

**Articles of the EU Constitution related to  
decision-making**

**I) GENERAL PRINCIPLES OF EU LAW**

- 1. Fundamental principles**
- 2. Primacy**
- 3. Jurisdiction**

**II) LEGAL INSTRUMENTS**

**1) Legally binding acts**

**1.1) Legislative acts (European law and framework law)**

- a) Co-decision procedure**
- b) Cooperation procedure**
- c) Consent /Assent**
- d) Consultation**

**1.2) Non-legislative acts (Regulations and Decisions)**

- a) Delegated acts**
- b) Implementing acts**
- d) Decisions in the CFSP**
- e) Political decisions**

**2) Non-legally binding acts**

- 2.1) Recommendations**
- 2.2) Opinions**

**III) BUDGET PROCEDURE**

**IV) INSTITUTIONAL PROVISIONS**

**1. European Parliament**

- 1.1) Composition of the European Parliament at present**
- 1.2) Composition of the European Parliament 2004-2009**
- 1.3) Composition of the European Parliament from 2009 onwards**

**2. European Council**

**3. Council of Ministers**

- 3.1 Weighting of votes in the Council at present**
- 3.2 Weighting of votes in the Council 2004-2009**
- 3.3 Voting in the Council from 2009 onwards**

**4. European Commission**

**5. 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 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.

*- lack of competence and infringement of:*

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

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) LEGAL INSTRUMENTS

### *Legal acts of the Union*

#### Article I-32

##### Legally binding acts

**Legislative acts:** Laws, framework laws,

**Non legislative acts**  
regulations, decisions

##### Non legally binding acts:

recommendations and opinions

##### Law:

- binding in its entirety, directly applicable

##### Framework law:

- binding as to the result, Member States transpose

Regulation now used for implementation of legislation. It is either binding in its entirety and directly applicable or binding as to the result to be achieved

Decision: also binding in its entirety, but only to the addressee

Recommendations and opinions: not binding

This is an exhaustive list of legal instruments

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 addressed shall be binding only on them.

Recommendations and opinions shall have no binding force.

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.

## 1.) LEGISLATIVE ACTS

- EUROPEAN LAW
- EUROPEAN FRAMEWORK LAW

*The power of legislative initiative lies with the Commission, although this is shared with at least a quarter of Member States regarding certain aspects of the area of freedom, security and justice. European laws and framework laws are excluded in the area of CFSP.*

*The Constitution states that, as a general rule, laws and framework laws are to be adopted by co-decision of the EP and by qualified majority in the Council.*

*Accordingly, the co-decision procedure will be applicable in 79 areas as opposed to the present 34.*

*In exceptional cases provided for by the Constitution, laws and framework laws can be adopted either*

- *by the Council (e.g., law on own resources, law on the multiannual financial framework, law on elections to the EP etc.) or*
- *by Parliament (three cases: law on the status of its members, law on the status of the Ombudsman and law on provisions governing the exercise of the right of inquiry), but always with the participation of the other institution, which can range from simple consultation to approval (currently assent).*

### *a) Ordinary legislative procedure = co-decision procedure*

#### Article III-396

*General legislative procedure*

*1) Commission submits a proposal to EP and Council*

*2) EP adopts a position, then sends to Council*

*3.a) Council approve = proposal is adopted*

*3.b) Council does not approve = makes own position, send it to EP  
Commission inform EP of its position*

1. Where, pursuant to the Constitution, European laws or framework laws are adopted under the ordinary legislative procedure, the following provisions shall apply.

2. The Commission shall submit a proposal to the European Parliament and the Council.

#### 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

*If, within three months, the EP:*

*4.a) approves Council position = proposal is adopted*

*4.b) reject Council position by an absolute majority of members = proposal is rejected*

*4.c) amends Council position by absolute majority = send it back to Council*

*Commission gives opinion on amendments*

*If, within three months, Council by qualified majority:*

*5.a) approves EP's position = proposal adopted*

*5.b) rejects EP's position = Conciliation committee is convened*

*Unanimity is required for Council to amend if the Commission has given a negative opinion*

### *6. Conciliation Committee*

*Composed of equal numbers from Council and EP*

*Agrees on joint text: Council with a qualified majority, EP with a majority of members  
Time-limit: six weeks*

*Commission observe conciliation meetings*

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.

*If no approval of either Council or EP within six weeks after joint text is adopted the proposal is rejected*

*7. Joint text to Council and EP*

*Council approves by qualified majority, EP by majority of votes*

*Deadline: six weeks or else rejected*

*Deadlines can be extended*

*Special rules when a group of States are proposing*

*Commission shall be informed and give opinion on its own initiative or on request*

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 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.

### ***b) Cooperation Procedure***

***At present, this procedure only remains for EMU matters and will be given up entirely according to the Constitution.***

### ***c) Consent /Assent***

***In cases where the consent (present assent) of the EP is required, the Council cannot legislate/decide without the former's approval. The consent of the EP may be needed for legislative acts and non-legislative political "acts" (e.g. suspensions of membership rights).***

***The consent of the EP will be required for:***

- the use of the flexibility clause (I-18),***
- the Council's decision on the composition of the EP from 2009 on (Art I-20),***
- the determination of the Union's resources (I-54),***

- *the setting up of the multiannual framework (I-55),*
- *the accession to the Union of a new member state (I-58),*
- *the suspension of membership rights (I-59),*
- *the conclusion of a withdrawal agreement (I-60),*
- *the adoption of laws against discrimination (III-124),*
- *the delivering of the report on development of EU-citizenship (III-129),*
- *the conclusion of international agreements (III-325),*
- *the setting of rules for European elections ( III-330).*

#### ***d) Consultation***

*If none of the above mentioned procedures apply, the European Parliament is merely consulted. Neither the Council nor the Commission are obliged to consider the Parliament's opinion. The consultation procedure will thus still be used in cases that are particularly sensitive for the member states (e.g determination of Union's resources - Art. I 54; flexibility clause for free movement and residence - Art. III-125; employment - Art. III 206 and 208; social policy Art. 210).*

*Altogether, the EP is merely to be consulted in 26 areas.*

## **2.) NON LEGISLATIVE ACTS (DECISIONS AND REGULATIONS)**

*The Constitution distinguishes between delegated acts (new) and implementing acts.*

*The European Council shall adopt decisions whilst the European Commission shall adopt regulations OR decisions.*

### **a) Delegated acts**

#### **Delegated regulations adopted by the Commission**

*The Constitution will also create delegated regulations, delegated to the Commission by the legislative authorities, the EP and the Council. There will be no regulations delegated to the Council.*

*The delegated regulations, which, according to the Constitution, shall amend or supplement certain aspects of laws or framework laws, but which shall not change their essential elements, will therefore require specific authorisation in the respective laws on which they are based.*

*They will be subject to a specific system of control exercised by the co-legislators. Each of the two branches can revoke the delegation, and the delegated regulation can only enter into force if neither of the branches of the legislative authority raises an objection within a period set down by the law. The European Parliament can only react by an absolute majority of its members and the Council by qualified majority.*

### **b) Implementing acts**

#### **Regulations or decisions adopted by the Member States, the Commission and, in exceptional cases, by the Council**

*As far as implementing acts in the strict sense of the term are concerned, the Member States are mainly responsible to implement legally binding acts of the European institutions.*

*However, where uniform conditions for implementing acts are required, the Constitution gives the Commission the power to take the necessary implementing measures.*

*In exceptional cases the Council is empowered to take implementing measures.*

*- in "specific cases duly justified", which means in cases in which acts are based directly on the Constitution, not simply on European law or framework law (e.g. Art. III-230 = granting of aid in agriculture);*

*- in cases concerning the implementation of the CFSP (see below);*

### **c) Decisions in Common Foreign and Security Policy**

*According to the new article I-41, the Council is empowered to take implementing measures in the area of Common Foreign and Security Policy (CFSP): "European decisions on the implementation of the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council of Ministers acting*

*unanimously on a proposal from the Union Minister for Foreign Affairs or from a Member State."*

***d) Political Decisions***

*In general, it must also be pointed out that the term 'decision' covers both decisions in the sense of non-legislative (administrative) acts and decisions of a political nature (also having legal effect): e.g. the Council decision regarding the suspension of the rights of a Member State related to membership of the Union, the use of the flexibility clause (I-18), the Council's decision on the composition of the EP from 2009 onwards (Art I-20).*

***B) NON-LEGALLY BINDING ACTS***

***- RECOMMENDATIONS***

***- OPINIONS***

*A recommendation is a non-binding decision, which only urges Member States to comply. A Member State cannot be fined for the breach of recommendations. This contrasts with opinions, which refer to an already existing document.*

### III) BUDGET PROCEDURE

*According to Article I-56 a European law shall establish the Union's annual budget and will be adopted jointly by the EP and the Council, with the European Parliament having the final say on all expenditures in the event of disagreement. Thus there will no longer be a distinction between compulsory and non-compulsory expenditures.*

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

#### Article III-404

**The new budget procedure**

***Budget established by law***

***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*

*2. Commission makes a draft budget*

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

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

*5.a If EP approves = budget adopted*

*5.b If EP does not take a decision = budget adopted*

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.

The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.

4. If, within 40 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;

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

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

*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*

*7d. 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*

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

(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 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.

*EP President declares budget adopted*

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.

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.

### **Article III-405**

*If no budget adopted 1/12 of last years budget may be spent each month, but this cannot be more than the amount under consideration*

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.

*Expenditure can go above 1/12 if Council adopts a decision on a proposal from Commission and EP does not decide, by majority of its members, to reduce expenditure*

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 relating to resources to ensure application of this Article, in accordance with the European laws referred to in Article I-54(3) and (4).

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.

### **Article III-406**

*Carry forward expenditures*

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.

*EP, Council, Commission and Court in separate parts of the budget*

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.

## **IV) 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 an 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 and geographical range of the Union*

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:

(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.