

**Articles of the EU Constitution related to  
Budget, budgetary control and fraud**

**I) GENERAL PRINCIPLES OF EU LAW**

- 1. Fundamental Principles**
- 2. Primacy of EU law**
- 3. Jurisdiction on competence**

**II) BUDGET**

- 1. Own resources**
- 2. Union's annual budget**
  - 2.1 Budgetary principles**
  - 2.2. Annual budget**
  - 2.3 Financial year**
  - 2.4 New budget procedure**
- 3. Implementation of the budget**
  - 3.1 Execution by the Commission**
  - 3.2 Implementation by Commission and Member States**
  - 3.3. Accounts of the preceding year**
- 4. Common provisions**

**III) BUDGETARY CONTROL**

- 1. Multiannual financial framework**
- 2. Financial regulation**
- 3. Discharge**

**IV) FRAUD**

**V) INSTITUTIONAL PROVISIONS**

- 1. European Parliament**
- 2. European Council**
- 3. Council of Ministers**
- 4. European Commission**
- 5. EU Foreign Minister**

# I) GENERAL PRINCIPLES OF EU LAW

## 1. Fundamental principles

### Article I-11

*Principles governing EU Competence:*

*- Conferral:  
EU laws need legal base in the Constitution or else a Member State competence*

*- Subsidiarity:  
EU-action only when "Better achieved at Union level"*

*Principle of subsidiarity defined in attached protocol  
National Parliaments shall ensure compliance*

*- Proportionality:  
"Not exceed what is necessary"*

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 within the limits of the competences conferred upon it by the Member States in the Constitution to attain the objectives set out in the Constitution. Competences not conferred upon the Union in the Constitution 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 Constitution.

## 2. Primacy of EU law

### Article I-6

*All EU law prevails over national laws and national constitutions*

The Constitution and law adopted by the institutions of the Union in exercising competences conferred on it shall have primacy over the law of the Member States.

## 3. The EU Court has jurisdiction on questions of competence

### Article III- 365

*EU-Court reviews:*

*- legality of legal acts*

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

- *lack of competence and infringement of:*

- *procedural requirements*
- *the Constitution*
- *rule of law*

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.

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 Constitution or of any rule of law relating to its application, or misuse of powers.

***... and since no dispute on the interpretation and application of the Constitution shall be submitted to any other method of settlement .....***

### **Article III-375**

2. 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.

***.... only the EU Court, no national high court, has jurisdiction on questions of EU/Member States' competence***

## II) BUDGET

1. OWN RESOURCES
2. THE UNION'S ANNUAL BUDGET
3. IMPLEMENTATION OF THE BUDGET
4. COMMON PROVISIONS

### 1) OWN RESOURCES

*Only the Council, acting unanimously after consultation of the EP, will decide on the Union's own resources. This law will not enter into force until approved by the Member States in accordance with their respective constitutional requirements. However, more detailed rules will be determined by a law, adopted by a qualified majority in the Council after having obtained the consent of the EP.*

#### Article I-53

*Provide itself with enough resources to attain its objectives*

*Financed from own resources*

*A law shall establish the limits of the Union's resources and the categories of the budget. The law shall be approved by all Member States*

*Detailed rules by qualified majority in Council and EP consent*

1. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.
2. Without prejudice to other revenue, the Union's budget shall be financed wholly from its own resources.
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.
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.

## **2) THE UNION'S ANNUAL BUDGET**

***The law determining the annual budget will be adopted jointly by the EP and the Council, with the European Parliament having the final word on all expenditure in the event of disagreement. Thus there will no longer be a distinction between compulsory and non-compulsory expenditure.***

***The budgetary procedure will have only one reading in each institution.***

### **2.1 BUDGETARY AND FINANCIAL PRINCIPLES**

#### **Article I-53**

*Union budget shall include all revenue and expenditure*

*Balanced budget*

*Rules on adopting expenditure to be defined in Part III*

*Expenditure requires both money in the budget and a legal act*

*The Union has to be sure that it can finance the acts it adopts within the limits of its own resources*

*Principle of sound financial management*

*Rules on countering fraud*

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.

2. The revenue and expenditure shown in the budget shall be in balance.

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.

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.

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.

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.

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.

### **2.2. THE ANNUAL BUDGET**

#### **Article I-56**

*EP and Council shall determine the Union's budget*

A European law shall establish the Union's annual budget in accordance with Article III-404.

## 2.3 THE FINANCIAL YEAR

### Article III-403

Financial year

The financial year shall run from 1 January to 31 December.

## THE NEW BUDGET PROCEDURE

### Article 310

#### **The new budget procedure**

***Budget established by law = co-decision***

***Difference between compulsory and non-compulsory expenditures ceases to exist:***

***The EP can thus co-decide on ALL expenditures***

***1. Each institution draws up an estimate***

***Commission makes a draft budget***

***2. Commission submits the draft budget before 1<sup>st</sup> September to Council and EP***

***3. Council sends an opinion to Parliament before 1<sup>st</sup> October***

***4.a If EP approves = budget adopted***

***4.b) If no decision, no adoption***

***4c) If EP amends by majority of its members = Conciliation Committee is convened, unless Council approves all EP***

European laws 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.

4. If, within forty-two days of such communication, the European Parliament:

(a) approves the position of the Council, the European law establishing the budget shall be adopted;

(b) has not taken a decision, the European law establishing 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

*amendments*

*5. Council and EP agree on a joint text within 21 days*

*6. Commission takes part in Conciliation committee meetings*

*7a. If both EP and Council approve, or only one approves and one (or both) take no decision = budget adopted*

*7b. Both reject or one rejects and the other takes no decision = Commission presents new proposal*  
*7c. EP rejects = Commission presents new proposal*

*6d. EP adopts and Council rejects = Budget may be adopted. EP can confirm own amendments by majority of members and 60 % of votes cast, otherwise joint text stands*

*8. Conciliation Committee does not agree = Commission presents new draft budget*

*9. EP President declares budget adopted*

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 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 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 European law establishing 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 European law establishing the budget has been definitively adopted.

### **3. EXECUTION AND IMPLEMENTATION OF THE BUDGET**

#### **3.1 EXECUTION OF THE BUDGET BY THE COMMISSION**

##### **Article I-26**

**Commission has to:**

- promote general interest
- oversee application of Union law
- execute the budget
- implement
- ensure external representation outside the common foreign and security policy

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.

#### **3.2 IMPLEMENTATION OF THE BUDGET BY THE COMMISSION IN CO-OPERATION WITH THE MEMBER STATES**

##### **Article III-407**

Commission and Member States implement budget

Control, audit obligations and responsibility

Commission may transfer between chapters of the budget

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.

#### **3.3 ACCOUNTS OF THE PRECEDING FINANCIAL YEAR**

##### **Article III-408**

Commission submit accounts to EP and Council

Evaluation report

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.

#### ***4. COMMON PROVISIONS***

##### **Article III-410**

Budget in euros

The multiannual financial framework and the annual budget shall be drawn up in euro.

##### **Article III-414**

Meetings between Council, Commission and EP on budget questions

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.

### III) BUDGETARY CONTROL

1. MULTIANNUAL FINANCIAL FRAMEWORK
2. FINANCIAL REGULATION
3. DISCHARGE

#### 1) MULTIANNUAL FINANCIAL FRAMEWORK

*The proposed multiannual financial framework will replace the current financial perspective. It will - within the own resources limits- determine the ceilings of the Union's expenditures over a period of five years. It will be adopted by a law of the Council acting by qualified majority, after obtaining the consent of the EP. Unanimity will still be required for the adoption of the first financial framework under the new Constitution.*

#### Article I-55

*The multi-annual financial framework shall determine the annual ceilings for each expenditure category*

*Council decides after consent from EP, which decides with a majority of its members*

*Annual budget shall stay within the multiannual framework*

*First multi-annual framework by unanimity, qualified majority from 2013*

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.

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.

3. The annual budget of the Union shall comply with the multiannual financial framework.

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.

#### Article III-402

*Minimum of 5 years*

*Shall fix ceilings for expenditure areas*

*Shall make budgetary procedure run smoothly*

*If no new framework is*

1. The multiannual financial framework shall be established for a period of at least five years in accordance with Article I-55.

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.

3. The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly.

4. Where no European law of the Council determining a new financial framework has

*adopted the old is extended*

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.

*Council, Commission and EP shall facilitate the procedure*

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.

## **2) FINANCIAL REGULATION**

***The Financial Regulation will be fixed by a law adopted under the ordinary legislative procedure. Until 2007 the Council will decide unanimously.***

### **Article III-412**

*Financial rules  
- established in law*

1. European laws shall establish:  
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.

*Consult Court of Auditors*

Such European laws shall be adopted after consultation of the Court of Auditors.

*Rules on use of own resources, set by qualified majority in Council from 2007*

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.

*Council act by unanimity until 2007*

3. The Council shall act unanimously until 31 December 2006 in all the cases referred to by this Article.

## **3) DISCHARGE**

### **Article III-409**

*EP gives discharge to Commission after recommendation of the Council*

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.

*EP can question*

2. Before giving a discharge to the Commission, or for any other purpose in connection

*Commission*

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 systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.

*Commission shall act on observations in discharge*

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.

*Commission reports on measures taken*

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.

## IV) COMBAT FRAUD

### Article III-415

	<p>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.</p>
<p><i>Same measures to protect the Union as Member States</i></p>	<p>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</p>
<p><i>Member States shall coordinate actions</i></p>	<p>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.</p>
<p><i>Acts adopted by legislative procedure, Court of Auditors consulted</i></p>	<p>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>
<p><i>Annual report to EP and Council</i></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>

## V) INSTITUTIONAL PROVISIONS

1. EUROPEAN PARLIAMENT
2. EUROPEAN COUNCIL
3. COUNCIL
4. EUROPEAN COMMISSION
5. FOREIGN MINISTER

### 1) EUROPEAN PARLIAMENT

*The European Parliament will, jointly with the Council, enact legislation and exercise the budgetary function, as well as functions of political control and consultation.*

*"Jointly with the Council" means that according to Article III-396.7 the EP can reject the proposals of law or propose amendments to them, but only with the absolute majority of its members in second reading.*

*The Council cannot adopt laws without the approval of the EP and the latter cannot decide anything without the approval of a qualified majority in the Council.*

*The EP "elects" the President of the European Commission but it can only elect the candidate proposed by the European Council acting by qualified majority. If the EP rejects a candidate, it will be up to the European Council to propose a new one.*

*After the President of the Commission has selected other Members of the Commission, the EP has to approve the College as a whole.*

*The number of MEPs will be limited to 750. The allocation of seats before the elections scheduled for 2009 shall be decided by the European Council, on a proposal from Parliament and with its consent, with a minimum threshold of six seats per Member State.*

#### 1.1 COMPOSITION OF THE EUROPEAN PARLIAMENT AT PRESENT:

Bulgaria	18
Belgium	24
Czech Republic	24
Denmark	14
Germany	99
Estonia	6
Greece	24

Spain	54
France	78
Ireland	13
Italy	78
Cyprus	6
Latvia	9
Lithuania	13
Luxembourg	6
Hungary	24
Malta	5
Netherlands	27
Austria	18
Poland	54
Portugal	24
Romania	35
Slovenia	7
Slovakia	14
Finland	14
Sweden	19
United Kingdom	78
<b>TOTAL</b>	<b>785</b>

*From the date of Romania's and Bulgaria's accession and until 2009, the European Parliament will therefore be composed of up to 785 MEPs.*

*Note: According to the present Nice Treaty, the number of MEPs is limited to 736 MEP (which may be temporarily exceeded according to the Accession Act).*

## **1.2 COMPOSITION OF THE EUROPEAN PARLIAMENT ACCORDING TO THE CONSTITUTION:**

*The Constitution limits the number of MEPs to 750*

### **Article I-20**

*Direct elections every 5 years, max. 750 MEPs*

*Minimum of 6 members per Member State and maximum of 96 members per Member State*

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.

## 2) EUROPEAN COUNCIL

*The European Council is to become a full institution. It will provide impetus and define political priorities but will not exercise legislative functions. The present rotating presidency will be replaced by a permanent presidency, elected by a qualified majority of its members for a renewable term of two and a half years. The general rule regarding the adoption of decisions will be consensus.*

### Article I-21

#### *European Council*

*European Council = Prime Ministers, President of European Council and President of Commission. Minister of Foreign Affairs shall take part*

*The European Council meets quarterly*

*President may convene additional meetings*

*Decisions by consensus*

1. The European Council shall provide the Union with the necessary impetus for its development, and shall define its general political directions and priorities. It does not exercise legislative function.
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.
3. The European Council shall meet quarterly, convened by its President. When the agenda so requires, its members may decide to be assisted by a minister, and, in the case of the President of the Commission, a European Commissioner. When the situation so requires, the President shall convene a special meeting of the European Council.
4. Except where the Constitution provides otherwise, decisions of the European Council shall be taken by consensus.

## THE EUROPEAN COUNCIL PRESIDENT

### Article I-22

*Prime Ministers will appoint for 2 ½ years – may re-elect once*

*Tasks of the President*

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 mandate in accordance with the same procedure.
2. The President of the European Council:
  - shall chair it and drive forward its work,
  - shall ensure proper preparation and continuity in cooperation with the President of the Commission, and on the basis of the work of the General Council,
  - shall endeavour to facilitate cohesion and consensus within the European Council,
  - shall present a report to the European Parliament after each of its meetings.

*Represents the EU in the wider world on CFSP issues*

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 responsibilities of the Union Minister for Foreign Affairs.

*President cannot have a national office*

3. The President of the European Council may not hold a national office.

### **3) COUNCIL OF MINISTERS (COUNCIL)**

*The General Affairs Council shall ensure consistency in the Council's work. The proposed Constitution also provides for a Foreign Affairs Council chaired by the EU Minister for Foreign Affairs. A specific legal basis will allow the European Council to set up other formations of the Council, chaired by representatives of Member States on the basis of equal rotation.*

#### **3.1 WEIGHTING OF VOTES IN THE COUNCIL AT PRESENT**

Bulgaria	10
Belgium	12
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
<b>Total</b>	<b>345</b>

**Qualified majority:**

- 255 out of 345
- majority of Member States
- 62% of the population

### **3.3 VOTING IN THE COUNCIL ACCORDING TO THE PROPOSED CONSTITUTION-ARTICLE I-25**

*Qualified majority will become the general rule for the adoption of decisions within the Council, which will be defined as consisting of 55% of the Members of the Council (yet at least 15 Member States) comprising at least 65% of the population. For cases in which the Convention has not achieved consensus on changing over to qualified majority voting, a transitional measure (known as the ‘passerelle’) is planned, by which the European Council will have the opportunity to decide unanimously that the Council will in future act by qualified majority and, as the case may be, by the ordinary legislative procedure, without the need to amend the Constitution, which would in turn require ratification by each Member State.*

*When a Commission proposal is not required or when a decision is not adopted on the initiative of the Minister for Foreign Affairs, the qualified majority required will be made up of 72% of Member States representing at least 65% of the population of the Union.*

### **4) THE EU COMMISSION**

*The Commission’s monopoly of legislative initiative is clearly restated. Until 2009, it will be composed of one Commissioner per Member State. From 2009 on, the Commission shall be composed of members from at least two-thirds of the Member States.*

*Note: The present Nice Treaty stipulates in the Protocol on enlargement that when the EU is composed of 27 Member States, the number of Commissioners shall be less than the number of Member States.*

#### **Article I-26**

**Composition:**

*no longer one from each Member State*

*Rotate on equal basis  
- max one term between having a member  
- represent demographic*

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.

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.

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:

*and geographical range of the Union*

(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.

## **COMMISSION PRESIDENT**

***The political power of the President of the Commission will be backed through his approval by the European Parliament and will include the appointment of Commissioners, allocation of portfolios and the right to request the resignation of a Commissioner without needing the approval of the College, as it is actually the case.***

### **Article I-27**

#### ***Commission President***

*1. Prime Ministers elect by qualified majority*

*2. EP approves with majority of Members*

*3. If rejected a new candidate shall be put forward within 1 month*

#### ***Commission members***

*- EP approves by simple majority*

*- Must have European commitment*

*- Term: 5 years*

*The Commission President decides guidelines and internal organisation, and appoints vice presidents and dismisses members*

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.

3. 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 Union Minister for Foreign Affairs, from among the members of the Commission.

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.

## 5) EU FOREIGN MINISTER

*The Minister for Foreign Affairs will be appointed by the European Council by qualified majority with the agreement of the President of the Commission. He will conduct the Union's common foreign and security policy, chair the Foreign Affairs Council and will also serve as Vice-President of the Commission. As such his nomination will be subject to the EP's approval of the Commission as a whole, and eventually to a vote of censure.*

*In this 'two-hat' role (Commission-Council), the Minister will be responsible for carrying out the Union's external policy as a whole. The Minister will have the power of initiative (in which absence a decision by qualified majority within the Council will not only require the majority, but two thirds of Member States), will represent the Union alone or with the Commission, and will have authority over the external delegations.*

*The Foreign Minister's (and the Commission's) opinion will be required for the Council's authorisation to proceed with enhanced cooperation in matters related to the Common Foreign and Security Policy.*

### Article I-28

#### ***EU Foreign Minister***

*Elected by qualified by  
Prime Ministers in  
agreement with Commission  
President*

#### ***Tasks***

#### ***Double Hat***

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.

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.

3. The Union Minister for Foreign Affairs shall preside over the Foreign Affairs Council.

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.