

PROPOSAL FOR A COOPERATION AGREEMENT TO REPLACE THE NICE TREATY AND THE REJECTED EU CONSTITUTION

Introduction

We, the peoples of Europe, have drawn up and voted for this European cooperation agreement in order to strengthen our democracies and expand them beyond our borders and to relegate war and poverty to the historical record.

We are desirous of reaching common decisions and finding common solutions for the benefit of the citizens, sustainable development for the entire world and of those who come after us.

We are desirous of coordination and cooperation between living democracies and of creating a common democracy in those areas where we cannot ourselves legislate effectively in our Member States.

What we can decide ourselves, we wish to decide ourselves democratically in our countries.

What we cannot resolve ourselves, we wish to decide as openly, locally and democratically as possible in the EU in cooperation with the United Nations.

Our objective is to ensure peace and sustainable development, security, employment and welfare, health, the environment and cultural diversity.

1. Nature of cooperation

The EU shall respect the UN, the constitutions of the Member States and the allocation of powers in this agreement.

Member States and the common institutions shall assist each other and cooperate loyally.

Common EU laws shall outrank the Member States' own legislation only in the specifically defined and circumscribed areas in which the EU is empowered under this agreement to adopt common legislation.

The EU may negotiate international agreements with countries and organisations where the EU may adopt common legislation. The EU may assist Member States in other areas of international cooperation.

2. Human rights

The EU shall accede to the European Convention on Human Rights and shall respect all decisions by the European Court of Human Rights and the freedoms enshrined in national constitutions.

3. A common market

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EU legislation shall ensure a common internal market with freedom of movement for labour, services, goods and capital as well as freedom of establishment, common competition rules and a ban on discrimination.

4. Common civil rights

All nationals of EU Member States shall be entitled to vote in local elections and elections to the European Parliament in their country of residence.

They may move and travel freely throughout the EU and enjoy protection from the diplomatic and consular authorities of any Member State in third countries in accordance with the rules laid down in the relevant legislation.

5. Allocated powers and proximity principle

The EU shall enjoy only those powers allocated under this basic agreement. They shall be applied in compliance with the principles of proximity and proportionality.

The proximity principle means that the EU adopts common binding laws only where Member States cannot themselves adopt rules with equal effectiveness.

The proportionality principle means that EU laws and actions cannot go further than necessary to achieve the set objectives.

6. National parliaments

The national parliaments shall consider all proposals for EU laws and shall ensure compliance with the principles of proximity and proportionality.

They shall adopt an annual legislative programme authorising the Commission to draw up proposals.

Where 25% of the national parliaments oppose a proposal for an EU law, it shall lapse.

Any parliament can bring an action in the EU Court of Justice for breach of the proximity and proportionality principles.

7. Nature of powers

The EU is entitled to adopt binding laws and decisions in the areas specified in this agreement.

In all other areas the Member States have sole authority to legislate. The EU may assist with coordination and cooperation but may not harmonise the laws and administrative provisions of the Member States. Cooperation may result in non-binding recommendations and communications.

The scope of the EU's powers shall be spelt out in greater detail for each area in an annex to this agreement. These powers can be increased only with unanimity and approval from the Member States.

8. Powers of the EU

The EU has sole authority to legislate on international trade and competition rules for the common market.

The EU may legislate for the internal market, the environment, agriculture and fisheries, transport, trans-European networks and energy and may adopt minimum provisions for social and labour market policy, economic, social and territorial cohesion, consumer protection and animal welfare.

The EU may implement common programmes for research, technological development, public health, development aid and humanitarian cooperation.

9. Economic policy

Member States shall coordinate their economic policy in order to ensure stable growth and full employment. The EU shall lay down detailed rules for those countries with the Euro as their common currency.

10. Foreign and security policy

Member States may coordinate their foreign and security policy. Military matters shall remain outside the scope of the EU/or: the EU shall lay down detailed rules for those countries that have established enhanced cooperation on joint military forces.

11. Incentives

The EU may subsidise activities in order to protect and improve human health, industry, culture, tourism, education and vocational training, civil protection and administrative cooperation.

12. Institutions of the Union

The EU shall have common institutions that are allocated powers by the Member States. The institutions shall be the European Parliament, the Council of Ministers, the Commission, the Court of Justice, the Court of Auditors and the Ombudsman.

13. Separation of powers

The European Parliament and the Council of Ministers shall share legislative authority and shall adopt legislation and the budget. The Commission and the Member States shall exercise executive authority. The Court of Justice shall exercise judicial authority.

14. European Parliament

The number of members and the allocation of seats between the countries in the European Parliament shall be adopted by unanimous decision of the Council of Ministers.

Members shall be elected by direct secret ballot for five years.

The proceedings of the European Parliament shall be public. Parliament shall itself elect its President and its Bureau from among its members.

The European Parliament shall act by ordinary majority of the votes cast and shall adopt its rules of procedure by a 75% majority.

The European Parliament may call for any papers or supporting documentation within the EU's field of activity, where appropriate, subject to confidentiality.

The European Parliament's terms of remuneration and employment shall be agreed with the Council of Ministers, which shall act unanimously.

15. Council of Ministers

The Council of Ministers shall comprise one minister from each Member State. The Council of Ministers shall coordinate cooperation between the Member States and shall share legislative authority with the European Parliament.

The Council shall act by a 75% majority of the Member States unless otherwise specified. A country may request that the majority must also represent 50% of the total EU population.

A country may request that an item be not put to the vote where its national parliament has asked that country's prime minister to raise the issue at the next EU summit.

The Council's rules of procedure, configurations and election of one or more permanent chairmen shall be decided unanimously. The presidency shall rotate between the various countries at six month intervals.

The Council's working documents and meetings shall be public when the Council is considering legislation and at all other times when a reasoned dispensation has not been decided.

16. European Council

The Heads of State and/or Government shall meet in the European Council as required. They shall act unanimously. Countries may abstain from voting without this precluding unanimity.

17. Commission

The Commission shall consist of one member from each country who may possibly be elected by direct and secret ballot at the same time as the elections to the European Parliament.

The Commission shall itself elect its President and its Vice-Presidents.

The Commission shall exercise executive authority together with the Member States.

The Commission shall monitor compliance with EU legislation and may bring actions in the Court of Justice for Treaty infringements.

The Commission shall implement the budget and manage programmes and subsidy schemes.

The Commission shall represent the Union externally in those areas where the EU legislates for the Member States or authorises the Commission to act externally.

The Commission shall itself adopt its rules of procedure by a 75% majority and shall perform its duties with complete independence.

The Commission shall act by ordinary majority. An individual commissioner may receive instructions from his national parliament on how to vote in the Commission but must manage his portfolio in the common interest of all Member States and citizens.

18. Operation of the Commission

The Commission's proceedings shall be public when it is adopting proposed legislation and taking political decisions. Reasoned dispensations can be decided by a 75% majority.

The Commission may set up working parties. Their membership and working documents shall be accessible to the European Parliament unless Parliament approves a special dispensation.

The Commission's administrative decisions and actions are subject to full scrutiny by the Court of Auditors, the Ombudsman, the European Parliament and the oversight committees of the national parliaments.

19. Vote of no confidence in the Commission

Where the Council or Parliament adopts a vote of no confidence in a commissioner, the commissioner may be dismissed by the Court of Justice.

Where a national parliament adopts a vote of no confidence in its own commissioner, the country concerned shall elect a new one.

Where the Council or Parliament adopts a vote of no confidence in the entire Commission, it shall continue in office as a caretaker administration until a new Commission has been elected.

20. Court of Auditors

The Court of Auditors shall comprise one auditor elected by each national parliament.

It may call for any supporting documentation involving either full or partial use of EU funds.

It shall submit an annual report to the European Parliament on the EU's accounts. The accounts shall be recommended for approval or rejection by ordinary majority of the members of the Court of Auditors.

The Court of Auditors shall perform its duties with complete independence. Members may be dismissed only by the Court of Justice on a recommendation from a majority of the Court of Auditors.

21. Ombudsman

The Ombudsman shall be elected by the newly elected European Parliament from candidates who are or have been an ombudsman in their home country.

The Ombudsman may call for any document and any kind of information from the European institutions.

The Ombudsman shall consider complaints from citizens about EU actions or lack thereof and may raise issues on his own initiative.

The Ombudsman may be dismissed only by the Court of Justice on a recommendation from a 75% majority of the European Parliament.

22. Working parties and committees

The institutions of the European Union may establish management committees, advisory committees and working parties. They shall operate under the responsibility of the institution which established them.

23. Court of Justice

The European Court of Justice shall comprise a supreme court and one or more subsidiary courts and specialist tribunals.

Each body shall comprise one judge from each Member State. He/She shall be appointed by the national parliament following fresh elections to the national parliament.

Only persons of unquestionable independence who have held office as a judge or professor shall be eligible for appointment as a judge or advocate-general.

Judges may be dismissed only by the Court of Justice itself.

24. Operation of the Court of Justice

The Court of Justice shall itself adopt its own rules of procedure and may subdivide into chambers.

The Court of Justice shall act by ordinary majority. Any ruling by a subordinate body may be appealed to a higher body.

Citizens of limited means may request free legal aid where the case is supported by the Ombudsman.

The Court of Justice shall decide cases brought by a Member State against another Member State or an institution or by any natural or legal person.

The Court of Justice shall give preliminary rulings on questions concerning the interpretation of EU law submitted by authorities in the Member States or by an EU institution.

The Court of Justice shall interpret EU legislation. New interpretations of the basic treaty must be approved by the Council of Ministers acting unanimously.

25. High Representative

The European Council shall nominate a High Representative for election by the European Parliament to coordinate a common foreign and security policy.

The High Representative shall chair the Council of Foreign Ministers and the EU delegations in third countries and international organisations.

The High Representative shall act in cooperation with the commissioners responsible for external trade and development policy.

26. Central Bank

The European Council shall appoint the President and the Governing Council of the European System of Central Banks and shall adopt the statute of the Central Bank unanimously.

27. Categories of decision-making

The EU may adopt laws and recommendations, regulations, decisions and opinions.

A law shall require a legal basis in this cooperation agreement, shall be generally applicable and binding in all details and shall take precedence over the law of the Member States. A recommendation shall not be binding. A decision shall be binding on the party to which it is addressed. An opinion shall not be binding. Regulations may be promulgated only on the basis of a law.

Legal acts shall enter into force on the indicated date or 20 days after publication in the EU Official Journal.

28. Right of initiative

All institutions may propose laws. One million citizens can with their signatures call on the Commission to present a proposal for a law.

The Commission must produce a proposal where it is supported by a 75% majority in the proposing institution.

29. Better legislation

Every law must stipulate a date on which it automatically lapses unless re-enacted.

Any regulation issued by the Commission can be considered as a proposed law on request from an ordinary majority in the European Parliament or the Council of Ministers.

All legal acts shall state the reasons behind them and shall refer to the proposals, initiatives, recommendations, requests and opinions that have preceded them.

All declarations in connection with legislation shall be on the public record and shall have no legal significance.

30. Finance

The EU budget shall be financed from own resources and shall be adopted in the form of a law with 75% support in the Council of Ministers and an ordinary majority in the European Parliament.

The budget must respect a financial ceiling of 1% of the EU's total gross domestic product. Increases in this ceiling may be adopted by the Member States acting unanimously.

Only expenditure that is authorised in a law and entered as expenditure in a validly adopted budget may be incurred.

In the event of disagreement over a new budget, the maximum expenditure that may be incurred each month is one twelfth of the expenditure that was approved for the previous year or entered in the draft budget.

31. Monitoring of spending

The budget shall be implemented in keeping with the principle of sound financial management.

The EU's annual accounts shall be adopted in the form of a law on a recommendation from the Court of Auditors.

All expenditure shall be publicly accessible unless reasoned dispensations are adopted by a 75% majority.

Member States and the EU institutions shall combat fraud and shall treat offences involving EU funds in the same way as offences involving a Member State's own funds.

32. Foreign and security policy

The European Union may pursue a common foreign and security policy. No laws may be adopted. The Court of Justice may not deliver judgements.

Decisions shall be taken unanimously and may contain special provisions to be decided with 75% support among the Member States. Where one country abstains, this shall not preclude decisions by unanimity.

33. Defence

EU Member States may make military resources available for peacemaking operations decided by the UN.

The EU shall respect the Member States' defence policies, membership of NATO or status as a neutral country.

34. Enhanced cooperation

Enhanced cooperation may be established in all areas with shared powers, for foreign and security policy and for judicial and police cooperation and must respect any EU decision.

A decision on enhanced cooperation shall be taken unanimously while allowing for countries to abstain.

Enhanced cooperation shall involve the EU institutions and shall be subject to joint democratic guidance and scrutiny.

Administrative expenditure shall be financed from the general budget unless stipulated otherwise in the law. Operational expenditure shall be financed by the participating countries unless the law stipulates unanimously that it be financed from the EU budget where minor expenditure is concerned.

35. Principle of equality

The EU shall respect the principle of the equality of citizens and states in all activities.

Citizens are entitled to participate in the democratic life of the EU. Decisions must be taken as openly, democratically and close to citizens as possible. Citizens may freely form parties and associations to express their will.

36. Freedom of negotiation

The EU shall respect the two parties on the labour market and their right to conclude voluntary arrangements and agreements on pay and working conditions at both national and European level.

37. Minimum rules

Laws relating to the environment, working environment, safety, health, consumer protection, personal data, social conditions and animal welfare shall be adopted as common minimum rules.

Every country is entitled to adopt more comprehensive protection of citizens as long as the rules are applied without discrimination.

38. Religion

The EU shall respect the status of churches, religious communities and non-denominational organisations and their operation in accordance with national legislation.

39. International agreements

The EU shall develop special ties with its neighbouring countries, other countries and international organisations. It may, acting unanimously in the Council and with the approval of the European Parliament, conclude agreements involving reciprocal rights and obligations.

40. Membership of EU

The EU is open to all European countries that fully respect the European Convention on Human Rights. Applications for membership shall be addressed to the Council of Ministers.

Negotiations on membership shall be conducted by the Commission in accordance with the Council's guidelines. The outcome of negotiations shall be decided by unanimity in the Council and by ordinary majority in the European Parliament.

Where a country blatantly breaches its obligations, it may be excluded from the EU. Exclusion shall require unanimity among the other Member States, approval by 75% of the members of the European Parliament and a judgment from the International Court in The Hague.

A country may, by giving two years' notice, voluntarily secede from the EU by its own decision. The terms for secession shall be agreed between the seceding country and a 75% majority in the Council.

Any disagreement shall be subject to a binding ruling by the International Court in The Hague. A country that has seceded may reapply for membership in accordance with the usual procedure.

Member States shall themselves indicate which parts of their territories and possessions are covered by the provisions of the basic treaty.

41. Right of property

The arrangements governing property rights in the Member States shall not be affected by this cooperation agreement.

42. Officials

The staff regulations for officials and other employees and rules on professional secrecy shall be adopted in the form of a law.

43. Seats and languages

The seats of the EU institutions and agencies and the language regime shall be decided unanimously in the Council of Ministers.

44. Legal continuity

Previous treaties shall be repealed unless annexed to this cooperation agreement.

Laws and judgments shall continue unchanged unless explicitly amended in annexes to this agreement or subsequently under the usual legislative procedure.

Protocols and annexes to this agreement shall rank equally with the provisions of the agreement. Declarations shall have no legal significance.

45. Treaty amendments

The national parliaments and EU institutions may submit to the Council proposed amendments to this cooperation agreement.

Amendments shall be decided by unanimity in the Council and by a 75% majority in the European Parliament. They shall enter into force two months after ratification in all Member States in accordance with national constitutional requirements.

Where no more than 10% of Member States are unable to ratify a unanimously decided proposed amendment, a unanimous solution shall be found in the Council of Ministers.

46. Amendments to annexes

Annexes and protocols to this agreement may be amended by unanimity among the Member States unless a national parliament or one million citizens demand subsequent ratification.

47. Duration

This agreement shall be concluded for an indefinite period and shall enter into force two months after ratification by all Member States.

The letters of ratification shall be forwarded to the President of the Italian Republic who shall preserve them on behalf of the EU.

The agreement shall be drawn up in the official languages of all Member States. The texts shall be equally authentic.

FINAL ACT

Annexes, Protocols and Declarations

Important annexes:

The various policies and decision-making categories condensed from the Nice Treaty and Part III of the draft Constitution for Europe, much simplified.

Cooperation with the national parliaments on the proximity principle. The yellow card becomes a red card.

The detailed rules governing foreign and security policy, UN forces, the defence agency and the solidarity rule.

The detailed rules governing judicial and police cooperation.

Survey of all existing legislation showing expiry dates unless re-enacted in accordance with the provisions of the cooperation agreement.

Survey of judgments with changed effects in the future.

Practical survey of national competences not covered by any EU competence.

The European Convention on Human Rights indicating any reservations involving Member States and areas where the EU provides additional protection.