at indbringe en sag for **Den Europæiske Unions Domstol** skal træffes af Styrelsesrådet.

35.6. **Den Europæiske Unions Domstol** har kompetence til at træffe afgørelse i tvister vedrørende de nationale centralbankers opfyldelse af deres forpligtelser i henhold til denne statut. Hvis ECB finder, at en national centralbank har undladt at opfylde en af sine forpligtelser i henhold til **traktaterne og** denne statut, skal den fremsætte en begrundet udtalelse efter at have givet den nationale centralbank lejlighed til at fremsætte sine bemærkninger. Retter den pågældende nationale centralbank sig ikke efter den fremsatte udtalelse inden for den frist, der er fastsat af ECB, kan denne indbringe sagen for **Den Europæiske Unions Domstol**.

#### Artikel 36

##### Personale

36.1. Styrelsesrådet fastsætter på forslag af direktionen ansættelsesvilkårene for ECB's ansatte.

36.2. Den Europæiske Unions Domstol har kompetence til at træffe afgørelse i enhver tvist mellem ECB og dens ansatte inden for de rammer og på de betingelser, der er fastsat i ansættelsesvilkårene.

#### Artikel 37

##### Tavshedspligt

37.1. Medlemmerne af de besluttende organer og ECB's og de nationale centralbankers ansatte er — selv efter at deres hverv er ophørt — forpligtet til ikke at give oplysning om forhold, som ifølge deres natur er tjenestehemmeligheder.

37.2. Personer med adgang til oplysninger, der er omfattet af **EU**-lovgivning, der pålægger tavshedspligt, er underlagt denne lovgivning.

#### Artikel 38

##### Underskriftsberettigede

ECB tegnes over for tredjemand af formanden eller to direktionsmedlemmer eller to af ECB's ansatte, som af formanden er behørigt bemyndiget til at underskrive på ECB's vegne.

#### Artikel 39

##### Privilegier og immuniteter

ECB nyder på medlemsstaternes område de privilegier og immuniteter, der er nødvendige for udførelsen af dens opgaver, på de vilkår, der er fastsat i protokollen vedrørende **Unionens** privilegier og immuniteter.

## KAPITEL VIII

## PROCEDURE FOR ÆNDRING AF STATUTTEN OG SUPPLERENDE FORSKRIFTER

## Artikel 40

## Forenklet ændringsprocedure

40.1. I overensstemmelse med artikel 107, **stk. 3 i traktaten om Den Europæiske Unions funktionsmåde**, kan artikel 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1.a) og 36 i denne statut ændres af **Europa-Parlamentet og Rådet**, der træffer afgørelse **efter den almindelige lovgivningsprocedure** enten med kvalificeret flertal efter henstilling fra ECB og efter høring af Kommissionen eller med enstemmighed på forslag af Kommissionen og efter høring af ECB.

40.2. **Artikel 10, stk. 2 kan ændres ved en afgørelse truffet af Det Europæiske Råd med enstemmighed enten på grundlag af en henstilling fra Den Europæiske Centralbank og efter høring af Europa-Parlamentet og Kommissionen eller på grundlag af en henstilling fra Kommissionen og efter høring af Europa-Parlamentet og Den Europæiske Centralbank. Disse ændringer træder først i kraft, når medlemsstaterne har godkendt dem i overensstemmelse med deres respektive forfatningsmæssige bestemmelser.**

40.3. En henstilling fra ECB i medfør af denne artikel kræver enstemmig beslutning truffet af Styrelsesrådet.

## Artikel 41

## Supplerende forskrifter

I overensstemmelse med artikel 107, **stk. 4 i traktaten om Den Europæiske Unions funktionsmåde** skal Rådet med kvalificeret flertal enten på forslag af Kommissionen og efter høring af Europa-Parlamentet og ECB eller efter en henstilling fra ECB og efter høring af Europa-Parlamentet og Kommissionen vedtage de bestemmelser, der er nævnt i artikel 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 og 34.3 i denne statut.

## KAPITEL IX

## OVERGANGSBESTEMMELSER OG ANDRE BESTEMMELSER FOR ESCB

## Artikel 42

## Almindelige bestemmelser

42.1. En dispensation som omhandlet i artikel **116**, stk. 1, i **traktaten om Den Europæiske Unions funktionsmåde** indebærer, at følgende artikler i denne statut ikke påfører den berørte medlemsstat nogen rettigheder eller forpligtelser: 3, 6, 9.2, 12.1, 14.3, 16, 18, 19, 20, 22, 23, 26.2, 27, 30, 31, 32, 33, 34, **49** og **50**.

42.2. Centralbankerne i medlemsstater med dispensation som omhandlet i artikel **116**, stk. 1, i **traktaten om Den Europæiske Unions funktionsmåde** bevarer deres beføjelser på den monetære politiks område i henhold til national lovgivning.

42.3. I overensstemmelse med artikel **116, stk. 2 i traktaten om Den Europæiske Unions funktionsmåde**, forstås ved "medlemsstater" "medlemsstater uden dispensation" i følgende artikler i denne statut: 3, 11.2, 19, ..

42.4. Ved "nationale centralbanker" forstås "centralbanker i medlemsstater uden dispensation" i følgende artikler i denne statut: 9.2, 10.1, 10.3, 12.1, 16, 17, 18, 22, 23, 27, 30, 31, 32, 33.2 og **50**.

42.5. Ved "indehavere af kapitalandele" forstås "centralbankerne i medlemsstater uden dispensation" i artikel 10.3 og 33.1.

42.6. Ved "ECB's indskudte kapital" forstås "ECB's kapital indskudt af centralbankerne i medlemsstater uden dispensation" i artikel 10.3 og 30.2.

#### Artikel 43

##### Overgangsopgaver for ECB

ECB overtager de af EMI's tidligere opgaver, **jf. artikel 118, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde**, der som følge af dispensationer for en eller flere medlemsstater fortsat skal udføres **efter euroens indførelse**.

ECB yder rådgivning i forbindelse med forberedelsen af ophævelsen af de dispensationer, der er fastsat i artikel 116 i traktaten om **Den Europæiske Unions funktionsmåde**.

#### Artikel 44

##### ECB's Generelle Råd

**44.1.** Med forbehold af artikel 107, **stk. 1, i traktaten om Den Europæiske Unions funktionsmåde** nedsættes Det Generelle Råd som ECB's tredje besluttende organ.

**44.2.** Det Generelle Råd består af formanden og næstformanden for ECB samt af cheferne for de nationale centralbanker. De øvrige medlemmer af direktionen kan deltage i møderne i Det Generelle Råd uden stemmeret.

**44.3.** Det Generelle Råds ansvarsområder er anført i deres helhed i artikel **46** i denne statut.

#### Artikel 45

##### Forretningsorden for Det Generelle Råd

**45.1.** Formanden, eller i dennes fravær næstformanden for ECB, leder møderne i ECB's Generelle Råd.

**45.2.** Formanden for Rådet og et medlem af Kommissionen kan deltage i møderne i Det Generelle Råd uden stemmeret.

**45.3.** Formanden forbereder møderne i Det Generelle Råd.

**45.4.** Uanset artikel 12.3 fastsætter Det Generelle Råd selv sin forretningsorden.

**45.5.** Sekretariat for Det Generelle Råd stilles til rådighed af ECB.

## Artikel 46

### Det Generelle Råds ansvarsområder

#### 46.1. Det Generelle Råd skal

- udføre de opgaver, der er omhandlet i artikel 44
- bidrage til de rådgivende funktioner, der er omhandlet i artikel 4 og 25.1.

#### 46.2. Det Generelle Råd skal bidrage til:

- indsamlingen af statistisk information som omhandlet i artikel 5
- ECB's beretninger som omhandlet i artikel 15
- udarbejdelsen af de regler, der er nødvendige for anvendelsen af artikel 26, som omhandlet i artikel 26.4
- vedtagelsen af alle andre foranstaltninger, der er nødvendige for anvendelsen af artikel 29, som omhandlet i artikel 29.4
- fastsættelsen af ansættelsesvilkårene for ECB's ansatte, som omhandlet i artikel 36.

46.3. Det Generelle Råd skal bidrage til de nødvendige forberedelser med henblik på den uigenkaldelige fastlåsning af vekselkurserne for valutaerne i medlemsstater med dispensation over for euroen, som omhandlet i artikel 117, stk. 3, i **traktaten om Den Europæiske Unions funktionsmåde**.

46.4. Det Generelle Råd underrettes af formanden for ECB om Styrelsesrådets afgørelser.

## Artikel 47

### Overgangsbestemmelser vedrørende ECB's kapital

I medfør af artikel 29.1 skal hver enkelt af de nationale centralbanker tildeles en vægt i fordelingsnøglen for kapitalindskuddet i ECB. Uanset artikel 28.3 skal centralbankerne i medlemsstater med dispensation ikke indbetale deres kapitalandele, medmindre Det Generelle Råd med et flertal, der udgør mindst to tredjedele af ECB's indskudte kapital og repræsenterer mindst halvdelen af indehaverne af kapitalandele, beslutter, at der skal indbetales en minimumsprocentdel som bidrag til ECB's driftsudgifter.

## Artikel 48

### Senere indbetaling af kapital, reserver og hensættelser i ECB

48.1. En centralbank i en medlemsstat, hvis dispensation er blevet ophævet, skal indbetale sin kapitalandel i ECB i samme omfang som centralbankerne i andre medlemsstater uden dispensation og overføre valutareserveaktiver til ECB i overensstemmelse med artikel 30.1. Det beløb, der skal overføres, fastsættes ved at gange euro-værdien, beregnet efter de gældende vekselkurser, af de valutareserveaktiver, som allerede er blevet overført til ECB i overensstemmelse med artikel 30.1, med forholdet mellem antallet af kapitalandele indskudt af den pågældende nationale centralbank og antallet af kapitalandele, der allerede er indbetalt af de øvrige nationale centralbanker.

**48.2.** Ud over den indbetaling, der skal foretages i medfør af artikel **48.1**, skal den pågældende centralbank bidrage til ECB's reserver, til de hensættelser, der svarer til reserver, samt til de beløb, der stadig skal afsættes til reserver og hensættelser svarende til saldoen på resultatopgørelsen pr. 31. december i året forud for ophævelsen af dispensationen. Det beløb, der skal bidrages med, fastsættes ved at gange omfanget af reserverne, som defineret ovenfor og som fastslået på den godkendte balance for ECB, med forholdet mellem antallet af kapitalandele betalt af den pågældende centralbank og antallet af kapitalandele, der allerede er indbetalt af de øvrige centralbanker.

**48.3.** Når en eller flere stater bliver medlemmer og deres respektive centralbanker bliver en del af ESCB, sker der automatisk en udvidelse af ECB's kapital og en forhøjelse af grænsen for, hvor store valutareserveaktiver der kan overføres til ECB. Udvidelsen/forhøjelsen fastsættes ved at gange de respektive på det tidspunkt gældende beløb med forholdet i den udvidede fordelingsnøgle for kapitalindskud mellem de tilkommende nationale centralbankers vægt og vægten af de nationalbanker, der allerede er medlemmer af ESCB. Den enkelte centralbanks vægt i fordelingsnøglen for kapitalindskud beregnes i analogi med artikel 29.1, og i henhold til artikel 29.2. De referenceperioder, der skal anvendes for de statistiske data, skal være de samme, som er blevet anvendt ved den seneste femårlige justering af vægten i henhold til artikel 29.3.

#### Artikel 49

##### Omveksling af pengesedler i **EU**-valutaer

Efter den uigenkaldelige fastlåsning af vekselkurserne i henhold **til artikel 116, stk. 3, i traktaten om Den Europæiske Unions funktionsmåde** træffer Styrelsesrådet de nødvendige foranstaltninger med henblik på at sikre, at pengesedler udstedt i valutaer med uigenkaldeligt fastlåste vekselkurser omveksles af de nationale centralbanker til deres respektive pariværdier.

#### Artikel 50

##### Anvendelse af overgangsbestemmelserne

Såfremt og så længe der er medlemsstater med dispensation, finder artikel **42-47** anvendelse.

## Protokol

### vedrørende vedtægterne for Den Europæiske Investeringsbank

DE HØJE KONTRAHERENDE PARTER,

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til **traktaten om Den Europæiske Union og traktaten om Den Europæiske Unions funktionsmåde**:

#### Artikel 1

Den ved artikel 266 i **traktaten om Unionens funktionsmåde** oprettede Europæiske Investeringsbank — herefter benævnt "Banken" — etableres og udøver sine funktioner og sin virksomhed i overensstemmelse med bestemmelserne i denne traktat og i disse vedtægter.

#### Artikel 2

Bankens opgave er fastsat i artikel 267 i **traktaten om Unionens funktionsmåde**.

#### Artikel 3

I overensstemmelse med artikel 266 i **traktaten om Den Europæiske Unions funktionsmåde** er Bankens medlemmer medlemsstaterne.

#### Artikel 4

1. Banken tildeles en kapital på 164 808 169 000 EUR, tegnet af medlemsstaterne med følgende beløb:

Tyskland	26.649.532.500
Frankrig	26.649.532.500
Italien	26.649.532.500
Det Forenede Kongerige	26.649.532.500
Spanien	15.989.719.500
Belgien	7.387.065.000
Nederlandene	7.387.065.000
Sverige	4.900.585.500
Danmark	3.740.283.000
Østrig	3.411.263.500
Polen	3.411.263.500
Finland	2.106.816.000
Grækenland	2.003.725.500
Portugal	1.291.287.000
Den Tjekkiske Republik	1.258.785.500
Ungarn	1.190.868.500
Irland	935.070.000
Slovakiet	428.490.500
Slovenien	397.815.000
Litauen	249.617.500
Luxembourg	187.015.500
Cypern	183.382.000
Letland	152.335.000
Estland	117.640.000
Malta	69.804.000
Bulgarien	290.917.500
Rumænien	863.514.500



2. Et nyt medlems optagelse medfører en forhøjelse af den tegnede kapital svarende til det nye medlems indskud.
3. Styrelsesrådet kan med enstemmighed træffe beslutning om en forhøjelse af den tegnede kapital.
4. Andelen i den tegnede kapital kan hverken overdrages, pantsættes eller gøres til genstand for udlæg.

#### Artikel 5

1. Medlemsstaterne indbetaler den tegnede kapital med 5 % i gennemsnit af de i artikel 4, stk. 1, anførte beløb.
2. I tilfælde af en forhøjelse af den tegnede kapital fastsætter styrelsesrådet med enstemmighed den procentdel, der skal indbetales, samt de nærmere bestemmelser for indbetalingen. **Kontante indbetalinger kan udelukkende ske i euro.**
3. Bestyrelsen kan kræve resten af den tegnede kapital indbetalt i det omfang, denne indbetaling er nødvendig for at opfylde Bankens forpligtelser.

Hver medlemsstats indbetaling foretages i forhold til dens andel i den tegnede kapital.

#### Artikel 6

Banken administreres og ledes af et styrelsesråd, en bestyrelse og en direktion.

#### Artikel 7

1. Styrelsesrådet består af ministre udpeget af medlemsstaterne.
2. Styrelsesrådet fastsætter de almindelige retningslinjer for Bankens kreditpolitik i **overensstemmelse med Unionens mål.**

Det påser, at disse retningslinjer følges.

3. Styrelsesrådet skal desuden:

- a) træffe beslutning om forhøjelse af den tegnede kapital i overensstemmelse med artikel 4, stk. 3, og artikel 5, stk. 2
- b) **med henblik på artikel 9, stk. 1, fastlægge de principper, der skal gælde for finansieringstransaktioner, der udføres som led i Bankens opgaver**
- c) udøve de beføjelser, der er omhandlet i artiklerne 11 og 13 vedrørende udnævnelse og afskedigelse af bestyrelsens og direktionens medlemmer, såvel som de i artikel 13, stk. 1, andet afsnit, omhandlede beføjelser
- d) **vedtage at finansiere investeringer, der helt eller delvis gennemføres uden for medlemsstaternes område, i overensstemmelse med artikel 16, stk. 1**
- e) godkende bestyrelsens årsberetning
- f) <godkende den årlige statusopgørelse og driftsregnskabet

- g) udøve de øvrige beføjelser, som **tillægges det ved disse vedtægter**
- h) godkende Bankens forretningsorden.

4. Styrelsesrådet er beføjet til inden for rammerne af **traktaterne** og disse vedtægter med enstemmighed at træffe alle beslutninger med hensyn til indstilling af Bankens virksomhed og dens eventuelle likvidation.

#### Artikel 8

Medmindre andet er fastsat i disse vedtægter, træffes Styrelsesrådets beslutninger med et flertal af dets medlemmers stemmer. Dette flertal skal repræsentere mindst 50 % af den tegnede kapital.

**Kvalificeret flertal kræver et samlet antal af 18 stemmer og 68% af den tegnede kapital.**

**Hvis medlemmer, der er til stede eller repræsenteret, undlader at stemme, hindrer dette ikke vedtagelsen af afgørelser, der træffes med enstemmighed.**

#### Artikel 9

**1. Bestyrelsen træffer beslutning om ydelse af finansiering, især i form af kreditter og garantier og om optagelse af lån; den fastsætter rentesatserne for udlån samt provision og andre gebyrer. Den kan på grundlag af en afgørelse truffet med kvalificeret flertal uddelegere visse af sine beføjelser til direktionen. Den fastlægger vilkårene og de nærmere regler for denne delegation og overvåger dens gennemførelse.**

**Bestyrelsen fører tilsyn med, at Banken administreres på forsvarlig måde, og sørger for, at Banken ledes i overensstemmelse såvel med traktatens bestemmelser og disse vedtægter som med de af Styrelsesrådet fastsatte almindelige retningslinjer.**

Ved regnskabsårets udgang skal den forelægge Styrelsesrådet en beretning og offentliggøre den, efter at den er godkendt.

2. Bestyrelsen består af 28 medlemmer og 16 suppleanter.

Medlemmerne udnævnes af Styrelsesrådet for et tidsrum af fem år med et medlem udpeget af hver medlemsstat og et medlem udpeget af Kommissionen.

Suppleanterne udnævnes af Styrelsesrådet for et tidsrum af fem år således:

- to suppleanter udpeget af Forbundsrepublikken Tyskland
- to suppleanter udpeget af Den Franske Republik
- to suppleanter udpeget af Den Italienske Republik
- to suppleanter udpeget af Det Forenede Kongerige Storbritannien og Nordirland
- en suppleant udpeget efter fælles aftale af Kongeriget Spanien og Den Portugisiske Republik
- en suppleant udpeget efter fælles aftale af Kongeriget Belgien, Storhertugdømmet Luxembourg og Kongeriget Nederlandene
- to suppleanter udpeget efter fælles aftale af Kongeriget Danmark, Den Helleniske Republik, Irland og Rumænien

- to suppleanter udpeget efter fælles aftale af Republikken Estland, Republikken Letland, Republikken Litauen, Republikken Østrig, Republikken Finland og Kongeriget Sverige
- tre suppleanter udpeget efter fælles aftale af Republikken Bulgarien, Den Tjekkiske Republik, Republikken Cypern, Republikken Ungarn, Republikken Malta, Republikken Polen, Republikken Slovenien og Den Slovakiske Republik
- en suppleant udpeget af Kommissionen

Bestyrelsen udpeger ved selvsupplering seks eksperter uden stemmeret: tre som medlemmer og tre som suppleanter.

Medlemmernes og suppleanternes mandat kan fornyes.

**Reglerne for deltagelse i bestyrelsens møder og bestemmelserne vedrørende suppleanter og eksperter udpeget ved selvsupplering fastlægges i forretningsordenen.**

Direktionens formand, eller ved hans forfald en af næstformændene, leder bestyrelsens møder uden at deltage i afstemningen.

Til medlemmer af bestyrelsen vælges personer, hvis uafhængighed og sagkundskab er uomtvistelig; de er kun ansvarlige over for Banken.

3. Kun når et bestyrelsesmedlem ikke længere opfylder de nødvendige betingelser for at udøve sit hverv, kan Styrelsesrådet med kvalificeret flertal afskedige ham.

Såfremt årsberetningen ikke godkendes, træder bestyrelsen tilbage.

4. Bestyrelsesposter, som ved dødsfald, frivillig fratræden, afskedigelse eller samlet tilbage-træden bliver ledige, besættes i overensstemmelse med reglerne i stk. 2. De ledige poster besættes, undtagen ved generelle nybesættelser, for resten af mandatets løbetid.

5. Styrelsesrådet fastsætter bestyrelsesmedlemmernes honorar. Det fastslår, hvilke former for virksomhed der eventuelt er uforenelige med hvervet som bestyrelsesmedlem eller suppleant.

#### Artikel 10

1. I bestyrelsen har hvert medlem én stemme. Et medlem kan i alle tilfælde delegere sin stemme efter nærmere regler, der fastsættes i Bankens forretningsorden.

2. Medmindre andet er bestemt i disse vedtægter, træffes bestyrelsens beslutninger af mindst en tredjedel af de stemmeberettigede medlemmer, der repræsenterer mindst 50 % af den tegnede kapital. Kvalificeret flertal kræver et samlet antal af 18 stemmer og 68 % af den tegnede kapital. Bankens forretningsorden fastsætter antallet af medlemmer, hvis tilstedeværelse er en forudsætning for bestyrelsens beslutningsdygtighed.

#### Artikel 11

1. Direktionen består af en formand og otte næstformænd, der på forslag af bestyrelsen udnævnes af Styrelsesrådet for et tidsrum af seks år. Deres mandat kan fornyes.

Styrelsesrådet kan med enstemmighed ændre antallet af direktionens medlemmer.

## Protokoller

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2. På forslag af bestyrelsen, der har truffet afgørelse med kvalificeret flertal, kan Styrelsesrådet, ligeledes med kvalificeret flertal, afskedige medlemmer af direktionen.

3. Under formandens ledelse og bestyrelsens kontrol varetager direktionen Bankens løbende forretninger.

Den forbereder bestyrelsens beslutninger, især med hensyn til optagelse af lån og ydelse af **finansiering, navnlig i form af kreditter og garantier**; den drager omsorg for udførelsen af disse beslutninger.

4. Efter flertalsbeslutning fremsætter direktionen sine udtalelser om forslag **om indgåelse af lån og ydelse af finansiering, navnlig i form af kreditter og garantier**.

5. Styrelsesrådet fastsætter vederlaget til direktionens medlemmer og bestemmer, hvilke former for virksomhed der er uforenelige med deres stilling.

6. Formanden, eller hvis han er forhindret, en af næstformændene, repræsenterer Banken i indenretlige eller udenretlige anliggender.

7. Formanden er foresat for Bankens **personale**. De ansættes og afskediges af ham. Ved valg af personale skal der ikke alene tages hensyn til personlig egnethed og faglige kvalifikationer, men desuden til en rimelig repræsentation af statsborgere fra de enkelte medlemsstater. **Det fastlægges i forretningsordenen, hvilket organ der har kompetence til at vedtage bestemmelser angående personalet.**

8. Direktionen og Bankens personale er kun ansvarlige over for Banken og udfører deres hverv i fuld uafhængighed.

### Artikel 12

1. Et udvalg bestående af **seks** medlemmer, udpeget af Styrelsesrådet på grundlag af deres kvalifikationer, efterprøver, om **Bankens aktiviteter er i overensstemmelse med bedste bankpraksis, og det er ansvarligt for at kontrollere Bankens regnskaber.**

2. **Det i stk. 1 nævnte udvalg undersøger hvert år, om Bankens forretninger er udført i overensstemmelse med gældende regler, og om dens bøger har været rigtig ført. Til det formål efterprøver den, om Bankens forretninger er udført under overholdelse af de formaliteter og procedurer, der er fastsat i disse vedtægter og i forretningsordenen.**

3. **Det i stk. 1 nævnte udvalg bekræfter, at årsregnskaberne samt enhver oplysning om økonomiske forhold i årsregnskaberne, som bestyrelsen udarbejder, giver et troværdigt billede af Bankens økonomiske situation, såvel på aktiv- som på passivside, og af resultaterne af dens transaktioner og likviditetsstrømmen i det pågældende regnskabsår.**

4. **Forretningsordenen præciserer, hvilke erhvervs kvalifikationer det i stk. 1 nævnte udvalgs medlemmer skal have, og fastlægger de nærmere vilkår og regler for dets arbejde.**

### Artikel 13

Banken står i forbindelse med hver medlemsstat gennem den af den pågældende medlemsstat udpegede myndighed. Ved udførelsen af sine finansielle transaktioner benytter den den pågældende medlemsstats nationale centralbank eller andre af medlemsstaten godkendte pengeinstitutter.

### Artikel 14

1. Banken samarbejder med alle internationale organisationer, der udøver virksomhed på tilsvarende områder.
2. Banken søger at oprette formålstjenlige forbindelser med henblik på at samarbejde med bank- eller pengeinstitutter i de lande, til hvilke den udstrækker sin virksomhed.

### Artikel 15

På begæring af en medlemsstat eller af Kommissionen eller på eget initiativ fortolker eller uddyber Styrelsesrådet de retningslinjer, det har fastlagt i medfør af artikel 7 i disse vedtægter, hvilket skal ske i overensstemmelse med de bestemmelser, hvorefter retningslinjerne er udfærdiget.

### Artikel 16

1. Inden for rammerne af de opgaver, som er nævnt i artikel 267 i traktaten om **Unionens** funktionsmåde, yder **Banken finansiering, navnlig i form af lån og garantier** til sine medlemmer eller til private eller offentlige virksomheder til **investeringer**, der påtænkes udført på medlemsstaternes områder, i det omfang midler ikke kan fremskaffes på rimelige vilkår fra andre kilder.

Dog kan Banken ved en **afgørelse truffet af Styrelsesrådet med kvalificeret flertal** på forslag af bestyrelsen yde **finansiering til investeringer**, der helt eller delvis påtænkes gennemført uden for medlemsstaternes områder.

2. Ydelse af lån betinges så vidt muligt af, at også andre finansieringsmidler sættes ind.
3. Bevilges et lån til en virksomhed eller kollektiv enhed, som ikke er en medlemsstat, betinger Banken ydelsen af lånet enten af en garanti fra den medlemsstat, på hvis område **investeringen** skal gennemføres, eller af andre tilstrækkelige garantier **eller af debtors finansielle soliditet**.

**Desuden fastlægger bestyrelsen med kvalificeret flertal de nærmere vilkår og regler for enhver finansiering, der udgør en specifik risiko og dermed anses for en særlig aktivitet, på grundlag af de principper, som Styrelsesrådet fastlægger i henhold til artikel 7, stk. 3, litra b), og hvis gennemførelsen af de i artikel 267 i traktaten om Den Europæiske Unions funktionsmåde nævnte transaktioner kræver det.**

4. Banken kan garantere for lån, som optages af offentlige eller private virksomheder eller kollektive enheder, til gennemførelse af de i artikel 267 i **traktaten om Unionens funktionsmåde** nævnte projekter.
5. Den samlede sum af de til enhver tid løbende lån og garantier, som er ydet af Banken, må ikke overstige 250 % af den tegnede kapital, **reserverne, de ubundne midler og overskuddet af resultatopgørelsen. Det kumulerede beløb på de pågældende poster**

beregnes med fradrag af et beløb svarende til det tegnede beløb for Bankens erhvervelse af kapitalandele, hvad enten det er udbetalt eller ej.

Det beløb, der betales som led i Bankens erhvervelse af kapitalandele, må på intet tidspunkt overstige den samlede disponible del af dens kapital, reserver, ubundne midler og overskuddet af resultatopgørelsen.

Der afsættes undtagelsesvis en reserve med en specifik bevillingsramme til Bankens særlige aktiviteter, som Styrelsesrådet og bestyrelsen har vedtaget i henhold til stk. 3.

Dette stykke gælder endvidere for Bankens konsoliderede regnskaber.

6. Banken sikrer sig mod kursrisiko ved at forsyne låne- og garantikontrakter med sådanne klausuler, som den finder egnede.

#### Artikel 17

1. Rentesatserne for Bankens udlån og provisionerne **og andre gebyrer** skal tilpasses de på kapitalmarkedet herskende vilkår og beregnes således, at indtægterne herved gør det muligt for Banken at opfylde sine forpligtelser, at dække sine udgifter og risici og at oprette en reservefond i overensstemmelse med artikel 22.

2. Banken bevilger ikke nedslag i rentesatserne. Hvis indrømmelse af en lavere rente - under hensyn til den særlige karakter af **den investering**, der skal finansieres - synes rimelig, kan den pågældende medlemsstat eller tredjepart yde rentegodtgørelse i det omfang, det er foreneligt med de i artikel 87 i **traktaten om Unionens funktionsmåde** fastsatte regler.

#### Artikel 18

Banken skal ved sine finansieringstransaktioner iagttage følgende principper:

1. Den påser, at dens midler anvendes i **Unionens** interesse på den mest rationelle måde. Den kan kun yde lån eller stille garantier for optagelse af lån:

- a) når betaling af renter og afdrag er sikret i driftsoverskuddet, såfremt **investeringer** iværksættes af foretagender i produktionssektoren, eller, hvor der er tale om andre **investeringer**, ved en forpligtelse tiltrådt af den stat, i hvilken **investeringen** iværksættes, eller på anden måde
- b) og når **investeringens** gennemførelse bidrager til at forøge den økonomiske produktivitet i almindelighed og fremmer virkeliggørelsen af **det indre marked**.

2. Den må hverken erhverve interesser i virksomheder eller påtage sig ansvar for deres ledelse, medmindre beskyttelsen af dens rettigheder kræver det for at sikre, at dens fordringer indgår.

På grundlag af de principper, som Styrelsesrådet fastlægger i henhold til artikel 7, stk. 3, litra b), fastlægger bestyrelsen dog, hvis gennemførelsen af de i artikel 267 i traktaten om Den Europæiske Unions funktionsmåde nævnte transaktioner kræver det, med kvalificeret flertal de nærmere vilkår og regler for enhver erhvervelse af kapitalandele i et handelsforetagendes kapital, som hovedregel som supplement til et lån eller en garanti for så vidt det er nødvendigt for at finansiere en investering eller et program.

3. Den kan overdrage sine fordringer på kapitalmarkedet og med henblik herpå kræve af låntagerne, at de udsteder obligationer eller andre værdipapirer.
  4. Hverken Banken eller medlemsstaterne må stille betingelser om, at de udlånte beløb skal gives ud i en bestemt medlemsstat.
  5. Den kan gøre ydelsen af lån betinget af, at international licitation finder sted.
  6. Den må hverken helt eller delvis finansiere **nogen investering**, som den medlemsstat, på hvis område investeringen skal gennemføres, modsætter sig.
- 7. Som supplement til sine låneaktiviteter kan Banken yde teknisk bistand i henhold til vilkår og regler fastlagt af Styrelsesrådet, der træffer afgørelse med kvalificeret flertal, og under overholdelse af disse vedtægter.**

#### Artikel 19

**1. Enhver virksomhed, offentlig eller privatøkonomisk enhed kan direkte forelægge Banken en ansøgning om finansiering. Ansøgning kan endvidere forelægges Banken gennem Kommissionen eller gennem den medlemsstat, på hvis område investeringen skal gennemføres.**

2. Såfremt ansøgninger indsendes gennem Kommissionen, skal de forelægges til udtalelse for den medlemsstat, på hvis område **investeringen** skal gennemføres. Såfremt de indsendes gennem en stat, forelægges de Kommissionen til udtalelse. Hidrører de direkte fra en virksomhed, forelægges de den pågældende medlemsstat og Kommissionen.

De pågældende medlemsstater og Kommissionen skal afgive deres udtalelser inden to måneders forløb. Foreligger der ikke svar inden udløbet af denne frist, kan Banken gå ud fra, at det pågældende projekt ikke giver anledning til indvendinger.

3. Bestyrelsen træffer afgørelse om de **finansieringstransaktioner**, som direktionen forelægger den.
4. Direktionen undersøger, om de **finansieringstransaktioner**, som forelægges den, er i overensstemmelse med bestemmelserne i disse vedtægter, især de i artikel **18** indeholdte. Hvis direktionen udtaler sig til fordel for **finansieringen**, **forelægger den det tilsvarende forslag** for bestyrelsen; den kan gøre sin tilslutning afhængig af sådanne forudsætninger, som den anser for væsentlige. Udtaler direktionen sig imod **finansieringen**, skal den tilstille bestyrelsen sagens akter sammen med sin udtalelse.
5. Er direktionens udtalelse negativ, kan bestyrelsen kun bevilge **finansieringen** efter enstemmig vedtagelse.
6. Er Kommissionens udtalelse negativ, kan bestyrelsen kun bevilge finansieringen efter enstemmig vedtagelse. Det af Kommissionen udpegede bestyrelsesmedlem afholder sig fra at deltage i afstemningen.
7. Er direktionens og Kommissionens udtalelse negativ, kan bestyrelsen ikke bevilge den pågældende **finansiering**.

**8. Når det af hensyn til beskyttelsen af Bankens rettigheder og interesser er berettiget at foretage en omstrukturering af en finansieringstransaktion, der vedrører godkendte investeringer, træffer direktionen straks de hasteforanstaltninger, som den finder nødvendige, idet den dog straks underretter bestyrelsen herom.**

**Artikel 20**

1. Banken låner på kapitalmarkederne de midler, der er nødvendige til gennemførelsen af dens opgaver.
2. Banken kan optage lån på en medlemsstats kapitalmarked inden for rammerne af den lovgivning, der gælder for **disse markeder**.

**De kompetente myndigheder i en medlemsstat med dispensation i medfør af artikel 116, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde kan kun gøre indsigelse, hvis alvorlige vanskeligheder på kapitalmarkedet i den pågældende stat må frygtes.**

**Artikel 21**

1. Banken kan anvende disponible midler, som den ikke umiddelbart har brug for til opfyldelse af sine forpligtelser, på følgende måder:

- a) Den kan foretage kapitalanbringelser på pengemarkederne;
- b) med forbehold af bestemmelserne i artikel 18, nr. 2, kan den købe eller sælge værdipapirer;
- c) den kan udføre enhver anden finansiel transaktion i forbindelse med opfyldelsen af dens formål.

2. Med forbehold af bestemmelserne i artikel 23 må Banken ikke ved forvaltningen af sine kapitalanbringelser foretage valutaarbitrage, som ikke direkte er nødvendiggjort af hensyn til gennemførelsen af dens udlån eller opfyldelsen af de forpligtelser, den har indgået i forbindelse med de af den optagne lån eller stillede garantier.

3. I de forhold, der er omtalt i denne artikel, **handler** Banken i forståelse med vedkommende medlemsstats kompetente myndigheder eller **nationale centralbank**.

**Artikel 22**

1. Der oprettes en reservefond, som gradvis bringes op på et beløb svarende til 10 % af den tegnede kapital. Såfremt Bankens engagementer berettiger det, kan bestyrelsen træffe bestemmelse om oparbejdelse af yderligere reserver. Så længe reservefonden endnu ikke er bragt op på sit fulde beløb, skal der tilføres den:

- a) renteindtægter af lån, som Banken har ydet af de beløb, der i henhold til artikel 5 skal indbetales af medlemsstaterne
- b) renteindtægter af lån, som Banken har ydet af de beløb, der fremkommer ved tilbagebetaling af de under punkt a) nævnte lån i det omfang, disse renteindtægter ikke er nødvendige for at opfylde Bankens forpligtelser og til at dække dens udgifter.

2. Reservefondens midler skal anbringes på en sådan måde, at de til enhver tid er disponible til opfyldelse af fondens formål.



### Artikel 23

1. Banken har altid ret til at overføre sine beholdninger og tilgodehavender i **valutaen i en medlemsstat, der ikke har euroen som valuta** for at gennemføre finansielle transaktioner i overensstemmelse med dens formål, således som det er fastsat i artikel 267 i **traktaten om Unionens funktionsmåde** og under hensyntagen til bestemmelserne i artikel 21 i disse vedtægter. Banken undgår så vidt muligt at foretage sådanne overførsler, såfremt den har beholdninger, som er disponible eller kan frigøres i den valuta, den har brug for.
2. Banken kan ikke konvertere sine beholdninger i **valutaen i en medlemsstat, der ikke har euroen som valuta** til tredjelands valuta uden medlemsstatens samtykke.
3. Banken kan frit råde såvel over den del af kapitalen, der er indbetalt, som over valuta, der er lånt på markedet uden for **Unionen**.
4. Medlemsstaterne forpligter sig til at stille den valuta til rådighed for Bankens debitorer, som er nødvendig til betaling af afdrag og renter af lån, som Banken har ydet eller garanteret vedrørende **investeringer**, der skal gennemføres på deres områder.

### Artikel 24

Såfremt en medlemsstat misligholder sine medlemsforpligtelser ifølge disse vedtægter, navnlig forpligtelsen til at indbetale sin andel af den tegnede kapital eller til at forrente og amortisere optagne lån, kan Styrelsesrådet med kvalificeret flertal beslutte at indstille lån-givning eller garantiydelse til denne medlemsstat eller dens statsborgere.

Denne beslutning fritager hverken staten eller dens statsborgere for deres forpligtelser over for Banken.

### Artikel 25

1. Træffer Styrelsesrådet beslutning om at indstille Bankens virksomhed, skal al virksomhed omgående ophøre, med undtagelse af de dispositioner, som er påkrævet for at sikre en behørig anvendelse, beskyttelse og bevarelse af Bankens aktiver og indfrielse af dens engagementer.
2. I tilfælde af likvidation udnævner Styrelsesrådet likvidatorerne og giver dem instrukser med hensyn til likvidationens gennemførelse. **Det sørger for at beskytte de ansattes rettigheder.**

### Artikel 26

1. Banken nyder i hver medlemsstat den videstgående rets- og handleevne, som den pågældende stats lovgivning tillægger juridiske personer; den kan i særdeleshed erhverve og afhænde løsøre og fast ejendom og optræde som part i retssager.
2. Bankens formue skal være undtaget fra enhver form for rekvisition eller ekspropriation.

### Artikel 27

Med forbehold af den kompetence, som er tillagt **Den Europæiske Unions Domstol**, afgøres tvistigheder mellem på den ene side Banken og på den anden side dens långivere, låntagere eller tredjemand af de kompetente nationale domsmyndigheder. **Banken kan i en kontrakt indsætte en voldgiftsklausul.**

## Protokoller

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Banken vælger et hjemting i hver medlemsstat. Den kan dog i en kontrakt træffe bestemmelse om et særligt værneting.

Bankens aktiver kan kun i henhold til en retskendelse gøres til genstand for beslaglæggelse eller tvangsfuldbyrdelse.

### Artikel 28

1. Styrelsesrådet kan med enstemmighed vedtage at oprette **datterselskaber eller andre enheder** med status som **juridiske personer** og finansiel selvbestemmelsesret.

2. Styrelsesrådet fastlægger **med enstemmighed vedtægterne for de i stk. 1 nævnte selskaber og enheder**. Heri defineres navnlig målsætninger, struktur, kapital, medlemmer, **sædets placering**, finansielle ressourcer, interventionsmuligheder og revisionsordninger samt **deres forhold** til Bankens organer.

3. **Banken** er berettiget til at deltage i forvaltningen af **disse selskaber og enheder** og bidrage til **deres** tegnede kapital indtil det af Styrelsesrådet fastsatte beløb efter enstemmig beslutning herom.

4. Protokollen **om Den Europæiske Unions privilegier og immuniteter finder anvendelse på de i stk. 1 nævnte selskaber og enheder, for så vidt de er omfattet af EU-retten**, på medlemmerne af **deres** organer under udøvelsen af deres hverv og på **deres** personale **på samme vilkår og betingelser som dem, der gælder for Banken**.

Udbytte, kapitalgevinster og andre former for indtægter, der stammer fra **sådanne selskaber og enheder**, og som medlemmerne, bortset fra **Den Europæiske Union** og Banken, har ret til, forbliver imidlertid underkastet den **for dem** gældende skattelovgivning.

5. **Den Europæiske Unions Domstol** har, med de begrænsninger, der er fastsat i det følgende, kompetence til at afgøre tvister vedrørende foranstaltninger vedtaget af **organerne i et selskab eller en enhed, der er omfattet af EU-retten**. Klager over sådanne foranstaltninger kan indbringes af **sådanne selskabers eller enheders** medlemmer i deres egenkab af medlemmer eller af medlemsstaterne på de betingelser, der er fastsat i artikel 230 i **traktaten om Den Europæiske Unions funktionsmåde**.

6. Styrelsesrådet kan med enstemmighed beslutte at **give de ansatte i de selskaber og enheder, der er omfattet af EU-retten, adgang til ordninger, der er fælles med Banken, under overholdelse af de respektive interne procedurer**.

**Protokol om**  
**fastlæggelse af hjemstedet for Den Europæiske Unions institutioner og for visse af**  
**Unionens organer, kontorer, agenturer og tjenester**

REPRÆSENTANTERNE FOR MEDLEMSSTATERNES REGERINGER ER –

UNDER HENVISNING til artikel 289 i **traktaten om Den Europæiske Unions funktionsmåde**, og artikel 189 i traktaten om oprettelse af Det Europæiske Atomenergifællesskab,

UNDER HENVISNING til traktaten om Den Europæiske Union, og

IDET DE ERINDRER OM OG BEKRÆFTER afgørelsen af 8. april 1965 og uden at foregribe afgørelser om hjemstedet for fremtidige institutioner, organer og tjenester –

BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til traktaten om Den Europæiske Union og til **traktaten om Den Europæiske Unions funktionsmåde**:

Eneste Artikel

- a) Europa-Parlamentet har hjemsted i Strasbourg og afholder dér de tolv månedlige plenarmøderækker, herunder også budgetmøderækken. Yderligere plenarmøderækker afholdes i Bruxelles. Europa-Parlamentets udvalg holder deres møder i Bruxelles. Europa-Parlamentets Generalsekretariat og dets tjenester er fortsat placeret i Luxembourg.
- b) Rådet har hjemsted i Bruxelles. I april, juni og oktober holder Rådet sine samlinger i Luxembourg.
- c) Kommissionen har hjemsted i Bruxelles. De i artikel 7, 8 og 9 i afgørelsen af 8. april 1965 nævnte afdelinger er placeret i Luxembourg.
- d) **Den Europæiske Unions Domstol** har hjemsted i Luxembourg.
- e) Revisionsretten har hjemsted i Luxembourg.
- f) Det Økonomiske og Sociale Udvalg har hjemsted i Bruxelles.
- g) Regionsudvalget har hjemsted i Bruxelles.
- h) Den Europæiske Investeringsbank har hjemsted i Luxembourg.
- i) Den Europæiske Centralbank har hjemsted i Frankfurt.
- j) Den Europæiske Politienhed (Europol) har hjemsted i Haag.

**Protokol vedrørende****Den Europæiske Unions privilegier og immuniteter**

DE HØJE KONTRAHERENDE PARTER,

SOM TAGER I BETRAGTNING, at **Den Europæiske Union og Euratom i henhold til artikel 291 i traktaten om Den Europæiske Unions funktionsmåde og til artikel 191 i traktaten om oprettelse af Det Europæiske Atomenergifællesskab**, på medlemsstaternes område skal nyde de for opfyldelsen af deres opgaver nødvendige privilegier og immuniteter,

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til **traktaten om Den Europæiske Union og traktaten om Unionens funktionsmåde**:

## KAPITEL I

**UNIONENS EJENDOM, PENGEMIDLER, AKTIVER OG FORRETNINGER**

## Artikel 1

**Unionens** lokaler og bygninger er ukrænkelige. De er fritaget for ransagning, rekvisition, beslaglæggelse og ekspropriation. **Unionens** ejendom og aktiver kan ikke uden bemyndigelse fra Domstolen gøres til genstand for tvangsforanstaltninger, hvad enten disse er af administrativ eller judiciel art.

## Artikel 2

**Unionens** arkiver er ukrænkelige.

## Artikel 3

**Unionen**, deres aktiver, indtægter og øvrige ejendom er fritaget for alle direkte skatter.

Medlemsstaternes regeringer skal, hver gang det er muligt, træffe egnede forholdsregler med henblik på eftergivelse eller tilbagebetaling af indirekte skatter og afgifter, der indgår i prisen for fast ejendom eller løsøre, når **Unionen** til tjenestebud foretager større indkøb, hvis pris omfatter skatter og afgifter af denne art. Anvendelsen af disse bestemmelser må dog ikke fordreje konkurrencevilkårene inden for **Unionen**.

Der indrømmes ingen fritagelse for afgifter, skatter og gebyrer, som blot udgør betaling for almennyttige offentlige ydelser.

## Artikel 4

**Unionen** er fritaget for al told, såvel som for forbud og restriktioner vedrørende indførsel og udførsel af genstande, der er bestemt til tjenestebud; de således indførte genstande må ikke afhændes i det land, til hvilket de er blevet importeret — hverken mod eller uden vederlag — medmindre det sker på betingelser, som godkendes af det pågældende lands regering.

**Unionen** er endvidere fritaget for al told samt for forbud og restriktioner vedrørende indførsel og udførsel af deres publikationer.

## KAPITEL II

## MEDDELELSER OG PASSÉRSEDLER

## Artikel 5

**Unionens** institutioner skal med hensyn til deres tjenstlige meddelelser og forsendelse af alle deres dokumenter på enhver medlemsstats område tilstås samme behandling, som den pågældende stat tilstår diplomatiske repræsentationer.

**Unionens** institutioners tjenstlige korrespondance og andre tjenstlige meddelelser må ikke være genstand for censur.

## Artikel 6

Formændene for **Unionens** institutioner kan for disse institutioners medlemmer og ansatte udstede passérsedler, hvis form bestemmes af Rådet, **med simpelt flertal**, og som skal anerkendes af medlemsstaternes myndigheder som gyldig rejselegitimation. Disse passérsedler udstedes til tjenestemænd og andre ansatte i henhold til de betingelser, der er fastsat i vedtægten for tjenestemænd og i ansættelsesvilkårene for andre ansatte i **Unionen**.

Kommissionen kan indgå aftaler om anerkendelse af disse passérsedler som gyldig rejselegitimation på tredjelands område.

## KAPITEL III

## MEDLEMMER AF EUROPA-PARLAMENTET

## Artikel 7

Europa-Parlamentets medlemmer er hverken administrativt eller på anden måde undergivet nogen begrænsning i deres bevægelsesfrihed på vej til eller fra Europa-Parlamentets mødested.

Med hensyn til toldforhold og valutakontrol tilstås Europa-Parlamentets medlemmer:

- a) af deres egen regering samme lettelser, om tilstås højere tjenestemænd, der begiver sig til udlandet i midlertidigt officielt hverv
- b) af de øvrige medlemsstaters regeringer samme lettelser, som tilstås repræsentanter fra fremmede regeringer i midlertidigt officielt hverv.

## Artikel 8

Europa-Parlamentets medlemmer kan hverken eftersøges, tilbageholdes eller retsligt forfølges på grund af meningstilkendegivelser eller stemmeafgivelser under udøvelsen af deres hverv.

**Artikel 9**

Under Europa-Parlamentets mødeperioder nyder medlemmerne:

- a) på deres eget lands område de immuniteter, der tilstås medlemmerne af deres lands lovgivende forsamling
- b) på en anden medlemsstats område fritagelse for enhver form for tilbageholdelse og retsforfølgning.

De er ligeledes dækket af immuniteten på vej til eller fra Europa-Parlamentets mødested.

Immuniteten kan ikke påberåbes af et medlem, som gribes på fersk gerning, og kan ikke hindre Europa-Parlamentets ret til at ophæve et af dets medlemmers immunitet.

**KAPITEL IV****REPRÆSENTANTER FOR MEDLEMSSTATERNE, SOM DELTAGER I ARBEJDET I  
UNIONENS INSTITUTIONER****Artikel 10**

Repræsentanterne for medlemsstaterne, som deltager i arbejdet i **Unionens** institutioner, såvel som deres rådgivere og tekniske eksperter, nyder under udøvelsen af deres hverv og under rejse til og fra mødestedet sædvanlige privilegier, immuniteter og lettelser.

Denne artikel finder ligeledes anvendelse på medlemmerne af **Unionens** rådgivende organer.

**KAPITEL V****UNIONENS TJENESTEMÆND OG ØVRIGE ANSATTE****Artikel 11**

**Unionens** tjenestemænd og øvrige ansatte skal, uanset deres nationalitet, på hver af medlemsstaternes områder nyde følgende privilegier og immuniteter:

- a) fritagelse for retsforfølgning for de i embeds medfør foretagne handlinger, herunder mundtlige og skriftlige ytringer, dog med det forbehold, at bestemmelserne i traktaterne dels om reglerne vedrørende tjenestemænds og andre ansattes ansvar over for Unionen, dels om **Den Europæiske Unions Domstols** kompetence til at afgøre tvister mellem **Unionen** og deres tjenestemænd og øvrige ansatte, finder anvendelse. Denne fritagelse gælder også efter tjenesteforholdets ophør
- b) fritagelse sammen med deres ægtefæller og familiemedlemmer, der forsørges af dem, for indvandringsrestriktioner og bestemmelser om registrering af udlændinge
- c) med hensyn til valuta- og omvekslingsbestemmelser de samme lettelser, som sædvanligt indrømmes tjenestemænd i internationale organisationer

- d) ret til ved deres tiltræden af stillingen i det pågældende land toldfrit at indføre deres bohave og ejendele, samt ret til ved udløbet af deres tjenestetid i det pågældende land toldfrit at genudføre deres bohave og ejendele, i begge tilfælde under forbehold af de betingelser, som regeringen i det land, hvori retten udøves, måtte finde fornødne
- e) ret til toldfrit til personligt brug at indføre deres motorkøretøj, såfremt det er erhvervet i deres sidste bopælsland eller i det land, hvor de er statsborgere, under de vilkår, der gælder på dette lands hjemmemarked, samt ret til toldfrit at genudføre det, i begge tilfælde under forbehold af de betingelser, som regeringen i det pågældende land måtte finde fornødne.

#### Artikel 12

Løn, vederlag og honorarer, som **Unionen** udbetaler sine tjenestemænd og øvrige ansatte, beskattes til fordel for Unionen på de betingelser og efter den fremgangsmåde, der fastsættes af **Europa-Parlamentet** og Rådet **ved forordning efter den almindelige lovgivningsprocedure og efter høring af de berørte institutioner.**

Tjenestemændene og de øvrige ansatte fritages for national beskatning af løn, vederlag og honorarer, som de modtager fra **Unionen.**

#### Artikel 13

**Unionens** tjenestemænd og øvrige ansatte, som udelukkende med henblik på virksomhed i **Unionens** tjeneste tager ophold på en anden medlemsstats område end den stat, hvori de ved deres tiltræden i **Unionens** tjeneste havde bopæl i skattemæssig henseende, skal med hensyn til beskatning af indkomst og formue og til arveafgift samt til anvendelsen af de mellem **Unionens** medlemsstater indgåede overenskomster til undgåelse af dobbeltbeskatning af begge de nævnte stater betragtes, som om de havde bevaret deres tidligere bopæl, under forudsætning af, at denne var beliggende i en af **Unionens** medlemsstater. Denne bestemmelse finder ligeledes anvendelse på ægtefællen i det omfang, denne ikke er selverhvervende, og på børn, som de i denne artikel nævnte personer tager vare på og forsørger.

Løsøre, der tilhører de i foregående stykke omhandlede personer, og som befinder sig på opholdslandets område, fritages for arveafgift i denne stat; ved fastsættelsen af sådan afgift betragtes løsøret, med forbehold af tredjelandets ret og af eventuel anvendelse af bestemmelser i internationale overenskomster vedrørende dobbeltbeskatning, som om det befandt sig i den stat, hvor det skattemæssige hjemsted findes.

En bopæl, der udelukkende er erhvervet med henblik på virksomhed i andre internationale organisationers tjeneste, tages ikke i betragtning ved anvendelsen af denne artikels bestemmelser.

#### Artikel 14

**Europa-Parlamentet** og Rådet fastlægger ved forordning efter den almindelige lovgivningsprocedure og efter høring af de berørte institutioner, den ordning for sociale ydelser, som skal gælde for Unionens tjenestemænd og øvrige ansatte.

#### Artikel 15

**Europa-Parlamentet** og Rådet bestemmer ved forordning efter den almindelige lovgivningsprocedure og efter høring af andre interesserede institutioner, hvilke grupper

## Protokoller

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af **Unionens** tjenestemænd og øvrige ansatte bestemmelserne i artiklerne **11, 12, stk. 2, og 13** finder anvendelse helt eller delvis.

Medlemsstaternes regeringer vil med regelmæssige mellemrum blive underrettet om navn, stilling og adresse på de tjenestemænd og øvrige ansatte, der tilhører disse grupper.

### KAPITEL VI

#### PRIVILEGIER OG IMMUNITETER FOR DE REPRÆSENTATIONER FOR TREDJELANDE, DER ER AKKREDITERET HOS **UNIONEN**

##### Artikel 16

Den medlemsstat, på hvis område **Unionens** hovedsæde befinder sig, indrømmer de af tredjeland hos Unionen akkrediterede repræsentationer sædvanlige diplomatiske privilegier og immuniteter.

### KAPITEL VII

#### ALMINDELIGE BESTEMMELSER

##### Artikel 17

Privilegier, immuniteter og lettelser indrømmes **Unionens** tjenestemænd og øvrige ansatte udelukkende i Unionens interesse.

Enhver af **Unionens** institutioner skal ophæve den en tjenestemand eller anden ansat tilståede immunitet, såfremt den skønner, at ophævelse af immuniteten ikke strider mod **Unionens** interesser.

##### Artikel 18

Ved anvendelse af denne protokol handler **Unionens** institutioner i gensidig forståelse med de pågældende medlemsstaters ansvarlige myndigheder.

##### Artikel 19

Artiklerne **11-14** og **17** finder anvendelse på Kommissionens medlemmer.

##### Artikel 20

Artiklerne **11-14** og **17** finder anvendelse på **Den Europæiske Unions Domstols** dommere, generaladvokater, justitssekretær og assisterende referenter med forbehold af bestemmelserne i artikel 3 i protokollen om **statutten for Den Europæiske Unions Domstol** vedrørende dommernes og generaladvokaternes fritagelse for retsforfølgning.

##### Artikel 21

Denne protokol finder ligeledes anvendelse på Den Europæiske Investeringsbank, på medlemmerne af dens organer, på dens personale og på de repræsentanter for medlemsstaterne, der deltager i dens arbejde, dog med forbehold af bestemmelserne i protokollen om Bankens vedtægter.



Den Europæiske Investeringsbank er i øvrigt fritaget for alle skatter og lignende afgifter i anledning af udvidelser af dens kapital, såvel som for de forskellige formaliteter, som måtte være forbundet hermed i det land, hvor den har sit sæde. Tilsvarende skal dens opløsning og likvidation heller ikke give anledning til nogen skatteopkrævning. Endelig skal Bankens og dens organers arbejde, for så vidt det udøves under de i vedtægterne fastlagte betingelser, ikke medføre pålæggelse af omsætningsafgifter.

#### Artikel 22

Denne protokol gælder også for Den Europæiske Centralbank, for medlemmerne af dens besluttede organer og for dens personale med forbehold af bestemmelserne i protokollen om statuten for Det Europæiske System af Centralbanker og Den Europæiske Centralbank.

Den Europæiske Centralbank er i øvrigt fritaget for alle skatter og afgifter eller lignende i anledning af kapitaludvidelser såvel som forskellige formaliteter, som måtte være forbundet hermed i den stat, hvor banken har sit hjemsted. Bankens og dens besluttede organers virksomhed i henhold til statuten for Det Europæiske System af Centralbanker og Den Europæiske Centralbank pålægges ikke nogen form for omsætningsafgift.

**Protokol**  
**om konvergenskriterierne**

DE HØJE KONTRAHERENDE PARTER,

SOM ØNSKER at præcisere de konvergenskriterier, der er nævnt i artikel 117, stk. 1, i **traktaten om Unionens funktionsmåde**, og som skal vejlede **Unionen**, når den træffer **afgørelse om ophævelse af dispensationerne for medlemsstater med dispensation**,

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til **traktaten om Den Europæiske Union og traktaten om Unionens funktionsmåde**:

Artikel 1

Kriteriet vedrørende prisstabilitet som nævnt i artikel 117, stk. 1, første led, i **traktaten om Unionens funktionsmåde** betyder, at en medlemsstat har en holdbar prisudvikling og en gennemsnitlig inflationstakt, som betragtet i en periode på et år før undersøgelsen ikke overstiger inflationstakten i de højst tre medlemsstater, der har nået de bedste resultater med hensyn til prisstabilitet, med mere end 1,5 procentpoint. Inflationen måles ved hjælp af forbrugerprisindekset på et sammenligneligt grundlag, der tager hensyn til forskelle i nationale definitioner.

Artikel 2

Kriteriet vedrørende den offentlige budgetstilling som nævnt i artikel 117, stk. 1, andet led, i **traktaten om Unionens funktionsmåde** betyder, at medlemsstaten på tidspunktet for undersøgelsen, ikke er omfattet af en rådsafgørelse som omhandlet i nævnte traktats artikel 104, stk. 6, om, at den pågældende medlemsstat har et uforholdsmæssigt stort underskud.

Artikel 3

Kriteriet vedrørende deltagelse i det europæiske monetære systems valutakursmekanisme som nævnt i artikel 117, stk. 1, tredje led, i **traktaten om Unionens funktionsmåde** betyder, at en medlemsstat har overholdt de normale udsvingsmargener i det europæiske monetære systems valutakursmekanisme uden alvorlige spændinger i mindst de seneste to år før undersøgelsen. Medlemsstaten må især ikke i samme periode på eget initiativ have devalueret sin valutas bilaterale centralkurs over for **euroen**.

Artikel 4

Kriteriet vedrørende konvergens i rentesatserne som nævnt i artikel 117, stk. 1, fjerde led, i **traktaten om Unionens funktionsmåde** betyder, at en medlemsstat over en periode på et år før undersøgelsen har haft en gennemsnitlig langfristet nominel rentesats, som ikke overstiger den tilsvarende rentesats i de højst tre medlemsstater, der har nået de bedste resultater med hensyn til prisstabilitet, med mere end 2 procentpoint. Rentesatserne måles på grundlag af langfristede statsobligationer eller tilsvarende værdipapirer, idet der tages hensyn til forskelle i nationale definitioner.

## Artikel 5

Kommissionen tilvejebringer de statistiske data, der skal bruges med henblik på anvendelsen af denne protokol.

## Artikel 6

Rådet vedtager med enstemmighed på forslag af Kommissionen og efter høring af Europa-Parlamentet, EMI eller, alt efter tilfældet, **Den Europæiske Centralbank** samt det udvalg, der er nævnt i artikel 112 i **traktaten om Unionens funktionsmåde**, passende bestemmelser om detaljerne i forbindelse med konvergenskriterierne som nævnt i **nævnte traktats artikel 117**, som derefter skal træde i stedet for denne protokol.

**Protokol om**  
**visse bestemmelser vedrørende Det Forenede Kongerige Storbritannien**  
**og Nordirland**

DE HØJE KONTRAHERENDE PARTER,

SOM ANERKENDER, at Det Forenede Kongerige ikke er forpligtet eller bundet til at **indføre** euroen, uden at dets regering og Parlament har truffet særskilt beslutning derom;

**SOM KONSTATERER, at Det Forenede Kongeriges regering den 16. oktober 1996 og den 30. oktober 1997 meddelte Rådet, at den ikke agter at deltage i Den Økonomiske og Monetære Unions tredje fase,**

SOM TAGER TIL EFTERRETNING, at Det Forenede Kongeriges regering normalt finansierer sit lånebehov ved salg af gældsinstrumenter til den private sektor;

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til **traktaten om Den Europæiske Union og traktaten om Den Europæiske Unions funktionsmåde**:

1. Medmindre Det Forenede Kongerige meddeler Rådet, at det agter at **indføre euroen**, skal det ikke være forpligtet dertil.
2. Punkt 3-9 finder anvendelse **på det Det Forenede Kongerige under hensyn til meddelelsen fra Det Forenede Kongeriges regering til Rådet af 16. oktober 1996 og 30. oktober 1997.**
3. Det Forenede Kongerige bevarer alle sine beføjelser med hensyn til monetær politik i overensstemmelse med sin nationale lovgivning.
4. **Artikel 245a, stk. 2, bortset fra dette stykkes første og sidste punktum, artikel 245a, stk. 5, artikel 97b, stk. 2, artikel 104, stk. 1, 9 og 10, artikel 105, stk. 1-5, artikel 106, artikel 108, 109, 110 og 111, 115a, artikel 117, stk. 3, artikel 188 O og artikel 245b i traktaten om Den Europæiske Unions funktionsmåde** finder ikke anvendelse på Det Forenede Kongerige. **Det samme gælder traktatens artikel 99, stk. 2, for så vidt angår vedtagelsen af de dele af de overordnede retningslinjer for de økonomiske politikker, der vedrører euroområdet generelt.** Henvisninger i disse bestemmelser til Unionen eller medlemsstaterne omfatter ikke Det Forenede Kongerige, og henvisninger til de nationale centralbanker omfatter ikke Bank of England.
5. **Det Forenede Kongerige bestræber sig på at undgå et uforholdsmæssigt stort offentligt underskud.**

**Artikel 119 og 120 i traktaten om Den Europæiske Unions funktionsmåde** finder fortsat anvendelse på Det Forenede Kongerige. Artikel **112**, stk. 4, og artikel **118a**, finder anvendelse på Det Forenede Kongerige på samme måde, som hvis det havde en dispensation.

6. **Det Forenede Kongeriges stemmerettigheder suspenderes i forbindelse med rådsakter, hvortil der henvises i de i punkt 4 nævnte artikler, og i de tilfælde, der er nævnt i artikel 116, stk. 4, første afsnit, i traktaten om Den Europæiske Unions**

**funktionsmåde. Med henblik herpå finder nævnte traktats artikel 116, stk. 4, andet og tredje afsnit, anvendelse.**

7. Artikel 3, 4, 6, 7, 9.2, 10.1, 10.3, 11.2, 12.1, 14, 16, 18, 19, 20, 22, 23, 26, 27, 30-34, 49 og 51 i protokollen om statuten for Det Europæiske System af Centralbanker og Den Europæiske Centralbank (ESCB-statutten), finder ikke anvendelse på Det Forenede Kongerige.

Henvisninger i disse artikler til **Unionen** eller medlemsstaterne omfatter ikke Det Forenede Kongerige, og henvisninger til de nationale centralbanker eller indehavere af kapitalandele omfatter ikke Bank of England.

Henvisninger i ESCB-statuttens artikel 10.3 og 30.2 til **Den Europæiske Centralbanks** indskudte kapital omfatter ikke kapital indskudt af Bank of England.

8. **Artikel 118, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde** og ESCB-statuttens artikel 43-47 gælder, uanset om der er medlemsstater med dispensation, idet der dog skal foretages følgende ændringer:

- a) Henvisninger i artikel 43 til **Den Europæiske Centralbanks** og EMI's opgaver skal indbefatte sådanne opgaver, som fortsat skal udføres i tredje fase, dersom Det Forenede Kongerige træffer beslutning om, at det ikke vil **indføre euroen**.
- b) Foruden de i artikel 46 omhandlede opgaver skal **Den Europæiske Centralbank** ligeledes rådgive og medvirke i forbindelse med forberedelsen af enhver afgørelse, som Rådet i medfør af denne protokols artikel 9 litra a) og c), måtte træffe vedrørende Det Forenede Kongerige.
- c) Bank of England skal fuldt ud indbetale sin kapitalandel til **Den Europæiske Centralbanks** egenkapital som bidrag til dækning af **Den Europæiske Centralbanks** driftsudgifter på samme grundlag som de nationale centralbanker i medlemsstater med dispensation.

9. **Det Forenede Kongerige kan når som helst meddele Rådet, at det agter at indføre euroen. I så fald:**

- a) har Det Forenede Kongerige ret til at **indføre euroen**, forudsat at det opfylder de nødvendige betingelser. Rådet træffer efter anmodning fra Det Forenede Kongerige og på de i artikel 117, stk. 2, i **traktaten om Den Europæiske Unions funktionsmåde**, opstillede betingelser og efter den heri fastsatte fremgangsmåde afgørelse om, hvorvidt Det Forenede Kongerige opfylder de nødvendige betingelser.
- b) Bank of England indbetaler sit kapitalindskud fuldt ud, overfører valutareserveaktiver til **Den Europæiske Centralbank** og bidrager til dennes reserver på samme grundlag som den nationale centralbank i en medlemsstat, hvis dispensation er ophævet.
- c) Rådet træffer på de i artikel 117, stk. 3, i **traktaten om Den Europæiske Unions funktionsmåde** opstillede betingelser og efter den heri fastsatte fremgangsmåde alle øvrige nødvendige afgørelser for at sætte Det Forenede Kongerige i stand til at indføre euroen.

## Protokoller

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Hvis Det Forenede Kongerige **indfører euroen** i medfør af bestemmelserne i denne protokol, ophører punkt 3-9 med at gælde.

10. Uanset bestemmelserne i artikel 101 og artikel 116, stk. 3, i **traktaten om Den Europæiske Unions funktionsmåde** og statuttens artikel 21.1, kan Det Forenede Kongeriges regering opretholde sin »Ways and Means«-facilitet hos Bank of England, såfremt og så længe Det Forenede Kongerige ikke **indfører euroen**.

### Protokol om visse bestemmelser vedrørende Danmark

DE HØJE KONTRAHERENDE PARTER,

der i overensstemmelse med de generelle mål i **traktaterne** ønsker at løse en række særlige problemer, som består på nuværende tidspunkt,

SOM TAGER I BETRAGTNING, at den danske grundlov indeholder bestemmelser, der kan indebære en folkeafstemning i Danmark **inden Danmark giver afkald på sin undtagelse,**

**SOM TAGER I BETRAGTNING, at den danske regering den 3. november 1993 meddelte Rådet, at den ikke agter at deltage i Den Økonomiske og Monetære Unions tredje fase,**

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til **traktaten om Den Europæiske Union og traktaten om Unionens funktionsmåde:**

1. **På baggrund af den danske regerings meddelelse til Rådet af 3. november 1993 har Danmark en undtagelse.** Virkningen af denne undtagelse er, at alle artikler og bestemmelser i traktaterne og ESCB-statutten, hvori der henvises til en dispensation, vil gælde for Danmark.
2. For så vidt angår ophævelsen af denne undtagelse, vil proceduren i artikel **117, stk. 2,** kun blive indledt på Danmarks anmodning.
3. I tilfælde af, at undtagelsen ophæves, finder bestemmelserne i denne protokol ikke længere anvendelse.

**Protokol**  
**om Schengen-reglerne som integreret i Den Europæiske Union**

DE HØJE KONTRAHERENDE PARTER,

SOM NOTERER SIG at de aftaler om gradvis ophævelse af kontrollen ved de fælles grænser, som visse af Den Europæiske Unions medlemsstater undertegnede i Schengen den 14. juni 1985 og den 19. juni 1990, samt de dermed forbundne aftaler og de regler, der er vedtaget på grundlag af disse aftaler, **er blevet integreret i Den Europæiske Union ved Amsterdam-traktaten af 2. oktober 1997;**

**SOM ØNSKER at bevare Schengen-reglerne, som de er blevet udbygget siden Amsterdam-traktatens ikrafttræden, og udbygge disse regler for at bidrage til opfyldelsen af målet om at give unionsborgerne et område med frihed, sikkerhed og retfærdighed uden indre grænser,**

SOM TAGER HENSYN til Danmarks særlige stilling,

SOM TAGER I BETRAGTNING at Irland og Det Forenede Kongerige Storbritannien og Nordirland **ikke deltager i alle Schengen-reglerne**, men at der bør træffes foranstaltning til at gøre det muligt for disse medlemsstater at acceptere **andre bestemmelser i disse regler helt eller delvis,**

SOM ERKENDER at det som en konsekvens heraf er nødvendigt at anvende de bestemmelser i Traktaten om Den Europæiske Union og **traktaten om Den Europæiske Unions funktionsmåde**, der vedrører et **forstærket samarbejde** mellem nogle medlemsstater,

SOM TAGER I BETRAGTNING at det er nødvendigt at bevare et særligt forhold til Republikken Island og Kongeriget Norge, **idet disse to stater og de nordiske lande, der er medlemmer af Den Europæiske Union, er bundet af den nordiske pasunions regler,**

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til Traktaten om Den Europæiske Union og **traktaten om Den Europæiske Unions funktionsmåde:**

**Artikel 1**

**Kongeriget Belgien, Republikken Bulgarien, Den Tjekkiske Republik, Kongeriget Danmark, Forbundsrepublikken Tyskland, Republikken Estland, Den Helleniske Republik, Kongeriget Spanien, Den Franske Republik, Den Italienske Republik, Republikken Cypern, Republikken Letland, Republikken Litauen, Storhertugdømmet Luxembourg, Republikken Ungarn, Republikken Malta, Kongeriget Nederlandene, Republikken Østrig, Republikken Polen, Den Portugisiske Republik, Rumænien, Republikken Slovenien, Den Slovakiske Republik, Republikken Finland og Kongeriget Sverige bemyndiges til at indlede et forstærket indbyrdes samarbejde på de områder, der er omfattet af de af Rådet fastlagte bestemmelser, der udgør "Schengen-reglerne. Dette samarbejde gennemføres inden for Den Europæiske Unions institutionelle og juridiske rammer og under overholdelse af de relevante bestemmelser i Traktaten om Den Europæiske Union og **traktaten om Den Europæiske Unions funktionsmåde.****



## Artikel 2

Schengen-reglerne gælder for de medlemsstater, der er nævnt i artikel 1, jf. dog artikel 3 i tiltrædelsesakten af 16. april 2003 og artikel 4 i tiltrædelsesakten af 25. april 2005. Rådet træder i stedet for den eksekutivkomité, der blev nedsat ved Schengen-aftalerne.

## Artikel 3

Danmarks deltagelse i vedtagelsen af foranstaltninger, der udgør en udbygning af Schengen-reglerne, samt gennemførelsen og anvendelsen af disse foranstaltninger i Danmark er omfattet af de relevante bestemmelser i protokollen om Danmarks stilling.

## Artikel 4

Irland og Det Forenede Kongerige Storbritannien og Nordirland kan til enhver tid anmode om at deltage i nogle af eller alle disse regler.

Rådet træffer afgørelse om anmodningen med enstemmighed blandt medlemmerne som nævnt i artikel 1 og repræsentanten for den pågældende stats regering.

## Artikel 5

1. Forslag og initiativer til udbygning af Schengen-reglerne er underlagt de relevante traktatbestemmelser.

Hvis enten Irland eller Det Forenede Kongerige ikke inden for en rimelig tid skriftligt har meddelt Rådet, at de ønsker at deltage, anses i den forbindelse de i artikel 1 nævnte medlemsstater gældende samarbejdsområder, for at have opnået den bemyndigelse, der er omhandlet i **artikel 280d i traktaten om Den Europæiske Unions funktionsmåde**.

2. Hvis enten Irland eller Det Forenede Kongerige anses for at have givet meddelelse i medfør af en afgørelse i henhold til artikel 4, kan de ikke desto mindre inden tre måneder skriftligt meddele Rådet, at de ikke ønsker at deltage i et sådant forslag eller initiativ. I så fald deltager Irland eller Det forenede Kongerige ikke i vedtagelsen heraf. Fra denne seneste meddelelse at regne suspenderes proceduren for vedtagelse af den foranstaltning, der bygger på Schengen-reglerne, indtil afslutningen af proceduren i stk. 3 eller 4, eller indtil denne meddelelse trækkes tilbage på et hvilket som helst tidspunkt i løbet af denne procedure.

3. For den medlemsstat, der har givet den i stk. 2 nævnte meddelelse, ophører enhver afgørelse truffet af Rådet i medfør af stk. 4 fra datoen for ikrafttræden af den foreslåede foranstaltning med at finde anvendelse i det omfang, Rådet betragter som nødvendigt, og på de betingelser, der fastlægges i en afgørelse, der træffes af Rådet med kvalificeret flertal på forslag af Kommissionen. Afgørelsen træffes i overensstemmelse med følgende kriterier: Rådet søger at opretholde den videst mulige grad af deltagelse for den berørte medlemsstat, uden at det alvorligt berører den praktiske gennemførelse af de forskellige dele af Schengen-reglerne, og samtidig med at sammenhængen mellem disse dele respekteres. Kommissionen forelægger sit forslag snarest muligt efter den i stk. 2 nævnte meddelelse. Rådet træffer afgørelse senest fire måneder efter Kommissionens forslag, om nødvendigt efter at være trådt sammen to gange.

**4. Hvis Rådet ved udgangen af perioden på fire måneder ikke har vedtaget sin afgørelse, kan en medlemsstat straks anmode om, at sagen forelægges for Det Europæiske Råd. I så fald træffer Det Europæiske Råd på sit førstkommende møde med kvalificeret flertal på forslag af Kommissionen en afgørelse i overensstemmelse med kriterierne i stk. 3.**

**5. Hvis Rådet eller Det Europæiske Råd, alt efter omstændighederne, ved afslutningen af proceduren i stk. 3 eller 4 ikke har vedtaget en afgørelse, ophører suspensionen af proceduren for vedtagelse af den foranstaltning, der bygger på Schengen-reglerne. Hvis den pågældende foranstaltning efterfølgende vedtages, ophører enhver afgørelse truffet af Rådet i medfør af artikel 4 fra datoen for foranstaltningens ikrafttræden med at gælde for den berørte medlemsstat i det omfang og på de betingelser, der beslutes af Kommissionen, med mindre den pågældende medlemsstat har trukket sin meddelelse i henhold til stk. 2 tilbage inden vedtagelsen af foranstaltningen. Kommissionen træffer afgørelse senest på datoen for denne vedtagelse. Når Kommissionen træffer sin afgørelse, overholder den kriterierne i stk. 3.**

#### Artikel 6

Republikken Island og Kongeriget Norge deltager som associeret i gennemførelsen af Schengen-reglerne og den videre udvikling heraf. Relevante procedurer i den forbindelse fastsættes i en aftale, som Rådet indgår med disse stater, idet det træffer afgørelse med enstemmighed blandt de i artikel 1 nævnte medlemmer. En sådan aftale skal omfatte bestemmelser om Islands og Norges bidrag i forbindelse med eventuelle finansielle konsekvenser af gennemførelsen af denne protokol.

Rådet, der træffer afgørelse med enstemmighed, indgår en særskilt aftale med Island og Norge om fastsættelse af rettighederne og forpligtelserne i forholdet mellem Irland og Det Forenede Kongerige Storbritannien og Nordirland, på den ene side, og Island og Norge, på den anden side, på de områder af Schengen-reglerne, der gælder for disse stater.

#### Artikel 7

I forbindelse med forhandlingerne om optagelse af nye medlemsstater i Den Europæiske Union betragtes Schengen-reglerne og yderligere foranstaltninger, der træffes af institutionerne inden for rammerne heraf, som gældende regler, der skal accepteres fuldt ud af alle stater, der søger om optagelse.

## Protokol

### om anvendelse af visse aspekter af artikel 22a og 22b i traktaten om Unionens funktionsmåde på Det Forenede Kongerige og på Irland

DE HØJE KONTRAHERENDE PARTER,

SOM ØNSKER at løse visse spørgsmål vedrørende Det Forenede Kongerige og Irland,

SOM TAGER HENSYN til, at der i mange år har eksisteret særlige rejseordninger mellem Det Forenede Kongerige og Irland,

ER BLEVET ENIGE OM følgende bestemmelser, som knyttes som bilag til traktaten om Den Europæiske Unions funktionsmåde og Traktaten om Den Europæiske Union.

#### Artikel 1

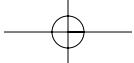
Uanset artikel 22a, 22b og artikel 69 i traktaten om Unionens funktionsmåde, andre bestemmelser i nævnte traktat eller i Traktaten om Den Europæiske Union, foranstaltninger vedtaget i henhold til disse traktater eller internationale aftaler indgået af Unionen eller af Unionen og dens medlemsstater med et eller flere tredjelande, har Det Forenede Kongerige ret til ved sine grænser til andre medlemsstater at foretage en sådan kontrol af personer, der ønsker at indrejse i Det Forenede Kongerige, som det finder nødvendigt, med det formål:

- a) at kontrollere retten til indrejse i Det Forenede Kongerige for statsborgere fra en medlemsstat, og for personer, over for hvilke ovennævnte personer har forsørgerpligt, og som udøver rettigheder i henhold til EU-lovgivningen, samt borgere i andre stater, der har fået sådanne rettigheder tillagt ved en aftale, som Det Forenede Kongerige er bundet af; og
- b) at træffe afgørelse om, hvorvidt andre personer skal have tilladelse til indrejse i Det Forenede Kongerige.

Intet i **artikel 22a, 22b og 69 i traktaten om Unionens funktionsmåde eller i nogen anden bestemmelse i nævnte traktat eller i Traktaten om Den Europæiske Union** eller i foranstaltninger, der er vedtaget i medfør af dem, anfægter Det Forenede Kongeriges ret til at vedtage eller foretage en sådan kontrol. Henvisninger til Det Forenede Kongerige i denne artikel omfatter områder, hvis eksterne forbindelser henhører under Det Forenede Kongeriges ansvar.

#### Artikel 2

Det Forenede Kongerige og Irland kan fortsætte med at indgå indbyrdes aftaler vedrørende personbevægelser mellem deres områder (det fælles rejseområde), under fuld overholdelse af rettighederne for de personer, der er nævnt i artikel 1, stk. 1, litra a), i denne protokol. Så længe de opretholder sådanne ordninger, finder artikel 1 i denne protokol derfor anvendelse på Irland på samme betingelser og vilkår som for Det Forenede Kongerige. Intet i **artikel 22a, 22b og 69 i traktaten om Unionens funktionsmåde**, i andre bestemmelser i nævnte traktat eller i Traktaten om Den Europæiske Union eller i foranstaltninger, som er vedtaget i medfør af dem, berører sådanne ordninger.



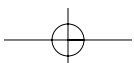
## Protokoller

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### Artikel 3

De øvrige medlemsstater har ret til ved deres grænser eller ethvert andet indrejsested til deres område at foretage en sådan kontrol af personer, der ønsker at indrejse på deres område fra Det Forenede Kongerige eller fra områder, hvis eksterne forbindelser henhører under dets ansvar, i samme øjemed som nævnt i artikel 1 i denne protokol, eller fra Irland, så længe bestemmelserne i artikel 1 i denne protokol gælder for Irland.

Intet i artikel **22a, 22b og 69 i traktaten om Unionens funktionsmåde** eller i nogen anden bestemmelse i nævnte traktat eller i Traktaten om Den Europæiske Union eller i foranstaltninger, der er vedtaget i medfør af dem, anfægter de øvrige medlemsstaters ret til at vedtage eller foretage en sådan kontrol.



## Protokol

### om Det Forenede Kongerige og Irlands stilling for så vidt angår området med frihed, sikkerhed og retfærdighed

SOM ØNSKER at løse visse spørgsmål vedrørende Det Forenede Kongerige og Irland,

SOM HENVISER TIL protokollen om anvendelse af visse aspekter af **artikel 22a og 22b i traktaten om Unionens funktionsmåde** på Det Forenede Kongerige og Irland,

ER BLEVET ENIGE OM følgende bestemmelser, som knyttes som bilag til **traktaten om Den Europæiske Unions funktionsmåde** og Traktaten om Den Europæiske Union:

#### Artikel 1

Med forbehold af artikel 3 deltager Det Forenede Kongerige og Irland ikke i Rådets vedtagelse af foranstaltninger, der foreslås i **henhold til tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde**. For rådsafgørelser, der skal vedtages med enstemmighed, kræves der enstemmighed blandt Rådets medlemmer med undtagelse af repræsentanterne for Det Forenede Kongeriges og Irlands regeringer.

**Ved anvendelsen af denne artikel defineres kvalificeret flertal som angivet i artikel 205, stk. 3, i traktaten om Den Europæiske Unions funktionsmåde.**

#### Artikel 2

Som følge af artikel 1 og med forbehold af artikel 3, 4 og 6, er ingen **bestemmelser i tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde**, ingen foranstaltninger vedtaget i henhold til nævnte afsnit, ingen bestemmelser i internationale aftaler indgået af Unionen i henhold til nævnte afsnit og ingen afgørelser truffet af Domstolen om fortolkning af sådanne bestemmelser eller foranstaltninger bindende for eller finder anvendelse i Det Forenede Kongerige eller Irland; ingen af disse bestemmelser, foranstaltninger eller afgørelser berører på nogen måde disse staters beføjelser, rettigheder og forpligtelser; ingen af disse bestemmelser, foranstaltninger eller afgørelser berører på nogen måde hverken gældende fællesskabsret eller EU-ret eller udgør en del af EU-lovgivningen, således som denne ret og denne lovgivning finder anvendelse på Det Forenede Kongerige eller Irland.

#### Artikel 3

1. Det Forenede Kongerige eller Irland kan inden tre måneder efter, at et forslag eller initiativ er blevet forelagt for Rådet i henhold til tredje del, afsnit IV, i **traktaten om Den Europæiske Unions funktionsmåde**, skriftligt meddele Rådets formand, at den pågældende stat ønsker at deltage i vedtagelsen og anvendelsen af sådanne foreslåede foranstaltninger, hvorefter den skal have ret hertil.

For rådsafgørelser, der skal vedtages med enstemmighed, kræves der enstemmighed blandt Rådets medlemmer med undtagelse af et medlem, der ikke har indgivet en sådan meddelelse. En foranstaltning, der vedtages i henhold til dette stykke, er bindende for alle de medlemsstater, der har deltaget i vedtagelsen.

**I de foranstaltninger, der vedtages i henhold til artikel 64 i traktaten om Den Europæiske Unions funktionsmåde, fastsættes betingelser for Det Forenede**

**Kongeriges og Irlands deltagelse i evalueringer vedrørende de områder, der er omfattet af tredje del, afsnit IV, i nævnte traktat.**

**Ved anvendelsen af denne artikel defineres kvalificeret flertal som angivet i artikel 205, stk. 3, i traktaten om Den Europæiske Unions funktionsmåde.**

2. Hvis en foranstaltning som nævnt i stk. 1 ikke kan vedtages inden for en rimelig tid med deltagelse af Det Forenede Kongerige eller Irland, kan Rådet vedtage den i henhold til artikel 1 uden deltagelse af Det Forenede Kongerige eller Irland. I så fald finder artikel 2 anvendelse.

#### Artikel 4

Det Forenede Kongerige eller Irland kan når som helst efter Rådets vedtagelse af en foranstaltning **i henhold til tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde**, meddele Rådet og Kommissionen, at den pågældende stat ønsker at acceptere foranstaltningen. I så fald finder proceduren **i artikel 280 F, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde** tilsvarende anvendelse.

#### Artikel 4a

1. Bestemmelserne i denne protokol finder anvendelse på Det Forenede Kongerige og Irland, også for så vidt angår foranstaltninger, der er foreslået eller vedtaget i medfør af tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde, og som ændrer en eksisterende foranstaltning, som de er bundet af,

2. I tilfælde, hvor Rådet, der træffer afgørelse på forslag af Kommissionen, beslutter, at Det Forenede Kongeriges eller Irlands ikke-deltagelse i den ændrede udgave af den eksisterende foranstaltning gør denne foranstaltning uanvendelig for andre medlemsstater eller Unionen, kan det imidlertid tilskynde Det Forenede Kongerige eller Irland til at give meddelelse i henhold til artikel 3 eller 4. I forbindelse med artikel 3 begynder en ny periode på to måneder at løbe fra datoen for Rådets beslutning.

Hvis Det Forenede Kongerige eller Irland ved udløbet af denne periode på to måneder fra Rådets beslutning ikke har givet meddelelse i henhold til artikel 3 eller 4, ophører den eksisterende foranstaltning med at være bindende for eller finde anvendelse på den pågældende medlemsstat, medmindre denne har givet meddelelse i henhold til artikel 4 inden ikrafttrædelsen af ændringsforanstaltningen. Dette har virkning fra datoen for ændringsforanstaltningens ikrafttræden eller fra udløbet af perioden på to måneder, alt eller hvilken dato der er den seneste.

I forbindelse med dette stykke, træffer Rådet efter en indgående drøftelse af sagen afgørelse med et kvalificeret flertal af de af dets medlemmer, som repræsenterer medlemsstater, der deltager eller har deltaget i vedtagelsen af ændringsforanstaltningen. Kvalificeret flertal i Rådet defineres som angivet i artikel 205, stk. 3, litra a), i traktaten om Den Europæiske Unions funktionsmåde.

3. Rådet, der træffer afgørelse med kvalificeret flertal på forslag af Kommissionen, kan beslutte, at Det Forenede Kongerige eller Irland skal afholde eventuelle direkte finansielle følger, der nødvendigvis og uundgåeligt opstår, fordi den pågældende medlemsstat ikke længere deltager i den eksisterende foranstaltning.

4. Denne artikel berører ikke artikel 4.

#### Artikel 5

En medlemsstat, der ikke er bundet af en foranstaltning vedtaget i **henhold til tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde**, påføres ingen finansielle følger af denne foranstaltning, bortset fra de administrationsomkostninger, der påhviler institutionerne, **medmindre Rådet træffer anden afgørelse med enstemmighed blandt alle sine medlemmer efter høring af Europa-Parlamentet.**

#### Artikel 6

Hvis Det Forenede Kongerige eller Irland i tilfælde, som er nævnt i denne protokol, er bundet af en foranstaltning, som Rådet har vedtaget i **henhold til tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde**, finder **de relevante bestemmelser i traktaterne**, anvendelse på denne stat for den pågældende foranstaltning.

#### Artikel 6a

Det Forenede Kongerige og Irland vil ikke være bundet af regler fastsat på grundlag af artikel 15a i traktaten om Den Europæiske Unions funktionsmåde, der vedrører medlemsstaternes behandling af personoplysninger under udøvelsen af aktiviteter, der er omfattet af nævnte traktats tredje del, afsnit IV, kapitel 4 eller 5, når Det Forenede Kongerige og Irland ikke er bundet af EU-regler vedrørende former for strafretligt samarbejde eller politisamarbejde, som led i hvilke de bestemmelser, der er fastsat på grundlag af artikel 15a, skal respekteres.

#### Artikel 7

Artikel 3 og 4 **og 4a** berører ikke **protokollen om Schengen-reglerne som integreret i Den Europæiske Union.**

#### Artikel 8

Irland kan skriftligt meddele Rådet, at Irland ikke længere ønsker at være omfattet af denne protokol. I så fald gælder de almindelige traktatbestemmelser for Irland.

#### Artikel 9

For Irlands vedkommende finder denne protokol ikke anvendelse på artikel 67a i traktaten om Den Europæiske Unions funktionsmåde.

**Protokol**  
**om Danmarks stilling**

DE HØJE KONTRAHERENDE PARTER,

SOM ERINDRER OM afgørelsen truffet af stats- og regeringscheferne, forsamlet i Det Europæiske Råd i Edinburgh den 12. december 1992, om visse problemer, som Danmark har rejst vedrørende Traktaten om Den Europæiske Union,

**SOM ER SIG BEVIDST, at en videreførelse under traktaterne af den retlige ordning, der findes i Edinburgh-afgørelsen, i betydelig grad vil begrænse Danmarks deltagelse på vigtige områder af EU-samarbejdet, og at det vil være i Unionens interesse at sikre EU-rettens integritet på området frihed, sikkerhed og retfærdighed,**

**SOM derfor ØNSKER, at der fastlægges en retlig ramme, som giver Danmark mulighed for at deltage i vedtagelsen af foranstaltninger, der foreslås på grundlag af tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde, og som med tilfredshed noterer sig, at Danmark agter at benytte sig af denne mulighed, når det er muligt, i overensstemmelse med sine forfatningsmæssige bestemmelser,**

SOM NOTERER SIG, at Danmark ikke vil forhindre de andre medlemsstater i at udvikle deres samarbejde yderligere med hensyn til foranstaltninger, der ikke er bindende for Danmark,

SOM HAR NOTERET SIG Danmarks holdning med hensyn til unionsborgerskab, Den Økonomiske og Monetære Union, forsvarspolitik og retlige og indre anliggender, som fastlagt i Edinburgh-afgørelsen,

SOM ERINDRER OM artikel 3 i **protokollen om Schengen-reglerne som integreret** i Den Europæiske Union,

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til **traktaten om Den Europæiske Unions funktionsmåde** og Traktaten om Den Europæiske Union:

DEL I

Artikel 1

Danmark deltager ikke i Rådets vedtagelse af foranstaltninger, der foreslås **i henhold til tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde**. For rådsafgørelser, der skal vedtages med enstemmighed, kræves der enstemmighed blandt Rådets medlemmer med undtagelse af repræsentanten for Danmarks regering.

**Ved anvendelsen af denne artikel defineres kvalificeret flertal som angivet i artikel 205, stk. 3, i traktaten om Den Europæiske Unions funktionsmåde.**

Artikel 2

**Ingen af bestemmelserne i tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde, ingen foranstaltninger, der er vedtaget i henhold til dette afsnit, ingen bestemmelser i internationale aftaler indgået af Fællesskabet i henhold til dette**



afsnit, og ingen afgørelser truffet af Domstolen om fortolkning af sådanne bestemmelser eller foranstaltninger eller foranstaltninger, der er ændret eller skal ændres i henhold til dette afsnit, er bindende for eller finder anvendelse i Danmark; ingen af disse bestemmelser, foranstaltninger eller afgørelser berører på nogen måde Danmarks beføjelser, rettigheder og forpligtelser; ingen af disse bestemmelser, foranstaltninger eller afgørelser berører på nogen måde gældende fællesskabsret eller EU-ret eller udgør en del af fællesskabslovgivningen, således som denne ret og denne lovgivning finder anvendelse på Danmark. Især er EU-retsakter på området politisamarbejde og retligt samarbejde i straffesager, der er vedtaget inden ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab, og som ændres, fortsat bindende for og finder anvendelse i Danmark uden ændringer.

#### Artikel 2a

**Artikel 2 i denne protokol finder ligeledes anvendelse i forbindelse med de regler fastsat på grundlag af artikel 15a i traktaten om Den Europæiske Unions funktionsmåde, der vedrører medlemsstaternes behandling af personoplysninger under udøvelsen af aktiviteter, der er omfattet af nævnte traktats tredje del, afsnit IV, kapitel 4 eller 5.**

#### Artikel 3

Danmark påføres ingen finansielle følger af foranstaltninger, som anført i artikel 1, bortset fra de administrationsomkostninger, der påhviler institutionerne.

#### Artikel 4

Inden 6 måneder efter at Rådet har truffet **foranstaltning** om et forslag om eller initiativ til udbygning af Schengen-reglerne **som er omfattet af del I**, træffer Danmark **foranstaltning** om, hvorvidt det vil gennemføre denne **foranstaltning** i sin nationale lovgivning. Hvis Danmark beslutter sig herfor, vil denne **foranstaltning** skabe en folkeretlig forpligtelse mellem Danmark og de øvrige **medlemsstater, der er bundet af foranstaltningen**.

Hvis Danmark beslutter ikke at gennemføre en råds**foranstaltning** som nævnt i stk. 1, overvejer de **medlemsstater, der er bundet af foranstaltningen og Danmark**, hvilke passende foranstaltninger der skal træffes.

## DEL II

#### Artikel 5

Med hensyn til foranstaltninger, der træffes af Rådet i **henhold til artikel 27, artikel 13, stk. 1, og artikel 28 til 31, i traktaten om Den Europæiske Union**, deltager Danmark ikke i udarbejdelsen og gennemførelsen af **Unionens** afgørelser og aktioner, som har indvirkning på forsvarsområdet. **Danmark vil ikke forhindre de andre medlemsstater i at udvikle deres samarbejde yderligere på dette område.** Danmark deltager derfor ikke i vedtagelsen heraf. Danmark vil ikke være forpligtet til at bidrage til finansiering af aktionsudgifter i forbindelse med sådanne foranstaltninger **eller til at stille militær kapacitet til rådighed for Unionen.**

**For retsakter, som Rådet skal vedtage med enstemmighed, kræves der enstemmighed blandt Rådets medlemmer med undtagelse af repræsentanten for den danske regering.**

## Protokoller

Ved anvendelsen af denne artikel defineres kvalificeret flertal som angivet i artikel 205, stk. 3, i traktaten om Den Europæiske Unions funktionsmåde.

**DEL III**

## Artikel 6

Artikel 1, 2 og 3 finder ikke anvendelse på foranstaltninger, der udpeger de tredjelande, hvis statsborgere skal være i besiddelse af visum ved passage af medlemsstaternes ydre grænser, eller foranstaltninger vedrørende en ensartet udformning af visa.

**DEL IV**

## Artikel 7

Danmark kan til enhver tid i overensstemmelse med sine forfatningsmæssige bestemmelser underrette de øvrige medlemsstater om, at det ikke længere ønsker at benytte sig af alle eller en del af bestemmelserne i denne protokol. I så fald vil Danmark fuldt ud gennemføre alle de til den tid gældende relevante foranstaltninger, som er truffet inden for rammerne af Den Europæiske Union.

**Artikel 8**

1. Danmark kan til enhver tid i overensstemmelse med sine forfatningsmæssige bestemmelser meddele de andre medlemsstater, at denne protokols del I fra den første dag i den måned, der følger efter meddelelsen, vil bestå af bestemmelserne i bilaget, jf. dog artikel 7. I så fald omnummereres artikel 5-8 i overensstemmelse hermed.
2. Seks måneder efter den dato, hvor den i stk. 1 nævnte meddelelse får virkning, vil alle Schengen-regler og foranstaltninger vedtaget til udbygning af disse regler, der indtil da har været bindende for Danmark som folkeretlige forpligtelser, være bindende for Danmark som EU-ret.

**BILAG**

## Artikel 1

Med forbehold af artikel 3 deltager Danmark ikke i Rådets vedtagelse af foranstaltninger, der foreslås i henhold til **tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde**. For retsakter, som Rådet skal vedtage med enstemmighed, kræves der enstemmighed blandt Rådets medlemmer med undtagelse af repræsentanten for den danske regering.

Ved anvendelsen af denne artikel defineres kvalificeret flertal som angivet i artikel 205, stk. 3, i **traktaten om Unionens funktionsmåde**.

## Artikel 2

Som følge af artikel 1 og med forbehold af artikel 3, 4 og 6 er ingen bestemmelser i **tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde**, ingen foranstaltninger vedtaget i henhold til nævnte afsnit, ingen bestemmelser i internationale aftaler ind-

gået af Unionen i henhold til nævnte afsnit og ingen afgørelser truffet af **Den Europæiske Unions Domstol** om fortolkning af sådanne bestemmelser eller foranstaltninger bindende for eller finder anvendelse i Danmark. Ingen af disse bestemmelser, foranstaltninger eller afgørelser berører på nogen måde Danmarks beføjelser, rettigheder og forpligtelser.

Ingen af disse bestemmelser, foranstaltninger eller afgørelser berører på nogen måde gældende fællesskabsret eller **EU-ret** eller udgør en del af **EU**-lovgivningen, således som de finder anvendelse på Danmark.

### Artikel 3

1. Danmark kan, inden tre måneder efter at et forslag eller initiativ er blevet forelagt for Rådet i henhold til tredje del, afsnit IV, i **traktaten om Den Europæiske Unions funktionsmåde**, skriftligt meddele Rådets formand, at det ønsker at deltage i vedtagelsen og anvendelsen af sådanne foreslåede foranstaltninger, hvorefter det skal have ret hertil.

2. Hvis en foranstaltning som nævnt i stk. 1 ikke kan vedtages inden for en rimelig tid med deltagelse af Danmark, kan Rådet vedtage en sådan foranstaltning i henhold til artikel 1 uden deltagelse af Danmark. I så fald finder artikel 2 anvendelse.

### Artikel 4

Danmark kan når som helst efter vedtagelsen af en foranstaltning i henhold til **tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde** meddele Rådet og Kommissionen, at det ønsker at acceptere foranstaltningen. I så fald finder proceduren i **nævnte** traktats artikel **280 F, stk. 1**, tilsvarende anvendelse.

### Artikel 4a

**Bestemmelserne i denne protokol finder anvendelse på Danmark, også for så vidt angår foranstaltninger, der er foreslået eller vedtaget i medfør af tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde, og som ændrer en eksisterende foranstaltning, som det er bundet af,**

**2. I tilfælde, hvor Rådet, der træffer afgørelse på forslag af Kommissionen, beslutter, at Danmarks ikke-deltagelse i den ændrede udgave af den eksisterende foranstaltning gør denne foranstaltning uanvendelig for andre medlemsstater eller Unionen, kan det imidlertid tilskynde Danmark til at give meddelelse i henhold til artikel 3 eller 4. I forbindelse med artikel 3 begynder en ny periode på to måneder at løbe fra datoen for Rådets beslutning.**

Hvis Danmark ved udløbet af denne periode på to måneder fra Rådets beslutning ikke har givet meddelelse i henhold til artikel 3 eller 4, ophører den eksisterende foranstaltning med at være bindende for eller finde anvendelse på Danmark, medmindre Danmark har givet meddelelse i henhold til artikel 4 inden ikrafttrædelsen af ændringsforanstaltningen. Dette har virkning fra datoen for ændringsforanstaltningens ikrafttræden eller fra udløbet af perioden på to måneder, alt eller hvilken dato der er den seneste.

I forbindelse med dette stykke træffer Rådet efter en indgående drøftelse af sagen afgørelse med et kvalificeret flertal af de af dets medlemmer, som repræsenterer medlemsstater, der deltager eller har deltaget i vedtagelsen af ændringsforanstaltningen. Kvalificeret flertal i Rådet defineres som angivet i artikel 205, stk. 3, litra a), i traktaten om Den Europæiske Unions funktionsmåde.

**3. Rådet, der træffer afgørelse med kvalificeret flertal på forslag af Kommissionen, kan beslutte, at Danmark skal afholde eventuelle direkte finansielle følger, der med nødvendigt og uundgåeligt opstår, fordi Danmark ikke længere deltager i den eksisterende foranstaltning.**

**4. Denne artikel berører ikke artikel 4.**

#### Artikel 5

1. Meddelelsen i henhold til artikel 4 skal gives senest seks måneder efter den endelige vedtagelse af en foranstaltning, der er en foranstaltning til udbygning af Schengenreglerne.

Hvis Danmark ikke giver meddelelse i overensstemmelse med artikel 3 og 4 vedrørende foranstaltninger til udbygning af Schengen-reglerne, overvejer de medlemsstater, der er bundet af disse foranstaltninger, og Danmark, hvilke passende skridt der skal tages.

2. En meddelelse i henhold til artikel 3 vedrørende foranstaltninger til udbygning af Schengen-reglerne anses uigenkaldeligt for at være en meddelelse i henhold til artikel 3 med hensyn til ethvert yderligere forslag eller initiativ til udbygning af denne foranstaltning, for så vidt et sådant forslag eller initiativ er en udbygning af Schengenreglerne.

#### Artikel 5a

Danmark vil **ikke** være bundet af regler fastsat på grundlag af **artikel 15a i traktaten om Unionens funktionsmåde**, der vedrører medlemsstaternes behandling af personoplysninger under udøvelsen af aktiviteter, der er omfattet af nævnte traktats tredje del, afsnit IV, kapitel 4 eller 5, **når** Danmark **ikke** er bundet af **EU**-regler vedrørende former for strafferetligt samarbejde eller politisamarbejde, som led i hvilke de bestemmelser, der er fastsat på grundlag af artikel **15a**, skal respekteres.

#### Artikel 6

Hvis Danmark i tilfælde, som er nævnt i denne del, er bundet af en foranstaltning, som Rådet har vedtaget i henhold til **tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde**, finder de relevante bestemmelser i nævnte traktat anvendelse på Danmark for så vidt angår den pågældende foranstaltning.

#### Artikel 7

I de tilfælde, hvor Danmark ikke er bundet af en foranstaltning, der er vedtaget i henhold til **tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde**, påføres det ingen finansielle følger af denne foranstaltning, bortset fra de administrationsomkostninger, der påhviler institutionerne, medmindre Rådet med enstemmighed efter høring af Europa-Parlamentet træffer anden afgørelse

**Protokol**  
**om asyl for statsborgerne i Den Europæiske Unions medlemsstater**

DE HØJE KONTRAHERENDE PARTER,

**SOM TAGER I BETRAGTNING, at Unionen i henhold til artikel 6, stk. 1 i Traktaten om Den Europæiske Union anerkender de rettigheder, friheder og principper, der er nævnt i chartret om grundlæggende rettigheder,**

**SOM TAGER I BETRAGTNING, at de grundlæggende rettigheder, som de er garanteret ved den europæiske konvention til beskyttelse af menneskerettigheder og grundlæggende frihedsrettigheder, udgør generelle principper i EU-retten i henhold til artikel 6, stk. 3, i Traktaten om Den Europæiske Union,**

SOM TAGER I BETRAGTNING, at **Den Europæiske Unions Domstol** har kompetence til at sikre, at Unionen overholder lovgivningen ved fortolkningen og anvendelsen af artikel 6, stk. 2. i Traktaten om den Europæiske Union,

SOM TAGER I BETRAGTNING at alle europæiske stater i henhold til artikel 34 i Traktaten om Den Europæiske Union skal overholde **værdierne i artikel 2, i traktaten om Den Europæiske Union**, når de ansøger om at blive medlem af Unionen,

SOM TAGER HENSYN TIL at der ved artikel 309 i **traktaten om Den Europæiske Unions funktionsmåde**, indføres en procedure, hvorefter visse rettigheder kan suspenderes, hvis en medlemsstat groft og vedvarende overtræder disse **værdier**,

SOM ERINDRER OM at enhver statsborger i en medlemsstat som unionsborger nyder en særlig status og beskyttelse, som medlemsstaterne skal garantere i henhold til bestemmelserne i anden del af **traktaten om Den Europæiske Unions funktionsmåde**,

SOM TAGER HENSYN TIL at **traktaten om Den Europæiske Unions funktionsmåde** indfører et område uden indre grænser og sikrer alle unionsborgere ret til at færdes og opholde sig frit på medlemsstaternes område,

SOM ØNSKER AT UNDGÅ at asylinstituttet udnyttes til andre formål end de tilsigtede,

SOM TAGER I BETRAGTNING at denne protokol respekterer karakteren af og målene med Genève-konventionen af 28. juli 1951 om flygtninges retsstilling,

ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til **traktaten om Den Europæiske Unions funktionsmåde**:

Eneste Artikel

På grund af niveauet for beskyttelse af grundlæggende rettigheder og frihedsrettigheder i medlemsstaterne i Den Europæiske Union anses medlemsstaterne som sikre oprindelseslande i relation til hinanden i alle retlige og praktiske spørgsmål i forbindelse med asyl. En ansøgning om asyl, der indgives af en statsborger i en medlemsstat, kan derfor kun tages i betragtning eller antages til behandling i en anden medlemsstat i følgende tilfælde:

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- a) hvis den medlemsstat, hvori ansøgeren er statsborger, under anvendelse af artikel 15 i konventionen til beskyttelse af menneskerettigheder og grundlæggende frihedsrettigheder efter ikrafttrædelsen af Amsterdam-traktaten træffer foranstaltninger til på sit område at fravige sine forpligtelser i henhold til denne konvention
- b) hvis proceduren i artikel 7, stk. 1, i Traktaten om Den Europæiske Union er indledt, og indtil Rådet **eller, hvis det bliver aktuelt, Det Europæiske Råd**, træffer beslutning i den forbindelse **med hensyn til den medlemsstat, hvori ansøgeren er statsborger**
- c) **hvis Rådet har vedtaget en afgørelse i henhold til artikel 7, stk. 1, i Traktaten om Den Europæiske Union vedrørende den medlemsstat, hvori asylansøgeren er statsborger, eller hvis Det Europæiske Råd har vedtaget en afgørelse i henhold til artikel 7, stk. 2, i Traktaten om Den Europæiske Union vedrørende den medlemsstat, hvori asylansøgeren er statsborger**
- d) hvis en medlemsstat ensidigt træffer en sådan beslutning vedrørende en ansøgning fra en statsborger i en anden medlemsstat; i så fald underrettes Rådet omgående; ansøgningen behandles ud fra formodningen om, at den er åbenbart grundløs, uden at dette, uanset tilfældets art, på nogen måde berører medlemsstatens beslutningskompetence.

**Protokol**  
**om økonomisk, social og territorial samhørighed**

DE HØJE KONTRAHERENDE PARTER,

**SOM ERINDRER OM, at artikel 3 i Traktaten om Den Europæiske Union bl.a. nævner det mål at fremme økonomisk, social og territorial samhørighed og solidaritet mellem medlemsstaterne, og at denne samhørighed er med blandt de områder med delt kompetence for Unionen, som er opregnet i artikel 4, stk. 2, litra c) i traktaten om Den Europæiske Unions funktionsmåde,**

SOM ERINDRER OM, at bestemmelserne i tredje del, afsnit **XIII, i traktaten om Den Europæiske Unions funktionsmåde** om økonomisk, social og **territorial** samhørighed som helhed udgør retsgrundlaget for en konsolidering og yderligere udvikling af **Unionens** indsats inden for den økonomiske og sociale samhørighed, herunder muligheden for at oprette en ny fond;

SOM ERINDRER OM, at bestemmelserne i artikel **161 i traktaten om Den Europæiske Unions funktionsmåde** forudser oprettelse af en samhørighedsfond,

SOM BEMÆRKER, at EIB udlåner store og stigende beløb til gavn for de mindst velstillede regioner;

SOM BEMÆRKER ønsket om større fleksibilitet ved tildelingen af midler fra strukturfondene;

SOM BEMÆRKER ønsket om en graduering af niveauerne for **EU**-deltagelsen i programmer og projekter i visse lande;

SOM BEMÆRKER forslaget om at tage større hensyn til Medlemsstaternes relative velstand i ordningen med egne indtægter;

BEKRÆFTER PÅ NY, at fremme af økonomisk, social og **territorial** samhørighed er afgørende for Unionens fulde udvikling og vedvarende succes;

BEKRÆFTER PÅ NY deres overbevisning om, at strukturfondene fortsat bør spille en betydelig rolle i gennemførelsen af Unionens målsætninger med hensyn til samhørighed;

BEKRÆFTER PÅ NY deres overbevisning om, at Den Europæiske Investeringsbank fortsat skal anvende størstedelen af sine midler på fremme af den økonomiske og sociale samhørighed, og erklærer, at de er villige til at tage EIB's kapitalbehov op til fornyet overvejelse, så snart det bliver nødvendigt af hensyn til dette formål,

ER ENIGE OM, at **samhørighedsfonden** skal yde finansielle bidrag fra Unionen til projekter på miljøområdet og inden for transeuropæiske net i Medlemsstater, der har en bruttonationalindkomst pr. indbygger på mindre end 90% af gennemsnittet i Unionen, og som har et program, der fører til opfyldelse af betingelserne for økonomisk konvergens som nævnt i artikel 104 C, **i traktaten om Unionens funktionsmåde,**

ERKLÆRER, at de agter at tillade en større fleksibilitetsmargen ved tildelingen af midler fra strukturfondene til opfyldelse af specifikke behov, som ikke er dækket af de nuværende regler om strukturfondene,

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ERKLÆRER, at de er villige til at graduere niveauerne for Unionens deltagelse i strukturfondenes programmer og projekter med henblik på at undgå uforholdsmæssigt store udgiftsstigninger på budgetterne i de mindre velstillede Medlemsstater,

ERKENDER behovet for regelmæssigt at overvåge de fremskridt, der er gjort i retning mod at opnå økonomisk, social og **territorial** samhørighed, tillige med deres vilje til at undersøge alle nødvendige foranstaltninger i den henseende,

ERKLÆRER, at de har til hensigt at tage større hensyn til de enkelte Medlemsstater bidragsevne i forbindelse med ordningen med egne indtægter og at undersøge, hvorledes der over for de mindre velstillede Medlemsstater kan kompenseres for de regressive elementer, som findes i den nuværende ordning med egne indtægter,

ER ENIGE OM, at denne protokol knyttes som bilag til **traktaten om den Europæiske Union og traktaten om Den Europæiske Unions funktionsmåde**.



### Protokol om artikel 40.3.3 i Irlands forfatning

DE HØJE KONTRAHERENDE PARTER

ER BLEVET ENIGE OM følgende bestemmelse, der knyttes som bilag til Traktaten om Den Europæiske Union og til **traktaten om Den Europæiske Unions funktionsmåde**:

»Intet i traktaterne, i traktaten om oprettelse af Det Europæiske Atomenergifællesskab og senere traktater og akter om ændring eller supplering af disse, berører anvendelsen i Irland af artikel 40.3.3 i Irlands forfatning.«

## Erklæringer

**A. ERKLÆRINGER VEDRØRENDE TRAKTATERNES BESTEMMELSER****1. Erklæring ad artikel 6, stk. 2, i traktaten om Den Europæiske Union**

Konferencen er enig om, at Unionens tiltrædelse af den europæiske konvention til beskyttelse af menneskerettigheder og grundlæggende frihedsrettigheder bør tilrettelægges på en sådan måde, at EU-rettens særlige karakteristika bevares. Konferencen noterer sig i den forbindelse, at der foregår en regelmæssig dialog mellem Den Europæiske Unions Domstol og Den Europæiske Menneskerettighedsdomstol, en dialog, der vil kunne styrkes, når Unionen tiltræder denne konvention.

**2. Erklæring ad artikel 9 B, stk. 5 og 6, artikel 9 D, stk. 6 og 7, og artikel 9 E i traktaten om Den Europæiske Union**

Ved valget af de personer, der skal beklæde posterne som formand for Det Europæiske Råd, formand for Kommissionen og Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, tages der passende hensyn til nødvendigheden af at respektere de geografiske og befolkningsmæssige forskelle i Unionen og dens medlemsstater.

**3. Erklæring ad artikel 9 C, stk. 9, i traktaten om Den Europæiske Union om Det Europæiske Råds afgørelse om udøvelsen af formandskabet for Rådet**

Konferencen erklærer, at Rådet bør påbegynde forberedelsen af afgørelsen om fastsættelse af procedurerne for gennemførelse af afgørelsen om udøvelsen af formandskabet for Rådet, så snart traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab er undertegnet, og at det bør godkendes den politisk inden seks måneder. Der er udarbejdet nedenstående udkast til Det Europæiske Råds afgørelse, der vil blive vedtaget på datoen for nævnte traktats ikrafttræden:

**Udkast til Det Europæiske Råds afgørelse  
om udøvelsen af formandskabet for Rådet**

**Artikel 1**

1. Formandskabet for Rådet, undtagen i sammensætningen for udenrigsanliggender, varetages af på forhånd sammensatte grupper på tre medlemsstater i en periode på 18 måneder. Disse grupper sammensættes ved ligelig rotation mellem medlemsstaterne under hensyn til deres forskelligartethed og den geografiske balance i Unionen.
2. Hvert medlem af gruppen varetager på skift i en periode på 6 måneder formandskabet for alle rådssammensætninger, undtagen udenrigsanliggender. De øvrige medlemmer af gruppen bistår formandskabet på alle dets ansvarsområder på grundlag af et fælles program. Medlemmerne af gruppen kan indbyrdes træffe afgørelse om alternative ordninger.

## Artikel 2

Formandskabet for Komitéen af Faste Repræsentanter for Medlemsstaternes regeringer varetages af en repræsentant for den medlemsstat i gruppen, der varetager formandskabet for Rådet for Almindelige Anliggender.

Formandskabet for Den Udenrigs- og Sikkerhedspolitiske Komité varetages af en repræsentant for Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik.

Formandskabet for de organer, der forbereder arbejdet i de forskellige rådssammensætninger, undtagen udenrigsanliggender, påhviler den medlemsstat i gruppen, der varetager formandskabet for den pågældende rådssammensætning, medmindre der i henhold til artikel 4 træffes anden afgørelse.

## Artikel 3

Rådet for Almindelige Anliggender sikrer sammenhæng og kontinuitet i de forskellige rådssammensætningers arbejde inden for rammerne af en flerårig planlægning i samarbejde med Kommissionen. De medlemsstater, der har formandskabet, træffer med bistand fra Generalsekretariatet for Rådet alle nødvendige foranstaltninger med henblik på tilrettelæggelsen og en hensigtsmæssig afvikling af Rådets arbejde.

## Artikel 4

Rådet vedtager en afgørelse om fastsættelse af gennemførelsesforanstaltningerne til nærværende afgørelse.

### 4. Erklæring ad artikel 9 C, stk. 4, i traktaten om Den Europæiske Union og artikel 205, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde

Konferencen erklærer, at afgørelsen om gennemførelsen af artikel 9 C, stk. 4, i traktaten om Den Europæiske Union og artikel 205, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde vil blive vedtaget af Rådet på datoen for undertegnelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab og træder i kraft på den dato, hvor nævnte traktat træder i kraft. Der er udarbejdet nedenstående udkast til afgørelse:

#### Udkast til Rådets afgørelse

om gennemførelse af artikel 9 C, stk. 4, i traktaten om Den Europæiske Union og artikel 205, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde dels mellem den 1. november 2014 og den 31. marts 2017 og dels fra den 1. april 2017

**RÅDET FOR DEN EUROPÆISKE UNION HAR –**

ud fra følgende betragtninger:

- (1) Der bør vedtages bestemmelser, der giver mulighed for en smidig overgang fra systemet med beslutningstagning med kvalificeret flertal i Rådet — som

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defineret i artikel 3, stk. 3, i protokollen om overgangsbestemmelser, der fortsat skal finde anvendelse indtil den 31. oktober 2014 — til afstemningssystemet i artikel 9 C, stk. 4, i traktaten om Den Europæiske Union og artikel 205, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde, der skal finde anvendelse fra den 1. november 2014, herunder i en overgangsperiode indtil den 31. marts 2017 specifikke bestemmelser som omhandlet i nævnte protokols artikel 3, stk. 2.

- (2) Der mindes om, at det er Rådets praksis at gøre alt for at styrke den demokratiske legitimitet af retsakter, der vedtages med kvalificeret flertal. –

### TRUFFET FØLGENDE AFGØRELSE:

#### Afdeling 1

Bestemmelser gældende mellem den 1. november 2014 og den 31. marts 2017

#### Artikel 1

Mellem den 1. november 2014 og den 31. marts 2017 gælder det, at hvis medlemmer af Rådet, der repræsenterer:

- a) mindst tre fjerdedele af den befolkningsandel eller
- b) mindst tre fjerdedele af det antal medlemsstater,

der kræves for at udgøre et blokerende mindretal ved anvendelse af artikel 9 C, stk. 4, første afsnit, i traktaten om Den Europæiske Union og artikel 205, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde, tilkendegiver, at de modsætter sig Rådets vedtagelse af en retsakt med kvalificeret flertal, drøfter Rådet spørgsmålet.

#### Artikel 2

Under disse drøftelser gør Rådet sit yderste for, inden for en rimelig tidsfrist og uden at dette berører obligatoriske tidsfrister, der er fastsat i EU-retten, at finde en tilfredsstillende løsning, der skal imødekomme ønsker fremsat af de medlemmer af Rådet, der er omhandlet i artikel 1.

#### Artikel 3

Med henblik herpå tager Rådets formand med bistand fra Kommissionen og under overholdelse af Rådets forretningsorden de nødvendige initiativer med henblik på at skabe et bredere grundlag for enighed i Rådet. Rådets medlemmer bistår formanden hermed.

## Afdeling 2

### Bestemmelser gældende fra den 1. april 2017

#### Artikel 4

Fra den 1. april 2017 gælder det, at hvis medlemmer af Rådet, der repræsenterer:

- c) mindst 55% af den befolkningsandel eller
- d) mindst 55% af det antal medlemsstater,

der kræves for at udgøre et blokerende mindretal ved anvendelse af artikel 9 C, stk. 4, første afsnit, i traktaten om Den Europæiske Union og artikel 205, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde, tilkendegiver, at de modsætter sig Rådets vedtagelse af en retsakt med kvalificeret flertal, drøfter Rådet spørgsmålet.

#### Artikel 5

Under disse drøftelser gør Rådet sit yderste for, inden for en rimelig tidsfrist og uden at dette berører obligatoriske tidsfrister, der er fastsat i EU-retten, at finde en tilfredsstillende løsning, der skal imødekomme ønsker fremsat af de medlemmer af Rådet, der er omhandlet i artikel 4.

#### Artikel 6

Med henblik herpå tager Rådets formand med bistand fra Kommissionen og under overholdelse af Rådets forretningsorden de nødvendige initiativer med henblik på at skabe et bredere grundlag for enighed i Rådet. Rådets medlemmer bistår formanden hermed.

## Afdeling 3 Afgørelsens ikrafttræden og virkning

#### Artikel 7

Denne afgørelse træder i kraft på datoen for ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab.

### 5. Erklæring ad artikel 9 D i traktaten om Den Europæiske Union

Konferencen mener, at Kommissionen, når den ikke længere omfatter statsborgere fra alle medlemsstater, bør være særlig opmærksom på nødvendigheden af at sikre fuld åbenhed i forbindelserne med alle medlemsstater. Kommissionen bør derfor have tætte kontakter med alle medlemsstater, uanset om de har en statsborger som medlem af Kommissionen, og den bør i den forbindelse være særlig opmærksom på nødvendigheden af at dele informationer med og konsultere alle medlemsstater.

Konferencen mener desuden, at Kommissionen bør træffe alle nødvendige foranstaltninger for at sikre, at der tages fuldt hensyn til de politiske, sociale og økonomiske realiteter i alle medlemsstater, herunder dem, der ikke har en statsborger som medlem af Kommissionen. Disse foranstaltninger bør bl.a. sikre, at der tages hensyn til

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disse medlemsstaters holdning ved indførelse af passende organisatoriske arrangementer.

### 6. Erklæring ad artikel 9 D, stk. 6 og 7, i traktaten om Den Europæiske Union

Efter konferencens opfattelse har Europa-Parlamentet og Det Europæiske Råd i overensstemmelse med traktaternes bestemmelser et fælles ansvar for, at den proces, der fører til valg af formanden for Europa-Kommissionen, forløber hensigtsmæssigt. Forud for afgørelsen i Det Europæiske Råd foretager repræsentanter for Europa-Parlamentet og Det Europæiske Råd derfor de nødvendige høringer inden for de rammer, der anses for mest velegnede. I overensstemmelse med artikel 9 D, stk. 7, første afsnit, skal disse høringer vedrøre profilen for kandidaterne til posten som formand for Kommissionen under hensyntagen til valget til Europa-Parlamentet. De nærmere retningslinjer for disse høringer kan fastsættes i god tid efter fælles aftale mellem Europa-Parlamentet og Det Europæiske Råd.

### 7. Erklæring ad artikel 249 B i traktaten om Den Europæiske Unions funktionsmåde

Konferencen tager til efterretning, at Kommissionen i overensstemmelse med sin faste praksis også fremover agter at søge bistand fra eksperter udnævnt af medlemsstaterne, når den udarbejder sine udkast til delegerede retsakter på området finansielle tjenesteydelser.

### 8. Erklæring ad artikel 188 R i traktaten om Den Europæiske Unions funktionsmåde

Med forbehold af de foranstaltninger, som Unionen vedtager for at opfylde sin solidaritetsforpligtelse over for en medlemsstat, der udsættes for et terrorangreb eller er offer for en naturkatastrofe eller en menneskeskabt katastrofe, er det ikke hensigten med nogen af bestemmelserne i artikel 188 R at anfægte andre medlemsstaters ret til at vælge de mest passende midler til at opfylde deres egen solidaritetsforpligtelse over for den pågældende medlemsstat.

### 9. Erklæring ad artikel 15a i traktaten om Den Europæiske Unions funktionsmåde

Konferencen erklærer, at når der på grundlag af artikel 15a skal vedtages regler om beskyttelse af personoplysninger, der kan have direkte indvirkning på den nationale sikkerhed, skal der tages behørigt hensyn til spørgsmålets særlige karakteristika. Den erindrer om, at den nugældende lovgivning (jf. navnlig direktiv 95/46/EF) indeholder specifikke undtagelser i denne henseende.

#### **10. Erklæring ad artikel 7a i traktaten om Den Europæiske Union**

Unionen tager hensyn til den særlige situation for de små lande, der har specifikke naboforbindelser med Unionen.

#### **11. Erklæring ad artikel 8 i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen er enig om, at Unionen i sine forskellige politikker som led i de generelle bestræbelser på at fjerne uligheder mellem kvinder og mænd vil sigte på at bekæmpe alle former for vold i hjemmet. Medlemsstaterne bør træffe alle nødvendige foranstaltninger til at forebygge og straffe disse kriminelle handlinger og støtte og beskytte ofrene.

#### **12. Erklæring ad artikel 42 og 69 B i traktaten om Den Europæiske Unions funktionsmåde**

Hvis et udkast til lovgivningsmæssig retsakt baseret på artikel 69 B, stk. 2, vil berøre vigtige aspekter af en medlemsstats sociale sikringssystem, herunder anvendelsesområde, omkostninger og økonomisk struktur, eller berøre dette systems økonomiske balance, jf. artikel 42, stk. 2, skal der efter konferencens opfattelse tages behørigt hensyn til den pågældende medlemsstats interesser.

#### **13. Erklæring ad artikel 67a og 188 K i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen erindrer om, at overholdelse af grundlæggende rettigheder og frihedsrettigheder navnlig indebærer, at der tages behørigt hensyn til beskyttelse og overholdelse af retten til en retfærdig rettergang for de berørte enkeltpersoner eller enheder. Med henblik herpå og for at sikre en grundig domstolskontrol af afgørelser, som underkaster en enkeltperson eller enhed restriktive foranstaltninger, skal sådanne afgørelser baseres på klare og entydige kriterier. Disse kriterier bør tilpasses den enkelte restriktive foranstaltnings særlige kendetegn.

#### **14. Erklæring ad artikel 87, stk. 2, litra c), i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen bemærker, at artikel 87, stk. 2, litra c), skal fortolkes i overensstemmelse med eksisterende retspraksis i Den Europæiske Unions Domstol for så vidt angår bestemmelsernes anvendelighed på støtte til visse områder i Forbundsrepublikken Tyskland, der er berørt af Tysklands tidligere deling.

**15. Erklæring ad artikel 104  
i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen bekræfter i forbindelse med artikel 104, at en forøgelse af vækstpotentialet og sikring af sunde budgetmæssige stillinger er de to grundpiller i Unionens og medlemsstaternes økonomiske politik og finanspolitik. Stabilitets og vækstpagten er et vigtigt redskab til opnåelse af disse mål.

Konferencen bekræfter sine forpligtelser med hensyn til bestemmelserne om stabilitets- og vækstpagten som rammen for samordningen af budgetpolitikkerne i medlemsstaterne.

Konferencen bekræfter, at et regelbaseret system er den bedste garanti for, at forpligtelserne håndhæves, og at alle medlemsstater behandles lige.

Inden for denne ramme bekræfter konferencen også sine forpligtelser med hensyn til målene i Lissabonstrategien: jobskabelse, strukturreformer og social sammenhængskraft.

Unionen stræber efter at opnå en afbalanceret økonomisk vækst og prisstabilitet. De økonomiske politikker og budgetpolitikkerne må derfor fastlægge de rette prioriteter med henblik på at opnå økonomiske reformer, innovation, konkurrenceevne og styrkelse af private investeringer og forbrug i faser med svag økonomisk vækst. Dette bør afspejles i den retning, man giver budgetbeslutningerne, både nationalt og på EU-niveau, navnlig ved omstrukturering af de offentlige indtægter og udgifter under overholdelse af budgetdisciplinen i overensstemmelse med traktaterne og stabilitets- og vækstpagten.

De budgetmæssige og økonomiske udfordringer, medlemsstaterne står over for, understreger betydningen af en sund budgetpolitik igennem hele den økonomiske cyklus.

Konferencen er enig om, at medlemsstaterne bør udnytte perioder med økonomisk opsving til aktivt at konsolidere deres offentlige finanser og forbedre deres budgetmæssige stillinger. Målet er gradvist at opnå et budgetoverskud i opgangsperioder, hvilket skaber det nødvendige råderum til at tilpasse sig økonomiske nedgangsperioder og således bidrage til de offentlige finansers holdbarhed på lang sigt.

Medlemsstaterne ser frem til eventuelle forslag fra Kommissionen samt yderligere bidrag fra medlemsstaterne med hensyn til en styrkelse og afklaring af gennemførelsen af stabilitets- og vækstpagten. Medlemsstaterne vil træffe alle nødvendige foranstaltninger med henblik på at forøge vækstpotentialet i deres økonomier. En forbedret økonomiskpolitisk samordning kunne støtte denne målsætning. Denne erklæring foregriber ikke den fremtidige debat om stabilitets- og vækstpagten.



**16. Erklæring ad artikel 140**  
**i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen bekræfter, at de politikker, der er beskrevet i artikel 140, i det væsentlige hører under medlemsstaternes kompetence. De tilskyndelses- og samordningsforanstaltninger, der skal træffes på EU-plan i overensstemmelse med denne artikel, har supplerende karakter. De tjener til at styrke samarbejdet mellem medlemsstaterne og ikke til at harmonisere nationale systemer. De garantier og kutyper, der i hver medlemsstat findes med hensyn til arbejdsmarkedsparternes ansvar, berøres ikke heraf.

Denne erklæring berører ikke de bestemmelser i traktaterne, der tildeler Unionen kompetence, herunder på social- og arbejdsmarkedsområdet.

**17. Erklæring ad artikel 158**  
**i traktaten om Den Europæiske Unions funktionsmåde**

Efter konferencens opfattelse kan ordet "ømråder" i artikel 158 omfatte østater i deres helhed, hvis de nødvendige kriterier er opfyldt.

**18. Erklæring ad artikel 78**  
**i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen bemærker, at bestemmelserne i artikel 78 skal anvendes i overensstemmelse med gældende praksis. Ordene "de foranstaltninger, der er truffet i Forbundsrepublikken Tyskland, (...) for at opveje de af Tysklands deling forårsagede ulemper for økonomien i visse af Forbundsrepublikkens områder, der berøres af denne deling," skal fortolkes i overensstemmelse med eksisterende retspraksis i Den Europæiske Unions Domstol.

**19. Erklæring ad artikel 163**  
**i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen er enig om, at Unionens indsats på området forskning og teknologisk udvikling skal udvise den tilbørlige respekt for de grundlæggende sigtelinjer og valg i medlemsstaternes forskningspolitik.

**20. Erklæring ad artikel 176 A**  
**i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen mener, at artikel 176 A ikke berører medlemsstaternes ret til at træffe de nødvendige forholdsregler med henblik på at sikre deres energiforsyning på de betingelser, der er nævnt i artikel 297.

**21. Erklæring ad artikel 69, stk. 1, andet afsnit,  
i traktaten om Den Europæiske Unions funktionsmåde**

Efter konferencens opfattelse bør de forordninger, der er nævnt i artikel 69, stk. 1, andet afsnit, i traktaten om Den Europæiske Unions funktionsmåde, tage hensyn til national lovgivning og praksis i forbindelse med iværksættelse af efterforskning af straffesager.

**22. Erklæring ad artikel 13a i traktaten om Den Europæiske Union**

Konferencen erklærer, at generalsekretæren for Rådet, den højtstående repræsentant for den fælles udenrigs- og sikkerhedspolitik, og Kommissionen sammen med medlemsstaterne bør indlede det forberedende arbejde vedrørende Tjenesten for EU's Optræden Udadtil, så snart traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab er undertegnet.

**23. Erklæring ad artikel 188 N i traktaten om Den Europæiske Unions  
funktionsmåde om medlemsstaternes forhandling og indgåelse  
af internationale aftaler vedrørende  
området med frihed, sikkerhed og retfærdighed**

Konferencen bekræfter, at medlemsstaterne kan forhandle og indgå aftaler med tredjelande eller internationale organisationer på de områder, der er omfattet af tredje del, afsnit IV, kapitel 3, 4 og 5, for så vidt disse aftaler overholder EU-lovgivningen.

**24. Erklæring ad artikel 280 D  
i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen erklærer, at når medlemsstaterne retter en anmodning om indførelse af et forstærket samarbejde, kan de angive, om de allerede på dette stadium har til hensigt at gøre brug af artikel 280 H om udvidet brug af kvalificeret flertal eller den almindelige lovgivningsprocedure.

**25. Erklæring ad artikel 311, stk. 6,  
i traktaten om Den Europæiske Unions funktionsmåde**

De høje kontraherende parter er indforstået med, at Det Europæiske Råd i henhold til artikel 311, stk. 6, træffer en afgørelse om ændring af Mayottes status i forhold til Unionen, således at dette territorium bliver en region i den yderste periferi som nævnt i artikel 311, stk. 1, og artikel 299, når de franske myndigheder meddeler Det Europæiske Råd og Kommissionen, at den igangværende udvikling med hensyn til øens interne status tillader det.

## **26. Erklæring ad artikel 40, stk. 2, i traktaten om Den Europæiske Union**

Konferencen finder, at muligheden for at udarbejde officielle oversættelser af traktaterne til de sprog, der er nævnt i artikel 40, stk. 2, bidrager til at opfylde målet om respekt for Unionens rige kulturelle og sproglige mangfoldighed, jf. artikel 3, stk. 3, fjerde afsnit. Konferencen bekræfter i den forbindelse, at Unionen lægger stor vægt på den kulturelle mangfoldighed i Europa, og at den fortsat vil vie disse og andre sprog særlig opmærksomhed.

Konferencen anbefaler, at de medlemsstater, der ønsker at gøre brug af muligheden i artikel 40, stk. 2, inden seks måneder efter undertegnelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab meddeler Rådet, hvilket eller hvilke sprog traktaterne vil blive oversat til.

## **27. Erklæring om forrang**

Konferencen erindrer om, at traktaterne og den ret, der vedtages af Unionen på grundlag af traktaterne, i overensstemmelse med EU-Domstolens faste retspraksis har forrang frem for medlemsstaternes ret på de betingelser, der er fastlagt i nævnte retspraksis.

Endvidere har konferencen besluttet at knytte Rådets Juridiske Tjenestes udtalelse om forrang, jf. dokument 11197/07 (JUR 260), som bilag til denne slutakt:

### *Udtalelse fra Rådets Juridiske Tjeneste af 22. juni 2007*

*“Det følger af Domstolens retspraksis, at fællesskabsrettens forrang er et af hovedprincipperne i fællesskabsretten. Ifølge Domstolen er dette princip uløseligt forbundet med Det Europæiske Fællesskabs karakter. Da der første gang blev afsagt dom på grundlag af denne faste retspraksis (Costa mod ENEL af 15. juli 1964, sag 6/64<sup>1</sup>), var fællesskabsrettens forrang ikke nævnt i traktaten. Det er er stadig tilfældet i dag. Den omstændighed, at princippet om fællesskabsrettens forrang ikke medtages i den nye traktat, ændrer ikke på nogen måde ved eksistensen af dette princip og ved Domstolens eksisterende retspraksis.”*

## **28. Erklæring om afgrænsning af kompetence**

Konferencen understreger, at beføjelser, der ikke er tildelt Unionen i traktaterne, forbliver hos medlemsstaterne i overensstemmelse med den kompetencefordeling mellem Unionen og medlemsstaterne, der er fastsat i traktaten om Den Europæiske Union og traktaten om Den Europæiske Unions funktionsmåde.

*N*

Note 1:

*“Af (...) dette fremgår det, at den af traktaten affødte ret, der hidrører fra en autonom retskilde, på grund af sin selvstændige natur retsligt må gå forud for en hvilken som helst national bestemmelse, idet den ellers ville miste sin fællesskabskarakter, og idet selve retsgrundlaget for Fællesskabet ellers ville blive bragt i fare.”*

## Erklæringer

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Når traktaterne på et bestemt område tildeler Unionen en kompetence, som den deler med medlemsstaterne, udøver medlemsstaterne deres kompetence, i det omfang Unionen ikke har udøvet sin kompetence eller har besluttet at ophøre med at udøve den. Sidstnævnte situation opstår, når de relevante EU-institutioner beslutter at ophæve en lovgivningsmæssig retsakt, især for bedre til stadighed at kunne sikre, at nærhedsprincippet og proportionalitetsprincippet overholdes. Rådet kan på initiativ af et eller flere af sine medlemmer (repræsentanter for medlemsstaterne) og i overensstemmelse med artikel 208 i traktaten om Den Europæiske Unions funktionsmåde anmode Kommissionen om at forelægge forslag til ophævelse af en lovgivningsmæssig retsakt. Konferencen hilser velkommen, at Kommissionen erklærer, at den vil vie disse anmodninger særlig opmærksomhed.

Repræsentanterne for medlemsstaternes regeringer, forsamlet på en mellemstatslig konference, kan ligeledes i overensstemmelse med den almindelige revisionsprocedure i artikel 33, stk. 25, i traktaten om Den Europæiske Union beslutte at ændre traktaterne, herunder også for at udvide eller indskrænke de beføjelser, der er tildelt Unionen i de nævnte traktater.

### 29. Erklæring om chartret om grundlæggende rettigheder

Chartret om grundlæggende rettigheder, der er juridisk bindende, bekræfter de grundlæggende rettigheder, som de er garanteret ved den europæiske konvention til beskyttelse af menneskerettigheder og grundlæggende frihedsrettigheder, og som de følger af medlemsstaternes fælles forfatningsmæssige traditioner.

Chartret udvider ikke anvendelsesområdet for EU-retten ud over Unionens beføjelser, etablerer ikke nye beføjelser eller opgaver for Unionen og ændrer ikke de beføjelser og opgaver, der er fastlagt i traktaterne.

### 30. Erklæring om den fælles udenrigs- og sikkerhedspolitik

Konferencen understreger, at de bestemmelser i traktaten om Den Europæiske Union, der omfatter den fælles udenrigs- og sikkerhedspolitik, herunder oprettelsen af posten som Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik og af en Europæisk Tjeneste for Unionens Optræden udadtil, ikke berører medlemsstaternes nuværende ansvar med hensyn til udformningen og gennemførelsen af deres udenrigspolitik og heller ikke til deres nationale repræsentation i tredjelande og internationale organisationer.

Konferencen minder også om, at bestemmelserne vedrørende den fælles sikkerheds- og forsvarspolitik ikke berører den specifikke karakter af medlemsstaternes sikkerheds- og forsvarspolitik.

Den understreger, at EU og medlemsstaterne fortsat er bundet af bestemmelserne i De Forenede Nationers Pakt og navnlig af Sikkerhedsrådets og dets medlemmers primære ansvar for opretholdelsen af international fred og sikkerhed.

### **31. Erklæring om den fælles udenrigs- og sikkerhedspolitik**

Ud over de specifikke regler og procedurer, der er nævnt i artikel 11, stk. 1 i traktaten om Den Europæiske Union, understreger konferencen, at bestemmelserne vedrørende den fælles udenrigs- og sikkerhedspolitik, herunder i relation til Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik og Tjenesten for Unionens Optræden Udadtil, ikke berører den enkelte medlemsstats nuværende retsgrundlag, ansvar og beføjelser med hensyn til udformningen og gennemførelsen af dens udenrigspolitik, dens nationale diplomatiske tjeneste, dens forbindelser med tredjelande og deltagelse i internationale organisationer, herunder en medlemsstats medlemskab af FN's Sikkerhedsråd.

Konferencen noterer sig også, at bestemmelserne vedrørende den fælles udenrigs- og sikkerhedspolitik ikke giver Kommissionen nye beføjelser til at tage initiativ til afgørelser eller øger Europa-Parlamentets rolle.

Konferencen erindrer også om, at bestemmelserne vedrørende den fælles sikkerheds- og forsvarspolitik ikke berører den særlige karakter af medlemsstaternes sikkerheds- og forsvarspolitik.

### **32. Erklæring om Den Europæiske Unions status som juridisk person**

Konferencen bekræfter, at det faktum, at Den Europæiske Union har status som juridisk person, ikke på nogen måde giver Unionen beføjelse til at lovgive eller handle ud over de beføjelser, som medlemsstaterne har tildelt Unionen i traktaterne.

### **33. Erklæring ad artikel 42, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen minder om, at Det Europæiske Råd i så tilfælde i overensstemmelse med artikel 9 B, stk. 4, træffer afgørelse ved konsensus.

### **34. Erklæring om beskyttelse af personoplysninger inden for retligt samarbejde i straffesager og politisamarbejde**

Konferencen erkender, at det kan blive nødvendigt med specifikke regler om beskyttelse af personoplysninger og om fri bevægelighed for disse oplysninger inden for retligt samarbejde i straffesager og politisamarbejde baseret på artikel 15a i traktaten om Den Europæiske Unions funktionsmåde som følge af disse områders specifikke karakter.

### **35. Erklæring ad artikel 152, stk. 4, litra c), i traktaten om Den Europæiske Unions funktionsmåde**

Konferencen erklærer, at de foranstaltninger, der skal vedtages i medfør af artikel 152, stk. 4, litra c), skal tilgodese fælles sikkerhedshensyn og have som mål at fastsætte høje kvalitets- og sikkerhedsstandarder, når nationale standarder med

## Erklæringer

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indvirkning på det indre marked ellers ville hindre, at der opnås et højt sundhedsbeskyttelsesniveau.

### 36. Erklæring ad artikel 308 i traktaten om Den Europæiske Unions funktionsmåde

Konferencen erklærer, at omtalen af Unionens mål i artikel 308, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde henviser til målene som fastsat i artikel 3, stk. 2 og 3, i traktaten om Den Europæiske Union og til målene i artikel 3, stk. 5, for så vidt angår Unionens optræden udadtil under del III, afsnit V, i nævnte traktat. Det er derfor udelukket, at en handling baseret på artikel 308 i traktaten om Den Europæiske Unions funktionsmåde kun vil forfølge mål fastsat i artikel 3, stk. 1, i traktaten om Den Europæiske Union. I den forbindelse bemærker konferencen, at der i

henhold til artikel 17, stk. 1, i traktaten om Den Europæiske Union ikke kan vedtages lovgivningsmæssige retsakter på området den fælles udenrigs- og sikkerhedspolitik.

### 37. Erklæring ad artikel 308 i traktaten om Den Europæiske Unions funktionsmåde

Konferencen understreger, at artikel 308 i traktaten om Den Europæiske Unions funktionsmåde, der er en integrerende del af et institutionelt system baseret på princippet om tildelte kompetencer, i henhold til Den Europæiske Unions Domstols faste retspraksis ikke kan tjene som grundlag for en udvidelse af Unionens beføjelser ud over de generelle rammer, der er oprettet ved bestemmelserne i traktaterne som helhed og i særdeleshed ved de bestemmelser, der definerer Unionens opgaver og aktiviteter. Under alle omstændigheder kan denne artikel ikke anvendes som grundlag for vedtagelse af bestemmelser, hvis materielle virkning ville være at ændre traktaterne uden at følge den heri fastsatte procedure herfor.

### 38. Erklæring om de praktiske foranstaltninger, der skal træffes ved ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab vedrørende formandskabet for Det Europæiske Råd og Rådet for Udenrigsanliggender

Såfremt traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab træder i kraft efter den 1. januar 2009, opfordrer konferencen dels de kompetente myndigheder i den medlemsstat, der varetager det halvårige formandskab for Rådet på det pågældende tidspunkt, dels den person, der bliver valgt til formand for Det Europæiske Råd, og den person, der bliver udnævnt til Unionens højststående repræsentant for udenrigsanliggender og sikkerhedspolitik, til i samråd med formandskabet for den efterfølgende halvårsperiode at træffe de konkrete foranstaltninger, der er nødvendige for en effektiv overgang med hensyn til de materielle og organisatoriske aspekter af udøvelsen af formandskabet for Det Europæiske Råd og Rådet for Udenrigsanliggender.

### **38a. Erklæring ad artikel 9 E i traktaten om Den Europæiske Union**

1. Konferencen erklærer, at der vil blive taget de behørigte kontakter til Europa-Parlamentet under det forberedende arbejde forud for udnævnelsen af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, der skal finde sted på datoen for ikrafttrædelsen af traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab i overensstemmelse med artikel 9 E i traktaten om Den Europæiske Union og artikel 5 i protokollen om overgangsbestemmelser, og hvis tjenesteperiode skal vare fra denne dato indtil afslutningen af tjenesteperioden for den Kommission, der fungerer på denne dato.

2. Konferencen minder endvidere om, at for så vidt angår Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik, hvis tjenesteperiode begynder i november 2009 samtidig med tjenesteperioden for den næste Kommission og har samme varighed, vil han eller hun blive udpeget i overensstemmelse med bestemmelserne i artikel 9 D og 9 E i traktaten om Den Europæiske Union.

### **39. Erklæring om en medlemsstats ikke-deltagelse i en foranstaltning baseret på afsnit IV i tredje del af traktaten om Den Europæiske Unions funktionsmåde**

Konferencen erklærer, at når en medlemsstat vælger ikke at deltage i en foranstaltning baseret på afsnit IV i tredje del af traktaten om Den Europæiske Unions funktionsmåde, har Rådet en indgående drøftelse om de mulige følger og virkninger af, at den pågældende medlemsstat ikke deltager i foranstaltningen.

Endvidere kan enhver medlemsstat opfordre Kommissionen til at undersøge situationen på grundlag af artikel 96 i traktaten om Den Europæiske Unions funktionsmåde.

De foregående afsnit foregriber ikke en medlemsstats mulighed for at forelægge spørgsmålet for Det Europæiske Råd.

### **39 A. Erklæring ad artikel 222 i traktaten om Den Europæiske Unions funktionsmåde vedrørende antallet af generaladvokater i Domstolen**

Konferencen erklærer, at hvis Domstolen i overensstemmelse med artikel 222, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde begærer, at antallet af generaladvokater skal forøges med tre (elleve i stedet for otte), vil Rådet, der træffer afgørelse med enstemmighed, give sin tilslutning hertil.

I så fald er konferencen enig om, at Polen, ligesom det allerede er tilfældet for Tysklands, Frankrigs, Italiens og Det Forenede Kongeriges vedkommende, skal have en permanent generaladvokat og ikke længere deltage i rotationsordningen, og at den nuværende rotationsordning skal indebære rotation mellem fem generaladvokater i stedet for tre.

Erklæringer

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**39 B. Erklæring om Europa-Parlamentets sammensætning**

Den yderligere plads i Europa-Parlamentet tildeles Italien.

**39 C. Erklæring om Det Europæiske Råds politiske tilslutning til udkastet til afgørelse om Europa-Parlamentets sammensætning**

Det Europæiske Råd vil give sin politiske tilslutning til det reviderede udkast til afgørelse om Europa-Parlamentets sammensætning på grundlag af Europa-Parlamentets forslag.



**B. ERKLÆRINGER VEDRØRENDE PROTOKOLLER  
KNYTTET SOM BILAG TIL TRAKTATERNE****39a. Erklæring ad artikel 10 i protokollen om overgangsbestemmelser**

Konferencen opfordrer Europa-Parlamentet, Rådet og Kommissionen til inden for rammerne af deres respektive beføjelser at bestræbe sig på i de relevante tilfælde og så vidt muligt inden for fristen på fem år i artikel 10, stk. 3, i protokollen om overgangsbestemmelser at vedtage retsakter, der ændrer eller erstatter retsakterne i artikel 10, stk. 1, i nævnte protokol.

**39b. Erklæring ad artikel 5 i protokollen om integration af Schengen-reglerne i Den Europæiske Union**

Konferencen noterer sig, at når en medlemsstat har givet meddelelse i henhold til artikel 5, stk. 2, i protokollen om integration af Schengen-reglerne i Den Europæiske Union om, at den ikke ønsker at deltage i et forslag eller et initiativ, kan denne meddelelse trækkes tilbage på et hvilket som helst tidspunkt inden vedtagelsen af den foranstaltning, der bygger på Schengen-reglerne.

**39c. Erklæring ad artikel 5, stk. 2, i protokollen om integration af Schengen-reglerne i Den Europæiske Union**

Konferencen erklærer, at når Det Forenede Kongerige eller Irland meddeler Rådet, at landet ikke agter at deltage i en foranstaltning, der bygger på en del af Schengen-reglerne, som det deltager i, har Rådet en indgående drøftelse om de mulige følger af, at den pågældende medlemsstat ikke deltager i foranstaltningen. Drøftelsen i Rådet bør foregå på baggrund af de oplysninger, Kommissionen har givet om forholdet mellem forslaget og Schengen-reglerne.

**39d. Erklæring ad artikel 5, stk. 3, i protokollen om integration af Schengen-reglerne i Den Europæiske Union**

Konferencen minder om, at hvis Rådet ikke træffer afgørelse efter en første indgående drøftelse af sagen, kan Kommissionen forelægge et ændret forslag med henblik på en ny indgående behandling i Rådet inden for fristen på fire måneder.

**39e. Erklæring ad artikel 5, stk. 3, 4 og 5, i protokollen om integration af Schengen-reglerne i Den Europæiske Union**

Konferencen noterer sig, at de betingelser, der skal fastlægges i den afgørelse, der er omhandlet i artikel 5, stk. 3, 4 og 5, i protokollen om integration af Schengen-reglerne i Den Europæiske Union, kan omfatte, at den pågældende medlemsstat skal afholde eventuelle direkte finansielle følger, der nødvendigvis og uundgåeligt opstår, fordi den ophører med at deltage i nogle af eller alle de Schengen-regler, der henvises til i enhver afgørelse, der træffes af Rådet i henhold til artikel 4 i nævnte protokol.

#### 40. Erklæring om protokollen om Danmarks stilling

Konferencen bemærker, at Danmark i forbindelse med retsakter, der skal vedtages af Rådet alene eller sammen med Europa-Parlamentet, og som både indeholder bestemmelser, der finder anvendelse på Danmark, og bestemmelser, der ikke finder anvendelse på Danmark, fordi deres retsgrundlag er omfattet af del I i protokollen om Danmarks stilling, erklærer, at Danmark ikke vil benytte sin stemmeret til at forhindre vedtagelsen af bestemmelser, der ikke finder anvendelse på Danmark.

Konferencen bemærker desuden, at Danmark på grundlag af erklæringen fra konferencen til artikel 188 R erklærer, at dansk deltagelse i tiltag eller retsakter i henhold til artikel 188 R vil ske i overensstemmelse med del I og del II i protokollen om Danmarks stilling.

#### 41. Erklæring om Italien

Konferencen noterer sig, at protokollen vedrørende Italien, der i 1957 blev knyttet som bilag til traktaten om oprettelse af Det Europæiske Økonomiske Fællesskab, som ændret ved vedtagelsen af traktaten om Den Europæiske Union, præciserede følgende:

**DE HØJE KONTRAHERENDE PARTER,**

**SOM ØNSKER at løse visse særlige problemer af interesse for Italien,**

**ER BLEVET ENIGE OM følgende bestemmelser, der knyttes som bilag til traktaten:**

**FÆLLESSKABETS MEDLEMSSTATER**

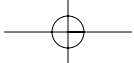
**TAGER TIL EFTERRETNING, at den italienske regering er i færd med at gennemføre et tiårsprogram for økonomisk udvikling, som tilsigter at afhjælpe den strukturelle uligevægt i den italienske økonomi, navnlig ved teknisk udbygning af de mindre udviklede områder i Syditalien og på øerne og ved at skabe nye beskæftigelsesmuligheder for herved at afskaffe arbejdsløsheden;**

**BRINGER I ERINDRING, at principperne og målet for den italienske regerings program er blevet taget i betragtning og godkendt af internationale samarbejdsorganisationer, hvoraf de er medlemmer;**

**ERKENDEK, at det er i deres fælles interesse, at målene for det italienske program nås;**

**ER ENIGE OM, med henblik på at lette den italienske regering gennemførelsen af denne opgave, at henstille til Fællesskabets institutioner at bringe alle de i traktaten omhandlede midler og fremgangsmåder i anvendelse, navnlig ved en passende udnyttelse af Den Europæiske Investeringsbanks og Den Europæiske Socialfonds midler;**

**ER AF DEN OPFATTELSE, at Fællesskabets institutioner ved anvendelsen af traktaten skal tage hensyn til de byrder, som den italienske økonomi må bære i de kommende år, og til ønskeligheden af at undgå, at der opstår farlige spændinger, navnlig**

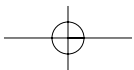
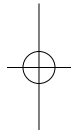
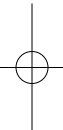


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Erklæringer

**vedrørende betalingsbalancen og beskæftigelsesniveauet, som kunne bringe anvendelsen af traktaten i Italien i fare;**

**ERKENDER især, at det ved anvendelsen af artiklerne 109 H og 109 I vil være nødvendigt at påse, at de foranstaltninger, som kræves truffet af den italienske regering, sikrer gennemførelsen af dens program for økonomisk udvikling og højnelse af befolkningens levestandard.”**



### C. ERKLÆRINGER FRA MEDLEMSSTATERNE

Konferencen har endvidere noteret sig følgende erklæringer, der er knyttet som bilag til denne slutakt:

#### 42. Erklæring fra Kongeriget Nederlandene ad artikel 270a i traktaten om Den Europæiske Unions funktionsmåde

Kongeriget Nederlandene vil tilslutte sig en afgørelse som nævnt i artikel 270a, stk. 2, andet afsnit, i traktaten om Den Europæiske Unions funktionsmåde, når Nederlandene ved en revision af den forordning, der er omhandlet i nævnte traktats artikel 269, stk. 3, har opnået en tilfredsstillende løsning med hensyn til sin for store negative nettobetalingssituation over for Unionens budget.

#### 43. Erklæring fra Kongeriget Nederlandene ad artikel 311 i traktaten om Den Europæiske Unions funktionsmåde

Kongeriget Nederlandene erklærer, at et initiativ til en afgørelse, jf. artikel 311, stk. 6, der tager sigte på at ændre De Nederlandske Antillers og/eller Arubas status i forhold til Unionen, kun vil kunne forelægges på grundlag af en beslutning truffet i overensstemmelse med Statuut voor het Koninkrijk der Nederlanden.

#### 44. Erklæring fra Forbundsrepublikken Tyskland, Irland, Republikken Ungarn, Republikken Østrig og Kongeriget Sverige

Tyskland, Irland, Ungarn, Østrig og Sverige bemærker, at de centrale bestemmelser i traktaten om oprettelse af Det Europæiske Atomenergifællesskab ikke er blevet væsentligt ændret siden traktatens ikrafttræden og bør ajourføres. De støtter derfor tanken om en konference mellem repræsentanterne for medlemsstaternes regeringer, der bør indkaldes snarest muligt.

#### 45. Erklæring fra Kongeriget Spanien og Det Forenede Kongerige Storbritannien og Nordirland

Traktaterne finder anvendelse på Gibraltar som et europæisk område, hvis udenrigs-anliggender varetages af en medlemsstat. Dette medfører ikke nogen ændringer af de to berørte regeringers respektive holdninger.

#### 46. Erklæring fra Det Forenede Kongerige Storbritannien og Nordirland om definitionen af udtrykket "statsborgere"

For så vidt angår traktaterne og traktaten om oprettelse af Det Europæiske Atomenergifællesskab samt alle akter, der er afledt af eller fortsat er gældende under disse traktater, gentager Det Forenede Kongerige den erklæring, det fremsatte den 31. december 1982, om definitionen af udtrykket "statsborgere", dog med den undtagelse, at henvisningen til "borgere i britiske protektorater" læses som "statsborgere i de britiske oversøiske territorier".

**47. Erklæring fra Kongeriget Spanien om definitionen af udtrykket “statsborgere”**

Spanien konstaterer, at enhver, der er statsborger i en medlemsstat, ifølge artikel 17b i traktaten om Den Europæiske Unions funktionsmåde har unionsborgerskab. Spanien noterer sig desuden, at det på det nuværende stadium af europæisk integration som afspejlet i traktaten om ændring af traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab kun er medlemsstaternes statsborgere, der er omfattet af det europæiske unionsborgerskabs specifikke rettigheder, medmindre EU-retten udtrykkeligt fastsætter andet. Spanien understreger endelig, at Europa-Parlamentet ifølge artikel 9 A og 8 A i traktaten om Den Europæiske Union nu repræsenterer unionsborgerne.

**48. Erklæring fra Det Forenede Kongerige Storbritannien og Nordirland om stemmeretten ved valg til Europa-Parlamentet**

Det Forenede Kongerige noterer sig, at artikel 9 A i traktaten om Den Europæiske Union og andre bestemmelser i traktaterne ikke tilsigter at ændre grundlaget for stemmeretten ved valg til Europa-Parlamentet.

**49. Erklæring fra Kongeriget Belgien om de nationale parlamenter**

Belgien præciserer, at såvel deputeretkammeret og senatet i det føderale parlament som sprogfællesskabernes og regionernes parlamentariske forsamlinger i henhold til belgisk forfatningsret handler som dele af det nationale parlamentariske system eller kamre i det nationale parlament i forbindelse med de beføjelser, der udøves af Unionen.

**50. Erklæring fra Republikken Letland og Republikken Ungarn om, hvordan navnet på den fælles valuta skal skrives i traktaterne**

Uden at ville anfægte den ensartede måde, hvorpå navnet på Den Europæiske Unions fælles valuta, der er omhandlet i traktaterne, skrives på pengesedler og mønter, erklærer Letland og Ungarn, at skrivemåden for navnet på den fælles valuta, herunder de afledte former, der er anvendt i den lettiske og den ungarske udgave af traktaterne, ikke har indflydelse på de gældende regler for det lettiske og det ungarske sprog.

**51. Erklæring fra Polen om Den Europæiske Unions charter om grundlæggende rettigheder**

Chartret berører ikke på nogen måde medlemsstaternes ret til at lovgive med hensyn til offentlig sædelighed, familieret samt beskyttelse af den menneskelige værdighed og respekten for menneskers fysiske og moralske integritet.

**52. Erklæring fra Det Forenede Kongerige ad artikel 67a i traktaten om Den Europæiske Unions funktionsmåde**

Det Forenede Kongerige støtter fuldt ud en robust indsats med hensyn til at vedtage økonomiske sanktioner, der har til formål at forebygge og bekæmpe terrorisme og dermed beslægtede aktiviteter, Det Forenede Kongerige erklærer derfor, at det agter at udøve sin ret i henhold til artikel 3 i protokollen om Det Forenede Kongeriges og Irlands stilling for så vidt angår området med frihed, sikkerhed og retfærdighed til at deltage i vedtagelsen af alle forslag, der fremsættes i henhold til artikel 67a i traktaten om Den Europæiske Unions funktionsmåde.

**53. Erklæring fra Republikken Polen vedrørende protokollen om anvendelsen af chartret om grundlæggende rettigheder i Polen og Det Forenede Kongerige**

Republikken Polen erklærer, at i betragtning af traditionen fra den sociale bevægelse "Solidaritet" og dens væsentlige bidrag til kampen for sociale og arbejdsmarkedsmæssige rettigheder respekterer Polen fuldt ud sociale og arbejdsmarkedsmæssige rettigheder som fastsat i EU-retten, navnlig de rettigheder, der er bekræftet i afsnit IV i Den Europæiske Unions charter om grundlæggende rettigheder.

**54. Erklæring fra Irland vedrørende artikel 3 i protokollen om Det Forenede Kongeriges og Irlands stilling for så vidt angår området med frihed, sikkerhed og retfærdighed**

Irland bekræfter sine forpligtelser med hensyn til Unionen som et område med frihed, sikkerhed og retfærdighed, hvor de grundlæggende rettigheder og medlemsstaternes forskellige retssystemer og retstraditioner respekteres, og med en højt sikkerhedsniveau for borgerne.

Irland erklærer sig på denne baggrund fast besluttet på at udøve sin ret i henhold til artikel 3 i protokollen om Det Forenede Kongeriges og Irlands stilling for så vidt angår området med frihed, sikkerhed og retfærdighed til at deltage i vedtagelsen af foranstaltninger i henhold til tredje del, afsnit IV, i traktaten om Den Europæiske Unions funktionsmåde i så vidt et omfang, som det anser det for muligt.

Irland vil navnlig i videst muligt omfang deltage i foranstaltninger, der er omfattet af politisamarbejdet.

Irland erindrer desuden om, at det i overensstemmelse med protokollens artikel 8 skriftligt kan meddele formanden for Rådet, at Irland ikke længere ønsker at være omfattet af denne protokol. Irland har til hensigt at vurdere, hvordan disse ordninger fungerer, senest tre år efter traktatens ikrafttræden.

## Edinburgh-Afgørelsen

11.-12. december 1992

### DANMARK OG DEN EUROPÆISKE UNION

Det Europæiske Råd mindede om, at den i Maastricht undertegnede Traktat ikke kan træde i kraft, medmindre alle tolv medlemsstater har ratificeret den i overensstemmelse med deres forfatningsmæssige bestemmelser, og det bekræftede betydningen af at afslutte processen snarest muligt som foreskrevet i artikel R i Traktaten uden at genåbne den nuværende tekst. Det Europæiske Råd noterede sig, at Danmark den 30. oktober forelagde medlemsstaterne et dokument med titlen "Danmark i Europa", hvori følgende punkter fremhæves som særlig vigtige:

- den forsvarspolitiske dimension,
- tredje fase af Den Økonomiske og Monetære Union,
- unionsborgerskab,
- samarbejde på området retlige og indre anliggender,
- åbenhed og gennemsækelighed i Fællesskabets beslutningsproces,
- faktisk gennemførelse af nærhedsprincippet,
- fremme af samarbejdet mellem medlemsstaterne for at bekæmpe arbejdsløsheden.

På denne baggrund er Det Europæiske Råd blevet enigt om følgende kompleks af ordninger, som er fuldt forenelige med Traktaten, og hvormed der tages sigte på at afhjælpe de danske problemer, hvorfor ordningerne udelukkende gælder for Danmark og ikke for andre nuværende eller kommende medlemsstater:

- a) En afgørelse om visse problemer, som Danmark har rejst vedrørende Traktaten om Den Europæiske Union (bilag 1). Denne afgørelse vil få virkning på den dato, hvor Traktaten om Den Europæiske Union træder i kraft;
- b) Erklæringerne i bilag 2.

Det Europæiske Råd har også taget de ensidige erklæringer i bilag 3, som vil blive knyttet til den danske akt om ratifikation af Traktaten om Den Europæiske Union, til efterretning.

### BILAG 1

#### **AFGØRELSE TRUFFET AF STATS- OG REGERINGSCHEFERNE, FORSAMLET I DET EUROPÆISKE RÅD, OM VISSE PROBLEMER, SOM DANMARK HAR REJST VEDRØRENDE TRAKTATEN OM DEN EUROPÆISKE UNION**

Stats- og regeringscheferne, forsamlet i Det Europæiske Råd, hvis regeringer har undertegnet Traktaten om Den Europæiske Union, der består af uafhængige og suveræne stater, som frit har besluttet, at de i overensstemmelse med de eksisterende Traktater i fællesskab vil udøve visse af deres kompetencer,

- som i overensstemmelse med Traktaten om Den Europæiske Union ønsker at løse særlige problemer, der i øjeblikket består specielt for Danmark, og som Danmark har rejst i sit memorandum "Danmark i Europa" af 30. oktober 1992,
- som henviser til konklusionerne fra Det Europæiske Råd i Edinburgh om nærhed og åbenhed, som noterer sig erklæringerne fra Det Europæiske Råd i Edinburgh om Danmark,
- som tager de ensidige erklæringer til efterretning, som Danmark har afgivet ved samme lejlighed, og som vil blive knyttet til Danmarks ratifikationsakt,

## Edinburgh-afgørelsen

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- som noterer sig, at Danmark ikke agter at gøre brug af de efterfølgende bestemmelser på en sådan måde, at det hindrer et snævrere samarbejde og virke blandt medlemsstater, der er foreneligt med Traktaten, og som ligger inden for rammerne af Unionen og dens målsætninger,

er blevet enige om følgende afgørelse:

### **AFSNIT A. Borgerskab**

Bestemmelserne vedrørende unionsborgerskab i anden del af Traktaten om Oprettelse af Det Europæiske Fællesskab giver medlemsstaternes statsborgere de yderligere rettigheder og den yderligere beskyttelse, der nævnes i den pågældende del. De træder ikke på nogen måde i stedet for nationalt statsborgerskab. Spørgsmålet om, hvorvidt en person besidder statsborgerskab i en medlemsstat, afgøres udelukkende efter vedkommende medlemsstats egen lovgivning.

### **AFSNIT B. Den Økonomiske og Monetære Union**

1. Protokollen om visse bestemmelser vedrørende Danmark, der er knyttet til Traktaten om Oprettelse af Det Europæiske Fællesskab, giver Danmark ret til at underrette Rådet for De Europæiske Fællesskaber om sin holdning vedrørende deltagelse i tredje fase af Den Økonomiske og Monetære Union. Danmark har meddelt, at det ikke vil deltage i tredje fase. Denne meddelelse vil få virkning samtidig med, at denne afgørelse træder i kraft.
2. Danmark vil derfor ikke deltage i ordningen med en fælles valuta og vil ikke være bundet af de regler vedrørende økonomisk politik, som kun gælder for medlemsstater, der deltager i tredje fase af Den Økonomiske og Monetære Union, og det vil bevare sine nuværende beføjelser med hensyn til pengepolitik i henhold til danske love og forskrifter, herunder Danmarks Nationalbanks beføjelser i pengepolitiske anliggender.
3. Danmark vil deltage fuldt ud i anden fase af Den Økonomiske og Monetære Union og vil fortsat deltage i valutasamarbejdet inden for EMS.

### **AFSNIT C. Forsvarspolitik**

Stats- og regeringscheferne tager til efterretning, at Danmark efter opfordring fra Den Vesteuropæiske Union (WEU) har fået status som observatør i denne organisation. De noterer sig også, at intet i Traktaten om Den Europæiske Union forpligter Danmark til at blive medlem af WEU.

I overensstemmelse hermed deltager Danmark ikke i udarbejdelsen og gennemførelsen af afgørelser og aktioner inden for Unionen, som har indvirkning på forsvarsområdet, men Danmark vil ikke hindre, at der udvikles et snævrere samarbejde mellem medlemsstater på dette område.

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**Note 1:** Ifølge bemærkningerne til lovforslag L 177, 1992/93 har de syv partier bag "Det Nationale Kompromis" besluttet, at de fire forbehold først kan ophæves gennem en folkeafstemning i Danmark.



#### **AFSNIT D. Retlige og indre anliggender**

Danmark vil deltage fuldt ud i samarbejdet om retlige og indre anliggender på grundlag af bestemmelserne i afsnit VI i Traktaten om Den Europæiske Union.

#### **AFSNIT E. Afsluttende bestemmelser**

Denne afgørelse får virkning på den dato, hvor Traktaten om Den Europæiske Union træder i kraft; dens gyldighedsperiode bestemmes efter artikel Q og artikel N, stk. 2, i denne Traktat.

Danmark kan til enhver tid i overensstemmelse med sine forfatningsmæssige bestemmelser underrette de øvrige medlemsstater om, at det ikke længere ønsker at benytte sig af alle eller en del af bestemmelserne i denne afgørelse. I så fald vil Danmark fuldt ud gennemføre alle til den tid gældende relevante foranstaltninger, som er truffet inden for rammerne af Den Europæiske Union.

### **BILAG 2**

#### **ERKLÆRINGER FRA DET EUROPÆISKE RÅD**

##### **ERKLÆRING OM SOCIAL- OG ARBEJDSMARKEDSPOLITIK, FORBRUGER- OG MILJØANLIGGENDER SAMT FORDELINGSPOLITIK**

1. Traktaten om Den Europæiske Union er ikke til hinder for, at de enkelte medlemsstater opretholder eller indfører strengere beskyttelsesforanstaltninger, som er forenelige med EF-Traktaten,
  - med hensyn til arbejdsvilkår og socialpolitik (Artikel 118 A, stk. 3, i EF-Traktaten og artikel 2, stk. 5, i aftalen om social- og arbejdsmarkedspolitikken indgået mellem Det Europæiske Fællesskabs medlemsstater med undtagelse af Det Forenede Kongerige),
  - med henblik på at opnå et højt forbrugerbeskyttelsesniveau (Artikel 129 A, stk. 3, i EF-Traktaten),
  - med henblik på at forfølge miljøbeskyttelsesmålsætningen (Artikel 130 T i EF-Traktaten).
2. De bestemmelser, der indføres med Traktaten om Den Europæiske Union, herunder bestemmelserne om Den Økonomiske og Monetære Union, giver den enkelte medlemsstat mulighed for at føre sin egen fordelingspolitik og for at opretholde eller forbedre sin sociale standard.

##### **ERKLÆRING OM FORSVAR**

Det Europæiske Råd tager til efterretning, at Danmark vil afstå fra sin ret til at varetage formandskabet for Unionen i alle tilfælde, hvor der er tale om at udarbejde og iværksætte afgørelser og aktioner under Unionen, der har indvirkning på forsvarsområdet. De regler for overtagelse af formandskabet, der normalt gælder, hvis en formand er ude af stand til at varetage sit hverv, finder da anvendelse. Disse regler finder tillige anvendelse med hensyn til **Unionens** repræsentation i internationale organisationer, på internationale konferencer og over for tredjelande.

**BILAG 3****ENSIDIGE ERKLÆRINGER FRA DANMARK, DER SKAL KNYTTES TIL DEN DANSKE AKT OM RATIFIKATION AF TRAKTATEN OM DEN EUROPÆISKE UNION, OG SOM DE ELLEVE ANDRE MEDLEMSSTATER VIL TAGE TIL EFTERRETNING  
ERKLÆRING OM UNIONSBOGERSKAB**

1. Unionsborgerskab er et politisk og juridisk begreb, som er helt forskelligt fra begrebet statsborgerskab i den betydning, hvori dette er anvendt i Kongeriget Danmarks grundlov og i det danske retssystem. Intet i Traktaten om Den Europæiske Union medfører umiddelbart eller på længere sigt nogen forpligtelse til at skabe et unionsborgerskab, der ligger på linje med statsborgerskab i en nationalstat. Spørgsmålet om Danmarks deltagelse i en sådan udvikling opstår derfor ikke.
2. Unionsborgerskab giver ikke på nogen måde i sig selv en statsborger fra en anden medlemsstat ret til at opnå dansk statsborgerskab eller nogen af de rettigheder, pligter, privilegier eller fordele, som følger af dansk statsborgerskab i medfør af Danmarks forfatningsmæssige, juridiske og administrative regler. Danmark vil fuldt ud respektere alle specifikke rettigheder, der udtrykkelig følger af Traktaten, og som gælder for statsborgere fra medlemsstaterne.
3. Statsborgere fra Det Europæiske Fællesskabs øvrige medlemsstater har i Danmark valgret og er valgbare ved kommunale valg som foreskrevet i artikel 8 B i Traktaten om Det Europæiske Fællesskab. Danmark har til hensigt at indføre lovbestemmelser, hvorved statsborgere fra de øvrige medlemsstater får valgret og bliver valgbare ved valg til Europa-Parlamentet, i god tid før det næste valg i 1994. Danmark agter ikke at acceptere, at de nærmere bestemmelser, der skal vedtages i henhold til denne artikels stk. 1 og 2, kan føre til regler, som afsvækker de rettigheder, der allerede er indrømmet i Danmark i denne henseende.
4. Med forbehold af de øvrige bestemmelser i Traktaten om Oprettelse af Det Europæiske Fællesskab kræves der ifølge artikel 8 E heri enstemmighed fra samtlige medlemmer af Rådet for De Europæiske Fællesskaber, dvs. alle medlemsstaterne, for at en bestemmelse med henblik på at styrke eller udbygge de rettigheder, der er fastsat i anden del af EF-Traktaten, kan vedtages. Endvidere må enhver enstemmig afgørelse, der træffes af Rådet, vedtages i hver enkelt medlemsstat i overensstemmelse med dens forfatningsmæssige bestemmelser, før den kan træde i kraft. I Danmark vil en sådan vedtagelse i tilfælde af afgivelse af suverænitet som defineret i den danske grundlov kræve enten et flertal på 5/6 af Folketingets medlemmer eller både et flertal blandt folketingsmedlemmerne og et flertal blandt vælgerne ved en folkeafstemning.

**ERKLÆRING OM SAMARBEJDE PÅ OMRÅDET RETLIGE OG INDRE ANLIGGENDER**

Ifølge artikel K.9 i Traktaten om Den Europæiske Union kræves der enstemmighed fra samtlige medlemmer af Rådet for Den Europæiske Union, dvs. alle medlemsstaterne, for at en beslutning om, at artikel 100 C i Traktaten om Oprettelse af Det Europæiske Fællesskab skal finde anvendelse på aktioner, der henhører under områder, som er nævnt i artikel K.1, nr. 1-6, kan vedtages. Endvidere må enhver enstemmig afgørelse, der træffes af Rådet, vedtages i hver enkelt medlemsstat i overensstemmelse med dens forfatningsmæssige bestemmelser, før den kan træde i kraft. I Danmark vil en sådan vedtagelse i tilfælde af afgivelse af suverænitet som defineret i den danske grundlov kræve enten et flertal på 5/6 af Folketingets medlemmer eller både et flertal blandt folketingsmedlemmerne og et flertal blandt vælgerne ved en folkeafstemning.

**SLUTERKLÆRING**

Ovenstående afgørelse og erklæringer er en følge af resultatet af den danske folkeafstemning den 2. juni 1992 om ratifikation af Maastricht-traktaten. For Danmarks vedkommende skal denne traktats målsætninger på de fire områder, der er nævnt i afgørelsens afsnit A-D, forstås på baggrund af disse dokumenter, som er forenelige med traktaten og ikke sætter spørgsmålstejn ved dens målsætninger.

## Danmark i Europa (Det Nationale Kompromis)

### **A. Indledende bemærkninger.**

*Det danske nej til EF-unionen den 2. juni 1992 var udtryk for, at et flertal af danskere ikke ønsker Europas forenede Stater. Det var derimod ikke et nej til EF-medlemskabet eller til europæisk samarbejde.*

Med afstemningsresultatet 50,7% nej-stemmer og 49,3% ja-stemmer stilles der krav til de politiske partier om at formulere et nationalt kompromis, der kan forene befolkningen om Danmarks deltagelse i det fortsatte EF-samarbejde.

Europa har brug for et forpligtende samarbejde. Det er forudsætningen for en europæisk fremgang, hvor fred, beskæftigelse og miljø skal sættes i højsædet. EF er den naturlige ramme for dette samarbejde. Målet er, at EF skal omfatte alle de europæiske demokratier.

Danmark skal ikke isoleres, men spille en aktiv rolle i Europas fortsatte udvikling.

Et nationalt kompromis danner samtidig udgangspunkt for en ny diskussion i befolkningen om en mere fremadrettet Europapolitik.

I denne sammenhæng er følgende målsætninger vigtige:

- EF skal demokratiseres, bl.a. så der bliver større åbenhed og gennemsuelighed i EF's beslutningsproces. Samtidig skal den danske EF-beslutningsproces ændres så Folketingets medlemmer og befolkningen i højere grad inddrages.
- Det europæiske samarbejde skal være mere åbent og fleksibelt, således at EFTA-landene samt de central- og østeuropæiske lande i højere grad inddrages i samarbejdet.

Der vil i Danmark blive afsat midler til et permanent bredt anlagt oplysningsarbejde om Europa. Folkelige organisationer og bevægelser må inddrages i dette arbejde.

### **B. Dansk udspil overfor de øvrige medlemslande.**

#### **1. Spørgsmål af fælles interesse.**

Det europæiske samarbejde må være i overensstemmelse med folkenes velbegrundede ønske om at kunne følge med i og aktivt deltage i de demokratiske beslutninger. Derfor må de enkelte landes argumenter og afstemninger i Ministerrådet være offentlige. Dette må også gælde kommende regeringskonferencer.

Der må arbejdes på at skabe offentlighed i forvaltningen, ligesom EF-forslag må foreligge på samtlige sprog før de gøres til genstand for substansbehandling.

De nationale parlamenter bør inddrages stærkere i samarbejdet med EF-institutionerne, og deres indbyrdes samarbejde må udbygges.

Europa-Parlamentets mulighed for at udøve effektiv kontrol med EF-institutionernes administration og forvaltning må forstærkes.

## Danmark i Europa (Det Nationale Kompromis)

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Der må være en klarere arbejdsdeling mellem EF og medlemslandene. Det må defineres hvilke politiske områder, der skal forblive nationale anliggender. Det gælder f.eks. sundhedspolitik, national kulturpolitik samt uddannelsernes indhold og opbygning. EF skal ikke bevæge sig ind på områder, der bedre eller lige så godt varetages af det enkelte land.

Der er ikke brug for de EF-regler, der lægger op til en bureaukratisk og alt for detaljeret styring.

Det må sikres, at EF's reguleringer så vidt muligt har rammekarakter, således at medlemslandene kan fylde dem ud med konkrete regler, der stemmer overens med de særlige nationale forudsætninger. Det indebærer tillige at brugen af forordninger begrænses.

For Danmarks vedkommende har det afgørende betydning at bevare aftalesystemets styrke på det danske arbejdsmarked.

EF's retsregler på arbejdsmarkedsområdet (den sociale dimension) må have karakter af mindstekrav til sikring af lønmodtagernes rettigheder.

Nærhedsprincippet bør her anvendes til at klargøre og justere EF-reglerne, således at der i højere grad tages hensyn til de forskellige traditioner og organisationsformer i de enkelte medlemslande.

Som retsprincip og som politisk rettesnor vil nærhedsprincippet spille en vigtig rolle for Fællesskabets fremtidige udformning. Det lægger op til en hensigtsmæssig afgrænsning af Fællesskabets og medlemsstaternes opgaver og skal derfor respekteres af fællesskabsorganerne på alle Fællesskabets aktivitetsområder.

Det må samtidig sikres, at klart grænseoverskridende problemer som f.eks. miljø fastholdes på fællesskabsplan.

Miljøpolitikken må bygge på bindende mindstekrav til miljøbeskyttelse på et stadigt stigende niveau. Der må udarbejdes en handlingsplan (hvidbog) om EF's arbejde for at styrke miljøindsatsen.

Danmark vil arbejde for at flest mulige afgørelser vedrørende minimumsbestemmelser i miljøpolitikken tages ved kvalificeret flertal.

Danmark vil endvidere i den konkrete udformning af retsakter arbejde for, at medlemslandene ikke kan tvinges til at gennemføre bestemmelser, der fører til lavere miljøbeskyttelseskrav.

Det indre marked må fastholdes og forbedres. Sker det ikke, er der betydelig risiko for tilbagefald til protektionisme og egoistisk økonomisk politik. Begge dele vil ødelægge mulighederne for bedre beskæftigelse og økonomisk fremgang.

Skal mulighederne i EF-landenes økonomiske samarbejde udnyttes tilfredsstillende, må EF i praksis gøre bekæmpelse af arbejdsløsheden til et afgørende mål for fællesskaberne. Der må tages initiativ til en forstærket, samordnet indsats for at øge beskæftigelsen i Europa. Det må udtrykkelig fastslås, at Danmark selv bestemmer sin sociale standard og sin fordelingspolitik.

## 2. Spørgsmål af særlig interesse for en aftale for Danmark.

I konsekvens af resultatet af folkeafstemningen 2. juni bortfaldt lovforslaget om Danmarks tiltrædelse af Maastricht-traktaten.

Danmark og de øvrige 11 lande, der har underskrevet denne traktat, står herefter overfor et reelt problem, der kun kan løses af alle 12 lande i fællesskab.

En aftale for Danmark skal respektere udfaldet af folkeafstemningen.

Aftalen skal være udtryk for reelle indholdsmæssige ændringer i forhold til det grundlag, der blev forkastet 2. juni.

Danmark må derfor i forhold til unionsmålsætningen - som den fremgår af Fælles Bestemmelser - præcisere, at EF-samarbejdet består af stater, som i henhold til de grundlæggende traktater frit har besluttet i fællesskab at udøve visse af deres kompetencer.

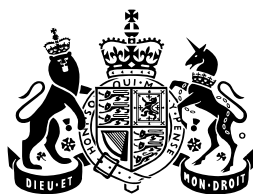
Den fælles udøvelse af kompetence har som sin selvfølgelige forudsætning, at Danmark er en uafhængig stat, således som denne status er defineret i den danske grundlov, og således som den udøves gennem de institutioner, folketing, regering, domstole og kongehus, der er forankrede i grundloven.

I sammenhæng med denne præcisering af målsætningen for Danmarks deltagelse i samarbejdet må en aftale indebære:

- Danmark holder sig udenfor den såkaldte forsvarspolitiske dimension, der indebærer medlemskab af Vestunionen samt fælles forsvarspolitik eller fælles forsvar.
- Danmark holder sig udenfor den fælles mønt og de krav til den økonomiske politik, der er knyttet til 3. fase af Den Økonomiske-Monetære Union. Men Danmark tillægger det stor betydning at deltage i valutasamarbejdet, som det er udformet i EMS'en, og således som det videreføres i 2. fase. Danmark må - også når andre EF-lande eventuelt går over i 3. fase - deltage i et nært valutasamarbejde i EF. Danmark skal således bevare sine nationale beføjelser i finans- og pengepolitikken - herunder lovgivningen om Danmarks Nationalbank.
- Danmark skal ikke være forpligtet i forhold til unionsborgerskabet. Men Danmark vil for herboende EF-borgere opretholde valgret og valgbarhed til kommunalvalgene og indføre begge dele til Europaparlamentsvalg.
- Danmark kan ikke godtage suverænitetsafgivelse på det retlige- og politimæssige område, men kan deltage på det hidtidige mellemstatslige grundlag. Det betyder, at Danmark for sit vedkommende ikke kan støtte, at dele af søjle 3 overføres til det over-nationale samarbejde i søjle 1.
- I konsekvens heraf får unionsmålsætningen, som den fremgår af Fælles Bestemmelser i Maastricht-traktaten ikke virkning for Danmark på de ovenstående punkter.

**Den danske aftale må være retlig bindende for alle 12 EF-lande og være uden tidsbegrænsning. Til gengæld vil Danmark ikke modsætte sig, at andre medlemslande på et eller flere af ovenstående områder går videre i samarbejdet.**

Aftalens nærmere juridiske form fastlægges i de kommende forhandlinger. Danmark ønsker i forbindelse med en dansk aftale at gøre det klart, at Danmark i øvrigt deltager fuldt ud i EF-samarbejdet.



Foreign &  
Commonwealth Office  
London

# THE REFORM TREATY

The British Approach to the  
European Union  
Intergovernmental Conference,  
July 2007



Foreign &  
Commonwealth Office  
London

# THE REFORM TREATY

## The British Approach to the European Union Intergovernmental Conference, July 2007

Presented to Parliament by the  
Secretary of State for Foreign and Commonwealth Affairs  
By Command of Her Majesty  
July 2007

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## **Foreword by the Prime Minister**

Britain has taken the lead in driving for a Europe that rises to the task of delivering opportunity, fairness and prosperity to all our citizens. Now, at the beginning of the 21st century, Europe faces new opportunities and new challenges: globalisation, trade, climate change, energy security, migration, and terrorism. These call for responses that are both global and local. Effective cooperation in the European Union is essential to meeting such challenges.

The proposed Reform Treaty provides the framework for the enlarged Union of 27 nation states to do this. The Treaty will set out clearly where the EU does and does not have power to act and that EU action is governed by the principle of subsidiarity. This will be overseen for the first time by national parliaments. It will enhance the EU's capacity to act where it is in our interest for it to do so.

Ahead of the June European Council, we set out our red lines to ensure that there would not be a transfer of power away from the UK on issues of fundamental importance to our sovereignty. The Mandate for the new amending Treaty meets these red lines. It ensures that our existing labour and social legislation remains intact; protects our common law system, police and judicial processes, as well as our tax and social security systems; and preserves our independent foreign and defence policy. In addition, the Treaty will make clear for the first time that national security remains a matter for Member States.

This amending Treaty will allow the EU to move on from debates about institutions to creating the outward-facing, flexible Europe that we need to meet the fundamental challenges of globalisation.

This White Paper sets out our approach to the forthcoming Intergovernmental Conference (IGC) which will negotiate the detailed text of the Reform Treaty for the European Union. The Government will ensure that the agreement made in June is reflected in the Reform Treaty. All 27 Member States will be part of this process, and I look forward to working with our partners. I am confident that the resulting amending Treaty will be good for Britain, and good for Europe.

**Gordon Brown**  
**July 2007**

## **Preface by the Secretary of State for Foreign and Commonwealth Affairs**

It is easy to take Europe's stability for granted. For centuries, Europe was disfigured by conflict. Tens of millions of innocent Europeans died in two world wars. In the last half of the last century, we forged a different way. Through enlargement, the benefits of European membership have spread to those countries that have only recently emerged from the shadow of Communist tyranny.

This year marks the 50th anniversary of the founding of the European Union, and is an opportunity not only to celebrate the achievements of the EU over the past half century, but also to look to the future.

We face a very different set of challenges today to those of 50, or even 10 years ago.

Globalisation of the world economy, climate change, terrorism and organised crime are just some of the new challenges we face. It is in the UK's interests to work with our EU partners to deliver more effectively for our citizens on these global challenges, to ensure that the EU responds as well to this century's challenges as it did to the last century's.

On 23 July 2007, the Member States of the European Union will launch an Intergovernmental Conference (IGC) to draw up a new Reform Treaty for an EU of 27 Member States.

The IGC will negotiate the reform of the European Union, to make its institutions more transparent, more accountable, more effective and more efficient, and thus better able to meet the challenges of the 21st century.

This White Paper sets out Her Majesty's Government's approach to the IGC. It also includes a comprehensive glossary and the text of the IGC Mandate agreed at the June 2007 European Council.

The full text of the Paper can also be accessed on the Foreign and Commonwealth Office website at [www.fco.gov.uk](http://www.fco.gov.uk)

**David Miliband**  
**July 2007**

## 1. Britain in Europe

Membership of the EU brings huge practical benefits to Britain: in trade, jobs, travel and work, lower prices and greater choice for consumers.

Working with our EU partners, we are better able to meet the global challenges that we face in today's increasingly interdependent world. By doing so we can achieve much more than we can on our own, on important issues such as climate change, energy, cross-border crime, counter terrorism and the fight against world poverty.

The EU is the world's largest multilateral trading bloc, with a single market of over 490 million people. Membership of this market brings significant opportunities to UK business and consumers and allows us to trade freely within Europe. 57% of total British trade is with the EU. In 2006, British companies exported almost £150 billion worth of goods to EU countries (statistics from HM Revenue and Customs). This represented 62% of our total exports, and a rise of 25% on the year before. In 2005, British companies invested €25.8 billion (£17.3 billion) in the EU – up from €17.1 billion (£11.5 billion) the year before. The single market fosters the competitiveness of Europe's businesses, reducing barriers to the free movement of goods, services, workers and capital across the EU, and is backed by tough competition rules.

But we must continually adapt to ensure the EU responds to new economic challenges. The EU must now increasingly face outwards, and ensure that it is globally competitive as rapidly emerging economies catch up. In this context, the EU needs to create and maintain conditions that will enable internationally competitive businesses to thrive, position it at the forefront of technological change and innovation, and provide its people with the skills and opportunities to ensure their collective prosperity in the future. China's trade is doubling every three years; it could be the world's largest exporter by 2010. India has also shown similarly dramatic growth in exports of services. By working through the EU, the UK increases its influence in global markets.

The 'Hampton Court' agenda agreed during the UK Presidency in 2005 is helping to refocus the EU's energies on tackling the challenges of the 21st century: further action on energy and climate security; developing a 21st century economy driven by innovation and high educational achievement; on migration and on improving security.

This agenda is making progress. For example, EU leaders agreed in March this year on a crucial package of measures on climate change and energy. A unilateral reduction in greenhouse gas emissions of 20% by 2020 – rising to 30% in the context of an international agreement – demonstrates that the EU is serious about tackling climate change. Through this agreement, the EU is setting itself on the path to becoming the world's first competitive, energy-secure, low carbon economy, and to continue to lead global efforts for effective measures to tackle climate change and energy security. The EU Emissions Trading Scheme and the future deployment of low carbon technologies such as Carbon Capture and Storage are further evidence that when the EU acts together, with Britain playing a leading role, we can take the right decisions to shape our future.

EU cooperation is also vital in the field of Justice and Home Affairs: working with EU partners on issues such as terrorism, illegal migration and organised crime provides a real opportunity to improve the security of UK citizens. The European Arrest Warrant, agreed in 2004, was used to extradite Hussain Osman, one of the attempted London Underground bombers of 21 July 2005, to the UK from Italy within weeks; a significant improvement on previous procedures. During 2004 and 2005 seventy-five suspects were

returned to the UK under the arrest warrant. The Dublin System, underpinned by the Eurodac database, enables the UK Immigration Service to identify asylum seekers who have already lodged a claim in another EU state, and return them to that state. The UK removes on average around 130 asylum seekers per month to other States under the Dublin arrangements. And the EU has recently agreed to make information sharing between European police forces easier, which will be a vital tool in combating organised crime and terrorism.

Enlargement has made Europe more secure and more prosperous. An enlarged community of stable, prosperous democracies helps to ensure that Europe stays free of armed conflict and that it responds effectively to threats from outside its borders. Enlargement has strengthened the competitiveness of the EU; the ten countries which joined in 2004 have, on average, significantly higher economic growth than the former 'EU 15'. The enlargement process promotes democracy, the rule of law and respect for human rights and minority rights in candidate countries, making Europe safer. Through the European Neighbourhood Policy, the EU is already driving positive change beyond the EU's borders, for example in Ukraine, to consolidate a ring of prosperity, security and stability among the EU's neighbours to the East and South.

More broadly, the UK has global interests and a significant role on the world stage, with a permanent seat on the UN Security Council and membership of the G8. We can and often do act alone. But on many foreign policy issues we can best achieve our foreign policy objectives by working with and through the EU. In many situations, 27 voices are louder than one, and when we speak in concert with our EU partners, our demands have a greater chance of being heard. The Common Foreign and Security Policy (CFSP) now makes a significant contribution to peace and security across the globe.

This position is strengthened by the European Security and Defence Policy (ESDP), which was a Franco-British initiative. This was a bold step forward in 1998: it now makes a significant contribution to conflict prevention and conflict resolution in the Balkans, Middle East, Africa and Asia. The EU has the ability to deploy a comprehensive range of tools to address crisis situations – civilian and military operations, diplomatic and political pressure, economic and development support. As such it covers the full spectrum of work that is needed to address conflict. ESDP is designed to complement our efforts in NATO by allowing the EU to share the burden for international crisis management. Our objective is both effective co-ordination on the ground and a strategic partnership between the two organisations.

Membership of the EU also brings benefits for the UK when negotiating external trade agreements. As the world's largest trading bloc, the EU has a leading role in the current round of World Trade Organisation negotiations. By negotiating with a single voice, the EU can make a stronger contribution to global trade negotiations than each Member State could alone.

The EU is crucial to the future prospects of this country. It is at the heart of our efforts to open markets, combat crime and tackle pollution. And we believe that the UK should remain a leader in the EU, shaping the agenda and advancing our objectives.

## 2. From the Treaty of Rome to the Reform Treaty

The European Economic Community (EEC), one of the predecessors of the European Union, came into being in 1958. It had just 6 Member States. The EEC operated on the premise that working together would enable neighbours to tackle cross-Europe issues. It had a Council of national Ministers from the Member States. It had a Commission to enforce the Treaty and propose new legislation, a Court of Justice to resolve disputes, and an Assembly of national parliamentarians to reinforce democratic accountability. Member States collectively agreed to confer certain powers (competences) on these institutions. By the time the UK joined the EEC in 1973, the principle of primacy (that European law takes precedence over national law) was also firmly established. That was the shape of what is now the European Union in the early 1970s. It is still recognisable today.

The most significant change to the EU in the last 30 years is how much it has grown. From the 6 founder members, the EU now has 27 Member States. Turkey, Croatia and the Republic of Macedonia are also candidates to join this unique success story. Yet the EU's rules and its institutions have not kept pace with this growth. The EU has continued to deliver real benefits, which is a tribute to the strength of the core concept of Member States cooperating to achieve more than they could alone. But we now need to review how the enlarged EU operates, to make it more effective, efficient and better able to deliver on the issues which most concern citizens. Europe also needs to be equipped to maximise the opportunities (and minimise the risks) that globalisation presents.

The recent debate on institutional reform has developed in three distinct phases, beginning with the Treaty of Nice in 2001, which made the first institutional changes to prepare for an enlarged EU. The Treaty establishing a Constitution for Europe was an attempt to create a new Treaty structure to make the EU more effective, more accountable, and easier to understand. An Intergovernmental Conference agreed the Constitutional Treaty, and it was signed in October 2004. However, the people of France and the Netherlands voted against the Constitutional Treaty in referenda in 2005.

Consequently, the June 2006 European Council tasked the German Presidency to present a report at the June 2007 European Council based on extensive consultations with Member States about the future of Europe. The 50th Anniversary Declaration in March 2007 identified the EU's key future challenges and set a target for placing the EU on a "renewed common basis" before the European Parliament elections in June 2009. The British Government's overall aim in discussions was to improve the ability of the EU to deliver for its citizens. As set out in the Minister for Europe's statement of December 2006, the UK's approach was guided by the following six principles: pursuing British interests, a modern and effective EU, consensus among 27 Member States, emphasis on subsidiarity, making best use of existing Treaties, and openness to global change.

At the European Council in June 2007, EU leaders agreed a detailed Mandate for a new Reform Treaty. The proposed Reform Treaty will close the institutional debate for the foreseeable future.

Member States have agreed and ratified four main amending Treaties since the UK joined the EU (the changes introduced are set out below) – the Reform Treaty will be the fifth. This new Treaty will be firmly in the tradition of the Single European Act and the Treaties of Maastricht, Amsterdam and Nice. As the IGC Mandate clearly states, it will be based upon the existing Treaties and it will not have constitutional characteristics. It will not contain any of the symbols of the Union, the anthem, flag and motto. It will not fundamentally change the relationship between the EU and the Member States.

## Previous Treaties and what they did

The Member States have agreed successive Treaties to extend the benefits of cooperation to other areas.

The **Single European Act** of 1986 set out to complete the single market and provided for cooperation in foreign policy. It also strengthened the role of the European Parliament introducing a 'cooperation procedure' in several policy areas and requiring the Parliament's approval for the accession of new Member States, as well as for the conclusion of Association Agreements with countries outside the EU. It set up the Court of First Instance and conferred powers on the Commission to implement Council rules. It introduced the concept of the convergence of economic and monetary policies, and added the objective of harmonisation of health and safety of workers, and the policies of economic and social cohesion, research and technological development and the environment.

The **Treaty of Maastricht** of 1992 established the European Union, structured into a 'three-pillars' system. It renamed the European Economic Community as the European Community (first pillar). It established the Common Foreign and Security Policy (second pillar), cooperation in Justice and Home Affairs (third pillar) and paved the way for the single currency. Maastricht also extended the EU's competence to new policy areas, including economic and monetary policy, social policy, education, vocational training and youth, culture, public health, consumer protection, Trans-European Networks, industry and development. It established the concept of Union citizenship. It also provided for an Ombudsman and established a Committee of the Regions. Maastricht introduced the 'co-decision' procedure for the European Parliament.

The **Treaty of Amsterdam** of 1997 added provisions on social policy and employment. It also moved asylum, immigration and judicial cooperation in civil matters to the first pillar. It incorporated the Schengen acquis on free movement in a protocol, added a protocol on subsidiarity and proportionality and endorsed the progressive framing of a common defence policy. It provided for closer cooperation between sub-groups of Member States (now called 'enhanced cooperation'), though not in foreign policy. Amsterdam simplified and extended the co-decision procedure. It also added a provision on suspending certain rights of Member States if the Council finds a Member State to be in serious breach of principles of liberty, democracy, respect for human rights and fundamental freedoms and rule of law.

The **Treaty of Nice** of 2001 adjusted the institutions in the light of the EU's enlargement. It reweighted the system of Council voting and altered the number of seats in the European Parliament, as well as streamlining the structure and functioning of the European Commission. Nice developed the provisions for enhanced cooperation including extending it to foreign policy (but not defence). A declaration on the future of the Union, annexed to the Final Act of the Intergovernmental Conference which negotiated the Treaty of Nice, began the process which led to the drafting of the now defunct Constitutional Treaty.

### 3. IGC Process

The detailed Mandate for the IGC agreed at the June European Council by Heads of State and Government is at Annex B. The Portuguese Presidency will open an Intergovernmental Conference to agree the EU Reform Treaty on 23 July 2007. Technical work will be taken forward by lawyers from Member States and, if necessary, a senior officials' group. The Treaty text will be discussed by Foreign Ministers at their informal meeting on 8 September.

The Presidency aims to reach agreement on a text at the informal European Council in Lisbon on 18 October, and sign it off formally at the 13-14 December European Council. This is an ambitious timetable.

The Reform Treaty will have to be ratified by all Member States according to their own constitutional procedures. In the UK, all Treaties, including EU Treaties, are laid before Parliament, which has the right to examine and debate them in detail. An Act of Parliament will give legal effect to the Treaty. So Parliament must be satisfied that a Treaty is in the national interest before that Treaty can be implemented in national law.

Throughout the process, the Government will also keep Parliament informed in terms of scrutiny, evidence sessions and debates.

In the run-up to the 2007 June European Council, the UK argued that the EU needed a new amending Treaty without constitutional characteristics. The Government also set out preconditions for agreement on a new Treaty. These four conditions were:

- protection of the UK's existing labour and social legislation;
- protection of the UK's common law system, and our police and judicial processes;
- maintenance of the UK's independent foreign and defence policy; and
- protection of the UK's tax and social security system.

In addition, the Government wanted to clearly establish that national security is a matter for Member States.

These remain our guiding principles for the IGC, which needs to follow precisely the terms of the Mandate agreed at the June European Council.



## 4. IGC Mandate

### Treaty Structure

The 1992 Treaty on European Union (or ‘Maastricht Treaty’) created a structure for the EU based on three ‘pillars’. The first pillar was the current European Communities (broadly economic areas such as the single market, trade, the environment, agriculture and competition rules). These matters are governed by the 1957 Treaty establishing the European Community (or ‘Treaty of Rome’) and the European Atomic Energy Community (‘Euratom’), as amended by subsequent Treaties.

The second pillar was the Common Foreign and Security Policy (CFSP). The third pillar was cooperation in the field of Justice and Home Affairs (JHA). Second and third pillar matters are currently governed by the Treaty on European Union. Subsequent EU Treaties have amended this structure. For example, the Treaty of Amsterdam moved asylum and immigration and judicial cooperation in civil matters from the third to the first pillar.

The Constitutional Treaty would have abolished the three-pillar structure completely, merging the two main Treaties into one. By replacing all of the existing Treaties with a single, new consolidated Treaty, it would – in effect – have refounded the European Union. **However, the IGC Mandate, agreed by the European Council, states clearly that “The constitutional concept, which consisted in repealing all existing Treaties and replacing them by a single text called “Constitution”, is abandoned.”**

The IGC Mandate rejects the Constitutional Treaty approach; the Reform Treaty will instead be an amending Treaty based upon the existing EU Treaties (namely the Treaty on European Union, the Treaty establishing the European Community, and the Euratom Treaty) with their distinctive features (e.g. CFSP will remain in the Treaty on European Union under special arrangements (see below)).

The current Treaty establishing the European Community will be amended and renamed the ‘Treaty on the Functioning of the Union’. The remainder of the third pillar for residual areas of JHA will be abolished but special arrangements will remain (and the UK will have the right to choose whether or not to participate in these individual measures – see below).

### Common Foreign and Security Policy

The Reform Treaty will affirm that CFSP will remain an intergovernmental process, distinct from other policy areas. Unanimity in decision-making will remain the norm (i.e. the UK will hold a veto). CFSP provisions will also remain in the Treaty on European Union. **The IGC Mandate contains a declaration confirming that the provisions on CFSP will not affect the responsibilities of the Member States, as they currently exist, for the formation and conduct of their foreign policy, or of their national representations in third countries and international organisations.**

The IGC Mandate specifies that the Reform Treaty will make provision for a ‘High Representative of the Union for Foreign Affairs and Security Policy’. This will merge the existing roles of High Representative for Common Foreign and Security Policy and the Commissioner for External Affairs. The High Representative will be supported by a European External Action Service comprising officials from the relevant departments of the Council Secretariat and the Commission, as well as seconded diplomats from the Member States. The service will be established in line with a unanimous Council decision on its composition and functioning.

The High Representative will be appointed by the European Council, by Qualified Majority. He or she will chair the Foreign Affairs Council and will be able to present agreed Union positions in international organisations – just as the Member State that holds the Presidency does now. Where we agree, we can work together and express our common position. Where the UK wishes to pursue its aims independently, we can do so.

As is the case now, it will be the Member States, acting by unanimity, who set the strategic interests and objectives of the Union. It will be the Member States who task the High Representative to take forward activity under the CFSP. And it will be the Member States (in the European Council) that will set the strategic interests and objectives of the Union's external action as a whole. In his Commission role the High Representative will be bound by Commission rules and procedures only for issues clearly within Commission competence and to the extent that this is consistent with his or her responsibility to the Council on CFSP.

### **European Security and Defence Policy**

The Reform Treaty will meet UK objectives on the development of a flexible, militarily robust and NATO-friendly ESDP. The Reform Treaty will also preserve the principle of unanimity (and therefore the UK veto) for ESDP policy decisions and for initiating missions, and will maintain the prerogatives of Member States for defence and security issues (in the same way as it does for foreign policy).

The Treaty will recognise the provision in the UN Charter that Member States may come to each other's assistance in the face of armed aggression. The text will explicitly make it clear that, for its members, NATO remains the foundation of their collective defence and the forum for implementing such a commitment. The Government also supports the new 'solidarity Clause', which will reflect the Member States' desire to assist each other in the event of a terrorist attack or other disaster on their territory.

The Government also supports the further definition in the Treaty of the so-called 'Petersberg' tasks, which define what ESDP does. This will allow the EU, where Member States agree, to contribute to joint disarmament operations and security sector reform, in addition to more general conflict stabilisation missions.

The Treaty will introduce 'Permanent Structured Cooperation', which will provide for an inclusive process focused exclusively on the development of military capabilities, a key UK objective. The EU Battlegroup concept, which provides the EU with a rapid reaction capability, is an example of where good cooperation on capabilities can deliver practical results. 'Enhanced cooperation' will also be extended to ESDP, allowing smaller groups of Member States to pursue particular ESDP projects. The requirement for a unanimous Council decision to trigger enhanced cooperation in this area ensures that the UK will always be able to protect its interests.

### **Justice and Home Affairs**

The Amsterdam Treaty of 1997 moved JHA provisions on asylum, immigration, and judicial cooperation in civil matters from the Third to the First Pillar. The Reform Treaty will move the remainder of the Third Pillar (police and judicial cooperation in criminal matters), into the First Pillar in the new Treaty. The Treaty of Amsterdam gave the UK an opt-in on asylum, immigration and judicial cooperation in civil matters.

As a consequence of this change, qualified majority voting and co-decision will apply as the general rule to Justice and Home Affairs. The UK has always been clear that EU cooperation must be in the national interest. **It must not affect fundamental aspects of our criminal justice system, nor undermine our ability to safeguard national security.**

The Government therefore secured an important safeguard in negotiations: the extension of the UK's current opt-in arrangement for cooperation in asylum, immigration and civil justice to the judicial and police cooperation areas. This gives the UK the right to opt-in to new measures where it is in our national interest to do so. The Government has made it clear that we would not opt in to any proposal that was inconsistent with the UK's policy of retaining control of its borders.

The Mandate agreed at the June European Council stipulates that, as part of the IGC process, the UK's right not to participate in new measures in the JHA area can be made to apply even where those measures build upon earlier agreements.

The new Treaty will also enable certain proposals for laws in criminal matters to be referred to the European Council for decision if they would affect fundamental aspects of a Member State's legal system. This is the so-called 'emergency brake'. If all the members of the European Council do not unanimously agree the proposal will fall, or will go ahead only in the Member States that want it – and then only if at least one third choose to go forward in that way. This additional safeguard will be available even where the UK had previously chosen to opt-in to a proposal in these areas.

More generally, bar in the circumstances described above, the move to QMV means that no single Member State will be able to block action on issues like cross-border crime, drug trafficking, illegal immigration and terrorism. These are international issues where it is in our interest to work within the EU, and the UK will continue to play an active role in the field of JHA. The Treaty will also amend the rules under which national courts can make reference to the ECJ to ensure uniformly high standards in implementation of JHA legislation throughout the EU.

The Government also secured an important exemption for national security from the scope of the Treaty: for the first time, the new Treaty will state, explicitly, that national security remains the sole responsibility of each Member State. This is an important clarification, and will ensure that the UK will retain full control of matters relating to national security.

We welcome the new provision in the Treaty which will strengthen the role of national parliaments in the scrutiny, implementation and evaluation of JHA policy. Under a new Treaty Article in the TEU, national parliaments will have responsibility for the peer review of Member States' implementation of JHA policy, for evaluation of the activities of Eurojust, the EU's judicial cooperation unit, and for monitoring Europol, the European Police Office.

The Reform Treaty retains the requirement for unanimity (i.e. a UK veto) for measures concerning family law with cross border implications. In addition, it will include a provision enabling a single national Parliament to veto any move to use the 'mini-passerelle', which would allow for decision making on aspects of family law with cross-border implications to be changed from unanimity to co-decision and QMV.

The new Treaty allows for the possibility of the creation of a European Public Prosecutor. The Government considers that there is no need for such a Prosecutor. Under the new Treaty, the UK would be able to prevent a European Public Prosecutor from having any role in the UK.

### **Charter of Fundamental Rights**

The Government sought to ensure that nothing in the Charter of Fundamental Rights would give national or European courts any new powers to strike down or reinterpret UK law, including labour and social legislation. This has been achieved.

Respect for human rights, civil liberties and democracy lie at the heart of the Government's policy agenda. These are enshrined in the UK through our constitutional traditions and the Human Rights Act 1998.

The Charter of Fundamental Rights was 'solemnly proclaimed' at the Nice European Council in December 2000 but is not currently legally binding. Its aim is to make more visible the fundamental rights that are already recognised in the EU, by virtue of the EU Treaties, the European Convention on Human Rights (ECHR), and the common constitutional traditions of the Member States. The Reform Treaty will make the Charter of Fundamental Rights, with the additional safeguards agreed in 2004, legally binding on the EU institutions and on Member States when implementing EU legislation. The Treaty will also give effect to the interpretative Explanations agreed in 2004.

A UK-specific Protocol annexed to the Treaty, as set out in the IGC Mandate will clarify beyond doubt the application of the Charter in relation to UK laws and measures, and in particular its justiciability in relation to labour and social articles. This Protocol is legally binding and sets out clearly that the Charter provides no greater rights than are already provided for in UK law, and that nothing in the Charter extends the ability of any court to strike down UK law.

### **Accession to the European Convention on Human Rights**

The IGC Mandate specifies that the Reform Treaty will enable the EU to accede to the ECHR. This would make the EU directly accountable to the Council of Europe's European Court of Human Rights for the rights contained in the ECHR. It would thus ensure harmony between the EU's legal order and the ECHR – as interpreted by the European Court of Human Rights. However, EU accession to the ECHR would have to be approved by all Member States and ratified by all national parliaments.

There are complex legal issues involved in EU accession to the ECHR. These problems would have to be resolved before the Government could support it.

### **Tax and Social Security**

It is long-standing Government policy that tax matters should continue to be decided by unanimity. The Reform Treaty proposal meets this commitment; there is no change to the status of unanimous decision-making on tax.

The Government sought to ensure that the UK would have the final say on any matters affecting important aspects of its social security system – including cost, scope, financial balance or structure. It achieved this; the IGC Mandate includes a strengthened 'emergency brake' mechanism. This allows any Member State to refer a proposal to the European Council, for decision by consensus (i.e. by unanimity), where it might affect any of these important aspects of its social security system. If the European Council does not reach agreement within four months, the proposal will automatically fall. This means that the UK retains ultimate control over any proposals which might adversely affect its social security system.

### **Subsidiarity and National Parliaments**

The application of 'subsidiarity' is a priority for the Government. Subsidiarity is the principle whereby, in policy areas where competence is shared between the EU level and Member States, the EU should only act when "the objectives of the intended action cannot be sufficiently achieved by the Member States" alone. In other words, the EU should only get involved where it can add value.

The Reform Treaty strengthens the role of national Parliaments in EU decision-making. National parliaments will be given a direct say in the EU's law-making procedures for the first time. At present, there is no obligation on the EU institutions to consult national parliaments about EU laws. Under the new mechanism, all national parliaments must be notified by the EU institutions of proposed EU legislation and be given eight weeks to comment.

National parliaments will also gain the power to challenge the EU institutions if one-third of them consider a proposal legislates in an area where the EU need not get involved. If challenged, the EU institutions would have to reconsider and decide whether to maintain, amend or withdraw the proposal. If a majority of national parliaments object to a proposal but the Commission decides to maintain it, the final decision on whether the legislation should proceed would be made by the relevant sectoral Council and European Parliament. There is some lack of clarity on how the IGC Mandate provisions enhancing the role of national parliaments will apply in practice. The Government will seek early clarification of this in the IGC.

We also welcome the recognition the Reform Treaty gives to cultural and linguistic diversity and to regional and local self-government within the EU.

### **Legal Personality**

Two parts of the EU – the European Community and Euratom – already have express legal personality. In particular, this enables them to act at international level, including the capacity to make treaties. The EU, when it acts on CFSP and some areas of JHA, currently has a degree of 'functional' legal personality by virtue of its power to make international agreements (as does the United Nations, for example). On this basis, the EC and the EU already conclude numerous agreements with third countries in a wide range of areas (such as trade and development). Member States currently decide the negotiating mandate by unanimity or QMV, depending on the policy area in question, and approve any final agreement on the same basis. The method of tasking the EU to negotiate on behalf of the Member States will not change under the Reform Treaty.

The Reform Treaty will formally give the EU a single legal personality. This will be simpler than the existing situation and will therefore allow the EU to act in the international arena in a more coherent way. This should lead to streamlined procedures for negotiating agreements through the EU.

**However, it does not create any new powers for the EU. The Reform Treaty will contain a Declaration by all Member States stating explicitly that “the fact that the European Union has a legal personality will not in any way authorise the Union to legislate or act beyond the competences conferred upon it by the Member States in the Treaties”.**

This will not impact on the independence of Member States' foreign policies. The IGC Mandate also includes a Declaration stating that nothing in the Treaty affects the responsibilities and powers of Member States in foreign policy.

### **President of the European Council**

The Reform Treaty will create a permanent President of the European Council. He or she will be elected by the members of the European Council by qualified majority, for a mandate of two and a half years, renewable once. The President cannot hold a national mandate at the same time. Nor can the President also hold the job of President of the Commission.

The EU already has a President of the European Council, in the figure of the Head of State or Government of the Member State holding the EU Presidency. This is a rotating position, however, changing every six months. This creates problems with continuity.

The President will chair the European Council, drive forward its work, ensure its preparation and continuity on the basis of the work of the General Affairs Council, and facilitate cohesion and consensus. The President will also have a role in the most high-level aspects of the EU's external relations.

The Government supports this reform. It will bring much greater coherence and consistency to the EU's actions. Moreover, it will give the Member States, through the European Council, much greater capacity to give direction and momentum to the EU's agenda.

### **The Presidency System**

At present, the Presidency of the EU is held by individual Member States on a rotating six-monthly basis. The Reform Treaty will provide for a new 'Team Presidency' system. Teams of three successive Member State Presidencies will take charge of sectoral Councils over an 18-month period. Separate arrangements will apply to the Foreign Affairs Council (which will be chaired by the European Union High Representative). This change should provide a longer-term, more stable perspective to help deliver policy outcomes through the sectoral Councils.

### **Commission Reform**

The Reform Treaty envisages, from 2014, a reduction in the number of Commissioners to two-thirds of the number of Member States, selected from all Member States on a basis of equal rotation. The Government has consistently supported a smaller, stronger and more effective Commission, and is therefore content with this change.

### **European Parliament**

The Reform Treaty will strengthen the role of the European Parliament, primarily by increasing the number of policy areas subject to co-decision and so requiring the agreement of both the Council and the European Parliament. The new Treaty will apply co-decision to all areas where EU legislation is adopted under the Community method, unless an explicit provision to the contrary is made.

The European Parliament's size will decrease from 786 MEPs currently to 750, with a minimum of 6 and a maximum of 96 MEPs per Member State. The final number of MEPs for each country will be decided by the European Council, based on a recommendation from the European Parliament itself.

### **Qualified Majority Voting**

Since the UK joined the EU, successive British Governments have recognised that it is in the UK's interest for a range of decisions to be taken by majority vote. The Treaty of Rome established a special system of voting known as qualified majority voting (QMV).

The Government supports QMV to unlock decision-making in the right areas where it is in Britain's interest. Without the use of QMV, a single country can veto any policy proposal making the EU decision-making process slower and more cumbersome. Without QMV, for example, the EU's single market could not have been built. But the UK has always insisted on maintaining ultimate national control in key areas of justice and home affairs, social security, tax, foreign policy and defence.

The Government believes that the package of decision-making as set out in the IGC Mandate is a good one for the UK. The UK has safeguards on key areas. Several of the new articles that will be subject to QMV reflect the existing practice for EU legislation in that field. And QMV in many areas is in line with the Government's wish to see improved decision-making – for example on energy policy, humanitarian aid, and urgent financing of CFSP measures. The Reform Treaty will also streamline and speed up decision-making in a number of technical areas (e.g. comitology and appointments to the European Central Bank's executive board).

The second pillar remains based on decision-making by unanimity. It also retains provisions for an 'emergency brake'. The UK keeps its veto on CFSP matters

Overall, the impact of QMV under the Reform Treaty will be significantly less than, for example, under the Single European Act or the Treaty of Maastricht.

### **The Voting System**

The Reform Treaty will introduce a new system of majority voting called Double Majority Voting. It is a 'dual majority' system, which means that a threshold number of Member States representing a certain percentage of the EU's population is required to pass legislation.

Under the new formula, 55% of Member States (i.e. currently 15 out of 27 Member States) representing 65% of the EU's population will need to support a proposed law in order for it to pass. However, there is a further special mechanism. Under it, if Member States representing at least three-quarters of either of those figures indicate their opposition to a proposal, the Council must delay a decision and do all in its power to reach a satisfactory solution.

Double Majority Voting will not operate until 2014. Until then, the present weighted votes system will remain. Between 2014-17, DMV will be the norm but a Member State may request the use of the current weighted votes system for a particular vote. From 2017 onwards, DMV will be the sole voting system. The special mechanism, requiring further consultation if a vote is close, will also be strengthened further.

The Government is content with the introduction of Double Majority Voting, which provides a reasonable balance between passing and blocking legislation. It will be a clearer, simpler and more democratic voting system. This should lead to greater transparency and more effective decision-making. The UK's share of votes in the Council of Ministers will increase.

### **Simplified Treaty Revision**

Procedures to revise the Treaties without an IGC already exist, and can be found in the Single European Act and the Treaties of Maastricht, Amsterdam and Nice. The Reform Treaty will extend these procedures including to allow for changes from unanimity to qualified majority voting, or from other legislative procedures to co-decision, or for changes to the details of EU policies in certain areas, without a formal IGC. The Government's position has always been that such moves must require unanimity (i.e. the UK has a veto). This will be the case; any such changes must be agreed unanimously. The three new passerelles in the Reform Treaty that provide for simplified Treaty revision procedures, will, furthermore, require Parliamentary approval. We support this increased flexibility in decision-making but would only agree to its use when clearly in British interests. The UK will insist that any fundamental change to the Treaties will still require an IGC.

## **Enhanced Cooperation**

The Reform Treaty simplifies the existing procedures, which originate in the Treaty of Amsterdam, for 'enhanced cooperation'. This allows a group of Member States to work together without affecting those that do not want to. Under the Reform Treaty, this process could be triggered where at least nine Member States want to cooperate in a specific area. Enhanced cooperation must work towards the EU's objectives, in a way that does not undermine the single market. Those countries undertaking cooperation in this way must also be open to others who want to join in at any time. Unanimity will continue to be required for any such cooperation in the fields of foreign policy or defence.

## **Exit Clause**

The Reform Treaty will confirm, for the first time, that any Member State may decide to withdraw from the EU. This would be done in accordance with that country's own constitutional requirements. The Reform Treaty sets out a mechanism for negotiation and conclusion of such a withdrawal agreement with the other Member States.

## **Single Market**

The provisions of existing Treaties which guarantee the development of the internal market (the 'single market') – and the substantive powers to further its development or to take action against anti-competitive behaviour – are unchanged by the Reform Treaty proposals. The internal market principles will continue to apply to most forms of commercial activity carried out within the boundaries of the Union in both public and private sectors.

The internal market has been of huge benefit to UK businesses, consumers and employees. The enlarged EU of over 490 million people is the largest multinational single market in the world. The Government is committed to ensuring that the four freedoms underpinning the internal market – the free movement of goods, persons, services and capital – remain at the centre of Union internal policies and their implementation. The new Treaty proposals deliver this.

## **Competition**

The new Treaty proposals make no change to existing Treaty provisions on EU competence for establishing the competition rules necessary for the functioning of the internal market. Member States remain able to have additional domestic competition rules, except where these could affect the functioning of the internal market, which rightly remains the preserve of the Union.

The Reform Treaty proposals include a new, legally binding Protocol, which makes clear that the internal market includes a system ensuring that competition is not distorted and confirms the legal base for the EU to take action to ensure this.

## **Competences**

The Reform Treaty will set out a more transparent and accountable structure for the EU. It includes a definition of the Union's competences, which sets out where the EU can and cannot act. It also makes clear that Treaties can be revised to increase or reduce the competences conferred upon the EU. Therefore, the Member States would have the ability to transfer competences from the EU if they agree to do so.



## ANNEX A: GLOSSARY OF EU TERMS

### Amsterdam Treaty

The Treaty of Amsterdam was agreed in June 1997 and entered into force in May 1999. It provided for important changes in the range of matters falling under EC competence – incorporation of the **Schengen** acquis, moving asylum and immigration policy to the first pillar, addition of an employment chapter, and incorporation of the Social Chapter Protocol. Amsterdam also introduced the CFSP High Representative, endorsed “the progressive framing of a common defence policy” and extended the use of **co-decision** and **QMV**.

### Acquis

The phrase *acquis communautaire* refers to the whole range of principles, policies, laws, practices, obligations and objectives that have been agreed within the EU. It includes the Treaties, EU legislation, and judgements of the **European Court of Justice**.

### Charter of Fundamental Rights

The Charter sets out the fundamental rights and principles applicable at EU level. It was drawn up by a Convention during 2000 and adopted at the Nice **European Council** in December 2000. Amendments to the Charter were agreed by the Inter-governmental Conference in 2004.

### Co-decision procedure

Introduced by the Treaty of Maastricht, this procedure has been modified by the **Amsterdam Treaty** and now applies to most areas of Community legislation. It involves both the **Council** and **European Parliament** proposing amendments to a piece of legislation proposed by the **Commission**. Both the **Council** and the **European Parliament** need to agree if the draft is to become law. It is a lengthy procedure: it can often take a year or more to approve legislation.

### Commission

An EU institution currently made up of 27 Commissioners (one from each Member State). Its President is Jose Manuel Durao Barroso, former Prime Minister of Portugal. The British Commissioner is Peter Mandelson. The Commission is central to the conduct of EU business. It has the tasks of ensuring the Treaties are correctly applied, of proposing new legislation to the **Council** and **European Parliament** for approval, and of exercising implementing powers given to it by the Council.

### Common Foreign and Security Policy (CFSP)

An area of intergovernmental activity within the **European Union**, that sees the EU Member States work together to achieve common objectives. CFSP covers all areas of foreign and security policy.

### Conclusions

There are three basic forms of Conclusions. Presidency Conclusions, which are not binding and which are typically issued as a summary of Presidency thinking after informal meetings of sectoral Councils. Council Conclusions record the agreement of sectoral Councils, including political agreement on individual legislative proposals and

formal adoption of legislative acts. The European Council does not take legally binding decisions. Its Conclusions are a particular form of Presidency Conclusions. They have no formal legal status but carry political weight through Heads' endorsement. This is in line with the European Council's role, set out in Article 4 TEU, in shaping the EU's internal and external policy agenda. European Council conclusions are produced on the authority of the Presidency only, but agreed by consensus among Heads of State or Government.

## **COREPER**

Coreper stands for the Committee of Permanent Representatives. It is composed of the Member States' ambassadors to the EU and prepares the meetings of the **Council of Ministers**. COREPER I (deputy Permanent Representatives) deals mainly with pillar I issues, while COREPER II (Ambassadors) deals primarily with second and third pillar issues.

## **Council of Ministers of the European Union**

The primary decision-making body of the Union. It meets in different formations, chaired by the **Presidency** and attended by the relevant national ministers. Examples include the Economic/Finance Council (ECOFIN), the Competitiveness Council, and the General Affairs and External Relations Council (GAERC). They are also attended by the **Commission** (usually the relevant Commissioner). Working Groups and the Committee of Permanent Representatives (**COREPER**) prepare the Council's work. It is supported by the Council Secretariat.

## **Enhanced cooperation**

The Treaty of Amsterdam made provision for closer cooperation between sub-groups of Member States (now called 'enhanced cooperation'). These provisions were amended by the Treaty of Nice to make them simpler to operate.

## **EU High Representative**

The representative of the **Council of Ministers** for **Common Foreign and Security Policy** matters. Javier Solana was appointed High Representative for the CFSP in June 1999 by the Cologne **European Council** and re-appointed for a second term in June 2004. He is also Secretary-General of the Council and, as such, head of the Council Secretariat.

## **European Council**

A summit of Heads of State or Government that has met regularly since the 1970s. It now normally meets four times a year, twice under each six-monthly **Presidency**. Originally an informal gathering, the European Council was given formal recognition in the **Single European Act** of 1986. It has the task of providing the EU with the necessary impetus for its development and defining the necessary general political guidelines for its work. These meetings are sometimes referred to as European Summits. The European Council will normally agree Conclusions, signalling its commitment to a course of action.

## **European Court of Justice (ECJ)**

The European Court of Justice is made up of Judges appointed by the **Member States**. It ensures that the law is observed in the interpretation and application of the Treaties. It

therefore rules on questions relating to interpretation of the Treaties and secondary legislation in direct actions and in cases referred to it by national courts. ECJ judgements form part of national law. It also has certain powers in relation to certain Third Pillar measures (see **European Union**), but no jurisdiction over **CFSP**. There is also a Court of First Instance to deal with certain specified issues.

### **European Parliament (EP)**

The European Parliament is composed of 786 members and is directly elected every five years in each Member State. Originally a consultative body, successive Treaties have increased the EP's role in scrutinising the activities of the **Commission** and extended its legislative and budgetary powers. The Parliament meets in plenary session in Strasbourg and Brussels.

### **European Security and Defence Policy (ESDP)**

The European Security and Defence Policy was launched in response to proposals put forward jointly by the then Prime Minister and President Chirac in 1998. It centres on strengthening Europe's capability for crisis management and can undertake other tasks such as humanitarian and rescue tasks, and peacekeeping through both NATO and the EU. The Policy is designed to give the EU the tools to take on humanitarian and peacekeeping tasks where NATO as a whole is not engaged.

### **European Union**

The European Union was created by the Treaty of Maastricht in 1992. It currently consists of three pillars. The First Pillar is the European Community, which covers largely, though by no means exclusively, economic business. The Second Pillar is the **Common Foreign and Security Policy**. The Third Pillar, after amendment by the Treaty of Amsterdam, covers certain police and judicial cooperation in criminal matters. The main differences between the First Pillar and the rest are that under the latter Member States, as well as the Commission, have the right to propose policies and decision-making is more strongly intergovernmental. The **European Court of Justice** has jurisdiction in the First Pillar and, under certain circumstances, in parts of the Third Pillar.

### **Europol**

EU Member States agreed to establish Europol in the **Maastricht Treaty** of 1992 and the organisation started its full activities in July 1999. It is based in Amsterdam. Its purpose is to improve cooperation between the law-enforcement authorities of the **EU Member States**.

### **Legal Base (or basis)**

The article of the EU Treaties that gives the Union the power to act is often called the legal base. It also describes the voting procedure and type of legislative procedure (e.g. co-decision) that must be used.

### **Lisbon economic reform agenda or Lisbon process**

In Lisbon in March 2000 the **European Council** set itself a new strategic goal for the next decade: "to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and

greater social cohesion.” Progress towards this goal is reviewed at successive Spring European Councils.

### **Maastricht Treaty**

See **European Union**.

### **Member State**

A country which is a member of the **European Union**.

### **Nice Treaty**

The Treaty of Nice was agreed at the Nice **European Council** in December 2000 and came into force in 2003. It set out new arrangements for the size and composition of the **European Commission**, and agreed reforms to the system of **Qualified Majority Voting** in **Council** while extending it to a number of new policy areas.

### **‘Petersberg’ Tasks**

These are humanitarian and rescue tasks, peacekeeping tasks, and tasks of combat forces in crisis management, including peacemaking. It takes its name from the Hotel Petersberg in Germany, where these tasks were first defined, at a summit in 1992.

### **Presidency**

This is in effect the chairmanship of the **European Union**. Under current arrangements, the Presidency rotates every six months among the **Member States**. Germany held the EU Presidency in the first half of 2007. Portugal holds it in the second half. The Presidency chairs most Working Groups, COREPER and meetings of the **Council of Ministers**. The Presidency plays a key role in setting the Union’s agenda and working towards an agreement.

### **Qualified Majority Voting**

This is a voting mechanism in the Council under which a proposal can be adopted without every **Member State** agreeing to it. New vote weighting arrangements agreed in the **Nice Treaty** came into force on 1 November 2004. There are 345 votes in total, allocated among the Member States. 255 votes are needed for a qualified majority and 91 for a blocking minority.

### **Schengen acquis**

“Schengen” is the shorthand for measures originally agreed in 1985, in the Luxembourg village of Schengen, by certain **Member States** on the gradual elimination of border controls at their common frontiers. These agreements were incorporated into the Treaties with the **Amsterdam Treaty** in 1999.

### **Single European Act**

This Treaty, which was agreed in 1986 and entered into force in 1987, was the first substantial revision of the Community Treaties. Among the main changes it made were the initiation of cooperation in environment policy and foreign policy; the extension of **qualified majority voting** (notably to allow the rapid development of the Single Market); the granting of a greater role in legislation to the **European Parliament**; and

the setting up of the Court of the First Instance (see the **European Court of Justice**). It also formally recognised the **European Council**.

### **Single Market**

Shorthand for the EU's commitment to create an internal market in which all obstacles to the free movement of goods, persons, services and capital between Member States have been abolished. The most significant steps towards the completion of the Single Market were taken in 1992 but it remains incomplete in some areas.

### **Subsidiarity**

Subsidiarity is the principle whereby, in policy areas where competence is shared between the Union and **Member States**, the Union should only act when “the objectives of the intended action cannot be sufficiently achieved by the Member States” alone. In other words, the Union should only get involved where it can add value.

### **Unanimity**

A form of voting in the Council. A proposal requiring unanimity must have no **Member State** voting against (abstentions do not matter). See also **Qualified Majority Voting**.

## ANNEX B: EXTRACT OF THE EUROPEAN COUNCIL PRESIDENCY CONCLUSIONS OF 21/22 JUNE 2007

### TREATY REFORM PROCESS

- “8. The European Council agrees that, after two years of uncertainty over the Union’s treaty reform process, the time has come to resolve the issue and for the Union to move on. The period of reflection has provided the opportunity in the meantime for wide public debate and helped prepare the ground for a solution.
9. Against this background, the European Council welcomes the report drawn up by the Presidency (doc.10659/07) following the mandate given to it in June 2006, and agrees that settling this issue quickly is a priority.
10. To this end the European Council agrees to convene an Intergovernmental Conference and invites the Presidency without delay to take the necessary steps in accordance with Article 48 of the TUE, with the objective of opening the IGC before the end of July as soon as the legal requirements have been met.
11. The IGC will carry out its work in accordance with the mandate set out in the Annex to these conclusions. The European Council invites the incoming Presidency to draw up a draft Treaty text in line with the terms of the mandate and to submit this to the IGC as soon as it opens. The IGC will complete its work as quickly as possible, and in any case before the end of 2007, so as to allow for sufficient time to ratify the resulting Treaty before the European Parliament elections in June 2009.
12. The IGC will be conducted under the overall responsibility of the Heads of State or Government, assisted by the members of the General Affairs and External Relations Council. The Representative of the Commission will participate in the Conference. The European Parliament will be closely associated with and involved in the work of the Conference with 3 representatives. The General Secretariat of the Council will provide the secretariat support for the Conference.
13. Having consulted the President of the European Parliament, the European Council invites the European Parliament, in order to pave the way for settling the issue of the future composition of the European Parliament in good time before the 2009 elections, to put forward by October 2007 a draft of the initiative foreseen in Protocol 34 as agreed in the 2004 IGC.
14. The incoming presidency is invited to ensure that the candidate countries are kept fully and regularly briefed throughout the Intergovernmental Conference.”

## IGC MANDATE

The present mandate will provide the exclusive basis and framework for the work of the IGC that will be convened according to paragraph 10 of the European Council conclusions.

### I. GENERAL OBSERVATIONS

1. The IGC is asked to draw up a Treaty (hereinafter called "*Reform Treaty*") amending the existing Treaties with a view to enhancing the efficiency and democratic legitimacy of the enlarged Union, as well as the coherence of its external action. The constitutional concept, which consisted in repealing all existing Treaties and replacing them by a single text called "Constitution", is abandoned. The *Reform Treaty* will introduce into the existing Treaties, which remain in force, the innovations resulting from the 2004 IGC, as set out below in a detailed fashion.
2. The *Reform Treaty* will contain two substantive clauses amending respectively the *Treaty on the European Union (TEU)* and the *Treaty establishing the European Community (TEC)*. The *TEU* will keep its present name and the *TEC* will be called *Treaty on the Functioning of the Union*, the Union having a single legal personality. The word "Community" will throughout be replaced by the word "Union"; it will be stated that the two Treaties constitute the Treaties on which the Union is founded and that the Union replaces and succeeds the Community. Further clauses will contain the usual provisions on ratification and entry into force as well as transitional arrangements. Technical amendments to the *Euratom Treaty* and to the existing *Protocols*, as agreed in the 2004 IGC, will be done via *Protocols* attached to the *Reform Treaty*.
3. The *TEU* and the *Treaty on the Functioning of the Union* will not have a constitutional character. The terminology used throughout the Treaties will reflect this change: the term "Constitution" will not be used, the "Union Minister for Foreign Affairs" will be called High Representative of the Union for Foreign Affairs and Security Policy and the denominations "law" and "framework law" will be abandoned, the existing denominations "regulations", "directives" and "decisions" being retained. Likewise, there will be no article in the amended Treaties mentioning the symbols of the EU such as the flag, the anthem or the motto. Concerning the primacy of EU law, the IGC will adopt a Declaration recalling the existing case law of the EU Court of Justice<sup>1</sup>.
4. As far as the content of the amendments to the existing Treaties is concerned, the innovations resulting from the 2004 IGC will be integrated into the *TEU* and the *Treaty on the Functioning of the Union*, as specified in this mandate. Modifications to these innovations introduced as a result of the consultations held with the Member States over the past 6 months are clearly indicated below. They concern in particular the respective competences of the EU and the Member States and their delimitation, the specific nature of the Common Foreign and Security Policy, the enhanced role of national parliaments, the treatment of the Charter of

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<sup>1</sup> Whilst the Article on primacy of Union law will not be reproduced in the *TEU*, the IGC will agree on the following Declaration: "The Conference recalls that, in accordance with well settled case-law of the EU Court of Justice, the Treaties and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case-law." In addition, the opinion of the Legal Service of the Council (doc. 11197/07) will be annexed to the Final Act of the Conference.

Fundamental Rights and a mechanism, in the area of police and judicial cooperation in criminal matters, enabling Member States to go forward on a given act while allowing others not to participate.

## II. AMENDMENTS TO THE EU TREATY

5. Clause 1 of the *Reform Treaty* will contain the amendments to the present *TEU*.

In the absence of indications to the contrary in this mandate, the text of the existing Treaty remains unchanged.

6. The text of the first recital as agreed in the 2004 IGC will be inserted as a second recital into the Preamble.
7. The *TEU* will be divided into 6 Titles: *Common Provisions (I)*, *Provisions on democratic principles (II)*, *Provisions on institutions (III)*, *Provisions on enhanced cooperation (IV)*, *General Provisions on the Union's External Action and specific Provisions on the Common Foreign and Security Policy (V)*, and *Final Provisions (VI)*. Titles I, IV (present VII), V and VI (present VIII) follow the structure of the existing *TEU*, with amendments as agreed in the 2004 IGC.<sup>1</sup> The two other titles (II and III) are new and introduce innovations agreed in the 2004 IGC.

### *Common Provisions (I)*

8. Title I of the existing *TEU*, containing inter alia Articles on the Union's values and objectives, on relations between the Union and the Member States, and on the suspension of rights of Member States, will be amended in line with the innovations agreed in the 2004 IGC (see Annex 1, Title I).
9. The Article on fundamental rights will contain a cross reference<sup>2</sup> to the *Charter on fundamental rights*, as agreed in the 2004 IGC, giving it legally binding value and setting out the scope of its application.
10. In the Article on fundamental principles concerning competences it will be specified that the Union shall act only within the limits of competences conferred upon it by the Member States in the Treaties.

### *Provisions on democratic principles (II)*

11. This new Title II will contain the provisions agreed in the 2004 IGC on democratic equality, representative democracy, participatory democracy and the citizens' initiative. Concerning national parliaments, their role will be further enhanced compared to the provisions agreed in the 2004 IGC (see Annex 1, Title II):
  - The period given to national parliaments to examine draft legislative texts and to give a reasoned opinion on subsidiarity will be extended from 6 to 8 weeks (the *Protocols on national Parliaments and on subsidiarity and proportionality* will be modified accordingly).
  - There will be a reinforced control mechanism of subsidiarity in the sense that if a draft legislative act is contested by a simple majority of the votes allocated to national parliaments, the Commission will re-examine the draft act, which it may decide to maintain, amend or withdraw. If it chooses to maintain the draft,

1 The content of Title VI on police and judicial cooperation in criminal matters will be put into the Title on the Area of freedom, security and justice in the Treaty on the Functioning of the Union (*TFEU*), see below under "Amendments to the EC Treaty".

2 Therefore, the text of the Charter on fundamental rights will not be included in the Treaties.



the Commission will have, in a reasoned opinion, to justify why it considers that the draft complies with the principle of subsidiarity. This reasoned opinion, as well as the reasoned opinions of the national parliaments, will have to be transmitted to the EU legislator, for consideration in the legislative procedure. This will trigger a specific procedure:

- before concluding first reading under the ordinary legislative procedure, the legislator (Council and Parliament) shall consider the compatibility of the legislative proposal with the principle of subsidiarity, taking particular account of the reasons expressed and shared by the majority of national parliaments as well as the reasoned opinion of the Commission;
- If, by a majority of 55% of the members of the Council or a majority of the votes cast in the European Parliament, the legislator is of the opinion that the proposal is not compatible with the principle of subsidiarity, the legislative proposal shall not be given further consideration. (the *Protocol on subsidiarity and proportionality* will be modified accordingly).

A new general Article will reflect the role of the national parliaments.

### *Provisions on institutions (III)*

12. The institutional changes agreed in the 2004 IGC will be integrated partly into the TEU and partly into the *Treaty on the Functioning of the Union*. The new Title III will give an overview of the institutional system and will set out the following institutional modifications to the existing system, i.e. the Articles on the Union's institutions, the European Parliament (new composition), the European Council (transformation into an institution<sup>1</sup> and creation of the office of President), the Council (introduction of the double majority voting system and changes in the six-monthly Council presidency system, with the possibility of modifying it), the European Commission (new composition and strengthening of the role of its President), the Union Minister for Foreign Affairs (creation of the new office, its title being changed to High Representative of the Union for Foreign Affairs and Security Policy) and the Court of Justice of the European Union.<sup>2</sup>
13. The double majority voting system, as agreed in the 2004 IGC, will take effect on 1 November 2014, until which date the present qualified majority system (Article 205(2) TEC) will continue to apply. After that, during a transitional period until 31 March 2017, when a decision is to be adopted by qualified majority, a member of the Council may request that the decision be taken in accordance with the qualified majority as defined in Article 205(2) of the present TEC.

In addition, until 31 March 2017, if members of the Council representing at least 75% of the population or at least 75% of the number of Member States necessary to constitute a blocking minority resulting from the application of Article [I-25(1) first subparagraph], or Article [I-25(2)], indicate their opposition to the Council adopting an act by a qualified majority, the mechanism provided for in the draft Decision contained in Declaration n° 5 annexed to the Final Act of the 2004 IGC will apply. As from 1 April 2017, the same mechanism will apply, the relevant percentages being, respectively, at least 55% of the population or at least 55% of the number of Member States necessary to constitute a blocking minority resulting from the application of Article [I-25(1) first subparagraph], or Article [I 25(2)].

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<sup>1</sup> Including modalities of vote.

<sup>2</sup> There will be some drafting adaptations due to the merging of some provisions.

#### *Provisions on enhanced cooperation (IV)*

14. Title IV (former Title VII of the existing TEU) will be amended as agreed in the 2004 IGC. The minimum number of Member States required for launching an enhanced cooperation will be nine.

#### *General Provisions on the Union's external action and specific Provisions on the Common Foreign and Security Policy (V)*

15. In Title V of the existing TEU, a first new Chapter on the general provisions on the Union's external action will be inserted containing two Articles, as agreed in the 2004 IGC, on the principles and objectives of the Union's external action and on the role of the European Council in setting the strategic interests and objectives of this action. The second Chapter contains the provisions of Title V<sup>1</sup> of the existing TEU, as amended in the 2004 IGC (including the European External Action Service and the permanent structured cooperation in the field of defence). In this Chapter, a new first Article will be inserted stating that the Union's action on the international scene will be guided by the principles, will pursue the objectives and will be conducted in accordance with the general provisions on the Union's external action which are laid down in Chapter 1. It will be clearly specified in this Chapter that the CFSP is subject to specific procedures and rules. There will also be a specific legal basis on personal data protection in the CFSP area<sup>2</sup>.

#### *Final Provisions (VI)*

16. Title VI (former Title VIII of the existing TEU) will be amended as agreed in the 2004 IGC. There will in particular be an Article on the legal personality of the Union<sup>3</sup>, an Article on voluntary withdrawal from the Union and Article 48 will be amended so as to bring together the procedures for revising the Treaties (the ordinary and the two simplified procedures). This Article, in its paragraph on the ordinary revision procedure, will make it clear that the Treaties can be revised to increase or reduce the competences conferred upon the Union. In Article 49, on conditions of eligibility and the procedure for accession to the Union, the reference to the principles will be replaced by a reference to the Union's values and the addition of a commitment to promoting such values, an obligation to notify the European Parliament and national parliaments of an application for accession to the Union and a reference to take into account the conditions of eligibility agreed upon by the European Council (see Annex 1, Title VI). The usual final provision will also be adapted (territorial scope, duration, ratification and authentic texts and translations).<sup>4</sup>

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1 The IGC will agree on the following Declaration: "The Conference underlines that the provisions in the Treaty on European Union covering the Common Foreign and Security Policy, including the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy and the establishment of an External Action Service, do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organisations.

The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States.

It stresses that the EU and its Member States will remain bound by the provisions of the Charter of the United Nations and, in particular, by the primary responsibility of the Security Council and of its Members for the maintenance of international peace and security."

2 With regard to the processing of such data by the Member States when carrying out activities which fall within the CFSP and ESDP and the movement of such data.

3 The IGC will agree on the following Declaration: "The Conference confirms that the fact that the European Union has a legal personality will not in any way authorise the Union to legislate or to act beyond the competences conferred upon it by the Member States in the Treaties."

4 Articles 41, 42, 46 and 50 of the TEU will be deleted, Article 47 being placed, as amended in the 2004 IGC, in the CFSP Chapter.

### III. AMENDMENTS TO THE EC TREATY

17. Clause 2 of the *Reform Treaty* will contain the amendments to the present *TEC*, which will become the *Treaty on the Functioning of the European Union*.
18. The innovations as agreed in the 2004 IGC will be inserted into the Treaty by way of specific modifications in the usual manner. They concern the categories and areas of competences, the scope of qualified majority voting and of codecision, the distinction between legislative and non legislative acts, provisions *inter alia* on the Area of freedom, security and justice, the solidarity clause, the improvements to the governance of the euro, horizontal provisions such as the social clause, specific provisions such as public services, space, energy, civil protection, humanitarian aid, public health, sport, tourism, outermost regions, administrative cooperation, financial provisions (own resources, multiannual financial framework, new budgetary procedure).
19. The following modifications will be introduced compared to the results of the 2004 IGC (see Annex 2):
  - a) A new Article 1 will state the purpose of the Treaty on the functioning of the Union and its relation with the EU Treaty. It will state that the two Treaties have the same legal value.
  - b) In the Article on categories of competences, placed at the beginning of the *TEC*, it will be clearly specified that the Member States will exercise again their competence to the extent that the Union has decided to cease exercising its competence.<sup>1</sup>
  - c) In the Article on supporting, coordinating or complementary action, the introductory sentence will be amended so as to underline that the Union carries out actions to support, coordinate or supplement the actions of the Member States.
  - d) In Article 18(3), as amended in the 2004 IGC, the phrase on the adoption of measures on passports, identity cards, residence permits and similar documents will be removed and transferred to a similar legal basis on this issue to be placed in the Title on the Area of freedom, security and justice, in the Article on border checks.
  - e) In Article 20 (diplomatic and consular protection), as amended in the 2004 IGC, the legal basis will be amended so as to provide in this field for adoption of directives establishing coordination and cooperation measures.

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<sup>1</sup> (a) The IGC will also agree a Declaration in relation to the delimitation of competences: “*The Conference underlines that, in accordance with the system of division of competences between the Union and the Member States as provided for in the Treaty on European Union, competences not conferred upon the Union in the Treaties remain with Member States. When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence. The latter situation arises when the relevant EU institutions decide to repeal a legislative act, in particular to better ensure the constant respect for the principles of subsidiarity and proportionality. The Council may request, at the initiative of one or several of its Members (representatives of Member States) and in accordance with Article 208, the Commission to submit proposals for repealing a legislative act.* Equally, the representatives of the governments of the Member States, meeting in an Intergovernmental Conference, in accordance with the ordinary revision procedure provided for in Article [IV-443] of the Treaty on European Union, may decide to amend the Treaties on which the Union is founded, including either to increase or to reduce the competences conferred on the Union in the said Treaties.”

(b) The following Protocol will be annexed to the Treaties:

“*With reference to Article[ I-12(2)] on shared competences, when the Union has taken action in a certain area, the scope of this exercise of competence only covers those elements governed by the Union act in question and therefore does not cover the whole area.*”

- f) In Article 286 (personal data protection), as amended in the 2004 IGC, a subparagraph will be inserted stating that the rules adopted on the basis of this Article will be without prejudice to those adopted under the specific legal basis on this subject which will be introduced in the CFSP Title (the IGC will also adopt a declaration on personal data protection in the areas of police and judicial cooperation in criminal matters, as well as, where appropriate, specific entries in the relevant Protocols on the position of individual Member States clarifying their applicability in this respect).
- g) In Article 42 (aggregation of insurance periods and export of social security benefits), an addition will be made to stress that the procedure is halted in the brake system if the European Council does not take any action within 4 months (see point 1) of Annex 2).<sup>1</sup>
- h) Article 60 (freezing of assets to combat terrorism), as amended in the 2004 IGC, will be transferred towards the end of the Chapter on general provisions in the Title on the Area of freedom, security and justice.
- i) On the issue of services of general economic interest (cf. Article 16, as amended in the 2004 IGC) a Protocol will be annexed to the Treaties.<sup>2</sup>
- j) In the Chapter on general provisions applying to the area of freedom, security and justice, insertion of a provision about cooperation and coordination by Member States in the field of national security (see point 2)(a) of Annex 2).
- k) In the Chapter on judicial cooperation in civil matters, paragraph 3 of the Article on such cooperation, as agreed in the 2004 IGC, will be modified so as to give a role to national parliaments in the “passerelle” clause on family law (see point 2)(b) of Annex 2).
- l) In the Chapters on judicial cooperation in criminal matters and on police cooperation, as amended in the 2004 IGC, in the Articles on mutual recognition of judgments, minimum rules on definition of criminal offences and sanctions, the European Public Prosecutor, and police cooperation, a new mechanism will be inserted enabling Member States to go forward with adopting measures in this field while allowing others not to participate (see point 2)(c) and (d) of Annex 2). Moreover, the scope of the Protocol on the position of the United Kingdom and Ireland (1997) will be extended so as to include, in relation to the UK, and on the same terms, the Chapters on judicial cooperation in criminal matters and on police cooperation. It may also address

1 The IGC will also agree a Declaration in relation to this Article: “*The Conference recalls that in that case, in accordance with Article [I-21(4)], the European Council acts by consensus*”.

2 The following Protocol will be annexed to the Treaties:

*“Protocol on services of general interest*

*The High Contracting Parties,*

*Wishing to emphasise the importance of services of general interest*

*Have agreed upon the following interpretative provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:*

*Article 1*

*The shared values of the Union in respect of services of general economic interest within the meaning of Article 16 EC Treaty include in particular:*

*– the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organizing services of general economic interest as closely as possible to the needs of the users;*

*– the diversity between various services of general economic interest and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations;*

*– a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights;*

*Article 2*

*The provisions of the Treaties do not affect in any way the competence of Member States to provide, commission and organise non-economic services of general interest.”*

the application of the Protocol in relation to Schengen building measures and amendments to existing measures. This extension will take account of the UK's position under the previously existing Union acquis in these areas. Ireland will determine in due course its position with regard to that extension.

- m) In Article 100 (measures in case of severe difficulties in the supply of certain products), a reference to the spirit of solidarity between Member States and to the particular case of energy as regards difficulties in the supply of certain product will be inserted (see point 3) of Annex 2).
- n) In Article 152 (public health), as amended in the 2004 IGC, point (d) on measures concerning monitoring, early warning of and combating serious cross border threats to health will be transferred to the paragraph on adoption of incentive measures (the IGC will also adopt a declaration clarifying the internal market aspect of measures on the quality and safety standards for medicinal products and devices).
- o) In the Article on European space policy, agreed in the 2004 IGC, it will be specified that measures adopted may not entail harmonisation of the laws and regulations of the Member States.
- p) In Article 174 (environment), as amended in the 2004 IGC, the particular need to combat climate change in measures at international level will be specified (see point 4) of Annex 2).
- q) In the Article on energy, agreed in the 2004 IGC, a reference to the spirit of solidarity between Member States will be inserted (see point 5) of Annex 2), as well as a new point (d) on the promotion of interconnection of energy networks.
- r) At the beginning of the Part on the Union's external action, an Article will be inserted stating that the Union's action on the international scene will be guided by the principles, will pursue the objectives and will be conducted in accordance with the general provisions on the Union's external action which are laid down in Chapter 1 of Title V of the *TEU*.
- s) In the Article on the procedure for concluding international agreements, it will be added that the agreement on the accession of the Union to the ECHR will be concluded by the Council, by unanimity and with ratification by Member States.
- t) Article 229 A (extension of ECJ jurisdiction on disputes relating to European intellectual property rights) will remain unchanged.
- u) In Article 249 (definition of EU acts: regulation, directive and decision), in a new Section 1 on the Union's legal acts, the definition of a decision will be aligned with the one agreed in the 2004 IGC.
- v) As a consequence of dropping the denominations "law" and "framework law", the innovations agreed in the 2004 IGC will be adapted, while maintaining the distinction between what is legislative and what is not and its consequences. Accordingly, after Article 249, three Articles will be introduced on, respectively, acts which are adopted in accordance with a legislative procedure, delegated acts and implementing acts. The Article on legislative acts will state that acts (regulations, directives or decisions) adopted under a legislative procedure (ordinary or special) will be legislative acts. The terminology in the Articles on delegated and implementing acts, as agreed in the 2004 IGC, will be adapted accordingly.

- w) In Article 308 (flexibility clause), as amended in the 2004 IGC, a paragraph will be added stating that this Article cannot serve as a basis for attaining objectives pertaining to the CFSP, and that any acts adopted pursuant to this Article will have to respect the limits set out in Article [III-308, second subparagraph].<sup>1</sup>
  - x) After Article 308, an Article will be inserted excluding from the coverage of the simplified revision procedure those legal bases which were not covered by this procedure in the texts as agreed in the 2004 IGC.
20. In addition, a number of provisions agreed in the 2004 IGC will be located in the *Treaty on the Functioning of the Union* (see list in Part B of Annex 2).

#### IV. PROTOCOLS AND THE EURATOM TREATY

- 21. The new Protocols agreed in the 2004 IGC<sup>2</sup> will be annexed to the existing Treaties (i.e. Protocol on the role of national Parliaments in the European Union, Protocol on the application of the principles of subsidiarity and proportionality, Protocol on the Euro Group, Protocol on permanent structured cooperation in the field of defence and Protocol on the accession of the Union to the ECHR).
- 22. A Protocol annexed to the *Reform Treaty* will amend the existing Protocols, as agreed in the 2004 IGC (including the deletion of 10 of them).
- 23. A Protocol annexed to the *Reform Treaty* will make the necessary technical amendments, as agreed in the 2004 IGC, to the *Euratom Treaty*.

#### V. DECLARATIONS

- 24. In addition to the Declarations referred to in the present mandate, the Declarations as agreed by the 2004 IGC will be taken over by the present IGC, to the extent they relate to provisions or protocols examined during the present IGC.

1 The IGC will also agree two Declarations in relation to this Article:

- 1) “The Conference declares that the reference in Article 308 to objectives of the Union refers to the objectives as set out in Article [I-3(2) and (3)] and to the objectives of Articles [I-3(4)] with respect to external action under Part III, Title V of the Treaty. It is therefore excluded that an action based on Article 308 would only pursue objectives set out in Article [I-3(1)]. In this connection, the Conference notes that in accordance with Article [I-40(6)], legislative acts may not be adopted in the area of Common Foreign and Security Policy.”
  - 2) “The Conference underlines that, in accordance with the settled case-law of the Court of Justice of the European Union, Article 308, being an integral part of an institutional system based on the principle of conferred powers, cannot serve as a basis for widening the scope of Union powers beyond the general framework created by the provisions of the Treaties as a whole and, in particular, by those that define the tasks and the activities of the Union. In any event, Article 308 cannot be used as a basis for the adoption of provisions whose effect would, in substance, be to amend the Treaties without following the procedure which they provide for that purpose.”
- 2 Some of these Protocols are not necessary due to the fact that the existing Treaties are not repealed and are therefore not listed. It is underlined that all existing Treaties, including the Accession Acts, remain in force.

**Title I – Common provisions**

*The purpose of this Annex is to clarify the exact drafting where necessary*

- 1) *Insertion in the Preamble of the EU Treaty of the following second whereas clause<sup>\*1</sup>:*

“DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,”

- 2) *In Article 1, insertion of the following sentences:*

*At the end of the first subparagraph: “... on which the Member States confer competences to attain objectives they have in common.”.*

*To replace the last subparagraph: “The Union shall be founded on the present Treaty and on the Treaty on the functioning of the European Union. It shall replace and succeed the European Community.”.*

- 2bis *Insertion of an Article 2 on the values of the Union.\**

- 3) *Replacement of Article 2 on the Union’s objectives, renumbered 3, with the following text:<sup>2</sup>*

“1. The Union’s aim is to promote peace, its values and the well-being of its peoples.

2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.

3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

It shall promote economic, social and territorial cohesion, and solidarity among Member States.

1 Throughout this Annex, this sign (\*) indicates that the innovations to be inserted are the same as those agreed by the 2004 IGC.

2 The following Protocol will be annexed to the Treaties:

*“Protocol on internal market and competition*

*The High Contracting Parties, considering that the internal market as set out in Article 3 of the Treaty on European Union includes a system ensuring that competition is not distorted*

*Have agreed that,*

*to this end, the Union shall, if necessary, take action under the provisions of the Treaties, including under Article 308 of the Treaty on the Functioning of the Union.”*

It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

- 3bis. The Union shall establish an economic and monetary union whose currency is the euro.
  4. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.
  5. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties.”
- 4) *Replacement of Article 3 by an Article 4 on the relations between the Union and the Member States\**, with the addition of the following at the beginning and of a sentence at the end of the *present paragraph 1, renumbered 2*:
- “1. In accordance with Article [I-11], competences not conferred upon the Union in the Treaties remain with the Member States.
  2. The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.
- (present paragraph 2 renumbered 3)*”.



5) Replacement of Article 6 on fundamental rights with a text reading as follows:<sup>1 2 3 4</sup>

“1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of 7 December 2000, as adapted on [... 2007<sup>5</sup>], which shall have the same legal value as the Treaties.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions.”

2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union’s competences as defined in the Treaties.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union’s law.

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1 The IGC will agree the following Declaration: “The Conference declares that:

1. *The Charter of Fundamental Rights, which has legally binding force, confirms the fundamental rights guaranteed by the European Convention on Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States.*

2. *The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined by the Treaties.”*

2 Unilateral Declaration by Poland:

*“The Charter does not affect in any way the right of Member States to legislate in the sphere of public morality, family law as well as the protection of human dignity and respect for human physical and moral integrity.”*

3 The following Protocol will be annexed to the Treaties:

*“The High Contracting Parties*

*Whereas in Article [xx] of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights;*

*Whereas the Charter is to be applied in strict accordance with the provisions of the aforementioned Article [xx] and Title VII of the Charter itself;*

*Whereas the aforementioned Article [xx] requires the Charter to be applied and interpreted by the courts of the United Kingdom strictly in accordance with the Explanations referred to in that Article;*

*Whereas the Charter contains both rights and principles;*

*Whereas the Charter contains both provisions which are civil and political in character and those which are economic and social in character;*

*Whereas the Charter reaffirms the rights, freedoms and principles recognised in the Union and makes those rights more visible, but does not create new rights or principles;*

*Recalling the United Kingdom’s obligations under the Treaty on European Union, the Treaty on the Functioning of the European Union, and Union law generally;*

*Noting the wish of the United Kingdom to clarify certain aspects of the application of the Charter;*

*Desirous therefore of clarifying the application of the Charter in relation to the laws and administrative action of the United Kingdom and of its justiciability within the United Kingdom;*

*Reaffirming that references in this Protocol to the operation of specific provisions of the Charter are strictly without prejudice to the operation of other provisions of the Charter;*

*Reaffirming that this Protocol is without prejudice to the application of the Charter to other Member States;*

*Reaffirming that this Protocol is without prejudice to other obligations of the United Kingdom under the Treaty on European Union, the Treaty on the Functioning of the European Union, and Union law generally;*

*Have agreed upon the following provisions which shall be annexed to the Treaty on European Union:*

*Article 1*

1. *The Charter does not extend the ability of the Court of Justice, or any court or tribunal of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms.*

2. *In particular, and for the avoidance of doubt, nothing in [Title IV] of the Charter creates justiciable rights applicable to the United Kingdom except in so far as the United Kingdom has provided for such rights in its national law.*

*Article 2*

*To the extent that a provision of the Charter refers to national laws and practices, it shall only apply in the United Kingdom to the extent that the rights or principles that it contains are recognised in the law or practices of the United Kingdom.”*

4 Two delegations reserved their right to join in the Protocol referred to in footnote 19.

5 I.e. the version of the Charter as agreed in the 2004 IGC which will be re-enacted by the three Institutions in [2007]. It will be published in the Official Journal of the European Union.

- 6) *Insertion of an Article 7bis on the Union and its neighbours\**.

## **Title II – Provisions on democratic principles**

- 7) *Insertion of a new Article on the role of national parliaments in the Union reading as follows:*

“National parliaments shall contribute actively to the good functioning of the Union:

- a) through being informed by the institutions of the Union and having draft European legislative acts forwarded to them in accordance with the Protocol on the role of national parliaments in the European Union;
- b) by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;
- c) by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with Article [III-260], and through being involved in the political monitoring of Europol and the evaluation of Eurojust’s activities in accordance with Articles [III-276 and III-273];
- d) by taking part in the revision procedures of the Treaties, in accordance with Article [IV-443 and IV-444];
- e) by being notified of applications for accession to the Union, in accordance with Article [49];
- f) by taking part in the interparliamentary cooperation between national parliaments and with the European Parliament, in accordance with the Protocol on the role of national parliaments in the European Union.”.

## **Title V – General provisions on the Union’s External Action and specific provisions on the Common Foreign and Security Policy**

- 8) *In Article 11, insertion of a paragraph 1 reading as follows (the current text of paragraph 1 being deleted):<sup>1</sup>*

1. The Union’s competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union’s security, including the progressive framing of a common defence policy that might lead to a common defence.

The common foreign and security policy is subject to specific procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and

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<sup>1</sup> The IGC will agree the following Declaration: “In addition to the specific procedures referred to in [paragraph 1 of Article 11], the Conference underlines that the provisions covering CFSP including in relation to the High Representative of the Union for Foreign Affairs and Security Policy and External Action Service will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organisations, including a Member State’s membership of the Security Council of the UN. The Conference also notes that the provisions covering CFSP do not give new powers to the Commission to initiate decisions or increase the role of the European Parliament. The Conference also recalls that the provisions governing the Common Security and Defence Policy do not prejudice the specific character of the security and defence policy of the Member States.”

Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. The Court of Justice of the European Union shall not have jurisdiction with respect to these provisions, with the exception of its jurisdiction to monitor the compliance with Article [III-308] and to review the legality of certain decisions as provided for by Article [III-376, second subparagraph].”

#### **Title VI – Final provisions**

- 9) *In Article 49, first subparagraph, insertion of a new last sentence, the second subparagraph remaining unchanged:*

“Article 49

*Conditions of eligibility and procedure for accession to the Union*

*Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account.”*

**A. Modifications compared with the results as agreed in the 2004 IGC**

*The purpose of this Annex is to clarify the exact drafting where necessary (A) and to clarify the location of certain provisions (B)*

- 1) *In Article 42, insertion of amendments as agreed in the 2004 IGC, with addition of the following, at the end:*

“Where a member of the Council declares that a draft legislative act referred to in the first subparagraph would affect important aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- (a) refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure, or  
 (b) take no action or request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted.”

- 2) *Replacement, as agreed in the 2004 IGC, of Title IV with the provisions of a new Title on the area of freedom, security and justice\*, which includes Chapter 1 (general provisions), Chapter 2 (policies on border checks, asylum and immigration), Chapter 3 (judicial cooperation in civil matters), Chapter 4 (judicial cooperation in criminal matters) and Chapter 5 (police cooperation).*

- (a) *In Chapter 1 (general provisions), insertion in [Article III-262] of the following new second subparagraph:*

“It shall be open to Member States to organize between themselves and under their responsibility forms of cooperation and coordination as they deem appropriate between the competent departments of their administrations responsible for safeguarding national security.”

- (b) *In Chapter 3 (judicial cooperation in civil matters), replacement of paragraph 3 of [Article III-269] as follows:*

3. Notwithstanding paragraph 2, measures concerning family law with cross border implications shall be established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The proposal referred to in the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision referred to in the second subparagraph shall not be adopted. In the absence of opposition, the Council may adopt the decision.”

<sup>1</sup> Throughout this Annex, this sign (\*) indicates that the innovations to be inserted are the same as those agreed by the 2004 IGC.

(c) *In Chapter 4 (judicial cooperation in criminal matters), replacement of, respectively, paragraphs 3 and 4 of [Article III-270] and of [Article III-271] by the following:*

“3. Where a member of the Council considers that a draft directive as referred to in [paragraph 2 of III-270] [paragraphs 1 or 2 of III-271] would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least 9 Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I 44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.”

(d) *In Chapter 4 (judicial cooperation in criminal matters) and in Chapter 5 (police cooperation) insertion of the following new last subparagraphs, respectively, in paragraph 1 of [III-274] and in paragraph 3 of [Article III-275]:*

“In case of absence of unanimity in the Council, a group of at least 9 Member States may request that the draft [regulation/measures] be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least 9 Member States wish to establish enhanced cooperation on the basis of the draft [regulation/measures] concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I 44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.”

[in III-275(3) only: “The specific procedure provided in the second and third subparagraphs shall not apply to acts which constitute a development of the Schengen acquis.”].

3) *In Article 100, replacement of paragraph 1 with the following:*

“1. Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy.”

4) *In Title XIX (environment), insertion of amendments as agreed in the 2004 IGC, with the replacement of the last indent in Article 174 by the following:*

“– promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.”

5) Insertion of a new Title on energy, as agreed in the 2004 IGC, with the replacement of the introductory sentence in paragraph 1 of the Article [III-256] by the following:

“1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to: (...)”.

**B. Clarifications on the location of certain provisions\***

- 6) Status of churches and non-confessional organisations (end of Title II on provisions of general application);
- 7) Citizenship of the Union (Part Two);
- 8) Legal basis for adopting the arrangements for the submission of a citizens' initiative [I-47(4)] (at the beginning of Article 27);
- 9) Transparency of the proceedings of the Union institutions, bodies, offices and agencies (Article 255, moved in Part Two);
- 10) Social partners and the social dialogue (beginning of the Chapter on social policy);
- 11) Solidarity clause (new Title VII in the Part on External Action);
- 12) European Ombudsman (in Article 195);
- 13) Provision under which the rules on QMV in the Council also apply to the European Council ([Article I-25(3)] in the new Section 1bis on European Council);
- 14) Legal bases for adopting the list of Council configurations [Article I-24(4)] and the decision on the presidency of these configurations (Article I-24(7)) and replacement of Article 205(2) with the QMV rule applicable when the Council does not act on the basis of a Commission proposal [Article I-25(2)] (in Section 2 on Council);
- 15) Legal basis for the adoption of the rotation system for the composition of the Commission [Article I-26(6)(a) and (b)] (Section 3 on Commission);
- 16) European Central Bank (in Section 4bis in Part Five);
- 17) Court of Auditors (in Section 5 in Part Five);
- 18) The Union's Advisory Bodies (in Chapters 3 and 4 in Part Five);
- 19) Specific Title II on financial provisions (Chapters on the Union's own resources, the multiannual financial framework, the Union's annual budget, the implementation of the budget and discharge, common provisions and combating fraud);
- 20) A Title III and provisions on enhanced cooperation, including the transfer of Articles 27 A to 27 E and 40 to 40 B TEU and of the details on voting arrangements [Article I-44(3)];
- 21) Amendment of Article 309 with the details of voting rules in case of suspension of certain rights resulting from Union membership [Article I-59(5) and (6)];
- 22) Insertion in the General and Final Provisions of the details of territorial scope [Article IV-440(2) to (7)].



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RESEARCH PAPER 07/64  
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# EU Reform: a new treaty or an old constitution?

Following the failure of all Member States to ratify the 2004 *Treaty Establishing a Constitution for Europe*, and a 'reflection period' to consider the fate of the treaty, the German EU Presidency in the first half of 2007 relaunched the debate on the future of Europe. It held confidential talks with Member State governments and drew up a Draft Mandate for an Intergovernmental Conference (IGC). The European Council on 21-22 June 2007 agreed the Draft IGC Mandate and the Portuguese Presidency opened the IGC on 23 July, with a view to concluding a new Reform Treaty in October 2007. Many of the Mandate's amendments are articles from the 2004 constitutional text, while others are new and reflect the particular concerns of Member States.

When a final amending treaty has been concluded, the ratification process will begin in the 27 Member States. Most Member States will ratify the new treaty by a parliamentary method, although it is likely that those holding a referendum will include Ireland and Denmark.

Vaughne Miller

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<b>07/57</b>	<i>Child Maintenance and Other Payments Bill</i> [Bill 118 of 2006-07]	29.06.07
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## Summary of main points

In October 2004 25 European Union (EU) governments signed the *Treaty Establishing a Constitution for Europe* (here referred to as the EU Constitution) and ratification began in the Member States with a view to implementing the new treaty by 2007. However, negative referendums in France and the Netherlands in 2005 were a major setback. Although ratification continued in some Member States, others, including the UK, decided to suspend their ratification procedures. A 'reflection period' was introduced, which was brought to an end in early 2007 by the German EU Presidency. The 'Berlin Declaration' in May 2007 marked the 50<sup>th</sup> anniversary of the EU and spurred Member States towards the goal of achieving a 'renewed common foundation' in the form of a new treaty before European Parliament elections in 2009.

By this time 18 Member States had ratified (or almost ratified) the 2004 Constitution. Most of these had no problem with the substance of the Constitution and wanted to keep most of its reforms, if in a shorter, simplified text. Other States wanted parts of the 2004 text removed and a treaty that would not be 'constitutional'. Chancellor Merkel held bilateral talks with Member State leaders about how to proceed and meetings were held by Member State officials to discuss issues surrounding Treaty reform. The Presidency target was to achieve agreement on a 'roadmap' for settling the constitutional and institutional issues faced by the EU at the European Council summit in June 2007.

The British Government objected to several 2004 provisions, including legal status for the Charter of Fundamental Rights, the single legal personality for the EU, a reference to the primacy of EU law, and qualified majority voting (QMV) in police and judicial cooperation. It wanted to retain the present three-pillared structure and called for a stronger role for national parliaments. States such as Poland and the Czech Republic were regarded as UK allies in support of a new, minimalist treaty, while other so-called 'maximalist' States, including Germany, Belgium, Italy and Spain were keen to retain the substance and fundamental principles of the Constitution.

On 19 June 2007 the German Presidency released a Draft Intergovernmental Conference (IGC) Mandate to put to the European Council, which reached agreement on 22 June on the basis for a new reform treaty. Most of the 2004 text will be incorporated into the existing EC/EU Treaties as amendments, with certain modifications, protocols and declarations to take account of the specific concerns of individual Member States. These concerned in particular the competences of the EU and the Member States and their delimitation, the specific nature of the Common Foreign and Security Policy (CFSP), the enhanced role of national parliaments, the treatment of the Charter of Rights and a mechanism, in police and judicial cooperation in criminal matters, to allow a group of Member States to proceed in some areas, while others did not participate. The Czech proposal that the treaty should set out a mechanism for the repatriation of competences to Member States was tackled by means of an amendment specifying that the Treaties may be amended to remove competences from the EU as well as to add them.

The 2004 moves to QMV will be retained but the UK will keep its current opt-out and opt-in arrangements regarding the euro and measures on asylum, immigration and border controls in Title IV. There will be no extension of QMV into areas such as taxation and benefits.

There will also be a particular UK exemption from the Charter of Fundamental Rights in a protocol stating that the Charter does not create justiciable rights in the UK which go beyond the country's national law. The French delegation succeeded in removing a reference to "undistorted competition" from the article setting out the aims of the EU, but the commitment to free markets and competition is underlined elsewhere in the Mandate. The Polish delegation eventually accepted a compromise on the issue of voting weights in the Council of Ministers: the Nice Treaty provisions will operate until November 2014, and special provisions will operate until April 2017 enabling any Member State to call for votes to be taken under the old rules. The Constitution double majority voting system will begin in November 2014, but Member States representing three-quarters of a blocking minority will be able to delay decisions in the Council to enable compromises to be reached. After April 2017 this threshold will reduce to 55% of the blocking minority. The Dutch insistence on an enhanced mechanism for national parliaments to operate a 'yellow card' subsidiarity check on draft legislation was approved. An article will be inserted stating that national parliaments "shall actively contribute" to the functioning of the EU.

An Intergovernmental Conference (IGC) was launched on 23 July 2007 to discuss and refine technicalities under the Mandate, with a view to concluding Treaty amendments in October 2007. These will then be submitted to Member States for ratification in accordance with each State's constitutional requirements. Some States, including Ireland and probably Denmark, will require a referendum in order to ratify the new treaty.

Relevant texts are:

- EC/EU Treaties, <http://eurlex.europa.eu/LexUriServ/site/en/oj/2006/ce321/ce32120061229en00010331.pdf>
- Treaty Establishing a Constitution for Europe at <http://europa.eu.int/eur-lex/lex/JOHtml.do?uri=OJ:C:2004:310:SOM:EN:HTML>
- European Council Conclusions, containing IGC draft mandate, at [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/94932.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/94932.pdf)
- IGC Mandate (final text of the above) at <http://register.consilium.europa.eu/pdf/en/07/st11/st11222.en07.pdf>



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# I Background

## A. The 2004 Constitutional Treaty

The *Treaty Establishing a Constitution for Europe* (European or EU Constitution) was signed in October 2004 by the then 25 heads of state or government and by 2007 had been ratified (or almost ratified) by 18 of the now 27 Member States.<sup>1</sup> Acceding States since 2004 have all ratified the EU Constitution along with their accession treaties. In 2005 France and the Netherlands voted against the EU Constitution in referendums, thereby preventing its implementation. The Constitution has to be ratified by all Member States in order to come into force. The Constitution cannot enter into force in its current form and the 18 ratifying States cannot proceed to implement it because unanimous ratification is required.

Following the rejections the EU entered into a period of reflection on its constitutional future, during which time the debate continued informally between the EU and its Member States and among the Member States, but no new proposals were formally tabled or discussed. The French and Dutch governments did not intend to hold a second referendum on the same constitutional text. The 18 ratifying Member States were forced to reconsider how the spirit, if not the letter, of the Constitution might be implemented, but in such a way that the other nine, which had found the Constitution unratifiable, would be able to join them. The so-called 'maximalists', Belgium, Germany, Italy and Spain, for example, wanted to retain as much of the Constitution as possible, while the UK, the Czech Republic, France, the Netherlands and Poland formed a group of 'minimalists', countries which wanted only the most necessary of amendments to the present EC/EU Treaties to allow the EU to function institutionally. Some argued that the only essential reform for the immediate future, and one required by 2009 under the Nice Treaty, was the size of the Commission. Even this, it was suggested, could be incorporated into the next accession treaty (Croatia?) if entry took place by 2009. This would be a very modest amendment, and even combined with other minor amendments, would be unlikely to require a referendum.<sup>2</sup>

Ideas that emerged during the 'reflection period' are discussed in Library Standard Notes SN/IA/3911, *The European Constitution: the period of reflection* 6 March 2006,<sup>3</sup> SN/IA/3993, *In brief: the European Constitution* 5 April 2006,<sup>4</sup> SN/IA/4065, *The European*

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<sup>1</sup> Bulgaria and Romania, which joined the EU in January 2007, acceded to the Constitution by virtue of their EU Accession Treaty. See Appendix II for information on ratification.

<sup>2</sup> *BBC News* 27 February 2007 at <http://news.bbc.co.uk/2/hi/europe/6400525.stm>

<sup>3</sup> At [http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY\\_OTHE\\_R\\_PAPERS/STANDARD\\_NOTE/sn-03911.pdf](http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY_OTHE_R_PAPERS/STANDARD_NOTE/sn-03911.pdf)

<sup>4</sup> At [http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY\\_OTHE\\_R\\_PAPERS/STANDARD\\_NOTE/sn-03993.pdf](http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY_OTHE_R_PAPERS/STANDARD_NOTE/sn-03993.pdf)



*Constitution: recent developments* 12 June 2006,<sup>5</sup> SN/IA/4201, and *The EU Constitution: recent proposals* 6 December 2006.<sup>6</sup>

## B. The German Presidency

### 1. Reviving the constitutional debate

Germany held the Presidency of the EU from January to June 2007. The German Presidency formally revived the debate after several months of bilateral consultations, with a view to reaching agreement by the end of its Presidency on how to proceed. Several of the nine non-ratifying States had made demands for changes that would make a new treaty more acceptable to a sceptical domestic public. The European Council in June 2006 asked the then incoming German Presidency to consult Member States about how to achieve this and to submit a report to the Council exploring possible future developments. The report would serve as the basis for decisions on how to proceed with the EU reform process.

The German Foreign Minister, Frank-Walter Steinmeier, told a press conference on 19 December 2006 that Berlin's priority would be the revival of the EU Constitution.<sup>7</sup> The Presidency programme<sup>8</sup> contained a lengthy and ambitious agenda. In the first heading, "A functioning Community – further developing the EU", the programme referred to the aims of the stalled *Treaty Establishing a Constitution for Europe*, namely

progress towards a value-oriented and socially just Europe, more civil rights, increased cooperation in the areas of justice and home affairs, clearer division of responsibilities between the Union and the Member States, greater national parliament participation and a stronger foreign and security policy. It makes the European Union more democratic, efficient and transparent and gives it more scope to act.<sup>9</sup>

By October 2006 the German Chancellor, Angela Merkel, was not optimistic about the German Presidency solving the constitutional issue.<sup>10</sup> The Presidency undertook to agree at the European Council in June 2007 the definition of a 'roadmap' containing a procedure, a clear mandate and a deadline for bringing about a settlement to the constitutional impasse. The June summit would settle the main issues, leaving the ensuing Portuguese Presidency to open an IGC to agree on the technicalities. The Portuguese Prime Minister, José Sócrates, said that if the June summit did not secure a 'precise mandate' for the EU's constitutional future, the Portuguese Presidency would

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<sup>5</sup> At [http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY\\_OTHE\\_R\\_PAPERS/STANDARD\\_NOTE/snia-04065.pdf](http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY_OTHE_R_PAPERS/STANDARD_NOTE/snia-04065.pdf)

<sup>6</sup> At [http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY\\_OTHE\\_R\\_PAPERS/STANDARD\\_NOTE/snia-04201.pdf](http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY_OTHE_R_PAPERS/STANDARD_NOTE/snia-04201.pdf)

<sup>7</sup> "Europe-succeeding together", German Presidency Programme 1 January - 30 June 2007 at [http://www.eu2007.de/includes/Downloads/Praesidentschaftsprogramm/EU\\_Presidency\\_Programme\\_final.pdf](http://www.eu2007.de/includes/Downloads/Praesidentschaftsprogramm/EU_Presidency_Programme_final.pdf)

<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> *EUObserver* 30 October 2006

not continue to negotiate with individual Member States and would put the issue on the political back burner for its six-month tenure.<sup>11</sup> It was suggested that this strategy stemmed from fears that Portugal and Slovenia (which assumes the Presidency in January 2008) would not have the political clout of the larger Member States and would not be able to push through reforms.

## 2. The Berlin Declaration

The June 2006 European Council agreed a timetable for continuing the institutional reform process, including the adoption by the Member States, the European Parliament (EP) and Commission, of a political declaration to mark the EU's 50<sup>th</sup> anniversary.

The Berlin Declaration was signed at the Berlin European Council on 25 March 2007.<sup>12</sup> There had been disagreement among EU Member States as to the tone and content of the Declaration, but it fell to the Presidency, rather than the Member State governments, to write the text. Secrecy surrounded the Presidency's plans for the declaration, and some regarded it as a possible springboard towards reviving the European Constitution. However, it stated only that "50 years after the signing of the Treaties of Rome, we are united in our aim of placing the European Union on a renewed common basis before the European Parliament elections in 2009".<sup>13</sup> The then Prime Minister, Tony Blair, told the Commons on 12 March 2007 that the European Council had agreed "that it was important that the Berlin declaration did not get tangled up with issues to do with the constitutional treaty, which will come up at the June summit".<sup>14</sup> The Declaration called specifically for institutional changes to be completed by the time of the next EP elections.

Only the presidents of three EU institutions - Chancellor Angela Merkel (representing the Council), Jose Manuel Barroso (European Commission) and Hans-Gert Pöttering (European Parliament) - signed the Declaration, thereby distancing Member State governments from close identification with its content.

## 3. The Presidency strategy

In the run-up to the European Council in June 2007, Chancellor Merkel avoided the kind of broad consultation on a new text that had been held to help draw up the EU Constitution. As with the preparation of the "Berlin Declaration", she held confidential talks with Member States and officials (so-called 'sherpas' or 'focal points').<sup>15</sup> The

<sup>11</sup> *EUObserver*, 14 May 2007 at <http://euobserver.com/9/24050/?rk=1>

<sup>12</sup> The text of the document is available on the German Presidency website at [http://www.eu2007.de/de/News/download\\_docs/Maerz/0324-RAA/English.pdf](http://www.eu2007.de/de/News/download_docs/Maerz/0324-RAA/English.pdf). See Standard Note SN/IA/4288, *The 50th Anniversary of the European Union*, 26 March 2007 at [http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY\\_OTHE\\_R\\_PAPERS/STANDARD\\_NOTE/sn-04288.pdf](http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY_OTHE_R_PAPERS/STANDARD_NOTE/sn-04288.pdf)

<sup>13</sup> Berlin Declaration at [http://www.eu2007.de/de/News/download\\_docs/Maerz/0324-RAA/English.pdf](http://www.eu2007.de/de/News/download_docs/Maerz/0324-RAA/English.pdf)

<sup>14</sup> HC Deb 12 March 2007 c 30 at <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070312/debtext/70312-0004.htm#0703125000193>

<sup>15</sup> See HC Deb 16 Jan 2007 c 641. The UK focal points were initially Kim Darroch, Prime Minister's European Policy Adviser and Head of European Secretariat, Cabinet Office, since 2004 and Nicola Brewer (head of European Union policy at the FCO). Nicola Brewer was later replaced by Shan Morgan, her successor at the FCO.

Chancellor defended her strategy of dealing with national issues through diplomatic channels, defining the Presidency as the ‘honest broker’ in the arrangement. However, the method attracted accusations of secrecy and a lack of legitimacy. Critics in the EP and the Commission, including the Communications Commissioner, Margot Wallström, asked how such an approach could be consistent with the aim of engaging with citizens and bringing the EU “closer to the people”. Ms Merkel responded by suggesting that the EP itself might organise a public discussion on the Constitution.<sup>16</sup> She insisted that not all Europe’s ‘deals’ could be “achieved out in the open marketplace” and publicly reported at every stage, although she agreed that the “European public must be stakeholders in what we are doing”.<sup>17</sup> Reports that the Presidency would aim for minimal changes to the Constitution, in order to get it accepted by sceptical nations such as the UK, Poland and the Czech Republic, were denied by the German Government.

There were three focal point meetings. Early on the envoys decided that parts of the Constitution that could be interpreted as “impinging on statehood”, such as the title ‘constitution’, and an EU flag and hymn, should be removed. There was also significant support for a pared down version of the Constitution, which would be ratified by parliaments rather than by referendum. After the first sherpa meeting the UK was reported to have been “the toughest opponent of an emerging compromise on a new-look treaty” and the “biggest potential obstacle to agreeing a deal”,<sup>18</sup> largely because of the Government’s insistence on retaining its opt-out from decisions on police and judicial cooperation. Poland, another ‘problem State’, maintained its opposition to the double majority voting system proposed in the Constitution in favour of a formula based on the square root of population size. The Presidency did not apparently welcome a proposal from the Netherlands, Poland and the Czech Republic to allow national parliaments to request that some powers be returned to national level (the so-called ‘red card’ proposal).

#### 4. Questionnaire

It was reported in the German magazine *Der Spiegel* in May 2007 that the Presidency had sent a one-page questionnaire to all Member State governments “that expressed the German view of how the debate should proceed”.<sup>19</sup> The aim of the exercise was allegedly to help Member State governments to arrive at a “very precise and clearly defined mandate” for a re-drafted constitution. The report concluded that “Berlin wasn’t expecting concrete answers. In most cases it didn’t get them. But the questionnaire did prompt debate in almost every member nation about what Germany wants”.<sup>20</sup> The questionnaire was not published as an official document. The questions were framed

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<sup>16</sup> “MEPs debate Berlin Declaration with Merkel” EP press release 29 March 2007 at [http://www.europarl.europa.eu/news/expert/infopress\\_page/008-4691-087-03-13-901-20070326IPR04616-28-03-2007-2007-false/default\\_en.htm](http://www.europarl.europa.eu/news/expert/infopress_page/008-4691-087-03-13-901-20070326IPR04616-28-03-2007-2007-false/default_en.htm)

<sup>17</sup> Ibid. See also House of Lords European Union Committee 10th Report 2006–07, Evidence from the Ambassador of the Federal Republic of Germany on the German Presidency, Report with Evidence, 6 March 2007, HL Paper 56 at [http://10.160.3.10:81/PIMS/Parliamentary%20Information/PARLIAMENTARY\\_PAPER/2007/56.pdf](http://10.160.3.10:81/PIMS/Parliamentary%20Information/PARLIAMENTARY_PAPER/2007/56.pdf)

<sup>18</sup> *EU Observer* 16 May 2007 at <http://euobserver.com/9/24071/?rk=1> and *Irish Times* 17 May 2007

<sup>19</sup> *Spiegelonline* (International) 9 May 2007 at <http://www.spiegel.de/international/europe/0,1518,481925,00.html>

<sup>20</sup> Ibid

from suggestions from Member States<sup>21</sup> for amending the text of the Constitution and were published on the UKIP website as follows:

1. How do you assess the proposal made by some Member States not to repeal the existing treaties but to return to the classical method of treaty changes while preserving the single legal personality and overcoming the pillar structure of the EU?
2. How do you assess in that case the proposal made by some Member States that the consolidated approach of part 1 of the Constitutional Treaty is preserved, with the necessary presentational changes resulting from the return to the classical method of treaty changes?
3. How do you assess in that case the proposal made by some Member States to use different terminology without changing the legal substance for example with regard to the title of the treaty, the denomination of EU legal acts and the Union's Minister for Foreign Affairs?
4. How do you assess the proposal made by some Member States to drop the article that refers to the symbols of the EU?
5. How do you assess the proposal made by some Member States to drop the article which states the primacy of EU law?
6. How do you assess the proposal made by some Member States that Member States will replace the full text of the Charter of Fundamental Rights by a short cross reference having the same legal value?
7. Do you agree that the institutional provisions of the Constitutional Treaty form a balanced package that should not be reopened?
8. Are there other elements which in your view constitute indispensable parts of the overall compromise reached at the time?
9. How do you assess the proposal made by some Member States concerning possible improvements/clarifications on issues related to new challenges facing the EU, for instance in the fields of energy/climate change or illegal immigration?
10. How do you assess the proposal made by some Member States to highlight the Copenhagen criteria in the article on enlargement?
11. How do you assess the proposal made by some Member States to address the social dimension of the EU in some way or the other?
12. How do you assess the proposal made by some Member States applying opt-in/out provisions to some of the new policy provisions set out in the Constitutional Treaty?<sup>22</sup>

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<sup>21</sup> Question 2 is unofficially attributed to a suggestion by Tony Blair

<sup>22</sup> UKIP website at [http://www.ukip.org/ukip\\_news/gen12.php?t=1&id=3014](http://www.ukip.org/ukip_news/gen12.php?t=1&id=3014)

A German government spokesman, Thomas Steg, told the *Spiegelonline*: "There is no such letter from the chancellor to her counterparts".<sup>23</sup> The Foreign Secretary, Margaret Beckett, said on 1 May 2007 that she would 'not publish any response that we may make to the document that has been circulated'.<sup>24</sup> She told the European Scrutiny Committee on 7 June:

I do not know what the original purpose was of sending round these questions but they have played really no role in whatever discussion there has been, which is why we have resisted being drawn on some of the content because, should negotiations begin which no doubt at some point they will, some of the answers to these questions would be an issue of the British Government's negotiating stance. This document was sent round. My own impression of it is that it was meant to try and get people to think about what the position of other Member States might be, what they could live with, et cetera, but it has not I think I am right in saying played any real part in the discussion. At no point have those felicitously called our focal points been invited to address these questions or to answer them. It has just lain on the table. I really cannot tell you what the original purpose of it was but whatever it was I am not sure it has served it.<sup>25</sup>

However, the alleged letter was widely regarded as crucial in helping the Presidency to prepare its negotiating strategy and its proposals for Treaty amendments in the weeks preceding the European Council summit.

## II Views from the EU Institutions

This section looks at the positions taken by the EU Institutions on reforming the EC/EU Treaties, given the failure to achieve universal ratification of the EU Constitution.

### A. European Commission

The Commission was above all against any attempt to water down or 'roll back' what it regarded as key elements of the European Constitution. Commission 'red lines' included retaining the 'Community method' (decision-making at EU level, often involving the use of QMV and the loss of the national veto), and the single market.<sup>26</sup> The former referred to suggestions from Poland, the Czech Republic and the Netherlands for a mechanism to allow a group of governments to request the repatriation of powers from the EU to the Member States. The latter was allegedly directed partly at the new French Government, as Nicholas Sarkozy was "expected to take a nationalistic stance on issues like foreign take-overs of French companies".<sup>27</sup>

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<sup>23</sup> Also reported in *Reuters Deutschland* 22 April 2007 at [http://de.today.reuters.com/news/newsArticle.aspx?type=topnews&storyID=2007-04-22T105927Z\\_01\\_HUM239549\\_RTRDEOC\\_0\\_DEUTSCHLAND-EU-VERFASSUNG-WE-ZF.xml](http://de.today.reuters.com/news/newsArticle.aspx?type=topnews&storyID=2007-04-22T105927Z_01_HUM239549_RTRDEOC_0_DEUTSCHLAND-EU-VERFASSUNG-WE-ZF.xml)

<sup>24</sup> HC Deb 1 May 2007 c 1351 at <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070501/debtext/70501-0001.htm#07050142000056>

<sup>25</sup> Uncorrected evidence 7 June 2007, at <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmeuleg/uc640-i/uc64002.htm>

<sup>26</sup> The Dutch Government is concerned about a new treaty expanding single market legislation into the areas of pensions, social security and health.

<sup>27</sup> *EUObserver* 15 May 2007 at <http://euobserver.com/9/24068/?rk=1>

The Commissioner for Justice, Freedom and Security, Franco Frattini, believed that removing the national veto in the areas of police and judicial cooperation was fundamentally necessary and that an emergency brake mechanism should be used only rarely.<sup>28</sup> He cautioned that Member States with opt-outs (the UK, Ireland and Denmark) would risk being left behind while others advanced using provisions for 'enhanced cooperation'.<sup>29</sup> The resulting 'two-speed Europe' would be, in his view, the lesser of two evils, given the alternative of lengthy delays due to blockages by one of two Member States.

## B. European Parliament

On 2 May 2007 the EP Constitutional Affairs Committee (AFCO) had an exchange of views on a draft report drawn up by Enrique Barón Crespo (PES, Spain) and Elmar Brok (EPP-ED, Germany) on a "roadmap for the EU's constitutional process".<sup>30</sup> The Committee's draft resolution supported Presidency efforts to agree a definition of a roadmap with a procedure, clear mandate and a deadline for settling the constitutional issue. The Committee strongly supported the 2004 Constitution and would not accept any new text that diminished the level of democracy and citizens' rights it believed that text provided. It acknowledged the "major issues" that had been raised during the reflection period, which needed to be tackled. These included promoting sustainable development to tackle climate change, promoting solidarity in energy supply, developing a migration policy, improving the European Social Model in the context of globalisation, the fight against terrorism, and defining effective common mechanisms for economic policy in the eurozone while respecting the ECB and the Treaties.

In the forthcoming IGC the EP wanted to be "fully involved ... at all levels, at least to the same extent as during the 2003-04 IGC".<sup>31</sup> It wanted ratification of the new treaty to be completed by the end of 2008 so that the new EP in 2009 could start work under the new provisions, and it called on Member States "to consider the possibility of coordinating their ratification procedures, in order to allow for the ratification process to be completed simultaneously".<sup>32</sup> On 21 May the AFCO voted on the Crespo/Brok report and it was adopted, with a somewhat tougher resolution than the draft text, by 20 votes to two. The EP debated and adopted the report in plenary session on 6 June 2007 by 469 votes to 141, accepting a "repackaging" of the essential parts of the Constitution, but still suggesting it might reject any new treaty that was not ambitious enough.<sup>33</sup>

The political groups in the EP published their views on the Presidency 'roadmap' in early June 2007. A European People's Party press release on 7 June called for agreement on

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<sup>28</sup> *European Voice* 31 May – 6 June 2007 p1

<sup>29</sup> A mechanism provided by the existing Treaties whereby a group of at least eight States can adopt legislation in certain circumstances, without those States that do not wish to participate.

<sup>30</sup> Documentation available at <http://www.europarl.europa.eu/oeil/file.jsp?id=5478952>

<sup>31</sup> Motion for an EP Resolution on the roadmap for the Union's Constitutional Process, (2007/0000(INI)) at [http://www.europarl.europa.eu/meetdocs/2004\\_2009/documents/pr/662/662727/662727en.pdf](http://www.europarl.europa.eu/meetdocs/2004_2009/documents/pr/662/662727/662727en.pdf)

<sup>32</sup> Motion for an EP Resolution on the roadmap for the Union's Constitutional Process

<sup>33</sup> See EP press release on the debate at [http://www.europarl.europa.eu/news/expert/infopress\\_page/005-7566-157-06-23-901-20070606IPR07540-06-06-2007-2007-false/default\\_en.htm](http://www.europarl.europa.eu/news/expert/infopress_page/005-7566-157-06-23-901-20070606IPR07540-06-06-2007-2007-false/default_en.htm)

institutional reform.<sup>34</sup> The Socialist Group stood firmly behind the Presidency efforts.<sup>35</sup> The Alliance of Liberals and Democrats for Europe welcomed the EP report and hoped for a more flexible treaty revision method that would allow those countries wanting to move forwards to do so.<sup>36</sup> The European United Left/ Nordic Green Left issued a Declaration on 6 June which was critical of the ‘roadmap’ and called ‘for a very open public debate on what should change in the orientations and structures of the Union and subsequently for ratification by referendum of the future European treaty’.<sup>37</sup>

## C. Views from other organisations

This section considers the views of two important groups on the future of Europe, the group led by the Convention vice-chair, Giuliano Amato, and the Friends of the Constitution.

### 1. The Amato Group

A “Group of Wise Men” convened by the Italian former vice-chair of the Convention that drew up the Constitution, Giuliano Amato, formally established itself in 2006 as the Action Committee for European Democracy (ACED), with the following membership:

Giuliano Amato (chair)	Italian Interior Minister
Michel Barnier	Former French Foreign Minister
Stefan Collignon	Professor at European Institute
Jean-Luc Dehaene	Belgian MEP and former Prime Minister
Danuta Hübner	European Commissioner (regional policy)
Sandra Kalniete	Former Latvian Foreign Minister, EU Commissioner
Wim Kok	Former Dutch Prime Minister
Paavo Lipponen	Former Finnish Prime Minister
János Martonyi	Former Hungarian Foreign Minister
Inigo Mendez de Vigo	Spanish centre-right MEP
Chris Patten	Former UK Minister and EU Commissioner
Otto Schily	Former German Interior Minister
Costas Simitis	Former Greek Prime Minister
Dominique Strauss-Kahn	Former French Finance Minister
António Vitorino	Former EU Commissioner (justice & home affairs)
Margot Wallström	European Commissioner (communications)

The group had a €100,000 budget from the German Bosch Foundation, and insisted that although active EU Commissioners were involved, they were acting in their private capacity.<sup>38</sup> In its mission statement, the group pledged not to “let Europe slip away”, “put up with the slow and apparently inevitable gridlock of Europe’s governance” or “allow

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<sup>34</sup> <http://www.epp-ed.eu/Press/showpr.asp?PRControlDocTypeID=1&PRControlID=6142&PRContentID=10877&PRContentLG=en>

<sup>35</sup> 6 June 2007 at <http://www.socialistgroup.eu/gpes/newsdetail.do?lg=en&id=41324&href=home>

<sup>36</sup> Andrew Duff, 6 June 2007, at

[http://www.alde.eu/index.php?id=42&tx\\_ttnews%5btt\\_news%5d=8705&cHash=97b61811bf](http://www.alde.eu/index.php?id=42&tx_ttnews%5btt_news%5d=8705&cHash=97b61811bf)

<sup>37</sup> <http://www.guengl.eu/showPage.jsp?ID=4217&AREA=27&HIGH=1>

<sup>38</sup> *EU Observer* 5 October 2006

narrow nationalism destroy the European dream”.<sup>39</sup> In January 2007 Mr Amato had proposed a new kind of treaty,<sup>40</sup> and the group published a report in early June 2007 in which it stipulated that a new text should be “concise, accessible and readable”.<sup>41</sup> The group argued that the strength of its proposal lay in its distinction between changes in one part of the text, and technical and legal implications in another.

The ACED published a *New Treaty and Supplementary Protocols* comprising 70 articles in eleven titles containing the texts of Parts I and IV of the Constitution, with minor modifications (the “essential reforms”), and two protocols. The latter contained only the new elements in Part III of the Constitution, representing amendments to the present Treaties (including the single legal personality, the merging of the Community and intergovernmental pillars and possibly new Treaty bases for climate change and energy). One protocol, “on the functioning of the Union”, contained institutional changes, while the other, “on the development of the Union’s policies in order to meet the challenges of the XXIst Century”, contained articles on policy innovations. These protocols would be attached to the existing Treaties and ratified along with the new treaty “as one comprehensive package”.<sup>42</sup> The Charter of Fundamental Rights would have binding force by means of a single article and would remain in a separate text. There were no symbols such as flag and anthem, no long preamble and no mention of the word ‘constitution’. References were only to the ‘New Treaty’, the ‘Charter’ and the ‘EC Treaty’.<sup>43</sup>

## 2. Friends of the Constitution

The Spanish and Luxembourg Governments convened a ministerial-level meeting of Member States which had ratified the Constitution to discuss how the EU might proceed on the basis of the 2004 Constitution. At the first meeting of 22 States<sup>44</sup> in Madrid in January 2007 the group concluded that “an agreement limited to just a few institutional changes is not enough to meet the expectations of our citizens, who want us to effectively address important challenges of today’s world, such as immigration, internal and external security and energy, which need also to be addressed at the European

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<sup>39</sup> <http://www.eui.eu/RSCAS/Research/ACED/MissionStatement.shtml>

<sup>40</sup> “A better starting point for Europe’s constitution debate”, Giuliano Amato, *FT.com* 25 January 2007 at <http://www.ft.com/cms/s/bac98eb4-ac18-11db-a0ed-0000779e2340.html>

<sup>41</sup> ACED Declaration, “The way forward for the European Union”, 4 June 2007, at [http://www.eui.eu/RSCAS/e-texts/ACED2007\\_DECLARATION\\_4JUNE07.pdf](http://www.eui.eu/RSCAS/e-texts/ACED2007_DECLARATION_4JUNE07.pdf)

<sup>42</sup> ACED *A New Treaty and Supplementary Protocols* Explanatory Memorandum, 4 June 2007, at [http://www.eui.eu/RSCAS/e-texts/ACED2007\\_NewTreatyMemorandum-04\\_06.pdf](http://www.eui.eu/RSCAS/e-texts/ACED2007_NewTreatyMemorandum-04_06.pdf)

<sup>43</sup> The texts of the ACED New Treaty and Protocols are available in French on the European University Institute website at <http://www.eui.eu/RSCAS/Research/ACED/Index.shtml>.

<sup>44</sup> The ratifying States and observers from non-ratifying States Germany, the Netherlands, Ireland and Portugal. In 2005 law professor Karl Albrecht Schachtschneider filed a lawsuit against the Constitution on behalf of the German MP Peter Gauweiler at the Federal Constitutional Court in Karlsruhe. The Court said in October 2006 that it would not rule on whether the EU Constitution was compatible with the German Constitution until after a final decision had been taken on the overall fate of the treaty. This ruling has prevented the German President, Horst Koehler, from signing the ratification bill passed by the German *Bundestag*, the President’s signature being necessary for ratification.



level". They wanted to work on the basis of the 2004 text to "reach an agreement which respects its fundamental content and its balances".<sup>45</sup>

A follow-up meeting planned for 27 February was cancelled, following concerns that it might be seen as disrespectful to the Presidency.

### **III Views in the Member States**

This section considers the views of a selection of Member States, in particular those which had specific problems with ratification of the 2004 EU Constitution.

#### **A. United Kingdom**

##### **1. The Blair Government**

The British Government signed the EU Constitution in October 2004 and assured the House in June 2005 (after the no-votes in France and the Netherlands) that the UK had "achieved all its objectives", that the Government "therefore had no hesitation in recommending the new treaty to Parliament and to the country" and that it represented "a sensible new set of rules for the enlarged European Union".<sup>46</sup> However, the list of British 'red lines' in areas where the Government could not later accept the Constitution's provisions raised doubts about the Government's earlier pronouncements on it. It could also be argued that Treaty amendments granting significant new powers to the EU in the way the Constitution did would now be unacceptable, because the Government would be morally, if not politically, obliged to hold a referendum (which many believed it would probably lose).

The former Minister for Europe, Geoff Hoon, set out the British Government's position on the future of Europe in a statement on 5 December 2006:

The purpose of this statement is to inform the House about the principles that will underpin the Government's approach to these discussions.

Europeans need to be equipped to maximise the opportunities (and minimise the risks) that globalisation presents. By retaining our focus on the delivery of practical benefits to citizens, the EU can demonstrate the tangible contribution it makes to enhancing prosperity and security in a global age. Enlargement has delivered an unprecedented period of peace and prosperity within the EU's borders. The prospect of EU membership is extending these benefits to our neighbours. In the forthcoming discussions, the Government's overall aim will be to maintain the EU's focus on the delivery of policy and, in discussion on the future of Europe, will be guided by the following principles:

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<sup>45</sup> Madrid, 26 January 2007 at [http://www.unizar.es/euroconstitucion/library/historic%20documents/Constitution/spanish%20ministry%20OFA\\_Amigos\\_TC\\_Puntos\\_EN\\_DEFINITIVO.doc](http://www.unizar.es/euroconstitucion/library/historic%20documents/Constitution/spanish%20ministry%20OFA_Amigos_TC_Puntos_EN_DEFINITIVO.doc)

<sup>46</sup> Jack Straw, HC Deb 6 June 2005 c 991-2 at [http://pubs1.tso.parliament.uk/pa/cm200506/cmhansrd/vo050606/debtext/50606-05.htm#50606-05\\_head0](http://pubs1.tso.parliament.uk/pa/cm200506/cmhansrd/vo050606/debtext/50606-05.htm#50606-05_head0)

*Pursuing British interests:* Our starting point is that we must safeguard our prosperity and security. Britain is a strong, confident and influential European power that can help to lead reform and modernisation, shape debates, build alliances and win the arguments. By engaging with our European partners and friends, we get the right results for Britain and for Europe as a whole. The EU's focus on delivery of policy is an example of where we have helped to steer the EU towards a path that provides practical benefits for all Europe's citizens.

*Modernisation and effectiveness:* The EU is crucial for delivering what we want in a whole range of areas such as: climate and energy security; promotion of trade liberalisation; and migration. We recognise that the EU must continue to adapt and modernise if it is to implement effectively the policies that we want and support. We will therefore favour proposals that modernise the workings of the EU so that it is better equipped to meet both today's and future challenges.

*Consensus:* The European Union is now a much broader organisation and there is a wide range of views to be taken into account. Some 15 member states have substantially completed their domestic ratification procedures. Some 10 member states have not ratified, of which two, France and the Netherlands, have held referenda which resulted in 'no' votes. Decisions on next steps will have to be agreed by all the member states and take account of all relevant interests.

*Subsidiarity (working at the right level):* We will continue to ensure that action is taken at the right level. In areas where the EU can add value it should do so. But where there are issues that can most effectively be tackled at the national level the onus remains on member states to take action. We continue to be in favour of measures which enhance subsidiarity and the role of national Parliaments.

*Use of existing Treaties:* As agreed at the June 2006 European Council, we need to make best use of the possibilities offered by the existing treaties in order to deliver practical results that citizens expect. For example, the European arrest warrant, which was agreed on the basis of the current treaties, allows us to speed up and simplify arrangements for cross border investigations and prosecutions thereby making a significant contribution to the fight against cross-border crime.

*Openness:* The EU must keep pace with global change. We want an EU which is outward looking, open to new developments, to trade and investment, and to developing partnerships with third countries.<sup>47</sup>

In a press interview on 19 April 2007 Mr Blair said he was prepared to endorse a fast-track adoption of institutional reforms in order to facilitate decision-making in the EU of 27. The Government would agree to Treaty changes of an institutional nature without a referendum if the amendments did not alter the basic relationship between Europe and the Member States. There were reports in early 2007 that the Government had warned the German Presidency against "too much change" in a new treaty, because this would make a referendum necessary.<sup>48</sup> The Government wanted a slimmed down treaty and preferably one which could be ratified without a referendum, which would, "as with

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<sup>47</sup> HC Deb 5 December 2006 cc 10-11WS at <http://pubs1.tso.parliament.uk/pa/cm200607/cmhansrd/cm061205/wmstext/61205m0001.htm#06120551000012>

<sup>48</sup> *Guardian Unlimited* 24 April 2007 at <http://www.guardian.co.uk/eu/story/0,,2064208,00.html>

previous EU treaties [...] be signed by ... the Prime Minister and then submitted to Parliament for approval as part of the ratification process".<sup>49</sup> The then Foreign Secretary, Margaret Beckett, believed that all EU treaties affected the relationship between Member States and the EU, but that the EU should now be aiming for a treaty with less of a constitutional impact and "the best way forward now is the traditional approach of an amending treaty rather than the constitutional treaty".<sup>50</sup> Press reports maintained that the incoming Prime Minister, Gordon Brown, would "not be tied to any deal made if it involves surrendering more powers to Brussels".<sup>51</sup> The Government wanted an amending treaty rather than a treaty with the characteristics of a constitution. The Foreign Secretary told the Foreign Affairs Committee (FAC) that such a treaty would be:

A treaty that substituted or replaced existing treaties, was explicitly defined as a constitution, and contained symbolic things such as the flag, the anthem and so on, would clearly be and would have been intended to be a constitution to replace existing treaties and roll them into one document.<sup>52</sup>

The Government pledged to stand by its commitment to holding a referendum if the 2004 Constitution were reintroduced. Mr Hoon said "It is absolutely clear that there should be a referendum on the European constitutional treaty, and that remains the Government's position".<sup>53</sup> However, Mrs Beckett stated that the Government's "red lines would indeed be below the threshold that would trigger a referendum", continuing, when pressed to say whether this meant the Government would not agree to anything that would require a referendum: "we will come to a view on whether a treaty requires a referendum when we see what is in the treaty. That seems to me the only sane way to approach it."<sup>54</sup>

The Government was not forthcoming about its position on details such as abandoning the national veto. When Lord Waddington asked "In how many areas where we now have the veto is he prepared to sign away the rights of this Parliament without consulting the people?", Baroness Royall of Blaisdon replied that the Government was considering such issues and "how best they may negotiate on them at the Council in June to ensure that any agreement made is, indeed, in the best interests of this country. The Government are not prepared to conduct those negotiations in public".<sup>55</sup> The Government's transparency was again in question when Mrs Beckett told the European Scrutiny Committee (ESC) shortly before the June European Council that the debate on the future of Europe had not moved on at all since the negative referendums on the Constitution and that there was nothing on the table:

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<sup>49</sup> Geoff Hoon, HC Deb 16 May 2007 c 779W at <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070516/text/70516w0007.htm#07051686000697>

<sup>50</sup> HC Deb 14 May 2007 c 496W at <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070514/text/70514w0006.htm#07051411000043>

<sup>51</sup> *Timesonline* 10 June 2007 at <http://www.timesonline.co.uk/tol/news/politics/article1909768.ece>

<sup>52</sup> Q141, Uncorrected evidence to FAC, 19 June 2007 at

<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmfaff/uc166-ii/uc16602.htm>

<sup>53</sup> <http://pubs1.tso.parliament.uk/pa/cm200607/cmhansrd/cm070116/debtext/70116-0001.htm#07011643000017>

<sup>54</sup> Uncorrected evidence, 19 June 2007

<sup>55</sup> HL Deb 8 May 2007 c 1264 at <http://www.publications.parliament.uk/pa/ld200607/ldhansrd/text/70508-0002.htm#0705081000064>

This is a frozen debate. It remains the case that there is no consensus, as far as we are aware. It remains the case that there are areas of considerable disagreement. It remains the case that nothing that you could really call negotiations have taken place, ...<sup>56</sup>

On 19 June she told the Foreign Affairs Committee (FAC) "With regard to anything more concrete on the content of an amending treaty, we are no further forward in terms of detail than we were".<sup>57</sup> Mrs Beckett then went on to describe the three sherpa meetings as a "sustained series of exchanges".<sup>58</sup> In her view there was a distinction between this kind of behind the scenes activity and "what I would call negotiation". The Minister for Europe, she said, had of course been

steeped in the detail in the sense that he has had extensive conversations with other Ministers for Europe in which he has set out the position of the United Kingdom, much as we have all set it out in any conversations that we have had or in any dialogue, as I would put it, with other colleagues.<sup>59</sup>

The Government's narrow interpretation of the word 'negotiation' led Richard Younger-Ross, a member of both the ESC and the FAC, to observe: "You have used the word 'discussion', and I fear that you might have misled the European Scrutiny Committee in your evidence on 7 June".<sup>60</sup> The Presidency Draft IGC Mandate (see below) appeared to confirm this, stating that the modifications to certain of the 2004 innovations had been "introduced as a result of the consultations held with the Member States over the past 6 months".<sup>61</sup>

## 2. From Blair to Brown

Tony Blair was generally considered to be one of the UK's most pro-European leaders, second only perhaps to Sir Edward Heath, who took the UK into the European Economic Community in 1973. Many observers assume that Mr Brown will be less 'European' than Mr Blair, based on his critical views about the EU economy and his reluctance to adopt the euro. In his Mansion House speech at the beginning of the UK Presidency in 2005 Mr Brown called for a "pro-European realism". Challenging the protectionist beliefs of European leaders such as France's former President, Jacques Chirac, he stated: "The question for us is how Europe can move from the older, inward-looking model to a flexible, reforming, open and globally-oriented Europe able to master the challenge from Asia, America and beyond".<sup>62</sup> The *Times* commented on Mr Brown's reputation:

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<sup>56</sup> Uncorrected evidence, 7 June 2007 at <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmeuleg/uc640-i/uc64002.htm>

<sup>57</sup> Uncorrected evidence, 19 June 2007 at <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmcaff/uc166-ii/uc16602.htm>

<sup>58</sup> Uncorrected evidence, 19 June 2007

<sup>59</sup> Ibid

<sup>60</sup> Ibid

<sup>61</sup> Para. 4, *IGC Mandate* at <http://register.consilium.europa.eu/pdf/en/07/st11/st11222.en07.pdf>

<sup>62</sup> Gordon Brown speech at Mansion House, 22 June 2005 at [http://www.hm-treasury.gov.uk/newsroom\\_and\\_speeches/press/2005/press\\_57\\_05.cfm](http://www.hm-treasury.gov.uk/newsroom_and_speeches/press/2005/press_57_05.cfm)

Brown's reputation in Europe is hardly one of clubbability. Other European governments, now trying to discern his views from his past behaviour in finance ministers' meetings, have an impression of big-shouldered abrasiveness, and a desire to take Europe to task for its financial self-indulgence, beginning with its farm subsidies.<sup>63</sup>

Clara Marina O'Donnell and Richard G Whitman considered Mr Brown's likely Europe policy:

Despite Brown's strong criticism of some aspects of the EU in its current form, he does have a pro-European integrationist strand to his political DNA. His political career has not been characterized by a reflexive opposition to European integration.

During Labour's period in opposition, Brown was strongly pro-European (even during the 1980s, when the Labour party was committed to an anti-EC policy),<sup>64</sup> and he supported joining the Exchange Rate Mechanism (ERM).<sup>65</sup>

Brown surrounds himself with pro-European aides who have argued for an activist European policy. The fact that Brown dislikes certain economic policies pursued within the EU does not mean he is hostile to the wider underlying concept of the EU or to cooperating with his European partners. Brown may cavil at the direction that Europe is taking, but he does not contest the rationale for its existence. As he stated in his 2005 Labour party conference speech, 'we see British engagement in an outward looking reforming Europe as essential for Britain's future.'<sup>66</sup>

In a pamphlet published by the Centre for European Reform, the then Treasury Minister, Ed Balls, called on the new Government to adopt a "hard-headed pro-Europeanism":

Here in Britain, I want to make the case for a hard-headed pro-Europeanism:

- pro-European, because we recognise that we are stronger by co-operating with our partners in the European Union to meet the shared challenges of globalisation and climate change;
- hard-headed because we must have the confidence to put our national interest first and to sometimes say 'no' and to argue our case where we believe Europe risks taking the wrong course.

To win the argument both for reform in Europe and effective British engagement in Europe, I believe that Britain must break out of the outdated debate over Europe which has dogged British policy for decades.<sup>67</sup>

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<sup>63</sup> *Timesonline* 22 May 2007 at

[http://www.timesonline.co.uk/tol/comment/columnists/bronwen\\_maddox/article1821216.ece](http://www.timesonline.co.uk/tol/comment/columnists/bronwen_maddox/article1821216.ece)

<sup>64</sup> FN 113: Peston, *Brown's Britain*, p. 181.

<sup>65</sup> FN 114: Peston, *Brown's Britain*, p. 182.

<sup>66</sup> *International Affairs* 83: 2, 2007, "European policy under Gordon Brown: perspectives on a future prime minister", p. 268; FN 115: Brown, 'Politics is a moral duty'.

<sup>67</sup> "Britain and Europe: A City minister's perspective", May 2007 at [http://www.cer.org.uk/pdf/balls\\_essay\\_745\\_forweb.pdf](http://www.cer.org.uk/pdf/balls_essay_745_forweb.pdf)

O'Donnell and Whitman discussed Mr Brown's position on the EU Constitution:

Brown's position on the constitutional treaty—and, more importantly, on how to deal with its aftermath—is becoming clear. In response to the German presidency's reopening of the debate there have been indications that he favours scrapping the existing treaty and replacing it with a slimmed-down, more modest document.<sup>68</sup>

This standpoint is consistent with Brown's previously expressed dislike of excessive EU 'federalism' and supranational integration.<sup>69</sup> He has argued that the federal ambitions of the EU's founders are no longer adequate in the current globalized world—'the old assumptions about federalism do not match the realities of our time'—and that the EU should develop along intergovernmental lines, according to what he refers to as 'pro-European realism', emphasizing cooperation between national states.<sup>70</sup> Robert Peston, one of Brown's biographers, asserts that the Chancellor repeatedly made clear to him his dislike of the constitutional project, and often lectured him about 'the supposedly pernicious economic implications of early drafts of the European Constitution'.<sup>71</sup>

The EU will be addressing the issue of the constitutional treaty during the run-up to the 2009/10 UK general election, and Brown's approach will be influenced by domestic electoral considerations. In addition to the risk of upsetting the Euro sceptic press with the adoption of an 'ambitious' reform treaty, Brown will also have to consider how to ratify any resulting treaty in the UK and whether to call a referendum, as originally promised by Blair for the constitutional treaty.

Such considerations, and their possible political costs for Brown at home, are likely to increase his caution and desire for a minimalist treaty requiring only parliamentary ratification.<sup>72</sup>

The authors concluded:

There is little to suggest that Brown is hoping to realize the Blair-led government's ambition of putting the UK at the heart of Europe. Given his known standpoints on a number of European policy issues, either the option of awkward partner or that of pragmatic player appears more likely.<sup>73</sup>

Mr Blair negotiated for the UK on 21-22 June, but he handed over to Gordon Brown on 27 June. Some had called for Mr Brown to attend the June summit with Mr Blair. The *Times* commented:

The danger is that Mr Blair will sign Britain up to a treaty that is too integrationist and that Mr Brown, blaming his predecessor, will then try to avoid holding a

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<sup>68</sup> FN 76: 'Candidate's vision could threaten rescue of EU constitution', *Financial Times*, 19 Jan. 2007, p. 8.

<sup>69</sup> FN 77: Notably Brown, 'Global Britain, global Europe'.

<sup>70</sup> FN 78: Brown, 'Global Britain, global Europe'

<sup>71</sup> FN 79: Peston, *Brown's Britain*, p. 9.

<sup>72</sup> *International Affairs* 83: 2, 2007, "European policy under Gordon Brown: perspectives on a future prime minister", p 262

<sup>73</sup> *Ibid* p 272

referendum. The Prime Minister-to-be will not get away with such a strategy, and will find his premiership dominated by a poisonous row over Europe: not a propitious prospect, as John Major will attest.

The Chancellor must immerse himself in the detail of the proposed treaty and accompany Mr Blair to the Brussels summit. He must not allow the Prime Minister to sign anything that he would not be prepared to defend. Not only Mr Brown's future is at stake: the fate of Britain could be determined over the coming weeks.<sup>74</sup>

An article in the *Monitor*, the Constitution Unit newsletter, thought the handover would be strategically planned to allow Mr Brown to escape public and political opprobrium over any decision not to hold a referendum:

Although it is believed the referendum idea had first been urged on the Prime Minister by Gordon Brown and Jack Straw, it now appears that Cabinet reluctance on EU reform has been overcome. Blair insists he will go to Brussels with 'the position of the government', meaning that he will take the political heat personally for the highly controversial referendum U-turn, opening the way for his successor to negotiate the final details of a slimmed down treaty by the end of the year.<sup>75</sup>

A report in the *Times* quoted Charles Grant, of the Centre for European Reform, who considered Gordon Brown's difficult choice:

If he does sign up to something that looks like building a European super-state, then he will be under massive pressure to have a referendum. But if he doesn't, he loses the chance to be part of the new pragmatic, liberal team of leaders that will steer Europe over the coming years ...<sup>76</sup>

It is not clear what position Gordon Brown will take on the referendum issue, although he told a BBC journalist on 24 June 2007 he did not think the Reform Treaty merited a referendum.<sup>77</sup> The new Foreign Secretary, David Miliband, said on 3 July "we do not propose to have a referendum on the reform treaty precisely because it is not a constitution".<sup>78</sup> On 17 July it was reported that Mr Brown had told Angela Merkel "We will not require a referendum on this. It is something that can be worked on closely by Parliament. I think we can make progress quickly on this".<sup>79</sup>

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<sup>74</sup> *Timesonline* 17 May 2007 at

[http://www.timesonline.co.uk/tol/comment/leading\\_article/article1801130.ece](http://www.timesonline.co.uk/tol/comment/leading_article/article1801130.ece)

<sup>75</sup> *Monitor* issue 36 May 2007 at [http://www.ucl.ac.uk/constitution-unit/files/monitor/Monitor\\_36.pdf](http://www.ucl.ac.uk/constitution-unit/files/monitor/Monitor_36.pdf)

<sup>76</sup> *Timesonline* 22 May 2007, at

[http://www.timesonline.co.uk/tol/comment/columnists/bronwen\\_maddox/article1821216.ece](http://www.timesonline.co.uk/tol/comment/columnists/bronwen_maddox/article1821216.ece)

<sup>77</sup> BBC News 24 June 2007 at [http://news.bbc.co.uk/1/low/programmes/politics\\_show/6767999.stm](http://news.bbc.co.uk/1/low/programmes/politics_show/6767999.stm)

<sup>78</sup> HC Deb 3 July 2007 c. 801

<sup>79</sup> *The Independent* 17 July 2007 at <http://news.independent.co.uk/uk/politics/article2776187.ece>

### 3. Opposition parties

#### a. Conservatives

The leader of the Opposition, David Cameron, set out his vision for the future of Europe in a speech at the Movement for European Reform conference in Brussels on 6 March 2007. He stated at the outset that he was “against a European Constitution and ... in favour of a referendum if one is ever proposed”.<sup>80</sup> He thought the EU should focus on the “things that matter” and pledged to press for the UK’s national interest on issues like climate change and tackling poverty. He spoke of a “3G Europe” focusing on “Globalisation. Global warming. Global poverty”.<sup>81</sup> He called for less centralisation and more flexibility, particularly in social and employment legislation, as only a decentralised political system would be able to hold together diverse countries such as Ireland, Turkey (whose membership he supported), Italy and Estonia. On institutional reform he said “Yes - of course we need a new framework to make a bigger EU work. But there is no case for the Constitution, or a Constitution-lite”.<sup>82</sup> He suggested there should be a way of repatriating powers to the Member States.

#### b. Liberal Democrats

The Liberal Democrat shadow foreign secretary, Michael Moore, spoke about the party’s EU policy in March 2007, acknowledging the problems the EU faced in agreeing a new treaty.

And while it is clear that the constitution as it stood cannot be resurrected, it is equally clear that we need a new institutional settlement if the enlarged Union is to function effectively. If that means the negotiation of a smaller and less ambitious treaty which focuses on the institutions then so be it. Europe needs to move on from its period of reflection. The Union must refocus on the real tests at home and abroad. Confronting climate change. Confronting economic weakness. Confronting the vested interests in energy and so much else. Always making sure decisions are taken at the right level. Always ensuring they are made openly and are properly scrutinised. Always being sure they are necessary.<sup>83</sup>

## B. France

The French presidential election in April-May 2007 was widely regarded as crucial to progress on the implementation of constitutional reform in the EU. In his victory speech, the centre-right former Finance Minister and potential ally of the German Presidency, Nicholas Sarkozy, claimed that France was “back in Europe” and that he looked forward to “working together to reinforce the European Union”.<sup>84</sup> A report in *Le Figaro* in early May was more cautious about France’s ‘rehabilitation’ as a driver in the EU:

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<sup>80</sup> “The EU - A New Agenda for the 21st Century”, 6 March 2007 at [http://www.conservatives.com/tile.do?def=news.story.page&obj\\_id=135350](http://www.conservatives.com/tile.do?def=news.story.page&obj_id=135350)

<sup>81</sup> Ibid

<sup>82</sup> Ibid

<sup>83</sup> <http://www.libdems.org.uk/conference/speech-michael-moore-Harrogate-030307.7736.html>

<sup>84</sup> *EUObserver* 7 May 2007 at <http://euobserver.com/9/24002/?rk=1>



Impatient to resolve the institutional crisis, the German presidency does not expect any grand projects from France in June. It simply wants France to display amenability. "We are not expecting much from the new president - just for him to adopt a constructive attitude, by endorsing the roadmap prepared by Angela Merkel!" Germany deputy Jo Leinen, chairman of the Institutional Affairs Committee, said. [...] Overall, Europe has changed its attitude to France. It no longer expects anything from the French spirit; its main fear is of "the doll that says no" [old song title]. "with enlargement, France has lost its influence in Europe. Its "no" to the referendum has relegated it to the bottom of the class, to the "problem countries" corner."<sup>85</sup>

Europe was not a major element of Mr Sarkozy's presidential campaign, although he was known for his opposition to Turkish membership of the EU. In a key speech on the EU in 2006, he expanded on his proposal for a simplified 'mini-treaty', which he envisaged would include institutional reforms, such as the extension of QMV, particularly in justice and home affairs, an EU foreign minister, a long-term presidency, giving the Union legal personality and letting the Commission president choose his own team of commissioners.<sup>86</sup> According to another report, "He expects the new 'ordinary treaty' - adopted by national parliaments where possible - will have a maximum of 130 instead of the 448 articles originally proposed".<sup>87</sup>

Mr Sarkozy's speeches may have suggested that his policies were "in defiant opposition" to the EU,<sup>88</sup> but upon election, he appointed pro-European Jean-Pierre Jouyet as Minister for Europe. Mr Jouyet is reportedly "convinced that France and French economic policy must be anchored in the EU", and he "may provide a useful counterweight to Sarkozy's own reflexes to intervene and protect ailing state industries".<sup>89</sup>

The *Times* reported on 17 May:

He [Mr Sarkozy] claims to want the treaty to include only the provisions that will make the EU work more efficiently: changing the size of the Commission and the European Parliament, allowing for a permanent presidency and an EU foreign minister. It is not yet clear whether he supports more decisions being taken by qualified majority voting (which restricts the power of countries to wield a veto), but he knows that both French and British voters are wary of any reform that dilutes their national sovereignty. If such a provision were in the mini treaty, there must be a powerful case for a referendum.<sup>90</sup>

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<sup>85</sup> *Le Figaro* in English, 8 May 2007 at

[http://www.lefigaro.fr/english/20070508.WWW000000353\\_europe\\_impatiently\\_awaits\\_france.html](http://www.lefigaro.fr/english/20070508.WWW000000353_europe_impatiently_awaits_france.html)

<sup>86</sup> See *EUObserver* 23 May 2007 at <http://euobserver.com/18/24112>

<sup>87</sup> *EUObserver* 8 May 2007 at <http://euobserver.com/9/24015/?rk=1>

<sup>88</sup> "Brussels beltway need not fear Sarkozy", *European Voice* 24-30 May 2007, p.12

<sup>89</sup> *Ibid*

<sup>90</sup> At [http://www.timesonline.co.uk/tol/comment/leading\\_article/article1801130.ece](http://www.timesonline.co.uk/tol/comment/leading_article/article1801130.ece)

## C. Netherlands

Following elections in November 2006 the new Dutch coalition Government is again headed by the Christian Democrat (CDA) leader, Jan Peter Balkenende. The CDA and Labour Party (PvdA) reached an agreement on a coalition programme on 10 February 2007 and made the following commitments with regard to the EU:

We will seek an amendment and possible consolidation of existing European Union treaties to safeguard subsidiarity and democratic scrutiny. The outcome should be manifestly different from the previously rejected constitutional treaty in terms of its content, scope and name. The opinion of the Council of State will be sought on these and other aspects of these treaty changes. At European level the Netherlands will work for effective cooperation and a clear division of responsibilities between member states and the European Union based on the principle of subsidiarity. In this context we will aim to conclude agreements on the compatibility of the internal market concept with the organisation of the public sector (including pensions, social security, taxation, education and health care), and on greater European cooperation on measures to make European economies more competitive, transboundary environmental problems, energy policy, asylum and migration policy, external policy and the fight against terrorism and cross-border organised crime. National parliaments should be given a stronger position in relation to the subsidiarity test (a 'red card' procedure for example).<sup>91</sup>

Dutch political parties had been divided over how to proceed with the failed European Constitution, but the ruling parties, which had supported the Constitution, called for the introduction of a more limited treaty. The small Christian Union party, also part of the ruling coalition and which had opposed the Constitution, also wanted a treaty that was institutionally robust enough for the EU to function efficiently with 27 countries and admit Croatia in a few years. The opposition Socialist Party (SP) campaigned vigorously for a no-vote in 2005 and remained opposed. The second largest opposition party, the People's Party for Freedom and Democracy (VVD), wanted only the provisions on EU institutions and procedures to be introduced.<sup>92</sup>

The detailed position of the Dutch Government was set out in a letter to the Netherlands House of Representatives on 19 March 2007 by the Dutch Foreign Affairs and European Affairs Minister.<sup>93</sup> Mr Balkenende addressed the EP on 23 May 2007 in his first major speech on Treaty reform since the Dutch no-vote, stating that he wanted to remove the Charter of Rights and the word 'constitution' from any future text, give national parliaments a greater role, set clear limits to EU powers and spell out precise enlargement criteria. The Netherlands, he said, was "in favour of a more traditional document, in the same vein as the treaties of Amsterdam or Nice".<sup>94</sup> He thought that

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<sup>91</sup> Netherlands Coalition Agreement, "An active international and European role", at [http://www.government.nl/policy/balkenende4/regeerakkoord/An\\_active\\_international\\_and\\_European\\_role.jsp](http://www.government.nl/policy/balkenende4/regeerakkoord/An_active_international_and_European_role.jsp)

<sup>92</sup> *NIS News Bulletin* 16 January 2007 at [http://www.nisnews.nl/public/160107\\_1.htm](http://www.nisnews.nl/public/160107_1.htm)

<sup>93</sup> Netherlands Embassy, London, at [http://www.netherlands-embassy.org.uk/press\\_and\\_media/virtual\\_folder\\_press/netherlands/](http://www.netherlands-embassy.org.uk/press_and_media/virtual_folder_press/netherlands/)

<sup>94</sup> *EU Observer* 23 May 2007 at <http://euobserver.com/9/24122/?rk=1>

while the EU needed to be 'daring' in extending QMV, "it should only do so after careful reflection", applying it only in "areas where international co-operation is needed, like tackling climate change or fighting terrorism".<sup>95</sup>

Mr Balkenende, like Mr Blair, believes that a text without the characteristics of a constitution will not have to be ratified by a referendum, but this will be influenced by the *Raad van State*, the State Council, the highest government advisory body. The Government could be in a strong negotiating position at the IGC, able to argue that the State Council will recommend that a referendum is necessary for a treaty which is too similar to the old Constitution.

## D. Denmark

The Danish Prime Minister, Anders Fogh Rasmussen, had been opposed to the creation in the EU Constitution of the post of full-time President of the European Union, which, he thought, would lead to large Member States having greater power over smaller ones. He supported a shorter, amending treaty which would preserve the core elements of the original EU Constitution and hoped to see a new text approved by the end of 2007. Denmark had planned to hold a referendum on the EU Constitution and according to the Danish press<sup>96</sup> there is pressure to hold one on the reform treaty. A decision will not be taken until the final treaty text is concluded.

## E. Spain

Spain, together with Luxembourg, was one of the States behind the "Friends of the Constitution" initiative (see above), and the Spanish Government was a strong proponent of salvaging the bulk of the Constitution in the negotiation of a new treaty.<sup>97</sup> Prime Minister Jose Luis Rodriguez Zapatero said in February 2007 that the EU needed to find a way to "maintain the essence" of the project, while making it possible for countries that have had problems with ratification to sign up to it.<sup>98</sup>

The Spanish Foreign Minister, Miguel Angel Moratinos, told a meeting of the Friends of the Constitution in January 2007 that the 2004 text was "a magnificent document" that should be expanded rather than "carved up". Europe Minister Alberto Navarro said Spain could not accept a 'mini-treaty' that dealt with institutional reforms, but scrapped the other parts of the Constitution. Spain wanted to retain the additional QMV areas and legal status for the Charter. It also supported the idea of an additional social protocol.

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<sup>95</sup> Simon Taylor, *European Voice* 24 May at <http://www.europeanvoice.com/current/article.asp?id=28105>

<sup>96</sup> *Politiken* 18 July 2007 at

<sup>97</sup> *EUObserver* 1 March 2007 at <http://euobserver.com/9/23602/?rk=1>

<sup>98</sup> *BBC News* 25 March 2007 at <http://news.bbc.co.uk/2/hi/europe/3954327.stm#germany>

## F. Luxembourg

The Luxembourg Minister Delegate for Foreign Affairs and Immigration, Nicolas Schmit, did not want to simply abandon the 2004 Constitution.<sup>99</sup> Common policies were needed to tackle issues such as “employment and social inclusion, environmental protection and climate change, health, external and internal security, the fight against illegal migration and poverty in the third world” through “coordinated and effective EU action”. The 18 ratifying states wanted institutional reform and a “deepening of [the EU’s] policies”, he said, continuing:

So we need a renewed consensus on a Union that works for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy that also aims at full employment and social progress, and a high level of protection and improvement of the quality of the environment. This Europe must also be able to offer its citizens an area of freedom, security and justice without internal borders. It must be a Europe that promotes economic, social and territorial cohesion, and solidarity among member states and its citizens.<sup>100</sup>

He did not think the solution to the present constitutional impasse was to diminish the scope of the EU, but removing non-essential elements from the Treaties and enriching them in areas such as climate change was more likely to respond to the expectations of citizens.<sup>101</sup> While solidarity among the 27 Member States was the aim, in its absence Mr Schmit was in favour of enabling progress for those States that wanted to move ahead of others, “as differentiation should not mean division but rather progress at variable speeds”.<sup>102</sup>

## G. Italy

The Italian leader and former Commission President, Romano Prodi, opposed any new treaty that would represent the lowest common denominator in terms of reform. He insisted he would not sign up to just any constitutional compromise and suggested that States unwilling to accept a minimalist solution should be able to proceed alone with more ambitious reforms.<sup>103</sup> Like the Spanish leader, Mr Prodi wanted to find a solution that preserved the ‘essence’ of the 2004 Constitution, but with small changes to make it acceptable to States that had not yet ratified it. He did not support “radical changes” to the 2004 institutional reforms and, addressing MEPs on 22 May 2007, he listed the EU foreign minister, a longer presidency, the extension of QMV, the EU’s legal personality and the abolition of its three-pillar structure as elements which “must be preserved”.<sup>104</sup>

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<sup>99</sup> “The EU constitution’s “yes” countries should push ahead regardless”, Nicolas Schmit, *Europe’s World* Summer 2007, at <http://www.europesworld.org/EWSettings/Article/tabid/78/Default.aspx?id=bd27cbb7-4adf-4dd2-904d-6fd6499bee4a>

<sup>100</sup> Nicolas Schmit *Europe’s World* Summer 2007

<sup>101</sup> Ibid

<sup>102</sup> Ibid

<sup>103</sup> *EUObserver* 3 May 2007 at <http://euobserver.com/9/23984/?rk=1>

<sup>104</sup> Reported in *EUObserver* 22 May 2007 at <http://euobserver.com/9/24110/?rk=1>

## H. Ireland

The Irish Government, which has had problems ratifying EC Treaty amendments in the past, wanted to maintain the “balance of the entire package” of the Constitution,<sup>105</sup> according to the Irish European Affairs Minister, Noel Treacy, reported in the *EUObserver*. He continued:

We are pleased with the constitution. We negotiated the constitution. We didn't agree with all of the things that are in it, nor did we get everything that we wanted, but at the end of the day it is a very conclusive democratic document. And on that basis we believe it should be accepted.

The *Irish Times* reported on 17 May that the new Irish Government following elections on 24 May 2007 “could be forced to choose between signing up to similar opt-outs in justice matters with the UK or moving ahead with more EU integration in this sensitive area”.

Mr Treacy thought Ireland would have a referendum on a new text, whatever the outcome of the IGC negotiations

## I. Poland

In elections in October 2005 the Kaczynski twins Lech and Jaroslaw became respectively President and Prime Minister of Poland. Their views on Europe were regarded as unpredictable but with eurosceptic leanings. Poland wanted from a new treaty a voting system giving it more influence than under the 2004 Constitution, a list of exclusive national competencies, a ‘red card’ subsidiarity mechanism and an energy solidarity clause.

The current Treaty provisions are favourable to Poland in terms of voting weights. Germany (the largest Member State) has 29 votes and Poland (a medium sized State) has 27. This privilege was removed in the Constitution, under which Germany would have 82 votes and Poland 38 according to a complex double majority formula. Warsaw promoted its own alternative model, giving Germany nine votes and Poland six, based on the “Penrose square root law”. Whereas the Constitution double majority system required at least 15 out of 27 EU states representing at least 65% of the total EU population to make a decision, the Penrose square root law would require at least 14 out of 27 EU states representing at least 62% of national votes, awarded on the basis of square roots of population. Three academics writing about the Penrose system in the *European Voice* opted for a compromise based on the Penrose law combined with a simple majority of States. Werner Kirsch, Wojciech Słomczynski and Karol Zyczowski wrote:

To create a voting system based on the square root rule, it is reasonable to start with voting weights proportional to the square root of the population of the respective country. In addition, we also have to choose the majority quota. As the

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<sup>105</sup> *EUObserver* 22 January 2007 at <http://euobserver.com/9/23315/?rk=1>

voting weight a state does not necessarily reflect the voting power of that country, we have to compute the voting powers according to this assignment.

For an EU of 27 member states the system with a quota of 61.6% is optimal: it fulfils the Penrose square root rule almost exactly, thus being representative: the voting power of each citizen of any member state is the same. Furthermore, this simple one-criterion system, dubbed the Jagiellonian compromise by the media, is easily extendable, transparent, efficient and moderately conservative.

This compromise solution may be combined with the idea of a union of states, ie, with a simple majority of states. Such a 'modified double majority' voting system based on the Penrose law is determined by the following two rules:

- A. The voting weight attributed to each member state is proportional to the square root of its population;
- B. The decision of the voting body is taken if:
  - the sum of the weights of members of a coalition exceeds the 61.6% quota (eg. 222 out of 360 votes);
  - the coalition consists of at least 50% of member states (14 out of 27)<sup>106</sup>

A former Polish diplomat, Pawel Swieboda, who runs the *demosEUROPA* think-tank in Warsaw, did not see "how any government could sell this kind of square root model in a popular referendum", speculating that the Polish Government might "end up aiming for something different down the line - such as placing a cap on the maximum voting weight that anybody could have, effectively counting Germany as, say, 70 million people instead of 82 million".<sup>107</sup>

Sebastian Kurpas, of the Centre for European Policy Studies, thought Poland's fears about losing influence were probably unfounded, as governments tended to follow a "consensus-building culture," working towards mutual agreement and voting only as a last resort in the decision-making process.<sup>108</sup> Mr Kurpas also thought Poland lacked support for the Penrose formula from other medium-sized States.

## J. Czech Republic

In January 2007 the newly elected centre-right Prime Minister, Mirek Topolanek, called on the EU to work towards a new, simpler and more comprehensible agreement. The ODS-led Government opposed far-reaching EU integration and EU legislation that obstructed the free market. The Government proposed a new clause allowing groups of states to withdraw from EU policies or legislation they did not like and, along with Poland and the Netherlands, called for a new 'red card' mechanism to allow a third of national parliaments to request that EU powers be returned to Member States. The Czech sherpa, Jan Zahradil, decried the Constitution voting system, which, he believed, would result in smaller States being "more frequently outvoted in controversial issues, such as

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<sup>106</sup> *European Voice* 3-9 May 2007

<sup>107</sup> *EUObserver* 22 February 2007

<sup>108</sup> *EUObserver* 30 May 2007 at <http://euobserver.com/9/24157/?rk=1>

social schemes, environmental issues or [...] consumer protection".<sup>109</sup> The Czech Republic is likely to hold a referendum if the IGC renegotiations result in a similar text to the 2004 one.<sup>110</sup>

## **K. Member State Parliaments: COSAC**

The Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) met in Berlin on 13-15 May. COSAC supported the "firm stance" taken by the Presidency in seeking to reach an institutional settlement before the next EP elections. It respected the "substance and objectives" of the 2004 Constitution, approving a solution which took account of and responded to Member States' concerns. The COSAC conclusions reiterated views widely expressed elsewhere that the new treaty should address the challenges of climate change and energy security, and expected to be kept "fully involved" with the IGC process, with its views taken into account. Finally, COSAC insisted that any institutional settlement had to take into account the important role of national parliaments in EU integration and EU policy formulation, concluding that "[t]heir future role must be at least equal in strength to that foreseen in the Constitutional Treaty."<sup>111</sup> COSAC proposed joint parliamentary meetings between national parliaments and the EP to exchange views and to evaluate the outcome of the European Council and the perspectives for treaty reform during the IGC.

## **L. Emerging consensus**

The extended reflection period gave some EU governments, including the British Government, time to reconsider and in some cases revise their positions on elements of the EU Constitution. The 'maximalists' wanted to retain as much of the 2004 Constitution as possible, while the minimalists, including the UK, wanted only the most necessary of amendments to the present Treaties to allow the EU to function institutionally. There was talk of proceeding with further integration at different speeds and levels; of implementing parts of the treaty without ratification; of a 'mini-treaty' containing only the elements necessary for institutional reform; and of a 'simplified' treaty with the constitutional characteristics (e.g. symbol, anthem, human rights guarantees) expurgated.

A consensus emerged during the German Presidency on the need for a 'simplified treaty' - an amending treaty, rather than a constitutional treaty - but by June 2007 there were still divisions among Member States as to what was meant by a 'simplified treaty' and how to reconcile the various 'red lines' from Member States.

In a document sent to Member States on 14 June 2007 the Presidency identified seven outstanding issues for the European Council to discuss, stating that "All member states

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<sup>109</sup> *EUObserver* 9 May 2007 <http://euobserver.com/9/24029/?rk=1>

<sup>110</sup> *EUObserver* 7 March 2007 at <http://euobserver.com/9/23639/?rk=1>

<sup>111</sup> Contribution adopted by the XXXVII COSAC Berlin, 13-15 May 2007 at <http://www.cosac.eu/en/documents/contributions/>.

recognise that further uncertainty about the treaty reform process would jeopardise the Union's ability to deliver".<sup>112</sup> The seven areas were:

- The inclusion of symbols, such as the flag, hymn and anthem
- An explicit statement that EU law has primacy over national law
- "possible terminological changes"
- the status of the Charter of Fundamental Rights;
- the "specificity" of the common foreign and security policy;
- the "delimitation of competences" between the EU and the member states
- the role of national parliaments.

The Polish request to amend the voting system was not on the list.

The paper outlined in detail three areas for discussion: the structure of a future treaty, the balance of power between Member States and the EU, and additional elements that could be added to the new treaty. The paper also stated that the substance of the 2004 innovations should be kept, while underlining respect for the national identity of Member States. The removal of the Charter would be acceptable, but only with a cross-reference in the body of the treaty to its legally binding status. Most States, according to the paper, would accept new articles on climate change and energy, as long as this did not mean more powers for the EU.

On 17-18 June the General Affairs and External Relations Council (GEARC) considered a Presidency report on EU institutional reform in preparation for the European Council a few days later. The Council also discussed methodology (returning to the traditional method of Treaty changes through an amending treaty), changes in terminology, a single legal personality for the EU, the status of the Charter of Fundamental Rights and overcoming the existing pillar structure.

## IV The Presidency IGC Mandate

The Presidency *Draft Mandate for the IGC* was prepared in secret and released to Member States on 19 June. This was the basis for discussion at the European Council on 21-22 June 2007. After a long meeting that continued well into the early hours of the morning of 22 June, Member States agreed on the final text of the Draft IGC Mandate, which was published as an annex to the European Council Conclusions on 22 July.<sup>113</sup> The text was subject to final revision and was republished as the *IGC Mandate* on 26 June 2007.<sup>114</sup>

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<sup>112</sup> *EUObserver* 14 June 2007 at <http://euobserver.com/9/24285/?rk=1>

<sup>113</sup> Presidency Conclusions at [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/94932.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/94932.pdf)

<sup>114</sup> Presidency document 11222/07 at <http://register.consilium.europa.eu/pdf/en/07/st11/st11222.en07.pdf>



## A. General Observations

In the first section on 'General Observations', the Mandate proposes that the IGC will draw up a "Reform Treaty", stipulating that the Treaty amendments "will not have a constitutional character". The present denominations of regulations, directives and decisions will be retained. The Reform Treaty's two substantive clauses will amend the *Treaty on European Union* (TEU) and the *Treaty Establishing the European Community* (TEC) but change the name of the latter to the *Treaty on the Functioning of the EU*. The EU will have a single legal personality which will not usurp national representation on international bodies such as the United Nations. All references to the 'European Community' will be removed and replaced by 'European Union' and there will be no reference to symbols of statehood, such as an EU flag, anthem and motto.

The statement in the Constitution of the primacy of EU law will be replaced by a declaration "recalling the existing case law of the European Court of Justice". The primacy declaration was clarified further in the final draft mandate and now reads:

The Conference recalls that, in accordance with well settled case-law of the EU Court of Justice, the Treaties and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case-law.

To reinforce this principle, the opinion of the Council Legal Service on the "Primacy of EC Law" will be annexed to the Final Act of the Conference. This states:

It results from the case-law of the Court of Justice that primacy of EC law is a cornerstone principle of Community law. According to the Court, this principle is inherent to the specific nature of the European Community. At the time of the first judgement of this established case-law (Costa/ENEL, 15 July 1964, Case 6/64)<sup>115</sup> there was no mention of primacy in the treaty. It is still the case today. The fact that the principle of primacy will not be included in the future treaty shall not in any way change the existence of the principle and the existing case-law of the Court of Justice.<sup>116</sup>

## B. Key amendments to the *Treaty on European Union*

**The EU's values and objectives:** the reference to "free and undistorted competition" is removed from the EU's aims, but the importance of competition is underlined in a draft Protocol on internal market and competition. Asked whether this would undermine the EU by weakening the commitment to "free and undistorted competition" the Commission replied:

No. Competition policy is fundamental to the effective functioning of the single market for the benefit of consumers. That commitment is not weakened. While

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<sup>115</sup> "It follows (...) that the law stemming from the treaty, an independent source of law, could not, because of its special and original nature, be overridden by domestic legal provisions, however framed, without being deprived of its character as Community law and without the legal basis of the Community itself being called into question."

<sup>116</sup> Doc 11197/07 22 June 2007 at <http://register.consilium.europa.eu/pdf/en/07/st11/st11197.en07.pdf>

the existing treaties were not altered a proposal to include "free and undistorted competition" in the objectives of the Union was reconsidered. This reflected the recognition that competition is not an objective in itself but a means to an end. A legally binding Protocol confirmed this. Competition Commissioner Neelie Kroes underlined this when saying: "The Commission will continue to enforce Europe's competition rules firmly and fairly: to bust cartels and monopolies, to vet mergers, to control state subsidies".<sup>117</sup>

**Charter of Fundamental Rights:** this will have "legally binding value", though it will not be reproduced in the Treaties. The text, initially proclaimed in Nice in 2000, was incorporated into the EU Constitution. It is currently not enforceable by the ECJ, even though it has informed the judgments of that Court on several occasions.<sup>118</sup> It is also referred to explicitly in recitals to EC legislation, generally in the form of a statement that the proposal complies with fundamental rights and the principles recognised in the Charter.<sup>119</sup> In addition, the EU has already established a Fundamental Rights Agency, based in Vienna, to monitor the EU institutions and Member State governments for compliance with EC law and human rights obligations and to issue opinions to the institutions or governments concerned.

The Charter will be re-enacted by the three main EU Institutions. A declaration will specify the scope of application of the Charter and its relationship with the European Convention on Human Rights. A protocol will declare that the UK courts or the ECJ may not declare UK law incompatible with the Charter. The effect of this exemption is questionable, however, as it would appear to undermine fundamental principles about the obligation of Member States to adhere to the *acquis communautaire* (EC law, the Treaties and the case-law of the European Court of Justice). It has been suggested that the Charter could still have an indirect impact on UK law, particularly in cases where the ECJ ruled on Charter-related issues in other EU Member States.<sup>120</sup> The Commission's Opinion on the Draft Mandate (issued under Article 48 TEU) does not shed any light on its view of the legally binding nature of the Charter when combined with the obligation to apply EU law uniformly in all Member States. It states:

The Charter of Fundamental Rights will offer Europeans guarantees with the same legal status as the treaties themselves, bringing together civil, political, economic and social rights which the Union's action must respect. Its provisions will also apply in full to acts of implementation of Union law, even if not in all Member States.<sup>121</sup>

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<sup>117</sup> Memo 07/283 10 July 2007

<sup>118</sup> See, for example, cases C-540/03, *Parliament v Council* [2006], Case C-411/04 P, *Mannesmannröhren-Werke AG v Commission* [2007], Case C-432/05, *UNIBET (London) LTD v Justitiekanslern* [2007] and Case C-303/05, *Advocaten voor de Wereld* [2007].

<sup>119</sup> For example, in proposal on criminal penalties for intellectual property infringements and recital 3 of draft Decision to establish the Culture 2007 programme

<sup>120</sup> *EUObserver* 27 June 2007 at <http://euobserver.com/9/24368/?rk=1>

<sup>121</sup> COM (2007) 412. See Commission press release at <http://www.europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1044&format=PDF&aged=0&language=EN&guiLanguage=en>

The exemption may also present problems for Germany, if it breaches a principle of reciprocity under which the German Constitutional Court has in the past been prepared to accept the constitutionality of EU treaties.

Poland made a unilateral declaration on the application of the Charter to the right of Member States “to legislate in the sphere of public morality, family law as well as the protection of human dignity and respect for human physical and moral integrity”.

**Competences:** the Constitution provisions on relations between the Union and the Member States will be retained, with the addition of a specific provision that the EU “shall act only within the limits of competences conferred upon it by the Member States in the Treaties”. National security will be explicitly stated as a Member State competence.

**National Parliaments:** a new article will set out the role of national parliaments in the EU, and how they “shall contribute actively to the good functioning of the Union”. This will be the first time the EC/EU Treaties have mandated national parliaments to act. Their contribution will be by:

- receiving information and draft legislation from the Institutions
- ensuring that the subsidiarity principle is respected
- participating in evaluation mechanisms for Justice and Home Affairs (JHA) policies, in particular in monitoring and evaluation of Europol and Eurojust
- participating in the procedures envisaged for revision of the Treaties
- receiving notifications of applications for accession to the EU, and
- participating in inter-parliamentary cooperation between national parliaments and the EP

The EU Constitution had provided for national parliaments to object to draft EU legislation on grounds of lack of compliance with the subsidiarity principle. If objections were raised within six weeks from one third of Member State parliaments, the Commission would review the proposal.

The Mandate sets out a system that had been supported by the Netherlands, Poland and Czech Republic, that if a third of national parliaments object to a proposed EU law then it will automatically fail. The ‘yellow card’ subsidiarity check for national parliaments will be as follows:

- national parliaments will have eight weeks to examine a legislative proposal and give a reasoned opinion on subsidiarity. Each national parliament will have two votes (one per chamber in bicameral parliaments): if the total number of opinions against a legislative proposal on subsidiarity grounds reaches a simple majority (i.e. 28 votes out of 54), the Commission must consider whether to maintain, amend or withdraw it.
- If the Commission decides to maintain the draft, it must give a reasoned opinion, which will be forwarded to the EP and the Council together with the reasoned opinions of national parliaments

- The EP and the Council will be required to consider the compatibility of the legislative proposal with the subsidiarity principle, taking into account the submissions from national parliaments and the Commission
- The proposal can be set aside if a majority of MEPs, or 55 per cent of members of the Council, consider that the proposal is not compatible with the principle of subsidiarity.

Currently, parliaments are more likely to pursue subsidiarity concerns with their governments with a view to them being taken up at Council of Ministers level. However, there is nothing to prevent them from writing directly to the Commission about subsidiarity concerns.

At a European Subsidiarity Conference in St. Poelten in April 2006 the Austrian Presidency and the Commission supported the swift introduction of a subsidiarity early-warning mechanism without Treaty amendment. The Commission pursued this in a Communication in May 2006, stating that 'national parliaments must be more closely involved with the development and execution of European policy. The increased involvement of national parliaments can help make European policies more attuned to diverse circumstances and more effectively implemented'.<sup>122</sup> The Commission proposed transmitting directly all new proposals and consultation papers to national parliaments, "inviting them to react so as to improve the process of policy formulation".<sup>123</sup> The European Council in June 2006 endorsed this proposal, although some warned that such an arrangement would only work if national parliaments made proper use of it. The proposal was not without its critics, and the draft European Council Conclusions were amended from stating that the Commission should "take into account" any comments by national parliaments, to the somewhat weaker "duly consider".<sup>124</sup> In September 2006 the Commission started an informal mechanism whereby national parliaments could make comments on legislative proposals directly to the Commission. This is not expected to be given a Treaty base.

The British Government supports reforming the way in which national parliaments try to influence EU business, and the former Foreign Secretary, Jack Straw, made clear in June 2005 that he was in favour of measures to improve national scrutiny processes to facilitate this.<sup>125</sup> The Government has not yet decided how it will give Parliament more or better opportunities to scrutinise EU business in general but in its White Paper on the IGC and the reform treaty (see below), it stated that "Throughout the process, the Government will also keep Parliament informed in terms of scrutiny, evidence sessions and debates".<sup>126</sup>

**Institutions:** the 2004 institutional changes will be integrated into the TEU as follows:

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<sup>122</sup> [http://ec.europa.eu/commission\\_barroso/president/pdf/com\\_2006\\_211\\_en.pdf](http://ec.europa.eu/commission_barroso/president/pdf/com_2006_211_en.pdf)

<sup>123</sup> [http://ec.europa.eu/commission\\_barroso/president/pdf/com\\_2006\\_211\\_en.pdf](http://ec.europa.eu/commission_barroso/president/pdf/com_2006_211_en.pdf)

<sup>124</sup> *EUobserver* 16 June 2006 at <http://euobserver.com/9/21879/?rk=1>

<sup>125</sup> HC Deb 14 June 2005 994-5

<sup>126</sup> Cm 7174 at [http://www.fco.gov.uk/Files/kfile/CM7174\\_Reform\\_Treaty.pdf](http://www.fco.gov.uk/Files/kfile/CM7174_Reform_Treaty.pdf)

- From 2014, there will no longer be a Commissioner to represent every Member State, but two-thirds the number of States. The Commission must reflect satisfactorily the demographic and geographical scope of the Union. Commissioners will be selected on a system of equal rotation among Member States to serve five-year terms.
- The European Council will be established as an EU Institution, with a permanent Presidency not connected to the rotation of Member State presidencies of the Council of Ministers
- The Council will move towards 18-month “team Presidencies”<sup>127</sup>
- The voting system in the Council as agreed by the Treaty of Nice continues to apply until 1 November 2014, whereupon the double majority voting system in the Constitution will apply (a qualified majority will require 55% of votes in the Council representing 65% or more of the EU’s population). In addition, between 1 November 2014 and 31 March 2017, any Member State can request a return to the Nice voting rules; between 1 November 2014 and 31 March 2017, if Member States representing 75% of the Council votes or 75% of the population needed to constitute a blocking minority in the Council, signify their opposition to a proposal, a final vote on the proposal may be deferred in an attempt to seek agreement; from 1 April 2017 this final vote can be deferred if 55% of a blocking minority (either in votes or in population) signifies its opposition.

**EU Foreign Policy:** The controversial EU Constitution title of ‘Union Minister for Foreign Affairs’ (i.e. the person discharging the functions of the present External Relations Commissioner and CFSP High Representative) will be changed to “High Representative of the Union for Foreign Affairs and Security Policy”. EU external action is currently organised by the Council of Ministers under the CFSP, or by the Commission representing the EU in international fora and in trade and treaty negotiations. The Constitution envisaged a Union Foreign Affairs Minister combining the two posts, who would also chair the Foreign Affairs Council, instead of the foreign minister of the State holding the EU Presidency. The basis for this position was the perceived need for coherence, consistency, effectiveness and visibility for EU external actions. The Commission has already considered ways of improving coordination between the Commission and Council, the EU institutions and the Member States. One ‘double-hatted’ mission has already been established in Macedonia, where the roles of Head of EC Delegation and EU Special Representative (EUSR) have been combined.

The British Government had ruled out the creation of these posts outside the Constitution and could “see no prospect of their being brought into force, save through the vehicle of a constitutional treaty”,<sup>128</sup> but is in principle not averse to such a role for the EU. In an exchange in the House of Lords in May 2006, the Foreign Office Minister, Lord Triesman, thought it was undoubtedly sensible on occasions to share diplomatic premises with other EU Member States, for security reasons, for economies of scale and

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<sup>127</sup> Teams of three to five Member States representing a geographic and demographic balance within the EU would chair the sectoral councils by rotation for a set period of time. The burden of chairmanship would be spread between the Member States and would provide longer-term continuity, while maintaining the current connection between the Member States and the EU in the rotating presidency system.

<sup>128</sup> HC Deb 6 June 2005 c1001

for cooperation when a major natural disaster strikes to “optimise resources on the ground”. He continued: “That is not the same as saying that we depart one jot from our responsibility for the security of United Kingdom citizens”.<sup>129</sup>

**External actions and CFSP:** the provisions of the Constitutional Treaty on the European External Action Service and structured cooperation in defence policy will be retained, but a Declaration will underline the existing responsibilities of Member States for the formulation and conduct of foreign policy and representation in international organisations. The chapter on external action and CFSP will specify the procedures and rules to apply to decisions in the field of CFSP. The CFSP will remain intergovernmental in nature with decisions taken by unanimity. CFSP provisions will remain in the TEU and the IGC Mandate contains a declaration confirming that the CFSP provisions will not affect the responsibilities of the Member States, as they currently exist, for the formation and conduct of their foreign policy, or of their national representations in third countries and international organisations.

**Enhanced cooperation:** enhanced cooperation actions can be launched with a minimum of nine Member States

**Final provisions:**

- The EU is to be given legal personality, though a Declaration will “confirm” that the EU is not thereby authorised to act beyond the competences conferred by the Member States in the Treaties.
- The Constitution article on voluntary withdrawal from the EU remains.
- Constitution provisions for revising the Treaties without recourse to an IGC will be recast in one article, which will now also clarify that Treaty revision can reduce the competences conferred on the EU as well as increase them.

**EU Accession:** Conditions for accession to the EU will be amended by the addition of text recalling the “conditions of eligibility agreed upon by the European Council” (i.e. the so-called Copenhagen Criteria).<sup>130</sup>

## C. Key amendments to the EC Treaty

**Name and status:** In the renamed *Treaty on the Functioning of the European Union* all references to the European Community will be removed, reflecting the collapse of the ‘pillar structure’ established in 1992 and the establishment of an omni-competent European Union.

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<sup>129</sup> HL Deb 4 May 2006 c564

<sup>130</sup> Candidate states must prove they will be in a position to respect the rule of law, minorities and human rights; have a functioning market economy; cope with the competitiveness of the single market; and implement the *acquis communautaire*. This was one of the Dutch Government’s ‘red lines’. Addressing the EP on 23 May 2007, Jan Peter Balkenende called for stricter enlargement criteria to help address dissatisfaction in the Netherlands about the prospect of further EU enlargement to include Turkey and several Western Balkan states.

**Functions of the EU:** the Treaty will be amended to include the provisions of the 2004 Constitution on:

- areas of competence
- the scope of qualified majority voting: the Constitution moved 15 Articles from unanimous voting to QMV and introduced 24 new Articles with QMV.<sup>131</sup>
- the scope of codecision with the European Parliament
- distinctions between legislative and non-legislative acts
- a “solidarity clause”
- improvements to the governance of the eurozone
- specific provisions on individual policies
- provisions on own resources, the multiannual financial framework of the EU and on the EU’s budgetary procedure
- provisions on JHA matters: changes to the voting system and a right of veto.

The Commissioner for justice, freedom and security, Franco Frattini, thought that if the justice and home affairs elements of the Constitution, involving removal of the national veto in the remaining third pillar areas, were not accepted by Member States, “a two-speed Europe was inevitable” because some Member States would use enhanced cooperation provisions to press ahead of others in these areas.<sup>132</sup> The removal of the remaining veto areas was resisted by the British Government, although during the discussion of the possible activation of the *passerelle* in 2006 the Government said it was prepared to consider moves to QMV on a case by case basis.<sup>133</sup>

**Amendments to the 2004 Constitution:** a number of modifications of the text of the Constitutional Treaty will be made on insertion into the “Functions Treaty”, including:

- specific language on the definition of Member State and EU competences
- amendment of the Treaty base on diplomatic and consular protection to provide for coordination and cooperation measures
- provision to halt measures on the portability of social security benefits if the European Council fails to act within four months
- a Protocol with interpretative provisions on services of general economic interest (i.e. state-provided social services)
- specific language to enable some Member States to proceed with measures on police and judicial cooperation while others do not participate
- an extension of the UK’s 1997 opt-out on JHA issues to judicial cooperation in criminal matters and police cooperation

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<sup>131</sup> See Annex III for tables showing how QMV would be applied. Figures vary from 39 to 60 for the number of QMV innovations, depending on various factors, such as whether sub-paragraphs of articles are included, and whether new articles are counted or only transfers from unanimity.

<sup>132</sup> *European Voice* 31 May-6 June 2007

<sup>133</sup> The *passerelle* is a bridging clause currently found in Article 137 TEC and Article 42 TEU, providing for a unanimous Council decision to change the voting procedure in certain areas from unanimity to qualified majority voting. In mid-2006 the Commission, in its Communication, ‘A Citizens’ Agenda—Delivering Results for Europe’, suggested the *passerelle* might be used to transfer policing and judicial cooperation in criminal matters from the Third Pillar (intergovernmental) to the First Pillar (Community). In the end there was no agreement on such moves.

- a role for national parliaments in applying a *passerelle* clause on judicial cooperation in civil matters relating to family law
- a specific reference to energy supply solidarity between Member States
- a restriction on European space policy
- specific authorisation to the EU to take action to combat climate change at international level
- retention of Article 308 TEC (the flexibility clause), but with a provision stipulating that it may not apply to the CFSP.

## D. Timetable and procedure

The Portuguese Presidency opened an Inter-Governmental Conference on 23 July, which met at ministerial level in the margins of the General Affairs and External Relations Council (GAERC) to discuss the first draft of the Reform Treaty.<sup>134</sup> Technical work will be taken forward by working groups. The Presidency aims to conclude the Reform Treaty at the European Council in Lisbon on 18 October 2007 and to formally sign it at the European Council on 13-14 December.

IGCs are convened under Article 48 TEU, which requires a submission to the Council for such a meeting, and an Opinion from the Council after consulting the EP and sometimes the Commission, in favour of opening one. The preparatory work of an IGC is usually carried out by representatives of the Member State governments and a representative of the Commission. The EP has long called for a more formal role in the treaty amendment process and has adopted resolutions to this effect. The final decisions are taken by the heads of state or government.<sup>135</sup> In 2004 the then ten EU candidate states were invited to be observers at the IGC, but there was some opposition to inviting as observers Turkey, Croatia and Macedonia, which opened membership negotiations in October 2005. The Presidency said it would “take the necessary measures to ensure that the candidate States are kept fully and regularly briefed throughout the Intergovernmental Conference”.<sup>136</sup>

This IGC will be unusual in that its work is premised on the basis of a text largely extrapolated from a previously agreed but unimplemented treaty. Although governments agreed the mandate for the IGC and the outline content of a reform treaty, the IGC “then has to find the right expression for the leaders’ selection”.<sup>137</sup>

Ratification of the new treaty will begin in all the Member States in 2008 (including those that have already ratified the EU Constitution) according to their constitutional requirements. It is not yet clear which of the 27 Member States will hold a referendum on any treaty emerging from the IGC, although it is highly likely that Ireland and Denmark will hold one. Portugal might hold a referendum; there were, after all, plans to hold one in 2005 on the EU Constitution. On the other hand, if there is no constitutional imperative

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<sup>134</sup> The official draft was in French and the translations (non legally revised) were to be distributed as soon as possible.

<sup>135</sup> The 2004 IGC, unusually, was preceded by a Convention and a wide-ranging public consultation.

<sup>136</sup> 12004/07 19 July 2007 at <http://register.consilium.europa.eu/pdf/en/07/st12/st12004.en07.pdf>

<sup>137</sup> *European Voice* 7-13 June 2007



(which is not yet clear), the Portuguese EU Presidency might for political reasons decide against a referendum.

If the new treaty cannot be ratified by all Member States, the present EC/EU Treaty as amended by the Treaty of Nice will remain in force. There is no Plan B at the moment and it is difficult to foresee how the EU would survive a second Treaty amendment failure. In an article on the June summit Dominik Hierlemann of the Bertelsmann Stiftung and Sarah Seeger of the Center for Applied Policy Research conclude:

[...] the EU would not be incapacitated if it once more proved impossible to introduce the proposed treaty amendments. The institutions would continue to function on the basis of the Treaty of Nice, and it would also be possible to implement certain reforms envisaged in the Constitutional Treaty without resorting to the protracted treaty amendment procedure. Prominent examples of this are the already established European Defence Agency, the opening of meetings of the Council of Ministers to the media and the public, or the enhanced involvement of national parliaments in the EU decision-making process. Over and above this, minor reforms can be implemented with the help of inter-institutional agreements. Furthermore, the Open Method of Coordination makes it possible to take joint action in areas which are not covered by the competences of the Union. However, it will not be possible to implement the central innovations relating to the decision-making procedure such as the extension of majority decisions in the Council and the strengthening of the co-decision procedure without the usual treaty amendment process based on unanimity. Therefore, there is certainly a need for a kind of "Treaty amending the Treaty of Nice". Otherwise there would continue to be striking shortcomings and imperfections with regard to transparency, efficiency, participation, and the democratic structures of the European Union.<sup>138</sup>

## E. Initial reaction to the Draft IGC Mandate

Chancellor Merkel was reported to be very satisfied with the European Council Conclusions, while Nicolas Sarkozy was pleased that the mandate provided the basis for a 'simplified' treaty. Some French Socialist Party Senators have warned, however, that a constitutional amendment may be required to enable a new treaty to be ratified, and that Mr Sarkozy may not have a sufficient majority in both the *Assemblée* and Senate to achieve this. Romano Prodi was critical of Poland and the UK for their "doggedness". The Polish Government was not satisfied that all its demands had been met and said it intended to press for a permanent mechanism allowing a minority of dissenting states to delay EU decisions for up to two years. In the Netherlands the prospect of another referendum has emerged. In June it was reported that the Dutch Labour Party would accept a recommendation of the State Council against a referendum if a new treaty no longer had the ambition of being a constitution.<sup>139</sup> However, recent reports suggest the party is now in favour of a referendum. The parliamentary Labour Party leader, Jacques Tichelaar, who supports the proposed Treaty reform, thought there was nothing to fear

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<sup>138</sup> *Spotlight Europe* 2007/03, June 2007, "Who wants what and why? FAQs about the EU Constitutional Summit" at [http://www.cap.lmu.de/download/spotlight/Spotlight\\_2007\\_03\\_eng.pdf](http://www.cap.lmu.de/download/spotlight/Spotlight_2007_03_eng.pdf)

<sup>139</sup> See *NRC Handelsblad* 25 June 2007 at [http://www.nrc.nl/europa/article728684.ece/Coalitie\\_en\\_VVD\\_tevreden\\_over\\_aflloop\\_Eurotop](http://www.nrc.nl/europa/article728684.ece/Coalitie_en_VVD_tevreden_over_aflloop_Eurotop)

from a referendum. If Labour MPs back a referendum it might be difficult for Mr Balkenende to resist. Ireland and Poland reserved the right to join the UK protocol exempting it from the Charter of Rights and the Irish Congress of Trade Unions (ICTU) has said it will campaign against the treaty in the referendum if this clause remains. The Danish Prime Minister, Anders Fogh Rasmussen, was reported as welcoming the IGC Mandate: "The good thing is that all the symbolic elements are gone, and that which really matters – the core – is left".<sup>140</sup>

In the European Parliament, pro-integration MEPs praised the text for safeguarding the substance of the EU Constitution, while Eurosceptics criticised EU leaders for agreeing to the rejected Constitution but with another heading.<sup>141</sup> On 11 July the EP discussed a report by Jo Leinen on the IGC mandate, which had been adopted by the Constitutional Affairs Committee on 9 July.<sup>142</sup> In their resolution on the text, MEPs regretted the concessions made to Member States, the UK in particular, which provided opt-outs and removed the constitutional elements. In defiance of the abandonment of the EU flag and anthem, Beethoven's "Ode to Joy", the EP stated that it would give "official character" to such symbols in its Rules of Procedure.<sup>143</sup>

The EP nominated three Members to participate in the IGC negotiations - Elmar Brok (EPP), Enrique Baron Crespo (PSE) and Andrew Duff (ALDE) - who were appointed on 12 July at the conference of political group leaders. They will attend IGC ministerial meetings, while the EP President, Hans Gert Pöttering, will participate in meetings at heads of state and government level.

The very idea of an IGC mandate from the European Council immediately gave rise to criticism from some quarters. The Bruges Group questioned the European Council's action in agreeing a mandate, maintaining that it had carried out a "coup d'état in the European Union by usurping the powers of the member states' governments" to decide how to amend the EC Treaties.<sup>144</sup> In a letter to the *Daily Telegraph* Bill Cash rejected Mr Barroso's claim that the UK was bound by the IGC mandate agreed by the European Council, arguing that it did not have the "legal authority to enforce the mandate on the Council of Ministers, the national parliaments or the electors of the member nations".<sup>145</sup> A Commission Q & A Memo tackled the question of the legal status of the Mandate: which, it stated, was "not the final text of the Treaty. Over the coming months, the Intergovernmental Conference will work to put the political agreement into legal form. The final outcome will be a Reform Treaty".<sup>146</sup> The Memo outlined how the Mandate could be changed:

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<sup>140</sup> *Jyllands-Posten* 25 June 2007

<sup>141</sup> For a summary of reactions, see *EurActiv* 25 June 2007 at <http://www.euractiv.com/en/future-eu/eu-treaty-deal-meets-praise-criticism/article-164921>

<sup>142</sup> A6-0279/2007 at <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2007-0279&language=EN&mode=XML>

<sup>143</sup> 11222/2007 - C6-0206/2007 at <http://www.europarl.europa.eu/sides/getDoc.do?Type=TA&Reference=P6-TA-2007-0328&language=EN>

<sup>144</sup> "European Council usurps powers of governments", Dr Helen Szamuely at <http://www.brugesgroup.com/mediacentre/releases.live?article=13993>

<sup>145</sup> *Daily Telegraph* 2 July 2007

<sup>146</sup> MEMO/07/284 10 July 2007

The IGC mandate and the European Council conclusions are political agreements. They have been agreed by all member states. From a strict legal standpoint, a member state may raise an issue at any point during an Intergovernmental Conference, but the principle of "bona fide" would mean that this IGC is not used to change arguments already entered into.<sup>147</sup>

The European Trade Union Confederation (ETUC) welcomed the statement that the Charter of Fundamental Rights would be legally binding but deplored "the UK's denial of European-based social rights for British workers" and hoped "this will be rectified as soon as possible".<sup>148</sup> The TUC General Secretary, Brendan Barber, expressed extreme disappointment "to see that UK workers and citizens are to enjoy fewer rights than those in the rest of Europe following the opt-out from Europe's Charter of Fundamental Rights".<sup>149</sup>

The eurosceptic Open Europe group published an analysis of the mandate for the IGC,<sup>150</sup> while the pro-EU think tank, Federal Europe, published a comparative table showing how the reform treaty would differ from the 2004 treaty.<sup>151</sup> The Centre for European Policy Studies (CEPS) published a commentary on 25 June 2007, "The new deal, a good deal?"<sup>152</sup>

## F. UK reaction

### 1. Blair Government statement

In his statement to the House on 25 June 2007, Tony Blair congratulated Chancellor Merkel "on concluding successfully an exceptionally difficult negotiation and on an outstanding presidency of the European Union", going on to outline how the British Government had achieved all it had set out to achieve:

Before the European Council, I made it clear that the concept of a constitutional treaty for Europe had to be abandoned and that we should agree instead a conventional amending treaty like the Nice, Amsterdam and Maastricht treaties and the Single European Act. I also made it clear that the UK had four central demands which had to be met. First, on the charter of fundamental rights, we secured a legally binding protocol, specific to the UK, and applicable both to the British courts and to the European Court of Justice. [...] In respect of our criminal law system and police and judicial processes, we obtained an extension of the opt-in rights that we secured in an earlier treaty on migration, asylum and immigration issues. This means that we have the sovereign right to opt in on individual measures, where we consider it would be in the British interest to do so, but also to stay out, if we want to. It is precisely the pick and choose policy often advocated. It gives us complete freedom to protect our common law system, but it also allows us to participate in areas where co-operation advances British interests. In asylum and immigration, for example, we have opted in on

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<sup>147</sup> Ibid

<sup>148</sup> ETUC 23 June 2007 at <http://www.etuc.org/a/3752>

<sup>149</sup> Press release 23 June 2007 at <http://www.tuc.org.uk/international/tuc-13442-f0.cfm>

<sup>150</sup> At <http://www.openeurope.org.uk/research/byanyothename.pdf>

<sup>151</sup> At <http://www.federalunion.org.uk/news/2007/070623reformtreatyanalysis.shtml>

<sup>152</sup> Daniel Gros and Stefano Micossi at [http://shop.ceps.be/BookDetail.php?item\\_id=1514](http://shop.ceps.be/BookDetail.php?item_id=1514)

measures dealing with illegal immigration, and in measures allowing us to return asylum seekers to other European countries—both unquestionably in Britain’s interests. But it will be within our exclusive power to decide on a case-by-case basis, which is exactly what we wanted.

In respect of social security, we negotiated a provision which allows us to insist on unanimity in any case where we—that is, Britain—declare that any proposal from the Commission would affect important aspects of our social security system, including its scope, cost, or financial structure or balance. Our social security and benefits system is therefore completely protected.

As for the common foreign and security policy, the basis of this will now remain unchanged in a separate treaty, and a separate pillar, from the first pillar Community method. The essential features of the CFSP remain as they were. Unanimity voting is the rule. There is no sole right of initiative for the Commission. There is no role for the European Parliament in decision taking. There is no jurisdiction for the European Court of Justice, except in the particular case of safeguarding the rights of individuals subject to EU sanctions. The two jobs of Commissioner for External Relations and High Representative which, of course, exist already, will be amalgamated in a single job. But this reform does not extend the EU’s substantive powers to act in foreign policy. In particular, the Union Representative, when working on common foreign and security policy issues, will operate within a policy framework set by the European Union Foreign Ministers, by unanimity.

All these guarantees not merely remain in the new treaty, but are reinforced in a new overview article that reaffirms them and has full legal force. For the avoidance of doubt, we also obtained a declaration that sets out the unanimous view of all member states about the meaning of those guarantees.[...]

There was also a discussion at the Council about competition. The treaties have always made it clear that competition in the internal market should not be distorted. The now defunct constitutional treaty’s objectives would have included new wording about “free and undistorted competition”. When the treaty was set aside, that provision was lost, but we agreed on a new and legally binding protocol to be annexed to the treaties, which reaffirms the commitment to ensuring that competition is not distorted, and the other references to competition in the existing treaties will remain: for example, articles 4, 27, 34, 81 to 89, 96, 98, 105 and 157 from the European Community treaty. The legal position in relation to competition therefore remains unchanged.

Alongside meeting our four essential requirements, we secured a number of further improvements. The new treaty will confirm for the first time, explicitly, that national security is the sole responsibility of member states. The Union already signs international agreements, but the treaty formalises its legal personality. However, we have now agreed a declaration by all countries for this intergovernmental conference confirming that the fact of this legal personality does not authorise the Union in any way to legislate or act beyond the powers conferred on it by member states in the treaties. There are also new powers for national Parliaments to object to Commission proposals on subsidiarity grounds.

There are a number of extensions of qualified majority voting. In the most sensitive areas of QMV—justice and home affairs, and social security—we obtained the right either not to participate or to insist on unanimity. In addition, a number of other QMV measures—for example, those about rules within the

eurozone, or those in justice and home affairs—do not apply to us. As for the rest, we have agreed them, because qualified majority voting is often in Britain's interest. [...]

Among the QMV provisions in the treaty is one that provides a new legal base and QMV for energy market liberalisation, and another that provides QMV for decisions on emergency humanitarian aid to third countries—both of them manifestly in the UK's national interest.

The other main reform is the fixed term, two-and-a-half-year presidency of the European Council, replacing the current rotating six-monthly arrangements. This is necessary for the Union's efficiency, but does not involve any extension of presidency powers. The President of the European Council will remain the servant of the leaders of the member states.

The most important aspect of the new treaty is that it allows the European Union to move on to the issues that really matter. For too many years, we have been bogged down in a debate about institutions. With the increase from 15 to 27 member states, change is essential, but with this agreement, we can now concentrate on issues that really matter: energy security, organised crime and terrorism, globalisation, further enlargement and making Europe's voice more effective internationally.

This agenda is surely quintessentially one in Britain's interests. Over the past 10 years, Britain has moved from the margins of European debate to the centre. This is absolutely right for Britain. Whether in defence or economic reform or in energy policy or the environment, or of course most particularly in enlargement and the appointment of the new Commission President, Britain has for a decade been in a leadership position in Europe. That is exactly where we should stay.<sup>153</sup>

In spite of the Government's assurances that the mandate prescribed a reform treaty that would be quite different from the constitutional treaty, there was some scepticism among opposition Members and eurosceptics. The Leader of the Opposition, David Cameron, accused the Prime Minister of agreeing to "a transfer of power from Britain to Brussels without the permission of the British people".<sup>154</sup> The Constitution, allegedly abandoned, had been 'resuscitated', he said and he questioned the claim that all British 'red lines' had been met and that British sovereignty had not been compromised. He called for a referendum on the new treaty. Mr Blair dismissed these allegations and elaborated on the QMV issue:

Let me go through the 49 articles that create QMV. Thirteen of them do not apply to the UK because they are about the eurozone or judicial and home affairs, which we have opted out of. Six involve issues such as allowing a group of citizens to propose initiatives; the negotiation of a withdrawal agreement—I should have thought that the Opposition would want QMV on that; two relate to ending special state aid provisions for Germany post-reunification and to diplomatic and consular protection measures, which are not about the service, but about protection. Nine are minor and technical, including such extraordinary matters as the Council review of general rules on the composition of the

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<sup>153</sup> HC Deb 25 June 2007 cc21-23

<sup>154</sup> Ibid c23

Committee of the Regions, and the Comitology Committee, whatever that might be. Nine of them relate simply to new legal bases, but powers already exist.

There are nine articles of genuine substance on matters such as the implementation of own resources decisions, which it is in Britain's interests to have QMV on, because it allows us to ensure that countries cannot block that; on the authorisation, co-ordination and supervision of intellectual property rights protection, which, again, it is absolutely in Britain's interests to have; and on matters such as urgent aid to third countries and humanitarian aid operations.<sup>155</sup>

For the Liberal Democrats, Sir Menzies Campbell, referred to the concerns of the Confederation of British Industry (CBI) that competition policy had been weakened by the amendments to the internal market wording, suggested that protectionism might rise, questioned the UK 'opt-out' from the Charter of Rights, asked how the proposed reform would ensure a successful outcome of the Doha Round and how the EU's humanitarian role would be put to effect in Gaza.<sup>156</sup>

Asked what the differences were between the EU Constitution and the new treaty, the Europe Minister, Jim Murphy, insisted that the Constitution was "now defunct", and said:

the Reform Treaty will differ fundamentally from the Constitutional Treaty in both form and substance. Among other things, we have ensured that there is nothing in the mandate for the Reform Treaty which will require us to change our existing labour and social legislation. Our common law system and our police and judicial processes will be protected. Our independent foreign and defence policy will be maintained. Our tax and social security system will be protected.<sup>157</sup>

## 2. Brown Government White Paper

On 23 July 2007 the Government published a White Paper entitled *The Reform Treaty: The British Approach to the European Union Intergovernmental Conference*,<sup>158</sup> which sets out its approach to the IGC. In the Foreword the Prime Minister states that the amending treaty "will allow the EU to move on from debates about institutions to creating the outward-facing, flexible Europe that we need to meet the fundamental challenges of globalisation".<sup>159</sup> On pages 12 to 19 the Government sets out the changes in the IGC Mandate to be incorporated into the reform treaty, commenting on their significance and stating how they conform with its principles and 'red lines'.

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<sup>155</sup> HC Deb 25 June 2007 cc25-6

<sup>156</sup> Ibid

<sup>157</sup> HC Deb 10 July 2007 cc 1459-60W at <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070710/text/70710w0022.htm#07071063000650>

<sup>158</sup> Cm 7174 at [http://www.fco.gov.uk/Files/kfile/CM7174\\_Reform\\_Treaty.pdf](http://www.fco.gov.uk/Files/kfile/CM7174_Reform_Treaty.pdf)

<sup>159</sup> Ibid p 1

## V Public Opinion

Following the 2005 negative referendums, *European Citizens' Consultations* carried out a survey of public opinion on the EU, asking what people thought the EU should deal with and not deal with. The results were published on Europe Day (9 May) in a report entitled "European Citizens' Perspectives on the Future of Europe".<sup>160</sup> A high priority for more EU action in most countries was social policy – health and child care in particular – where the EU presently does not have a major role and which is not viewed generally as an area for major future initiatives. Specific measures proposed at national and European level included rights to child care, working time flexibility for parents or job protection for those returning from parental leave; better job protection; harmonised minimum work-related standards, such as a common definition of a minimum wage; standards ensuring accessible, dignified, high-quality and affordable health care treatment.<sup>161</sup>

A *Eurobarometer* survey in April-May 2007 found that the level of support for a European Constitution had increased to 66% compared to 63% in Autumn 2006, with 20% against and 14% 'don't know'.<sup>162</sup> The summary noted:

Behind this lack of change in the overall figure, however, we see a number of notable swings, in both directions. Since Autumn 2006, support for a constitution has increased by 13 points in Spain, 6 points in Estonia and 5 points in Germany, Hungary and Poland.

Over the same period, the support for a European Constitution has fallen considerably in Greece (-11 points) and to a lesser extent Cyprus and Finland (both -6 points).

In general, however, shifts in opinion seem to be largely driven by general favourability towards the EU – for example, the large positive swing in Spanish opinion on enlargement should be viewed in context of a similar surge in the perception that the country has benefited from enlargement and that Membership of the EU is a good thing.<sup>163</sup>

Considering the results for a first wave of States comprising Spain, Estonia, Germany, Hungary, Poland, Finland, Cyprus and Greece, *EB67* notes:

[...] it can be seen that there are no countries where those against a constitution outnumber those in the 'for' camp. In particular, we note that support in France and the Netherlands, the two countries rejecting the constitution via referenda, stands at 68% and 55% respectively. However, those holding the 'against' view do form a very significant segment of opinion in Finland (43% 'against', 4 points lower than 'for') and the UK (36% 'against', 7 points lower than 'for').<sup>164</sup>

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<sup>160</sup> [http://www.european-citizens-consultations.eu/fileadmin/user\\_upload/Synthesis\\_Citizens\\_Perspectives.pdf](http://www.european-citizens-consultations.eu/fileadmin/user_upload/Synthesis_Citizens_Perspectives.pdf)

<sup>161</sup> There is a summary of the analysis in the *EUObserver* 11 May 2007 at <http://euobserver.com/9/24041/?rk=1>

<sup>162</sup> *Standard Eurobarometer 67*, June 2007, at [http://ec.europa.eu/public\\_opinion/archives/eb/eb67/eb\\_67\\_first\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb67/eb_67_first_en.pdf)

<sup>163</sup> *Ibid*

<sup>164</sup> [http://ec.europa.eu/public\\_opinion/archives/eb/eb67/eb\\_67\\_first\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb67/eb_67_first_en.pdf)

The *EB67* concludes:

Despite the fact that the younger age groups tend to be more pro-European, this factor has minimal influence on opinion regarding a constitution. Education remains relevant, with positive opinions running at almost three-quarters (73%) amongst those studying until the age of 20 or over. The extent to which respondents trust in the EU is important, with 80% of those who hold such trust supporting a constitution, compared to 49% of those who tend not to have this trust.<sup>165</sup>

Two June 2007 UK polls, ICM for Open Europe poll<sup>166</sup> and YouGov/Speakout<sup>167</sup> sought opinion on the EU, an EU constitution and whether there should be a referendum on it. An analysis by Anthony Wells in *UK Polling Report* summarised their findings:

Both polls show around half the public think that the EU already has too much power (in slightly differently worded questions YouGov found 59% thought the EU had too much power, ICM found 49%). Few people (6% in YouGov's poll and 15% in ICM's) thought the EU should have greater powers.

Both also found an overwhelming majority in favour of a referendum if the new treaty gives extra powers to the EU - 78% in YouGov's poll and 86% in ICM's.

ICM asked how people would vote in a referendum on a treaty that "gives more powers to the EU" - 65% said they would vote against, with only 26% voting in favour. YouGov's question was slightly more subtle - only 4% said they would vote in favour, 40% said they would vote against, 45% said it would depend upon the exact details of the treaty. This is actually an interesting result, and one that shows the difficulty facing the government in trying to win any such referendum: 40% of people say they will vote against a European treaty almost regardless of what the actual contents are. To win a referendum, the government would need to win over the vast majority of the 45% of people who say their vote would depend on what was actually in the treaty and, presumably, are open to persuasion.

Finally ICM asked whether it would make people less likely to vote Labour if Gordon Brown ratified the treaty without allowing a referendum. 21% of people said it wouldn't make them less likely to vote Labour, 74% said it would. As regular readers will know, I'm not a fan of questions like this and prefer the format YouGov sometimes use where people are given the option of saying "No difference - I'll vote Labour anyway" and "No difference - I wouldn't vote Labour anyway". A lot of the people answering this question and saying it would make them less likely to vote Labour wouldn't vote Labour if hell froze over. 86% of Tory identifiers, for example, say it would make them less likely to vote Labour. In this case though, it doesn't seem to be just Tories expressing concern - 43% of Labour identifiers also say it would "definitely" make them less likely to vote Labour. Of course, saying that to a pollster to send a message is different to

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<sup>165</sup> Ibid

<sup>166</sup> <http://www.openeurope.org.uk/research/constitutionpoll.pdf>

<sup>167</sup> <http://www.yougov.com/archives/pdf/Yatesresults070614.pdf>



actually changing your vote, but it's worth remembering that Europe isn't an issue that only worries Tory voters in the shires.<sup>168</sup>

Referendum campaigns have been launched in several Member States. According to a poll by Internet polling agency *peil.nl* published on 26 June, 51% of Dutch nationals support a second national referendum on the new European treaty, with 47% against. If there were another referendum, 46% would vote in favour of the new treaty, while 29% would vote against it, according to the poll. Most of the opponents of a referendum were voters of Government parties and the leftist Greens, an opposition party.<sup>169</sup>

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<sup>168</sup> *UKpollingreport* 21 June 2007 at <http://www.ukpollingreport.co.uk/blog/archives/date/2007/06>

<sup>169</sup> *EUX.TV* 26 June 2007 at <http://eux.tv/article.aspx?articleId=10496>

## Appendix I Future of Europe Chronology<sup>170</sup>

### 2001

**14-15 December** - The European Council in Laeken adopts a 'Declaration on the Future of Europe' and establishes a 'Convention' which in the following months brings together representatives of national governments and parliaments, the European institutions, non-governmental organisations and the general public, to prepare an institutional and constitutional reform of the EC Treaties.

### 2002

**28 February** - The Convention holds its inaugural meeting.

### 2003

**20-21 June** – The European Council meets in Thessaloniki, Greece. The *Draft Treaty Establishing a Constitution for Europe* is welcomed as a good basis for forthcoming negotiations on the future of Europe.

**18 July** - The *Draft Treaty Establishing a Constitution for Europe* is submitted to the President of the European Council in Rome.

**9 September** - The UK Government sets out its views on the draft text in a White Paper and announces that there would be a similar procedure to enable Parliament to scrutinise the IGC as had been established for the Convention on the Future of Europe.

**17 September** - The Lords debate the draft Constitution.

**4 October** - An Intergovernmental Conference (IGC) is launched to consider the text and amend it if necessary but it ends in disarray as Heads of State and Government fail to agree a final text.

### 2004

**25-26 March** - The European Council meet in Brussels for its annual meeting on the Lisbon Strategy and reaffirms its commitment to reaching agreement on the European Constitution.

**18 June** – 25 Heads of State and Government adopt the Constitutional Treaty.

**29 October** - The Heads of State and Government and the EU Foreign Ministers sign the *Treaty establishing a Constitution for Europe*.

### 2005

**12 January** - The European Parliament votes in support of a resolution endorsing the *Treaty establishing a Constitution for Europe*.

**25 January** - The *European Union Bill* is introduced to pave the way for UK ratification of the *Treaty Establishing a Constitution for Europe*, on condition that the Treaty is approved in a referendum. The Bill falls on the calling of the general election.

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<sup>170</sup> This chronology was drawn up by Tina Shingler, International Affairs and Defence Section.

**20 February** - The result of a referendum in Spain is in favour of the Constitutional Treaty.

**24 May** - The *European Union Bill* is reintroduced in the UK.

**29 May** - The result of a referendum in France is against the Constitutional Treaty.

**1 June** - The result of a referendum in The Netherlands is against the Constitutional Treaty.

**6 June** – In a statement to the House of Commons, Jack Straw, Foreign Secretary, announces “...until the consequences of France and the Netherlands being unable to ratify the treaty are clarified, it would not in our judgment now be sensible to set a date for the Second Reading [of The *European Union Bill*]...We reserve completely the right to bring back for consideration the Bill providing for a UK referendum should circumstances change, but we see no point in doing so at this moment ...” (c992)

**10 July** - The result of a referendum in Luxembourg is in favour of the Constitution Treaty.

After the rejection of the Treaty in France and the Netherlands a period of reflection on the future of Europe is launched to reconnect the citizens with the European project and to decide the fate of the Constitution.

## **2006**

**July to December** - The Finnish Presidency starts preliminary work on exploring the options regarding the Constitutional Treaty.

**22 November** - The Commission gives its assessment of the cost of the absence of the Constitution in a staff working paper entitled “The cost of the non-Constitution.”<sup>171</sup>

## **2007**

**17 January** - German Chancellor Angela Merkel states that the reflection period is over.

**25 March** - Celebrating the EU's 50th anniversary at an informal summit in Berlin, the Berlin Declaration is adopted which pledges to have a new treaty in place by 2009.

**16 May** – New French President, Nicolas Sarkozy, visits German Chancellor, Angela Merkel, to set out his views on efforts to revamp the Constitution.

**21-22 June** – European Council agrees a Draft IGC Mandate

**23 July** - Draft Reform Treaty circulated in French and Intergovernmental Conference launched

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<sup>171</sup> [http://ec.europa.eu/commission\\_barroso/wallstrom/pdf/final\\_report\\_21112006\\_en.pdf](http://ec.europa.eu/commission_barroso/wallstrom/pdf/final_report_21112006_en.pdf)

## Appendix II Ratification of the 2004 EU Constitution

The following table shows the state of play on ratification of the *Treaty Establishing a Constitution for Europe*. 18 Member States are deemed to have ratified the Constitution, although strictly speaking only 15 have ratified while three (Finland, Germany and Slovakia) have completed parliamentary procedures required for ratification, but have not yet completed formal ratification.

Member State	Ratification status	Major EU-related referendum?
Austria	<b>Ratified</b> by national parliament. Lower house voted in favour of ratification on 11 May 2005 by 181 votes to 1. Upper house completed ratification process on 25 May 2005.	1994 - EU membership
Belgium	<b>Ratified</b> on 8 February 2006 by Belgium's regional parliaments. The King and the Government completed formal ratification on 13 June 2006.	
Bulgaria	<b>Ratified</b> by parliament on 11 May 2005 linked to Accession Treaty.	
Cyprus	<b>Ratified</b> by Parliament on 30 June 2005.	
Czech Republic	Plans to hold a referendum in June 2006 alongside the national general election have been <b>postponed</b> indefinitely following the French and Dutch 'no' votes.	June 2003 - EU membership
Denmark	Referendum scheduled for 27 September 2005 was <b>cancelled</b> following 'no' votes in France and the Netherlands.	1972 - EC membership 1986 - Single European Act 1992 - Treaty of Maastricht 1993 - Treaty of Maastricht (with opt-outs) 1998 - Treaty of Amsterdam 2000 - EMU membership
Estonia	<b>Ratified</b> by parliament's unique chamber on 9 May 2006 by 73 votes to one.	September 2003 - EU membership
Finland	On 5 December 2006 Parliament approved Constitution by 125 votes to 39. Awaiting formal ratification by President.	1994 - EU membership
France	In a referendum on 29 May 2005 55% 'no' 45% 'yes'. Voter participation: 70%. <b>Treaty rejected.</b>	1972 - EC enlargement 1992 - Treaty of Maastricht
Germany	<b>Approved</b> by German parliament's lower house, the <i>Bundestag</i> on 12 May 2005 and German parliament's second chamber, the <i>Bundesrat</i> on 27 May. Bill yet to be signed by President Horst Köhler, pending outcome of case at Federal Constitutional Court.	
Greece	<b>Ratified</b> by parliament on 19 April 2005 by 268 votes to 17.	Tradition of ratifying treaties by parliament
Hungary	<b>Ratified</b> by parliament on 20 December 2004.	April 2003 - EU membership
Ireland	A binding referendum provisionally scheduled for October 2005 has been <b>postponed</b> indefinitely after the results of the French and Dutch	1972 - EC membership 1987 - Single European

	referendums.	Act 1992 - Treaty of Maastricht 1998 - Treaty of Amsterdam 2001 - Treaty of Nice 2002 - Treaty of Nice
Italy	Lower chamber <b>ratified</b> the Constitution in January 2005. The senate completed approval by a majority of 217 votes to 16 on 6 April 2005.	
Latvia	<b>Ratified</b> by parliament on 1 June 2005.	September 2003 - EU membership
Lithuania	<b>Ratified</b> by parliament on 11 November 2004.	May 2003 - EU membership
Luxembourg	In a referendum on 10 July 2005 56.5% voted in favour and 43.5% against. The Luxembourg parliament formally <b>ratified</b> the Constitution on 25 October 2005.	
Malta	<b>Ratified</b> by the Maltese parliament on 6 July 2005.	March 2003 - EU membership
Netherlands	In a consultative referendum on 1 June 2005 61.8% 'no', 38.2% 'yes'. Voter participation: 62%. Government respected outcome. <b>Treaty rejected.</b>	
Poland	Original plans for a referendum on 9 October 2005 to coincide with the Presidential election have been <b>suspended</b> .	June 2003 - EU membership
Portugal	Original plans to hold a referendum on 9 October 2005 to coincide with local elections have been <b>suspended</b> following failed referenda in France and the Netherlands.	
Romania	<b>Ratified</b> by parliament on 17 May 2005 linked to Accession Treaty.	
Slovak Republic	Approved by parliament on 11 May 2005 by 116 votes to 27 with 4 abstentions. Complaint made to Constitutional Court that there should have been a referendum on the Constitution. Slovak president unable to complete ratification process until Court has issued its ruling.	May 2003 - EU membership
Slovenia	<b>Ratified</b> by parliament on 1 February 2005.	March 2003 - EU membership
Spain	In referendum on 20 February 2005 76.73% 'yes', 17.24% 'no'. Voter participation: 42.32%. Approved by parliament's lower house on 28 April 2005 and upper house on 19 May 2005. Formal <b>ratification</b> followed.	
Sweden	Decision on whether to proceed with ratification process has been <b>delayed</b> .	1994 - EU membership 2003 - EMU membership
United Kingdom	Parliamentary process and plans to hold a referendum in 2006 <b>suspended</b> on 6 June 2005 following French and Dutch no votes.	1975 - EC membership

## Appendix III QMV in the 2004 EU Constitution

Part I articles state the general principles of Union policy or action, while Part III sets out detailed policies and voting mechanisms. Constitution articles marked in bold are those which would be new articles or would move from unanimity or cooperation to decision-making by QMV.

Qualified Majority Voting (with European Laws, Framework Laws or special procedures)	Present Procedure under TEC or TEU
<b>PART I</b>	
I-23(4): European Council to establish list of Council configurations other than Foreign Affairs Council (81/04)	New article
<b>I-23(6): European Council to set conditions for rotation of Council Presidency (81/04)</b>	Article 203 TEC, unanimity
I-26(2): European Council proposal to EP for candidate for Commission President or for new candidate (85/04)	Article 214 TEC: QMV
<b>I-27: European Council to appoint Foreign Affairs Minister (81/04)</b>	New article
I-36: arrangements for control of implementing powers (50/03)	202 TEC: unanimity with EP opinion
I-41: approximation of national laws in Part III to achieve area of freedom, security and justice (50/03)	TEU Preamble and Article 2 TEU: Union objectives
<b>I-46(4): determining procedures for citizens' initiative, including minimum number of Member States required (50/03)</b>	New article
I-49(3) and (4): general principles and limits governing the right of access to Union documents and institutions' rules of procedure on access to documents (50/03)	Article 255 TEC (co-decision with QMV; see also Constitution III-305)
I-50(2): protection of personal data by Union institutions and by Member States when carrying out Union law (50/03)	Article 286 TEC: co-decision with QMV
I-52 (3) and (4): expenditure under Article III-318 (50/03)	Article 279 TEC (part QMV, part unanimity; see also Constitution Part III-318)
I-55: establishing budget under III-310 (50/03)	Article 272 TEC (QMV)
<b>I-59: conclusion of agreement with Member State wishing to withdraw from Union and with the Union, with EP consent (81/04)</b>	New article
<b>PART III</b>	
<b>III-6: defining principles and conditions, especially economic and financial, on which services of general interest should operate (81/04)</b>	16 TEC: general statement on making sure that such services operate within the requirements of the Treaty
III-7: rules to prohibit discrimination on grounds of nationality (50/03)	12 TEC: co-decision with QMV
III-8(2): basic principles for incentive measures to support Member State action in III-8(1), excluding harmonisation (50/03)	13 TEC: co-decision with QMV
III-9(1): measures on freedom of movement	18 TEC: co-decision with QMV
III-11: diplomatic and consular protection measures, with EP consultation (50/03)	20 TEC: cooperation among Member States
III-19: freedom of movement for workers (50/03)	40 TEC: co-decision with QMV

<b>III-21(1): freedom of movement for migrant workers – social security provisions (2) contains referral clause: if Member State thinks its own social security system would be affected, QMV procedure suspended and matter referred to European Council, which may refer draft back to Council or ask Commission to submit new proposal (81/04)</b>	42 TEC: co-decision with unanimity
III-23: freedom of establishment as regards a particular activity (50/03)	44 TEC: co-decision with QMV
III-24: exempting activities from application of sub-section excluding “exercise of official authority” from freedom of establishment rules (50/03)	45 TEC: QMV
III-25: coordinate national provisions on treatment of foreign nationals (50/03)	46 TEC: co-decision with QMV
III-26: measures to make it easier for persons to take up and pursue activities as self-employed persons (50/03)	47 TEC: co-decision with QMV; unanimity in specific circumstances regarding training and conditions of access
III-29: measures to extend freedom to provide services within Union to third country nationals in the Union (50/03)	49 TEC: QMV
III-32: liberalisation of a specific service (50/03)	52 TEC: QMV
III-41: measures to strengthen customs cooperation between Member States and between M.S. and the Union (50/03)	135 TEC: co-decision with QMV
III-46(2): movement of capital to and from third countries involving direct investment, establishment, provision of financial services or admission of securities to capital markets (50/03)	57 TEC: QMV, but unanimity where step back regarding liberalisation in 57(2)
III-49: administrative measures regarding capital movements and payments (e.g. freezing funds, assets etc) (81/04)	60 TEC: QMV
III-65(1): approximation of Member State provisions for establishing and functioning of internal market, with ESC consultation, except for fiscal provisions, free movement of persons and rights of workers (50/03)	95 TEC: co-decision with QMV
III-66: measures to eliminate distortion of conditions of competition in the internal market (50/03)	96 TEC: QMV
<b>III-68: provisions on uniform intellectual property rights protection, for authorisation, coordination and supervision of arrangements, except unanimity for sub-paragraph 2 on language arrangements for the above (50/03)</b>	New article
III-71: rules for multilateral surveillance procedure for coordination of Member States’ economic policies (50/03)	99 TEC: co-decision with QMV
III-79: amendments to ESCB and ECB Statutes (50/03)	107 TEC: QMV on ECB recommendation or unanimity on proposal from Commission and consultation of ECB. EP assent in both cases.
III-83: measures for use of EURO as single currency, with ECB consultation (50/03)	123(4) TEC: QMV with ECB consultation
III-101: incentive measures to encourage cooperation in employment through exchanges of information and best practice, comparative analysis, promoting approaches etc, excluding harmonisation (50/03)	129 TEC: co-decision with QMV
<b>III-104(2): support and complementing measures for Member State activities in</b>	137 TEC: co-decision with QMV, except unanimity for 137(1) (c), (d), (f) and (g), with

<b>workers' conditions, rights etc, measures to encourage cooperation between Member States, exchange of information and best practice etc, minimum requirements for "gradual implementation" (must not hold back SMEs) (50/03)</b>	possibility of <i>passerelle</i> to QMV for (d), (f) and (g)
III-100: measures to ensure principle and application of equal opportunities between men and women in pay and employment (50/03)	141 TEC: co-decision with QMV
III-113/114/115: implementing measures of European Social Fund (50/03)	146/147/148 TEC: co-decision with QMV
III-117: specific measures outside Structural Funds (50/03)	159 TEC: co-decision with QMV
III-119(1) and (2) defining tasks, priorities and organisations of Structural Funds and to set up Cohesion Fund, but first Cohesion Fund after entry into force of Constitution will be by unanimity (81/04)	161 TEC: unanimity; QMV after January 2007 if multiannual financial perspective adopted by then.
III-120: implementing measures regarding the ERDF (50/03)	162 TEC: co-decision with QMV
III-127(2): common organisation of agricultural markets and other CAP and CFP measures (50/03)	Article 37 TEC: QMV with EP consultation
III-130(1): environment measures to achieve objectives in III-129, except unanimity for provisions primarily of a fiscal nature (2a) and general action programmes (3) (50/03)	175, 176 TEC: co-decision with QMV, except unanimity for provisions primarily of a fiscal nature, town and country planning, water resource management, land use (except waste management), measures significantly affecting choice of energy source and structure of energy supply.
III-132: consumer protection measures which support or supplement and monitor Member State policy (50/03)	153 TEC: co-decision with QMV
III-133/4: transport across Member States: conditions for non-state carriers to operate in Member State; improving safety, other appropriate measures (50/03). <b>III-134(2): measures must take account of effects on standard of living (85/04)</b>	Articles 70,71 TEC: co-decision with QMV, except unanimity for where serious effect on standard of living or employment
III-143: appropriate measures for sea and air transport (50/03)	80 TEC: QMV, but derogation as for 71
<b>III-145: guidelines and measures for Trans-European Networks (TENs) (50/03)</b>	155 TEC: coordination among Member States and with Commission
III-149(3) and (4): establishing programmes to implement multi-annual framework programme and establishing measures to implement European Research Area (81/04)	166 TEC: co-decision and QMV
III-150/151/152/153: rules for participation of undertakings, research centres, universities; rules for dissemination of research results for implementing multi-annual framework programme; for establishing supplementary programmes to the above; for participating in the above (50/03)	172 TEC: co-decision and QMV
<b>III-155: measures for drawing up a European space policy (50/03)</b>	New article
<b>III-157: energy measures, except if primarily of a fiscal nature (85/04)</b>	New article
<b>III-166: measures on common visa policy, short-stay residence permits, border controls, freedom of third country nationals to travel in</b>	62 TEC: unanimity for 5-year transitional period under Article 67; then decision by unanimity to decide which areas to be decided by co-decision



<b>Union for short period; gradual establishment of integrated external border management; absence of internal border controls (50/03)</b>	with QMV. Certain elements of this Article by QMV from entry into force of Amsterdam (May 1999). QMV for elements of 67(1), except for family law aspects
<b>III-167: measures on: uniform status of asylum for third country nationals, uniform status of subsidiary protection for third country nationals, common system of temporary protection for displaced persons in the event of a massive inflow; common procedures for granting/withdrawing uniform asylum/subsidiary protection; standards for conditions for reception of asylum applicants; cooperation with third countries to manage inflows (50/03)</b> <b>III-168(2): measures on: conditions of entry/residence, standards for long-term visas/permits, including for family reunion; definition of rights of third country nationals living legally in Union; illegal immigration and residence in Union, including removal and repatriation; combating person trafficking, especially women and children (50/03)</b> <b>III-168(4): incentive and support measures to promote integration of legal third country nationals, excluding harmonisation (50/03)</b>	63(1) and (2), 64(2) TEC: unanimity for 5-year transition period, under Article 67
<b>III-170: judicial cooperation in civil matters, especially for the proper functioning of the internal market (except for family law measures – see below) (81/04)</b>	65 and 66 TEC: as above
<b>III-171: judicial cooperation in criminal matters (81/04), except other aspects of criminal procedure identified by a European decision (50/03).</b>	31(1) TEU
<b>III-172: minimum rules on definition of criminal offences and sanctions in the areas of particularly serious crime with cross-border dimensions and (2), minimum rules regarding definition of criminal offences and sanctions in the area concerned, but with referral mechanism to European Council and possible withdrawal (81/04)</b>	New article
<b>III-173: measures to support Member States in crime prevention (50/03)</b>	New article
<b>III-174(2): Eurojust structure, operation, field of action, tasks, arrangement for EP and national parliament involvement in evaluating Eurojust activities, taking into account national rules and practices regarding criminal investigations (85/04)</b>	31(2) TEU: Council to encourage cooperation
<b>III-176(2): police cooperation: collection, storage, processing, analysis and exchange of information; staff training and exchange, equipment research; common investigative techniques, but (3) operational cooperation between authorities by unanimity (50/03)</b>	30(1) TEU: cooperation among Member States but under conditions and limitations laid down by Council for operations in another Member State (Article 32)
<b>III-177: Europol's structure, operation, field of action and tasks; procedures for scrutiny by EP and national parliaments (50/03)</b>	30(2) TEU: as above
<b>III-179(4) and (5): public health measures to</b>	152 TEC: co-decision with QMV

contribute to objectives of safety of organs, substances of human origin, blood etc; veterinary and phytosanitary measures, and incentive measures to combat major cross-border health scourges, including tobacco use and abuse of alcohol (81/04)	
III-180: support measures to achieve competitiveness, excluding harmonisation (50/03)	157 TEC: co-decision with QMV
<b>III-181: incentive actions to encourage cooperation between Member States in cultural matters, conservation of cultural heritage, exchanges, artistic and literary creation, excluding harmonisation (50/03)</b>	151 TEC: co-decision with unanimity
<b>III-181a: measures in tourism to complement Member State action (excluding harmonisation) (81/04)</b>	New article
III-182: incentive actions in education, exchanges, cooperation, mobility, development of sport, distance learning, excluding harmonisation (50/03)	149 TEC: co-decision with QMV
III-183: measures to improve vocational training (50/03)	150 TEC: co-decision with QMV
<b>III-184: measures to encourage cooperation in civil protection, to protect against man-made and natural disasters, excluding harmonisation (50/03)</b>	New article
<b>III-185: measures to help Member States to implement Union law (50/03)</b>	New article
III-201(2): Council adoption of decision defining Union action or position (81/04)	23 TEU: QMV for decisions adopting a Union action or position
<b>III-213(2): Council decision on permanent structured cooperation and list of participating Member States after consulting Foreign Affairs Minister (81/04)</b> <b>III-213(3): Council will confirm participation of Member State fulfilling the criteria for permanent structured cooperation (81/04)</b> <b>III-213(4): Council may suspend a Member State from a structured cooperation (81/04)</b>	New article
<b>III-217: measures to implement the Common Commercial Policy (50/03) and (7) negotiating and concluding agreements with one or more states or international organisations (81/04)</b>	133 TEC: QMV; but unanimity for agreements where provisions require unanimity for internal rules or where Community does not have conferred powers; by unanimity for agreements on intellectual property
III-219: measures to implement the development cooperation policy (50/03)	179 and 181 TEC: co-decision with QMV; unanimity when internal rules are decided by unanimity
III-221: measures to implement economic, financial and technical cooperation, especially aid, with third countries other than developing countries (50/03)	181a TEC: QMV, but unanimity for association and accession agreements
<b>III-223: measures defining framework in which Union's humanitarian operations are implemented</b>	New article
III-224: measures breaking economic or financial relations with a third country on proposal from Foreign Affairs Minister (81/04)	301 TEC: QMV
III-227: concluding agreements to which the ordinary legislative or special legislative procedure applies (50/03) and (8): adoption of agreements with third parties: QMV in procedure but unanimity	300 TEC: QMV, with certain provisions for unanimity (see above)

where there is a unanimity requirement for the adoption of a Union act in that area, also for Association Agreements and others in III-221 (85/04)	
<b>III-235: EP right of inquiry: EP own initiative with Council and Commission approval (50/03)</b>	193 TEC: common accord of EP, Council and Commission
<b>III-264: establish specialised Court attached to High Court (Former CFI); rules on organisation and jurisdiction of Court (50/03)</b>	225a TEC: unanimity
<b>III-268: giving ECJ unlimited jurisdiction regarding penalties (50/03)</b>	229 TEC: EP and Council to adopt under Treaty provisions
<b>III-289: amend ECJ Statute, except title 1 and Article 64 (50/03)</b>	245 TEC: unanimity
<b>III-289a and (2)b: European Council to appoint executive board of ECB and President, Vice-President, and executive board (81/04)</b>	112, 113 TEC: common accord of heads of state or government
<b>III-299: amending Articles 4, 11, 12, 18(5) of European Investment Bank Statute (50/03)</b>	266 TEC: unanimity with EP consultation
<b>III-304: establish provisions for an open, efficient, independent European administration to support institutions, bodies, offices and agencies of the Union (50/03)</b>	New article
III-309: establishing Union budget	272 TEC: QMV special procedure
III-310(5): joint text with EP on law establishing budget (81/04)	272 TEC: QMV special procedure
III-318: procedure for adopting and implementing budget and auditing accounts; rules for checking responsibilities of financial actors, especially authorising and accounting officers (50/03)	279 TEC: unanimity, with EP consultation. QMV after January 2007
III-321: measures to combat fraud against the financial interests of the Union (50/03)	280 TEC: co-decision with QMV
III-330: application of Constitution to certain regions (Guadeloupe, Azores, French Guiana and others) (50/03)	299 TEC: QMV
III-333: staff regulations of officials and conditions of employment of other servants of the Union (50/03)	283 TEC: QMV
III-335: measures for the production of statistics (50/03)	285 TEC: co-decision with QMV



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### The EU Reform Treaty

#### What the EU Reform Treaty will do: a ten point summary

1. **It amends the existing Treaties** in order to make the changes needed to make an EU of 27 work more effectively. It will allow the EU to move on from debating institutional changes and focus on issues which matter to citizens: energy security, organised crime and terrorism, globalisation, further enlargement and making Europe's voice more effective internationally.

2. It creates a **permanent President of the European Council**, appointed by national governments for a period of two and a half years, replacing the current system where the President of the European Council rotates every 6 months. The Council is the body through which the leaders of Member States steer the political direction of the EU. This change should provide greater continuity.

3. It creates a **'High Representative of the Union for Foreign Affairs and Security Policy'**. Appointed by the European Council with agreement of the Commission President, the High Representative will conduct the Union's Common Foreign and Security Policy. The Member States will task the High Representative on foreign policy and he or she will implement commonly agreed policies. The office of High Representative will merge the two existing roles of High Representative for the Common Foreign and Security Policy and the External Relations Commissioner to bring greater coherence to the EU's external action. The High Representative will also be able to present agreed EU positions in international organisations – such as the Member State that holds the Presidency does now.

4. It gives **national parliaments a voice in making European laws** for the first time. Every national parliament will receive proposals for new EU legislation directly. They may judge whether the proposal conforms to the principles of "subsidiarity" (that the EU should only act where it adds value). If one third of national parliaments object, then the proposal will be sent back for review by the Commission (the 'yellow card'). If a majority of national parliaments oppose a Commission proposal, and national governments or MEPs agree, then it can be struck down (the 'orange card').

5. It **reduces the size of the European Commission** with the aim of ensuring that the Commission can work more effectively as the EU enlarges. There is currently one Commissioner from each country in the EU (27 in all). From 2014, the number of Commissioners will be reduced, so only two-thirds of Member States provide a Commissioner at any time, with every country taking equal turns.

6. It **extends Qualified Majority Voting** to new policy areas. Several of the new articles that will be subject to QMV reflect the existing practice for EU legislation in that field (for example, for the appointment of a High Representative for Foreign Affairs & Security Policy). And QMV in many areas is in line with the Government's wish to see improved decision-making – for example on energy policy, humanitarian aid, and urgent financing of CFSP measures. The Reform Treaty will also streamline and speed up decision-making in a number of technical areas (e.g. appointments to the European Central Bank's executive board). The UK has always insisted on maintaining ultimate national control in key areas of justice and home affairs, social security, tax, foreign policy and defence. The Reform Treaty clarifies this position for the UK. Overall, the impact of QMV under the Reform Treaty will be significantly less than, for example, under the Single European Act or the Treaty of Maastricht.

7. It **introduces a new system of majority voting** for national ministers in the Council. The current system of voting is known in the EU as "Qualified Majority Voting" or QMV. Under the new 'double majority' voting system ('DMV'), a threshold number of Member States representing a certain percentage of the EU's population is required to pass legislation. It means a minimum of 55% of the Member States (ie 15 out of 27 countries) representing a minimum of 65% of the EU's population must vote in favour for European legislation to be passed. The new system will start to come into force in 2014, with a transition period to 2017. As the new system is more strongly based on population size, the UK's share of votes in the Council of Ministers will increase.

8. It **increases the number of policy areas where elected MEPs in the European Parliament also have to approve EU legislation**, alongside national ministers in the Council (known in the EU as "co-decision").

9. It **simplifies the rules on 'enhanced co-operation' where EU countries may work together more closely on certain issues**, without affecting countries that do not want to join in. There are rules to ensure that the rights of countries which don't participate are respected: at least a third of the Member States must want to co-operate, and others must be free to join at any time if they choose.

10. It **incorporates the Charter of Fundamental Rights into EU law**. The Charter sets out in one place the rights which citizens across the EU already have, for example through the European Convention on Human Rights, or through existing EU law. Its aim is to ensure that EU institutions respect those fundamental rights. The Charter reaffirms existing rights and will apply to all Member States when they implement Union law. The Charter will not extend the powers of the European Union. For the avoidance of any doubt, there is a UK-specific protocol which makes clear that the Charter will:

- not extend the powers of any court –UK or European – to strike down UK legislation; and
- Not create any new justiciable rights in the UK. For example, it will not create any greater social or economic rights than are already

provided in UK law.

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### The EU Reform Treaty

#### EU Reform Treaty Myths

##### 1. The UK will lose or have to vacate its seat on the UN Security Council

No. There is no question of this. The UN Charter is clear that international organisations like the EU cannot be members of the UN (including holding seats on the Security Council).

The EU Presidency (currently Portugal) and the current High Representative (Javier Solana) can already address the UN Security Council where invited to do so on an issue where the EU has an agreed policy. This is in addition to national statements made by each member. The German Presidency, during the first 6 months of 2007, addressed the Security Council on behalf of the EU on 8 occasions.

The Reform Treaty package will include a clear Declaration stating that the new Treaty will not affect the responsibilities of the Member States for the conduct of their foreign and defence policy – including at the UN.

It is strongly in the UK's interest that, where we have agreed a position with our EU partners, the EU makes its voice heard. The recent EU statement supporting the UK on the Litvinenko case is a good example.

##### 2. An 'EU Foreign Minister' will control Britain's foreign policy

No. The proposed High Representative for Foreign Affairs and Security Policy will report to the Member States on foreign policy – ie. the 27 national Foreign Ministers in the Foreign Affairs Council and the 27 national leaders at the European Council.

The post will bring clarity to the EU's existing external actions by combining the roles of the current EU High Representative for the Common Foreign and Security Policy (Javier Solana) and the Commissioner for External Relations (Benita Ferrero-Waldner). This is intended to avoid wasteful institutional wrangling and enable the EU to act effectively at the international level.

As is the case now, it will be the Member States, acting by unanimity, who set the EU's common foreign and security policy (CFSP) objectives. And it will be the Member States who task the High Representative to take forward activity under the CFSP. Where we

don't agree we can still act independently.

**3. British Embassies will be replaced by an EU "diplomatic service" and EU embassies**

No. The new European External Action Service (EEAS) will not replace the UK diplomatic service. It simplifies the existing arrangements to support the High Representative more effectively.

The European Commission already has around 118 offices around the world. These delegations will now become an important resource, helping to make the EU's external action more effective and coordinated. For example, the EU is the world's largest aid donor: the new EEAS will help ensure that the aid budget managed by the European Commission (almost £5bn) is delivered more effectively and is more in line with the foreign policy objectives set by the Member States.

**4. The UK will lose control of its borders**

No. The UK will retain its border controls. We will be able to choose whether to participate in justice and home affairs measures on issues such as immigration, asylum and combating international terrorism and organised crime.

We will only do so if it is in the interests of the UK and consistent with retaining control of our borders.

**5. There will be a new "President of Europe"**

No. The permanent President of the European Council will simply take on the existing role of Council President – but for two years instead of changing every 6 months. He or she will be chosen by, and responsible to, elected national leaders, not the European Parliament.

**6. Giving the EU a single legal personality will create a European superstate**

No. Single legal personality will create no new powers for the EU.

It is usual for international organisations to have legal personality – the UN organisations, the World Bank, the Universal Postal Union all have it – it doesn't make them States. The European Community has had legal personality since it was founded and has concluded hundreds of agreements with third countries and organisations around the world on a wide range of matters. Giving the EU single legal



personality will simplify the existing arrangements and enable the EU operate more effectively internationally.

**7. The UK is surrendering vital powers over fundamental issues of sovereignty to Brussels**

No. The UK has maintained national control over key areas including justice and home affairs, social security, tax, foreign policy, and defence (our 'red lines'). The Reform Treaty will not transfer power away from the UK on issues of fundamental importance to our sovereignty.

**8. The Treaty will reduce national parliaments to the level of regional assemblies.**

No. The Reform Treaty will increase the role and powers of national parliaments. National parliaments will have a direct role - for the first time - in deciding whether EU legislation is necessary.

**9. The Reform Treaty is the same as the Constitutional Treaty**

No. The EU's 27 leaders have agreed that the constitutional concept has been abandoned.

There are substantial differences between the two Treaties, in form and in content. The Constitutional Treaty would have replaced all the existing Treaties and effectively re-founded the EU. The Reform Treaty takes the same approach as all previous amending Treaties. It amends the existing Treaties which Parliament has ratified and will not have constitutional characteristics.

We have also secured a UK-specific deal different to that in the other 26 Member States – and different from the Constitutional Treaty – because we have secured extra safeguards for the UK (the four "red lines"):

- The UK has a right to opt-in to JHA, thus protecting our common law system and criminal and judicial processes.
- The UK has a legally-binding Protocol on the Charter, thus protecting our social and labour legislation.
- There is clarification on the role of the High Representative including a Declaration confirming that foreign policy will remain in the hands of the Member States.
- There are stronger safeguards for protecting our social security system.

The Government will not agree to anything that transfers power away

from the UK on issues of fundamental importance to our sovereignty.

**10. UK businesses and workers could be disadvantaged by a legally binding EU Charter of Fundamental Rights.**

No. The Charter of Fundamental Rights will apply in the UK, just as it applies to other Member States and EU institutions. The Charter gives people no greater social and economic rights than are provided in UK laws. The Charter will have no new legal impact on the UK domestic law and creates no new powers for the EU to legislate. The Charter does not extend the powers of any court - domestic or European - to challenge UK employment and social legislation. Respect for human rights and civil liberties in the UK are already enshrined in our constitutional traditions and domestic law, notably the 1998 Human Rights Act.

The Charter simply sets out in one place the rights which citizens across the EU already have. Its aim is to ensure that EU legislation, and the implementation of that legislation, respects those fundamental rights. It will not create any new enforceable rights anywhere. There is no question of UK workers having second-class rights.

In this section:

**EU Reform Treaty**

**What the EU Reform Treaty will do**



**Europaudvalget  
EU-Sekretariatet**

**Til:** Udvalgets medlemmer og stedfortrædere  
**Dato:** 22. oktober 2007

**Det Europæiske Råds uformelle møde i Lissabon den 18.-19. oktober 2007**

EU's stats- og regeringschefer mødtes den 18.-19. oktober 2007 til uformelt topmøde i den portugisiske hovedstad Lissabon.

Hovedtemaet var afslutningen af regeringskonferencen og endelig enighed om EU's nye traktat – reformtraktaten. Der blev dog også mulighed for at drøfte den eksterne dimension af Lissabon-strategien, herunder globaliseringen og klimaforandringer.

**Reformtraktaten**

Udgangspunktet for de afsluttende drøftelser var det portugisiske EU-formandskabs reviderede udkast til reformtraktaten af 5. oktober 2007<sup>1</sup>.

Efter otte timers forhandlinger lykkedes det torsdag nat for EU's stats- og regeringschefer at opnå enighed om den endelige tekst til reformtraktaten. Reformtraktaten vil blive undertegnet den 13. december i Lissabon. Dagen inden vil Charteret om Grundlæggende Rettigheder blive proklameret.

Inden den endelige aftale om reformtraktaten kunne falde på plads, var der dog et par punkter der skulle afklares.

Inden topmødet havde specielt Polen og Italien fremført ønsker om modifikationer af det foreliggende traktatudkast. Polens ønske omhandlede den såkaldte "Ioannina-mekanisme", hvor et antal medlemslande kan fremtvinge en fornyet drøftelse af et forslag i Rådet, uanset eksistensen af et kvalificeret

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<sup>1</sup> Omdelt på alm. del (07) – bilag 14 og beskrevet i EU-note E 4 af 10. oktober 2007.

flertal for forslaget. Mekanismen er beskrevet i et udkast til en rådsafgørelse som er indeholdt i en erklæring til reformtraktaten<sup>2</sup>. Polen ønskede at mekanismen blev juridisk bindende ved at blive formuleret i en protokol.

Italien ønskede flere medlemmer af Europa-Parlamentet end de 72 medlemmer, som det var tiltænkt i Europa-Parlamentets fordelingsforslag. I Europa-Parlamentets forslag tildeles Frankrig 74 medlemmer og Storbritannien 73. Italien ønskede at opretholde balancen i forhold til Storbritannien og Frankrig, hvor de tre lande i den nuværende sammensætning af Europa-Parlamentet alle har 78 medlemmer.

Udover disse to indvendinger havde Polen endvidere udtrykt ønske om at blive tildelt en fast generaladvokat ved EF-domstolen. Tjekkiet ønskede, at Rådet skulle være i stand til at få Europa-Kommissionen til at fremlægge forslag om ophævelse af en lovgivningsmæssig retsakt. Endelig var Europa-Parlamentet bekymret over dets manglende indflydelse på udnævnelsen af den første højststående repræsentant for udenrigsanliggender og sikkerhedspolitik, der skal fungere i perioden mellem reformtraktatens ikrafttrædelse og den nye Kommissions nedsættelse til november 2009.

Det lykkedes som nævnt at finde en løsning på disse problemstillinger, hvilket resulterede i en række ændringer og tilføjelser til det foreliggende traktatudkast, som vil blive beskrevet i det følgende.

### *Ioannina-mekanismen*

Det Europæiske Råd nåede til enighed om en løsning, der betyder at "Ioannina-mekanismen" kun kan ændres med Polens tilslutning. En protokol<sup>3</sup> blev vedtaget, hvor det fastslås, at rådsafgørelsen (beskrevet i erklæringen) kun kan ændres eller ophæves med enstemmighed i Rådet. Polen får derved en vetoret på ændringer af afgørelsen. Der ændres ikke på selve indholdet af mekanismen<sup>4</sup>. Selve rådsafgørelsen om Ioannina-mekanismen vil blive vedtaget når reformtraktaten bliver undertegnet, hvilket som nævnt vil ske den 13. december 2007.

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<sup>2</sup> Erklæring 4 – Erklæring ad artikel 9 C, stk. 4, i traktaten om Den Europæiske Union og artikel 205, stk. 2, i traktaten om Den Europæiske Unions funktionsmåde.

<sup>3</sup> Protokol (nr. 9a) – Om Rådets afgørelse om gennemførelse af artikel 9 C, stk. 4, i traktaten om Den Europæiske Union og artikel 205, stk. 2, i traktaten om den Europæiske Unions funktionsmåde dels mellem den 1. november 2014 og den 31. marts 2017 og dels fra den 1. april 2017.

<sup>4</sup> Ioannina-mekanismen er beskrevet i EU-note E 6 af 17. oktober 2007.

### *Fordeling af pladser i Europa-Parlamentet*

Det blev vedtaget at hæve det maksimale loft for antallet af medlemmer af Europa-Parlamentet<sup>5</sup> en smule, så loftet ikke udgøres af 750 medlemmer, men af "750 plus formanden", hvilket reelt svarer til 751 medlemmer. Ifølge en vedtaget erklæring vil den ekstra plads tilfalde Italien. Den endelige fordeling skal vedtages af Det Europæiske Råd til december, hvor yderligere en vedtaget erklæring tilkendegiver, at Det Europæiske Råd vil følge Europa-Parlamentets forslag. Italien kommer dermed op på 73 medlemmer, hvilket er på linje med Storbritannien og en færre end Frankrigs 74 medlemmer.

### *Generaladvokater*

Polen fik lovning på en permanent generaladvokat ved EF-domstolen, idet en erklæring blev vedtaget, hvori det fastslås, at såfremt EF-domstolen<sup>6</sup> ønsker at øge antallet af generaladvokater, vil Rådet give sin tilslutning til at øge antallet fra 8 til 11. Det hedder endvidere i erklæringen, at i så fald skal Polen have en permanent generaladvokat, ligesom det allerede er tilfældet for Tyskland, Frankrig, Storbritannien og Italien.

### *Afgrænsning af kompetence*

Der kunne ikke findes tilslutning til det tjekkiske ønske om at give Rådet beføjelser til at kunne pålægge Kommissionen at fremlægge forslag til ophævelse af en lovgivningsmæssig retsakt. Der blev dog vedtaget en erklæring<sup>7</sup>, hvori det fremgår at Kommissionen vil vise en sådan anmodning særlig opmærksomhed.

### *Udnævnelse af Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik*

Den første højtstående repræsentant vil blive udnævnt på tidspunktet for reformtraktatens ikrafttrædelse, hvilket betyder, at Europa-Parlamentet ikke vil have direkte indflydelse på udnævnelsen, idet en ny Kommission (hvor den højtstående repræsentant er næstformand) først skal godkendes af Europa-Parlamentet i forbindelse med nedsættelsen til november 2009<sup>8</sup>. Der blev

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<sup>5</sup> Artikel 9 A i traktaten om Den Europæiske Union.

<sup>6</sup> EF-domstolen ændrer med reformtraktatens ikrafttrædelse navn til EU-domstolen.

<sup>7</sup> Nr. 28 – Erklæring om afgrænsning af kompetence.

<sup>8</sup> I artikel 5 i protokollen om overgangsbestemmelser hedder det, at den nuværende Kommission fortsætter til dens tjenesteperiode udløber.

derfor vedtaget en erklæring<sup>9</sup>, hvor det fastslås, at der vil blive taget "behørig kontakt til Europa-Parlamentet" under det forberedende arbejde forud for udnævnelsen.

### **Globalisering og klimaforandringer mv:**

Med aftalen om reformtraktaten i hus kunne EU's stats- og regeringschefer mødes fredag morgen for at diskutere de eksterne dimensioner af Lissabonstrategien i lyset af globaliseringen. Drøftelserne omfattede bl.a. den seneste tids uro på de finansielle markeder og klimaforandringer.

#### *Uro på de finansielle markeder*

EU's stats- og regeringschefer havde en drøftelse af den seneste tids udvikling på de finansielle markeder som følge af problemerne omkring det amerikanske marked for såkaldte "subprime-lån".

EU' stats- og regeringschefer var enige om at opfordre medlemslandenes finansministre, Europa-Kommissionen og Den Europæiske Centralbank til fortsat nøje at overvåge udviklingen på de finansielle markeder og økonomien generelt. Der var endvidere tilslutning til Rådets arbejdsprogram der sigter på en forbedret gennemsigtighed, evaluering og risikohåndtering i forbindelse med de finansielle markeder.

#### *Klimapolitik*

Der var bred opbakning til en strategi, hvor FN's klimakonference i 2009 i København skal resultere i en omfattende international klimaafgørelse til afløsning af den nuværende Kyoto-aftale efter 2012. EU vil derfor arbejde for, at der på klimakonferencen på Bali til december kan fastsættes en fast og detaljeret køreplan for forløbet frem til klimakonferencen i 2009. EU-landene vil stille efter en international aftale inden for rammerne af FN med bindende mål for reduktionen af udslippet af drivhusgasser.

#### *Globalisering*

Europa-Kommissionens formand, José Manuel Barroso, bidrog til stats- og regeringschefernes diskussion med en præsentation af Kommissionens meddelelse – "The European Interest: Succeeding in the age of globalisation".<sup>10</sup>

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<sup>9</sup> Erklæring ad artikel 9 E i traktaten om Den Europæiske Union.

<sup>10</sup> KOM (2007) 581.

Der var enighed om vigtigheden af at møde globaliseringen på en sådan måde, at EU bliver i stand til bedst muligt at skabe nye jobs til erstatning af de jobs, der forsvinder som følge af globaliseringen. EU bør endvidere efterstræbe gensidigt åbne markeder, bedre globale standarder og større strategisk samarbejde med EU's internationale partnere.

Formandskabet vil endvidere konsultere medlemslandene med henblik på at kunne vedtage en erklæring om globalisering på EU-topmødet i december.

### **Vismandsgruppe**

Fra fransk side var formandskabet blevet præsenteret for et ønske om at nedsætte en vismandsgruppe, hvis opgave det skulle være at drøfte det ønskede Europa i 2020-2030. Det portugisiske formandskab vil indlede konsultationer med de øvrige medlemslande med henblik på at definere denne vismandsgruppes mandat. Det er dog på forhånd udelukket, at mandatet skal omfatte institutionelle anliggender.

Formandskabet vil på baggrund af konsultationerne præsentere et forslag om vismandsgruppen på EU-topmøde i december.

Med venlig hilsen

Martin Jørgensen,  
(3622)



## Europaudvalget EU-konsulenten

**Til:** Udvalgets medlemmer og stedfortrædere  
**Dato:** 17. oktober 2007

### En ny loannina-afgørelse

Man har på det seneste i de europæiske medier kunne læse, at ét af de punkter, som Polen har lagt vægt på i forhandlingerne om nye stemmeregler i Ministerrådet i den nye reformtraktat, er at få skrevet en såkaldt "loannina-afgørelse" ind i traktatteksten.

Men hvad er denne loannina-afgørelse for en størrelse?  
Og hvad er status egentligt for drøftelserne om dette spørgsmål i det udkast til reformtraktat, som det portugisiske EU-formandskab offentliggjorde den 5. oktober 2007?

Først lidt om den oprindelige loannina-afgørelse, som blev til i en tid, hvor der kun var 12 medlemsstater i de europæiske fællesskaber, men hvor tre nye mindre lande var på vej ind.

#### *loannina-afgørelsen*

loannina-afgørelsen blev vedtaget i 1994 af de daværende 12 EU-landes udenrigsministre på et uformelt møde i den græske by *loannina* kort før EU's udvidelse med Sverige, Østrig og Finland<sup>1</sup>. Heraf afgørelsens navn.

Aftalen blev til i forbindelse med tiltrædelsesforhandlingerne, da navnlig Storbritannien og Spanien frygtede, at optagelsen af de tre nye mindre medlemsstater ville forrykke den samlede balance mellem store og små lande til fordel for de små, hvis man blot ekstrapolerede landenes eksisterende stemmevægte. Ikke mindst ville det reducere den befolkningsmængde, som stod bag et kvalificeret flertal, argumenterede de to lande.

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<sup>1</sup> loannina-afgørelsen blev truffet af rådet den 29. marts 1994 er optrykt i EFT C 105 s. af 13. april 1994, og siden ændret i en rådsafgørelse af 1. januar 1995 optrykt i EFT C1, s. 1.



I den engelsksprogede presse talte man om risikoen for, at samarbejdet kunne udvikle sig til en slags "tyranny of the tinies".

Efter hårde forhandlinger enedes parterne dog om en aftale, som fastslog, at selvom kravet for at blokere i Rådet, ifølge traktaten, var 26 stemmer, skulle Rådet fortsætte forhandlingerne, hvis lande repræsenterende mellem 23 og 25 stemmer var imod et forslag.

Rådet skulle så gøre sit yderste for at finde en tilfredsstillende løsning inden for en rimelig frist, der ville kunne vedtages med mindst 65 stemmer - i stedet for de 62, som var traktatens krav for at opnå et kvalificeret flertal<sup>2</sup>.

**Tabel 1: Stemmevægte i Rådet i EU-15 - pr. 1. januar 1995.**

<b>Medlemsstat</b>	<b>Stemmevægt</b>
Tyskland	10
Frankrig	10
Storbritannien	10
Italien	10
Spanien	8
Holland	5
Grækenland	5
Portugal	5
Belgien	5
Sverige	4
Østrig	4
Danmark	3
Finland	3
Irland	3
Luxembourg	2
I alt	87
<i>Kvalificeret flertal</i>	<i>62</i>
<i>Blokerende mindretal</i>	<i>26</i>

### *Ioannina i reformtraktaten*

Som nævnt har der også i forbindelse med forhandlingerne om reformtraktaten været drøftelser om indførelsen af en Ioannina-lignende mekanisme i forbindelse med indførelsen af det nye dobbelt kvalificerede flertal i Rådet. Navnlig Polen har insisteret på dette som kompensation for, hvad de ser som

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<sup>2</sup> I afgørelsen blev det dog også fastslået, at det skulle ske under overholdelse af reglerne i Rådets forretningsorden, hvilket indebærer, at et simpelt flertal af medlemsstaterne altid kan bede om at Rådet skrider til afstemning

tabt indflydelse i forbindelse med indførelsen af det nye dobbelt kvalificerede flertal i Rådet.

#### **Det dobbelt kvalificerede flertal i Rådet**

Det nye dobbelte kvalificerede flertal forudsætter følgende kriterier opfyldt før det kan siges at være i hus<sup>1</sup>:

- støtte fra 55 pct. af medlemsstaterne (dette svarer til 15 lande med 27 medlemsstater),
- støtte fra medlemsstater repræsenterende 65 pct. af EU's samlede befolkning.

Endelig skal der være mindst 4 medlemsstater for at udgøre et blokerende mindretal.

Faktisk var der allerede enighed mellem EU-landene i forbindelse med forfatningstraktaten om vedtagelsen af en sådan ny "Ioannina-mekanisme" for at imødekomme Polens ønsker<sup>3</sup>.

I udkastet til reformtraktat har EU-landene fastholdt forfatningstraktatens forslag til "Ioannina-mekanisme" uændret. Mekanismen forudses indført samtidig med, at det nye dobbelt kvalificerede flertal i Rådet træder i kraft, hvilket sker den 1. november 2014<sup>4</sup>.

Konkret indebærer den nye "Ioannina-mekanisme", at Rådet skal fortsætte forhandlingerne om et forslag, hvis medlemsstater repræsenterende 75 pct. af den befolkningsmængde eller 75 pct. af det antal medlemsstater, der kræves for at udgøre et blokerende mindretal, modsætter sig vedtagelsen af dette<sup>5</sup>. Rådet skal derefter inden for en rimelig tidsfrist gøre sit yderste for at finde en tilfredsstillende løsning<sup>6</sup>.

Fra 1. april 2017, hvor man overgår fuldt ud til det nye dobbelte kvalificerede flertal, sænkes begge disse tærskler for, hvornår man kan bede Rådet om fortsætte sine drøftelser, fra 75 pct. af det blokerende mindretal til 55 pct.

<sup>3</sup> Se erklæring nr. 5 til forfatningstraktaten.

<sup>4</sup> I perioden frem til de nye stemmeregler træder i kraft, vil de eksisterende regler i TEF artikel 205, stk. 2 for kvalificerede flertal blive anvendt.

<sup>5</sup> Se erklæring nr. 4 *ad artikel 9 C, stk. 4 i traktaten om Den Europæiske Union og artikel 205, stk. 2 i traktaten om Den Europæiske Unions funktionsmåde*. Afgørelsen gengives i denne erklæring og forudses vedtaget inden for seks måneder efter traktatens ikrafttræden.

<sup>6</sup> Skulle det ikke lykkes at finde frem til en løsning, som kan tilfredsstillende dette mindretal, kan et simpelt flertal af medlemsstaterne, ifølge Rådets forretningsordens artikel 11, stk. 1, dog altid bede formandskabet om at skride til afstemning i Rådet og på den måde tvinge en afgørelse igennem.

Reformtraktatens loannina-mekanisme forudses vedtaget ved en rådsafgørelse senest 6 måneder efter traktatens ikrafttræden.

Polen er dog ikke tilfreds med denne løsning. Man ønsker i stedet mekanismen skrevet direkte ind i selve reformtraktatteksten, og altså ikke blot vedtaget i form af en retsakt<sup>7</sup>.

En sådan traktatfæstelse har der dog hidtil ikke vist sig tilslutning til blandt medlemsstaterne.

**Tabel 2: Stemmevægte i Rådet i EU-27 - pr. 1. november 2014 baseret på befolkningstal fastsat af Rådet pr. 1. januar 2007<sup>8</sup>.**

<b>Medlemsstat</b>	<b>Befolkningstal</b>	<b>Befolkningstal i pct.</b>
Tyskland	82.438.000	16,73 pct.
Frankrig	62.886.200	12,76 pct.
Storbritannien	60.421.900	12,26
Italien	58.751.700	11,92
Spanien	43.758.300	8,88
Polen	38.157.100	7,74
Rumænien	21.610.200	4,38
Holland	16.334.200	3,31
Grækenland	11.125.200	2,26
Portugal	10.569.600	2,14
Belgien	10.511.400	2,13
Tjekkiet	10.251.100	2,08
Ungarn	10.076.600	2,04
Sverige	9.047.800	1,84
Østrig	8.265.900	1,68
Bulgarien	7.718.800	1,57
Danmark	5.427.500	1,10
Slovakiet	5.389.200	1,09
Finland	5.255.600	1,06
Irland	4.209.000	0,85
Litauen	3.403.300	0,69
Letland	2.294.600	0,47
Slovenien	2.003.400	0,41
Estland	1.344.700	0,27
Cypern	766.400	0,16

<sup>7</sup> Som det er forudsikket i *erklæring nr. 4 ad artikel 9 C, stk. 4 i traktaten om Den Europæiske Union og artikel 205, stk. 2 i traktaten om Den Europæiske Unions funktionsmåde.*

<sup>8</sup> Se rådsafgørelse 2007/4/EF af 4. januar 2007.

<b>Medlemsstat</b>	<b>Befolkningstal</b>	<b>Befolkningstal i pct.</b>
Luxembourg	459.500	0,09
Malta	404.300	0,08
I alt	492.881.200	100 pct.
<b><i>Tærskel for kvalificeret flertal</i></b>	<i>320.372.780</i>	<i>65 pct.</i>
<b><i>Blokerende mindretal</i></b>	<i>172.508.420</i>	<i>35 pct.</i>
<b><i>75 pct. af blokerende mindretal</i></b>	<i>129.381.315</i>	<i>26,25 pct.</i>
<b><i>55 pct. af blokerende mindretal</i></b>	<i>94.879.631</i>	<i>19,25 pct.</i>

Med venlig hilsen

Morten Knudsen,  
(Tlf. 3695)



## **Europaudvalget EU-konsulenten**

**Til:** Udvalgets medlemmer og stedfortrædere  
**Dato:** 10. oktober 2007

### **Reformtraktaten**

I dette notat gives en gennemgang af det reviderede udkast til EU's reformtraktat, som det foreligger fra den juridiske ekspertgruppe den 5. oktober 2007.

EU's portugisiske formandskab vil forelægge teksten for den regeringskonference på udenrigsministerplan, som finder sted i Luxembourg den 15. oktober 2007.

Det ventes fortsat at den endelige vedtagelse vil kunne finde sted på regeringskonferencen på stats- og regeringschefniveau den 18. oktober 2007 i Lissabon.

Et første udkast til ny traktat blev fremlagt i forbindelse med åbningen af efterårets regeringskonference, som fandt sted den 23. juli 2007.

Teksten fra den juridiske ekspertgruppe blev omdelt til Europaudvalget i en dansk sprogversion den 5. oktober 2007 (EUU alm. del (07) – Bilag 14)

### **I. Reformtraktaten vs forfatningstraktaten**

Udkastet til ny traktat er baseret på det meget detaljerede mandat, som EU's stats- og regeringschefer enedes om for regeringskonferencen på Det Europæiske Råds møde den 21.-22. juni 2007.

Det blev her bl.a. besluttet, at den nye EU-traktat skulle bygge på de gældende traktater (TEU og TEF) og udformes som en ændringstraktat. - og ikke som forfatningstraktaten indføre en helt ny traktat, som erstatning for de eksisterende traktater.

Samtidig slog Det Europæiske Råd fast i mandatet, at reformtraktaten "ikke skulle have forfatningsmæssig karakter". Dette afspejles bl.a. i at selve ordet

forfatning ikke anvendes i den nye traktat, ligesom henvisningen til EU's symboler, flag, mønt og motto stryges.

Reformtraktaten viderefører dog de centrale nyskabelser fra forfatningstraktaten.

Det gælder bl.a. sammenslutningen af EF og EU til én juridisk person, tydeliggørelsen af kompetencekategorier og kompetenceområder, borgerinitiativet, de mange institutionelle bestemmelser om eksempelvis Kommissionens fremtidige sammensætning, institutionaliseringen af Det Europæiske Råd, udvidet brug af kvalificeret flertal i Ministerrådet samt styrkelsen af Europa-Parlamentets rolle som Rådets medlovgiver og som budgetmyndighed, mv..

Men også en række af forfatningstraktatens bestemmelser tages med over i en ændret form i den nye traktat som resultat af drøftelserne i Det Europæiske Råd og mandatet. Det gælder navnlig:

- EU's og medlemsstaternes respektive beføjelser og afgrænsninger heraf,
- den fælles udenrigs- og sikkerhedspolitik's særlige karakter,
- de nationale parlamenters øgede rolle,
- behandlingen af charteret om grundlæggende rettigheder,
- samarbejdet om politi og strafferet.

Endelig er der kommet nogle helt nye bestemmelser med i reformtraktaten. Det gælder eksempelvis en ny henvisning i traktatens miljøkapitel til nødvendigheden af at bekæmpe klimaforandringer.

## **II. Traktatens institutionelle bestemmelser**

### *Det Europæiske Råd og Ministerrådet*

Ifølge udkastet til reformtraktat medtages forfatningstraktatens bestemmelser om EU-institutionerne i det store hele uændret.

Det indebærer bl.a., at Det Europæiske Råd omdannes til en EU-institution og udstyres med en fast formand udpeget for en periode på 2 ½ år med mulighed for forlængelse i yderligere 2 ½ år<sup>1</sup>.

Også i Ministerrådet vil der ske visse ændringer af det kendte halvårligt roterende formandskab. Bl.a. vil Rådet for eksterne forbindelser få en fast formand i form af Unionens nye "høje repræsentant for udenrigspolitiske spørgsmål", ligesom "Eurogruppens" praksis med at vælge en fast formand blandt finansministrene til at lede deres møder stadfæstes.

Formandskabet for de øvrige rådsformationer vil fremover fortsat skulle varetages på skift af hvert enkelt land for et halvt år ad gangen. Men som noget nyt indføres såkaldte "gruppeformandskaber", som indebærer, at der skal arbejdes tættere sammen mellem formandskaberne. Gruppeformandskabet skal varetages af på forhånd sammensatte grupper af tre medlemsstater for en periode på 18 måneder og åbner op for, at disse tre lande indbyrdes kan træffe beslutning om en alternativ ordning. Gruppeformandskaberne sammensættes ved ligelig rotation mellem medlemsstater under hensyntagen til deres forskelle og den geografiske balance i EU.

Ministerrådet vil overgå til et nyt system for dobbelt kvalificeret flertal, som man enedes om i forfatningstraktaten, bestående af to kriterier for, at et flertal er opnået: 1) støtte fra 55 pct. af medlemsstaterne samt fra 2) medlemsstater repræsenterende 65 pct. af EU's samlede befolkning. Et blokerende mindretal skal udgøre mindst fire medlemsstater.

Ifølge reformtraktaten vil det nye dobbelte flertalsystem dog først træde i kraft den 1. november 2014. Indtil da vil det eksisterende kvalificerede flertal blive anvendt<sup>2</sup>. I en overgangsperiode efter 2014 frem til 31. marts 2017 vil et medlem af Rådet dog kunne kræve, at en afgørelse træffes efter de nuværende regler for kvalificeret flertal. Hertil kommer, at medlemsstater repræsenterende 75 pct. af den befolkningsmængde eller 75 pct. af det antal medlemsstater, der kræves for at udgøre et blokerende mindretal, vil kunne modsætte sig vedtagelsen af en retsakt og fremtvinge en ny debat i Rådet. Rådet skal derefter inden for en rimelig tidsfrist gøre sit yderste for at finde en tilfredsstillende løsning<sup>3</sup>. Skulle det ikke lykkes at finde frem til en løsning, som kan tilfredsstille dette mindretal, kan et simpelt flertal af medlemsstaterne dog altid

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<sup>1</sup> Udover Det Europæiske Råd får også Den Europæiske Centralbank status af EU-institution. Det betyder, at der vil være syv EU-institutioner med de eksisterende fem institutioner: Europa-Parlamentet, Ministerrådet, Europa-Kommissionen, Domstolen og Revisionsretten.

<sup>2</sup> Se TEF artikel 205, stk. 2.

<sup>3</sup> Denne model findes allerede i Erklæring nr. 5 til forfatningstraktaten, som var inspireret af den såkaldte "Ioannina-afgørelse" fra 1994, som i forbindelse med optagelsen i EU af Sverige, Finland og Østrig indførte en tilsvarende mekanisme.

bede formandskabet om at skride til afstemning i Rådet og på den måde tvinge en afgørelse igennem<sup>4</sup>.

Fra 1. april 2017, hvor man overgår fuldt ud til det nye dobbelte kvalificerede flertal, sænkes begge disse tærskler for, hvornår man kan bede Rådet om at drøfte et forslag, fra 75 pct. af det blokerende mindretal til 55 pct.

### *Europa-Parlamentet*

Europa-Parlamentet bliver styrket væsentligt med reformtraktaten. Det gælder navnlig på det lovgivningsmæssige og det budgetmæssige område. På det lovgivningsmæssige område sker det ved, at man udvider anvendelsen af den fælles beslutningsprocedure, hvor Europa-Parlamentet er Ministerrådets medlovgiver til næsten 50 nye områder.

I forhold til vedtagelsen af EU's budget øges parlamentets magt ved, at Europa-Parlamentet bliver Rådets medbeslutningstager over hele budgettet. I dag har Rådet det sidste ord at skulle have sagt for alle obligatoriske udgifter, hvorimod Parlamentet har det sidste ord for de ikke-obligatoriske udgifter. Denne sondring mellem obligatoriske og ikke-obligatoriske udgifter afskaffes med reformtraktaten.

Europa-Parlamentet får også en stærkere rolle i forbindelse med udnævnelsen af Kommissionens formand, som skal ske efter indstilling fra Det Europæiske Råd, der i den forbindelse skal tage hensyn til resultatet af valgene til Europa-Parlamentet. Medlemstallet for Europa-Parlamentet fastsættes som i forfatningstraktaten til højst 750 fordelt mellem medlemsstaterne efter et princip om degressiv proportionalitet. Det fastsættes, at ingen medlemsstat kan have færre end 6 medlemmer eller flere end 96 medlemmer. Den mere detaljerede fordeling af pladserne i parlamentet fastlægges dog ikke længere i traktaten, men skal fremover kunne ændres gennem en retsakt vedtaget af Det Europæiske Råd med enstemighed efter forslag fra Europa-Parlamentet.

Europa-Parlamentet har på opfordring fra Det Europæiske Råd udarbejdet et forslag til, hvorledes landenes fordeling af pladser skal være i det Parlament, som vælges i juni 2009 for valgperioden 2009-2014<sup>5</sup>. Ifølge dette forslag vil Danmark, ligesom Finland og Slovakiet, få 13 pladser i parlamentet.

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<sup>4</sup> Rådets forretningsorden artikel 11, stk. 1.

<sup>5</sup> Det Europæiske Råd opfordrede den 21.-22. juni 2007 Europa-Parlamentet til senest i oktober 2007 at fremlægge et forslag til afgørelse om Europa-Parlamentets fremtidige sammensætning. Parlamentet vedtog sit forslag den 10. oktober 2007.



**Tabel 1: Europa-Parlamentets forslag til fordeling af pladserne for valgperioden 2009-2014.**

Belgien	22
Bulgarien	18
Den Tjekkiske Republik	22
Danmark	13
Tyskland	96
Estland	6
Grækenland	22
Spanien	54
Frankrig	74
Irland	12
Italien	72
Cypern	6
Letland	9
Litauen	12
Luxembourg	6
Ungarn	22
Malta	6
Nederlandene	26
Østrig	19
Polen	51
Portugal	22
Rumænien	33
Slovenien	8
Slovakiet	13
Finland	13
Sverige	20
Det Forenede Kongerige	73

Endelig styrkes Europa-Parlamentets mulighed for at få indflydelse på kommende traktater. Parlamentet får således mulighed for at foreslå traktatændringer. Et simpelt flertal i Det Europæiske Råd kan derefter vedtage at indkalde et konvent<sup>6</sup>, som behandler de foreslåede ændringer og vedtager en anbefaling til en regeringskonference, som så står for den endelige udarbejdelse af en ny traktat.

#### *Kommissionen*

I reformtraktaten fastholdes forfatningstraktatens aftale om Europa-Kommissionens sammensætning. Det betyder, at Europa-Kommissionen fra 2014 vil være sammensat af et antal kommissærer svarende til 2/3 af antallet

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<sup>6</sup> Konventet sammensættes af repræsentanter for de nationale parlamenter, medlemsstaternes stats- og regeringschefer, Europa-Parlamentet og Kommissionen.

af medlemsstater (18 med 27 lande)<sup>7</sup>. Kommissærposterne vil dog skulle gå på skift mellem medlemslandene på grundlag af en ordning med ligelig rotation<sup>8</sup>. Den næste Kommission, som udpeges i 2009, vil fortsat være sammensat af én kommissær fra hver medlemsstat.

Endelig styrkes kommissionsformandens magt, idet han får beføjelser til at afskedige enkelte kommissærer, som forpligtes til at træde tilbage, hvis de anmodes herom af formanden.

### III. Demokratiske principper

Reformtraktaten fastholder og udbygger et par markante nyskabelser i forbindelse med bestræbelserne på at styrke demokratiet i EU.

#### *Nationale parlamenters rolle styrkes*

Først og fremmest vil den nye traktat indebære en styrkelse af de nationale parlamenters rolle i EU<sup>9</sup>.

Navnlig øges parlamenternes muligheder for at kontrollere nærhedsprincippet. Det sker ved indførelsen af en styrket udgave af forfatningstraktatens såkaldte "tidlige varslingsystem", som giver de nationale parlamenter mulighed for at overvåge og påtale krænkelser af nærhedsprincippet fra EU-institutionernes side inden for en periode på otte uger efter et forslags fremsættelse<sup>10</sup>.

Som udgangspunkt bevarer man det såkaldte "gule kort" fra forfatningstraktaten, hvor en begrundet udtalelse fra mindst *en tredjedel* af de nationale parlamenter om, at et forslag er i strid med nærhedsprincippet, betyder, at Kommissionen tvinges til at tage et forslag op til fornyet overvejelse.

Som noget nyt indføres dog også et såkaldt "orange kort", som indebærer, at hvis mindst *halvdelen* af parlamenterne sender en "begrundet udtalelse" til

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<sup>7</sup> Ifølge TEU art. 9d, stk. 5 skal ordningen for sammensætningen af den Kommission, der tiltræder fra 2014, vedtages af Det Europæiske Råd med enstemmighed. Dog kan Det Europæiske Råd også med enstemmighed træffe beslutning om at lægge sig fast på et andet antal kommissærer end 2/3 af medlemsstaterne.

<sup>8</sup> Det fastslås specifikt i reformtraktaten TEUF artikel 211, at medlemsstaterne behandles fuldstændig ligeligt for så vidt angår fastlæggelsen af rækkefølgen og varigheden af deres statsborgeres medlemskab af Kommissionen. Samtidig understreges det, at differencen mellem det samlede antal tjenesteperioder varetaget af statsborgere fra to givne medlemsstater aldrig overstiger én.

<sup>9</sup> De nationale parlamenters rolle indskrives i selve traktatteksten, ligesom der etableres to nye protokoller til traktaten om parlamenters rolle samt overvågningen af nærhedsprincippet (TEU artikel 8c og protokollerne nr. 1 og 2).

<sup>10</sup> Reformtraktaten forlænger den periode, som de nationale parlamenter får til at behandle forslag og undersøge, hvorvidt de overholder nærhedsprincippet til 8 uger fra de kun 6 uger, som var fastlagt i forfatningstraktaten.

Kommissionen, skal denne, hvis den ønsker at opretholde sit forslag, sende det videre til behandling i Europa-Parlamentet og Ministerrådet for at få deres støtte<sup>11</sup>. Men hvis blot enten Ministerrådet eller Europa-Parlamentet finder, at forslaget strider imod nærhedsprincippet, standses al videre behandling af forslaget. Rådet kan træffe en sådan beslutning, hvis 55 pct. af Rådets medlemmer (15 medlemsstater af 27) står bag, mens Europa-Parlamentet kan gøre det med et flertal af de afgivne stemmer.

Ud over parlamenternes forstærkede rolle i forbindelse med overvågningen af nærhedsprincippet, sigter reformtraktaten på også at inddrage de nationale parlamenter på andre felter. Det gælder navnlig i forbindelse med:

1. overvågningen af EU's politikker på området for retlige og indre anliggender,
2. fremtidige traktatrevisioner.

De nationale parlamenter og Europa-Parlamentet tildeles således en særlig rolle i forbindelse med overvågningen af EU's politikker på området for indre og retlige anliggender. Parlamenterne skal bl.a. underrettes om indholdet og resultaterne af medlemsstaternes evalueringer af gennemførelsen af EU's politikker på dette område, ligesom de får en særlig funktion i forbindelse med den politiske kontrol med Europols og Eurojusts virke. De nærmere regler for, hvordan denne kontrol skal udøves, fastlægges i fællesskab af Ministerrådet og Europa-Parlamentet i en retsakt.

Reformtraktaten lægger også op til en højere grad af involvering af de nationale parlamenter i forbindelse med fremtidige traktatrevisioner. Bl.a. fastlægges det i reformtraktaten, at de nationale parlamenter skal modtage ethvert forslag, som fremsættes for at indkalde en regeringskonference for at revidere traktatgrundlaget.

Men måske vigtigst af alt bliver, at nationale parlamenter vil skulle deltage i de konventer, som Det Europæiske Råd, ifølge reformtraktaten, kan indkalde med henblik på at forberede fremtidige traktatrevisioner.

Endelig får hvert enkelt nationalt parlament en vetoret i forbindelse med anvendelsen af den forenkede traktatrevisionsprocedurer (også kaldt passerelle), der skal gøre det muligt for Ministerrådet at gå fra enstemmighed til kvalificeret flertal eller gøre Europa-Parlamentet til Rådets medlovgiver på områ-

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<sup>11</sup> Det orange kort gælder kun for forslag, som vedtages under den almindelige lovgivningsprocedure.

der, hvor parlamentet kun er høringsberettiget (se afsnittet om *traktatrevisionsprocedurer*). Se mere om dette i afsnittet om *traktatrevisionsprocedurer*.

### *Åbenhed*

Åbenhed har en helt central placering i udkastet til reformtraktat<sup>12</sup>.

Bl.a. fastslås det, at EU's institutioner skal arbejde så åbent som muligt som led i bestræbelserne på at fremme gode styreformer i EU samt for at involvere civilsamfundets organisationer. Det gælder både i forbindelse med lovgivers forhandlinger og i forvaltningen i Unionens forskellige institutioner, organer, kontorer og agenturer.

Centralt er det her, at det nu traktatfæstes, at samlingerne i såvel Europa-Parlamentet som Rådet er offentlige. I Rådet gælder dette, når det forhandler og stemmer om forslag til lovgivningsmæssige retsakter, men ikke hvis man behandler ikke-lovgivningsmæssige spørgsmål<sup>13</sup>.

På samme måde traktatfæstes det, at EU's institutioner, organer, kontorer og agenturer skal støtte sig på en åben, effektiv og uafhængig europæisk forvaltning. Parlamentet og Rådet vedtager de nærmere regler for, hvorledes dette skal ske.

Endelig præciseres reglerne om aktindsigt i EU-institutionernes dokumenter. Det fastslås bl.a., at unionsborgerne har ret til aktindsigt i såvel dokumenter hidrørende fra EU-institutionerne som fra de øvrige EU-organer, kontorer og agenturer. Og det understreges, at dette gælder uanset, hvilket medium det pågældende dokument måtte befinde sig på.

### *Borgerinitiativet*

Reformtraktaten viderefører ligeledes det såkaldte *borgerinitiativ*, som var en af forfatningstraktatens nyskabelser. Borgerinitiativet indebærer, at EU's borgere kan opfordre Kommissionen til at fremsætte forslag inden for et givet område, hvis mindst 1 million (af EU's ca. 488 millioner) borgere støtter op om et initiativ. For at sikre, at der er tale om initiativer, som er bredt funderet i EU, kræves desuden, at initiativet støttes af borgere fra et *betydeligt antal* medlemsstater. De nærmere regler for hvor mange medlemsstater der kræves

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<sup>12</sup> Se TEUF artikel 15 og TEUF artikel 254a.

<sup>13</sup> Rådet har dog allerede besluttet, at bl.a. forhandlingerne i Rådet om retsakter vedtaget efter den fælles beslutningsprocedure skal være tilgængelige for offentligheden i forbindelse med Kommissionens fremlæggelse af sine vigtigste lovgivningsforslag og den efterfølgende debat i Rådet. Det samme gælder resultatet af afstemninger om retsakter samt Rådets afsluttende forhandlinger forud for den pågældende afstemning og de dertil hørende stemmeforklaringer.

samt fastsættelsen af et mindste antal borgere per medlemsstat, definitionen på en borger, osv., skal efterfølgende fastlægges i en retsakt vedtaget af Ministerrådet og Europa-Parlamentet.

Selv om Kommissionen ikke er juridisk forpligtet til at følge anbefalingen i et sådant initiativ, kan den politiske betydning af sådanne borgerinitiativer godt blive afgørende.

#### **IV. Beslutningsprocedurer og retlige instrumenter**

Et hovedformål med reformtraktaten er at gøre EU mere beslutningsdygtig og demokratisk. Det sikres bl.a. ved, at Rådets adgang til at træffe beslutning med kvalificeret flertal indføres på en lang række nye politikområder samt ved, at den almindelige regel for vedtagelse af EU-lovgivning bliver fælles beslutningstagen mellem Europa-Parlamentet og Rådet.

Men også procedurerne for vedtagelsen af EU's årlige budget samt de flerårige finansielle perspektiver forenkles med reformtraktaten.

Endelig sker der en række ændringer af de procedurer, der gælder for revisionen af EU-traktaterne.

##### *Lovgivningsmæssige og ikke-lovgivningsmæssige procedurer*

Reformtraktaten følger i det store hele forfatningstraktatens forslag om at strømline beslutningsprocedurerne i forbindelse med vedtagelsen af retsakter.

Det gøres bl.a. ved at reducere antallet af beslutningsprocedurer samt fastholde forfatningstraktatens idé om at sondre klarere mellem *lovgivningsmæssige* og *ikke-lovgivningsmæssige* beslutningsprocedurer og retsakter.

De lovgivningsmæssige procedurer opdeles i en *almindelige lovgivningsprocedure* og *særlige lovgivningsprocedurer*. Og så opgiver man betegnelserne EU-love og EU-rammelove fra forfatningstraktaten, og bevarer i stedet de kendte typer af retsakter, forordninger, direktiver og afgørelser.

På det lovgivningsmæssige område bliver den centrale procedure i forbindelse med vedtagelsen af retsakter *den almindelige lovgivningsprocedure*<sup>14</sup>, hvilket betyder, at Rådet og Parlamentet som den klare hovedregel ligestilles som lovgivere. Procedurens anvendelsesområde udvides betragteligt, idet den indføres på knap 50 politikområder, hvor parlamentet i dag ikke er Rådets medlovgiver. Reformtraktaten indebærer samtidig en effektivisering af Rådets

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<sup>14</sup> Den almindelige lovgivningsprocedure er identisk med den fælles beslutningsprocedure, som vi kender fra TEF artikel 251 i de nuværende traktater.

stemmeregler, hvor man går fra enstemmighed til kvalificeret flertal på ca. 25 områder.

I reformtraktaten fastholdes dog som nævnt også *særlige lovgivningsprocedurer* på visse mere følsomme områder. Det vil her fortsat være Rådet, som indtager rollen som hovedlovgiver, mens Europa-Parlamentet enten blot skal høres eller afgive samstemmende udtalelse. Der er dog også enkelte tilfælde, hvor det er Europa-Parlamentet som træffer beslutning efter Rådets samstemmende udtalelse<sup>15</sup>.

Endelig afskaffes den såkaldte samarbejdsprocedure (TEF 252), som blev indført sammen med den Europæiske Fællesakt og det indre marked i 1987.

Udover ovennævnte lovgivningsprocedurer fastsætter reformtraktaten også nye procedurer for vedtagelsen af ikke-lovgivningsmæssige retsakter, herunder for *delegerede retsakter* og *gennemførelsesretsakter* samt ikke-bindende retsakter som *henstillinger* og *udtalelser*.

Både Rådet og Kommissionen kan vedtage forskellige typer af ikke-lovgivningsmæssige retsakter i forbindelse med gennemførelsen af lovgivningsmæssige retsakter vedtaget af Parlamentet og Rådet. Det kan ifølge reformtraktaten ske efter to forskellige procedurer underlagt hver deres kontrolsystem.

1) Kommissionen kan som i dag under det såkaldte komitologisystem bemyndiges til at gennemføre nogle bestemmelser i samråd med en komité sammensat af embedsmænd fra medlemsstaterne.

2) Lovgiverne i Rådet og Europa-Parlamentet bemyndiger Kommissionen til at vedtage såkaldte *delegerede retsakter*, der udbygger eller ændrer i de lovgivningsmæssige retsakter for så vidt angår "ikke-væsentlige elementer". Dette sker ikke, som under komitologisystemet, i samråd med en komité. I stedet kan Rådet og Europa-Parlamentet beslutte at tilbagekalde delegationen, hvis de finder det nødvendigt.

### *Budgetproceduren*

Også på budgetområdet fornyer reformtraktaten beslutningsprocedurerne, som også på dette felt følger forfatningstraktatens tekst. Navnlig to nyskabelser skal her nævnes:

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<sup>15</sup> Det gælder f.eks. i forbindelse med MEP-statutten, nedsættelsen af undersøgelsesudvalg eller reglerne for den europæiske ombudsmand.

- forenkling af procedurerne for vedtagelsen af EU's årlige budget,
- traktatfæstelse af brugen af flerårige finansielle rammer.

Med hensyn til *det årlige budget* indføres med reformtraktaten én fælles procedure for vedtagelsen af hele EU's budget, hvor Rådet og Parlamentet ligestilles. Dermed afskaffes det eksisterende system med forskellige beslutningsprocedurer for henholdsvis obligatoriske og ikke-obligatoriske udgifter på EU-budgettet.

Her til kommer, at den nye budgetprocedure afkortes fra, som i dag, at kræve to behandlinger i Rådet og Parlamentet til kun én behandling.

Endelig traktatfæster man med reformtraktaten muligheden for at indkalde et *forligsudvalg*<sup>16</sup> i tilfælde af uenighed mellem Parlamentet og Rådet under førstebehandlingen.

Hvis forligsudvalget når til enighed om et kompromis, skal det efterfølgende godkendes af både Parlamentet og Rådet, og siger begge EU-institutioner efterfølgende ja til budgettet, betragtes det som vedtaget.

Skulle den situation derimod opstå, at enten Parlamentet eller Rådet beslutter sig for at underkende deres forhandleres ja til budgettet i forligsudvalget, står Rådet svagest i det videre forløb.

Det gælder navnlig, hvis Parlamentet godkender aftalen, mens Rådet siger nej. For så har Parlamentet det sidste ord at skulle have sagt og kan vedtage budgettet med de ændringsforslag fra førstebehandlingen, som Rådet ikke kunne acceptere. Er det derimod Rådet, som siger ja, mens Parlamentet forkaster kompromisforslaget, falder budgettet og Kommissionen må fremlægge et nyt budgetforslag.

Hvis der ikke opnås enighed i forligsudvalget, er forslaget til budget forkastet, og Kommissionen må forelægge et nyt forslag.

En anden vigtig nyskabelse med reformtraktaten er *traktatfæstelsen af brugen af flerårige finansielle rammer*, som i dag fastsættes på baggrund af aftaler mellem EU-institutionerne. Siden 1987 har medlemsstaterne i EU aftalt flerårige udgiftslofter for budgettet for perioder på 5-7 år med henblik på at sikre bedre budgetdisciplin og fred mellem de to budgetmyndigheder. Med reformtraktaten skal de flerårige finansielle rammer fastlægges for en periode på mindst fem år med enstemmighed af Rådet efter godkendelse af Europa-Parlamentet.

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<sup>16</sup> Forligsudvalg sammensættes af repræsentanter for Parlamentet og Rådet, ligesom Kommissionen deltager i forligningsarbejdet.

Dog kan Det Europæiske Råd med enstemmighed beslutte at gøre det muligt for Rådet at vedtage fremtidige finansielle rammer med kvalificeret flertal i stedet for enstemmighed.

### *Traktatrevisionsprocedurer*

Traktatændringer vil også i fremtiden som udgangspunkt kræve indkaldelse af en regeringskonference, samt godkendelse og ratifikation i alle medlemsstaterne i overensstemmelse med deres forfatningsmæssige bestemmelser<sup>17</sup>. Men med reformtraktaten introduceres en række nyskabelser, som skal sikre bedre parlamentsinddragelse samt gøre det enklere at foretage visse traktatrevisioner.

Som noget nyt vil regeringskonferencer f.eks. som udgangspunkt skulle forberedes af et Konvent sammensat af repræsentanter fra de nationale regeringer og parlamenter samt fra Europa-Parlamentet og Kommissionen, som det skete med forfatningstraktaten<sup>18</sup>. Konventet kan indkaldes af formanden for Det Europæiske Råd efter høring af Kommissionen og Europa-Parlamentet, hvis blot et simpelt flertal af medlemsstaterne (14 af 27 lande) støtter det. Konventet kan vedtage anbefalinger til regeringskonferencen, som dog står for den endelige udarbejdelse af ændringerne.

Som noget nyt får også Europa-Parlamentet en formel ret til at foreslå ændringer af traktaterne svarende til den som medlemsstaterne og Kommissionen har i dag.

Hertil kommer en række *forenklede procedurer* for ændringer af traktaterne, som indebærer, at man kan undlade at indkalde en regeringskonference eller et konvent.

Bl.a. indføres en procedure for ændring af EU's *interne politikker*, som indebærer, at Det Europæiske Råd efter høring af Europa-Parlamentet med enstemmighed kan beslutte at revidere bestemmelserne i reformtraktatens del III. Det må blot ikke medføre en udvidelse af EU's kompetencer. Der er dog fortsat krav om efterfølgende national godkendelse i overensstemmelse med landenes forfatningsmæssige bestemmelser.

Der etableres også en procedure, som kan bruges til at revidere visse af traktatens *afstemningsregler og beslutningsprocedurer* – ofte henvist til som en *passerelle*, hvilket på nudansk betyder gangbro. Denne passerelle tillader Det Europæiske Råd at gå fra et sæt afstemningsregler i Rådet til et andet - fra

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<sup>17</sup> Se reformtraktaten TEU artikel 33 – nuværende TEU art. 48.

<sup>18</sup> Det Europæiske Råd kan dog med et simpelt flertal og efter Europa-Parlamentets godkendelse beslutte ikke at indkalde et konvent, hvis ændringernes omfang ikke berettiger hertil. I så fald fastlægges regeringskonferencens mandat af Det Europæiske Råd.



enstemmighed til kvalificeret flertal på et politikområde eller gøre Europa-Parlamentet til Rådets medlovgiver på områder (almindelige lovgivningsprocedure), hvor det kun har en høringsret. Det Europæiske Råd træffer afgørelse om dette med enstemmighed efter godkendelse af Europa-Parlamentet. Der kræves her ikke efterfølgende national ratifikation. I stedet får hver af EU-landenes nationale parlamenter vetoret over for sådanne beslutninger<sup>19</sup>.

Endelig indføres nogle mere sektorspecifikke passereller, som inden for nærmere definerede områder kan bruges til at gå fra enstemmighed til kvalificeret flertal i Rådet. Det gælder f.eks. inden for den fælles udenrigs- og sikkerhedspolitik og i forbindelse med fastlæggelsen af den flerårige finansielle ramme for EU, hvor sådanne ændringer kan foretages uden godkendelse fra de nationale parlamenter. En tilsvarende procedure findes inden for familieret med grænseoverskridende virkninger, som kan gøre Europa-Parlamentet til Rådets medlovgiver ved at indføre den almindelige lovgivningsprocedure. Her etableres dog en særlig procedure, som gør det muligt for hver enkelt nationalt parlament at afvise et skift til den almindelige lovgivningsprocedure.

**Tabel 1: Forenklede revisionsprocedurer i reformtraktaten:**

Artikler i reformtraktaten	Emneområde	Formål med procedure
TEU art. 33, stk. 6	Procedure, som gør det muligt at ændre i del III af TEUF uden at udvide EU's kompetencer.	At ændre i del III af TEUF uden at udvide EU's kompetence.
TEU art. 33, stk. 7	Procedure, som gør det muligt at gå fra enstemmighed til kvalificeret flertal i Rådet samt for indførelsen af fælles beslutningstagning mellem Rådet og Europa-Parlamentet på områder, hvor Parlamentet ikke er medlovgiver.	Gå fra enstemmighed til kvalificeret flertal i Rådet eller indføre den almindelige lovgivningsprocedure på områder, hvor Parlamentet ikke er Rådets medlovgiver.
TEU art. 17, stk. 3	Fælles udenrigs- og sikkerhedspolitik (undtagen forsvar)	Gå fra enstemmighed til kvalificeret flertal <sup>20</sup> .
TEUF art. 270a, stk. 2	Flerårige finansielle ramme	Gå fra enstemmighed til kvalificeret flertal

<sup>19</sup> De nationale parlamenter skal her gøre indsigelse inden for en frist på seks måneder.

<sup>20</sup> Gælder ikke for afgørelser, som har indvirkning på militær- eller forsvarsområdet.

TEUF art. 69d, stk. 3	Visse aspekter vedrørende familieret med grænseoverskridende virkning.	Gå fra høring af Europa-Parlamentet til den almindelige lovgivningsprocedure.
TEUF art. 280h, stk. 1 og 2	Forstærket samarbejde (undtagen forsvar)	Gå fra enstemmighed til kvalificeret flertal i Rådet eller indføre den almindelige lovgivningsprocedure på områder, hvor Parlamentet ikke er Rådets medlovgiver.

## V. Kompetencefordelingen mellem EU og medlemsstaterne

Udgangspunktet i reformtraktaten er, som i de nuværende traktater, at Unionen kun kan handle inden for rammerne af de beføjelser og mål, som medlemsstaterne har tildelt den i traktaterne. EU's beføjelser er med andre ord fortsat underlagt *princippet om de tildelte kompetencer i reformtraktatens TEU artikel 5*. Det præciseres dog, at beføjelser, der ikke er tildelt Unionen, forbliver hos medlemsstaterne<sup>21</sup>.

Muligheden for at fastlægge og overvåge en mere præcis afgrænsning af kompetencefordelingen mellem EU og medlemsstaterne var et af de fire centrale spørgsmål om EU's fremtid, som blev rejst af stats- og regeringscheferne i erklæringen om EU's fremtid til Nice-traktaten, da hele diskussionen om en ny EU-traktat startede i 2000.

Det viste sig imidlertid hurtigt umuligt for medlemsstaterne at blive enige om et præcist og bindende kompetencekatalog under forhandlingerne om forfatningstraktaten. De fleste lande ønskede at bevare et mere fleksibelt system. I stedet valgte man med den nye traktat en løsning, hvor arbejdsdelingen mellem EU og medlemsstaterne *tydeliggøres* (TEUF artikel 2-6) ved at inddele EU's forskellige typer af beføjelser i følgende tre overordnede kompetencekategorier:

1. enekompetencer,
2. delte kompetencer, som deles mellem EU og medlemsstaterne,
3. områder, hvor EU kan vedtage understøttende, koordinerende eller supplerende tiltag.

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<sup>21</sup> TEU artikel 4, stk. 1.

*Enekompetence* har Unionen på de områder, hvor kun den kan lovgive og vedtage bindende retsakter, mens *delt kompetence* giver både EU og medlemsstaterne mulighed for at udøve sådanne beføjelser. På områder hvor kompetencen deles, kan medlemsstaterne dog kun udøve beføjelserne i det omfang EU ikke har udnyttet sin kompetence eller er ophørt med at udøve den.

På de områder, hvor EU kun kan vedtage *understøttende og koordinerende tiltag*, er det medlemsstaterne, som især har ansvaret. EU har således ikke beføjelser til at harmonisere medlemsstaternes lovgivning, men alene beføjelser til at vedtage tiltag, (f.eks. programmer som fremmer studerendes mobilitet) som *understøtter, koordinerer eller supplerer* medlemsstaternes indsats.

Hertil kommer et par områder, som falder uden for de tre nævnte kompetencekategorier, nemlig den fælles udenrigs- og sikkerhedspolitik og samordningen af de økonomiske politikker og beskæftigelsen i medlemsstaterne.

Afslutningsvis skal det understreges, at der med reformtraktatens nye bestemmelser om kompetencekategorier ikke er tale om, at man etablerer nye EU-kompetencer eller kompetencekategorier, men blot, at man kodificerer gældende retspraksis fra EF-domstolen. Formålet med opdelingen er først og fremmest at skabe overblik. Den mere præcise afgrænsning af EU's kompetence på de enkelte politikområder fastsættes fortsat i de konkrete retsgrundlag i traktaterne.

**Tabel 2: EU's kompetenceområder**

Områder med enekompetence	Områder med delt kompetence	Områder, hvor EU kan vedtage understøttende og koordinerende tiltag	Andre områder, hvor både EU og medlemsstaterne er kompetente, men ikke hører under de tre kompetencekategorier.
Toldunionen	Det indre marked	Beskyttelse af menneskers sundhed	Samordning af de økonomiske politikker og beskæftigelsespolitikken
Fastlæggelse af de konkurrenceregler, der er nødvendige for det indre markeds funktion	Social og arbejdsmarkedspolitikken	Industri	Fælles udenrigs og sikkerhedspolitik
Den monetære politik	Økonomisk,	Kultur	Forskning, teknolo-

	social og territorial samhörighed		gisk udvikling og rumpolitik
Bevarelse af havets biologiske ressourcer inden for rammerne af den fælles fiskeripolitik	Landbrug og fiskeri (undtagen havets biologiske ressourcer)	Turisme	Udviklingssamarbejde og humanitær bistand
Den fælles handelspolitik	Miljø	Uddannelse, ungdom, sport og erhvervsuddannelse	
Indgåelse af internationale aftaler, når indgåelsen har hjemmel i en lovgivningsmæssig retsakt, mv.	Forbrugerbeskyttelse	Civil beskyttelse	
	Transport	Administrativt samarbejde	
	Transeuropæiske net		
	Energi		
	Frihed sikkerhed og retfærdighed		
	Fælles sikkerhedsudfordringer på folkesundhedsområdet		

## VI. Mål og værdier

Med reformtraktaten tydeliggøres EU-samarbejdets mål og værdigrundlag.

Det sker gennem en opregning og udbygning af EU's grundlæggende værdier og mål i traktatens begyndelse, hvor man i to separate artikler fastsætter disse (TEU artikel 2 og 3).

Ifølge reformtraktaten bygger EU på værdierne om respekt for den menneskelige værdighed, frihed, demokrati, ligestilling, retsstaten og respekten for

menneskerettighederne, herunder rettigheder for personer, som tilhører mindretal.

Værdierne frihed, demokrati, respekt for menneskerettighederne og retsstatsprincippet genfindes i det eksisterende traktatgrundlag<sup>22</sup>, mens bl.a. respekten for den menneskelige værdighed, lighed og mindretalsrettigheder, samt henvisningen til medlemsstaternes fælles værdigrundlag i et samfund præget af pluralisme, ikke-forskelsbehandling, tolerance, retfærdighed, solidaritet og ligestilling mellem kvinder og mænd, er tilføjelser.

Disse fælles værdier er ikke bare deklamatoriske, men spiller en central rolle i forbindelse med optagelsen af nye medlemslande, som skal overholde disse for at komme med i EU, ligesom medlemsstater, som groft og vedvarende krænker disse værdier, risikerer at få suspenderet visse af deres rettigheder.

Unionens mål, som beskrives i TEU artikel 3, er i vidt omfang en sammenkrivning af de gældende målsætningsbestemmelser i TEU og TEF, som dog er forenklet og justeret på en række punkter. Bl.a. har man efter ønske fra Frankrig fjernet henvisningen til, at konkurrencen på Unionens indre marked ikke må fordrejes<sup>23</sup>.

Målene sammenfattes i TEU artikel 3 til at være:

- fremme af freden, Unionens værdier og befolkningernes velfærd,
- et område med frihed, sikkerhed og retfærdighed uden indre grænser
- et indre marked samt bæredygtig udvikling i Europa baseret på en afbalanceret økonomisk vækst og prisstabilitet, en social markedsøkonomi med høj konkurrenceevne, hvor der tilstræbes fuld beskæftigelse og sociale fremskridt, og et højt niveau for beskyttelse og forbedring af miljøkvaliteten,
- fremme af videnskabelige og teknologiske fremskridt,
- bekæmpelse af social udstødelse og forskelsbehandling og fremme af social retfærdighed og beskyttelse, ligestilling mellem kvinder og mænd, solidaritet mellem generationerne og beskyttelse af børns rettigheder,
- fremme af økonomisk, social og territorial samhørighed og solidaritet mellem medlemsstaterne,

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<sup>22</sup> TEU artikel 6, stk. 1.

<sup>23</sup> Dog fastslås det i reformtraktatens protokol nr. 6, at de høje kontraherende parter finder, at det indre marked jf. TEU artikel 3 omfatter et system, der sikrer, at konkurrencen ikke forvrides.

- respekt for medlemsstaternes rige kulturelle og sproglige mangfoldighed og sikring af den europæiske kulturarvs beskyttelse og sikring,
- forsvar og fremme af Unionens værdier og interesser i forbindelse med den øvrige verden,
- bidrag til fred, sikkerhed, bæredygtig udvikling af jorden, mellemfolkelig solidaritet og gensidig respekt, fri og fair handel, udryddelse af fattigdom og beskyttelse af menneskerettighederne, især børns rettigheder, samt nøje overholdelse og udvikling af folkeretten, navnlig overholdelse af principperne i FN-pagten.

## VII. Grundlæggende rettigheder

Borgernes grundlæggende rettigheder og menneskerettighederne får en central placering med reformtraktaten.

Det sker først og fremmest ved, at EU's *Charter om grundlæggende rettigheder* gøres juridisk bindende, og ved at EU får beføjelser til at tiltræde den Europæiske Menneskerettighedskonvention<sup>24</sup>.

### *Charteret om grundlæggende rettigheder*

Charteret om grundlæggende rettigheder gøres retligt bindende ved, at der laves en *henvisning* i reformtraktatens TEU artikel 6, stk. 1, hvor det bekræftes, at "Unionen anerkender de rettigheder, friheder og principper, der er fastslået i charteret om grundlæggende rettigheder, der har samme juridiske værdi som traktaterne"<sup>25</sup>. Charteret skrives således ikke ind i selve traktatteksten - som det skete i forfatningstraktaten.

EU's institutioner forpligtes dermed til at overholde charteret for grundlæggende rettigheder ligesom medlemsstaternes myndigheder gør det i forbindelse med gennemførelsen af EU-retten.

Charteret er bygget på eksisterende menneskerettighedsforpligtelser og principper hidrørende fra regelsæt fra Europarådet, FN, EU-retten og medlemsstaternes fælles forfatningsmæssige traditioner. Charteret etablerer således

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<sup>24</sup> EU's Charter om grundlæggende rettigheder blev udarbejdet af et Konvent i 1999-2000 og blev højtideligt erklæret af Det Europæiske Råd den 7. december 2000 sammen med Europa-Parlamentet og Kommissionen. Charteret undergik dog i forbindelse med forhandlingerne om forfatningstraktaten nogle mindre ændringer. Bl.a. udbyggede man charterets tværgående afsnit om charterets rækkevidde og fortolkning, samt gjorde de af Konventet udarbejdede "fortolkende bemærkninger" til obligatoriske fortolkningsbidrag for domstolene.

<sup>25</sup> Charterets tekst offentliggøres i Den Europæiske Unions Tidende i den version, som stammer fra forfatningstraktaten fra 2004.

ikke nye eller udvidede rettigheder, men synliggør rettigheder, som EF-domstolen allerede i dag kan påse overholdelsen af.

Dette forhold understreges bl.a. i TEU artikel 6, stk.1, hvor det fastslås, at charterets bestemmelser ikke på nogen måde udvider Unionens beføjelser. Samme budskab gentages i selve charteret, hvor det præciseres, at charteret "ikke udvider anvendelsesområdet for EU-retten ud over Unionens kompetencer og ikke skaber nye kompetence eller nye opgaver for Unionen eller ændrer de kompetencer og opgaver, der er fastlagt i traktaterne"<sup>26</sup>.

Storbritannien og Polen har fået tilkæmpet sig en særlig protokol om charterets, som navnlig præcisere dets betydning i forhold til de to landes egne domstole. Det hedder således i protokol nr. 7 til reformtraktaten, at charteret ikke giver øget kompetence til EU's Domstol eller til nogen domstol i Polen eller Det Forenede Kongerige til at træffe kendelse om, at love, forordninger og administrative bestemmelser i de to lande er i strid med de rettigheder, friheder og principper, som charteret bekræfter, samt at navnlig charterets afsnit IV om arbejdstagerrettigheder ikke skaber rettigheder, som kan håndhæves juridisk i Polen eller Det Forenede Kongerige med mindre man i de to lande selv har taget højde for disse i national ret"<sup>27</sup>.

#### *Tiltrædelse af EMRK*

Den Europæiske Menneskerettighedsdomstol kan i dag ikke behandle klager over EU, hvis Unionen skulle krænke Den Europæiske Menneskerettighedskonvention (EMRK), idet EU ikke har tiltrådt denne. Det skyldes bl.a., at EU ikke hidtil har haft den fornødne hjemmel i traktaterne til at tiltræde EMRK.

Det lægger reformtraktaten op til skal være slut. I hvert fald tilvejebringes med reformtraktaten et nyt retsgrundlag som sikrer, at EU vil kunne tiltræde EMRK, ligesom det også gøres til et klart *mål* for EU at tiltræde konventionen.

Internt i EU vil tiltrædelsen kræve en enstemmig beslutning i Ministerrådet samt efterfølgende national ratifikation i overensstemmelse med medlemsstaternes forfatningsmæssige bestemmelser<sup>28</sup>.

Der vil dog også være behov for en tilpasning af EMRK, idet det i dag kun er stater, som kan tiltræde EMRK.

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<sup>26</sup> Se artikel II-111, stk. 2 i charteret om grundlæggende rettigheder.

<sup>27</sup> Polen har desuden tilkendegivet i en ensidig polsk erklæring til regeringskonferencen, at charteret på ingen måde har indflydelse på "medlemsstaternes ret til at lovgive inden for området offentlig sædelighed, familieret, samt for så vidt angår beskyttelsen af den menneskelige værdighed og respekten for menneskets fysiske og moralske integritet".

<sup>28</sup> Se TEUF art. 188n, stk. 8.

## VIII. Reformtraktaten og ændringer i politikområderne

EU får med reformtraktaten kun nye beføjelser på meget få områder.

På langt størstedelen af de eksisterende politikområder sker der ingen substantielle ændringer, bortset fra, at det bliver lettere for EU at anvende sine beføjelser til at vedtage fælles regler, hvor EU går fra enstemmighed i Rådet til kvalificeret flertal.

Der oprettes dog en række nye specifikke retsgrundlag i reformtraktaten som f.eks. bestemmelserne om beskyttelse af intellektuelle ejendomsrettigheder samt de nye retsgrundlag for en europæisk rumpolitik, energipolitik, turisme, sport, civilbeskyttelse og humanitær bistand. Men EU er allerede i stand til at vedtage forskellige typer af regler på disse områder ved hjælp af bl.a. TEF artikel 308 eller TEF artikel 95<sup>29</sup>.

Men disse retsgrundlag er med til at gøre det klart, hvad EU's målsætninger og beslutningsprocedurer for disse samarbejdsområder er.

På *energiområdet* oprettes eksempelvis et retsgrundlag som fastslår, at Unions politik på energiområdet *i en ånd af solidaritet* har til formål at sikre:

1) energimarkedets funktion, 2) energiforsyningsikkerheden i EU samt 3) fremme af energieffektivitet og energibesparelser samt udviklingen af nye og vedvarende energikilder<sup>30</sup>.

Der sker dog også en præcisering eller udbygning af nogle af bestemmelserne i det eksisterende traktatgrundlag.

Det sker f.eks. på *miljøområdet*, hvor det præciseres, at EU's målsætninger om at fremme internationalt samarbejde om miljøproblemer navnlig omfatter *bekæmpelse af klimaforandringer*<sup>31</sup>.

Inden for samarbejdet om koordinering af *social sikring for vandrende arbejdstagere* indføres en *nødbremse*, som gør det muligt for en medlemsstat at blokere for et forslag, hvis medlemsstaten erklærer, at det vil berøre vigtige aspekter af dens sociale sikringssystem<sup>32</sup>.

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<sup>29</sup> Se Justitsministeriets redegørelse om forfatningstraktaten af 22. november 2004.

<sup>30</sup> TEUF art. 176a.

<sup>31</sup> Se TEUF art. 174, stk. 1.

<sup>32</sup> Det foregår i praksis ved at forslaget henvises til det til Det Europæiske Råd, som så skal se nærmere på det. Hvis Det Europæiske Råd undlader at handle inden for fire måneder efter det har fået forelagt forslaget, betragtes det som bortfaldet.



## IX. EU's fælles udenrigs- og sikkerhedspolitik

Et væsentligt formål med reformtraktaten er at gøre EU i stand til at påtage sig et større globalt ansvar. Reformtraktaten følger i den forbindelse forfatningstraktaten på det udenrigs- og sikkerhedspolitiske område.

Med reformtraktaten fastholdes den fælles udenrigs- og sikkerhedspolitik som et grundlæggende mellemstatsligt samarbejde, der ligger i hænderne på de to EU-institutioner, hvor regeringerne er direkte repræsenteret: Det Europæiske Råd og Ministerrådet.

Samarbejdets mellemstatslige karakter understreges bl.a. ved, at det i reformtraktaten udtrykkeligt *udelukkes*, at de to institutioner kan vedtage lovgivningsmæssige retsakter inden for den fælles udenrigs- og sikkerhedspolitik, samt ved, at EU-domstolen ikke har nogen rolle med undtagelse af begrænsede beføjelser til at vurdere overholdelsen af "ikke-berøringsklausulen" i TEU art. 25 samt lovligheden af visse afgørelser<sup>33</sup>.

Vedtagelsen af afgørelser inden for den fælles udenrigs- og sikkerhedspolitik vil ligeledes som hovedregel fortsat foregå med enstemmighed i Rådet eller i Det Europæiske Råd. Kvalificeret flertal vil, som i dag, kun kunne anvendes, hvis Rådet vedtager *EU-aktioner* eller *EU-holdninger* på basis af afgørelser om Unionens strategiske interesser og mål fra Det Europæiske Råd samt i forbindelse med *gennemførelsen* af EU-aktioner eller EU-holdninger<sup>34</sup>. Som noget nyt vil kvalificeret flertal også kunne anvendes i tilfælde, hvor der foreligger et forslag fra Den Højtstående Repræsentant efter en specifik anmodning fra Det Europæiske Råd.

Den eksisterende nødbremse bevares dog, således at Rådet som i dag kan henvise en sag, hvor der skal træffes beslutning med kvalificeret flertal til Det Europæiske Råd, hvis en medlemsstat erklærer, at det af *vitale* årsager agter at stemme imod vedtagelsen af afgørelsen<sup>35</sup>. Som noget nyt får EU's Højtstående Repræsentant til opgave sammen med medlemsstaten at forsøge at finde en acceptabel løsning på problemet før sagen sendes til Det Europæiske Råd<sup>36</sup>.

Navnlig to nydannelser i reformtraktaten på det udenrigs- og sikkerhedspolitiske område skal nævnes her:

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<sup>33</sup> Se TEUF art. 240a.

<sup>34</sup> Endelig gør reformtraktaten det muligt for Det Europæiske Råd med enstemmighed – men uden national ratifikation - at beslutte at udvide anvendelsesområdet for kvalificeret flertal inden for den fælles udenrigs- og sikkerhedspolitik. Dette gælder dog ikke for afgørelser, som har indvirkning på militær- eller forsvarsområdet

<sup>35</sup> I den gældende TEU art. 23 tales der om, at "et medlem af Rådet erklærer, at det af "*vigtige*"...årsager.... Vigtige erstattes i reformtraktatens TEU art. 17 med "*vitale*".

<sup>36</sup> Det Europæiske Råd træffer som i dag beslutning med enstemmighed.

- Styrkelsen af den højtstående Repræsentant for den fælles udenrigs- og sikkerhedspolitik,
- Øget mulighed for samarbejde om forsvarspolitik

#### *Den Højtstående Repræsentant*

En central målsætning med reformtraktaten er at få en bedre koordination af EU's eksterne politikker, og dermed EU's evne til at tale med én stemme.

Dette forsøges bl.a. opnået ved en styrkelse af EU's "Højtstående Repræsentant for udenrigs- og sikkerhedspolitiske anliggender", som fremover under sig vil samle de eksisterende opgaver for:

- den højtstående repræsentant,
- det halvårslige roterende formandskab for Rådet for udenrigspolitiske anliggender,
- EU-kommissæren for eksterne forbindelser.

Den nye Højtstående Repræsentant bliver både fast formand for Rådet for udenrigspolitiske anliggender og fuldgyldigt medlem af Kommissionen med ansvar for udenrigspolitiske spørgsmål.

Den Højtstående Repræsentant udpeges af Stats- og regeringscheferne i Det Europæiske Råd efter aftale med EU-Kommissionens formand. Endelig vil den nye Højtstående Repræsentant også som led i godkendelsen af den samlede Kommission skulle accepteres af Europa-Parlamentet.

Den Højtstående Repræsentant bistås af en "*Tjeneste for EU's optræden udadtil*", som sammensættes af embedsmænd fra de relevante enheder i Generalsekretariatene for Ministerrådet og Europa-Kommissionen samt fra medlemsstaternes diplomatiske tjenester.

#### *Den fælles sikkerheds- og forsvarspolitik*

Reformtraktaten bevarer grundtrækkene fra EU's eksisterende fælles "*sikkerheds- og forsvarspolitik*". Målet er stadig en gradvis udvikling af en fælles EU forsvarspolitik, som med tiden kan føre til et fælles EU forsvar. Dette forudsætter dog stadig en enstemmig beslutning i Det Europæiske Råd.

Hovedsigtet med den fælles sikkerheds- og forsvarspolitik er, at EU skal kunne varetage krisestyringsopgaver – de såkaldte Petersbergopgaver – med anvendelsen af såvel civile som militære midler, som stilles til rådighed af

medlemsstaterne. Reformtraktaten ajourfører, hvilke typer af opgaver der kan være tale om. Det drejer sig om<sup>37</sup>:

- Fælles aktioner på nedrustningsområdet,
- Humanitære opgaver og redningsopgaver,
- Rådgivnings- og bistandsopgaver på det militære område,
- Konfliktforebyggende og fredsbevarede opgaver,
- Kampstyrkers opgaver i forbindelse med krisestyring, herunder fredsskabelse og postkonflikt-stabiliseringsoperationer.

Som noget nyt kan det overlades til en gruppe af medlemsstater at varetage disse opgaver, som så stiller den nødvendige militære eller civile kapacitet til rådighed. Dette har dog bl.a. allerede fundet sted i forbindelse med EU-operationen i Congo i 2003, hvor det kun var en mindre gruppe af lande, som deltog.

EU har ikke altid tilstrækkelig kapacitet til at påtage sig sådanne opgaver. Et vigtigt mål med reformtraktaten er derfor også at bidrage til en gradvis opbygning af den nødvendige kapacitet. Reformtraktaten forpligter bl.a. derfor medlemsstaterne til gradvist at forbedre deres militære kapacitet. Som noget nyt indføres en mulighed for, at medlemsstater kan gå sammen i et "*permanent struktureret samarbejde*" om udviklingen af militær kapacitet – f.eks. deltagelse i samarbejdsprogrammer for udvikling af forsvarsmateriel.

Til at bistå med udviklingen af den militære kapacitet oprettes et europæisk agentur for forsvarsmateriel, forskning og militær kapacitet<sup>38</sup>.

Ansvar for den mere konkrete fastlæggelse af et lands militære kapacitet forbliver dog et nationalt anliggende.

## **X. Samarbejdet om retlige og indre anliggender**

Med reformtraktaten ophæves den nuværende opdeling af EU's samarbejde om retlig og indre anliggender i et *overstatsligt* samarbejde om grænsekontrol, asyl og indvandring og et *mellemsstatslig* om politi og strafferet.

Hele samarbejdet samles i stedet inden for én overstatslig ramme, hvilket indebærer, at næsten hele spektret af emner inden for samarbejdet om for retlige og indre anliggender vil skulle vedtages med kvalificeret flertal i Rådet efter fælles beslutningstagen med Europa-Parlamentet (almindelig lovgiv-

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<sup>37</sup> Det fastslås desuden, at disse opgaver kan bidrage til bekæmpelse af terrorisme.

<sup>38</sup> Ministerrådet vedtog dog allerede den 12. juli 2004 en fælles aktion om oprettelsen af Det Europæiske Forsvarsagentur.

ningsprocedure). Regler vedrørende asyl, indvandring og kontrollen med de ydre grænser overgår helt til at skulle vedtages efter ovenstående procedurer, mens man på enkelte særligt følsomme områder inden for det strafferetlige område og politisamarbejdet bevarer enstemmighed. Det gælder f.eks. i forbindelse med oprettelsen af en Europæisk Anklagemyndighed. For at gøre skiftet på det strafferetlige område fra enstemmighed til kvalificeret flertal mere spiseligt, indføres en særlig nødbremse, som gør det muligt for medlemsstater at blokere for et forslag,

#### **Nødbremse på det strafferetlige område**

Nødbremsen inden for samarbejdet om strafferet blev blandt forhandlerne kaldt "bremse-acceleratoren", fordi den både tilgodeser de lande, som er mere tvivlende og de lande, som ønsker at gå videre. Bremse-acceleratoren gør det muligt for en medlemsstat, som vurderer, at et forslag inden for samarbejdet om strafferet eller politi vil berøre grundlæggende aspekter af dets strafferetlige system, at anmode om, at forslaget forelægges Det Europæiske Råd. Behandlingen af forslaget i Rådet og Parlamentet sættes dermed i stå i fire måneder inden for hvilke Det Europæiske Råd kan beslutte enten at anmode om at der fremsættes et nyt forslag eller sende forslaget tilbage til behandling i Rådet.

Til gengæld gives en gruppe af medlemsstater en særlig adgang til at indføre et forstærket samarbejde, hvis Det Europæiske Råd ikke har handlet inden for denne periode eller, hvis forslaget ikke er vedtaget inden for 12 måneder efter forelæggelsen af et nyt forslag.

hvis de mener, det vil berøre grundlæggende aspekter af deres strafferetlige system. Samtidig gives dog lande, som ønsker at gå videre, en særlig adgang til at indføre et forstærket samarbejde på det pågældende område.

Retten til at fremsætte forslag på området for indre retlige anliggender ligger som udgangspunkt hos Kommissionen, men på det strafferetlige område og inden for politisamarbejdet bevares en delt initiativret mellem Kommissionen og medlemsstaterne<sup>39</sup>.

Endelig lægges hele samarbejdet om indre og retlige anliggender under EU-domstolens kontrol<sup>40</sup>. Dette sker dog først for det strafferetlige samarbejde og

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<sup>39</sup> Ifølge TEUF art. 68 kan såvel Kommissionen som en gruppe på en fjerdedel af EU's medlemsstater fremsætte forslag til retsakter inden for samarbejdet om strafferet og politi.

<sup>40</sup> Domstolen får dog ikke kompetence til at prøve gyldigheden eller proportionaliteten af operationer, som udføres af en medlemsstats politi eller andre retshåndhævende myndigheder, el-

politisamarbejde efter en overgangsperiode på en fem år efter reformtraktatens ikrafttræden<sup>41</sup>.

Nogle enkelte kommentarer skal knyttes til samarbejdet om strafferet og politi, som fortsat bevarer visse særtræk.

### *Samarbejde om strafferet og politi*

Med reformtraktaten afskaffes som sagt den mellemstatslige arbejdsform inden for samarbejdet om strafferet og politi. Det bliver dermed muligt for EU at vedtage minimumsregler i form af direktiver som fastsætter, *hvad der skal anses for strafbare handlinger samt for straffene herfor*. Dette gælder dog som udgangspunkt kun på følgende typer af kriminalitet af særlig grov karakter, som har en grænseoverskridende dimension: *terrorisme, menneskehandel og seksuel udnyttelse af kvinder og børn, ulovlig narkotikahandel, ulovlig våbenhandel, hvidvaskning af penge, forfalskning af betalingsmidler, edb-kriminalitet og organiseret kriminalitet*. Denne liste kan udvides af Ministerrådet til også at omfatte andre typer af kriminalitet<sup>42</sup>.

Hertil kommer, at EU også inden for andre politikområder, hvor EU kan vedtage harmoniseret lovgivning, kan fastsætte minimumsregler for, hvad der udgør strafbare handlinger samt for straffene herfor, hvis en tilnærmelse af medlemsstaternes strafferetlige bestemmelser er nødvendig af hensyn til en effektiv gennemførelse af EU's politik.

Reformtraktaten gør det desuden muligt for EU at oprette en *europæisk anklagemyndighed*, hvilket kan vedtages af Rådet med enstemmighed efter godkendelse i Europa-Parlamentet. Anklagemyndighedens virkefelt vil som udgangspunkt være koncentreret om lovovertrædelser, der skader EU's finansielle interesser. Men Det Europæiske Råd kan udvide anklagemyndighedens beføjelser til også at vedrøre grov kriminalitet med en grænseoverskridende dimension.

Der sker også en vis udvidelse af Eurojust's opgaver til at iværksætte efterforskning af straffesager.

Endelig tildeler reformtraktaten de nationale parlamenter en særlig funktion i relation til overvågningen af samarbejdet om strafferet og politi. Det gælder

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ler udøvelsen af medlemsstaternes beføjelser med hensyn til opretholdelsen af lov og orden og beskyttelse af den indre sikkerhed.

<sup>41</sup> Dog vil der være fuld domstolskontrol for så vidt angår ændringsforanstaltninger vedtaget inden for samarbejdet om politi og straffesager i den femårige overgangsperiode fra disses ikrafttræden. Men kontrollen vil kun have virkning for de medlemsstater, som foranstaltningen finder anvendelse på (*Protokol nr. 10 om overgangsbestemmelser, artikel 10*).

<sup>42</sup> Ministerrådet kan med enstemmighed beslutte at udvide listen til at omfatte andre typer af kriminalitet.

både i forhold til kontrollen med EU-institutionernes overholdelse af nærhedsprincippet inden for dette område, samt sammen med Europa-Parlamentet i overvågningen af Europol og Eurojust.

### *Storbritanniens og Irlands forbehold*

Storbritannien og Irland har med udkastet til reformtraktat fået udvidet deres eksisterende forbehold over for deltagelsen i EU's samarbejde om asyl og indvandring til også at gælde for det nye overstatslige samarbejde om politi og straffesager. De to lande har her forhandlet sig frem til en "tilvalgsordning" (opt-in) svarende til den, som de har i dag for asyl og indvandring.

Det betyder, at de som udgangspunkt også står uden for samarbejdet om politi og straffesager, men fra sag til sag kan beslutte at deltage alligevel. De skal blot inden for tre måneder efter et forslags fremsættelse skriftligt meddele, at de ønsker at deltage i vedtagelsen eller anvendelsen af den pågældende foranstaltning.

Dog får de øvrige medlemsstater, som noget nyt, mulighed for ved en rådsafgørelse at tilskynde Storbritannien og Irland til at deltage alligevel, hvis der er tale om en foranstaltning, som *bygger oven på* en eksisterende retsakt, som de to lande allerede har tilsluttet sig. Denne option kan dog kun tages i brug, hvis Rådet vurderer, at Storbritanniens og Irlands manglende deltagelse reelt gør foranstaltningen uanvendelig for andre medlemsstater eller for Unionen. Hvis til gengæld Storbritannien eller Irland ikke inden for en ny frist på to måneder har afgivet meddelelse om, at landet ønsker at acceptere foranstaltningen, vil også den *eksisterende retsakt* ophøre med at have virkning for det pågældende land<sup>43</sup>.

Endelig skal det nævnes, at Storbritannien og Irland heller ikke som udgangspunkt vil være bundet af regler vedtaget med hjemmel i TEUF artikel 15a, hvis de vedrører medlemsstaternes behandling af personoplysninger under udøvelsen af aktiviteter inden for strafferetligt samarbejde eller politisamarbejde<sup>44</sup>.

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<sup>43</sup> Ifølge protokollen til reformtraktaten *om Storbritanniens og Irlands stilling* har de to lande dog en sidste mulighed for at være med, hvis de *efter Rådets vedtagelse af* foranstaltningen giver meddelelse om, at man accepterer ændringsforanstaltningens ikrafttræden. Dette vil så have virkning enten fra datoen for ændringsforanstaltningens ikrafttræden eller fra udløbet af perioden på to måneder, alt efter hvilken dato, der er senest.

<sup>44</sup> Dog vil de være bundet af regler om behandling af personoplysninger, hvis det vedrører felter af det strafferetlige samarbejde og politisamarbejdet, hvor de har givet meddelelse om at de deltager og dermed er bundet af de pågældende EU-regler.

### *Danmarks forbehold*

Med udkastet til reformtraktat videreføres Danmarks gældende forbehold over for deltagelsen i al overstatslig regulering af retlige og indre anliggender. Det betyder, at Danmark som udgangspunkt står uden for hele reformtraktatens samarbejde på dette område. I praksis indebærer dette dog en udvidelse af forbeholdet til også at gælde for samarbejdet om straffesager og politi, som i dag foregår på et mellemstatsligt grundlag og dermed er et område, hvor Danmark deltager fuldt ud.

Med reformtraktaten gives Danmark desuden en mulighed for at beslutte at omdanne det retlige forbehold fra den eksisterende (*opt-out*) ordning, hvor Danmark slet ikke kan deltage i overstatsligt samarbejde til en tilvalgsordning (*opt-in*), hvor vi kan vælge at deltage i såvel vedtagelsen som anvendelsen af fælles overstatslige EU-regler. Tilvalgsordningen svarer til den ordning, som Irland og Storbritannien har opnået over for deltagelsen i samarbejdet om retlige og indre anliggender.

Det gælder også den ovenfor beskrevne mulighed for, at en eksisterende retsakt inden for det indre og retlige samarbejde kan ophøre med at have virkning for Danmark, hvis vi ikke ønsker at tilslutte os en viderebygning af denne, og de øvrige medlemsstater i Rådet vurderer, at Danmarks manglende deltagelse vil gøre foranstaltningen uanvendelig for andre medlemsstater eller Unionen.

Hvis Danmark beslutter at gå over til en "opt-in ordning", vil alle Schengen-regler samt foranstaltninger til udbygning af disse, som indtil da alene har været bindende for Danmark som folkeretlige forpligtelser, blive EU-retligt bindende seks måneder efter Danmark har meddelt dette.

En ændring af det eksisterende danske "opt-out" forbehold til en tilvalgsordning svarende til Storbritanniens og Irlands vil dog først skulle godkendes i Danmark i overensstemmelse med rigets forfatningsmæssige bestemmelser.

### **XI. Danmarks forbehold**

Med reformtraktaten bevares Danmarks fire forbehold over for EU-samarbejdet om unionsborgerskab, euro, forsvar og deltagelse i overstatsligt samarbejde om retlige og indre anliggender.

Indholdet af den nuværende forbeholdsprotokol (nr. 5) om "Danmarks stilling", som blev vedtaget med Amsterdam-traktaten i 1997 overføres til reformtraktaten i den ændrede version, som man opnåede enighed om under forhandlingerne om forfatningstraktaten.

Det betyder navnlig, at Danmark får ret til at omdanne sit forbehold på området for retlige og indre anliggender til en tilvalgsordning, så det bliver muligt

for Danmark at træffe beslutning om deltagelse i overstatsligt samarbejde om retlige og indre anliggender fra sag til sag. For yderligere information om det retlige forbehold henvises til ovenstående afsnit X om samarbejdet om retlige og indre anliggender.

Med venlig hilsen

Morten Knudsen,  
(Tlf. 3695)



# Folketinget – Europaudvalget

Christiansborg, den 21. august 2007

EU-konsulenten

Til

udvalgets medlemmer og stedfortrædere

## Reformtraktaten

### Resumé

I dette notat gives en gennemgang af udkastet til EU's reformtraktat.

Gennemgangen vil være baseret på det traktatudkast, som blev fremlagt af EU's portugisiske formandskab i forbindelse med åbningen af efterårets regeringskonference, som fandt sted den 23. juli 2007. Teksten blev omdelt til Europaudvalget i en engelsk sprogversion den 1. august 2007 (EUV alm. Del – Bilag 438)

Det er EU-landenes ambition at afslutte forhandlingerne om den nye EU-traktat hurtigst muligt og under alle omstændigheder senest inden udgangen af 2007, således at der vil være tilstrækkelig tid til at gennemføre den efterfølgende ratifikation i EU-landene inden valgene til Europa-Parlamentet i juni 2009 og udnævnelsen af en ny EU-kommission i andet halvår 2009.

Udkastet til ny traktat er baseret på det mandat, som EU's stats- og regeringschefer enedes om for regeringskonferencen på Det Europæiske Råds møde den 21.-22. juni 2007.

### I. Mandatet

Ifølge mandatet fra Det Europæiske Råd skal den nye EU-traktat udformes som en ændringstraktat. Traktaten vil med andre ord komme til at bygge på de gældende traktater (TEU og TEF) og ikke som forfatningstraktaten indføre en helt ny traktat, som erstatning for de eksisterende traktater.

Reformtraktaten viderefører de centrale nyskabelser fra forfatningstraktaten.

Det gælder bl.a. indførelsen af kompetencekategorier og kompetenceområder, Borgerinitiativet, de mange institutionelle bestemmelser om eksempelvis Kommissionens

fremtidige sammensætning, institutionaliseringen af Det Europæiske Råd, udvidet brug af kvalificeret flertal i Ministerrådet samt styrkelsen af Europa-Parlamentets rolle som Rådets medlovgiver og som budgetmyndighed, mv..

Men også en række af forfatningstraktatens bestemmelser tages med over i en ændret form i den nye traktat som resultat af drøftelserne i Det Europæiske Råd og mandatet. Det gælder navnlig:

- EU's og medlemsstaternes respektive beføjelser og afgrænsninger heraf,
- den fælles udenrigs- og sikkerhedspolitik særlige karakter,
- de nationale parlamenters øgede rolle,
- behandlingen af charteret om grundlæggende rettigheder,
- samarbejdet om politi og i straffesager.

Endelig er der kommet nogle helt nye bestemmelser med i reformtraktaten. Det gælder eksempelvis en ny henvisning i traktatens miljøkapitel til nødvendigheden af at bekæmpe klimaforandringer.

## **II. Traktatens institutionelle bestemmelser**

### *Det Europæiske Råd og Ministerrådet*

Ifølge udkastet til reformtraktat videreføres forfatningstraktatens bestemmelser om EU-institutionerne i det store hele uændret.

Det indebærer bl.a., at Det Europæiske Råd omdannes til en EU-institution og udstyres med en fast formand udpeget for en periode på 2 ½ år med mulighed for forlængelse i yderligere 2 ½ år<sup>1</sup>.

Også i Ministerrådet vil der ske visse ændringer af det kendte halvårligt roterende formandskab. Bl.a. vil Rådet for eksterne forbindelser få en fast formand i form af Unionens nye "høje repræsentant for udenrigspolitiske spørgsmål", ligesom "Eurogruppen" vil vælge en fast formand blandt finansministrene til at lede deres møder.

Formandskabet for de øvrige rådsformationer vil fremover fortsat skulle varetages på skift af hvert enkelt land for et halvt år ad gangen. Men som noget nyt indføres såkaldte "gruppeformandskaber", som indebærer, at der skal arbejdes tættere sammen mellem formandskaberne. Gruppeformandskabet skal varetages af på forhånd sammensatte grupper af tre medlemsstater for en periode på 18 måneder og åbner op for, at

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<sup>1</sup> Udover Det Europæiske Råd får også Den Europæiske Centralbank status af EU-institution. Det betyder, at der vil være syv EU-institutioner med de eksisterende fem institutioner: Europa-Parlamentet, Ministerrådet, Europa-Kommissionen, Domstolen og Revisionsretten.

disse tre lande indbyrdes kan træffe beslutning om en alternativ ordning. Gruppeformandskaberne sammensættes ved ligelig rotation mellem medlemsstater under hensyntagen til deres forskelle og den geografiske balance i EU.

Ministerrådet vil overgå til et nyt system for dobbelt kvalificeret flertal, som man enedes om i forfatningstraktaten, bestående af to kriterier for, at et flertal er opnået: 1) støtte fra 55 pct. af medlemsstaterne samt fra 2) medlemsstater repræsenterende 65 pct. af EU's samlede befolkning. Et blokerende mindretal skal udgøre mindst fire medlemsstater.

Ifølge reformtraktaten vil det nye dobbelte flertalsystem dog først træde i kraft den 1. november 2014. Indtil da vil det eksisterende kvalificerede flertal blive anvendt<sup>2</sup>. I en overgangsperiode efter 2014 frem til 31. marts 2017 vil et medlem af Rådet dog kunne kræve, at en afgørelse træffes efter de nuværende regler for kvalificeret flertal. Hertil kommer, at medlemsstater repræsenterende 75 pct. af befolkningen eller 75 pct. af det antal medlemsstater, der kræves for at udgøre et blokerende mindretal, vil kunne modsætte sig vedtagelsen af en retsakt og fremtvinge en ny debat i Rådet. Rådet skal derefter inden for en rimelig tidsfrist gøre sit yderste for at finde en tilfredsstillende løsning<sup>3</sup>. Skulle det ikke lykkes at finde frem til en løsning, som kan tilfredsstille dette mindretal, kan et simpelt flertal af medlemsstaterne dog altid bede formandskabet om at skride til afstemning i Rådet og på den måde tvinge en afgørelse igennem<sup>4</sup>.

Fra 1. april 2017, hvor man overgår fuldt ud til det nye dobbelte kvalificerede flertal, sænkes begge disse tærskler for, hvornår man kan bede Rådet om at drøfte et forslag, fra 75 pct. af det blokerende mindretal til 55 pct.

### *Europa-Parlamentet*

Europa-Parlamentet bliver styrket væsentligt med reformtraktaten. Det gælder navnlig på det lovgivningsmæssige og det budgetmæssige område. På det lovgivningsmæssige område sker det ved, at man udvider anvendelsen af den fælles beslutningsprocedure, hvor Europa-Parlamentet er Ministerrådets medlovgiver til næsten 50 nye områder.

I forhold til vedtagelsen af EU's budget øges parlamentets magt ved, at Europa-Parlamentet bliver Rådets medbeslutningstager over hele budgettet. I dag har Rådet det sidste ord at skulle have sagt for alle obligatoriske udgifter, hvorimod Parlamentet har det sidste ord for de ikke-obligatoriske udgifter. Denne sondring mellem obligatoriske og ikke-obligatoriske udgifter afskaffes med reformtraktaten.

Europa-Parlamentet får også en stærkere rolle i forbindelse med udnævnelsen af Kommissionens formand, som skal ske efter indstilling fra Det Europæiske Råd, der i

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<sup>2</sup> Se TEF artikel 205, stk. 2.

<sup>3</sup> Denne model findes allerede i Erklæring nr. 5 til forfatningstraktaten, som var inspireret af den såkaldte "Ioannina-afgørelse" fra 1994, som i forbindelse med optagelsen i EU af Sverige, Finland og Østrig indførte en tilsvarende mekanisme.

<sup>4</sup> Rådets forretningsorden artikel 11, stk. 1.

den forbindelse skal tage hensyn til resultatet af valgene til Europa-Parlamentet. Medlemstallet for Europa-Parlamentet fastsættes som i forfatningstraktaten til højst 750 fordelt mellem medlemsstaterne efter et princip om degressiv proportionalitet. Det fastsættes, at ingen medlemsstat kan have færre end 6 medlemmer eller flere end 96 medlemmer.

Endelig styrkes Europa-Parlamentets mulighed for at få indflydelse på kommende traktater. Parlamentet får således mulighed for at foreslå traktatændringer. Et simpelt flertal i Det Europæiske Råd kan derefter vedtage at indkalde et konvent<sup>5</sup>, som behandler de foreslåede ændringer og vedtager en anbefaling til en regeringskonference, som så står for den formelle vedtagelse af en ny traktat.

### *Kommissionen*

I reformtraktaten fastholdes forfatningstraktatens aftale om Europa-Kommissionens sammensætning. Det betyder, at Europa-Kommissionen fra 2014 vil være sammensat af et antal kommissærer svarende til 2/3 af antallet af medlemsstater (18 med 27 lande)<sup>6</sup>. Kommissærposterne vil dog skulle gå på skift mellem medlemslandene på grundlag af en ordning med ligelig rotation<sup>7</sup>. Den næste Kommission, som udpeges i 2009, vil fortsat være sammensat af én kommissær fra hver medlemsstat.

Endelig styrkes kommissionsformandens magt, idet han får beføjelser til at afskedige enkelte kommissærer, som forpligtes til at træde tilbage, hvis de anmodes herom af formanden.

### **III. Demokratiske principper**

Reformtraktaten rummer et par markante nyskabelser i forbindelse med bestræbelserne på at styrke demokratiet i EU.

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<sup>5</sup> Konventet sammensættes af repræsentanter for de nationale parlamenter, medlemsstaternes stats- og regeringschefer, Europa-Parlamentet og Kommissionen.

<sup>6</sup> Ifølge TEU art. 9d, stk. 5 skal ordningen for sammensætningen af den Kommission, der tiltræder fra 2014, vedtages af Det Europæiske Råd med enstemmighed. Dog kan Det Europæiske Råd også med enstemmighed træffe beslutning om at lægge sig fast på et andet antal kommissærer end 2/3 af medlemsstaterne.

<sup>7</sup> Det fastslås specifikt i reformtraktaten TEUF artikel 211, at medlemsstaterne behandles fuldstændig ligeligt for så vidt angår fastlæggelsen af rækkefølgen og varigheden af deres statsborgeres medlemskab af Kommissionen. Samtidig understreges det, at differencen mellem det samlede antal tjenesteperioder varetaget af statsborgere fra to givne medlemsstater aldrig overstiger én.

### *Nationale parlamenters rolle styrkes*

Først og fremmest vil den nye traktat indebære en styrkelse af de nationale parlamenters rolle i EU<sup>8</sup>.

Navnlig øges parlamenternes muligheder for at kontrollere nærhedsprincippet. Det sker ved indførelsen af en styrket udgave af forfatningstraktatens såkaldte "tidlige varslingsystem", som giver de nationale parlamenter mulighed for at overvåge og påtale krænkelse af nærhedsprincippet fra EU-institutionernes side inden for en periode på otte uger efter et forslags fremsættelse<sup>9</sup>.

Som udgangspunkt bevarer man det såkaldt "gule kort" fra forfatningstraktaten, hvor en begrundet udtalelse fra mindst *en tredjedel* af de nationale parlamenter om, at et forslag er i strid med nærhedsprincippet, betyder, at Kommissionen tvinges til at tage et forslag op til fornyet overvejelse.

Som noget nyt indføres dog også et såkaldt "orange kort", som indebærer, at hvis mindst *halvdelen* af parlamenterne sender en "begrundet udtalelse" til Kommissionen, skal denne, hvis den ønsker at opretholde sit forslag, sende det videre til behandling i Europa-Parlamentet og Ministerrådet for at få deres støtte. Men hvis blot enten Ministerrådet eller Europa-Parlamentet finder, at forslaget strider imod nærhedsprincippet, standses al videre behandling af forslaget. Rådet kan træffe en sådan beslutning, hvis 55 pct. af Rådets medlemmer (15 medlemsstater af 27) står bag, mens Europa-Parlamentet kan gøre det med et flertal af de afgivende stemmer.

Ud over parlamenternes forstærkede rolle i forbindelse med overvågningen af nærhedsprincippet, sigter reformtraktaten på også at inddrage de nationale parlamenter på andre felter. Det gælder navnlig i forbindelse med:

- a. overvågningen af EU's politikker på området for retlige og indre anliggender,
- b. fremtidige traktatrevisioner.

De nationale parlamenter og Europa-Parlamentet tildeles således en særlig rolle i forbindelse med overvågningen af EU's politikker på området for indre og retlige anliggender. Parlamenterne skal bl.a. underrettes om indholdet og resultaterne af medlemsstaternes evalueringer af gennemførelsen af EU's politikker på dette område, ligesom de får en særlig funktion i forbindelse med den politiske kontrol med Europols og Eurojusts virke. De nærmere regler for, hvordan denne kontrol skal udøves, fastlægges i fællesskab af Ministerrådet og Europa-Parlamentet i en retsakt.

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<sup>8</sup> De nationale parlamenters rolle indskrives i selve traktatteksten, ligesom der etableres to nye protokoller til traktaten om parlamenters rolle samt overvågningen af nærhedsprincippet (TEU artikel 8c og protokollerne nr. 1 og 2).

<sup>9</sup> Reformtraktaten forlænger den periode, som de nationale parlamenter får til at behandle forslag og undersøge, hvorvidt de overholder nærhedsprincippet til 8 uger fra de kun 6 uger, som var fastlagt i forfatningstraktaten.

Reformtraktaten lægger også op til en højere grad af involvering af de nationale parlamenter i forbindelse med fremtidige traktatrevisioner. Bl.a. fastlægges det i reformtraktaten, at de nationale parlamenter skal modtage ethvert forslag, som fremsættes for at indkalde en regeringskonference for at revidere traktatgrundlaget.

Men måske vigtigst af alt bliver, at nationale parlamenter vil skulle deltage i de konventioner, som Det Europæiske Råd, ifølge reformtraktaten, kan indkalde med henblik på at forberede fremtidige traktatrevisioner.

Endelig får hvert enkelt nationalt parlament en vetoret i forbindelse med anvendelsen af reformtraktatens forskellige former for forenklede traktatrevisionsprocedurer (også kaldt passereller), der skal gøre det muligt for Ministerrådet at gå fra enstemmighed til kvalificeret flertal eller gøre Europa-Parlamentet til Rådets medlovgiver på områder, hvor parlamentet kun er høringsberettiget (*se afsnittet om traktatrevisionsprocedurer*). Se mere om dette i afsnittet om traktatrevisionsprocedurer.

#### *Borgerinitiativet*

Reformtraktaten viderefører ligeledes det såkaldte *borgerinitiativ*, som var en af forfatningstraktatens nyskabelser. Borgerinitiativet indebærer, at EU's borgere kan opfordre Kommissionen til at fremsætte forslag inden for et givet område, hvis mindst 1 million (af EU's ca. 488 millioner) borgere støtter op om et initiativ. For at sikre, at der er tale om initiativer, som er bredt funderet i EU, kræves desuden, at initiativet støttes af borgere fra et *betydeligt antal* medlemsstater. De nærmere regler for hvor mange medlemsstater der kræves samt fastsættelsen af et mindste antal borgere per medlemsstat, definitionen på en borger, osv., skal efterfølgende fastlægges i en retsakt vedtaget af Ministerrådet og Europa-Parlamentet.

Selv om Kommissionen ikke er juridisk forpligtet til at følge anbefalingen i et sådant initiativ, kan den politiske betydning af sådanne borgerinitiativer godt blive afgørende.

#### **IV. Beslutningsprocedurer og retlige instrumenter**

Et hovedformål med reformtraktaten er at gøre EU mere beslutningsdygtig og demokratisk. Det sikres bl.a. ved, at Rådets adgang til at træffe beslutning med kvalificeret flertal indføres på en lang række nye politikområder samt ved, at den almindelige regel for vedtagelse af EU-lovgivning bliver fælles beslutningstagen mellem Europa-Parlamentet og Rådet.

Men også procedurerne for vedtagelsen af EU's årlige budget samt de flerårige finansielle perspektiver forenkles med reformtraktaten.

Endelig sker der en række ændringer af de procedurer, der gælder for revisionen af EU-traktaterne.

### *Lovgivningsmæssige og ikke-lovgivningsmæssige procedurer*

Reformtraktaten følger i det store hele forfatningstraktatens forslag om at strømline beslutningsprocedurerne i forbindelse med vedtagelsen af retsakter.

Det gøres bl.a. ved at reducere antallet af beslutningsprocedurer samt fastholde forfatningstraktatens idé om at sondre klarere mellem *lovgivningsmæssige* og *ikke-lovgivningsmæssige* beslutningsprocedurer og retsakter.

De lovgivningsmæssige procedurer omfatter den *almindelige lovgivningsprocedure* og de *særlige lovgivningsprocedurer*, som forbeholdes vedtagelsen af lovgivningsmæssige retsakter som *forordninger, direktiver og afgørelser*. Man opgiver således med reformtraktaten betegnelserne EU-love og EU-rammelove fra forfatningstraktaten.

På det lovgivningsmæssige område bliver *den almindelige lovgivningsprocedure* den centrale procedure i forbindelse med vedtagelsen af retsakter<sup>10</sup>, hvilket betyder, at Rådet og Parlamentet som den klare hovedregel ligestilles som lovgivere. Procedurens anvendelsesområde udvides betragteligt, idet den indføres på knap 50 politikområder, hvor parlamentet i dag ikke er Rådets medlovgiver. Reformtraktaten indebærer samtidig en effektivisering af Rådets stemmeregler, hvor man går fra enstemmighed til kvalificeret flertal på ca. 25 områder.

I reformtraktaten fastholdes også *særlige lovgivningsprocedurer* på visse mere følsomme områder, hvor det fortsat vil være Rådet, som indtager rollen som hovedlovgiver, mens Europa-Parlamentet enten blot skal høres eller afgive samstemmende udtalelse. Der er dog også enkelte tilfælde, hvor det er Europa-Parlamentet som træffer beslutning efter Rådets samstemmende udtalelse<sup>11</sup>.

Endelig afskaffes den såkaldte samarbejdsprocedure (TEF 252), som blev indført sammen med den Europæiske Fællesakt og det indre marked i 1987.

Udover ovennævnte lovgivningsprocedurer fastsætter reformtraktaten også nye procedurer for vedtagelsen af ikke-lovgivningsmæssige retsakter, som er betegnelsen for *delegerede retsakter* og *gennemførelsesretsakter* samt ikke-bindende retsakter som *henstillinger* og *udtalelser*.

Både Rådet og Kommissionen kan vedtage forskellige typer af ikke-lovgivningsmæssige retsakter i forbindelse med gennemførelsen af lovgivningsmæssige retsakter vedtaget af Parlamentet og Rådet. Det kan ifølge reformtraktaten ske efter to forskellige procedurer underlagt hver deres kontrolsystem.

1) Kommissionen kan som i dag under det såkaldte komitologisystem bemyndiges til at gennemføre nogle bestemmelser i samråd med en komité sammensat af embedsmænd fra medlemsstaterne.

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<sup>10</sup> Den almindelige lovgivningsprocedure er identisk med den fælles beslutningsprocedure, som vi kender fra TEF artikel 251 i de nuværende traktater.

<sup>11</sup> Det gælder f.eks. i forbindelse med MEP-statutten, nedsættelsen af undersøgelsesudvalg eller reglerne for den europæiske ombudsmand.

2) Lovgiverne i Rådet og Europa-Parlamentet delegerer beføjelser til Kommissionen til at vedtage såkaldte *delegerede retsakter*, der udbygger eller ændrer i de lovgivningsmæssige retsakter for så vidt angår "ikke-væsentlige elementer". Dette sker ikke, som under komitologisystemet, i samråd med en komité. I stedet kan Rådet og Europa-Parlamentet beslutte at tilbagekalde delegationen, hvis de finder det nødvendigt.

### *Budgetproceduren*

Også på budgetområdet fornyer reformtraktaten beslutningsprocedurerne, som også på dette felt følger forfatningstraktatens tekst. Navnlig to nyskabelser skal her nævnes:

- forenkling af procedurerne for vedtagelsen af EU's årlige budget,
- traktatfæstelse af brugen af flerårige finansielle rammer.

Med hensyn til *det årlige budget* indføres med reformtraktaten én fælles procedure for vedtagelsen af hele EU's budget, hvor Rådet og Parlamentet ligestilles. Dermed afskaffes det eksisterende system med forskellige beslutningsprocedurer for henholdsvis obligatoriske og ikke-obligatoriske udgifter på EU-budgettet.

Her til kommer, at den nye budgetprocedure afkortes fra, som i dag, at kræve to behandlinger i Rådet og Parlamentet til kun én behandling.

Endelig traktatfæster man med reformtraktaten muligheden for at indkalde et *forligsudvalg*<sup>12</sup> i tilfælde af uenighed mellem Parlamentet og Rådet under førstebehandlingen.

Hvis forligsudvalget når til enighed om et kompromis, skal det efterfølgende godkendes af både Parlamentet og Rådet, og siger begge EU-institutioner efterfølgende ja til budgettet, betragtes det som vedtaget.

Skulle den situation derimod opstå, at enten Parlamentet eller Rådet beslutter sig for at underkende deres forhandleres ja til budgettet i forligsudvalget, står Rådet svagere i det videre forløb.

Det gælder navnlig, hvis Parlamentet godkender aftalen, mens Rådet siger nej. For så har Parlamentet det sidste ord at skulle have sagt og kan vedtage budgettet med de ændringsforslag fra førstebehandlingen, som Rådet ikke kunne acceptere. Er det derimod Rådet, som siger ja, mens Parlamentet forkaster kompromisforslaget, falder budgettet og Kommissionen må fremlægge et nyt budgetforslag.

Hvis der ikke opnås enighed i forligsudvalget, er forslaget til budget forkastet, og Kommissionen må forelægge et nyt forslag.

En anden vigtig nyskabelse med reformtraktaten er *traktatfæstelsen af brugen af flerårige finansielle rammer*, som i dag fastsættes på baggrund af aftaler mellem EU-

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<sup>12</sup> Forligsudvalg sammensættes af repræsentanter for Parlamentet og Rådet, ligesom Kommissionen deltager i forligningsarbejdet.



institutionerne. Siden 1987 har medlemsstaterne i EU aftalt flerårige udgiftslofter for budgettet for perioder på 5-7 år med henblik på at sikre bedre budgetdisciplin og fred mellem de to budgetmyndigheder. Med reformtraktaten skal de flerårige finansielle rammer fastlægges for en periode på mindst fem år med enstemmighed af Rådet efter godkendelse af Europa-Parlamentet.

Dog kan Det Europæiske Råd med enstemmighed beslutte at gøre det muligt for Rådet at vedtage fremtidige finansielle rammer med kvalificeret flertal i stedet for enstemmighed.

#### *Traktatrevisionsprocedurer*

Traktatændringer vil også i fremtiden kræve indkaldelse af en regeringskonference, samt godkendelse og ratifikation i alle medlemsstaterne i overensstemmelse med deres forfatningsmæssige bestemmelser<sup>13</sup>. Men med reformtraktaten introduceres en række nyskabelser, som skal gøre det enklere at foretage visse traktatrevisioner.

Som noget nyt vil regeringskonferencer f.eks. som udgangspunkt skulle forberedes af et Konvent sammensat af repræsentanter fra de nationale regeringer og parlamenter samt fra Europa-Parlamentet og Kommissionen, som det skete med forfatningstraktaten<sup>14</sup>. Konventet kan indkaldes af formanden for Det Europæiske Råd efter høring af Kommissionen og Europa-Parlamentet, hvis blot et simpelt flertal af medlemsstaterne (14 af 27 lande) støtter det. Konventet kan vedtage anbefalinger til regeringskonferencen, som dog står for den endelige og formelle fastlæggelse af ændringerne.

Som noget nyt får også Europa-Parlamentet en formel ret til at foreslå ændringer af traktaterne svarende til den som medlemsstaterne og Kommissionen har i dag.

Hertil kommer en række *forenklede procedurer* for ændringer af traktaterne, som indebærer, at man kan undlade at indkalde en regeringskonference eller et konvent<sup>15</sup>.

Bl.a. indføres en procedure for ændring af EU's *interne politikker*, som indebærer, at Det Europæiske Råd efter høring af Europa-Parlamentet med enstemmighed kan beslutte at revidere bestemmelserne i reformtraktatens Del III, afsnit III. Det må blot ikke medføre en udvidelse af EU's kompetencer. Der er dog fortsat krav om efterfølgende national godkendelse i overensstemmelse med landenes forfatningsmæssige bestemmelser.

Der etableres også en procedure, som kan bruges til at revidere visse af traktatens *afstemningsregler og beslutningsprocedurer* – ofte henvist til som en *passerelle*, hvilket på nudansk betyder gangbro. Denne passerelle tillader Det Europæiske Råd at gå fra et sæt afstemningsregler i Rådet til et andet - fra enstemmighed til kvalificeret flertal på

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<sup>13</sup> Se reformtraktaten TEU artikel 33 – nuværende TEU art. 48.

<sup>14</sup> Det Europæiske Råd kan dog med et simpelt flertal og efter Europa-Parlamentets godkendelse beslutte ikke at indkalde et konvent, hvis ændringernes omfang ikke berettiger hertil. I så fald fastlægges regeringskonferencens mandat af Det Europæiske Råd.

<sup>15</sup> De forenklede procedurer svarer alle i det store hele til de procedurer, som blev aftalt i forbindelse med forfatningstraktaten.

et politikområde eller gøre Europa-Parlamentet til Rådets medlovgiver på områder (almindelige lovgivningsprocedure), hvor det kun har en høringsret. Det Europæiske Råd træffer afgørelse om dette med enstemmighed efter godkendelse af Europa-Parlamentet. Der kræves her ikke efterfølgende national ratifikation. I stedet får EU's nationale parlamenter vetoret over for sådanne beslutninger<sup>16</sup>.

Endelig indføres nogle mere sektorspecifikke passereller, som inden for nærmere definerede områder kan bruges til at gå fra enstemmighed til kvalificeret flertal i Rådet. Det gælder f.eks. inden for den fælles udenrigs- og sikkerhedspolitik og i forbindelse med fastlæggelsen af den flerårige finansielle ramme for EU, hvor sådanne ændringer kan foretages uden godkendelse fra de nationale parlamenter. En tilsvarende procedure findes inden for familieret med grænseoverskridende virkninger, som kan gøre Europa-Parlamentet til Rådets medlovgiver ved at indføre den almindelige lovgivningsprocedure. Her etableres dog en særlig procedure, som gør det muligt for blot ét nationalt parlament at afvise et skift til den almindelige lovgivningsprocedure.

**Tabel 1: Passereller i reformtraktaten, som gør det muligt at overgå til kvalificeret flertal fra enstemmighed eller indføre fælles beslutningstagning mellem Rådet og Europa-Parlamentet på områder, hvor Parlamentet ikke er medlovgiver.**

Artikler i reformtraktaten	Emneområde	Formål med passerelle
TEU art. 33, stk. 2	<i>Generel passerelle</i> , som gør det muligt at ændre i del II af TEUF uden at udvide EU's kompetencer.	At ændre i del III af TEUF uden at udvide EU's kompetence.
TEU art. 33, stk. 3	<i>Generelle passerelle</i> vedrørende overgangen fra enstemmighed til kvalificeret flertal i Rådet samt for indførelsen af fælles beslutningstagning mellem Rådet og Europa-Parlamentet på områder, hvor Parlamentet ikke er medlovgiver.	Gå fra enstemmighed til kvalificeret flertal i Rådet eller indføre den almindelige lovgivningsprocedure på områder, hvor Parlamentet ikke er Rådets medlovgiver.
TEU art. 17, stk. 3	Fælles udenrigs- og sikkerhedspolitik (undtagen forsvar)	Gå fra enstemmighed til kvalificeret flertal <sup>17</sup> .
TEUF art. 270a, stk. 2	Flerårige finansielle ramme	Gå fra enstemmighed til kvalificeret flertal
TEUF art. 69d, stk. 4	Visse aspekter vedrørende familieret med grænseoverskridende virkning.	Gå fra høring af Europa-Parlamentet til den almindelige lovgivningsprocedure.
TEUF art. 280h,	Forstærket samarbejde (undtagen	Gå fra enstemmighed til kvalificeret flertal i Rådet eller

<sup>16</sup> De nationale parlamenter skal her gøre indsigelse inden for en frist på seks måneder.

<sup>17</sup> Gælder ikke for afgørelser, som har indvirkning på militær- eller forsvarsområdet.

stk. 1	forsvar)	indføre den almindelige lovgivningsprocedure på områder, hvor Parlamentet ikke er Rådets medlovgiver.
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## V. Kompetencefordelingen mellem EU og medlemsstaterne

Udgangspunktet i reformtraktaten er, som i de nuværende traktater, at Unionen kun kan handle inden for rammerne af de beføjelser og mål, som medlemsstaterne har tildelt den i traktaterne. EU's beføjelser er med andre ord fortsat underlagt *princippet om de tildelte kompetencer i reformtraktatens TEU artikel 5*. Det præciseres dog, at beføjelser, der ikke er tildelt Unionen, forbliver hos medlemsstaterne<sup>18</sup>.

Muligheden for at fastlægge og overvåge en mere præcis afgrænsning af kompetencefordelingen mellem EU og medlemsstaterne var et af de fire centrale spørgsmål om EU's fremtid, som blev rejst af stats- og regeringscheferne i erklæringen om EU's fremtid til Nice-traktaten, da hele diskussionen om en ny EU-traktat startede i 2000.

Det viste sig imidlertid hurtigt umuligt for medlemsstaterne at blive enige om et præcist og bindende kompetencekatalog under forhandlingerne om forfatningstraktaten. De fleste lande ønskede at bevare et mere fleksibelt system. I stedet valgte man med den nye traktat en løsning, hvor arbejdsdelingen mellem EU og medlemsstaterne *tydeliggøres* (TEUF artikel 2-6) ved at inddele EU's forskellige typer af beføjelser i følgende tre overordnede kompetencekategorier:

- enekompetencer,
- delte kompetencer, som deles mellem EU og medlemsstaterne,
- områder, hvor EU kan vedtage understøttende, koordinerende eller supplerende tiltag.

*Enekompetence* har Unionen på de områder, hvor kun den kan lovgive og vedtage bindende retsakter, mens *delt kompetence* giver både EU og medlemsstaterne mulighed for at udøve sådanne beføjelser. På områder hvor kompetencen deles, kan medlemsstaterne dog kun udøve beføjelserne i det omfang EU ikke har udnyttet sin kompetence eller er ophørt med at udøve den.

På de områder, hvor EU kun kan vedtage *understøttende og koordinerende tiltag*, er det medlemsstaterne, som især har ansvaret. EU har således ikke beføjelser til at harmonisere medlemsstaternes lovgivning, men alene beføjelser til at vedtage tiltag, (f.eks. programmer som fremmer studerendes mobilitet) som *understøtter, koordinerer eller supplerer* medlemsstaternes indsats.

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<sup>18</sup> TEU artikel 4, stk. 1.

Hertil kommer et par områder, som falder uden for de tre nævnte kompetencekategorier, nemlig den fælles udenrigs- og sikkerhedspolitik og samordningen af de økonomiske politikker og beskæftigelsen i medlemsstaterne.

Afslutningsvis skal det understreges, at der med reformtraktatens nye bestemmelser ikke er tale om, at man etablerer nye EU-kompetencer eller kompetencekategorier, men blot, at man kodificerer gældende retspraksis fra EF-domstolen. Formålet med opdelingen er først og fremmest at skabe overblik. Den mere præcise afgrænsning af EU's kompetence på de enkelte politikområder fastsættes fortsat i de konkrete retsgrundlag i traktaterne.

**Tabel 2: EU's kompetenceområder<sup>19</sup>**

Områder med enekompetence	Områder med delt kompetence	Områder, hvor EU kan vedtage understøttende og koordinerende tiltag	Andre områder, hvor både EU og medlemsstaterne er kompetente, men ikke hører under de tre kompetencekategorier.
Toldunionen	Det indre marked	Beskyttelse af menneskers sundhed	Samordning af de økonomiske politikker og beskæftigelsespolitikken
Fastlæggelse af de konkurrenceregler, der er nødvendige for det indre markeds funktion	Social og arbejdsmarkedspolitikken	Industri	Fælles udenrigs og sikkerhedspolitik
Den monetære politik	Økonomisk, social og territorial samhørighed	Kultur	Forskning, teknologisk udvikling og rumpolitik
Bevarelse af havets biologiske ressourcer inden for rammerne af den fælles fiskeripolitik	Landbrug og fiskeri (undtagen havets biologiske ressourcer)	Turisme	Udviklingssamarbejde og humanitær bistand
Den fælles handelspolitik	Miljø	Uddannelse, ungdom, sport og erhvervsuddannelse	

<sup>19</sup> Der er her tale om en udtømmende liste over områder, hvor EU har enekompetence, ligesom listen over områder, hvor EU kun kan vedtage understøttende tiltag. Listen over områder med delte kompetencer er derimod ikke-udtømmende.

Indgåelse af internationale aftaler, når indgåelsen har hjemmel i en lovgivningsmæssig retsakt, mv.	Forbrugerbeskyttelse	Civil beskyttelse	
	Transport	Administrativt samarbejde	
	Transeuropæiske net		
	Energi		
	Frihed sikkerhed og retfærdighed		
	Fælles sikkerhedsudfordringer på folkesundhedsområdet		

## VI. Mål og værdier

Med reformtraktaten tydeliggøres EU-samarbejdets mål og værdigrundlag.

Det sker gennem en opregning og udbygning af EU's grundlæggende værdier og mål i traktatens begyndelse, hvor man i to separate artikler fastsætter disse (TEU artikel 2 og 3).

Ifølge reformtraktaten bygger EU på værdierne om respekt for den menneskelige værdighed, frihed, demokrati, ligestilling, retsstaten og respekten for menneskerettighederne, herunder rettigheder for personer, som tilhører mindretal.

Værdierne frihed, demokrati, respekt for menneskerettighederne og retsstatsprincippet genfindes i det eksisterende traktatgrundlag<sup>20</sup>, mens bl.a. respekten for den menneskelige værdighed, lighed og mindretalsrettigheder, samt henvisningen til medlemsstaternes fælles værdigrundlag i et samfund præget af pluralisme, ikkeforskelsbehandling, tolerance, retfærdighed, solidaritet og ligestilling mellem kvinder og mænd, er tilføjelser.

Disse fælles værdier er ikke bare deklamatoriske, men spiller en central rolle i forbindelse med optagelsen af nye medlemslande, som skal overholde disse for at komme med i EU, ligesom medlemsstater, som groft og vedvarende krænker disse værdier, risikerer at få suspenderet visse af deres rettigheder.

Unionens mål, som beskrives i TEU artikel 3, er i vidt omfang en sammenskrivning af de gældende målsætningsbestemmelser i TEU og TEF, som dog er forenklet og juste-

<sup>20</sup> TEU artikel 6, stk. 1.

ret på en række punkter. Bl.a. har man efter ønske fra Frankrig fjernet henvisningen til, at konkurrencen på Unionens indre marked ikke må fordrejes<sup>21</sup>.

Målene sammenfattes i TEU artikel 3 til at være:

- fremme af freden, Unionens værdier og befolkningernes velfærd,
- et område med frihed, sikkerhed og retfærdighed uden indre grænser
- et indre marked samt bæredygtig udvikling i Europa baseret på en afbalanceret økonomisk vækst og prisstabilitet, en social markedsøkonomi med høj konkurrenceevne, hvor der tilstræbes fuld beskæftigelse og sociale fremskridt, og et højt niveau for beskyttelse og forbedring af miljøkvaliteten,
- fremme af videnskabelige og teknologiske fremskridt,
- bekæmpelse af social udstødelse og forskelsbehandling og fremme af social retfærdighed og beskyttelse, ligestilling mellem kvinder og mænd, solidaritet mellem generationerne og beskyttelse af børns rettigheder,
- fremme af økonomisk, social og territorial samhørighed og solidaritet mellem medlemsstaterne,
- respekt for medlemsstaternes rige kulturelle og sproglige mangfoldighed og sikring af den europæiske kulturarvs beskyttelse og sikring,
- forsvar og fremme af Unionens værdier og interesser i forbindelse med den øvrige verden,
- bidrag til fred, sikkerhed, bæredygtig udvikling af jorden, mellemfolkelig solidaritet og gensidig respekt, fri og fair handel, udryddelse af fattigdom og beskyttelse af menneskerettighederne, især børns rettigheder, samt nøje overholdelse og udvikling af folkeretten, navnlig overholdelse af principperne i FN-pagten.

## VII. Grundlæggende rettigheder

Borgernes grundlæggende rettigheder og menneskerettighederne får en central placering med reformtraktaten.

Det sker først og fremmest ved, at EU's *Charter om grundlæggende rettigheder* gøres juridisk bindende, og ved at EU får beføjelser til at tiltræde den Europæiske Menneskerettighedskonvention<sup>22</sup>.

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<sup>21</sup> Dog fastslås det i reformtraktatens protokol nr. 6, at de høje kontraherende parter finder, at det indre marked jf. TEU artikel 3 omfatter et system, der sikrer, at konkurrencen ikke forvrides.

<sup>22</sup> EU's Charter om grundlæggende rettigheder blev udarbejdet af et Konvent i 1999-2000 og blev højtideligt erklæret af Det Europæiske Råd den 7. december 2000 sammen med Europa-Parlamentet og Kommissionen. Charteret undergik dog i forbindelse med forhandlingerne om forfatningstraktaten nogle mindre ændringer. Bl.a. udbyggede man charterets tværgående af-

### *Charteret om grundlæggende rettigheder*

Charteret om grundlæggende rettigheder gøres retligt bindende ved, at der laves en *henvisning* i reformtraktatens TEU artikel 6, stk. 1, hvor det bekræftes, at "Unionen anerkender de rettigheder, friheder og principper, der er fastslået i charteret om grundlæggende rettigheder, ... der har samme juridiske værdi som traktaterne"<sup>23</sup>. Charteret skrives således ikke ind i selve traktatteksten - som det skete i forfatningstraktaten.

EU's institutioner forpligtes dermed til at overholde charteret for grundlæggende rettigheder ligesom medlemsstaternes myndigheder gør det i forbindelse med gennemførelsen af EU-retten.

Charteret er bygget på eksisterende menneskerettighedsforpligtelser og principper hidrørende fra regelsæt fra Europarådet, FN, EU-retten og medlemsstaternes fælles forfatningsmæssige traditioner. Charteret etablerer således ikke nye eller udvidede rettigheder, men synliggør rettigheder, som EF-domstolen allerede i dag kan påse overholdelsen af.

Dette forhold understreges bl.a. i TEU artikel 6, stk.1, hvor det fastslås, at charterets bestemmelser ikke på nogen måde udvider Unionens beføjelser. Samme budskab gentages i selve charteret, hvor det præciseres, at charteret "ikke udvider anvendelsesområdet for EU-retten ud over Unionens kompetencer og skaber ingen nye kompetence eller nye opgaver for Unionen og ændrer ikke de kompetencer og opgaver, der er fastlagt i traktaterne"<sup>24</sup>.

Storbritannien har fået tilkæmpet sig et forbehold over for charteret. Det hedder således i protokol nr. 7 til reformtraktaten, at chartret "ikke giver øget kompetence til Domstolen eller til nogen domstol i Det Forenede Kongerige til at træffe kendelse om, at Det Forenede Kongeriges love, forordninger og administrative bestemmelser er i strid med rettigheder, friheder og principper i charteret, samt navnlig at charterets afsnit IV om arbejdstagerrettigheder ikke skaber rettigheder, som kan håndhæves juridisk i Det Forenede Kongerige med mindre Det Forenede Kongerige selv har taget højde for disse i national ret"<sup>25</sup>.

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snit om charterets rækkevidde og fortolkning, samt gjorde de af Konventet udarbejdede "fortolkende bemærkninger" til obligatoriske fortolkningsbidrag for domstolene.

<sup>23</sup> Charterets tekst offentliggøres i Den Europæiske Unions Tidende i den version, som stammer fra forfatningstraktaten.

<sup>24</sup> Se artikel II-111, stk. 2 i charteret om grundlæggende rettigheder.

<sup>25</sup> Polen har desuden tilkendegivet i en erklæring til regeringskonferencen, at charteret på ingen måde har indflydelse på "medlemsstaternes ret til at lovgive inden for området offentlig moral, familieret, samt for så vidt angår beskyttelsen af den menneskelige værdighed og respekten for menneskets fysiske og moralske integritet".

### *Tiltrædelse af EMRK*

Den Europæiske Menneskerettighedsdomstol kan i dag ikke behandle klager over EU, hvis Unionen skulle krænke Den Europæiske Menneskerettighedskonvention (EMRK), idet EU ikke har tiltrådt denne. Det skyldes bl.a., at EU ikke hidtil har haft den fornødne hjemmel i traktaterne til at tiltræde EMRK.

Det lægger reformtraktaten op til skal være slut. I hvert fald tilvejebringes med reformtraktaten et nyt retsgrundlag som sikrer, at EU vil kunne tiltræde EMRK, ligesom det også gøres til et klart *mål* for EU at tiltræde konventionen.

Internt i EU vil tiltrædelsen kræve en enstemmig beslutning i Ministerrådet samt efterfølgende national ratifikation i overensstemmelse med medlemsstaternes forfatningsmæssige bestemmelser<sup>26</sup>.

Der vil dog også være behov for en tilpasning af EMRK, idet det i dag kun er stater, som kan tiltræde EMRK.

## **VIII. Reformtraktaten og ændringer i politikområderne**

EU får med reformtraktaten kun nye beføjelser på meget få områder.

På langt størstedelen af de eksisterende politikområder sker der ingen substantielle ændringer, bortset fra, at det bliver lettere for EU at anvende sine beføjelser til at vedtage fælles regler, hvor EU går fra enstemmighed i Rådet til kvalificeret flertal.

Der oprettes dog en række nye specifikke retsgrundlag i reformtraktaten som f.eks. bestemmelserne om beskyttelse af intellektuelle ejendomsrettigheder samt de nye retsgrundlag for en europæisk rumpolitik, energipolitik, turisme, sport, civilt beredskab og humanitær bistand. Men EU er allerede i stand til at vedtage forskellige typer af regler på disse områder ved hjælp af bl.a. TEF artikel 308 eller TEF artikel 95<sup>27</sup>.

Men disse retsgrundlag er med til at gøre det klart, hvad EU's målsætninger og beslutningsprocedurer for disse samarbejdsområder er.

På *energiområdet* oprettes eksempelvis et retsgrundlag som fastslår, at Unionens politik på energiområdet *i en ånd af solidaritet* har til formål at sikre:

1) energimarkedets funktion, 2) energiforsyningssikkerheden i EU samt 3) fremme af energieffektivitet og energibesparelser samt udviklingen af nye og vedvarende energikilder<sup>28</sup>.

Der sker dog også en præcisering eller udbygning af nogle af bestemmelserne i det eksisterende traktatgrundlag.

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<sup>26</sup> Se TEUF art. 188n, stk. 8.

<sup>27</sup> Se Justitsministeriets redegørelse om forfatningstraktaten af 22. november 2004.

<sup>28</sup> TEUF art. 176a.



Det sker f.eks. på *miljøområdet*, hvor det præciseres, at EU's målsætninger om at fremme internationalt samarbejde om miljøproblemer navnlig omfatter *bekæmpelse af klimaforandringer*<sup>29</sup>.

Inden for samarbejdet om koordinering af *social sikring for vandrede arbejdstagere* indføres en *nødbremse*, som gør det muligt for en medlemsstat at blokere for et forslag, hvis medlemsstaten erklærer, at det vil berøre vigtige aspekter af dens sociale sikringssystem<sup>30</sup>.

## IX. EU's fælles udenrigs- og sikkerhedspolitik

Et væsentligt formål med reformtraktaten er at gøre EU i stand til at påtage sig et større globalt ansvar. Reformtraktaten følger i den forbindelse forfatningstraktaten på det udenrigs- og sikkerhedspolitiske område.

Med reformtraktaten fastholdes den fælles udenrigs- og sikkerhedspolitik som et grundlæggende mellemstatsligt samarbejde, der ligger i hænderne på de to EU-institutioner, hvor regeringerne er direkte repræsenteret: Det Europæiske Råd og Ministerrådet.

Samarbejdets mellemstatslige karakter understreges bl.a. ved, at det i reformtraktaten udtrykkeligt *udelukkes*, at de to institutioner kan vedtage lovgivningsmæssige retsakter inden for den fælles udenrigs- og sikkerhedspolitik, samt ved, at EU-domstolen ikke har nogen rolle med undtagelse af begrænsede beføjelser til at vurdere overholdelsen af "ikke-berøringsklausulen" i TEUF art. 25 samt lovligheden af visse afgørelser<sup>31</sup>.

Vedtagelsen af afgørelser inden for den fælles udenrigs- og sikkerhedspolitik vil ligeledes som hovedregel fortsat foregå med enstemmighed i Rådet eller i Det Europæiske Råd. Kvalificeret flertal vil, som i dag, kun kunne anvendes, hvis Rådet vedtager *EU-aktioner* eller *EU-holdninger* på basis af afgørelser om Unionens strategiske interesser og mål fra Det Europæiske Råd samt i forbindelse med *gennemførelsen* af EU-aktioner eller EU-holdninger<sup>32</sup>. Som noget nyt vil kvalificeret flertal også kunne anvendes i tilfælde, hvor der foreligger et forslag fra Den Højststående Repræsentant efter en specifik anmodning fra Det Europæiske Råd.

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<sup>29</sup> Se TEUF art. 174a.

<sup>30</sup> Det foregår i praksis ved at forslaget henvises til det til Det Europæiske Råd, som så skal se nærmere på det. Hvis Det Europæiske Råd undlader at handle inden for fire måneder efter det har fået forelagt forslaget, betragtes det som bortfaldet.

<sup>31</sup> Se TEUF art. 240a.

<sup>32</sup> Endelig gør reformtraktaten det muligt for Det Europæiske Råd med enstemmighed – men uden national ratifikation – at beslutte at udvide anvendelsesområdet for kvalificeret flertal inden for den fælles udenrigs- og sikkerhedspolitik. Dette gælder dog ikke for afgørelser, som har indvirkning på militær- eller forsvarsområdet

Den eksisterende nødbremse bevares dog, således at Rådet som i dag kan henvise en sag, hvor der skal træffes beslutning med kvalificeret flertal til Det Europæiske Råd, hvis en medlemsstat erklærer, at det af *vitale* årsager agter at stemme imod vedtagelsen af afgørelsen<sup>33</sup>. Som noget nyt får EU's Højtstående Repræsentant til opgave sammen med medlemsstaten at forsøge at finde en acceptabel løsning på problemet før sagen sendes til Det Europæiske Råd<sup>34</sup>.

Navnlig to nydannelser i reformtraktaten på det udenrigs- og sikkerhedspolitiske område skal nævnes her:

- Styrkelsen af den højtstående Repræsentant for den fælles udenrigs- og sikkerhedspolitik,
- Øget mulighed for samarbejde om forsvarspolitik

#### *Den Højtstående Repræsentant*

En central målsætning med reformtraktaten er at få en bedre koordination af EU's eksterne politikker, og dermed EU's evne til at tale med én stemme.

Dette forsøges bl.a. opnået ved en styrkelse af EU's "Højtstående Repræsentant for udenrigs- og sikkerhedspolitiske anliggender", som fremover under sig vil samle de eksisterende opgaver for:

- den højtstående repræsentant,
- det halvårlige roterende formandskab for Rådet for udenrigspolitiske anliggender,
- EU-kommissæren for eksterne forbindelser.

Den nye Højtstående Repræsentant bliver både fast formand for Rådet for udenrigspolitiske anliggender og fuldgældigt medlem af Kommissionen med ansvar for udenrigspolitiske spørgsmål.

Den Højtstående Repræsentant udpeges af Stats- og regeringscheferne i Det Europæiske Råd efter aftale med EU-Kommissionens formand. Endelig vil den nye Højtstående Repræsentant også som led i godkendelsen af den samlede Kommission skulle accepteres af Europa-Parlamentet.

Den Højtstående Repræsentant bistås af en "*Tjeneste for EU's optræden udadtil*", som sammensættes af embedsmænd fra de relevante enheder i Generalsekretariatene for Ministerrådet og Europa-Kommissionen samt fra medlemsstaternes diplomatiske tjenester.

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<sup>33</sup> I TEU art. 23 tales der om, at "et medlem af Rådet erklærer, at det af "*vigtige*"...årsager.... Vigtige erstattes i reformtraktatens TEU art. 17 med "*vitale*".

<sup>34</sup> Det Europæiske Råd træffer som i dag beslutning med enstemmighed.

### *Den fælles sikkerheds- og forsvarspolitik*

Reformtraktaten bevarer grundtrækkene fra EU's eksisterende fælles "sikkerheds- og forsvarspolitik". Målet er stadig en gradvis udvikling af en fælles EU forsvarspolitik, som med tiden kan føre til et fælles EU forsvar. Dette forudsætter dog stadig en enstemmig beslutning i Det Europæiske Råd.

Hovedsigtet med den fælles sikkerheds- og forsvarspolitik er, at EU skal kunne varetage krisestyringsopgaver – de såkaldte Petersbergopgaver – med anvendelsen af såvel civile som militære midler, som stilles til rådighed af medlemsstaterne. Reformtraktaten ajourfører, hvilke typer af opgaver der kan være tale om. Det drejer sig om<sup>35</sup>:

- Fælles aktioner på nedrustningsområdet,
- Humanitære opgaver og redningsopgaver,
- Rådgivnings- og bistandsopgaver på det militære område,
- Konfliktforebyggende og fredsbevarede opgaver,
- Kampstyrkers opgaver i forbindelse med krisestyring, herunder fredsskabelse og postkonflikt-stabiliseringsoperationer.

Som noget nyt kan det overlades til en gruppe af medlemsstater at varetage disse opgaver, som så stiller den nødvendige militære eller civile kapacitet til rådighed. Dette har dog bl.a. allerede fundet sted i forbindelse med EU-operationen i Congo i 2003, hvor det kun var en mindre gruppe af lande, som deltog.

EU har ikke altid tilstrækkelig kapacitet til at påtage sig sådanne opgaver. Et vigtigt mål med reformtraktaten er derfor også at bidrage til en gradvis opbygning af den nødvendige kapacitet. Reformtraktaten forpligter bl.a. derfor medlemsstaterne til gradvist at forbedre deres militære kapacitet. Som noget nyt indføres en mulighed for, at medlemsstater kan gå sammen i et "*permanent struktureret samarbejde*" om udviklingen af militær kapacitet – f.eks. deltagelse i samarbejdsprogrammer for udvikling af forsvarsmateriel.

Til at bistå med udviklingen af den militære kapacitet oprettes et europæisk agentur for forsvarsmateriel, forskning og militær kapacitet<sup>36</sup>.

Ansvar for den mere konkrete fastlæggelse af et lands militære kapacitet forbliver dog et nationalt anliggende.

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<sup>35</sup> Det fastslås desuden, at disse opgaver kan bidrage til bekæmpelse af terrorisme.

<sup>36</sup> Ministerrådet vedtog dog allerede den 12. juli 2004 en fælles aktion om oprettelsen af Det Europæiske Forsvarsagentur.

## X. Samarbejdet om retlige og indre anliggender

Med reformtraktaten ophæves den nuværende opdeling af EU's samarbejde om retlig og indre anliggender i et *overstatsligt* samarbejde om grænsekontrol, asyl og indvandring og et *mellemstatslig* om politi og strafferet.

Hele samarbejdet samles i stedet inden for én overstatslig ramme, hvilket indebærer, at næsten hele spektret af emner inden for samarbejdet om for retlige og indre anliggender vil skulle vedtages med kvalificeret flertal i Rådet efter fælles beslutningstagen med Europa-Parlamentet (almindelig lovgivningsprocedure). Regler vedrørende asyl, indvandring og kontrollen med de ydre grænser overgår helt til at skulle vedtages efter ovenstående procedurer, mens man på enkelte særligt følsomme områder inden for det strafferetlige område og politisamarbejdet bevarer enstemmighed. Det gælder f.eks. vedtagelsen af bestemmelser inden for familieretten eller i forbindelse med oprettelsen af en Europæisk Anklagemyndighed. For at gøre skiftet på det strafferetlige område fra enstemmighed til kvalificeret flertal mere spiseligt, indføres en særlig nødbremse, som gør det muligt for medlemsstater at blokere for et forslag,

### Nødbremse på det strafferetlige område

Nødbremsen inden for samarbejdet om strafferet blev blandt forhandlerne kaldt "bremse-acceleratoren", fordi den både tilgodeser de lande, som er mere tvivlende og de lande, som ønsker at gå videre. Bremse-acceleratoren gør det muligt for en medlemsstat, som vurderer, at et forslag inden for samarbejdet om strafferet eller politi vil berøre grundlæggende aspekter af dets strafferetlige system, at anmode om, at forslaget forelægges Det Europæiske Råd. Behandlingen af forslaget i Rådet og Parlamentet sættes dermed i stå i fire måneder inden for hvilke Det Europæiske Råd kan beslutte enten at anmode om at der fremsættes et nyt forslag eller sende forslaget tilbage til behandling i Rådet.

Til gengæld gives en gruppe af medlemsstater en særlig adgang til at indføre et forstærket samarbejde, hvis Det Europæiske Råd ikke har handlet inden for denne periode eller, hvis forslaget ikke er vedtaget inden for 12 måneder efter forelæggelsen af et nyt forslag.

hvis de mener, det vil berøre grundlæggende aspekter af deres strafferetlige system. Samtidig gives dog lande, som ønsker at gå videre, en særlig adgang til at indføre et forstærket samarbejde på det pågældende område.

Retten til at fremsætte forslag på området for indre retlige anliggender ligger som udgangspunkt hos Kommissionen, men på det strafferetlige område og inden for politisamarbejdet bevares en delt initiativret mellem Kommissionen og medlemsstaterne<sup>37</sup>.

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<sup>37</sup> Ifølge TEUF art. 68 kan såvel Kommissionen som en gruppe på en fjerdedel af EU's medlemsstater fremsætte forslag til retsakter inden for samarbejdet om strafferet og politi.

Endelig lægges hele samarbejdet om indre og retlige anliggender under EU-domstolens kontrol<sup>38</sup>.

Nogle enkelte kommentarer skal knyttes til samarbejdet om strafferet og politi, som fortsat bevarer visse særtræk.

#### *Samarbejde om strafferet og politi*

Med reformtraktaten afskaffes som sagt den mellemstatslige arbejdsform inden for samarbejdet om strafferet og politi. Det bliver dermed muligt for EU at vedtage minimumsregler i form af direktiver som fastsætter, *hvad der skal anses for strafbare handlinger samt for straffene herfor*. Dette gælder dog som udgangspunkt kun på følgende typer af kriminalitet af særlig grov karakter, som har en grænseoverskridende dimension: *terrorisme, menneskehandel og seksuel udnyttelse af kvinder og børn, ulovlig narkotikahandel, ulovlig våbenhandel, hvidvaskning af penge, forfalskning af betalingsmidler, edb-kriminalitet og organiseret kriminalitet*. Denne liste kan udvides af Ministerrådet til også at omfatte andre typer af kriminalitet<sup>39</sup>.

Hertil kommer, at EU også inden for andre politikområder, hvor EU kan vedtage harmoniseret lovgivning, kan fastsætte minimumsregler for, hvad der udgør strafbare handlinger samt for straffene herfor, hvis en tilnærmelse af medlemsstaternes straffretlige bestemmelser er nødvendig af hensyn til en effektiv gennemførelse af EU's politik.

Reformtraktaten gør det desuden muligt for EU at oprette en *europæisk anklagemyndighed*, hvilket kan vedtages af Rådet med enstemmighed efter godkendelse i Europa-Parlamentet. Anklagemyndighedens virkefelt vil som udgangspunkt være koncentreret om lovovertrædelser, der skader EU's finansielle interesser. Men Det Europæiske Råd kan udvide anklagemyndighedens beføjelser til også at vedrøre grov kriminalitet med en grænseoverskridende dimension.

Der sker også en vis udvidelse af Eurojust's opgaver til at iværksætte efterforskning af straffesager.

Endelig tildeler reformtraktaten de nationale parlamenter en særlig funktion i relation til overvågningen af samarbejdet om strafferet og politi. Det gælder både i forhold til kontrollen med EU-institutionernes overholdelse af nærhedsprincippet inden for dette område, samt sammen med Europa-Parlamentet i overvågningen af Europol og Eurojust.

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<sup>38</sup> Domstolen får dog ikke kompetence til at prøve gyldigheden eller proportionaliteten af operationer, som udføres af en medlemsstats politi eller andre retshåndhævende myndigheder, eller udøvelsen af medlemsstaternes beføjelser med hensyn til opretholdelsen af lov og orden og beskyttelse af den indre sikkerhed.

<sup>39</sup> Ministerrådet kan med enstemmighed beslutte at udvide listen til at omfatte andre typer af kriminalitet.

### *Danmarks forbehold*

På grund af sit forbehold over for deltagelsen i overstatslig regulering af retlige og indre anliggender, vil Danmark som udgangspunkt stå uden for hele reformtraktatens samarbejde på dette område. Dette betyder i praksis en udvidelse af forbeholdet til også at gælde for samarbejdet om strafferet og politi, som i dag foregår på et mellemstatsligt grundlag og dermed er et område, som Danmark deltager fuldt ud i.

Med reformtraktaten gives Danmark desuden en mulighed for at beslutte at omdanne det retlige danske forbehold fra en (*opt-out*) ordning, hvor Danmark slet ikke kan deltage i overstatsligt samarbejde til en tilvalgsordning (*opt-in*), hvor vi kan vælge at deltage i såvel vedtagelsen som anvendelsen af fælles overstatslige EU-regler. Tilvalgsordningen er inspireret af den ordning, som Irland og Storbritannien i dag har på visse områder inden for retlige og indre anliggender.

En sådan ændring af det danske forbehold vil dog først skulle godkendes i Danmark efter vore forfatningsmæssige bestemmelser.

### **XI. Danmarks forbehold**

Med reformtraktaten bevares Danmarks fire forbehold over for EU-samarbejdet om unionsborgerskab, euro, forsvar og deltagelse i overstatsligt samarbejde om retlige og indre anliggender.

Indholdet af den nuværende forbeholdsprotokol (nr. 5) om "Danmarks stilling", som blev vedtaget med Amsterdam-traktaten i 1997 overføres til reformtraktaten i den ændrede version, som man opnåede enighed om under forhandlingerne om forfatningstraktaten.

Det betyder navnlig, at Danmark får ret til at omdanne sit forbehold på området for retlige og indre anliggender til en tilvalgsordning, så det bliver muligt for Danmark at træffe beslutning om deltagelse i overstatsligt samarbejde om retlige og indre anliggender fra sag til sag. For yderligere information om det retlige forbehold henvises til ovenstående afsnit X om samarbejdet om retlige og indre anliggender.

Med venlig hilsen

Morten Knudsen  
(3695)

## Folketinget – Europaudvalget

Christiansborg, den 11. juli 2007

Folketingets repræsentant ved EU

Til

udvalgets medlemmer og stedfortrædere

### **Europa-Parlamentet ønsker fortsat reformarbejde efter reformtraktatens vedtagelse**

#### *Resumé*

Europa-Parlamentet har vedtaget sin udtalelse om den kommende regeringskonference om reformtraktaten. Heri udtrykker Parlamentet tilfredshed med det Det Europæiske Råds mandat til regeringskonferencen, men Parlamentet mener ikke, at mandatet i tilstrækkelig grad løser EU's problemer. Derfor ønsker Parlamentet, at påbegynde endnu en traktatreformproces allerede i 2009.

Også Kommissionen har vedtaget sin udtalelse om regeringskonferencen og understreger vigtigheden af, at tidsplanen for reformprocessen overholdes.

#### **Europa-Parlamentets udtalelse om regeringskonferencen**

Med 526 stemmer for og 138 imod<sup>1</sup> vedtog Europa-Parlamentet den 11. juli 2007 sin formelle udtalelse til den fremtidige regeringskonference om reformtraktaten<sup>2</sup>.

Europa-Parlamentet er overvejende tilfreds med det forhandlingsmandat til regeringskonferencen, som Det Europæiske Råd enedes om den 21.-23. juni 2007. Dog fremhæver Parlamentet i sin udtalelse, at mandatet ikke i tilstrækkelig grad tager de nye udfordringer op, som Unionen er blevet

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<sup>1</sup> Desuden afstod 26 fra at stemme.

<sup>2</sup> Europa-Parlamentets udtalelse er vedtaget med henvisning til EU-traktatens art. 48, som bestemmer, at Parlamentet skal høres i forbindelse med indkaldelse af en regeringskonference om traktatændringer. Betænkningen er vedlagt i den foreløbige danske oversættelse.

konfronteret med siden 2004. Derfor annoncerer Parlamentet i udtalelsen "*sin faste beslutning om efter valget i 2009 at fremsætte nye forslag til en yderligere forfatningsmæssig ordning for unionen*". Parlamentet fremsætter sit ønske om endnu en traktatreform med henvisning til forfatningstraktatens artikel IV-443, som giver Parlamentet en ny beføjelse til at forelægge Rådet forslag til revision af EU's traktater. Denne bestemmelse videreføres i reformtraktaten, og Parlamentet ønsker således hurtigst muligt at gøre brug af den nye beføjelse.

I udtalelsen hilser Parlamentet formandskabets hurtige indkaldelse af regeringskonferencen velkommen<sup>3</sup>. Desuden er Parlamentet tilfreds med, at meget af substansen fra forfatningstraktaten bibeholdes samt med tilføjes af nye bestemmelser om klimaændringer og solidaritet på energiområdet.

Parlamentet anser det imidlertid for et alvorligt tilbageslag, at mandatet giver nogle medlemsstater mulighed for forbehold over for Charteret for Grundlæggende Rettigheder og beklager den manglende inklusion af Unionens symboler i reformtraktaten.

Under behandlingen af udtalelsen har både Parlamentet og Kommissionen gentagne gange advaret medlemsstaterne kraftigt imod at genåbne det kompromis om mandatet, som blev indgået af Det Europæiske Råd.

### **Kommissionens udtalelse om regeringskonferencen**

Kommissionen vedtog sin udtalelse om regeringskonferencen den 10. juli 2007. Kommissionen mener, at Det Europæiske Råds mandat til regeringskonferencen er et nødvendigt og afbalanceret kompromis, og at det udgør den rette basis for en hurtig og effektiv regeringskonference. Kommissionen lægger særligt vægt på, at tidsplanen for reformprocessen bør overholdes således, at en ny traktat kan være ratificeret inden Europa-Parlamentsvalget i juni 2009.

Med venlig hilsen  
Signe Riis Andersen og Anders Johnsen  
(36 96 og 111 73)

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<sup>3</sup> Ifølge det portugisiske formandskab vil regeringskonferencen blive indledt den 23. juli 2007 og den forventes afsluttet den 18.-19. oktober 2007.



## **P6\_TA-PROV(2007)0328**

### **Indkaldelse af regeringskonferencen (EU-traktatens artikel 48)**

#### **Europa-Parlamentets beslutning af 11. juli 2007 om indkaldelse af regeringskonferencen - Europa-Parlamentets udtalelse (EU-traktatens artikel 48) (11222/2007 - C6-0206/2007 - 2007/0808(CNS))**

*Europa-Parlamentet,*

- der henviser til artikel 48, stk. 2, i traktaten om Den Europæiske Union i henhold til hvilken Rådet hørte Parlamentet (C6-0206/2007),
- der henviser til traktaten om Den Europæiske Union og traktaten om oprettelse af Det Europæiske Fællesskab,
- der henviser til traktaten om en forfatning for Europa, undertegnet i Rom den 29. oktober 2004 (herefter "forfatningstraktaten"),
- der henviser til Den Europæiske Unions charter om grundlæggende rettigheder som undertegnet og proklameret i Nice den 7. december 2000,
- der henviser til Laeken-erklæringen af 15. december 2001 om Den Europæiske Unions fremtid,
- der henviser til Berlin-erklæringen af 25. marts 2007 i anledning af halvtredsårsdagen for undertegnelsen af Rom-traktaterne,
- der henviser til sine beslutninger af 12. januar 2005 om traktaten om en forfatning for Europa<sup>1</sup> og 7. juni 2007 om køreplanen for Unionens forfatningsproces<sup>2</sup>,
- der henviser til Det Europæiske Økonomiske og Sociale Udvalgs udtalelse af 30. maj 2007 om en køreplan for forfatningsprocessen og til Regionsudvalgets udtalelse om relancering af EU-reformprocessen med henblik på Det Europæiske Råds møde den 21.-22. juni 2007,
- der henviser til det fælles parlamentariske møde om Europas fremtid, der fandt sted i Bruxelles den 11.-12. juni 2007,
- der henviser til formandskabets konklusioner fra Det Europæiske Råd i Bruxelles den 21.-22. juni 2007, som fastsætter mandatet til indkaldelse af regeringskonferencen,
- der henviser til betænkning fra Udvalget om Konstitutionelle Anliggender (A6-0279/2007),

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<sup>1</sup> EUT C 247 E af 6.10.2005, s. 88.

<sup>2</sup> Vedtagne tekster, P6\_TA(2007)0234.

- A. der henviser til, at to års tænkepause om Europas fremtid har bekræftet behovet for at beskytte og forbedre indholdet i forfatningstraktatens nyskabelser for så vidt angår demokrati, effektivitet og gennemsigtighed for at sikre, at Den Europæiske Union kan fungere efter hensigten og for at styrke borgernes rettigheder samt Unionens rolle i verden;
  - B. der henviser til, at dette synspunkt i vid udstrækning deles af medlemsstaternes nationale parlamenter og Europa-Parlamentet, hvis repræsentanter skabte grundlaget for disse nyskabelser på konventet, der havde til opgave at udarbejde charteret om grundlæggende rettigheder, og Det Europæiske Konvent;
  - C. der henviser til, at Det Europæiske Råd i juni 2007 nåede til enighed om at indkalde en regeringskonference med mandat til at ændre størstedelen af nyskabelserne i forfatningstraktaten til ændringer af de gældende traktater;
  - D. der henviser til, at dette mandat er meget præcist og også sætter regeringskonferencen i stand til hurtigt at nå til enighed om ændring af en række nyskabelser i forfatningstraktaten uden fare for dens indhold;
  - E. der henviser til, at mandatet imidlertid opgiver ambitionen om at udarbejde en fælles forfatningstraktat til erstatning af de allerede eksisterende traktater, går bort fra en terminologi, der ville give borgerne en klar forståelse af karakteren af Unionens retsakter, fravælger et sæt symboler, der ville gøre det lettere for borgerne at identificere sig med Den Europæiske Union, og indeholder adskillige muligheder for ikke-deltagelse på bestemte områder, hvor individuelle medlemsstater har anført at have vanskeligheder;
  - F. der henviser til, at mandatet ikke i tilstrækkelig grad tager de nye udfordringer op, som Unionen er blevet konfronteret med siden undertegnelsen af forfatningstraktaten;
  - G. der henviser til, at Europa-Parlamentet som den eneste institution i Unionen, der er valgt direkte af borgerne, er forpligtet til at give udtryk for Den Europæiske Unions fælles interesse i at styrke den europæiske opbygning og fællesskabsmetoden, som i over halvtreds år har været en kilde til fred, stabilitet og velstand;
1. værdsætter den indsats, det tyske rådsformandskab gjorde for at opnå fuld enighed på topmødet den 21.-22. juni 2007;
  2. noterer sig det mandat til regeringskonferencen, som Det Europæiske Råd nåede til enighed om; værdsætter dets udførlighed og præcision og den stramme tidsplan, der er fastsat for regeringskonferencens gennemførelse, og opfordrer medlemsstaterne til ikke at trække de tilsagn tilbage, de gav under Det Europæiske Råds møde; stiller sig positivt til indkaldelsen af regeringskonferencen;
  3. beklager imidlertid, at dette mandat indebærer tab af en række af de vigtige elementer, der blev opnået enighed om på regeringskonferencen i 2004, f.eks. tanken om en forfatningstraktat, Unionens symboler, en forståelig betegnelse for Unionens retsakter, en klar erklæring om unionsrettens forrang samt en definition af Unionen som en union af borgere og stater, og at det også indebærer en lang forsinkelse i indførelsen af andre elementer;

4. er bekymret over det forhold, at mandatet åbner mulighed for i højere grad at lade visse medlemsstater vælge ikke at deltage i gennemførelsen af vigtige bestemmelser i de planlagte traktater, hvilket kunne føre til en svækkelse af Unionens samhørighed;
5. beklager, at mandatet åbner mulighed for i forhold til forfatningstraktaten at foretage forskellige formulingsmæssige ændringer, som giver et indtryk af mistillid til Unionen og dens institutioner og således sender et forkert signal til borgerne;
6. beklager, at medlemsstaternes repræsentanter udviser stadig mindre europæisk goodwill og politisk mod, og er betænkelig ved fremvæksten af holdninger, der står i modsætning til de europæiske ideer om solidaritet og integration;
7. understreger, at mandatet åbner mulighed for at ændre betegnelserne for retsakter, men ikke for at foretage væsentlige ændringer i deres struktur eller hierarki, og gør opmærksom på, at det agter nøje at følge med i, hvorledes dette vil blive indarbejdet i de relevante bestemmelser med henblik på at garantere den politiske ansvarlighed og sikre dets lovgivningsbeføjelser, navnlig for så vidt angår kontrollen med delegerede retsakter;
8. glæder sig ikke desto mindre over, at mandatet beskytter meget af forfatningstraktatens væsensindhold, navnlig Unionens status som én enkelt juridisk person og afskaffelsen af søjlestrukturen, den udvidede anvendelse af kvalificeret flertal i Rådet og fælles beslutningstagning ved Parlamentet og Rådet, elementerne i partcipatorisk demokrati, den retligt bindende status for chartret om grundlæggende rettigheder, styrkelsen af sammenhængen i Unionens optræden udadtil og den afbalancerede institutionelle pakke;
9. bemærker, at samtlige positive resultater i retning af en styrkelse af de demokratiske procedurer og borgernes rettigheder, i retning af udvidede beføjelser og i retning af en fastlæggelse af EU's værdier og mål stammer fra det arbejde, der blev gjort af Det Europæiske Konvent;
10. konstaterer med tilfredshed, at Den Økonomiske og Monetære Union vil blive anerkendt som et EU-mål i traktaten om Den Europæiske Union;
11. glæder sig over, at mandatet åbner mulighed for indførelse af visse nye elementer i traktaterne, herunder den udtrykkelige omtale af klimaændringer og solidaritet på energiområdet;
12. erindrer om, at EU over for såvel sine egne borgere som resten af verden har erklæret at være et værdifællesskab, hvis inderste kerne udgøres af grundlæggende rettigheder og frihedsrettigheder, som har fundet et fyldestgørende udtryk i chartret om grundlæggende rettigheder og gentagne gange er blevet anerkendt af EU-institutionerne og medlemsstaterne; vil derfor anse det for et alvorligt tilbageslag og for at være til stor skade for EU's inderste selvforståelse, hvis en eller flere medlemsstater nu gør krav på at stå uden for chartret om grundlæggende rettigheder; retter derfor en indtrængende appel til alle medlemsstater om endnu en gang at gøre alle bestræbelser for at overvinde denne interne splittelse og alligevel opnå konsensus om dette charters fulde gyldighed;
13. opfordrer regeringskonferencen til at afslutte sit arbejde inden udgangen af 2007, således at den nye traktat kan træde i kraft i god tid inden valget til Europa-Parlamentet i 2009;

14. glæder sig over sin øgede inddragelse i regeringskonferencens arbejde på alle planer således som vedtaget af Det Europæiske Råd i juni 2007;
15. forbeholder sig ret til at forelægge regeringskonferencen konkrete forslag vedrørende specifikke spørgsmål inden for mandatets rammer;
16. vil i god tid efterkomme Det Europæiske Råds opfordring til at tage fat på spørgsmålet om sin egen sammensætning;
17. understreger, at det agter at underkaste resultatet af regeringskonferencen en nøje undersøgelse med det formål at vurdere, hvorvidt de reformer, der nås til enighed om under forhandlingerne, i tilfredsstillende grad svarer til dets fortolkning af mandatet;
18. opfordrer medlemsstaterne og sine egne repræsentanter til at sikre fuld gennemsigtighed i regeringskonferencens arbejde, navnlig gennem offentliggørelse af alle de dokumenter, der forelægges den med henblik på drøftelse;
19. bekræfter sin hensigt om at holde sig i meget tæt kontakt med de nationale parlamenter og med civilsamfundet i løbet af processen med at revidere traktaterne;
20. opfordrer regeringskonferencen til af hensyn til gennemsigtigheden at sikre, at resultaterne af dens arbejde også vil blive offentliggjort i form af et udkast til en konsolideret udgave af traktaterne;
21. udtrykker sin faste beslutning om efter valget i 2009 at fremsætte nye forslag til en yderligere forfatningsmæssig ordning for Unionen i overensstemmelse med bestemmelsen om traktatrevision<sup>1</sup>, eftersom EU er et fælles projekt, som løbende fornys;
22. opfordrer EU-institutionerne til at stille konkrete forslag med henblik på fornyet inddragelse af unionsborgerne i en dialog under fortsættelsen af forfatningsprocessen;
23. opfordrer sit kompetente udvalg til at overveje, hvorledes dets forretningsorden kan ændres med henblik på at give det EU-flag og den EU-hymne, som er valgt i forfatningstraktaten, officiel status i forbindelse med dets aktiviteter og i dets lokaler;
24. pålægger sin formand at sende denne beslutning, som udgør dets udtalelse om indkaldelsen af regeringskonferencen, til Rådet, Kommissionen, stats- og regeringscheferne, medlemsstaternes parlamenter og Den Europæiske Centralbank.

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<sup>1</sup> Jvf. forfatningstraktatens artikel IV-443

# Folketinget – Europaudvalget

Christiansborg, den 26. juni 2007

EU-Konsulenten

Til

udvalgets medlemmer og stedfortrædere

## Det Europæiske Råds aftale om 'Reformtraktaten'

### Resumé

EU's stats- og regeringschefer er blevet enig om et mandat til reform af EU's traktater.

Mandatet beskriver ganske præcist, hvordan EU's gældende traktater skal tilpasses i forhold til bestemmelserne i forfatningstraktaten og tilføjer desuden en række nye bestemmelser.

Mandatet vil bl.a. medføre reformer af EU's institutioner og beslutningsprocedurer i overensstemmelse med forfatningstraktaten, samt gennemførelse af et særligt kompromis angående stemmereglene i Rådet.

Det kommende EU-formandskab pålægges at udarbejde et udkast til en såkaldt reformtraktat og indkalde en regeringskonference herom, som skal være afsluttet inden udgangen af 2007.

På EU-topmødet den 21. – 23. juni 2007 blev EU's stats- og regeringschefer enige om et mandat til en regeringskonference, som skal udarbejde en ny traktat for EU. Forhandlingerne på topmødet afklarede alle de større udeståender mellem medlemslandene mht. udfærdigelsen af en ny traktat. Mandatet er derfor ualmindeligt detaljeret og indeholder specifikke formuleringer for en række artikler, protokoller, erklæringer m.m. i den nye traktat. Mandatet benævner den nye traktat 'reformtraktaten'.

Denne note beskriver kort de væsentligste punkter i mandatet.

### **Tidsplanen for traktatprocessen**

Konklusionerne fra EU-topmødet fastlægger en tidsplan for udarbejdelsen af reformtraktaten, som indebærer, at der indledes en regeringskonference inden udgangen af juli 2007. Regeringskonferencen skal arbejde ud fra et udkast til en traktattekst, som det kommende portugisiske formandskab vil fremlægge på baggrund af mandatet. Regeringskonferencen forventes afsluttet senest ved udgangen af 2007 med henblik på, at reformtraktaten kan ratificeres inden valget til Europa-Parlamentet i juni 2009.

### **Reformtraktaten**

Mandatet fra topmødet indebærer, at de eksisterende traktater ikke skrives sammen til én traktat, sådan som det var tanken med forfatningstraktaten. I stedet tilpasses EF-Traktaten og EU-Traktaten til en lang række af bestemmelserne fra forfatningstraktaten. Topmødet resulterede også i flere justeringer af forfatningstraktatens bestemmelser, samt nogle helt nye bestemmelser.

Mandatet fra topmødet slår således fast, at EF-traktaten og EU-traktaten tilpasses i overensstemmelse med forfatningstraktaten, medmindre mandatet beskriver noget andet. Mandatet består derfor primært af detaljerede beskrivelser af de ændringer af traktatgrundlaget, som på den ene eller anden måde adskiller sig fra det, som lå i forfatningstraktatens bestemmelser.

Tilpasningerne og ændringerne af traktatgrundlaget skal i praksis gennemføres ved reformtraktaten.

### **Søjlestrukturen ophæves delvist**

Med reformtraktaten ophæves søjlestrukturen delvist, idet det retlige område i søjle III gøres overstatsligt på linje med den eksisterende søjle I. Den Fælles Udenrigs- og Sikkerhedspolitik i søjle II gøres derimod ikke overstatslig.

### **Stemmeregler i Rådet**

Spørgsmålet om stemmereglerne i Rådet var det vanskeligste i forhandlingerne om oplægget til reformtraktaten. Polen stillede ufravigelige krav om en ny beregningsmetode, som ville give de store lande relativt færre stemmer. Mandatet på dette område er derfor udtryk for det kompromis, som blev indgået med Polen.

Ifølge mandatet skal Rådet fortsat bruge de gældende stemmeregler (fra Nice-traktaten) indtil 1. november 2014<sup>1</sup>. Derefter træder det dobbelte flertal fra forfatningstraktaten i kraft. Når det dobbelte flertal indføres, kræver et kvalificeret flertal i Rådet opbakning fra mindst 55 pct. af medlemslandene (som udgør minimum 15 lande) og disse lande skal repræsentere mindst 65 pct. af EU's samlede befolkning. Ligeledes skal et blokerende mindretal bestå af minimum 4 medlemslande og repræsentere mindst 35 pct. af EU's samlede befolkning.

Fra overgangen til dobbelt flertal i 2014 og frem til den 31. marts 2017 er der en overgangsperiode, hvor et enkelt land kan forlange, at stemmereglerne fra Nice-traktaten bruges i konkrete afstemninger.

Aftalen om stemmereglerne i Rådet indeholder endvidere en mulighed for, at et mindretal af EU-lande kan gennemtvinge en genovervejelse af et forslag. Mechanismen stammer fra forfatningstraktaten og er beskrevet i erklæring nr. 5 dertil.

Frem til 31. marts 2014 defineres det mindretal af lande, som kan kræve en genovervejelse af et forslag, som 75 procent af det antal lande (eller 75 procent af den befolkningsandel), der kræves for at danne et blokerende mindretal. Fra 1. april 2014 sænkes procentsatsen til 55.

### **Øvrige institutionelle ændringer**

Ud over stemmevægtene i Rådet vil reformtraktaten også gennemføre andre institutionelle ændringer fra forfatningstraktaten. De væsentligste at nævne i denne sammenhæng er:

- Det Europæiske Råd får en fast formand og formandskabet for Ministerrådet varetages af grupper på tre lande af gangen i 18 måneder.
- Antallet af kommissærer reduceres på længere sigt til to tredjedele af antallet af medlemsstater. Både kommissionsformanden og den samlede kommission skal godkendes af Europa-Parlamentet.

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<sup>1</sup> Med de gældende stemmevægte har Polen 27 stemmer. Det skal ses i forhold til, at Tyskland som det største land har 29 stemmer. Polen udgør 7,7 pct. af E's befolkning og Tyskland udgør 16,7 pct.

- Der lægges et loft på max. 750 medlemmer af Europa-Parlamentet og hvert land kan maksimalt få 96 medlemmer og mindst 6 medlemmer.
- EF-Domstolen skifter navn til Den Europæiske Unions Domstol og får kompetence på den del af traktaten, som i dag er søjle III og med den nye traktat flyttes til søjle I.

### **Øvrige ændringer i beslutningsprocedurer**

Med reformtraktaten gennemføres de ændringer af beslutningsprocedurerne, som lå i forfatningstraktaten. Det betyder bl.a., at en række nye områder vil overgå til brug af kvalificeret flertal i Rådet (f.eks. asyl og indvandring, kultur og politisamarbejde). Europa-Parlamentet vil også få medindflydelse på langt flere områder, idet brugen af den fælles beslutningsprocedure udvides. Denne procedure skifter også navn til "den almindelige lovgivningsprocedure".

### **Styrkelse af de nationale parlamenter**

Mandatet til reformtraktaten lægger op til at styrke de nationale parlamenter yderligere i forhold til forfatningstraktaten. I forfatningstraktaten fik de nationale parlamenter 6 uger til at foretage subsidiaritets-tjek på nye forslag fra Kommissionen. Med reformtraktaten bliver høringsperioden udvidet til 8 uger.

Desuden styrkes de nationale parlamenters mulighed for at gøre indsigelser mod forslag fra Kommissionen. Hvis et flertal blandt de nationale parlamenter<sup>2</sup> går imod et forslag fremsat af Kommissionen, skal Kommissionen genoverveje sit forslag. Kommissionen har derefter tre handlemuligheder; at opretholde, at ændre eller at tilbagetrække sit forslag. Hvis Kommissionen ønsker at opretholde forslaget, skal den udfærdige en skriftlig begrundelse, som fremsendes til EU's lovgivende institutioner.

Når EU's lovgivende institutioner behandler Kommissionens forslag, skal de tage både de nationale parlamenters høringssvar og Kommissionens begrundelse i betragtning. Hvis et simpelt flertal på 55 pct. af stemmerne i Rådet eller et simpelt flertal i Europa-Parlamentet erklærer sig enige med de nationale par-

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<sup>2</sup> Ifølge forfatningstraktaten tildeles de nationale parlamenter to stemmer hver, derved kan parlamenter med to kamre vælge at give en stemme til hvert kammer.



lamenten i, at forslaget strider mod subsidiaritetsprincippet, bortfalder forslaget.

### **Den fælles udenrigsminister bliver 'en højtstående repræsentant'**

Forfatningstraktaten indebar oprettelsen af en fælles udenrigsministerpost. Med reformtraktaten ændres denne titel til "Unionens højtstående repræsentant for udenrigsanliggender og sikkerhedspolitik". I overensstemmelse med forfatningstraktaten skal den højtstående repræsentant dog fortsat agere som næstformand for Kommissionen og fast formand for rådsmøderne blandt EU's udenrigsministre. Imidlertid får repræsentanten ikke et selvstændigt diplomatisk korps.

### **Fælles udenrigs- og sikkerhedspolitik (FUSP)**

Reformtraktaten vil indsætte en tekst i EU-traktaten, der klart specificerer; at FUSP'en vil være underlagt specielle procedurer og regler, at der kun træffes afgørelser med enstemmighed, og at der ikke kan vedtages lovgivningsmæssige retsakter inden for FUSP'en. Det vil endvidere fremgå af EF-traktatens artikel 308 (fleksibilitetsbestemmelsen), at denne ikke vil kunne anvendes som retsgrundlag for at nå mål under FUSP'en. EF-domstolen (EU-domstolen i det nye traktatgrundlag) vil som hovedregel fortsat ikke have kompetence på FUSP-området. Desuden tilknyttes reformtraktaten en erklæring, der fastsætter, at FUSP'en og den højtstående repræsentant ikke vil berøre medlemslandenes ansvar og beføjelser med hensyn til formuleringen og udøvelsen af deres udenrigspolitik, deres nationale diplomatiske tjenester, deres forbindelser med tredjelande og deltagelse i internationale organisationer. Erklæringen understreger endvidere, at Kommissionen ikke får nye initiativbeføjelser og Europa-Parlamentets rolle ikke vil blive forøget.

### **EU's status som juridisk person udvides**

EU har hidtil kun haft status som en juridisk person på EF-traktatens område. Denne status udvides nu til også at omfatte EU-traktaten. Det betyder, at EU kan indgå aftaler, tiltræde internationale konventioner eller organisationer, dog kun på områder, som ligger inden for EU's kompetence.

### **Klima indsættes i traktaten**

Mandatet til regeringskonferencen medfører, at klima skrives ind i EU's trak-

tatgrundlag. Det sker ved, at EF-traktatens artikel 174 (miljø) udvides til også at omhandle bekæmpelse af klimaforandringer på det internationale niveau.

### **Præambel og værdigrundlag**

Det første afsnit af præambelen fra forfatningstraktaten, hvor der bl.a. henvises til Europas kulturelle, religiøse og humanistiske arv, skal indsættes i EU-traktatens præambel. Desuden overføres forfatningstraktatens artikel om Unionens værdier uændret til EU-traktaten.

### **Charteret for Grundlæggende Rettigheder**

Charteret for Grundlæggende Rettigheder skrives ikke ind i selve traktaten, sådan som forfatningstraktaten lægger op til. Reformtraktaten vil i stedet indeholde en artikel, som henviser til charteret og som gør det juridisk bindende. Artiklen vil desuden indeholde en nøje afgrænsning af charterets rækkevidde og præcisere, at charteret ikke på nogen måde udvider Unionens beføjelser. Mandatet indebærer desuden, at medlemsstaterne skal vedtage en erklæring til Reformtraktaten, som også præciserer charterets rækkevidde.

Storbritannien har fået et særligt nationalt forbehold i forhold til anvendelse af charteret, som indsættes i traktaten med en protokol. Også to andre lande har fået mulighed for at indføre et lignende forbehold<sup>3</sup>. Polen har desuden fremsat en ensidig erklæring til reformtraktaten, som slår fast, at charteret ikke berører medlemsstaternes muligheder for at lovgive mht. offentlig sædelighed, familieret m.m.

### **Indre marked og konkurrence**

Der blev på topmødet opnået enighed om at efterkomme Frankrigs ønske om at fjerne henvisningen til "fri og lige konkurrence" på det indre marked fra forfatningstraktatens artikel om EU's mål. Kommissionsformanden, José Manuel Barroso, udtalte i den forbindelse, at Europa-Kommissionens kompetence på området ikke ændres. Den nye traktat vil indeholde en protokol, hvor det fastsættes, at det indre marked omfatter et system, der sikrer, at konkurrencen ikke forvrides. Protokollen understreger derfor, at EU om nødvendigt vil anvende EF-traktatens artikel 308 (fleksibilitetsbestemmelsen).

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<sup>3</sup> Det forlyder, at de to lande skulle være Polen og Irland.

### **Sikkerhedsmekanisme på det retlige område**

Der vil blive indført en såkaldt "nødbremse" på området for retligt samarbejde i straffesager, hvor der med det nye traktatgrundlag kan træffes afgørelser med kvalificeret flertal. Hvis et medlemsland således vurderer, at et udkast til et direktiv vil "berøre grundlæggende aspekter af den pågældende medlemsstats strafferetlige system", vil det være muligt at forelægge forslaget for Det Europæiske Råd. Lovgivningsproceduren vil dermed blive suspenderet. Hvis der kan opnås enighed i Det Europæiske Råd, skal forslaget inden fire måneder fra suspensionen sendes tilbage til Rådet, hvorved lovgivningsproceduren genoptages. Hvis der ikke kan opnås enighed, vil det være muligt at indlede et forstærket samarbejde for de medlemslande der ønsker det (se nedenfor).

### **Forstærket samarbejde på det retlige område**

Reformtraktaten vil gøre det lettere for en gruppe lande at indgå et forstærket samarbejde inden for det retlige samarbejde i straffesager og politisamarbejde. Det forstærkede samarbejde omhandler gensidig anerkendelse af domme, minimumsregler for, hvad der skal anses for strafbare handlinger, samt straffene herfor, den europæiske anklagemyndighed og politisamarbejde.

Det forstærkede samarbejde inden for det retlige samarbejde i straffesager kan indledes på to måder: Dels som følge af, at en medlemsstat finder, at et direktivforslag vil berøre grundlæggende aspekter af den pågældende medlemsstats strafferetlige system (kvalificeret flertal), og dels som følge af manglende enstemmighed i Rådet om et udkast til forordning/foranstaltning (enstemmighed). For det operationelle politisamarbejdet er kun det sidste tilfælde en mulighed.

Hvis et forslag bringes for Det Europæiske Råd, og der heller ikke her kan opnås konsensus, så kan et mindretal af medlemslande (minimum en tredjedel) indføre et forstærket samarbejde på grundlag af det pågældende forslag (udkast til direktiv eller forordning/foranstaltning).

### **Bremse på det sociale område**

Som noget nyt indfører reformtraktaten en bremse for integration på det sociale område (TEF art. 42). Det betyder, at et medlemsland kan få forelagt et forslag for Det Europæiske Råd, hvis medlemsstaten finder, at forslaget berører "vigtige

ge aspekter af medlemsstatens sociale sikringsystem". Hvis Det Europæiske Råd ikke kan blive enige om at genfremsætte forslaget bortfalder det.

### **Nyt navn til EF-traktaten og gamle navne til retsakter**

EF-traktaten skal ifølge mandatet ændre navn til "Traktaten om Unionens funktionsmåde", mens EU-traktaten bevarer sit navn.

Mandatet indebærer også, at forfatningstraktatens nye betegnelser for EU-retsakter ikke gennemføres, men at betegnelserne forordning, direktiv og afgørelse bevares. Forfatningstraktatens skelnen mellem lovgivningsmæssige og ikke-lovgivningsmæssige retsakter opretholdes dog. Lovgivningsmæssige retsakter vil således være forordninger, direktiver eller afgørelser der vedtages efter en lovgivningsmæssig procedure (almindelig eller særlig). Ikke-lovgivningsmæssige retsakter vil være de såkaldte delegerede retsakter (udbygning eller ændring af visse ikke væsentlige elementer i forordninger eller direktiver) og gennemførelsesretsakter.

### **Storbritanniens retlige forbehold udvides**

Storbritannien har fået lovning på, at landets forbehold på det retlige område kan udvides til også at gælde juridisk samarbejde i straffesager og politisamarbejdet, som med reformtraktaten vil overgå til det overstatslige samarbejde. Storbritanniens retsforbehold giver mulighed for at tilslutte sig EU-retsakter på området enkeltvist (opt-in).

### **Københavnskriterier**

Der kunne ikke på topmødet findes opbakning til at indskrive Københavnskriterierne direkte i traktatgrundlaget. EU-traktatens artikel 49 om kriterier for medlemskab og procedurer for tiltrædelse af EU vil dog indeholde følgende afsluttende formulering; "De kriterier for medlemskab, som Det Europæiske Råd er nået til enighed om, skal tages i betragtning".

### **Udvidelser**

I EU-traktatens artikel 49 vil den tidligere reference til EU's principper blive erstattet af en henvisning til EU's værdier. Potentielle medlemslande skal således respektere EU's værdier og være besluttet på at fremme dem.

### **Mulighed for at begrænse EU's kompetence**

Mandatet indebærer, at reformtraktaten vil understrege, at medlemsstaterne kan beslutte både at udvide og at indskrænke EU's kompetence.

### **Energisolidaritet**

Reformtraktaten vil ifølge mandatet tilføje en passus om energisolidaritet to steder i traktatgrundlaget. Dels indskrives der en ny artikel om energisolidaritet, dels tilføjes en specifik henvisning til energisolidaritet i den generelle solidaritetsbestemmelse fra forfatningstraktaten.

Med venlig hilsen

Martin Jørgensen & Signe Riis Andersen  
(36 22 & 36 96)



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## A close look at the Reform Treaty

By Stephen Mulvey  
EU reporter, BBC News

**The first draft of a new EU treaty can now be read in French and English, but what the text means for the EU's half a billion people is still not easy to determine.**

Not only is the Reform Treaty drafted in a special form of *euro-legalese*, but the political passions surrounding it often generate more heat than light.

Here we take 15 statements about the treaty - some of them plucked from the current political debate - and try to assess dispassionately how much truth they contain.

Where that attempt fails, we try to steer readers through some of the relevant arguments.

**It differs fundamentally from the constitution.**

**It gives Europe a US-style president.**

**An EU foreign minister will sideline national ministers.**

**France and the UK will lose their UN Security Council seats.**

**It gives the EU a single legal personality - like a country.**

**The treaty is self-amending.**

**It gives national parliaments a bigger say.**

**The Charter of Fundamental Rights will not affect UK law.**

**It's a major transfer of power to EU institutions**

**It surrenders dozens of national vetoes.**

**It makes it harder to block legislation.**

**The European Court gets new powers.**

**It continues a "drip-drip-drip" loss of national sovereignty.**

**The UK has its own version of the treaty.**

**Some countries will lose their commissioner.**

### It differs fundamentally from the constitution / It's the constitution re-named.

The two draft treaties - the Reform Treaty and the Constitutional Treaty - are quite different to read. The Reform Treaty has lots of this kind of thing: "An Article 40 shall be inserted, with the wording of Article 52; it shall be amended as follows: (a) the following Article heading shall be inserted: 'Ratification and entry into force'; (b) in paragraph 1 the words..." etc. The Constitutional Treaty avoided this particular kind of gobbledygook, so to describe the Reform Treaty as a cut-and-paste job, as some politicians have, is slightly misleading.

On the other hand, they are right that the practical outcome of both treaties is pretty much the same. It's often said that more than 90% of the constitution has been carried over into the Reform Treaty.

There are some differences, even so. For example, the constitution would have created an entirely new legal order for the EU, sweeping away earlier treaties, whereas the

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Reform Treaty merely amends them. (This is the reason for the gobbledygook mentioned above.) It also drops references to the EU flag and anthem; it ditches some of the constitution's flowery preamble, and part of an article on the principles of the union; and the text of the Charter of Fundamental Rights is relegated to an annex. In addition, some countries have negotiated new opt-outs, which they did not have from the constitution.

So is the result the same or different? The DNA of mice and humans is 90% the same, points out British Labour MEP Richard Corbett - but the remaining 10% is rather important. The question here is whether the essential qualities that made the constitution a constitution have been removed, or whether the things that have been changed are mere details.

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### **It gives Europe a US-style president.**

It will certainly change the nature of one of the EU's presidential posts - the presidency of the Council of the European Union, which is the body made up of the governments of member states. (The EU also has a president of the European Commission and a president of the European Parliament.)

The presidency of the council has up to now been held by a member state, not a person, and for only six months. The new President of the European Council will be a top politician, chosen by prime ministers and national presidents, for a term of 30 months. But will he or she be "US-style"? Not for now. The job comes with no executive powers.

True, the possibility of one day merging the posts of president of the council and president of the commission is not explicitly ruled out in the treaty, and some enthusiasts for European integration dream of a directly-elected EU president. But whether these things ever happen is a matter for future leaders to decide, not a decision that has already been made.

The old system of national presidencies will also continue to exist, in a new form. Three countries will jointly run the meetings (known as councils) of national government ministers, to discuss legislation in areas such as employment, the environment, telecoms and transport.

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### **An EU foreign minister will sideline national foreign ministers.**

The treaty creates a single figurehead for EU foreign policy, out of the two that currently exist. The new supremo will have the diplomatic clout of the current foreign policy and security chief, Javier Solana, plus the financial clout of External Relations Commissioner Benita Ferrero-Waldner, who controls the EU foreign aid budget. He or she will also have a big staff.

The post will not, after all, be called Foreign Minister. The title will be High Representative of the Union for Foreign Affairs and Security Policy. But it will still be a powerful position - the high representative, speaking on behalf of the EU's 27 member states, is likely to have a louder voice than the foreign minister of any individual state. (Javier Solana probably speaks louder than many of them already.)

On the other hand, the high representative can only implement policies that member states have agreed unanimously. So, as in the case of Iraq a few years ago, and possibly now in the case of Kosovo, the high representative could occasionally be left on the sidelines.

A declaration to be added to the new treaty says the creation of the high representative does not "affect the responsibilities of the member states... for the formulation and conduct of their foreign policy". Declarations are a statement of political intent. They are not legally binding but the European Court of Justice does take them into account in its judgements.

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### **France and the UK will lose their UN Security Council seats.**

Some countries would like the EU to get a permanent seat on the UN Security Council, and the treaty does give new forward momentum to the EU's common foreign policy. Some people may conclude from this that it's only a matter of time before the EU gets a security council seat, at the expense of France and the UK. But the UN Charter says membership is for "peace-loving *states*" - and the EU, as an international organisation, cannot therefore join.

What the Reform Treaty *does* say is that when member states have formally adopted a common position on an issue on the security council agenda, those with seats on the security council will ask if the high representative can present the EU position. If no common position has been adopted, the question will not arise. And of course it is the member states, not the EU, that have the seats on the security council, and the votes.

In fact, the current EU high representative, Javier Solana, has already presented the EU's common position at the security council on a number of occasions. This has not prevented individual member states from making their own statements as well.

A declaration to be added to the new treaty says explicitly that the EU's common foreign and security policy will not affect a member state's membership of the UN Security Council. Declarations are a statement of political intent. They are not legally binding but the European Court of Justice does take them into account in its judgements.

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### **It gives the EU a legal personality - like a country, not an international organisation.**

This argument seems to rest on the assumption that international organisations do not have a legal personality. But most do.

It also glosses over the fact that the European Community - which still exists on paper as a legally separate entity from the EU - already has a legal personality. (Whether the EU already has a legal personality is a matter of dispute.)

But could the EU, if it acquired a single legal personality, end up joining international organisations or signing international treaties *instead of* member states? This has not been the practice up to now. Both the European Community and the EU have been signing treaties for years, and the European Community is a member of the World Trade Organization,



the UN Food and Agriculture Organization, and the Hague Conference. This has not prevented member states from signing the same treaties and joining the same organisations.

A declaration to be added to the new treaty underlines that acquiring a legal personality will not authorise the EU to act "beyond the competences conferred on it by member states". Declarations are a statement of political intent. They are not legally binding but the European Court of Justice does take them into account in its judgements.

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### **The treaty is self-amending.**

The treaty contains an article, sometimes referred to as a "ratchet clause", allowing member states to agree that decisions currently taken only by means of a unanimous vote, can in future be taken by a mere majority vote (though this is ruled out in the area of defence). It also contains provisions allowing the objectives of most EU policies to be amended.

Both of these procedures allow EU treaties to be revised without an intergovernmental conference (IGC). So could it be that in future EU treaties will be changed incrementally, without fanfare, depriving opponents even of the chance of campaigning for a referendum?

Yes and No. There are two important caveats: member states would still have to take the decision unanimously, just as they would at an IGC; and all national parliaments would have to approve. Opponents would still be able to campaign against such changes, though they would probably find it even harder to secure a referendum than it already is.

Most major institutional reforms, or the creation of new EU competences, would still require an IGC. (And the UK government, in its white paper on the treaty, says it would insist on an IGC for any "fundamental change" to the treaties.)

So-called "simplified methods" of treaty revision are not entirely new. In 2004, most aspects of asylum and immigration policy were moved from unanimous voting to majority voting in this way. And there have long been other provisions allowing, for example, changes to the statutes of the European Central Bank, or the distribution of seats in the European Parliament, without an IGC.

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### **It gives national parliaments a bigger say in EU affairs.**

This is true, but the changes are quite limited. One is that EU institutions will be obliged to notify national parliaments of proposed legislation, and give them eight weeks to comment before governments begin to discuss it. (The European Commission has in fact already been notifying parliaments of proposed legislation, but only on an informal basis.)

Another change is that national parliaments will be given a chance to challenge legislation. The treaty says that if a third of them object to a proposal, the commission has to consider whether to maintain, amend or withdraw it. But if it decides to maintain it, the national parliaments have no comeback - this is just a yellow card, not a red one. The treaty does, however, also introduce what has been dubbed an orange card: if a majority of national parliaments object, and the

commission still wants to press ahead with its proposal, the European Parliament, and the council (ie the member states) consider both sides of the argument and come up with a decision.

Critics point out that the chances of half of the parliaments in the EU objecting to a draft law are not high. Furthermore, they have to do it within an eight-week period, and the only valid objection is that action at national or regional level would make more sense than action at EU level. . . And even then the parliaments could get over-ridden. . . So while this may be, as some experts argue, an important step for the EU to take, it is hardly a revolutionary one. In reality, if some parliaments started to vote against a commission proposal, it would be more likely to be killed off by the governments of the same member states, acting in the council of the EU, rather than as a result of the orange card.

The treaty also contains other encouragements to national parliaments to take more interest in European legislation, including a clause that says, "National parliaments shall contribute actively to the good functioning of the Union." (Some British MPs have objected to this on the grounds that it seems to be an instruction.) In fact, national parliaments already have plenty of opportunity to scrutinise European legislation if they want to, but only the Danish, Finnish and Swedish parliaments get closely involved. This treaty cannot make the others change their ways.

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### **The Charter of Fundamental Rights will not change UK law.**

The EU's Charter of Fundamental Rights was agreed in 2000 as a "solemn proclamation" - a political declaration - but the new treaty would make it legally binding. What this change would mean in practice is hotly disputed. Some say it will open the way for the European Court of Justice to rewrite national laws in the social sphere - on strikes, collective bargaining, social security, working hours, and so on. The Open Europe think-tank quotes European Court judges, who say that this is precisely how they envisage the charter will work.

But others disagree. They say the charter applies to member states only when they are implementing EU law - but most social and employment law is national law. Some social rights are guaranteed by the charter only "in accordance with. . . national laws and practices". And an explanation of the charter's right to strike says, "The modalities and limits for the exercise of collective action, including strike action, come under national laws and practices". (This comes among the non-binding declarations accompanying the treaty.)

As an extra guarantee, the UK government has negotiated for itself a legally binding protocol, which says no court can rule that the "laws, regulations or administrative provisions, practices or action" of the UK are inconsistent with the principles laid down in the charter. It adds "for the avoidance of doubt" that the charter creates no new rights enforceable in the UK, over and above those already provided for in national law. But again, whether this protocol will work is a matter of intense debate. Some MEPs have vowed to challenge it in the European Court of Justice, on the grounds that it violates a principle that EU law must be applied uniformly to all member states. Others have argued that come what may, the European Court will develop case law on the basis of the charter, which will apply to all member states.

British officials remain relaxed, saying that the protocol is safe from legal challenges because, as part of a treaty, it will be part of the EU's primary law - its legal Bible. They add that the European Court has been generating case law on fundamental rights for years, and the charter only brings together rights that already exist in that case law, so its new legally binding status ought not to change the status quo.

This may be a case where the proof of the pudding will only come in the eating.

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### **It's a major transfer of power to EU institutions / It does not fundamentally alter the relationship between the EU and member states.**

Opponents of further European integration argue that the treaty transfers power in numerous ways - the surrender of vetoes, new powers for the European Court of Justice, institutional changes (including the creation of a new president and "foreign minister"), and changes to the voting system used by member states, to name but a few.

Most supporters of the treaty would probably concede that it transfers *some* power to the EU, the question is how much, and what changes will come about as a result.

Brendan Donnelly of the Federal Trust (a supporter of European integration) argues that the Reform Treaty is unambitious compared to the Single European Act, which paved the way for the completion of the EU's single market, or the Maastricht Treaty, which ushered in the euro and first gave the EU a political dimension. These were "revolutionary" treaties, in his view, while the Reform Treaty is more on a par with the Amsterdam Treaty, which marked the start of EU co-operation in Justice and Home Affairs. From this perspective, the new treaty is just one more step in the EU's pursuit of "ever closer union" and not a particularly dramatic one.

The fact that at least one prime minister started shouting at the end of the June EU summit, because he felt the constitution had been watered down too much, demonstrates that Brendan Donnelly is not the only one who regards the treaty as unambitious. On the other hand, the same incident provides partial confirmation of a point made by Open Europe (an opponent of further integration), namely that some European leaders will see the Reform Treaty as part of a constitutional process - a stepping stone on the road to a fully-fledged EU constitution.

Whether you end up concluding that the transfer of power is major or minor may well depend on what you think of pooling sovereignty in the first place. If you think it's a good idea, you are more likely to see the treaty as a modest extension of EU business as usual. If you think it's a bad idea - or if you think it works for the single market, say, but not for the fight against crime or global warming - you are more likely to think the treaty represents a quantum leap.

One other point worth bearing in mind is that the new posts of president and high representative created by the Reform Treaty will both be answerable to the EU's member states - many observers expect them to expand the collective influence of the member states in Brussels, at the expense of the European Commission. The EU is a complex, hybrid organisation, and institutional changes that strengthen it overall do not necessarily weaken national governments - the trade-off is not quite that straightforward.

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### **The treaty surrenders dozens of national vetoes.**

A national veto disappears when member states agree that decisions that have hitherto been taken by a unanimous vote, can in future be taken by a majority vote. Opponents of European integration talk about surrendering vetoes, supporters prefer to talk about pooling sovereignty - but neither side disputes that the Reform Treaty takes this step in somewhere between 45 and 70 policy areas.

This is numerically larger than in earlier treaties. However, that does not necessarily mean the net effect is greater, as some of the new areas which the treaty makes subject to majority voting are quite arcane - such as, in Tony Blair's words, "The council review of general rules on the composition of the Committee of the Regions, and the Comitology Committee, whatever that might be". Other examples are decisions on the methods used for gathering statistics in the eurozone, and on transport subsidies to the territories formerly in East Germany.

Other changes are more significant. The Maastricht Treaty was the first to open up the possibility of majority voting for the implementation of foreign policies - though the policies themselves had to be decided by unanimity. The Reform Treaty mirrors this by allowing majority voting on the new high representative's proposals for implementing unanimously agreed policies. There are one or two other exceptions, but in general the veto is preserved in the area of foreign policy.

Unanimity will be given up in regard to social security for migrants, though here there will be an "emergency brake" allowing a government to demand a unanimous vote at an EU summit, if it is strongly opposed to a piece of legislation.

The most important veto abolition probably comes in the area of Justice and Home Affairs (JHA), where police and judicial co-operation in criminal matters will now be subject to majority voting, as asylum and immigration and some other policies already are. (The UK has negotiated the right to pick and choose whether to take part in JHA legislation - but it will of course choose to opt in, in some cases.)

The number of vetoes given up is often regarded as a key measure of powers transferred from member states to the union, but again it's not an entirely straightforward issue. Without a veto it is more difficult for a member state to block legislation that it dislikes, but its ability to push through legislation it wants to see adopted is correspondingly increased. It's often argued that the single market would never have come into existence if member states had wielded a veto in this area.

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### **It makes it more difficult for most states to block legislation.**

The Reform Treaty introduces a new system for voting by member states, in cases where unanimity is not required. This says that a vote is passed if (a) 55% of member states are in favour - that's 15 out of 27 - and (b) these countries represent 65% of the EU's population. It is also passed if fewer than four countries oppose it.

At present, the system is even more complicated. One of the

conditions for a vote to pass is that 255 of the 345 votes distributed among the member states should be cast in favour - that is about 74% of the total.

Open Europe cites academic research which says that the new system - which would start being introduced after 2014 - lowers the threshold for a vote to be passed. Legislation would apparently be passed more easily than it was when the EU had only 12 members (1986-1995). It follows that it is also more difficult to block a decision from being made. But the change in blocking ability is more pronounced for some countries than for others. The chances of Germany being among a group of states capable of blocking a vote remains roughly the same, the academics say, but the UK's chances would be reduced by 30%.

On the other hand, if the UK wants a vote to succeed, this is not only generally more likely to happen, but the UK's vote appears to count for more. Under the existing system it has about 8% of the 345 votes distributed among the member states. Under the new system, the size of a country's population becomes much more important, and the UK's is about 13% of the EU total.

How important these changes are is debatable. In practice, member states rarely hold votes on EU legislation (unlike the European Parliament), preferring instead to proceed by means of compromise and consensus. Big countries, in particular, are seldom outvoted on an issue that is important to them. But in theory it can happen.

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### **The European Court of Justice gets sweeping new powers.**

The European Court has so far had limited powers to rule on cases dealing with EU justice and home affairs legislation (laws on asylum and visas, illegal immigration, or judicial co-operation and so on). The new treaty would remove most earlier restrictions.

The UK and Denmark are in a special position because Denmark has an opt-out from this area, and the UK has negotiated the right to pick and choose which EU policies to sign up to. If the UK did not sign up to a piece of legislation, it would not be affected by any rulings made by the European Court interpreting that legislation. If it did sign up, then it would be affected by the rulings.

For example, the UK has signed up to policies on asylum and immigration, so it is likely, experts say, that British courts will refer more of these cases to the European Court of Justice for an interpretation, if the Reform Treaty is approved. It is also likely that these referrals would take place at an earlier stage in the legal process - in other words, before the case reaches its final stage (the House of Lords or Court of Appeal). Former UK Europe Minister Geoff Hoon is on record as warning this could further complicate "our existing asylum and immigration policies".

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### **The new treaty continues a "drip-drip-drip" loss of national sovereignty.**

This is one way of looking at it. In so far as the history of the EU has been one of deepening integration, almost every new treaty has led to a greater pooling of sovereignty. Another

way of looking at it is to say that member states have chosen to pool sovereignty in an increasing number of areas, because they get better results this way than by acting alone.

Will this process continue indefinitely? It depends whether the member states want it to or not.

One theory is that after more than 20 years of almost constant treaty revision, and the huge turmoil over the constitution, they will now want to pause, and focus on delivering results that make a difference to European citizens, using the tools currently available.

Another theory says that in an EU of 27 states or more, agreeing ambitious new projects is now very difficult, making it more likely that further integration will be limited, or take place in smaller go-ahead groups, as with the euro, and the Schengen open-borders agreement.

But it is also possible that in 2009, once a new European Parliament and European Commission are in place, the member states will embark on a new round of treaty revision to pick up more of the pieces left behind in the wreckage of the constitution. The constitution was originally conceived as a way of making the EU more transparent and accessible to citizens. The Reform Treaty was not. As a result, the "democratic deficit" is as serious as it ever was, and some EU leaders will be eager to address the issue.

The EU also has plenty of opportunities to continue integration without resorting to treaty revision. There is a lot of scope for further collaboration in the justice and home affairs field, or on energy policy and climate change. Equally, the eurozone countries could decide to integrate more deeply, or the political parties represented in the European Parliament could make a bid to determine the next president of the European Commission.

It seems unlikely that the EU will want to stand still.

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### **The UK has signed up to its own version of the treaty.**

This is inaccurate, or at least, a loose use of language. All countries have agreed the same negotiating mandate, and will sign the same treaty, assuming the intergovernmental conference reaches a successful conclusion. The UK will simply have opt-outs in some areas.

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### **Some member states will lose their European commissioner.**

This is true - they will lose their commissioner temporarily, for five years at a time. At present, each country has a commissioner, and not long ago the larger countries had two. But under the new treaty, from 2014 only two-thirds of member states will have a commissioner at any one time. The seats will be handed out by rotation, every five years. In an EU of 27, each country would have a commissioner for 10 years out of the first 15. However, the EU is likely to have 28 members by 2014, so the arithmetic will not be quite so neat.

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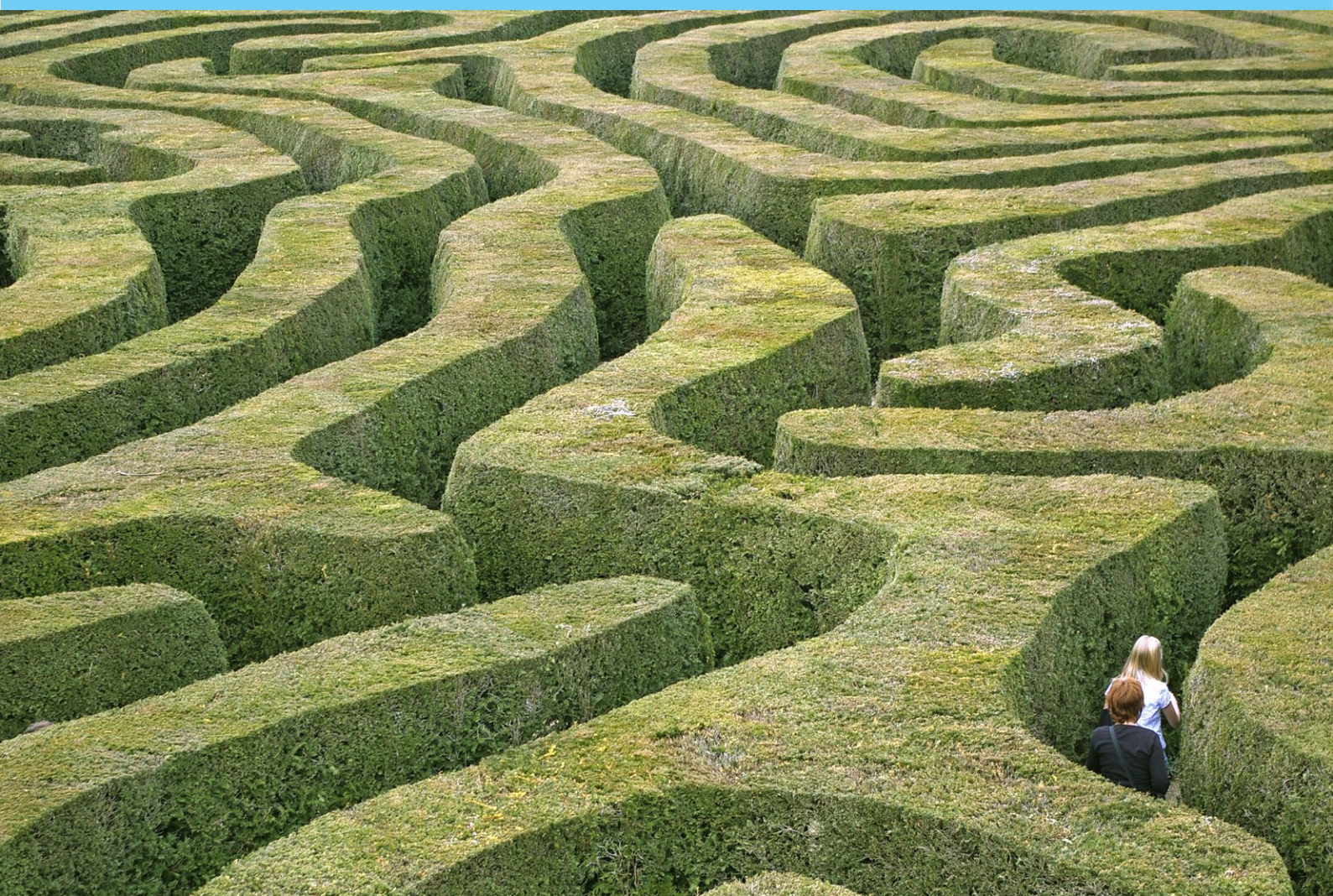
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# A guide to the constitutional treaty



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Open Europe  
7 Tufton Street  
London  
SW1P 3QN

T. 0207 197 2333  
F. 0207 193 2307  
E. [info@openeurope.org.uk](mailto:info@openeurope.org.uk)

## What people are saying around Europe: This is the same as the European Constitution

### Germany

"The substance of the Constitution is preserved. That is a fact."  
(Angela Merkel, German Chancellor, Telegraph, 29 June 2007)

### Spain

"We have not let a single substantial point of the Constitutional Treaty go... It is, without a doubt, much more than a treaty. This is a project of foundational character, a treaty for a new Europe."  
(Jose Zapatero, Spanish Prime Minister, speech, 27 June 2007)

### Ireland

"90 per cent of it is still there... these changes haven't made any dramatic change to the substance of what was agreed back in 2004."  
(Bertie Ahern, Irish Taoiseach, Irish Independent, 24 June 2007)

### Czech Republic

"Only cosmetic changes have been made and the basic document remains the same."  
(Vaclav Klaus, Czech President, Guardian, 13 June 2007)

### Finland

"There's nothing from the original institutional package that has been changed."  
(Astrid Thors, Finnish Europe Minister, TV-Nytt, 23 June 2007)

### Denmark

"The good thing is...that all the symbolic elements are gone, and that which really matters - the core - is left."  
(Anders Fogh Rasmussen, Danish Prime Minister, Jyllands-Posten, 25 June 2007)

### Austria

"The original Treaty for a Constitution was maintained in substance."  
(Austrian government website, 25 June 2007)

### Belgium

The new treaty "takes up the most important elements of the Constitutional Treaty project."  
(Guy Verhofstadt, Belgian Prime Minister, Agence Europe, 24 June 2007)

### Italy

"As for our conditions... I outlined four red lines with respect to the text of the Constitution: to keep a permanent president of the EU, to keep the single overseer for foreign policy and a common diplomatic service, to keep the extension of majority voting, to keep the single legal personality of the Union. All of this has stayed."  
(Romano Prodi, Italian Prime Minister, La Repubblica, 24 June 2007)

### Lithuania

Lithuania has "100 percent fulfilled the tasks set forth before the meeting, including the primary objective of preserving the substance of the Constitutional Treaty."  
(Office of the President of Lithuania, official press release)

## **Luxembourg**

"The substance has been preserved from Luxembourg's point of view."  
(Jean-Claude Juncker, Luxembourg Prime Minister, Agence Europe, 24 June)

## **Slovenia**

With the new treaty, the EU gets "content that is not essentially different from the Constitutional Treaty... All key institutional solutions remain... Some symbolic elements will be cleared up and some formulations toned down."  
(Janez Jansa, Slovenian Prime Minister, Government Communication Office, 23 June 2007)

## **The author of the EU Constitution**

"This text is, in fact, a rerun of a great part of the substance of the Constitutional Treaty."  
(Valery Giscard d'Estaing, Telegraph, 27 June 2007)

## **European Parliament**

The European Parliament "welcomes the fact that the mandate safeguards the substance of the Constitutional Treaty."  
(European Parliament resolution, 10 July 2007)

## **The European Commission**

"It's essentially the same proposal as the old Constitution."  
(Margot Wallstrom, EU Commissioner, Svenska Dagbladet, 26 June 2007)

## **The UK Government**

"The Constitutional Treaty has been abandoned."  
(David Miliband, Foreign Secretary, Hansard, 3 July 2007)

## **Is this an honest process?**

### **Giscard d'Estaing**

"Public opinion will be led to adopt, without knowing it, the proposals that we dare not present to them directly" ... "All the earlier proposals will be in the new text, but will be hidden and disguised in some way."  
(Le Monde, 14 June 2007 and Sunday Telegraph, 1 July 2007)

### **Former Italian Prime Minister Giuliano Amato**

"They decided that the document should be unreadable. If it is unreadable, it is not Constitutional, that was the sort of perception... Should you succeed in understanding it at first sight there might be some reason for a referendum, because it would mean that there is something new."  
(CER meeting, 12 July 2007)

### **Karel de Gucht, Belgian Foreign Minister**

"The aim of the Constitutional Treaty was to be more readable; the aim of this treaty is to be unreadable... The Constitution aimed to be clear, whereas this treaty had to be unclear. It is a success."  
(Flandreinfo, 23 June 2007)

### **Jean Claude Juncker, Prime Minister of Luxembourg**

"Britain is different. Of course there will be transfers of sovereignty. But would I be intelligent to draw the attention of public opinion to this fact?"  
(Telegraph, 3 July 2007)

## Introduction: this is the same as the Constitution - even in Britain

The “new” treaty essentially reintroduces virtually all the changes proposed in the original Constitutional Treaty, by transferring them into the two existing treaties, the Treaty on European Union (TEU) and the Treaty Establishing the European Community (TEC). The latter will be renamed the Treaty on the Functioning of the European Union (hereafter referred to as TFEU).

Open Europe’s analysis finds that only 10 out of 250 proposals in the “new” treaty are different from the proposals in the original EU Constitution. In other words, 96% of the text is the same as the rejected Constitution.<sup>1</sup> Of the few changes that there are, few are of any significance - for example, the new version of the Constitutional Treaty no longer mentions the symbols of the union, like its flag and anthem. However, of course - these symbols already exist.

In fact on almost every article the draft treaty amends the existing EU treaties using exactly the same text as that of the Constitution, and even makes explicit reference (in square brackets) to article numbers in the original version of the Constitution.

Professor Steve Peers, EU law specialist, summarises the situation: “The different structure of the Reform Treaty (i.e. amendments to the current EC and EU Treaties) as compared to the Constitutional Treaty means that the two treaties will look quite different. However, the content, as proposed in the draft mandate is largely the same.”

### **This is the same document for Britain too**

Because of the unexpectedly large number of European leaders who have been prepared to publicly and explicitly state that the new version of the Constitutional Treaty is essentially the same as the old, the UK Government has stopped denying that it is the same document.

The Government now argues that while it is indeed the same for other member states, it is different for the UK because of its various opt-outs and safeguards. But the various safeguards the Government are basing this argument on were also in the original version of the Constitution - on which the Government promised to hold a referendum.

Indeed, in 2004 Tony Blair made the same claims the Government is now making, before going on to promise a referendum:

*“It keeps unanimity for the most important decisions and, at our insistence, in particular for tax, social security, for foreign policy, for defence and for decisions on the financing of the Union affecting the British budget contribution. It keeps our ability to opt out of measures affecting our laws on asylum and immigration and extends that so that we cannot be obliged to cooperate on criminal law procedures where we do not want to do so... The Charter expressly rules out establishing any new power or task for the European Union or any change in the powers of the European Union.” (21 June 2004)*

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<sup>1</sup> See [www.openeurope.org.uk/research/comparison.pdf](http://www.openeurope.org.uk/research/comparison.pdf)

Nonetheless, he went on to promise in the same speech that:  
*"In the end, the final say will be with the British people in a referendum."*

### The UK "opt outs" are the same as in the original Constitution

The Government points to four opt-outs, on which they are basing their case that this new text is different from the Constitution:

- An opt-out from the Charter of Fundamental Rights
- An opt-out from Justice and Home Affairs
- Retaining the veto in Foreign Policy
- An opt-out from Social Security and Tax

Firstly and most importantly, *these are the same guarantees that the Government gave regarding the original Constitution, on which it promised a referendum.* The Government is now saying exactly the same things it said last time round, before going on to promise a referendum. The Government wants to try to imply that the "red lines" are new, when they are not.

#### What they said last time round:

"We have our clear red lines and these are not changing at all. We cannot accept any move away from unanimity on tax or a federal fiscal policy. The referendum will come after the negotiations, and after the debate in the House of Commons. If we secure a treaty that is acceptable for Britain, then I believe we can also put it successfully to the British people."

- Gordon Brown, Guardian, 12 May 2004

"We have the right results on policy areas of particular importance to the UK, including in respect of the charter of fundamental rights and the veto on areas such as foreign policy, defence, tax, social security, criminal law and treaty revision."

- Jack Straw, Hansard, 9 September 2004

"Unanimous agreement is still required for the most important decisions: for tax, social security, foreign policy, defence, and decisions on the financing of the EU affecting the British budget contribution. Britain also retains the right to opt out of measures affecting our laws on asylum and immigration. This is clearly not a Treaty which reduces our powers as a nation."

- Tony Blair, introduction to 2004 White Paper on the Constitution

Secondly, there are good reasons to think that the various safeguards the Government secured will not prevent the UK from being affected.

**The Charter:** Section three below explains why the Charter of Fundamental Rights will affect national law. As Swedish Prime Minister Frederick Reinfeldt has pointed out "It was important for the [Swedish] government to keep the Charter legally binding, which now is the case... the UK accepted this... *It should be stressed that the UK was given a clarification, not an opt-out.*" (Swedish Parliament, 26 June 2007)

**Home affairs:** Section four below deals with the extensive and radical justice and home affairs provisions in the Constitutional Treaty. The Government implies that nothing can happen in this area without its consent. But the Government has signed up to give the Court of Justice jurisdiction in this area for the first time.

The Government previously argued strongly *against* giving the Court this power. Back in 2000 the Government stated in a memorandum to the Lords EU select committee that: "The Government does not accept that we should agree to extend full ECJ jurisdiction over the very sensitive areas covered by the Third Pillar. *These raise sensitive issues relating to national sovereignty – law and order and the criminal justice process.*"

In November 2006 Geoff Hoon told the Lords EU committee that giving the ECJ jurisdiction over asylum policy could create problems: "*There is clearly a risk that adding what is in effect an avenue of appeal at a very early stage in the process might be an opportunity of further complicating our existing asylum and immigration processes.*"

**Foreign Policy:** The Government's argument that "unanimity remains the rule" in foreign policy is an extraordinary distortion of the facts. In fact the Constitutional Treaty would end the veto in eleven different areas of Foreign Policy:

1. Proposals from the EU Foreign Minister
2. The design of the EU diplomatic service
3. Setting up an inner core in defence
4. Terrorism and mutual defence
5. Urgent financial aid
6. Humanitarian aid
7. The election of the EU Foreign Minister
8. Civil protection
9. Terrorist financing controls
10. The new EU Foreign Policy Fund
11. Consular issues

Is it meaningful in practical terms to say that unanimity remains the "rule", when there are so many exceptions? Section two explores these issues in more detail.

**Social Security and tax.** Though the new Constitutional Treaty, like the original, includes an "emergency brake" on one particular article relating to social security, for migrant workers. However, the Court of Justice would be given new powers to ensure the equality of social security entitlements of EU migrants (and third-country migrants) anyway - so this "emergency brake" is effectively going to be directly circumvented by a judicial requirement. Section six below explores this.

The "red line" on tax is particularly misleading. During the summit negotiations the Government ran implausible scare stories about having to "defend the veto on tax" - which was never under discussion. BBC Europe Editor Mark Mardell even reported on his blog that: "*The government had the good grace to privately admit it was a bit of a con and 'purely presentational'.*"

To summarise: The red lines are the same as before; there are good reasons to think that they will be circumvented, and of course, these are the issues that the Government wants discussion to focus on, in order to distract from what it *is* giving up without a fight elsewhere.

## The timetable and the handling of the negotiations - a democratic deficit

The Government has handled the negotiations on the revived Constitution in an untransparent and undemocratic way, seeking to shut down all discussion of the issue.

The Government has refused to answer the most basic questions about its negotiating position. Representatives of EU heads of government met regularly to negotiate over the new version of the Constitutional Treaty from January 2007 onwards.

But just before the final agreement of the mandate for the IGC, then-Foreign Minister Margaret Beckett was still telling the Commons European Scrutiny Committee that "There have not been negotiations... nothing is going on." On 19 June she told the Foreign Affairs Committee that "You say there have been negotiations between other countries - I don't believe that is so." However, just four days later on 22 June the Government signed up to the detailed IGC mandate which had been negotiated over the previous six months.

When the consolidated text of the "reform treaty" was finally published on 23 July, it was, almost uniquely for such an important document, only published in French. The Foreign Office decided not to produce a translation for over a week - until after Parliament had risen for the summer. More importantly, the Foreign Office has made no attempt to produce a consolidated text, so that people can see how the treaty would alter the existing treaties.

MPs will not return from recess until 8 October - giving them just eight working days to discuss the text until the final agreement, which is scheduled for 18 October. Nonetheless, despite this extraordinary handling of the negotiations, the Government has the nerve to argue that calls for a referendum "undermine parliamentary democracy".

The Government is also now attempting to claim that it has signed a "different treaty" than the other EU member states, so a referendum is not needed. On Newsnight Europe Minister Jim Murphy claimed that "In the UK we have signed up to a different treaty. Different from the old Constitution and different from what other nations have signed up to." (3 August 2007)

The BBC, in an impartial analysis, concluded that: "This is inaccurate, or at least, a loose use of language. All countries have agreed the same negotiating mandate, and will sign the same treaty, assuming the intergovernmental conference reaches a successful conclusion."

### An issue of trust?

"The manifesto is what we put to the public. We've got to honour that manifesto. That is an issue of trust for me with the electorate."  
(Gordon Brown, BBC Politics Show, 24 June 2007)

"The new Constitutional Treaty ensures the new Europe can work effectively... We will put it to the British people in a referendum."  
(2005 Labour manifesto)

## (1) Institutional changes

The new Constitutional Treaty will create powerful new positions and institutions in Brussels, and will make existing EU institutions more powerful in relation to the member states. Setting up new institutions like an EU President, an EU Foreign Minister, and an EU diplomatic service would mean a major shift of power from the start - and they are also likely to grow in strength over time.

The Constitutional Treaty also makes some fundamental structural changes to the legal relationship between the member states and the EU. For example, the treaties become self-amending for the first time, the EU gets a single legal personality allowing it to sign all kinds of treaties, and the Court of Justice is given jurisdiction over Justice and Home Affairs (something the Government resisted very strongly and said would be a major shift of national sovereignty).

On top of this, it will become harder for the UK to stop the EU from doing things the UK opposes. The national right of veto is given up in over 60 areas, and the UK's power to block legislation is cut by 30% when the EU does take majority votes, because of changes to the majority voting rules. This clearly makes Britain weaker in Europe.

### An EU President

Managing the work of the 3,500 civil servants in the Council Secretariat would give the new President a substantial power base - and the President would have an incentive to expand his or her own powers further over time.

The new President would fundamentally change the nature of the legislative process in Brussels. Instead of negotiations between the supranational Commission and a national head of Government with a vested interest in protecting the rights of member states, negotiations would in future take place between one unelected, independent Brussels institution and another.

*"The new President will only be held accountable behind closed doors to the European Council so no democratic breakthroughs with this potentially powerful new post... Nor looking forward is it clear that the new president will anyway act in the way the UK hopes. As a new permanent and full-time position in Brussels, with the Council secretariat at its service, it is quite possible that such a new president may prove more pan-European and less biddable than the current rotating part-time presidency. Fortunately for the UK government, this will be not be tested in advance of a referendum."*

- Kirsty Hughes, Visiting Fellow, European Institute, 1 January 2005

One more federalist vision is that the Council President will later be merged with the President of the Commission. The author of the EU Constitution, former French President Valéry Giscard d'Estaing has argued that, "We will probably have to have at least two executives in the beginning. But the process of reform will not be complete in twelve months." (Speech at NYU, 13 May 2002)



Former Italian PM and member of the European Convention Lamberto Dini said, "We should ask ourselves whether it makes sense to maintain two presidents of the executive, one for the Council and the other for the Commission, or whether it would be better to have a single office, presiding over both institutions." (FT, 10 January 2003)

During the drafting of the original Constitutional Treaty the UK Government failed to block a last minute change which would allow the two roles to eventually be merged. Early Convention drafts of the Constitution excluded this possibility: "The President of the European Council *may not be a member of another European institution* or hold a national mandate" (CONV 724/03). But in the final stages of the negotiations this separation was abandoned and the final text stated only that: "The President of the European Council shall not hold a national office."

The EU's "Europa" website explicitly states: "The Convention also proposes that the President of the European Council may not hold a national mandate at the same time. However, this arrangement does not prevent the President of the European Council from holding another mandate within another European institution. This allows for the possibility, in future, of combining the roles of President of the European Council and President of the Commission, if the Member States so wish."

Back in 2003, Jack Straw told the Standing Committee on the IGC: "We would have preferred to have explicit separation of those two posts. I do not believe that in practice they will merge. The institutional balance between the Council and the Commission is absolutely fundamental to the proper orientation of the EU, and for a variety of reasons member states would not accept that they should merge into one position. Although it is not a red line, it is something that we must consider, and I promise to do so." (10 November 2003)

However, the Government did not manage to get the separation reinstated, and there is widespread expectation that if a post of EU President is created, then the two roles will merge. Giuliano Amato, Italian Interior Minister and the Vice President of the Convention which drew up the original Constitution, has called for the merger of the two roles in 2015, asking "Can an animal with two heads survive for long?" (New York Times, 15 June 2003) Former Italian Foreign Minister Gianfranco Fini said that although the time is not yet "politically ripe" to merge the two roles, the idea should be considered "in the near future". (European Convention Plenary, 21 January 2003)

Integrationists want the President to be directly elected in the future, just like in the US. French President Nicolas Sarkozy has also backed the idea that the President should be directly elected. He endorsed a proposal by the NGO *Europanova* to create a directly elected EU President. (Le Figaro, 29 April 2007) More recently he suggested that Tony Blair would be a good candidate for first President (FT, June 15 2007).

*"In the American system the Presidency was designed since the beginning, for Europe I guess it will be different. What will certainly have to change with time is the way of choosing the President. In 10 to 20 years there will be a demand for a more democratic election process."*

- Valery Giscard d'Estaing, *Wall Street Journal Europe*, 7 July 2003

## An EU Foreign Minister

### ["High Representative of the Union for Foreign Affairs and Security Policy"]

While the mandate for the IGC states that "The Union Minister for Foreign Affairs will be called High Representative of the Union for Foreign Affairs and Security policy", he or she will have all the same powers as proposed in the original Constitution - against the wishes of the UK.

The new minister will have an automatic right to speak for the UK in the UN Security Council on issues where the EU has taken a position. The UK also eventually accepted that the new minister will be a member of the Commission (the UK has resisted giving the Commission a role in Foreign Policy since 1992). He or she would also have the power to appoint EU envoys. At the end of the negotiations the UK also eventually accepted that the Foreign Minister / HRUFASP will chair meetings of the EU General Affairs and External Relations Council.

As the Guardian noted: "Britain said the new official should not chair regular meetings of EU foreign ministers, nor take over the resources of the European Commissioner for external affairs. It lost." (26 June 2007)

Perhaps most importantly of all, when the Council asks the Foreign Minister for a proposal on a particular subject, once he or she has made that proposal it will be subject to majority voting (see section below on foreign policy).

The new text carries over the exact same language of the Constitution (merely changing the name of the Foreign Minister), stating that "when the Union has defined a position on a subject on the agenda of the UN Security Council, the member states who sit there shall ask that the High Representative be invited to present the position of the Union." (Old article III-305(2); now Article 19 TEU)

Initially the UK Government (represented by Peter Hain) put down an [amendment](#) in the European Convention saying that this whole paragraph should be struck out. Peter Hain wrote: "The UK cannot accept any language which implies that it would not retain the right to speak in a national capacity on the UN Security Council." However, this was ignored, and so the UK then fell back to saying that it had to at least be changed, in order to remove the minister's seemingly automatic right to speak. In a second [amendment](#) the UK proposed a change to say that the Minister could only *request* to speak on its behalf. But the UK's objections were ignored.

So despite the change of name (and most people are likely to call him the EU Foreign Minister for shorthand anyway), all the substance of the powerful new post remains. As Spanish Europe Minister Alberto Navarro told the FT, "We were prepared to find a title other than Foreign Minister, but we are not prepared to change the substance of his role" (19 June 2007). Italian Prime Minister Romano Prodi pointed out: "as long as we have more or less a European Prime Minister and a European Foreign Minister then we can give them any title." (Speech in Lisbon, 2 May 2007)

*"The voice of the future Union Minister for Foreign Affairs will be louder than that of the ministers of each nation when he expresses joint positions"*

- Denis MacShane, former UK Europe Minister, Le Figaro, 28 February 2005

## An EU Diplomatic Service

A single "European External Action Service" as proposed in the Constitutional Treaty would for the first time bring together national officials with the 745 civil servants in the Commission's DG external relations and the 4,751 members of staff in the Commission's existing "delegations" around the world.

The new TEU Article 13b (the Constitution's Article III-296 (3)) states that decisions relating to the creation of a diplomatic service will be taken by qualified majority vote on a proposal from the EU Foreign Minister. A paper published by Javier Solana in March 2005 suggested that only a third of the staff of the service will come from member states' diplomatic services. Estimates of the size of the service vary widely. One EU official briefed that the number of diplomats alone would be 7,000, but that it could rise to 20,000. (European Voice, 9 November 2004)

The European Parliament's External Relations Committee has raised concerns over the proposed EU diplomatic service. It warned that if the diplomatic service was set up as an independent institution it would "take on an uncontrollable life of its own" and would result in an "independent super administration". It suggested that the service would consist of between 5,000 and 7,000 diplomats. (EUobserver, 28 February 2005)

The UK Government originally opposed the EU Diplomatic Service. In the negotiations on the draft Constitutional Treaty Denis MacShane said, "We believe that it remains for EU Member States to organise their respective bilateral diplomatic services at the national level." (Hansard Written Answer, 17 June 2002)

In November 2006 the European Commission published a Green Paper which revealed plans to establish EU "consulates" around the world. It argued that "Setting up common offices would help to streamline functions and save on the fixed costs of the structures of Member States' diplomatic and consular networks... these offices could be housed in various representations or national embassies or in just one, or they could share the Commission delegation." It went on to say that "the EU consulates could take over functions now controlled by member states, including issuing visas. "In the long term, common offices could perform consular functions, such as issuing visas or legalising documents."

Under the Constitutional Treaty article 20 TEU (formerly III-127 of the Constitution) is amended so that the EU can pass laws by majority vote determining rules on diplomatic and consular protection - so moves towards common consulates and embassies would be likely to accelerate.

*"We will undoubtedly see European embassies in the world, not ones from each country, with European diplomats and a European foreign service. We will see Europe with a single voice in security matters. We will have a single European voice within NATO. We want more European unity."*

- Jose Luis Rodriguez Zapatero, Spanish Prime Minister, AP, 17 February 2005

*"We want a political Europe that can speak with one voice, and with one minister of foreign affairs and a common foreign service."*

- Nicolas Schmit, Luxembourg Foreign Minister, BBC, 26 January 2007

## A self-amending treaty for the first time

The new version of the Constitutional Treaty re-introduces the proposals from the Constitution which would make the treaty self-amending for the first time. Article 33 (which contains both IV-444 and IV-445 of the old Constitution) would allow EU leaders to change the treaties incrementally, without the need for a new treaty.

At present, the treaties on which the EU is based can be amended only by the convening of an Intergovernmental Conference (IGC) such as the one that agreed the EU Constitution. Any amendments must be agreed unanimously by all governments and then ratified in the member states according to their Constitutional traditions, i.e. by referendum or by parliamentary vote (Article 48 TEU).

However, Article 33 (2) TEU of the new treaty allows the Council to vote by unanimity to change any of the text of part three of the Treaty on the Functioning of the Union (basically all the detail of the treaties). Such a change would have to be ratified by each country in line with its Constitutional requirements (so a bill or a statutory instrument in the UK).

Article 33 (3) TEU of the new treaty allows the Council to move to majority voting in any of the remaining areas covered by unanimity, (including foreign policy, but excluding defence). However, in this case the change would not need to be ratified by national parliaments.

There is a provision that says that if a parliament does complain within six months then such a proposal won't go through. But the presumption would be reversed. Unless the Government allows parliament time to vote against something (something the executive has signed up to, after all) then it goes through automatically.

This would undermine the role of parliament in controlling treaty changes. It would mean a shift of power towards the EU's leaders and away from national parliaments.

The process under the current treaties has meant that changes in the Single European Act, and the Maastricht, Amsterdam and Nice treaties have been 'package deals', introducing many changes at once, which attracted public interest and sparked debate. The mechanisms set out in the revised Constitution, which would allow it to be gradually altered, would be likely to reduce the level of scrutiny of future changes. *In theory, its adoption could be the last opportunity to call for a referendum.*

Nor is the new treaty in line with what the Government promised during the negotiations.

Denis MacShane told the Standing Committee on the IGC: "We think that a self-amending Constitutional Treaty does not make a lot of sense" and "There is no enthusiasm for the clause in the European Union." (20 October 2003)

The Government's 2003 White Paper said that: "There is also a proposal for a clause which would allow the European Council to vote by unanimity to move any Treaty article to QMV. We oppose anything which would undermine the role of national parliaments in Treaty change."

Jack Straw told the Standing Committee on the IGC "We would not agree to the draft treaty with that provision in it. The presidency notes that were issued alongside the draft texts stated that the new scheme contained a nihil obstat clause. I pointed out that that means that "no one objects". However, its proposal is that national parliaments can impose a block only if more than no one objects. That is unacceptable and illogical."

"We have made it clear all along that we would find acceptable a situation in which the Council could, by unanimity, agree to a shift of powers from unanimity to QMV in respect of a particular dossier or area of activity of the Union provided that there was a lock that required *every national Parliament to endorse* that decision. I do not believe that there is any argument about that. There was much support for that. As I said, this is one of those areas where the draft must be acceptable or we simply do not sign up to it." (1 December 2003)

He also said that "what we cannot have is a situation where even though [this article] has to be by unanimity, late at night at an ordinary European Council, a decision on one other country's milk quotas is traded for a concession on moving from unanimity to QMV... that is not acceptable." (Hansard, 5 November 2003)

### **The end of the one Commissioner per country**

Member states will no longer have a Commissioner each. This would mean that there will be periods in which member states do not know what's going on within the Commission. The Constitutional Treaty proposes that from 2014 the number of Commissioners will be two thirds of the number of member states. The third of members who don't have a commissioner will rotate around each time.

While some argue that this would make the EU less bureaucratic, removing nine Commissioners at the top will not make much of a dent in the EU's huge staff of 63,000 employees. On the other hand it will break down the idea of a Europe of nation states further, and will make it harder for countries with no Commissioner to find out what's going on in the Commission.

### **European Parliament electing the President of the Commission**

The draft treaty retains the original Constitutional Treaty's proposal that the President should be elected by the European Parliament. Currently, the President of the Commission is elected by member states after approval from the European Parliament. Under the Constitution, the European Parliament would elect the European Commission President by a majority of its members, after the recommendation of a candidate by the European Council, deciding by QMV. The UK was against an elected president for the Commission fearing it was a further step towards a European government.

Peter Hain argued, "Another suggestion is for the European Parliament to elect the Commission President. However, I am sceptical of that idea. My concern is that such an independent figure, who must be acceptable to the member states through the Council, will get caught up in the politics of the European Parliament." (Speech in Westminster Hall, 20 March 2003)

The Government resisted the proposal throughout the original negotiations, but eventually gave way in spring of 2004. Peter Hain said in an interview with the

European Affairs Committee that electing the Commission President “is not something we sought and we remain deeply sceptical about it”, but conceded that, in order to get an elected President of the Council, it “is something that we might have to adjust to.” (25 March 2004)

### Vetoes abolished - and majority voting is made the norm

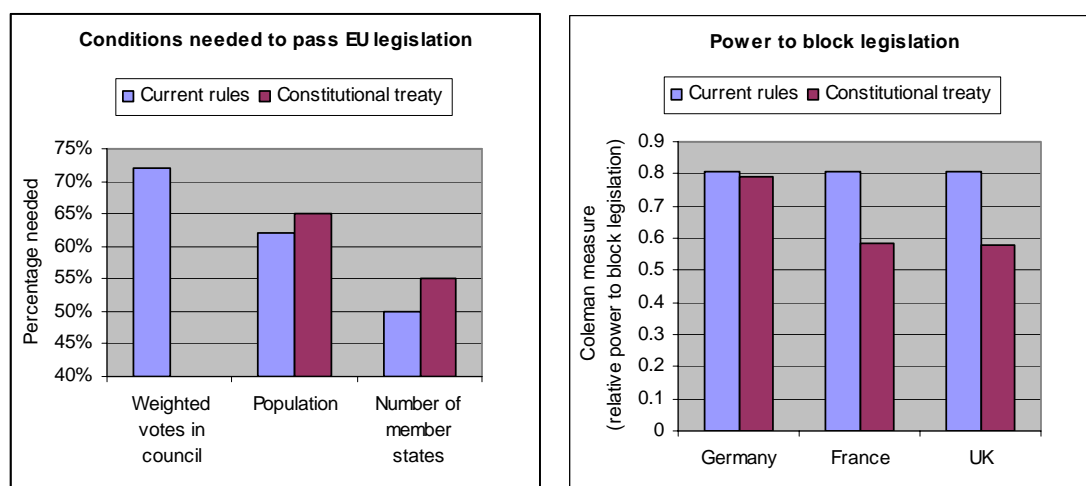
Under the new Constitutional Treaty majority voting will be extended to 61 more areas. Majority voting is also made officially the norm, and described as the “ordinary legislative procedure”. The few remaining exceptions to majority voting are described as being decided under a “special legislative procedure”. These remaining vetoes can also be abolished without the need for a further treaty using the simplified revision procedure (see above).

The veto is given up in all kinds of significant areas: the powers of Europol and Eurojust, energy, transport, employment policy, the ECB’s powers over financial regulation, the appointment of the EU President, and many areas of foreign policy (see below for foreign policy and Annex 1 for a full list).

### Cutting our power to block EU legislation by 30%

As proposed in the original Constitution, the voting system will be altered so that it is harder for member states to block legislation they are opposed to.

Under the current system laws have to pass three hurdles: 74% of the weighted votes in the Council, plus 62% of the population, and a majority of member states. Under the new system there are just two hurdles: 65% of the population and 55% of the member states. Essentially, the highest “hurdle” has been taken away, making it easier to pass legislation. This is what EU leaders mean when they talk about “streamlining” the process of making decisions.



(Source: Felsenthal and Machover, 2004)

Academic research suggests that almost all member states would find it more difficult to block legislation under the new system. The extent to which a country will be affected depends largely on its population, which now becomes a more important factor. Germany is the only large member state whose power stays roughly the same - its hugely increased share of the vote offsets the effect of the higher threshold needed to block legislation.

Britain and France see their power to block legislation reduced by a roughly equal amount. The UK stands to lose nearly 30% percent of its ability to block EU legislation in the Council.

If the new voting system comes into play then several controversial measures the UK is currently blocking might then pass. For example, by teaming up with other liberal member states Gordon Brown managed to block some damaging aspects of recent financial services laws - particularly on the MIFID directive. This might well not have been possible under the new rules.

Even pro-euro groups like the Centre for European Reform and "Business for New Europe" acknowledge this point: they note that "Under the new system, those opposing a law would find it slightly harder to block it." (Joint briefing paper, May 2007)

Compared to the original Constitution, there is a slight delay in this measure coming into force under the new Constitutional Treaty. At the insistence of Poland the new voting system will not come into effect until five years after the rest of the Constitutional Treaty is intended to come into force.

Some argue that unless the rules are changed to make it easier to pass legislation then the EU will "grind to a halt." But a study of legislation by academics at Paris-based university Sciences-Po found that the EU has in fact been adopting new rules and regulations some 25% *faster* since the EU's enlargement to 10 new member states in 2004, and that "old" member states are in fact twice as likely to block measures as "new" countries.

Indeed, most people in business believe that the EU is already producing too much regulation. An ICM poll of 1,000 UK Chief Executives at the end of 2006 found that 59% thought that the burden of EU regulation was rising, and 54% now think the benefits of the Single Market are outweighed by the costs of EU regulation.

#### **A 'division of competences' that means more and more power for the EU**

The Constitutional Treaty was supposed to set out a clear division of powers between the member states and Brussels, to stop the gradual drift of powers from member states to the EU. However, it does the opposite - it defines most powers as "shared", and says that where powers are "shared" the member states can only act if the EU has chosen not to.

The new version of the Constitutional Treaty repeats the original text (which now becomes Article 2 (2) TFEU), merely changing the word 'Constitution' to 'Treaties': "When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts... When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area."

However it states that in these supposedly "shared" areas: "The Member States shall exercise their competence to the extent that the Union has not exercised its competence. The Member States shall again exercise their competence to the extent that the Union has decided to cease exercising its competence."

Exclusive competences of the EU	Shared competences	Supporting competences
<p>(a) customs union;  (b) the establishing of the competition rules necessary for the functioning of the internal market;  (c) monetary policy for the member states whose currency is the euro;  (d) the conservation of marine biological resources under the common fisheries policy;  (e) common commercial policy.</p> <p>The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.</p>	<p>(a) internal market;  (b) social policy, for the aspects defined in this Treaty;  (c) economic, social and territorial cohesion;  (d) agriculture and fisheries, excluding the conservation of marine biological resources;  (e) environment;  (f) consumer protection;  (g) transport;  (h) trans-European networks;  (i) energy;  (j) area of freedom, security and justice;  (k) common safety concerns in public health matters, for the aspects defined in this Treaty.</p>	<p>(a) protection and improvement of human health;  (b) industry;  (c) culture;  (d) tourism;  (e) education, youth, sport and vocational training;  (f) civil protection;  (g) administrative cooperation."</p>

Confusingly, within the section on the division of powers, several other powers of the union are cited, but not assigned to any category. Article 5 TFEU (formerly article I-15 of the Constitution) states that:

1. *The Member States shall coordinate their economic policies within the Union. To this end, the Council shall adopt measures, in particular broad guidelines for these policies.*
2. *The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.*
3. *The Union may take initiatives to ensure coordination of Member States' social policies.*

The UK was deeply unhappy with this whole structure - making at least twelve failed attempts to amend or delete sections of this part. For example:



- The UK argued that: "Shared competences should be a residual category. They should therefore not be listed explicitly. To have an 'indicative list' of some shared competences is the worst of both worlds."<sup>2</sup>
- The UK argued that: "Competition policy is not an exclusive competence. It is a shared competence."<sup>3</sup>
- The UK wanted to insert a sentence stating that "supporting action shall not prevent Member States from exercising their competence in that area."<sup>4</sup>
- The UK argued that employment, public health, consumer protection, and transport networks were not shared competences.
- The UK tried to delete the article on the EU's powers to coordinate employment and economic policies.<sup>5</sup>

### **Protocol on national parliaments watered down to become meaningless**

Compared to the 2004 text, the protocol on parliaments in the revised Constitutional Treaty has been altered so that half of national parliaments need to object to trigger the process of blocking a proposal rather than 'just' a third.

In the unlikely event that fourteen national parliaments all vote against their governments on the same proposal, on subsidiarity grounds, during an eight week window, then the Commission has to 'reconsider' - but it can still override national parliaments. Which is exactly what happened the very first time the mechanism was given a 'trial run' several years ago. Such proposals are actively damaging, because they give the impression of accountability without the reality, and are used to fob off proposals for real democracy in Europe.

### **More power for the European Parliament at the expense of national governments**

The new Constitutional Treaty proposes that in 40 new areas the European Parliament would get power of co-decision over legislation - giving it an effective veto over decisions taken by the heads of Government. The European Parliament is generally the most federalist EU institution and presses for more power for the EU and more power for itself (a list of the areas is in Annex 2).

One of the many significant areas in which the Parliament is given co-decision for the first time is over the Common Agricultural Policy element of the EU budget. This is bad news for attempts to reform the CAP. While national leaders are more likely to be able to see the big picture, MEPs are more likely to be captured by producer interests in their constituency. Despite its current lack of power in this area Parliament has consistently voted against CAP reform. And it has used its existing powers over the framework to block reform - e.g. in March 2007 the Parliament succeeded in blocking an attempt by the Council and Commission to allow 20% of CAP spending to be "modulated" (spent on other rural development projects). Giving the Parliament far more powers in this field will give protectionist interests a second line of defence against attempts to reform the CAP.

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<sup>2</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/12/Art12Hain.pdf>

<sup>3</sup> [http://european-convention.eu.int/Docs/Treaty/pdf/11/11\\_Art%201%2012%20Hain%20EN.pdf](http://european-convention.eu.int/Docs/Treaty/pdf/11/11_Art%201%2012%20Hain%20EN.pdf)

<sup>4</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/15/Art15Hain.pdf>

<sup>5</sup> [http://european-convention.eu.int/Docs/Treaty/pdf/13/13\\_Art%201%2014%20Hain%20EN.pdf](http://european-convention.eu.int/Docs/Treaty/pdf/13/13_Art%201%2014%20Hain%20EN.pdf)

## Exit clause

The draft treaty includes the "Article on voluntary withdrawal from the Union" from the previous version of the Constitution.

This establishes a procedure for leaving the EU in which the leaving member would have to negotiate with all the other member states. In reality this is a purely political proposal, designed to divert discussion onto leaving the EU.

It also raises an important issue of principle - it is not the EU which grants its member states the right to leave the EU. Member states already have the right to leave at any time.<sup>6</sup>

## A European Public Prosecutor

The draft treaty retains the proposals in the original Constitution for a European Public Prosecutor - a move that the UK opposed vehemently. In the original version of the Constitution the EPP could only have been set up by unanimous agreement and the UK had a veto. In the new version of the Constitution the prosecutor can be set up under enhanced cooperation even if the UK objects.

During the original talks, the Government said that the Prosecutor should not be included, even if the decision to set it up was to be taken unanimously. In suggested amendments during the European Convention Peter Hain wrote, "We are firmly opposed to establishing a European Public Prosecutor. Unanimity does not mean that this article can be accepted. There is clearly no need for a separate prosecution body at EU level."

Under the original Constitution the prosecutor could only be established by unanimity, but under the new version of the text the new office could be set up using enhanced cooperation even if the UK objects.

The Prosecutor is supposed to be developed out of the existing EU prosecutors network "Eurojust". Johannes Thuy, a spokesman for Eurojust, confirmed that "We could compel the British police to make a prosecution." (Sunday Times, 5 August 2007)

## A single legal personality for the EU

The draft treaty states that the Union shall have "a single legal personality", as in the original Constitution. This would mean that for the first time the EU, rather than member states, could sign up to international agreements on foreign policy, defence, crime and judicial issues (currently the EC can only sign agreements in first pillar issues like trade). That would be a huge transfer of power and make the EU look more like a country than an international agreement.

Talking about the original version of the Constitution, Italian PM Romano Prodi said that this change was "A gigantic leap forward. Europe can now play its role on the world stage thanks to its legal personality". The French government's referendum website argued that, "The European Union naturally has a vocation to be a permanent member of the Security Council, and the Constitution will allow it to be, by giving it legal personality."

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<sup>6</sup> E.g. Greenland unilaterally voted to leave the EEC in a referendum in 1982 and left in 1985.

Even the UK Government admitted that it could cause problems. When the Constitution was first being drafted, Peter Hain said that "We can only accept a single legal personality for the Union if the special arrangements for CFSP and some aspects of JHA are protected." He told MPs: "we could support a single legal personality for the EU but not if it jeopardises the national representations of member states in international bodies; not if it means a Euro-army; not if it means giving up our seat on the United Nations Security Council; and not if it means a Euro-FBI or a Euro police force."

The UK Government had long been opposed to the idea of giving the EU a legal personality. Back in 1997 Prime Minister Tony Blair boasted that he had successfully stopped a provision for this appearing in the Amsterdam Treaty. He said, "Others wanted to give the European Union explicit legal personality across all the pillars of the treaty. At our insistence, that was removed." (Hansard, 18 June 1997)

### **Enhanced cooperation - safeguards removed**

"Enhanced cooperation" is EU jargon for the idea that smaller groups of member states can go ahead with projects within the EU framework, while other member states choose not to get involved.

The UK Government has long been cautious about enhanced cooperation. After the Amsterdam treaty in 1997 Tony Blair said, "We secured a veto over flexibility arrangements which could otherwise have allowed the development of a hard core, excluding us against our will." (Hansard, 18 June 1997)

The Government has been particularly wary of extending enhanced cooperation into foreign affairs. In 2000 Robin Cook warned, "We have no idea what enhanced co-operation might lead to."

Under the draft treaty many of the safeguards which currently apply to enhanced cooperation are removed. For the first time enhanced cooperation groups can decide to move to majority voting within their group, with no veto for non-members of the group (Art. 280h TFEU, formerly article III-422 of the Constitution). So, for example, the veto could be abolished for a group working on tax issues, which could then be used to put pressure on the UK.

Enhanced cooperation would apply to the whole of foreign policy. An "emergency brake" mechanism which applies in foreign affairs to enhanced cooperation under the existing treaties is deleted by the new Constitutional Treaty.

## (2) Foreign Policy

*"Within the EU itself, we will have to move closer to establishing a common European army."*

- German Chancellor Angela Merkel, Bild, 23 March 2007

*"When I was talking about the European army, I was not joking. If you don't want to call it a European army, don't call it a European army. You can call it 'Margaret', you can call it 'Mary Ann', you can call it any name."*

- Italian Prime Minister Romano Prodi, Independent, 4 February 2000

*"The Constitution lays the legal basis for a future European Army. It fixes a 'common defence' as an objective."*

- Former French Finance Minister Dominique Strauss-Kahn, 'Oui!, Lettre ouverte aux enfants de l'Europe', October 2004

*"Europe must believe that it can be in 20 years the most important world power... The Constitution is an important step in this direction."*

- Spanish Prime Minister Jose Zapatero, Der Spiegel, 8 November 2004

*"I am sure that in medium-term we will have a European army financed by the EU budget."*

- German ambassador to the EU Wilhelm Schönfelder, Handelsblatt, 19 April 2007

*"The basis for a European Defence exists. We must make it grow. I want Europe to be capable of ensuring its security autonomously."*

- French President Nicolas Sarkozy, EUobserver, 16 July 2007

The institutional changes affecting foreign policy - such as the de facto EU Foreign Minister, and the creation of an EU diplomatic service, single legal personality and the introduction of enhanced cooperation into foreign policy, are dealt with above.

But as well as these significant new institutions, there are a large number of other important new powers for the EU in this area - not least the introduction of majority voting, a new "hard core" in defence, and a mutual defence commitment.

### Majority voting in eleven different areas of Foreign Policy

At the start of the original negotiations on the Constitution Peter Hain promised that "QMV is a no-go area in CFSP" [Common Foreign and Security Policy]. (Hansard, 25 March 2003)

During the IGC, Jack Straw said that the move to QMV in this area was "simply unacceptable." (Hansard, 1 December 2003) Nonetheless the Government has now accepted it, according to its own [analysis](#), in nine different areas of foreign policy.<sup>7</sup>

<sup>7</sup> The UK Government lists these areas as "EU humanitarian aid operations"; "Civil protection"; "Implementation of solidarity clause"; Creation of a 'start-up fund' for urgent Common Foreign and Security Policy measures; Urgent EU aid to third countries; Membership of structured co-operation in defence; Appointment of High Representative of the Union for Foreign Affairs and Security Policy by the European Council; Role of the High Representative of the Union for Foreign Affairs and Security Policy in CFSP implementing measures; Measures to facilitate diplomatic and consular protection"

In fact there is also majority voting on at least two other aspects of foreign policy - so the veto would in fact be given up in a *eleven* different areas.  
Areas of Foreign Policy on which the veto would be given up:

1. **Proposals from the EU Foreign Minister.** Perhaps the most important introduction of QMV relates to the new Foreign Minister. Article 17(2) TEU (formerly Article III-300 (2) of the Constitution) stipulates that the Council shall act by qualified majority, "when adopting a decision defining a Union action or position, on a proposal which the High Representative of the Union for Foreign Affairs and Security Policy has presented following a specific request to him or her from the European Council, made on its own initiative or that of the High Representative."

This change could have important repercussions. EU states could (unanimously) ask the Foreign Minister to come up with a plan but then, if individual states such as the UK don't agree with what he comes back with, could find themselves in a majority voting situation. For example, on the squabble between NATO and the EU over who will supply air transport to the African Union troops in Darfur, the UK might not be able to block the EU from pointlessly duplicating NATO - if this was proposed as part of a plan from the Foreign Minister.

*"I made it clear that Article III-201, which proposes QMV on proposals made by the Union's Minister for Foreign Affairs, is simply unacceptable. I do not remember exactly how much support there was for that view in the room, but there was a great deal. Again, we made it clear that common foreign and security policy is an intergovernmental matter, and must be established unanimously."*

- Jack Straw, Standing Committee on the IGC, 1 December 2003

2. **The design of the EU diplomatic service.** The new Article 13a TEU (formerly Article III-296 of the Constitution) also allows the organisation and functioning of the new EU diplomatic service to be decided by QMV. As noted above, the tasks and even the eventual size of the service are still unclear. The Council will act on a proposal from the Foreign Minister after getting the consent of the Commission.
3. **Setting up an inner core in defence.** Under Article 31(1) TEU (Article III-312 in the Constitution), the decision to set up the "permanent structured cooperation" group would also be taken by QMV, as would subsequent decisions to expel members, or to admit new ones to the group.

*There is also the prospect of majority voting within the inner core.* Article 280H (1) TFEU (the old Article III-422 (1) of the Constitution) allows for the Council to act by qualified majority voting in the context of enhanced cooperation, if the Council, acting unanimously, so decides. This is a new article. This is not supposed to cover "defence" decisions, but will affect the common foreign and security policy.

4. **Terrorism and mutual defence.** Article 188r TFEU (Article III-329 of the Constitution) stipulates that the detail and meaning of the "terrorism solidarity clause" is to be decided by QMV.

This is important because the Government had clear reservations about this article. A proposed amendment by Peter Hain called for the key provision of the article - that "Should a Member State fall victim to a terrorist attack, the other Member States shall assist it" - to be deleted. But he was ignored. Article 188r (2) reads, "Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities." In a separate proposal, the Government asked for the new EU power to "prevent" terrorist threats to also be deleted. At a plenary session of the European Convention Hain objected that, "if it carries real military obligations to offer military assistance it is duplicating the NATO guarantee. If it does not ... it is empty rhetoric."<sup>8</sup> However, his objection was ignored.

5. **Urgent financial aid, and**
6. **Humanitarian aid.** Two new Articles 188i and 188j (formerly III-320 and III-321 of the Constitution) set up majority voting on urgent macro-financial aid and humanitarian aid.

Although this ostensibly seems a benign change (and is cited by the Government as an "uncontroversial" example of a move to QMV), it could raise highly important questions. To give a past real-world scenario, this might have been used to decide whether the Union should continue to fund the Palestinian Authority after the 2006 elections which returned Hamas to power - the UK and other Member States disagreed about this, the UK being keen only to fund NGOs and not the Hamas-led authority.

The UK tried to have these articles deleted. The UK argued that "Macro-financial assistance has been agreed urgently when required." Both amendments were ignored.<sup>9</sup>

7. **The election of the Foreign Minister.** New article 9e (formerly I-28 of the Constitution) specifies that the Foreign Minister / High Representative is elected (and can be sacked) by qualified majority voting. Because he or she is going to be a member of the Commission, whichever country he or she is from will lose its national commissioner if it has one, when he or she is appointed.
8. **Civil protection.** New article 176h (formerly article III-284 of the Constitution) allows the EU to pass laws by majority vote on the response to natural or man-made disasters. The UK asked for this move to majority voting to be removed, arguing that it wanted to preserve "the current flexible arrangements".<sup>10</sup> However, this request was ignored.
9. **Terrorist financing controls.** A new article 67a (former article III-160 of the Constitution) allows for decisions on measures to control the financing of international terrorism to be taken by QMV. The UK Government was not

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<sup>8</sup> See [http://www.europarl.eu.int/europe2004/textes/verbatim\\_021206.htm](http://www.europarl.eu.int/europe2004/textes/verbatim_021206.htm)

<sup>9</sup> See <http://european-convention.eu.int/Docs/Treaty/pdf/869/Art29Hain.pdf> and <http://european-convention.eu.int/Docs/Treaty/pdf/870/Art%20III%20218%20Hain%20EN.pdf>.

NB 188j also sets up a "European Voluntary Humanitarian Aid Corps". The UK also argued against this, saying that, "The idea of establishing a European Voluntary Humanitarian Aid Corps should have no place within the EU's humanitarian action". This third amendment was also ignored.

<sup>10</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/857/Art%20III%20179%20Hain%20EN.pdf>

against this article per se, but wanted it to be changed to stop it restricting member states' freedom to act. The UK argued that "At present, the scope of [the] article ... is certainly too wide and open-ended. Member States should retain competence to take further action consistent with the European law, for example to take immediate action to freeze assets of terrorists identified in accordance with national procedures and laws." However, the UK did not get the changes it wanted.

**10. The new EU Foreign Policy Fund.** New article 26(3) TEU (formerly article III-313 of the Constitution) creates a "start up fund" for foreign policy operations. This new fund is seen by many as the first step towards a common defence budget for the EU. Everything about the fund is to be decided by QMV - including the amounts paid by member states. The UK Government demanded that decisions about the fund should be taken by unanimity. However, this was ignored.

**11. Consular issues.** Under the Constitutional Treaty article 20 TEU (formerly III-127 of the Constitution) is amended so that the EU can pass laws by majority vote determining rules on diplomatic and consular protection - so moves towards common consulates and embassies would be likely to accelerate.

#### The "structured cooperation" group - an inner core in defence

The new treaty will carry over the original Constitution's proposals on structured cooperation.

Articles 27 (6) and 31 (1) TEU (respectively carrying over I-41 (6) and III-312 of the Constitution) provide for the establishment of a special sub-group of member states "whose military capabilities fulfil higher criteria and which made have more binding commitments to one another in this area with a view to the most demanding missions". This provision for so-called "permanent structured cooperation" within the EU framework would allow neutral countries to opt out, and create an "inner core" of EU members interested in taking forward military integration.

*"The responsibility of our generation is to give a more ambitious dimension to defence Europe... Soon, a new institutional treaty will permit reinforced cooperation, notably in the area of defence, since defence Europe will move forward by using a hard core of countries which want to take on their own security."*

- French Defence Minister Hervé Morin, La Tribune, 19 July 2007

*"The Young European Federalists... Welcome the possibility to establish Structured Co-operation in the field of Defence, which is a significant step towards a Single European Army."*

- Young European Federalists briefing paper

The arguments over this group are much like those over the European Defence Agency - that the focus on harmonisation of forces within Europe will work to the detriment of cooperation with NATO.

Article 31 (1) TEU will specify that the group can be set up by QMV. The rough outline of how the group would work is explained in a new protocol annexed to the original EU Constitution. This outlines a number of qualifications which member states would have to pass to join permanent structured cooperation. Clause 1 stipulates that it is open to any member state undertaking to:

a) "proceed more intensively to develop its defence capacities through the development of its national contributions and participation" in multinational forces and activities of the European agency; and b) "have the capacity to supply by 2007 at the latest, either at national level or as a component of multinational force groups, targeted combat units for the missions planned ... within a period of 5 to 30 days ... and which can be sustained for an initial period of 30 days."

Article 2 of the Protocol specifies that participating member states would cooperate to:

a) achieve "approved objectives concerning the level of investment expenditure on defence equipment"; b) "bring their defence apparatus into line with each other"; c) "take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces"; d) "make good ... the shortfalls perceived in the framework of the 'Capability Development Mechanism'"; and e) "take part... in the development of major joint or European equipment programmes in the framework of the Agency."

The Government was initially strongly opposed to the structured cooperation proposal. Peter Hain argued in an amendment, "The UK has made clear that it cannot accept the proposed ESDP reinforced cooperation provisions. While we support Member States making higher capability commitments and co-operating with partners to this end, the approach described here - a self-selecting inner group - undermines the inclusive, flexible model of ESDP that the EU has agreed."

Indeed, the UK Government has long been cautious about enhanced cooperation. After the Amsterdam treaty in 1997 Tony Blair said, "We secured a veto over flexibility arrangements which could otherwise have allowed the development of a hard core, excluding us against our will." (Hansard, 18 June 1997) This veto has now been given up.

However, the Government failed in its attempts to remove the provision for enhanced cooperation from the Constitution, and after the meeting between the UK, France and Germany in October 2003, the UK agreed to back the idea in return for assurances that member states could not be excluded from the group if they wanted to join.

### **A commitment that the EU will move to a common defence**

Article 27 TEU (2) (formerly article I-41(2)) states that "The common security and defence policy shall include the progressive framing of a common Union defence policy. *This will lead to a common defence*, when the European Council, acting unanimously, so decides."

The UK objected to this, arguing that "We believe there is no prospect of the Council taking a decision to agree common defence in the near future. It is therefore inappropriate for the text to pre-judge the decision of the Council." However, the UK later gave way.



## A new mutual defence commitment

Article 27 (7) TEU (formerly article I-41(7) of the old Constitution) states that, "If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States." This is essentially a mutual defence commitment.

Irish Foreign Minister Dermot Ahern has said, "The European Constitution provides for a mutual defence commitment. This establishes an obligation to assist another Member State that is the victim of armed aggression on its territory."

Lord Robertson, former Secretary General of NATO, warned that it is "dangerous to introduce a mutual defence clause into the Constitution if you do not have the means to carry it through."

The Government wanted this entire paragraph to be deleted from the Constitution, and issued an unsuccessful amendment to this end, in which Peter Hain wrote, "Common defence, including as a form of enhanced cooperation, is divisive and a duplication of the guarantees that 19 of the 25 Member States will enjoy through NATO." However, the UK Government abandoned this objection.<sup>11</sup>

## A new requirement to consult other EU members on foreign policy actions

Article 17a (Article I-40 of the original Constitution) contains a requirement for a Member State to consult other Member States before taking foreign policy action:

*"Before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity."*

During the European convention the UK asked for this text to be removed, arguing that "We will need to ensure that we are not prevented by any provision in the Constitution from carrying out an independent foreign policy".<sup>12</sup> However, this request for an amendment was ignored.

## A new terrorism solidarity clause

New article 188r (formerly article III-329) states that "Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities."

It states that, "The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to prevent the terrorist threat in the territory of the Member States; protect democratic institutions and the civilian population from any terrorist attack; assist a Member

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<sup>11</sup> [http://european-convention.eu.int/Docs/Treaty/pdf/30/30\\_Art%20I%2040%20Hain%20EN.pdf](http://european-convention.eu.int/Docs/Treaty/pdf/30/30_Art%20I%2040%20Hain%20EN.pdf)

<sup>12</sup> [http://european-convention.eu.int/Docs/Treaty/pdf/29/29\\_Art%20I%2039%20Hain%20EN.pdf](http://european-convention.eu.int/Docs/Treaty/pdf/29/29_Art%20I%2039%20Hain%20EN.pdf)

State in its territory at the request of its political authorities in the event of a terrorist attack; [and to] assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.”

The UK Government wanted to delete the sentence “Should a Member State fall victim to a terrorist attack or a natural man-made disaster, the other Member States shall assist it.”<sup>13</sup> In a separate amendment the Government also asked for the new EU power to “prevent” terrorist threats to be deleted.<sup>14</sup> However, both objections were later abandoned.

The political motivation behind the clause is to reinforce moves towards a mutual defence commitment (see above). The only sense in which the terrorism solidarity clause is not a mutual defence guarantee is that it is addressed to threats from “non state actors.”

The power to take action to “prevent” rather than respond to terrorism is likely to be used by the EU to expand its role. Crucially, the meaning of the new article is to be defined by QMV, meaning that it could be used as a flexible basis for EU action.

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<sup>13</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/874/ArtXHain.pdf>

<sup>14</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/9901/XHain.pdf>

### (3) The Charter of Fundamental Rights

The Government promised the Charter would not be legally binding -  
Under the new Constitutional Treaty it would be

When the Charter of Fundamental Rights was drawn up, the UK Government promised that it would not become legally binding. The then Europe Minister Keith Vaz promised that it would be no more legally binding "than the Beano."

"Our case is that it should not have legal status and we do not intend it to"  
- Tony Blair, 11 December 2000

"It will not be legally enforceable"  
- Former Europe Minister Keith Vaz, 22 November 2000

"It is certainly not the intention of this Government to see it as anything other than a political declaration."  
- Baroness Jay, 11 December 2000

However, despite the Government's promises, article 6 of the new Constitutional Treaty gives the Charter legally binding status. Indeed the current draft of the Constitutional Treaty would put the Charter on a legal par with the core treaties. Article 6 states that:

*"The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of 7 December 2000, as adapted on [... 2007], which shall have the same legal value as the Treaties."*

Even the Government has admitted that the incorporation of the Charter is 'not ideal'. Peter Hain said, "Well, in an ideal world, we would not have gone down the route of incorporating the Charter. We would have preferred it as a statement of declaratory rights." (Hansard, 8 July 2003)

When the Government was opposing the inclusion of the Charter in the treaties Baroness Scotland said making the Charter binding was "not desirable because a text incorporated into the treaties requires legal precision," she said. "The Charter uses a breadth of language well suited for a political declaration." (Hansard, 29 November 2000)

Even during the European Convention in 2002 the Government was still promising that the Charter would not be included in the Constitution. Peter Hain said:

*"The people who say that it is a great idea to have a charter of rights do not seriously appreciate what the implications would be if it were incorporated wholesale in the treaty. My right hon. Friend the Foreign Secretary has made it absolutely clear that we shall not do that ... people want a charter of motherhood and apple pie at one level, but are not willing to recognise what full incorporation would signify."*<sup>15</sup>

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<sup>15</sup> Hansard, 18 June 2002

## Will the protocol stop the Charter from affecting UK law?

The UK doesn't have an opt out - only one part is said not to create new rights

Having allowed the Charter to be made legally binding, the UK Government agreed a protocol which it argues will prevent the Charter from affecting UK law, or at least reduce its impact.

The Government have sometimes tried to present this as an "opt out" from the Charter. However, as Swedish Prime Minister Frederick Reinfeldt has pointed out "It was important for the [Swedish] government to keep the Charter legally binding, which now is the case... the UK accepted this... It should be stressed that the UK was given a clarification, not an opt-out." (Swedish Parliament, 26 June 2007)

The text of the protocol states that:

### Article 1

1. The Charter does not *extend* the ability of the Court of Justice, or any Court or tribunal of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms.

2. In particular, and for the avoidance of doubt, nothing in *Title IV* of the Charter creates justiciable rights applicable to the United Kingdom *except in so far as the United Kingdom has provided for such rights in its national law*.

### Article 2

To the extent that a provision of the Charter refers to national laws and practices, it shall only apply to the United Kingdom to the extent that the rights or principles that it contains *are recognised in the law or practices of the United Kingdom*.

Interestingly, when Tony Blair presented this protocol to parliament he purported to "read out" the text of this protocol, but - surely by mistake - neglected to mention that only "Title IV" is said not to create new rights. Blair said that:

*First, on the charter of fundamental rights, we secured a legally binding protocol, specific to the UK, and applicable both to the British Courts and to the European Court of Justice.*

*Let me read the terms. "The Charter does not extend the ability of the Court of Justice, or any Court or tribunal of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that the Charter reaffirms. In particular, and for the avoidance of doubt, nothing in the Charter creates justiciable rights applicable to the United Kingdom except in so far as the United Kingdom has provided for such rights in its national law." (Hansard, 25 June 2007)*

## What effect will the protocol have?

The Protocol is curiously worded. Only one part of the Charter (Title IV on social rights), is said not to create justiciable rights applicable to the United Kingdom - and even then - "except in so far as the United Kingdom has provided for such rights in its national law" - which is the whole point. The ECJ will be in the business of interpreting the meaning of UK law in the light of the Charter.

The protocol appears to imply a greater degree of protection against the evolving jurisprudence of the ECJ in this one area. However, the inevitable conclusion of an "avoidance of doubt" clause which only applies to one part of the Charter is that is clearly *doubtful* whether the other areas covered by the Charter will not be affected by the Charter. Saying that only one section can not be used to create new rights suggests that the others *will*.

While there clearly seems to be a *greater* level of protection against the evolving jurisprudence of the Court in relation to Title IV compared to the other sections, even there, the Court will decide for itself whether the UK has attempted to provide for such rights in its national law. It will then be able to decide whether the attempt to provide such rights is adequate in the light of the Charter.

## A UK-specific protocol will quickly be circumvented

The Government sometimes appears to accept that the Charter will have some effect at EU level, but argues that it will not affect "national" law.

Baroness Amos told the Lords that, "On the Charter of Fundamental Rights, I know that it looks as though the Government were seeking to opt out of issues. The charter ensures that the institutions, bodies and agencies of the Union will be bound to recognise rights in exercising any of their powers. The charter should help to ensure that citizens' basic rights and liberties are protected at EU level, as they are in their own countries. However, we feel absolutely certain that, with our human rights legislation, employment protection legislation and other legislation, we have already secured those rights within current UK domestic law."<sup>16</sup>

This argument effectively begs the question - as it will be the European Court of Justice that has to decide for itself - (a) where the boundary between national law and European law is, and (b) whether the United Kingdom intended to provide for a given right in its national law.

Vassilios Skouris, President of the European Court of Justice, has refused to confirm that the Charter would not change national laws. In an interview with the Financial Times Skouris was asked, "Is the 'horizontal' of the Charter stable? The idea that the Charter would affect only EU institutions, not national jurisdictions?" Skouris replied: "It's difficult to say what is going to happen." (FT, 17 June 2004)

There is an obvious problem with the idea of trying to create a carve-out for the UK. Firms operating in more than one member state would clearly be affected. Migrants coming from another member state to the UK would presumably still be covered. And anyone who travelled to another EU country - e.g. to use health services - would still be able to use the Charter.

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<sup>16</sup> Hansard, 25 June

Given the nature of EU law, it is hard to see how a carve out could work in practice, and it is likely the UK-specific opt-out deal will quickly unravel:

- Jacques Ziller, a professor at the European University Institute in Florence, said that the idea of one country opting out of the Charter was “nonsense” and would quickly be challenged in the Courts. (European Voice, 31 May 2007)
- EU Commissioner Margot Wallstrom has said the Charter will apply to large parts of British law, despite UK Government claims that the opt-out will prevent this. She said, “The Charter will be binding for the European institutions, and also for member states when they implement EU law, even if it does not apply to all of them.” (Telegraph 12 July 2007)
- Former EU Justice Commissioner Antonio Vitorino has also questioned the legal basis for the British opt-out from the Charter of Fundamental Rights and warned that it would not work. (Guardian 26 June 2007)
- More importantly, the Commission’s legal experts take the same view, and expect that the British opt-out will be tested in the Courts. (Guardian 26 June 2007) The Commission's legal service estimates that British opt-outs to the Charter are “limited” and one legal source said that “the opt-out is potentially very thin”. (Telegraph 12 July 2007)
- This has been confirmed through analysis that followed the publication of the draft mandate from the Legal Adviser to the Commons European Scrutiny Committee, Michael Carpenter. He questioned the claim by Tony Blair that the Charter of Fundamental Rights will not extend the ability of the European Court of Justice to challenge UK laws. He said: “This is a high standard to set, and I doubt if what appears to have been agreed secures this result.” He indicated that the Charter could have an indirect impact on UK law, if the Court gave a ruling on the Charter's effect on a given EU law in another member state.
- A senior European Parliament source close to negotiations on the new EU treaty told the Telegraph that MEPs are planning to sponsor early challenges to Britain's opt-outs. “We are going to make sure that this issue is constantly before the European Court of Justice,” he said. “There is 30 years of EU jurisprudence to say there can be no two-tier system of European rights.” (Telegraph 12 July 2007)

As the *Economist* explained: “The problem, as freely admitted by the head of the European Commission legal service the other day, is that there is nothing in the opt-out to stop British judges being invited to pay attention to European rulings and case law that involves other countries. In other words, the British opt out from the Charter would be watertight if British Courts were an island unto themselves, with an exclusive, vertical relationship with the European Court of Justice (ECJ).”

“But they are instead affected by all manner of case law generated by the ECJ in relation to other members of the EU. To give an example in plain English: imagine that a Czech trade union takes the Czech government to Court some time in the future, arguing that Czech employment law is in conflict with rights enshrined in the Charter, and the ECJ finds in favour of the trade union.

"That creates jurisprudence that is based on the Charter. Then, there is nothing to stop a British trade union going to a British judge, and asking him or her to consider the Czech case as a precedent, that signals that a piece of similar British labour law is in conflict with EU rights." (9 August 2007)

British Liberal Democrat MEP Andrew Duff argues that "The Protocol also looks flawed juridically. Regardless of the UK's exclusion clause, the EU Courts will be bound to develop jurisprudence in fundamental rights matters which steadily evolve into general principles of EU law which all member states must respect. Moreover, the European Court of Justice will be blind to the nationality of an EU citizen who chooses to invoke the Charter under EU jurisdiction."<sup>17</sup>

### Judges of the ECJ are sceptical about the attempt to create "safeguards"

In 2005 we interviewed several judges at the European Court of Justice (ECJ), who said that they believed the Charter would change national laws, despite the various safeguards that the UK had established. Several of them were fundamentally sceptical about the attempt to create safeguards, given the evolving jurisprudence of the Court. This is crucial, as it would be the Court's judges who would ultimately decide on how to interpret the Charter if the Constitutional Treaty is ratified.

- Judge Tizzano, former Advocate General and now a judge at the European Court of Justice, suggested that the failure of previous safeguard clauses in EU treaties implies that the attempt to limit the impact of the Charter will not stand the test of time. He asked, "Will they be able to limit and to safeguard, and to maintain the limits of the application of the Charter as the people who suggested this clause wanted, or not? *I guess not, because I saw what was the destiny of other safeguard clauses in the treaty.*"
- Asked whether the Charter means "more powers for the ECJ?" Tizzano said, "*Yes, more powers and more work.*"
- Former European Court Judge Jean-Pierre Puissechet told us, "The ordinary citizen could engage in procedures before their national judges, and they could invoke legal means derived from violation of fundamental rights as conferred by the Charter."
- Puissechet also warned, "*This Court has always been innovative in the interpretation of certain fields ... You have to keep this in mind when you assess the possible impact of the Constitutional Treaty on the role of this Court.*"
- Asked, "Do you think that Charter will give the ECJ more power?" he replied, "I think it could well be the case... competencies would be enforced in those fields in which for the time being - even in customary law - there is no provision, and there is no guarantee. That goes for the two or three or four social provisions, which are, or will be, absolutely a new thing."
- European Court Judge George Arestis told us, "The incorporation of the EU Charter into the primary Constitutional law of the EU will have an impact on

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<sup>17</sup> Andrew Duff, *A primer on the EU's reform treaty* (02.07.07)

the Member States, bound by the Charter through the doctrine of supremacy of EU law. Case law seems certain to evolve over the years ahead... The EU Charter could be used to deliver rights at work: (i) as a legal source, by itself, through the doctrines of 'direct' and 'indirect' effect, (ii) as a basis for challenging national law which incorrectly or inadequately transposes EU law."

- He concluded that, "The Court will decide disputes where Member States are charged with failing to implement, or allegedly violating rights in the EU Charter."

The Government has potentially created a lawyers' paradise with this messy fudge. It has clearly broken its repeated promise that the Charter would not become legally binding, whilst it is becoming increasingly clear that the so-called safeguards simply will not work.

Commission President Jose Barroso said shortly after the signing of the outline agreement that he was happy that his son was studying law, because under the Constitutional Treaty : "lawyers have a beautiful future." (Süddeutsche Zeitung, 25 June)

### The Charter as a legal basis for legislation

As well as a basis for the Court to rule on the legality of member states' laws, the Charter will also provide a basis for the Commission to propose legislation in new areas.

A good example of how far the Commission will stretch the Charter is the directive on free movement. In a series of logical leaps, the Commission admits that it was proposed on the basis of a right which it "deduced" from a right in the Charter, which was in turn "deduced" from "member states' traditions" - even though it is not in the existing treaties:

*"While it is true that the right of movement and residence of family members of Union citizens is not explicitly referred to by the Treaty, the right does flow from the right to preserve family unity, which is intrinsically connected to the right to the protection of family life, a fundamental right forming part of the common Constitutional traditions of the member states, which are protected by Community law and incorporated in the Charter of Fundamental Rights."*

The Commission is already using the Charter as a justification (though not a legal base) for legislation before it is even made legally binding. Making the Charter legally binding would let the Commission stretch its remit even further.

The ECJ's former Advocate General Leendert Geelhoed has argued that the incorporation of the Charter would lead to "a lot of implementing legislation":

Q: Would you say that the Charter, as a part of the Constitution will give rise to a lot of new law, a lot of new legislation?

Geelhoed: Yes. That will be the consequence of those values, especially the third part of the Charter - that will require a lot of implementing legislation.



## These are clearly new rights

The Government sometimes argues that the rights in the Charter reflect existing rights. If this were true there would be no need for the other convoluted safeguards that the Government has attempted to erect. In reality the rights in the Charter go beyond existing rights - particularly in the UK.

The European Commission has said that the Charter contains "certain new rights which already exist but have not been explicitly or formally protected as fundamental rights".

Even where the articles of the Charter are based on previous agreements the scope is often wider. The official "text of explanations" which has been produced to explain how the rights have been derived makes it clear that these are new rights:

- Seven of the articles which are supposedly "based on" the European Convention on Human Rights, have had their scope or meaning widened in the Charter.<sup>18</sup>
- Thirteen articles of the Charter were derived at least in part from interpretations of the ECJ's own case law. Because the ECJ will be able to decide for itself how to interpret its own case law, this allows gradual ECJ expansion of the rights in the Charter - it is effectively built on shifting sands.
- Some of the "sources" from which the rights are derived are treaties to which the UK is not currently party to at all. For example, the explanations state that Articles 5 and 50 of the Charter are derived in part from the Schengen Convention and its acquis.
- Several of the articles are said to be derived from the revised (1996) version of the European Social Charter, to which the UK and various other member states are not signatories. Although the UK is a signatory to the original 1961 European Social Charter, the revised version added a set of new articles numbered 20 - 31, which do not currently bind the UK. The explanations state that seven of the articles of the Charter are based on this source.<sup>19</sup>

Even the UK Government's own Commentary on the Constitution admits that certain of the Charter rights have no previous basis in the treaties or previous agreements. Its note on Article II-73 (on "freedom of the arts and science") notes that this article "has no equivalent in the current treaties" and has in fact been "deduced" from other rights.

This point led to the following exchange at a 2005 meeting of the Commons European Scrutiny Committee:

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<sup>18</sup> See explanation 52.2

<sup>19</sup> In the old version of the Constitution these are numbered: II-83, II-85, II-87, II-90, II-91, II-93, and II-94

*Mr Heathcoat-Amory: Article 13 of the Charter, Part II, says that scientific research shall be free of constraint ... your commentary against that Article says that it has no equivalent in the current Treaties or in other parts of the Constitutional Treaty and also does not exist in a separate European Convention on Human Rights ... This is a new right. Why are you saying that the Charter creates no new rights?*

*Mr Straw: It is a declaration of rights that already exist. Those rights certainly already exist and they would exist here and elsewhere across Europe.*

*Mr Heathcoat-Amory: Can you tell me where they exist?*

*Mr Straw: In practice, they exist. (Hansard, 8 February 2005)*

### What will the Charter mean in practice?

The Charter is likely to affect national law and give the European Court of Justice substantial new powers. Although the debate in Britain has focused on the Charter's effect on business, it does, in fact, cover a very wide range of topics.

The Court will have substantial new powers to review and change national laws. But how the Court will use these powers is difficult to predict. The only thing which is certain is that the European Court will have more power. The Court is neither particularly left or right-leaning, although individuals on the Court clearly have their own biases. However the Court does have a clear bias towards the promotion of further European integration.

For example, Judge Tizzano has stressed the social rights in the Charter, and argued that it would move the UK economy towards the continental model. He said:

"The problem for the UK is that the social rights of the Charter could make it obligatory for the UK to accept some rights that they don't accept in the same way as other European countries. What makes a problem for the UK is the Charter of social rights. Because in the UK the system of relations between the social partners is different than in other countries... they are afraid that because of the social rights in the charter the Court and the EU would extend the practice of other member states to the UK." He added, "I'd say that it's more [like] a continental model, than an English model of social relations. So in this sense I understand that the companies' owners are worried because you could have the exportation of the continental model on them."

However, on the other hand, the then-Advocate General at the European Court, Leendert Geelhoed, said that he believed the Court would employ a "restricted" approach to the social rights in the Charter, but an "expansive" approach to the more liberal rights: "The Court will be rather restricted in its interpretation, just in the case of the social and economic rights - whereas the Court could be a little bit expansive in the classical and fundamental rights."

The net result of giving the Court greater power through the Charter is unlikely to be a clear "left" or "right" outcome. It would, however, mean that the small group of judges on the Court of Justice would be called upon to make contentious and essentially political judgements in a wide range of areas.

Some examples of issues the Court would be asked to rule on:

**Article 3: Right to the integrity of the person**

Anti-abortion groups have said they believe this will allow the restriction of certain types of abortion. The “Pro-Life alliance” argued that aspects of this article would restrict abortions carried out because of handicaps. Scientists have also argued that aspects of this article will restrict scientific research.

**Article 8: The right to protection of personal data**

Data protection rules have a big impact on police investigations - with some arguing that they make it harder for the police. Under the Charter the Court would be able to define rules on data protection. It would also have big implications for the ongoing series of cases on passenger data sharing with the US. In May 2006, in Joined Cases C-317/04 and C-318/04, the Court annulled the decision authorising the conclusion of the agreement between the US and the EU on the transfer of personal data. But the EU and US are still keen to have an agreement, and have set July this year as a deadline for a deal. As soon as a new agreement is concluded it is likely to face a new legal challenge. The Charter would almost certainly be used to rule on such agreements.

**Articles 7 and 9: The “Right to family life” and the “Right to marry and found a family”**

These rights could tip the balance in various cases relating to immigration and family reunification. In Case C-540/03, *Parliament v Council* [2006] the Court rejected an attempt by the European Parliament to overturn limits on family reunification, because, as it argued, existing pieces of EU legislation “do not establish any absolute right regarding family reunification. Nor should the application be examined in light of the Charter given that the Charter does not constitute a source of Community law.” Making the Charter legally binding could clearly mean that future cases of this kind could go the other way.

**Article 11: Freedom of expression and information**

This article could mean that in future EU judges would rule over controversies such as the British National Party’s right to advertise during elections, which is currently tightly controlled. This article would also have commercial implications - the Court would be able to rule over the press and the extent to which public broadcasters have to be opened up to commercial competition, as well as issues like tobacco and junk food advertising.

**Article 16: Freedom to conduct a business**

This is controversial with trade unions and the left, who fear the Court may use this to apply internal market rules to public services. The “in principle” freedom to conduct a business could reverse the sorts of decision made by the Court for example in *Sodemare v Regione Lombardia*. In this case the Court ruled that Italy would still be allowed to specify that only non-profit organisations could get public contracts to run old people’s homes. It could also tip the balance in cases such as *Eyssen*, in which the Court ruled that the Netherlands was entitled to ban food preservatives it believed to be dangerous.

**Article 17: Right to Property**

This article was promoted by the European Landowners Organisation (ELO), and was controversial with environmental groups because the ELO was hoping to get exemptions from nitrate regulations. This article also requires “fair compensation being paid in good time for loss” of property.

This might have meant, for example, that the UK Government would have had to pay compensation after it brought Railtrack under public ownership. It would also have implications for the Mayor of London's attempt to bring London Underground under public ownership. While there are political arguments on both sides about such decisions, it is unclear why they should be made by the European Court of Justice.

#### **Article 21: No discrimination on grounds of nationality**

The UK Government made several attempts to delete this idea from other parts of the original Constitution. While the idea of no "discrimination" obviously sounds uncontroversial in some ways, in legal terms the inability to make any decisions which affect nationals of non-EU member states differently to those of EU member states would have significant implications for social security and border policy. In an amendment to the European Convention the UK Government said that such an article "would have very wide-ranging consequences if applied to all nationalities, as opposed to only those of the Union." However, it remains in the Charter.

#### **Article 28: The right to collective bargaining and action**

The Charter's best known feature is its seemingly open ended right to take industrial action. "Workers and employers, or their respective organisations, have, in accordance with Community law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action." Some fear this might conflict with UK laws restricting, for example the right to secondary picketing. The Court has already made reference to this right in its rulings in the controversial *Vaxholm* and *Viking* cases - although it could not decide these cases as long as the Charter is non-legally binding.

#### **Article 31: Fair and just working conditions**

The UK Government is currently fighting to protect its opt-out from the EU maximum working week. Because part two of this article covers working hours, some businesses fear it could be used by the Court to by-pass the UK's opposition.

#### **Article 49: Principles of legality and proportionality of criminal offences and penalties**

This article states that, "The severity of penalties must not be disproportionate to the criminal offence." In the UK the Home Secretary currently has a wide margin of discretion to recommend prolonged sentences for particularly serious criminals. This could be challenged if the Charter were made legally binding.

#### **Article 50: Right not to be tried or punished twice in criminal proceedings for the same criminal offence**

The UK Government has amended double jeopardy rules to allow for just such a possibility. This allowed the killers of Damilola Taylor to be brought to justice, but this would clearly not be possible under the Charter. Critics argue that regardless of whether one agrees with the principle of double jeopardy, it should be decided at national rather than EU level.

## (4) Justice and home affairs

*"The UK will not transfer any substantial part of our sovereignty as a consequence of this treaty"*

- Jim Murphy, Europe Minister, Newsnight, 2 August 2007

*"The Government does not accept that we should agree to extend full ECJ jurisdiction over the very sensitive areas covered by the Third Pillar. These raise sensitive issues relating to national sovereignty – law and order and the criminal justice process."*

- Foreign Office memorandum to Lords EU Select Committee, July 2000

Home affairs is one of the areas in which the Constitutional Treaty will make the biggest difference. All the proposals and text from the original Constitution in this area are simply dropped into title IV of the TEC. The changes proposed are very radical:

- The Court of Justice would be given full jurisdiction over this area for the first time.
- Eurojust would gain the power to initiate investigations of UK citizens. The EU judges group Eurojust would be given the power to start investigations of EU citizens - despite the fact that the UK Government opposed this power during the negotiations.
- The role of Europol would be extended to include "organisation and implementation of investigative and operational action" - despite the fact that the UK opposed this power during the negotiations.
- Vetoes in this area would be abolished across the board.
- The EU would gain a new competence to define what counts as a criminal offence.
- The EU would gain a new competence to set minimum and maximum prison sentences.
- The Charter of Fundamental Rights would give the European Court of Justice the power to rule that sentences are "disproportionate."
- The EU would get new powers to harmonise civil and criminal laws and legal procedures. This could include questions such as the admissibility of evidence and the rights of criminal suspects in Court.
- The Constitution provides for the creation of a European Public Prosecutor despite the fact that the UK has always opposed any such moves. Despite an 'emergency brake' the Prosecutor could be set up even if the UK objects.

The Constitution gives the EU powers to enforce "mutual recognition" of legal judgments. Mutual recognition of legal judgements is controversial in itself and has raised civil liberties concerns. The European Commission acknowledges that it will also create further pressure for harmonisation in the future.

## Giving the ECJ jurisdiction over justice and home affairs

The Constitutional Treaty would give the European Court of Justice full jurisdiction over the justice and home affairs aspects of the treaties for the first time.

The Government previously opposed giving the Court this power and indeed argued that to do so would be a significant transfer of national sovereignty. A memorandum from the Foreign Office to the Lords European Union Committee in 2000 said that:

*"The Government does not accept that we should agree to extend full ECJ jurisdiction over the very sensitive areas covered by the Third Pillar. These raise sensitive issues relating to national sovereignty – law and order and the criminal justice process. An acceptance of extended jurisdiction would have to be on a "once and for all" basis. This would be a significant extension of the ECJ's legal responsibilities."*

The Government also argued that this would further complicate the immigration appeals process. In November 2006 Geoff Hoon told the Lords European Union Committee:

*"There is clearly a risk that adding what is in effect an avenue of appeal at a very early stage in the process might be an opportunity of further complicating our existing asylum and immigration processes."*

In the current treaties the Court has almost no power in the areas remaining in the third pillar (criminal justice and policing) and very limited power over the areas which were in the third pillar but are now in a special section of the TEC - asylum immigration, and civil law. In particular, at present individuals can only apply to the Court if they have already worked their way up the appeals system to the highest Court in the member state - a Court from which there is no domestic appeal. As a result of this stringent limit only one immigration case (*C-241/05 Bot*) has actually reached the Court.

Under the Constitution the only thing the Court would not gain power over is day-to-day operational decisions made by the police. Criminal law, civil law, asylum, immigration and other areas of policing would all come under the remit of the Court.

## Increased powers for Europol

New articles 69J, K and L of the TFEU (formally Articles III-275, 276, and 277 of the Constitution) strengthen the role and powers of Europol. Previous treaties have gradually expanded the role of Europol but its scope has remained limited to coordination. Article 69K would widen its role to include "organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities."

The new power to directly implement operational action could mean that Europol would be able to take part in police raids alongside national police, giving it a similar sort of role to America's FBI.

During the hearings of the justice working group of the European Convention, the then head of Europol, Jurgen Storbeck, made a distinction between investigations, in which he could imagine a greater role for Europol (for example allowing Europol to interrogate witnesses) and executive powers (such as confiscation or arrest warrants), which he agreed should remain with national authorities.

The UK Government has raised various objections to this proposal. In an amendment Peter Hain wrote, "the word 'operational' should be deleted. 'Investigative' is sufficient and avoids the suggestion of Europol having operational powers on the territory of Member States."

Hain added that "[the words] 'carried out jointly' should be replaced by 'in support of'. It is essential that Europol is not able to carry out independent operational activities or to direct Member States' operational activities." However, the changes Hain called for were not made.

The European Scrutiny Committee has argued, "We see objections of principle to giving Europol its own investigative powers... This would fundamentally change Europol from an agency for the exchange and analysis of criminal intelligence into a European police force."

Caroline Flint also admitted that the Government does "not think that there is a role for" Europol to have investigative powers, but would prefer it to concentrate on information sharing.

Europol has already acquired major new powers and a much enlarged budget since the Amsterdam Treaty. It now has a staff of over 350, projected to rise to 480.

Europol has major problems which have not yet been addressed. In 2001, its offices were raided by Dutch police over fraud allegations. Europol has a very poor record on transparency, refusing to share information with the European Parliament and classifying a great deal of its material as confidential for the use of Europol officers only. Bodies appointed in order to supervise it formally have complained that they are being denied information. Officers of Europol are not compelled to testify in Court, unlike members of national police forces, and are immune from prosecution for acts performed in the course of duties under the Europol convention.

### **Enabling Eurojust to initiate investigations of EU citizens**

Article 69H of the new treaty (formerly Article III-273 of the Constitution) gives the European prosecutors network "Eurojust" sweeping new powers. The Article says that the tasks of Eurojust "may include the initiation of criminal investigations".

Johannes Thuy, a spokesman for Eurojust, confirmed that under the new treaty, "*We could compel the British police to make a prosecution.*" (Sunday Times, 5 August 2007)

The UK Government was initially opposed to giving Eurojust these new powers. Peter Hain called for the article to be amended so that Eurojust would only be able to propose to member states that they initiate investigations.

Hain argued that the article needed to "set boundaries on Eurojust's tasks". He threatened that, "this is an essential precondition for majority voting ... Eurojust

should have the power only to *ask* that an investigation or prosecution is initiated." However, the Government later gave way on this issue.

### **New powers and objectives, and majority voting across home affairs**

The legislative powers and tasks of the EU are hugely expanded in the new Constitutional Treaty, and the former articles of the treaties are replaced wholesale by the text proposed in the original Constitution.

According to the UK Government's analysis the veto is abolished in nine areas of justice and home affairs:

- Immigration and frontier controls
- Judicial co-operation in criminal matters
- Minimum rules for the definition of criminal offences and sanctions
- Eurojust (structure, operation, field of action and tasks)
- Police co-operation (data sharing and training)
- Europol (structure, operation, field of action and tasks)
- Establishment of an integrated management system for external borders
- Mechanism for peer review of member states' implementation of policies in the Justice and Home Affairs (JHA) area
- Measures to promote crime prevention

The powers of the EU are also widened in several areas in which the Government has already given up the veto - including asylum, legal migration and civil law.

The UK stresses that new legislation in these areas will be covered by opt-in arrangements. But the whole opt-in approach has been radically undermined by a landmark ruling of the European Court of Justice.

#### **Why the 'opt-in' is no longer an effective safeguard**

Legal experts have warned that a controversial ruling by the European Court of Justice in September 2005 (Case C-176/03) will undermine the UK's opt-in arrangement.

The Commission sued the Council for passing a framework decision on environmental crimes, instead of a first pillar directive, arguing that the environment was one of its competences. After its surprise victory in the Court the Commission was quick to argue that "The judgement lays down principles going far beyond the case in question. The same arguments can be applied in their entirety to the other common policies and to the four freedoms."

As a result of the case the Commission is able to propose criminal sanctions in all areas of 'Community competence'. When it does so, the UK has no option not to 'opt-in', and decisions are taken by majority vote. It would therefore have to participate in any criminal justice measure that the Commission feels is necessary to "ensure the full effectiveness of a Community policy".

The judgement was a dramatic and unexpected ruling. At the time a dismayed British official told the Times, "We firmly believed it was inappropriate to harmonise criminal law at EU level." (Times, 14 September 2005)



However, so far the impact of the ruling is at least limited by the restricted scope of community competence – e.g. the Commission can propose criminal legislation for environmental crimes, which are under its competence, but not criminal laws in general, as criminal law in general is not currently within its competence.

However, the new version of the Constitutional Treaty *would* make criminal justice a community competence, and effectively unshackle the Commission from the current constraints by bringing criminal law in general within its competence (by inserting the former contents of the third pillar into the community treaty).

Richard Plender QC, who represented the UK in the case, told us that the ruling would create “a problem” for the UK when attempting to use its opt-in as “**There is no opt-in or opt-out under this judgment.**” (Interview, 7 September 2006)

Another leading European lawyer, Gerald Barling, QC, notes that the ECJ “has acknowledged that as a general rule criminal law does not fall within EU competence. But really the Court is paying lip service to this principle, because it then goes on to say that, as in this case, it can insist on criminal offences and penalties in member states where necessary or desirable.” (ESharp, May 2007)

Steve Peers, Professor of European Law at Essex University, argues that “In short, *to the extent that criminal law falls within the scope of the first pillar* it is no longer intergovernmental and member states have lost what they have long regarded as an absolute sovereign right to determine what activity should be regarded as a criminal offence.” (EU Justice and Home Affairs Law, Oxford, 2006) *italics added*

Even without the Court ruling, the ‘opt-in’ arrangement clearly would not give the UK as much control as a veto. Member states have to opt in at the start of the process of drawing up a piece of legislation. If, as the legislation is drafted, the UK or Ireland do not like the way it subsequently develops, it is not possible to opt back out again.

As the leading textbook on the subject notes:

“It would appear, in the absence of any contrary provisions in the Title IV protocol that a British or Irish opt in to a proposal will entail the possibility that those member states could be out-voted and therefore required to apply a proposal which they disagree with”. (S.Peers, EU Justice and Home Affairs Law, Oxford, 2006)

Ireland is the only other EU country which has an opt-in procedure like the UK. In evidence to the House of Lords Irish Justice Minister Michael McDowell cast doubt on the claim that the 'opt-in' was like a veto:

*“I am not clear that the opt-in power gives us effectively the same outcome – it may or may not. Politically obviously opt-in means that the other Member States will go and be able to do their own thing, so to speak, and politically that may be more difficult to resist and more difficult to resist an opt-in rather than a unanimity requirement, and that depends on the politics of any issue at the time it comes to be decided.”*

## **New EU powers to harmonise civil and criminal laws and legal procedures**

New articles 69E and 69F TFEU (formally Articles III-270 and 271 of the original Constitution) allow the EU to set common rules concerning legal procedures in criminal cases. EU rules, decided by QMV, could determine the rights of criminal suspects and control the admissibility of evidence in Court. There is also a provision for EU rules to cover "any other specific aspects" of legal procedure if EU leaders so decide.

One problem with this proposal is that it would no longer be possible for voters in individual member states to alter the balance of the legal system between the rights of victims and suspects' rights. For example, if EU rules were to set the balance in such a way as to favour protection for suspects, voters in any one member state would not be able to vote for a policy which would make it easier to secure convictions. The rules could only be changed subsequently if the majority of other members agreed.

The UK Government was initially unhappy with this proposal, and called for major changes. However, it gave way on this issue as part of the overall agreement on the EU Constitution.

Peter Hain told the cross-party European Scrutiny Committee that the current Article was "unacceptable" and that his principle was "cooperation yes, harmonisation no". (25 March 2003)

In a series of proposed amendments to these articles Peter Hain wrote that, "Criminal procedures and evidence go to the heart of Member States' legal systems. It is essential that the legal base for procedural standards is not so broad that it would provide a basis for harmonisation of legal systems. We must recognise and respect the diversity of our legal systems, rather than seek to create a common system." But his call for the proposed EU powers to be watered down was ignored.

He described the article as "unacceptable" because it "would cover almost any aspect of criminal procedure during an investigation, prosecution and conviction".

## **EU powers to define criminal offences and set minimum sentences**

Article 69F TFEU (formally Article III-271 of the original Constitution) allows the EU to set "rules concerning the definition of criminal offences and sanctions". This is intended to prevent criminals "shopping around" for countries where their activities will carry the lightest penalties. Article 69F lists the types of crimes over which the EU can harmonise sentences. These include drug trafficking, people smuggling and money laundering. The list was supposed to limit the EU to dealing with cross-border crimes. But the list of crimes over which the EU can rule includes vaguely-defined categories such as "organised crime" and "corruption", which is likely to enable the EU to rule over a wide variety of offences.

The list of offences is also designed to be expanded over time, as a clause allows EU leaders to add to the list of crimes on which the EU can legislate.

Franco Frattini, the Justice and Home Affairs Commissioner, has already begun to propose EU-wide minimum standards. In January 2005 he called for minimum prison sentences of five years for gang members and a minimum of ten years for gang

leaders. He has argued that he will not prescribe the sentences member states' justice systems should set because "the method I prefer is to indicate minimum and maximum, a range leaving Member States free to harmonise". He claimed that, "We cannot live without a European definition of what is a criminal organisation and trafficking in human beings."

The Government opposed giving the EU this power to set minimum and maximum sentences. Peter Hain wrote, "Framework laws on substantive criminal law must not require the imposition of mandatory minimum penalties. We hope that the Treaty would exclude the possibility of measures requiring all Member States to impose a minimum penalty of at least x years on anyone convicted of a crime... irrespective of the circumstances or any mitigating factors." However, the UK Government later abandoned its objections.

### **New EU powers to enforce "mutual recognition" of legal judgments**

New articles 69D and 69E TFEU (formerly articles III-269 and III-270 of the Constitution) set out a legal basis for the mutual recognition of legal judgments in civil and criminal cases respectively. Mutual recognition of judgments is intended to end existing barriers to successful prosecution of cross-border crimes. The article covers the mutual recognition not just of final judgments on cases, but also other judicial decisions such as the power to search homes and seize evidence.

There are two main problems with mutual recognition. Firstly, there are potential complications with mutual recognition in itself. Several of the other member states have poor records of fairness in their legal systems. Secondly, mutual recognition is intended to lead to legal harmonisation.

#### *Problems with mutual recognition*

Civil rights activists have voiced concerns, among other things, about standards of trials, legal aid, access to counsel, rules on admissibility of evidence which will vary considerably across an enlarged EU.

Mutual recognition in civil cases raises concerns that there could be what Steve Peers, Lecturer in Law at Essex University, calls a "race to the bottom", where "the risk is that defendants will fall subject to the member state with the lowest standards of rights for the accused". As well as the high profile Greek "plane spotters" case in 2001 there have been recent examples of problems with procedure in other member states.

#### *Creating pressure for harmonisation*

Mutual recognition is sometimes presented as an alternative to harmonisation. However, in other areas of EU policy - such as the development of the single market during the 1980s - mutual recognition has led quickly to pressure for harmonisation.

In the Constitutional Treaty the link between mutual recognition and harmonisation is quite explicit. Article 69E on mutual recognition of criminal judgments explicitly states that mutual recognition "shall include the approximation of the laws and regulations of the member states".

In a proposed amendment to the article on mutual recognition of civil law, Peter Hain wrote that, "the principle of mutual recognition is welcome. However there is no need for ... approximation of the civil law. It is neither necessary nor appropriate. The purpose of civil judicial co-operation should be to ensure that borders do not represent an obstacle to litigation or the recognition and enforcement of judgments. Whilst that might require a degree of harmonisation of civil law and procedure we should respect and recognise each others' legal systems and work on the interface between them, promoting compatibility between them. Unfortunately the current draft suggests that approximation of law should be an end in itself."

The House of Lords' EU select committee has warned that, "Approximation of the criminal laws of Member States is likely to have a significant impact on Member States' legal cultures and traditions and on national sovereignty... the more progress that is made on developing the mutual recognition programme, the greater the need will be for some sort of minimum standard across the EU of procedures in the legal processes for which mutual recognition will be claimed." The Lords warn that "A degree of harmonisation of the criminal laws of Member States may be necessary to facilitate the development of the mutual recognition programme."

The Law Society has also warned that it is concerned that mutual recognition could result in harmonisation "through the back door."

The cross-party European Scrutiny Committee of the House of Commons said, "We draw attention to the danger that measures which are ostensibly concerned with mutual recognition will have the effect of creating uniform rules which will then apply to all cases, whether they have any cross-border implications or not. As we have commented before, Commission proposals on the 'area of freedom security and justice' have appeared to treat this 'area' as synonymous with a unitary State, with only one legal system." (European Scrutiny Committee, 28th report July 2004)

### **A European Public Prosecutor**

Article 69i of the new Constitutional Treaty says that: "In order to combat crimes affecting the financial interests of the Union, the Council, by means of a regulation adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust."

Unlike in the original version of the Constitution, under which the Prosecutor could only be established by unanimity, in the new version the Prosecutor can be set up by enhanced cooperation.

During the European Convention the Government said there should be no possibility of setting up a European Public Prosecutor - *even if they had a veto*. Peter Hain wrote: "We are firmly opposed to establishing a European Public Prosecutor. *Unanimity does not mean that this article can be accepted...* There is clearly no need for a separate prosecution body at EU level."<sup>20</sup>

This was ignored. In a later amendment he again called for it to be deleted. He wrote:

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<sup>20</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/850/Art%20III%20170%20Hain%20EN.pdf>

"We are opposed to establishing a European Public Prosecutor... Proposals for a European Public Prosecutor have never satisfactorily addressed a series of objections. First, any body which would have the power to bring prosecutions in a Member State must in some way be accountable within that Member State. Secondly, the powers which would be vested in a European Public Prosecutor's Office are not compatible with respect for the diversity of legal systems, a principle set out in Article 1." But again this was ignored.<sup>21</sup>

Any attempt by the UK or other member states to derogate from the Prosecutor is likely to prove unworkable, not least because Eurojust (which all member states are already part of) is also being given the same powers to initiate prosecutions under the Constitutional Treaty.

In an amendment to the European Convention Peter Hain's stand-in Lord Tomlinson said that Eurojust's proposed new power to initiate prosecutions should be deleted because this would turn it into a de-facto public prosecutor:

*"If Eurojust were to have the power to initiate prosecutions (first indent), it would be a European Public Prosecutor in all but name."*

The UK made a second attempt to get rid of it. Hain wrote that: "If Eurojust were to have the power as a College to initiate prosecutions it would have powers similar to that of a European Public Prosecutor. Eurojust acting as a College should have the power only to ask that an investigation/prosecution is initiated." In return he even suggested a clause which would allow the powers of Eurojust to be expanded later. But he was ignored.<sup>22</sup>

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<sup>21</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/850/20Hain.pdf>

<sup>22</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/850/Art%20III%20169%20Hain%20EN.pdf>

## (5) Immigration and asylum

The immigration and asylum powers of the Union would be expanded by the Constitutional Treaty in two main ways.

It would give the Court of Justice new powers in this area by giving it jurisdiction over home affairs, and also by making the Charter of Fundamental Rights legally binding. The increased role of the Court is likely to impact not just on whether applicants gain asylum or the right of legal residence, but also on the welfare and work entitlements of asylum applicants and migrants. The Government sought to limit the role of the Court in this area in an amendment - but the changes it requested were not made.

The Constitutional Treaty also sets out a framework and a legal basis for the further development of the EU common asylum and immigration system. It would end the national veto over legal migration issues.

### Expansion of the jurisdiction of the Court into immigration and asylum

During the original negotiations on the Constitution the UK Government twice unsuccessfully attempted to re-insert limits on the role of the Court in assessing asylum cases.

Under the current treaties, the role of the Court is very limited in this area, which was originally in a separate pillar for decisions between Governments. The provisions in the original Constitution would remove the restrictions on the role of the Court. Under the current treaty articles (35 and 46 TEU and 68.1 TEC) the Court only has jurisdiction where specified, and 68 TEC allows only a very limited role for the Court, including provisions that the ECJ can only take up a case once it has exhausted all appeals in the member state. As a result only one immigration case has reached the Court.

In an amendment to the European Convention Peter Hain called for two new paragraphs to be added to the text of article 240b, which would have meant that the ECJ could only have been called upon to make a preliminary ruling after a high court ruling on a case. However, the changes the UK proposed were not made.

In November 2006 Geoff Hoon told the Lords EU Committee that: "*There is clearly a risk that adding what is in effect an avenue of appeal at a very early stage in the process might be an opportunity of further complicating our existing asylum and immigration processes.*"

The Government warned that "The United Kingdom is concerned that there would be a much greater number of preliminary rulings in asylum and immigration cases in particular, which the Court of Justice is not equipped to manage, if it was open to any court or tribunal to refer a case." <sup>23</sup>

Professor Steve Peers has predicted that if the EU Constitution comes into force "one would expect to see a significant increase in the number of cases concerning asylum reaching the Court." <sup>24</sup>

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<sup>23</sup> <http://european-convention.eu.int/docs/treaty/pdf/847/9Hain.pdf>

<sup>24</sup> EU Justice and Home Affairs Law, Steve Peers, Oxford EC Law Library, 2006

## The Charter's impact on asylum and immigration

Several articles of the Charter of Fundamental Rights will also have an impact on immigration and asylum cases.

### Article 4

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

### Article 7

Everyone has the right to respect for his or her private and family life, home and communications.

### Article 15

1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation.
2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State.
3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.

### Article 16

The freedom to conduct a business in accordance with Community law and national laws and practices is recognised.

### Article 18

The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the New York Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community.

### Article 19

1. Collective expulsions are prohibited.
2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

### Article 21

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.

### Article 45

1. Every citizen of the Union has the right to move and reside freely within the territory of the Member States.
2. Freedom of movement and residence may be granted, in accordance with the Treaty establishing the European Community, nationals of third countries legally resident in the territory of a Member State.

#### Article 47

1. Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.
2. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.

Source: S.Peers *European Journal of Migration and Law* 3: 141-169, 2001

#### A legal basis for common asylum and immigration systems, and moves towards a single system

The Constitutional Treaty sets out a framework and a legal basis for the further development of the EU common asylum and immigration system.

The Constitution also proposes the end of member states' right of veto over asylum and all categories of immigration. In December 2004 the UK Government agreed to give away the veto on asylum and *illegal* immigration, but did not agree to end the veto on legal migration.

The UK has an "opt in" arrangement over asylum and immigration decisions. However, the way the opt-in arrangement works means that the UK makes an *on principle* decision to opt in, before legislation is actually drawn up. The end of the veto would mean that if the UK opts into an area, but does not subsequently agree with the way legislation is drawn up, it will not be able to opt out again (see above on justice and home affairs).

The UK has so far opted into all asylum legislation, and some legislation on immigration.

#### Asylum

The Commission has recently announced the completion of the first phase of the Common European Asylum System and the Constitution and subsequent Commission proposals have suggested that the trend in the second phase of the development of the common systems will be to move away from minimum standards, and towards a single set of rules and common processing.

During the original negotiations the UK called for the main article on the common asylum system (Art III-266, now 69A TFEU) to be completely rewritten. In particular the Government called for the deletion of the proposals to create:

- "A uniform status of asylum for nationals of third countries, valid throughout the Union"
- "A common system of temporary protection for displaced persons in the event of a massive inflow",
- "Common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status"



- "Partnership and cooperation with third countries with a view to managing inflows of people applying for asylum or subsidiary or temporary protection."

The UK Government twice tried to have the whole article re-written. Peter Hain wrote that:

*" This is a fundamentally important amendment....The Treaty should not contain a catalogue of measures to be taken...The UK would prefer to see an asylum article which sets general objectives rather than catalogued competences."* <sup>25</sup>

The UK Government also protested in general against the plans to create a single set of rules, and suggested that the proposals violated the UK's previous understanding about how the European Asylum System would operate.

Peter Hain wrote, "The Tampere conclusions nowhere said that the second stage of work on a common system should consist of converting the minimum standards under negotiation as part of the first stage into common rules." <sup>26</sup>

However, the article was not changed.

### The end of the veto on legal migration

The Government also had clear reservations about the section on legal migration.

Amongst other things, in an amendment the Government argued that the free movement rights of third country nationals should be brought back under unanimity.

Article 69b (b) of the new treaty allows the Council to decide by majority vote on the "definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing the freedom of movement and of residence in other Member States."

The UK wanted to change this to "The Council *acting unanimously* on a proposal from the Commission after consulting the European Parliament shall adopt laws and framework laws defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States." <sup>27</sup> However, this change was not made.

### Social security implications

In the article on the common immigration system, article 69B TFEU, (formerly III-267) the Government called for the deletion of a new EU power which would have implications for migrants' access to labour markets and social security.

Peter Hain wrote, "Article 2(b) allows for decisions on all aspects of the rights of third country nationals including access to the labour market and social security - this is a considerable extension of the Union's competence from that in the current treaty." <sup>28</sup>

<sup>25</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/848/Art%20III%20162%20Hain%20EN.pdf>

<sup>26</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/848/11Hain.pdf>

<sup>27</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/848/12Hain.pdf>

<sup>28</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/848/Art%20III%20163%20Hain%20EN.pdf>

When the article was not deleted the UK Government called for any such powers at least to be kept under unanimous voting. But the article was not changed.

### **Burden sharing for the cost of asylum**

The Government also called for changes to the new article 69c (formerly III-268) which would establish “burden sharing” for the cost of asylum.

The UK tabled an amendment to rule out the possibility that the cost of processing asylum and immigration claims would be funded from the EU budget.

“The intention of writing the principle of solidarity into the Treaty is... presumably not that the European Union budget should bear the entire cost of Member States’ asylum and immigration systems, or to develop a mechanism for sharing the full costs between the Member States, which would not be realistic. The Union’s role is to promote solidarity. Our amendments make this clear.”<sup>29</sup>

Again, the article was not changed.

### **From minimum standards towards a single system**

The revised EU Constitution would commit the EU to press ahead with the second phase of the asylum and immigration systems, before the implications of the first round of EU action in this area have even become clear.

The cross-party Commons Scrutiny Committee warned:

“Some of the Commission's proposals for the next five-year justice and home affairs work programme affect policies which are at the core of national sovereignty. Moreover, we are particularly concerned by the following issues: the omission from the Communication of an evaluation of the practical benefits achieved so far as a result of the Tampere programme; the omission of a statement of the practical benefits expected from the Commission's proposals for the next five years; the Commission's apparent wish to rely on qualified majority voting to secure the adoption of JHA legislation against the wishes of some Member States; the further harmonisation of asylum policy, going beyond the establishment of reasonable common minimum standards.”

The Refugee Council has argued, “From the British Refugee Council’s perspective, the process of harmonisation has been a relentless downward spiral to the lowest common denominator. At the end of this first stage towards a Common European Asylum System it is essential that the process of transposition of the new legislation is monitored and evaluated before progressing further with harmonisation.”

That this is taking place so far in advance of public opinion and public debate seems counter to the Laeken Declaration’s stated aim of bringing the EU closer to the citizen. This is particularly true given the absence of public support for such policies. Polls show that 83 percent of voters think that decisions on asylum should be made by the UK Government, while only 12 percent support making such decisions at the European level.

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<sup>29</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/848/Art%20III%20164%20Hain%20EN.pdf>

The agenda set out in the revised EU Constitution and the Hague Programme also seems to diverge from the UK Government's preference for a system based on minimum standards as opposed to full scale harmonisation. The development of the first phase of the CEAS and CEIS has been controversial enough. The second phase, as set out in the EU Constitution, seems set to be even more so.

### Phase one

At the European Council in Tampere, October 1999, EU heads of government agreed to "work towards establishing a Common European Asylum System". The system was to be built in two phases. The first phase is now nearly complete, and the Constitution sets out the framework for the second phase. But the last element of the first phase has already sparked controversy. Britain has signed up to all four of the main pieces of legislation, while Ireland, which has a similar opt-in arrangement, has signed up only to "Dublin 2".

- **January 2000: The European Refugee Fund.** The first European Refugee Fund was set up from 1 January 2000 to run to 31 December 2004. It is funded out of the EU's annual budget, following an initial 216m euro sum for implementing the Decision. The Fund is intended to support Member States' actions relating to reception conditions, integration, and repatriation. A new fund has been agreed to cover the period 2005-2010.
- **January 2003: The Reception Directive,** which sets minimum standards for the conditions of asylum faced by applicants. The directive means that applicants are guaranteed the right to work if their application takes more than six months to process.
- **February 2003: the "Dublin 2" agreement,** which sets out a system to determine which country should deal with an asylum claim.
- **March 2004: The definition of a refugee directive,** which sets out minimum criteria to be assessed as an asylum seeker, and more minimum standards for those who gain asylum. Following the grant of refugee status, a refugee must be granted a renewable residence permit of at least 3 years. The directive specifies that member states must facilitate travel for refugees and those granted subsidiary protection, and must allow refugees access to the labour market immediately after they have been granted refugee status. Refugees are to receive equal rights to nationals of the Member State in education, accommodation, social welfare and health care.
- **November 2004: The Asylum Procedures Directive.** The Directive was agreed by ministers, but without its key element. Ministers put off trying to agree a "white list" of "safe countries of origin" as a number of member states - in particular Sweden - lodged objections to some countries proposed for the list on the grounds of their human rights records. This decision was controversial. The UNHCR attacked the plan, saying that it had "serious concerns" and the directive would "give rise to a real danger of breaches, in practice, of international law and standards."<sup>30</sup>

The Refugee Council accused the UK Government of "playing a central role in driving down standards across Europe" and "pushing for some of the most

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<sup>30</sup> [http://www.unhcr.bg/events\\_records/2005/20050331\\_en.pdf](http://www.unhcr.bg/events_records/2005/20050331_en.pdf)

controversial aspects of legislation currently making its way through Parliament in Britain to be incorporated into a common European system.”

Human rights group Justice has argued, “It is unacceptable that, on a matter that concerns fundamental rights, the Council now seeks to overcome opposition by subjecting the measure to QMV.”<sup>31</sup>

The Immigration Law Practitioners Association warned, “Many of the Directive's provisions will lead to fundamental rights violations in their implementation. The volume of litigation this will bring forth can only be avoided by the annulment of the Directive in its entirety... Aside from the clear human rights concerns and the issue of procedural propriety in agreeing the common list by QMV, ILPA has serious reservations about the legality of a common EU list of safe countries of origin. As highlighted in our legal analysis of the Directive, some Member States do not currently operate safe country of origin systems. Accordingly, this is the first time that EU Member States will be required to dilute their standards of protection by a measure of Community law. This raises serious competence concerns, as the EU is only entitled to establish ‘minimum standards’ in this area. We believe that there is no power to adopt the common list under Title IV of the EC Treaty and any further efforts to do so should be abandoned.”

### **The next steps - moving beyond minimum standards**

The first round of EU asylum and immigration legislation has been controversial enough. But the proposals now being tabled by the Commission move beyond the minimum standards approach which the UK Government has endorsed, and signal moves towards what is intended to eventually become a single system. The UK Government and others have expressed scepticism about the measures which are now being proposed. But it still plans to press ahead with moves to give the EU more power in this area.

### **Towards a common asylum policy**

The Constitutional Treaty will also drive forward the process of full scale harmonisation of member states’ asylum systems. The original draft of the Constitution as prepared by the 2003 Convention stated that the EU would only be able to set “minimum” standards - but this was deleted from the final text allowing the EU to harmonise much more extensively. This change in emphasis is maintained in the new version of the Constitution.

The EU’s competence in asylum issues would be enhanced significantly, particularly through the Constitution’s commitment to creating a “common” policy. Professor Steve Peers argues that this would give the EU “the power to harmonise national asylum law as fully as it wished”.<sup>32</sup>

The extent of the Commission’s ambition in asylum policy can be seen in a communication it issued in February 2006 which calls for “the establishment of a fully harmonised EU system”. By 2010 the Commission aims to have adopted a raft of measures which will establish a common asylum procedure, a uniform status for those granted asylum or subsidiary protection, standardised Country of Origin

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<sup>31</sup> <http://www.publications.parliament.uk/pa/ld200405/ldselect/ldcom/84/84we08.htm>

<sup>32</sup> EU Justice and Home Affairs Law, Steve Peers, Oxford EC Law Library, 2006

Information, and a single European Support Office which would oversee all common asylum issues.<sup>33</sup>

### Towards a common immigration policy

The abolition of the national veto over legal migration is one of the most significant moves in the revised Constitutional Treaty, particularly given the Commission's ambitions in this field. The Constitution would give the EU a new power to determine "the rights of third-country nationals residing legally in a Member State", a duty to pass laws aimed at integrating migrants and an express requirement that the EU create a "common immigration policy".

In December 2005 the EU Commission released its "Policy Plan on Legal Migration", which proposes that the EU passes a series of directives over the next three years which would establish a harmonised work/residence permit for across the EU; a separate EU "Green Card" residence permit aimed at attracting highly skilled migrants - which would allow the migrant to work anywhere in Europe once issued by the member state of entry as well as allowing for multiple stays of several years; an EU-level "independent assessment" to decide who would be allowed entry; a harmonised system for entry of seasonal workers; measures on corporate transfers and paid trainees. Commissioner Franco Frattini is also lobbying for the power to begin to negotiate immigration quotas with non-EU countries on behalf of member states.<sup>34</sup>

The Commission is also planning measures aimed at integrating migrant communities into the EU which would include "information packages for newly arrived economic immigrants, as well as language and civic orientation courses aimed at ensuring that immigrants understand, respect and benefit from common European and national values. Education, training and cultural initiatives will continue to support integration processes."<sup>35</sup>

As well as proposing measures on 'legal' migration the EU is also attempting to harmonise member states' approach to tackling irregular or illegal immigration. In July 2006 the Commission released a communication aimed at drawing up a "comprehensive EU approach to combat illegal immigration". It stressed that "Solidarity, mutual trust and shared responsibility between Member States is a key requirement in an area without internal borders, which poses a particular burden with respect to pressure from illegal immigration on Member States who control an external border."<sup>36</sup> This has included the funding of joint sea and air patrols - particularly in the Mediterranean, organised by the EU's External Borders Agency - Frontex.

The Commission is also pushing for the creation of harmonised EU wide criminal offences and penalties for the employers of illegal migrants. This has been particularly controversial as many member states do not believe that the EU has competence to set criminal sanctions for areas such as migration.

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<sup>33</sup> Communication on Strengthened Practical Cooperation in the area of asylum, 17 February 2006

<sup>34</sup> Speech, 3 July 2007, Brussels

<sup>35</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0669:EN:NOT>

<sup>36</sup> Policy priorities in the fight against illegal immigration of third-country nationals, July 2006

A directive aiming to create harmonised standards for returning illegal immigrants is being discussed by EU ministers at the moment. If passed it would lay down common rules concerning return, use of coercive measures, temporary custody and re-entry. Under the Constitution the EU would also gain competence to begin negotiating deportation and repatriation agreements on behalf of member states.

## (6) Public services and the economy

The new Constitutional Treaty, like the original version, would have a significant impact on public services and the economy as a whole.

In public services there are proposals that would affect the health system, and social security. The Government argues that while it is giving up the veto on social security for migrant workers it has obtained an emergency brake in return. However, under the Constitutional Treaty the Court of Justice is given very similar new powers to make rulings over the social security entitlements of migrants - so this emergency brake could be circumvented judicially.

In terms of the economy the Constitutional Treaty would give the EU new powers over economic coordination, trade agreements in services and foreign direct investment. The EU would gain new powers over employment policy for self employed workers (covering both their rights and qualifications). The EU would gain a broad new competence over energy, which would be decided by QMV. For the first time the statute of the European Central Bank could also be altered by majority vote on a proposal from the Commission, allowing it to gain new powers over financial regulation which would affect the UK.

### **New EU powers over health**

176E of the new treaty (Article III-278 of the old Constitution) puts the EU in charge of standards for pharmaceuticals, medical equipment and medical products like blood and tissue. The EU would also be given the power to legislate by QMV on any "serious cross border threats to health". The British Medical Association has noted that "the clause which empowers the EU to act on 'serious' threats to health, opens the way for the EU to initiate legislation on a whole range of health determinants."

Article 35 of the Charter of Fundamental Rights enshrines a new right to 'preventative health care'. Lawyers fear the loose definition here could lead to a surge in compensation claims when patients are denied drugs or therapies they claim might have helped prevent their illness.

More compensation claims would also be bad for the struggling NHS - in 2001, for instance, almost 8% of the money earmarked for health went to funding compensation claims. (BBC, 30 June 2003)

Court rulings on the meaning of this article could also lead to the Court making decisions about the right of people to use public services in other member states. The European Court of Justice has already ruled that under some circumstances people can go and get treatment abroad (including private treatment) and then be reimbursed by the NHS (e.g. the case of Yvonne Watts vs. Bedford, May 2006).

There are concerns that if this became more widespread it would become impossible to prioritise NHS spending. In particular it might mean that lots of money would be spent on high-end treatments for a relatively small number of people, rather than being able to rationally prioritise how to spend public funds.

## New EU powers over social security

Article 5(3) TFEU (formerly article I-15(3) of the Constitution) states that: *The Union may take initiatives to ensure coordination of Member States' social policies.* Article 140 allows the Commission to establish "guidelines and indicators" for social policies.

The UK Government objected to both of these provisions during the European Convention, and asked for them to be deleted. Peter Hain said the idea of passing legislation in this area was "inappropriate for these activities." He argued, "There have been no directives under the corresponding provisions in the current Treaty." However, the UK later gave way.

Article 42 moves social security rights for migrant workers to majority voting.

"The Council shall, acting in accordance with the ordinary legislative procedure, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, it shall make arrangements to secure for employed and self-employed migrant workers and their dependants: (a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the different countries; (b) payment of benefits to persons resident in the territories of Member States."

The UK Government stresses that there is an emergency brake on this article. However, under the Constitutional Treaty the Court of Justice would be given a very specific new power to ensure the equality of social security entitlements of EU migrants (and third-country migrants) anyway - so this "emergency brake" is effectively going to be directly circumvented by a judicial requirement.

Article 34 of the Charter of Fundamental Rights states that:

- 1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Community law and national laws and practices.*
- 2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Community law and national laws and practices.*
- 3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.*

Article 34.2 appears to apply to only those residing legally in the EU. On the other hand 34.1 and 34.3 appear to be even more widely applicable. According to the text of explanations the latter is also "based on" part of the European Social Charter - to which the UK is not currently a signatory.

In practice the main motor for radical changes in this area appears not to be the legislation from the Council but judgements of the ECJ. The Council has already legislated to keep up with the evolving jurisprudence of the Court in this area - e.g. the free movement directive of 2004 which dealt with social security rights for



EU migrants and the families effectively “caught up with” judgements in *Grzelczyk* (2001), *Trojani* (2004), *Collins* (2004) and *Bidar* (2005), while the 2003 directive on the social security position of third country nationals “caught up with” the *Khalil and Addou* judgement (2001).

### Employment policy

Article 5(2) states that: “The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.”

The UK Government tried to have this deleted several times. In an amendment issued to the European Convention, UK Government negotiator Lord Tomlinson called for this clause to be deleted. However, this objection was ignored. The Government also asked for employment policy to be moved from the list of “shared competences” into the list of “supporting competences”, so that it would not be covered by the provision that where competences are shared, member states may only act if the EU chooses not to. But this request was also ignored.

Changes to 47 TFEU would abolish the veto on employment law relating to self employed workers. This covers everything from whether plumbers, electricians and other self-employed service providers have their qualifications recognised in other countries, health and safety questions and their rights at work.

A Commission green paper in 2006 suggested that the EU should extend the same rights that full time workers have to the self-employed. In so far as the article allows for recognition of qualifications and standards it might also touch on some of the same kinds of issues as raised by the controversial services directive. Legislation in this area is also likely to spill over into wider employment law.

The Charter of Fundamental Rights also contains a large number of articles which might affect employment law (see above). For example, it also states that third country nationals who are entitled to work on member states’ territories “are entitled to working conditions equivalent to those of citizens of the Union.”

### Economic coordination and public spending

Article 5.1 TFEU (formerly article I-15 of the Constitution) states that: “The Member States shall coordinate their economic policies within the Union. To this end, the Council shall adopt measures, in particular broad guidelines for these policies.”

The Government made several attempts to have this deleted. Peter Hain argued that “as drafted the language moves too far from the current Treaties” and suggested a completely different text.<sup>37</sup>

As well as this very general competence, article 99 (formerly III-179 of the Constitution) changes the provisions relating to the EU’s annual Broad Economic Policy Guidelines. Unlike the present treaty provisions, this article stipulates that a member state which is threatened with censure under the guidelines will have its vote taken away when it comes to decide on whether or not it should be censured. This is likely to lead to much tighter enforcement of the guidelines.

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<sup>37</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/13/Art13Hain.pdf>

During the negotiations on the Constitution, the Government opposed this change. In an amendment Peter Hain wrote, "The Praesidium draft would disturb the existing institutional balance on the Broad Economic Policy Guidelines. It would particularly be a problem to exclude the Member State concerned ... There is no consensus in the Convention to change this article." He also warned that introducing codecision in this area "would disturb the existing institutional balance." However, the Government later gave way on this point.

### **New powers over EU trade policy in public services and inward investment - trade becomes an "exclusive competence" of the EU**

Under the current treaties (Article 133 TEC) EU ministers generally act unanimously when negotiating trade deals relating to trade in services and intellectual property rights (wherever these would touch on issues where unanimity is required for the adoption of internal rules). The current treaties also provide for unanimity when negotiating over health and education services. Agreements in these areas remain shared competences, and require national parliaments to ratify them. Foreign direct investment is not mentioned at all in the current treaties, and a proposal to include it was defeated at the Nice conference in 2000.

"The Reform Treaty will extend the scope of the trade policy to include all foreign direct investments and makes it clearly an exclusive competence of the Union."  
- European Commission, July 2007

Under the new Article 188C (1) TFEU (the original Constitution's Article III-315), trade in services, intellectual property rights, and foreign direct investment are brought under the umbrella of the "uniform principles" on which the Common Commercial Policy is based, for the first time. This would give the EU the same powers over these issues that it has over trade in goods.

The UK also wanted to reinstate the clause in the existing treaties which says that the EU's new powers "shall not affect the rights of the Member States to maintain and conclude agreements with third countries".

In a proposed amendment Peter Hain wrote, "This paragraph introduces a significant change from the current Article 133, by placing trade in services and commercial aspects of intellectual property on the same basis as trade in goods rather than limiting the application of the Common Commercial Policy in these areas to the negotiation and conclusion of agreements in the fields of trade... we cannot support the present formulation."

Under current arrangements in some fields both the member states and the EU can negotiate trade deals, allowing member states to have their own trade agreements alongside those of the EU as a whole. For example, the UK and other EU member states have signed a number of Bilateral Investment Treaties with other countries around the world. Exclusive competence in this area would make such bilateral agreements impossible. The revised Constitution deletes the clause in the existing treaty (Article 133.5 TEC) which states that EU trade policies "shall not affect the rights of the Member States to maintain and conclude agreements with third countries".

## New powers over energy

The Constitution would introduce a new EU competence in energy policy, and would allow the EU to introduce legislation by qualified majority vote.

1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States<sup>38</sup>, to:

- (a) ensure the functioning of the energy market;
- (b) ensure security of energy supply in the Union;
- (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy, and
- (d) promote the interconnection of energy networks.

In comparison to the original version of the Constitution this article has been expanded - to include the power to pass laws on energy "solidarity" and also to promote energy interconnection.

The UK initially tried to have this whole energy article deleted, arguing that: "This provision is unnecessary as all aspects of energy policy are effectively covered elsewhere in the Treaty e.g. single market, environment. In addition, we have detailed concerns on the text, which we consider may have the unintended effect of changing the boundaries of EU competence and the types of measure which will be subject to unanimity." <sup>39</sup>

The Commission has ambitious plans in this area. It made several controversial proposals on energy in its 2008 "work programme". These included:

- *A gas network and European Grid:* which might imply a single regulator. It is also unclear how much an increase in EU wide interconnection would cost and what the benefits would be for the UK.
- *An oil stocks system and enhanced energy solidarity:* If this implies an increase in statutory reserve requirements the cost could be quite substantial (the offshore operators association warned that a previous Commission proposal along these lines would cost up to £3 billion. The UK Government has vetoed such requirements in the past).

New article 100 (formerly article III-180 of the Constitution) also states that "Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy."

This suggests that member states such as the UK could be compelled to shift energy resources during times of serious shortage in other parts of the EU. The UK currently has well-diversified gas supplies and relatively low levels of dependency on Russian gas. But reduction of this energy independence could mean higher costs for UK consumers during such a scenario.

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<sup>38</sup> This new text on 'energy solidarity' was inserted at the request of Poland.

<sup>39</sup> <http://european-convention.eu.int/Docs/Treaty/pdf/845/Art%20III%20152%20Hain%20EN.pdf>

## New powers for the ECB and the eurogroup - including financial regulations

Article 107 (formerly III-187 of the Constitution) states that a number of Articles in the Statute of the European System of Central Banks can, for the first time, be amended by QMV, on a proposal from the Commission.

“Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the ESCB may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure.”

The Articles which can be changed include significant ECB powers such as: the power to set minimum reserve requirements for banks and the power to fine financial institutions; the power to conduct foreign exchange operations and make international agreements for currency coordination; the power to set up and regulate clearing systems; and arrangements for sharing the profits of the ECB.

These would affect UK financial institutions, even if the UK is not a member of the ECB, as almost every single significant financial institution has branches in other member states.

Article 114 of the new treaty (which was Article III-194 of the original Constitution) will make the Eurogroup - the informal meetings of finance ministers from eurozone countries - into a formal body with its own President, elected for two and a half years. The Eurogroup will also gain various new powers.

During the negotiations in the Convention Peter Hain tried three times to have the whole Article and protocol removed, arguing that it would create an unfair system by which euro members could vote on laws that affect the UK, whilst the UK would be unable to vote on measures affecting them.

He wrote, “Formalisation of the Eurogroup and strengthening the powers of the “ins” is inappropriate ... We have always recognised that the “ins” will want to meet to discuss issues to do with sharing a currency, but greater powers for the Eurogroup to decide on the Broad Economic Policy Guidelines or excessive deficits of Euro-ins will create an asymmetry, whereby the outs will vote only on outs’ issues, while ins will vote on ins and outs.” Nonetheless the UK allowed it to go ahead.

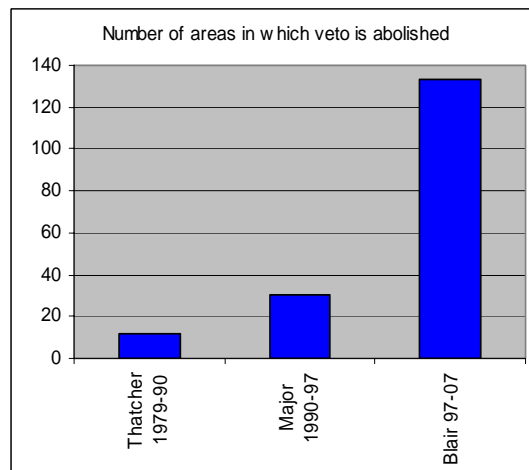
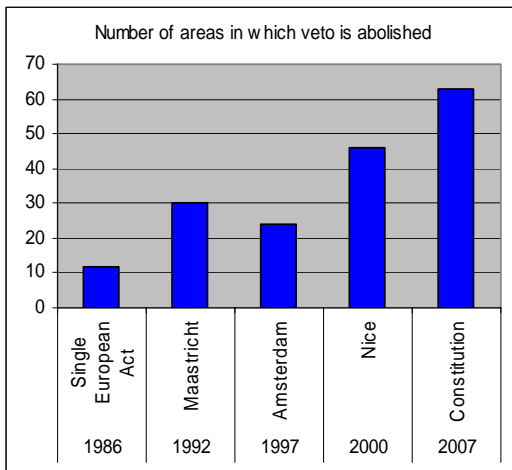
## Annex 1: Giving up the veto?

In a written parliamentary answer in 2004 the Government listed 41 areas in which the EU Constitution would mean giving up the veto.<sup>40</sup> The Government now acknowledges more areas in which the veto is given up, and has recently produced a list of 50 areas.

In reality the number of areas in which the national right of veto would have been abolished is even higher. Even taking a very conservative approach there seem to be 61 new areas where qualified majority voting applies (the areas not acknowledged by the Government appear in green in the list below).

This would be the largest number of vetoes given up in any of the treaties to date. The Government has appeared to acknowledge this. Foreign Secretary David Miliband attacked the opposition for voting "against a referendum on the Maastricht treaty, which involved a smaller transfer of power." (Hansard, 3 July 2007)

Adding up the powers transferred under the treaties signed by the current Government shows the rapid increase in the pace of integration in recent years.



Some examples of areas where the veto is given up (which are not dealt with above) include:

- **Culture.** New powers over culture might allow the Commission to push through its pet project of a 'European Institute of Technology'. The UK has been blocking the idea - intended to rival MIT in the US.
- **Space.** The EU wants to spend £12 billion building the "Galileo" satellite system. It was supposed to be built as a commercial venture - but private sector partners have refused to fund it. The UK and the Netherlands oppose the Commission's plan to bail out the system using public funds from the EU - but this could go through under QMV. The Galileo project has important implications for EU transport policy.

<sup>40</sup> <http://www.theyworkforyou.com/wrans/?id=2004-07-05.180436.h&s=eu+veto#q180436.q0>

- **Sport.** Current initiatives could, for example, mean the EU setting wage and transfer caps for professional football. The EU Commission is considering plans to restrict the amount European football clubs can spend on players' wages and transfer fees. Clubs would not be allowed to spend more than they earn in these areas of expenditure. This would have implications for clubs subsidised by rich owners - like Chelsea.<sup>41</sup> In addition to these innovations, an earlier report from Portuguese Sports Minister Jose Luis Arnaut suggested creating a "European Sports Agency", which would "institutionalise" the EU's relationship with UEFA, giving the EU Commission power over football throughout Europe.<sup>42</sup>

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<sup>41</sup> Independent, 21 September 2006 <http://www.independentfootballreview.com/doc/A3619.pdf>

<sup>42</sup> Jose Luis Arnaut, "Independent European Sport Review 2006"

Annex1: areas where the veto is being given up

Veto given up	New Constitution article number	Original Constitution article number	Explanation
Election of European Council President	9b	I-22	Post did not exist before - EU Council presidency currently rotates automatically among member states.
Presidency of Council configurations	9c, 201b	I-24	Currently automatic rotation every six months. Though the Council can alter the order of rotation it has to do so by unanimity.
Appointment of European Foreign Minister	9e	I-28	Post did not exist before.
Council review of general rules on composition of the Committee of the Regions and European Economic and Social Committee	256a	I-32	
Comitology	249c	I-37	Control over the "Comitology" committees which monitor what the EU Commission is doing. Decisions on this are currently taken by unanimity.
Citizens' initiatives	8b	I-47	The citizens' initiative is a new process. It allows the Council to control the rules governing such initiatives by majority voting.
Implementation of own resources decisions	269	I-54	Determines how the EU raises its budget, what kinds of taxes and contributions from members. This in turn could affect how much each member pays in.
Negotiation of withdrawal agreement	35	I-60	New procedure setting out formal procedure for member states to leave the EU. The remaining member states would have a majority vote amongst themselves about how to come to an agreement with the leaving member state.
Services of general economic interest	14	III-122	Introduces majority voting on what counts as a public service and is exempted from normal competition policy. Could be used by a majority to avoid opening up industries to competition.
Diplomatic and Consular protection measures	20	III-127	
Social security	42	III-136	Very significant, as social security rules for migrant workers are likely to "spill over" and affect social

			security systems in general.
Co-ordination of provisions for self-employed persons	47	III-141	Could have wide ranging consequences, also likely to spill over into affecting wider employment law. Also covers mutual recognition of qualifications.
Customs cooperation between member states and the Commission	27a	III-152	The scope of QMV has been widened here because the TEC previously specified that "These measures shall not concern the application of national criminal law or the national administration of justice." This has now been deleted.
Administrative and financial measures to prevent terrorism	67a	III-160	
Provisions enabling repeal of the aspects of this article related to state aid policy and the effect of the past division of Germany	87	III-167	
Authorisation, co-ordination and supervision of intellectual property rights protection	97a	III-176	
Amendments to certain parts of the Statute of the European System of Central Banks	107	III-187	The bank's statute can now be amended by majority vote on a proposal from the Commission. Previously it could only be changed by QMV if the bank itself recommended the change. The articles which can be changed include significant ECB powers such as: the power to set minimum reserve requirements for banks and the power to fine financial institutions; the power to conduct foreign exchange operations and make international agreements for currency coordination, and the power to set up and regulate clearing systems.
Use of the euro	111	III-191	TEC 123.4 talked about "other measures necessary for the rapid introduction of the ecu" but this is much broader.
Measures relating to the Broad Economic Guidelines and excessive deficit procedure	114	III-194	This article would enable the euro countries to pass any law needed to "strengthen coordination". Euro members would have no veto and



			non euro members would not even have a vote.
Procedure for entry into the euro	117	III-198	
Transport	70	III-236	The Constitution removes the option for a member state to demand unanimous voting if it believes a proposal is a threat to a particular region.
Provisions enabling repeal of an article on transport policy as it affects areas of Germany affected by its past division	78	III-243	Option to end the exemption of eastern Germany from state aid rules by majority vote.
European Research Area	166	III-251	The ERA is intended to coordinate scientific research in the EU.
Space Policy	172a	III-254	New policy, decided by QMV. The UK Government was originally opposed and asked for it to be deleted.
Energy	176a	III-256	The Government is now happy with this article because energy taxes are still covered by unanimity. But other EU policies in energy e.g. reserve requirements, could be very costly and could be adopted by majority vote.
Mechanism for peer review of Member States' implementation of policies in this area	64	III-260	
Border checks	69	III-265	
Common Immigration Policy	69b(2)	III-267(2)	The UK gave up the veto over asylum and illegal immigration in November 2004. This would abolish the UK's veto over issues such as legal migration and visas as well and could lead to the introduction of the EU "blue card" as championed by Franco Frattini.
Repatriation Treaties	69b(3)	III-267(3)	The EU would gain competence for repatriation negotiations with non-EU countries. This could see the UK being outvoted on an issue of vital importance for national security.
Integration of Migrants	69b(4)	III-267(4)	
Judicial co-operation in Criminal Matters	69e	III-270	

Minimum rules for criminal offences and sanctions (with emergency brake)	69f	III-271	This allows the EU to adopt criminal laws to enforce any other aspect of EU policy - using the same voting method as was used to establish that EU policy.
Crime prevention	69g	III-272	
Eurojust	69h	III-273	EU laws passed by majority vote could give Eurojust new powers and change the way it operates.
Police co-operation	69j	III-275	Majority voting could increase police cooperation further in the future especially on cross border crime.
Europol	69k	III-276	Majority voting controls Europol's activities, and can give it new powers.
EU laws on public health	176e	III-278	Was under QMV before, but the competence to pass laws over public health is new. There is also a new competence (under QMV) to "encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas". The implications of this are unknown.
Culture	176d	III-280	151.5 TEC stated that "The Council shall act unanimously throughout the procedure referred to" but these words have been deleted in the Constitution. Culture policy is sometimes used as a defence against competition e.g. at a national level the French <i>amendement</i> Pelchat from 1996 enforced a 40% minimum quota of French music on radio.
Tourism	176g	III-281	The aims of this article are very general.
Sport	176b	III-282	A new competence in sport has been added to an article which was already under QMV. "Sport" was never mentioned in the old treaties.
Civil protection	176h	III-284	Goals such as "risk prevention" are loosely worded. The EU's new powers over civil protection would be likely to "spill over" and affect emergency services more generally.
Administrative co-operation	176i	III-285	
External Action Service	13a	III-296	The EU diplomatic service will be set up by QMV.
Role of the European Foreign Minister in CFSP implementing measures	17	III-300	If the European Foreign Minister is asked by the European Council to come up with a proposal, the decision based on that proposal is

			then taken by QMV.
European Defence Agency	30	III-311	
Membership of structured co-operation in defence	31	III-312	This new sub-group of EU members will take forward EU defence without some members having to be involved. The UK Government has signalled that it is likely to join the group. The UK can be outvoted on the decision to allow another country into the structured cooperation group - membership is not automatic for members who want it. Member states can be ejected from structured cooperation by QMV if the other members decide it no longer meets the objectives of the group.
Urgent financing of CFSP measures	26	III-313	
Common Commercial Policy	188c	III-315	Under TEC 133.5 services and IP were covered mainly by unanimity: "the Council shall act unanimously when negotiating and concluding an agreement in [services and IP] where that agreement includes provisions for which unanimity is required for the adoption of internal rules or where it relates to a field in which the Community has not yet exercised the powers conferred upon it."
Agreements with EU candidate countries and association agreements	188h	III-319	TEC 181a said "The Council shall act unanimously for the association agreements referred to in Article 310 and for the agreements to be concluded with the States which are candidates for accession to the Union." But this has been deleted from the Constitution.
Urgent aid to third countries	188i	III-320	The Government protested about this but was ignored.
Humanitarian aid operations	188j	III-321	
Restricting aid to persons or groups	188k	III-322	Although restricting aid was already done by QMV, it appears the Constitution gives the EU a new Competence to take restrictive measures against people or non-state groups.

Implementation of solidarity clause	188r	III-329	If another member state falls victim to a disaster etc, the Council decides by majority whether and how the rest of the members should help or give aid. This could have very significant implications, and what counts as a "disaster" is very broadly defined. Only measures taken under this article having defence implications would still be taken by unanimity.
European Council procedure	201a	III-341	The European Council has never adopted rules of procedure before - e.g. its voting rules are currently not defined anywhere because it doesn't vote at present.
Judicial appointments panel	224a	III-357	223 TEC said: " they shall be appointed by common accord of the governments of the Member States". How the panel would operate would be decided by QMV. This could mean less say over how the judges are chosen.
Specialised Courts	225a	III-359	TEC only allowed the creation of judicial panels not whole new Courts, and even this was by unanimity
ECJ Statute	245	III-381	In the TEC this had to be unanimous.
Appointment of ECB Executive Board	245b	III-382	These important figures would be appointed by QMV, instead of by "common accord".
Principles of European Administration	254a	III-398	QMV to establish how the EU's civil service operates. This is broader than the staff regulations in III-333 which are already decided by QMV - and would allow general legislation on the role of the EU machinery
EU budget oversight	279	III-412	The words "acting unanimously" have been deleted.
Criminal laws on combating fraud	280	III-415	The scope of this article - already decided by QMV - has been expanded to cover national criminal law. At the end of point 4 TEC said "These measures shall not concern the application of national criminal law or the national administration of justice." But this has been deleted.

## Annex 2: new powers for the European Parliament

The 40 areas to which co-decision was extended under the original Constitution

(Source: FCO Commentary on the EU Constitution, FCO website)

I-37 Comitology  
I-47 Citizens' initiatives  
III-359 Specialised Courts  
III-364 ECJ jurisdiction on intellectual property rights  
III-381 ECJ Statute  
III-398 Principles of European Administration  
III-427 Staff Regulations of Union officials  
III-412 Financial Regulations  
III-122 Services of general economic interest  
III-139 Official and Government Employment  
III-144 Freedom to provide services for established third country nationals  
III-147 Freedom to provide services  
III-157 Movement of capital to or from third countries  
III-160 Freezing of assets  
III-174 Distortion of competition  
III-176 Authorisation, co-ordination and supervision of intellectual property rights protection  
III-319 Economic, financial, and technical cooperation with third countries  
III-321 Humanitarian aid operations  
III-179 Multilateral surveillance procedure  
III-187 Amendments to certain parts of the Statute of the European System of Central Banks  
III-191 Use of the euro  
III-223 Structural and Cohesion Funds  
III-231 Agriculture and Fisheries  
III-236 Transport  
III-251 European Research Area  
III-254 Space Policy  
III-256 Energy  
III-281 Tourism  
III-282 Sport  
III-284 Civil protection  
III-285 Administrative co-operation  
III-265 Border checks  
III-267 Immigration and Frontier Controls  
III-270 Judicial co-operation in Criminal Matters  
III-271 Minimum rules for criminal offences and sanctions  
III-272 Crime prevention  
III-273 Eurojust  
III-275 Police co-operation  
III-276 Europol  
III-315 Aspects of the Common Commercial Policy

Annex 3: comparison between the new version of the Constitution and the original

New article number	Content	How is it altered?	How does it compare to the Constitution?
<b>Treaty on European Union</b>			
1	Establishment of the Union	This is altered to include part of Article I-1 of the Constitution	Some but not all of the same content
2	The Union's values	Article I-2 of the Constitution inserted	Exactly the same text
3	Objectives of the union	Replaced with Article I-3 of the Constitution	Exactly the same text
4	Relations between the Union and its members	Replaced with Article I-5 of the Constitution	Exactly the same text
5	Fundamental principles of union competence	Replaced with Article I-11 of the Constitution	Exactly the same text
6	Fundamental Rights	An even more extended version of Article I-9 of the Constitution	Exactly the same text + more
7	Suspension of membership rights	Makes the same amendments as Article I-59 of the Constitution	Same content
7a	The union and its neighbours	Inserts Article I-57 of the Constitution	Exactly the same text
8	The principle of democratic equality	Inserts Article I-45 of the Constitution	Exactly the same text
8a	The principle of representative democracy	Inserts Article I-46 of the Constitution	Exactly the same text
8b	The principle of participatory democracy	Inserts Article I-47 of the Constitution (47.4 moved to 21 TFEU)	Exactly the same text
8c	National parliaments	New article on national parliaments - controversy over this in papers 23/07	New
9	The institutions of the union	Inserts Article I-19 (though section 3 on the ECB is moved to a later article)	Exactly the same text
9a	The European Parliament	Inserts Article I-20 of the Constitution	Exactly the same text
9b	The European Council and its president	Inserts Article I-21 and I22 of the Constitution	Exactly the same text
9c	The Council, its Presidency and the definition of a qualified majority	Inserts Articles I-23, I-24 and I-25 of the Constitution	Same content but delayed
9d	The European Commission and its President	Inserts Article I-26 and I27 of the Constitution	Exactly the same text

9e	The Union Minister for Foreign Affairs	Inserts Article I-28 of the Constitution	Same text with name change
9f	The Court of Justice of the European Union	Inserts Article I29 of the Constitution	Exactly the same text
10	Enhanced cooperation	Inserts Article I-44 of the Constitution	Exactly the same text
10a	External action: general principles	Inserts Article III-292 of the Constitution	Exactly the same text
10b	Role of the European Council in Foreign Policy	Inserts Article III-293 of the Constitution	Exactly the same text
10c	External action: general principles	Based on 292.3	Same content
11	Common Foreign and Security Policy general principles	II.1 and II.2 insert Article I-16 of the Constitution, and a new paragraph from the IGC mandate is added	Exactly the same text + new paragraph
12	Common Foreign and Security Policy general principles	Inserts Article III-294.3 of the Constitution	Exactly the same text
13	Common Foreign and Security Policy - emergency meetings	Inserts Article III-295 of the Constitution	Same content
13a	Role of the Foreign Minister	Inserts Article III-296 of the Constitution	Exactly the same text
14	European decisions in foreign policy	Modifies article 14 in exactly the same way as Article III-297 of the constitution	Same text
15	European decisions in foreign policy	Inserts Article III-298 of the Constitution	Same text
16	Foreign Minister can call extraordinary meetings in foreign policy	Inserts Article III-299 of the Constitution	Exactly the same text
17	QMV in foreign policy	Inserts Article III-300 of the Constitution (and Article III-341 (3) on procedural questions)	Exactly the same text + line excluding adoption of legislative acts in this area
17a	Obligation to consult before taking any action on the international scene	Inserts Articles I-40.5 and III-301 of the Constitution	Exactly the same text
18	Appointment of Special Representatives by the Foreign Minister	Turns this into Article III-302 of the Constitution	Exactly the same text

19	Foreign Minister shall be asked to present the Union's position at the UN	Inserts Article III-305 of the Constitution	Exactly the same text
20	Union delegations in third countries	Inserts Article III-306 of the Constitution	Exactly the same text
21	Foreign Minister to consult the European Parliament	Inserts Article III-304 of the Constitution	Exactly the same text
22	The EU can sign treaties with countries or groups of countries	Inserts Article III-303 of the Constitution	Exactly the same text
23	Foreign Minister to run the political and security committee	Turns this into Article III-307 of the Constitution	Same content
24	Data protection	Amends this to introduce Article I-51 of the Constitution	Same content
25	Foreign policy must not affect the competences of the community and vice versa	Inserts Article III-308 of the Constitution	Exactly the same text
26	Urgent financing of foreign policy decisions	Inserts Article III-313 of the Constitution	Exactly the same text
27	Common Security and Defence policy - including "will lead to a common defence"	Inserts Article I-41 of the Constitution	Exactly the same text
28	List of the tasks of the Common Security and Defence Policy	Inserts III-309 of the Constitution	Exactly the same text
29	Creation of EU task forces	Inserts III-310 of the Constitution	Exactly the same text
30	European Defence Agency	Inserts III-311 of the Constitution	Exactly the same text
31	Permanent Structured cooperation	Inserts III-312 of the Constitution	Exactly the same text
32	Legal personality for the EU	Inserts I-7 of the Constitution	Exactly the same text
33	Simplified revision procedures (ratchet clause and flexibility clause)	Inserts articles IV-443, IV-444 and IV-445	Exactly the same text (+ couple of words on how it can be used to increase "or reduce" the powers of the EU)
34	New obstacles to countries joining	Based on Article I-58 of the Constitution	Modified to include new stress on admission criteria



35	Right to leave the EU	Inserts Article I-60 of the Constitution	Exactly the same text
36	Protocols and annexes	Inserts IV-442 of the Constitution	Exactly the same text
37	Territorial application	Inserts IV-440 of the Constitution	Exactly the same text
38	Duration	Inserts IV-446 of the Constitution	Exactly the same text
39	Relation to the TEC / TFEU	Technical article establishing the relationship between the treaties	New article
40	Ratification and entry into force	Inserts Article IV-447	Similar text but does not name a date
41	Authentic texts	Inserts IV-448 of the Constitution	Exactly the same text
<b>Treaty on the Functioning of the European Union</b>			
1	Introduces the Treaty on the Functioning of the Union (aka TEC)	A new header article explaining the role of the TFEU	New technical article
2	Categories of competence	Inserts Article I-12 of the Constitution	Exactly the same text
3	Areas of exclusive competence	Inserts Article I-13 of the Constitution	Exactly the same text
4	Areas of shared competence	Inserts Article I-14 of the Constitution	Exactly the same text
5	The coordination of economic and employment policies	Inserts Article I-15 of the Constitution	Exactly the same text
6	Areas of supporting, coordinating or complementary action	Inserts Article I-17 of the Constitution	Exactly the same text
7	Power to ensure consistency	Inserts Article III-115 of the Constitution	Exactly the same text
8	Goal of eliminating inequalities	Inserts Article III-116 of the Constitution	Exactly the same text
9	Promoting high social standards	Inserts Article III-117 of the Constitution	Exactly the same text
10	Combating discrimination	Inserts Article III-118 of the Constitution	Exactly the same text
11	Environmental protection	Inserts Article III-119 of the Constitution	Exactly the same text
12	Consumer protection	Inserts Article III-120 of the Constitution	Exactly the same text
13	Animal welfare	Inserts Article III-121 of the Constitution	Same text + words "as far as sensible"

14	EU laws on services of general interest	Inserts Article III-122 of the Constitution	Slightly different text, same meaning
15	Status of churches and religious groups	Inserts Article I-52 of the Constitution	Exactly the same text
17 (drafting error – Article 16 deleted)	Laws on non discrimination	Inserts Articles I-4 and III-123 of the Constitution	Exactly the same sense
17a	Laws on non discrimination - ending veto	Inserts Article III-124 of the Constitution	Exactly the same sense
17b	European Citizenship	Inserts Article I-10 of the Constitution	Exactly the same text
18	Freedom of movement, social security/social protection	wording and order changed, and explicit reference to id cards and other documents removed. This has been shifted to Art 69.	Same sense as III-125 of Constitution
19	Euro laws on right to vote and stand in elections	Veto on restrictions to right to vote and stand for EU parliament removed to make this the same in content as Article III-126	Same sense as III-126
20	EU laws on harmonisation of diplomatic and consular protection	Unchanged: Article III-127 of the Constitution was based on the original TEC article	Same content
21	Laws on the operation of the citizens initiative mechanism	Inserts part of I-47.4 of the Constitution on adoption of provisions for procedures and conditions required for citizens initiative.	Same content on adoption of provisions and procedures, but without Constitution's requirement of 1million citizen minimum
21a	Openness and limits on openness of EU procedures	brings into line with article I-50 and II-102 of the Constitution	Same content as articles I-50 and II-102 but with new exemption for ECB, ECJ and EIB
21b	Data protection - European laws on	Inserts Article I-51 of the Constitution	Exactly the same text with new derogation regarding specific rules in another article
22	Regular reports on the development of European Citizenship	Amended to rule out using article 22 to expand 21	New technical article
22a	Establishing the internal market	Inserts Article III-130 (1) - III-130 (3) of the Constitution	Exactly the same text
22b	Establishing the internal market	Inserts Article III-130.4 of the Constitution	Exactly the same text
23	Customs union: movement of goods	Inserts Article III-151 (1) and (2)	Same text
24	Customs union: products from third countries	Inserts Article III-151 (3) of the Constitution	Exactly the same text

25	Customs duties	Inserts Article III-151 (4) of the Constitution	Exactly the same text
26	Customs union: tariff duties	Inserts Article III-151 (5) of the Constitution	Same text
27	Customs union: Commission guidelines	Inserts Article III-151 (6) of the Constitution	Exactly the same text
27a	EU Laws (and criminal laws) on customs cooperation	Inserts Article III-152 of the Constitution	Exactly the same text
32	Agriculture and Fisheries	Inserts detail on fisheries as per Article III-225 and III-226 of the Constitution	Same content
36	State aid must be granted by the council on a proposal from the Commission	Inserts text from Article III-230 of the Constitution	Same content
37	Running of the CAP - introduces codecision with MEPs	Inserts Article III-231 of the Constitution	Exactly the same text
42	Social Security for migrant workers	Inserts Article III-136 of the Constitution	Exactly the same text (except "employed" becomes "salaried")
44	Freedom of establishment	Inserts Article III-138 of the Constitution	Exactly the same text
45	Exceptions from freedom of establishment	Inserts Article III-139 of the Constitution	Exactly the same text
47	Employment law for self employed workers - end of veto	Inserts Article III-141 of the Constitution	Exactly the same text
48a	Equal treatment of foreign firms	Inserts Article III-143 of the Constitution	Exactly the same text
50	Definition of services	Inserts Article III-145 of the Constitution (wording tweak)	Exactly the same text
52	EP codecision over services liberalisation	Inserts Article III-147 of the Constitution	Exactly the same text
54	Freedom to provide services	Inserts Article III-149 of the Constitution	Exactly the same text
57	Permitted restrictions on investment - EP codecision	Inserts Article III-157 of the Constitution	Exactly the same text
58	New powers to launch restrictive tax measures against third countries	Inserts Article III-158 of the Constitution	Exactly the same text

61	An area of Freedom Security and Justice	Inserts Article III-257 of the Constitution	Exactly the same text
62	European Council defines guidelines	Inserts Article III-258 of the Constitution	Exactly the same text
63	Review by national parliaments	Inserts Article III-259 of the Constitution	Exactly the same text
64	Evaluation & mutual recognition of legal judgements	Inserts Article III-260 of the Constitution	Exactly the same text
65	Standing committee for internal security	Inserts Article III-261 of the Constitution	Exactly the same text
66	Member states responsibility	Inserts Article III-262 of the Constitution + another paragraph repeating same point	Same text
67	EU legislation on administrative cooperation	Inserts Article III-263 of the Constitution	Exactly the same text
67a	Financial measures against terrorism	Inserts Article III-160 of the Constitution plus extra clause on legal safeguards	Exactly the same text
68	Commission right of initiative, end of individual member states right of initiative in this field	Inserts Article III-264 of the Constitution	Exactly the same text
69	Border Control, Visas and Asylum	Inserts Article III-265 of the Constitution, plus text on ID cards from III-125	Exactly the same text
69a	Common asylum policy	Inserts Article III-266 of the Constitution	Exactly the same text
69b	Common immigration policy	Inserts Article III-267 of the Constitution	Exactly the same text
69c	Burden sharing for the cost of asylum	Inserts Article III-268 of the Constitution	Exactly the same text
69d	Harmonisation of civil law	Inserts Article III-269 of the Constitution + tweak to involve parliaments in use of passerelle	Same text
69e	Harmonisation of criminal law	Inserts Article III-270 of the Constitution (with tweak to emergency brake on enhanced cooperation)	Same text
69f	Definition of criminal offences and penalties	Inserts Article III-271 of the Constitution (with tweak to emergency brake on enhanced cooperation)	Same text
69g	Crime Prevention	Inserts Article III-272 of the Constitution	Exactly the same text
69h	Powers of Eurojust	Inserts Article III-273 of the Constitution	Exactly the same text

69i	European public prosecutor	Inserts Article III-274 of the Constitution (with automatic enhanced cooperation added)	Same text
69j	Police cooperation	Inserts Article III-275 of the Constitution (with automatic enhanced cooperation added)	Exactly the same text
69k	Europol	Inserts Article III-276 of the Constitution	Exactly the same text
70	Transport	Wording tweak to bring into line with III-236.1 of the Constitution	Same content
71	Exceptions from rules on transport	Inserts Article III-236.2 - of the Constitution	Exactly the same text
75	Codecision on transport	Inserts Article III-240 of the Constitution	Exactly the same text
78	End of special measures for Germany	Inserts Article III-243 of the Constitution	Exactly the same text
79	Deletion of role of EcoSoc	Inserts Article III-244 of the Constitution	Exactly the same text
80	Regulation of sea and air transport - codecision	Inserts Article III-245 of the Constitution	Exactly the same text
85	Infringement of state aid rules	Inserts Article III-165 of the Constitution	Exactly the same text
87	State aid, special measures for Germany	Inserts Article III-167 of the Constitution	Exactly the same text
88	Commission regulations on categories of state aid exempt from normal rules	Inserts Article III-168.4 of the Constitution	Exactly the same text
93	VAT harmonisation - changes to text	Inserts Article III-171 of the Constitution	Exactly the same text
94	Fiscal harmonisation	Inserts Article III-172 of the Constitution	Exactly the same text
95	Harmonisation of administrative measures	Inserts Article III-173 of the Constitution	Exactly the same text
96	Distortions of competition	Inserts Article III-174 of the Constitution	Exactly the same text
97a	EU intellectual property rights	Inserts Article III-176 of the Constitution	Exactly the same text
97b	Euro - wording changed	Inserts Article III-177 of the Constitution	Exactly the same text
99	Broad economic policy guidelines - country criticised cannot vote	Inserts Article III-179 of the Constitution	Exactly the same text

103	Liability for governmental commitments	Inserts Article III-183 of the Constitution	Same text
104	Commission can reprimand members directly over deficits	Inserts Article III-184 of the Constitution	Same content
105	EP only needs to be consulted over ECB powers of financial regulation	Inserts Article III-185 of the Constitution	Same content
106	Euro bank notes	Inserts Article III-186 of the Constitution	Same content
107	Abolishing the veto over changing the statute of the ECB	Inserts Article III-187 of the Constitution	Same content
109	Regulations of the ESCB	Inserts Article III-189 of the Constitution	Exactly the same text
110	Regulations of the ESCB	Inserts Article III-190 of the Constitution	Exactly the same text
111	Measures necessary for the use of the euro	Inserts Article III-191 of the Constitution	Exactly the same text
114	Fiscal discipline in the euro group	Inserts Article III-194 of the Constitution	Exactly the same text
115	Eurogroup	Inserts Article III-195 of the Constitution which in turn inserts the protocol on the euro group	Exactly the same text
115a	Representation in international financial institutions	Inserts Article III-196 of the Constitution	Exactly the same text
116	Conditions for members with a derogation	Inserts Article III-197 of the Constitution	Exactly the same text
117	Convergence reports and criteria for joining	Inserts Article III-198 of the Constitution	Exactly the same text
118	Coordination with non-euro members	Inserts Article III-199 of the Constitution	Exactly the same text
118a	Exchange rates to be regarded as a matter of common interest	Inserts Article III-200 of the Constitution	Exactly the same text
119	Balance of payments crises	Inserts Article III-201 of the Constitution	Exactly the same text
120	Balance of payments protective measures	Inserts Article III-202 of the Constitution	Exactly the same text
136a	Official role of the social partners and tripartite summit	Inserts Article I-48 of the Constitution	Exactly the same text

137	Laws on working conditions	Inserts Article III-210 of the Constitution	Exactly the same text
138	European social dialogue	Inserts Article III-211 of the Constitution	Exactly the same text
139	European social agreements	Inserts Article III-212 of the Constitution	Exactly the same text
140	Equal pay - guidelines on best practice	Inserts Article III-213 of the Constitution	Exactly the same text
153	Consumer protection	Inserts Article III-235 of the Constitution	Exactly the same text
158	Territorial cohesion added as new objective	Inserts Article III-220 of the Constitution	Exactly the same text
161	Codecision on structural funds	Inserts Article III-223 of the Constitution	Same content
163	Creation of a European research area	Inserts Article III-248 of the Constitution	Exactly the same text
165	Research coordination	Inserts Article III-250 of the Constitution	Exactly the same text
166	Multiannual framework programme	Inserts Article III-251 of the Constitution	Almost exactly the same
167	Management of the Framework Programme for Research	Amendments to give effect to Article 252 of the Constitution	Same text broken into three
168	Management of the Framework Programme for Research	Amendments to give effect to Article 252 of the Constitution	Same text broken into three
170	Management of the Framework Programme for Research	Amendments to give effect to Article 252 of the Constitution	Same text broken into three
172a	European Space Policy	Inserts Article III-254 of the Constitution	Exactly the same text + without prejudice
174	Environmental policies	Adds to the dash in Article III-233 on "worldwide environmental problems" specific words on climate change	Adds words "in particular the fight against climate change."
175	Passerelle on environmental laws	Inserts Article III-234 of the Constitution	Exactly the same text
176a	Energy policy	Inserts Article III-256 of the Constitution + new reference to "energy solidarity" and "interconnection"	Exactly the same text
176b	Sport policy	Inserts Article III-282 of the Constitution	Exactly the same text
176c	Vocational training - EU can adopt legislation	Inserts Article III-283 of the Constitution	Exactly the same text

176d	Culture - EU can adopt incentive measures	Inserts Article III-280 of the Constitution	Exactly the same text
176e	Public health - new powers for EU	Inserts Article III-278 of the Constitution	Exactly the same text
176f	Industry	Inserts Article III-279 of the Constitution	Almost exactly the same text
176g	Tourism	Inserts Article III-281 of the Constitution	Almost exactly the same text
176h	Civil protection	Inserts Article III-284 of the Constitution	Exactly the same text
176i	Administrative co-operation	Inserts Article III-285 of the Constitution	Exactly the same text
188j	Humanitarian aid - sets EU strategy and creates various new bodies	Inserts Article III-321 of the Constitution	Exactly the same text
188k	Restrictive measures	Inserts Article III-322 of the Constitution	Exactly the same text
188l	International agreements	Inserts Article III-323 of the Constitution	Exactly the same text
188m	Establishing association agreements	Inserts Article III-324 of the Constitution	Exactly the same text
188n	Negotiating treaties - procedure	Inserts Article III-325 of the Constitution (tweaked to specify council negotiates ECHO membership)	Exactly the same text
188o	International monetary agreements	Inserts Article III-326 of the Constitution	Exactly the same text
188p	Liaison with UN and other international bodies	Inserts Article III-327 of the Constitution	Exactly the same text
188q	EU delegations in third countries	Inserts Article III-328 of the Constitution	Exactly the same text
188r	Solidarity / mutual defence clause	Merges Article I-43 and Article III-329 of the Constitution	Exactly the same text
190	European Parliament	Amends 190 to bring into line with Article III-330 of the Constitution	Same content
191	Laws on European Political Parties and their funding	Inserts Article III-331 of the Constitution	Same text



192	Parliament can request proposals from the Commission, and it has to explain if it refuses	Inserts Article III-332 of the Constitution	Exactly the same text
193	Parliament can set up a committee to scrutinise the implementation of Union law	Amends Article 193 to bring it in line with Article III-333 of the Constitution	Exactly the same text
195	Role of the EU ombudsman	Inserts Article III-335 of the Constitution	Same content
196	Parliament annual session	Wording tweak to bring it into line with III-336	Exactly the same text
197	Council right to speak to parliament	Inserts Article III-337 of the Constitution	Exactly the same text
198	European Parliament voting	Wording tweak to bring it into line with III-338	Exactly the same text
199	European Parliament rules of procedure	Wording tweak to bring it into line with III-339	Exactly the same text
201	Motion of censure - Foreign Minister can be sacked independently	Inserts Article III-340 of the Constitution	Exactly the same text
201a	European Council rules of procedure + introduction of voting	Inserts Article III-341 of the Constitution	
201b	Configurations of the Council of Ministers - decided by QMV	Inserts Article I-24 of the Constitution	Same content
205	New voting system making it easier to pass legislation	Inserts Article I-25 of the Constitution	Same content + delay for 7 years
207	COREPER + council secretariat	Inserts Article III-344 of the Constitution	Exactly the same text
208	Commission has to explain if it refuses to publish a proposal	Inserts Article III-345 of the Constitution	Exactly the same text
209	Council to consult commission on its structures	Wording tweak to bring it into line with III-346	Exactly the same text
210	Decision on the salaries of the Foreign Minister etc	Inserts Article III-400 of the Constitution	Same content
211	Appointment of the European Commission	Establishes new system for rotating commissioners between member states + part of Article I-26 of the Constitution	New article + inserts part of Article I-26 of Constitution

213	Independence of Commissioners	Inserts Article III-347 of the Constitution	Exactly the same text
215	President and EP have power over appointments to the Commission when there are vacancies	Inserts Article III-348 of the Constitution	Exactly the same text
217	President allocating responsibilities in Commission except for Foreign Minister	Inserts Article III-350 of the Constitution	Exactly the same text
218	Annual report of the Commission	Wording tweak and move to bring it into line with III-352	Exactly the same text
219	Parliament rules of procedure	Wording change to bring it into line with III-338	Exactly the same text
221	Court of Justice	Wording change to bring it into line with III-353	Exactly the same text
223	Court of Justice	Wording change to bring it into line with III-355	Exactly the same text
224	Consultation of new panel on judicial appointments	Inserts Article III-356 of the Constitution	Exactly the same text
224a	Creation and composition of the new Judicial Appointments Panel	Inserts Article III-357 of the Constitution	Exactly the same text
225	Creation of "specialised courts"	Changes to make it into III-358	Exactly the same text
225a	QMV on the creation of specialised courts	Inserts Article III-359 of the Constitution	Exactly the same text
228	New penalty procedures including lump sum fines	Inserts Article III-362 of the Constitution	Exactly the same text
229a	ECJ can be given jurisdiction over Intellectual Property by Council	Wording change to bring into line with III-364	Changed at Dutch insistence so that such a decision would have to be ratified by national parliaments
230	Changes to the right of standing at the European Court	Inserts Article III-365 of the Constitution	Exactly the same text
231	ECJ striking down acts - process	Wording change to bring into line with III-366	Exactly the same text
232	Action against EU bodies and agencies if they fail to act	Inserts Article III-367 of the Constitution	Exactly the same text
233	Duty to comply with judgements	Wording change to bring into line with III-368	Exactly the same text

235a	Limits on court jurisdiction over suspension of membership rights	Inserts Article III-371 of the Constitution	Exactly the same text
236	ECJ jurisdiction over staff cases	Wording tweak to bring into line with III-372	Exactly the same text
237	ECJ	Wording tweak to bring into line with III-373	Exactly the same text
240a	ECJ jurisdiction over anti-terrorist financing measures and article III-308 (boundary between foreign policy and rest of EU)	Inserts Article III-376 of the Constitution	Exactly the same text
240b	ECJ jurisdiction over police and justice does not include over operational police decisions	Inserts Article III-377 of the Constitution	Exactly the same text
241	Grounds for appeal at court	Inserts Article III-378 of the Constitution	Exactly the same text
242	Technical point about court judgements	Wording change to bring into line with III-379 of the Constitution	Exactly the same text
245	Statute of the European Court of Justice can be now amended by majority vote	Inserts Article III-381 of the Constitution	Exactly the same text
245a	Tasks of the European System of Central Banks	Inserts Article I-30 of the Constitution	Exactly the same text
245b	Appointment of the executive board of the ECB now by QMV	Inserts Article III-382 of the Constitution	Exactly the same text
246	Composition of the European Court of Auditors	Inserts Article I-31 of the Constitution	Exactly the same text
247	Composition of the European Court of Auditors	Edited to bring into line with III-385 (and III-400) of the Constitution	Exactly the same text
248	"Bodies office or agency"	Wording change	Exactly the same text
249	Different types of act	A modified version of I-33	Same content
249a	QMV becomes the "normal legislative procedure"	A modified version of I-34	Same content

249b	Introduces new category of "Delegated European Regulations" and mechanisms for their control	Inserts Article I-36 of the Constitution	Same text
249c	QMV over control of Commission's implementing powers	Inserts Article I-37 of the Constitution	Same text
249d	Use of Recommendations	Inserts Article I-35.3 of the Constitution	Same text
250	Budget not in list of things council cannot amend	Inserts Article III-395 of the Constitution	Exactly the same text
277	Multiannual Financial Framework	Wording change to bring into line with III-410	Exactly the same text
279	QMV on financial management of the budget	Inserts Article III-412 of the Constitution	Exactly the same text
279b	Obligations to third parties	Inserts Article III-413 of the Constitution	Exactly the same text
279c	Sets up regular three way meetings of Council Commission and Parliament to manage the budget	Inserts Article III-414 of the Constitution	Exactly the same text
280	Anti-fraud provisions - can now affect criminal law	Inserts Article III-415 of the Constitution	Exactly the same text
280a	Enhanced cooperation	Inserts Article III-416 of the Constitution	Exactly the same text
280b	Enhanced cooperation	Inserts Article III-417 of the Constitution	Exactly the same text
280c	Enhanced cooperation	Inserts Article III-418 of the Constitution	Exactly the same text
280d	Enhanced cooperation	Inserts Article III-419 of the Constitution	Exactly the same text
280e	Enhanced cooperation	Inserts Article I-44.3 of the Constitution	Same text
280f	Enhanced cooperation	Inserts Article III-420 of the Constitution	Exactly the same text
280g	Enhanced cooperation	Inserts Article III-421 of the Constitution	Exactly the same text
280h	Enhanced cooperation	Inserts Article III-422 of the Constitution	Exactly the same text
280i	Enhanced cooperation	Inserts Article III-423 of the Constitution	Exactly the same text
282	Legal capacity of the Union	Wording change to bring into line with III-426	Exactly the same text

283	Codecision on the staff regulations of the EU	Inserts Article III-427 of the Constitution	Exactly the same text
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# Policy Brief

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The King Baudouin Foundation and Compagnia di San Paolo  
are strategic partners of the European Policy Centre

## The EU Reform Treaty: easier signed than ratified?

*By Sara Hagemann*

### Background

Three weeks after Portugal took over the EU Presidency, it has already met its first major challenge in managing the institutional reform process, by submitting a full draft text of the new Reform Treaty to Member States at the Intergovernmental Conference (IGC) on 23-24 July.

Lisbon now has just three months to meet its aim of steering the negotiations to a successful conclusion at the 18-19 October informal EU summit, with a view to completing the process of ratifying the new treaty ahead of the June 2009 European elections. So is everything likely to go according to plan?

#### Potential stumbling blocks

There are two main reasons why the treaty so carefully formulated in the IGC mandate agreed at the June 2007 summit may run into problems.

The first has to do with the fact that at the end of the summit, EU leaders only agreed the

mandate verbally – it was not put down on paper until the German Presidency's final summit conclusions were circulated a few hours *after* the end of the marathon negotiations.

And although the mandate contains a detailed explanation of the changes that will be made to the existing treaties (the TEU and the TEC) – on the basis of the original text of the ill-fated Constitution – the IGC is sovereign in deciding on the content, form and path of the new Reform Treaty.

The claim that the text is already 'closed and sealed' could therefore be challenged once lawyers, officials and politicians in the Member States have had a chance to scrutinise the details of the treaty text presented on 23 July.

It is against this backdrop that Portuguese Prime Minister José Socrates, who is chairing the IGC negotiations, will be keeping one eye firmly on the Polish government in the coming weeks. Warsaw argued in the aftermath of the June summit

that a 'gentleman's agreement' on voting rules it had allegedly secured at the Council had been omitted from the mandate text – a claim which most of those involved in the summit talks strenuously denied.

Although the text circulated on July 23 makes no reference to the disputed point, the Poles appear to have backed down over this, but EU officials are still waiting nervously for final confirmation that the issue is now closed. Most governments are so anxious to put this issue behind them that the Poles will be under immense pressure not to make any further demands which risk re-opening the whole package and dragging out negotiations beyond mid-October.

Other controversial issues could also be raised once the full draft text has been scrutinised and it will therefore require – once again – a carefully orchestrated process to bring the treaty reform process to a conclusion, bearing in mind the principle that nothing is agreed until everything is agreed.

The second major obstacle is linked not to the intergovernmental negotiations themselves, but rather to what comes afterwards.

A new round of ratifications at the national level is required and although most EU governments are determined to avoid referenda this time if they can, this may not be possible in all cases. Meeting the high thresholds in some Member

States for ratifying the treaty through national parliaments could also prove more challenging than has been assumed so far.

This observation may be regarded as rather pessimistic – and possibly even unhelpful – by some in Brussels. These factors cannot, however, be ignored. EU leaders need to be aware of the potential hurdles and traps which lie on the

road ahead, and the steps that may have to be taken in order to avoid them.

Merely praising the treaty text or the diplomatic skills of the German Presidency in getting the EU to this point will not mobilise the necessary majorities in favour of the treaty in either national parliaments and/or the wider public.

## State of play

So what are the requirements for ratifying the Reform Treaty, assuming EU leaders sign the final text later this year?

The table at the end of this Policy Brief lists the thresholds for approval in each national parliament and assesses whether they are likely to be met, on the basis of the current political situation in each country. It also indicates which Member States will – or might – hold a referendum on the treaty.

### Parliamentary requirements

Most countries that successfully ratified the draft Constitutional Treaty will only have to secure a simple or absolute majority of votes in their national parliaments to do so again.

However, not all of these countries have yet had these requirements confirmed by their legal/constitutional councils (where these exist). In some cases, a definitive ruling will not be made until the final text has been agreed and scrutinised by national lawyers.

It nevertheless seems safe to say that Germany, Italy, Greece, Hungary, Sweden, Lithuania, Latvia, Slovenia, Estonia, Cyprus and Malta will adopt the treaty text by simple or absolute majority. In all these cases, this looks likely to be relatively plain sailing, as it does in the EU's

newest Member States, Bulgaria and Romania, which ratified the Constitutional Treaty before they joined the club.

That leaves 14 countries where the situation is more complex: France, the UK, Poland, Spain, the Netherlands, Belgium, the Czech Republic, Austria, Slovakia, Denmark, Finland, Ireland, Luxembourg and Portugal itself.

Of these, six will need to meet a higher threshold to get parliamentary approval for the treaty, while eight either have a legal requirement to hold a referendum or may yet decide to do so for internal political reasons.

### The two-thirds 'club'

There are few concerns about two of the Member States - Austria and Finland - in the group which require a two-thirds majority in parliament to ratify the treaty, as there are no signs currently that this threshold cannot be met easily in both countries.

Other Member States may be more problematic. For example, the Polish government has yet to give a clear indication of what rules will be applied. There are two options: a simple majority in both chambers if no constitutional amendments are deemed necessary; or a two-thirds majority if they are. The political climate in the Polish parliament is

somewhat unpredictable, but the pro-EU inclination of the opposition parties (as compared to the current government coalition) may prove crucial to securing the necessary votes.

Belgium also has a two-thirds majority threshold, with the additional requirement that at least two-thirds of members are present in both parliamentary chambers and the regional assemblies also give their approval. The result is a seven-chamber process that is likely to be quite protracted, even if it is not further complicated by tensions between the different communities.

### The three-fifths 'club'

Moving yet another step up the 'threshold ladder', there are three Member States where a three-fifths majority will be required: France, the Czech Republic and Slovakia.

In France, President Nicolas Sarkozy may run into unexpected problems because of a wrinkle in the newly amended (2004) French Constitution, which includes direct references to the expectation that there would be an EU Constitutional Treaty.

The text of the French Constitution may therefore have to be revisited and amended accordingly. This

would require a two-thirds majority in “Congress”, which encompasses both chambers and delegates from regional councils.

Mr Sarkozy’s UMP and its coalition allies will therefore need some support from the left-wing opposition to win the necessary majority, which may help explain the President’s *ouverture* to personalities from the left following his election victory. But the French government has so far sounded firm in its intention not to call another referendum.

Slovakia also has a three-fifths majority requirement, but this is unlikely to cause any real problems. The same cannot be so easily said of the Czech Republic, where again the three-fifths thresholds has to be met in both the House and the Senate. The current Czech government is mildly Eurosceptic (although marginally less so than the President), but, once again, the opposition may prove decisive in securing the necessary votes.

However, at this stage, neither the Poles nor the Czechs – who had committed themselves to holding a referendum on the Constitutional Treaty – have completely ruled out holding a popular vote on its replacement.

### **Referendum or not?**

A key negotiating card played successfully by some governments over the last six months has been to present their ‘red lines’ in Brussels as essential to avoid a new round of referenda.

However, some of them are now facing renewed and increasing demands for a popular vote on the new treaty – and if one bows to this pressure, it could trigger a ‘domino effect’ in others, as happened in 2004-05.

Ireland is the only EU Member State legally bound to hold a referendum. The countries which are seriously considering the option or will come

under intense pressure to do so are the UK, the Netherlands, the Czech Republic, Portugal, Denmark – and, for other reasons, Spain and Luxembourg.

The Irish government appears convinced that winning the referendum will not be all that difficult, as long as politicians avoid a repeat of the mistakes they made over the Nice Treaty, make strenuous efforts to campaign for a Yes and provide the public with the information people need to make up their minds. The only unknown is the country’s economic situation: were it to worsen, this could put the outcome into question – which is one reason why Irish politicians favour a swift deal and ratification process.

Portugal had committed itself to a referendum on the Constitutional Treaty and recent disagreements within the parliament over whether the Reform Treaty will indeed be comparable to the ‘Constitution’ may yet make it difficult to resist calls for a popular vote on its replacement, although the government is doing its best to play down this possibility.

In the UK, new Prime Minister Gordon Brown is determined not to put the Reform Treaty to a referendum, claiming the UK successfully defended all its ‘red lines’ at the June summit. However, the Conservative opposition and the Eurosceptic media have already called for one, and the Liberal Democrats have not yet made up their minds on the new treaty.

If Mr Brown is forced to bow to the pressure for a referendum, the result would almost certainly be a resounding ‘No’. However, if he stands firm, a simple majority in both houses of parliament will suffice.

In the Netherlands, the government has delegated the decision on whether to hold another referendum to the State Council, a constitutional body tasked with evaluating the impact of the new treaty. Its

members belong to a generation that is still strongly pro-EU, but the left-wing Socialist Party is increasingly raising its voice to push for a popular vote and thus creating problems for the Labour Party (PvdA), which is part of the ruling coalition.

Denmark is often mentioned as a candidate for a referendum because of its history of ratifying EU treaties by popular vote. However, Anders Fogh Rasmussen’s government went to the June summit with a clear mandate from most of the major parties, and the nine points which would almost certainly have triggered a referendum in Denmark have been accommodated in the draft Reform Treaty.

That said, the Danish government may find it hard to resist calls for a popular vote if other EU countries decide to hold one. And even if it manages to avoid this, it may still have to pass a very high threshold – securing a five-sixths majority – to get the treaty ratified by the parliament, unless an independent legal council rules that it does not entail further transfers of powers to the EU, in which case, a simple majority would suffice.

In the Czech Republic, the government now sees a referendum as too great a risk and fears it could disrupt preparations for the country’s EU Presidency in the crucial first half of 2009. So, while whatever the Poles decide could have an impact on the Czech Republic, mainstream political leaders will certainly try to stick to a purely parliamentary path.

Finally, Spain and Luxembourg, which both secured comfortable majorities in their referenda on the Constitutional Treaty, have a special problem, in that those votes – although purely ‘consultative’ – may have to be superseded by new ones. However, both governments appear to prefer a quick parliamentary ratification and, either way, there seems to be no risk of failure.



## Prospects

Virtually all those involved in the lengthy and tortuous process of crafting and drafting, first, the Constitutional Treaty and, now, the Reform Treaty are anxious to see this issue put to bed as quickly as possible.

This is entirely understandable, but it does not mean that they can afford to relax now that the most difficult issues appear to have been resolved. Quite the opposite.

As is clear from the above, robust efforts will be needed during the last phase of the institutional reform process in order to translate the deal reached on paper into an enforceable treaty.

Success or failure in the ratification process will largely depend on two factors.

First, much could depend on which country is first to ratify the new treaty – and whether any other Member State apart from Ireland decides to call a referendum at an early stage in the process. If that happens, it will be increasingly difficult for those governments which find themselves in the ‘grey area’ to avoid having one.

Second, the outcome of the ratification process will depend on governments recognising that in most cases, support for the treaty – either among the citizens or in national parliaments – cannot be taken for granted.

### Sharing ‘ownership’

In this respect, the way in which the June summit agreement was

reached could have consequences for the process which lies ahead.

There is no doubt that the June mandate was a clear and carefully formulated document which allowed almost all Member States to present a few ‘trophies’ to their home audiences and declare themselves as ‘winners’, despite their sometimes contradictory demands.

However, generally speaking, EU governments have made few attempts so far to include other actors in their ‘winning teams’ and, as a result, will be largely on their own in their efforts to sell the Reform Treaty text to their populations and/or parliaments.

Given the lack of efforts to launch multi-stakeholder debates on the negotiations in the Member States, interest groups with a direct or indirect social and economic stake in the EU have not been offered ‘ownership’ of the emerging deal and are therefore likely to play only a minor role, if any, in the ensuing ratification phase.

Furthermore, Eurosceptic parties in some Member States will almost certainly try to use both the way in which the new text has been negotiated, and its intricate and cumbersome provisions, to stir up opposition to ‘Europe’ and, of course, their own national governments.

Even if governments manage to resist their calls for a referendum on the treaty itself, all this may well have an impact the next time the public gets the chance to vote

on EU issues – in the 2009 European Parliament elections.

It would indeed be very bad and very sad if those elections were turned into an *ex post facto* plebiscite against the EU and its new treaty, even if the ratification process had just been successfully completed.

This is why it is essential for governments and political leaders across Europe to make a serious effort to engage relevant interest groups and the wider public in the debate in an attempt to give them ownership of the reforms.

This cannot wait until after the IGC is over and the new treaty has been signed by the leaders of the EU’s 27 Member States. That debate needs to begin now both to counter criticisms that the entire deal is being ‘stitched up’ behind closed doors and to make the case for the reforms the new treaty will contain.

If all goes according to plan, the ratification process will begin a few short months from now. Leaving it until then to launch a wider debate would be too little, too late, with potentially serious consequences. There is no time to lose.

■ The EPC will monitor and debate progress in the IGC negotiations and the subsequent ratification process in its EU Governance Forum, and is establishing a Rapid Reaction Group to enable it to respond promptly to key developments.

*Sara Hagemann is a Policy Analyst at the European Policy Centre.*



# The ratification process 'at a glance'

Country	Parliamentary/chamber threshold	Referendum?	Majority assured in parliament/chambers?	Majority likely in referendum?*
Austria	2/3 in both chambers	No	Yes	
Belgium	Simple majority in both chambers if no constitutional amendment required If amendment necessary, a 2/3 majority is required in both chambers, with at least 2/3 of members present as well as ratification by regional assemblies	No	Yes	
Bulgaria	Simple majority	No	Yes	
Cyprus	Absolute majority in parliament; President and Council of Ministers can veto parliament's decision	No	Yes	
Czech Rep.	Simple majority if no transfers of powers, or else 3/5 of votes in both parliament and senate	Unclear	Unclear	Yes
Denmark	5/6 majority if powers transferred, simple majority if not	Unclear	Unclear	Unclear
Estonia	Simple majority	No	Yes	
Finland	2/3 majority in parliament	No	Yes	
France	Simple majority in both chambers, unless a constitutional amendment is required In that case, a referendum is necessary unless both chambers approve a request by the President and approve the amendment by a 3/5 majority	No	Yes	Unclear
Germany	Simple majority approval in Bundestag & Bundesrat	No	Yes	
Greece	Simple majority in parliament	No	Yes	
Hungary	Majority of votes in parliament, with at least half of its members present	No	Yes	
Ireland	Simple majority	Yes	Yes	Likely
Italy	Simple majority in both chambers	No	Yes	
Latvia	Simple majority in two readings	No	Yes	
Lithuania	Simple majority	No	Yes	
Luxembourg	Simple majority	Unclear	Yes	
Malta	Undecided, procedure varies according to what constitutional amendments are required	No	Yes	
Netherlands	Simple majority in both chambers	Unclear	Yes	Unclear
Poland	2/3 majority in both chambers if defined as a transfer of powers, otherwise simple majority	Unclear	Yes	Likely
Portugal	Simple majority of votes in parliament	Unclear	Yes	Yes
Romania	Simple majority	No	Yes	
Slovakia	3/5 of members of parliament	No	Yes	
Slovenia	Simple majority	No	Yes	
Spain	Absolute majority	Unclear	Yes	
Sweden	Majority in parliament depending on competences involved	No	Yes	
UK	Simple majority in both houses	Unclear	Unclear	No
<b>Total</b>		<b>1 Yes</b> <b>8 Unclear</b> <b>18 No</b>	<b>24 Yes</b> <b>3 Unclear</b>	<b>2 Yes</b> <b>3 Unclear</b> <b>2 Likely</b> <b>1 No</b>

\* Based on national experts' estimations