

# THE PROPOSED EU CONSTITUTION

*The Reader-Friendly Edition*

*The EU Constitution and more:*

- ⇒ *an index with over 3000 alphabetical entries*
- ⇒ *overviews and explanations in the margin*
- ⇒ *underlining of the most important words*
- ⇒ *symbols showing the decision-making method*
- ⇒ *Article numbers in the existing treaties indicated*
- ⇒ *easy to compare with the existing treaties*
- ⇒ *a table with figures on qualified majority voting*

*The Proposed EU Constitution*

*The Reader-Friendly Edition*

**THE PROPOSED EU CONSTITUTION**

*The Reader-Friendly Edition*

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## Key to Symbols

The most important general legislative procedures have the sign: *X\*\**

### European Parliament

*\** means that the European Parliament must be **consulted**, i.e. makes a public statement, gives advice, not just be informed.

*\*\** means that the European Parliament **co-decides**; it can propose amendments and reject a proposal by an absolute majority of its members, according to the so-called general legislative procedure in Art. III-396.

*\*\*\** means that the European Parliament must give its **consent** to a text, but that it proposes formal amendments.

### Council of Ministers / European Council

*U* means that **all** EU countries must be **unanimous** in the Council.

*X* means a vote with **qualified majority**. This is 232 of 321 possible votes until further enlargement. From 2009 a new system is introduced, the so-called **double majority**. A decision then needs the support of 55 % of the Member States, at least 15 countries, covering 65 % of the total EU population. A blocking minority needs at least 4 countries.

*XX* means an **enlarged qualified majority**, with at least 72% of the Member States, most often when the proposal does not arise from the Commission or the new EU Foreign Minister.

### Changes from the Nice Treaty

*X* means that unanimity in the Council will change to **qualified majority**.

*\*\** means that the European Parliament will **co-decide** and has no say at all today.

*\*\_* means that the European Parliament will **co-decide**, being merely consulted today.

*\*\*\** means that the European Parliament must give its **consent**, having no say at all today.

*\*\*\_* means that the European Parliament must give its **consent**, only being consulted today.

**Note:** To help comparison with existing Treaties there is also a table of equivalences. In the English version of the Reader-Friendly Nice Treaty, you can easily see the differences between the existing Treaties of Nice and Amsterdam. All books can be downloaded from or used at [www.EUABC.com](http://www.EUABC.com).

### New legal basis:

*U*, *X* or *XX* combined with *\**, *\*\** or *\*\*\** can also define a new legal basis. This information may be given to you in the title and in the margin of the respective article.

### Passerelle Articles

If the constitution is ratified, a unanimous European Council will be able to change unanimity to voting by qualified majority, and special procedures into the general legislative procedure, for the Articles in Part III of the Constitution.

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## **READER'S NOTE**

There are many different ways of making political decisions in the EU. Decision making has been the subject of various EU treaties, where power has been shared between the Commission, the European Parliament and the EU Council, which comprises the elected governments of Member States representing the national Parliaments and the peoples' vote. The proposed EU Constitution presents a new decision-making structure as it developed from past treaties.

In this Reader-Friendly Edition of the proposed EU Constitution, we assist you to understand the decision-making mechanisms with comments in the margins, highlights of the most important words, an alphabetical index and symbols at the beginning of many Articles. In order to facilitate comparison, we have also included a Table of Equivalences with the equivalent Article numbers from the existing treaties .

Most terms and concepts relating to the Constitution are explained in the multilingual dictionary of EU terms at [www.EUABC.com](http://www.EUABC.com)

All comments, symbols and previous Article numbers are in **blue** to indicate that they are not part of the official Treaty text.

## **HOW TO READ AND USE THIS EDITION**

- You can read all texts in the margin and gain a quick insight into the most important content, with easy overviews and explanations.
- You can read the underlined words in the Constitution text and skim through the most important Articles.
- You can read the full text and use the symbols to tell you the decision-making method being referred to, instead of having to search around.
- You can search in the electronic version on words from the alphabetical index, but also systematically for the decision-making methods and concepts.
- If you search for bold **Xs** you will see all changes into qualified majority. If you search for 1, 2 or 3 bold stars (**\*\*\***) you will see how the directly elected European Parliament will be involved.
- If you search for “new” you will see some other major changes and innovations.

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**NOTE:** For more details see “Key to Symbols” on page 3.

## **THE CONSTITUTION'S STRUCTURE**

All Articles start with the Roman numerals I, II, III or IV and are then followed by Arabic numerals from 1 to 448.

**Part I** gives the general rules on the values, aims, symbols, fundamental rights and institutions and decision-making processes of the Union.

**Part II** contains the Charter of Fundamental Rights. A special Declaration adds to the understanding of each Article in the Charter.

**Part III** contains the different policies and the concrete decision-making methods for every topic. Here we find the major parts of the founding Treaty of Rome.

**Part IV** gives the final Articles and the rules for future changes to the Constitution.

A special Final Act gives an overview of all Protocols and attached Declarations. The Protocols are as legally binding as the main Treaty Articles. The Declarations have no legal value, but can facilitate understanding.

In the printed versions of the Reader-Friendly Edition we only give the most important Protocols and Declarations. But these are all available in the electronic versions at EUABC.com.

The unique alphabetical index covers not only the Treaty itself, but also the annexed Protocols and Declarations.

## **ACKNOWLEDGEMENTS**

The final text of 'The Treaty Establishing a Constitution for Europe' was approved by the Heads of State and Government on Friday 18 June 2004, then tidied up, and formally signed on the Capitol Hill in Rome on Friday 29 October 2004.

This version is free in electronic form for non-commercial use. It can be downloaded from [www.euabc.com](http://www.euabc.com) in several languages. Please download to your computer, put it on your home page and send it to anybody that might be interested.

This Reader-Friendly Edition of the final Treaty text is based on the official draft Treaty text<sup>1</sup> produced by the Convention on the Future of Europe, which has undergone three rounds of changes: firstly by the Council's legal service,<sup>2</sup> then by the Heads of State and Government<sup>3</sup> of the EU Member States, and then again by the legal specialists from the Member States and the Council's legal service.

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<sup>1</sup> Can be found on <http://european-convention.eu.int>

<sup>2</sup> See document IGC 50/03 [http://ue.eu.int/igc/doc\\_register.asp?content=DOC&lang=EN](http://ue.eu.int/igc/doc_register.asp?content=DOC&lang=EN) and [http://ue.eu.int/cms3\\_applications/Applications/igc/doc\\_register.asp?lang=EN&cmsid=576](http://ue.eu.int/cms3_applications/Applications/igc/doc_register.asp?lang=EN&cmsid=576)

<sup>3</sup> IGC 81/04, 85/04 and 87/04 can be found on <http://ue.eu.int>

I would like to thank many helpful collaborators and particularly the late Commission official John Fitzmaurice, the European Parliament's rapporteur on the Constitution, Richard Corbett, and the Irish academic Anthony Coughlan for many valuable corrections to this edition and I would be happy to receive suggestions for further corrections and improvements from you, its readers.

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25 May 2005

**THE PROPOSED EU CONSTITUTION**

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**TABLE OF CONTENTS**

**PREAMBLE** ..... 11

**PART I** ..... 16

**TITLE I – DEFINITION AND OBJECTIVES OF THE UNION**..... 16

**TITLE II – FUNDAMENTAL RIGHTS AND  
CITIZENSHIP OF THE UNION** ..... 19

**TITLE III – UNION COMPETENCES** ..... 20

**TITLE IV – THE UNION’S INSTITUTIONS AND BODIES** ..... 25

    CHAPTER I – THE INSTITUTIONAL FRAMEWORK ..... 25

    CHAPTER II –THE OTHER UNION INSTITUTIONS  
    AND ADVISORY BODIES ..... 33

**TITLE V – EXERCISE OF UNION COMPETENCE** ..... 36

    CHAPTER I – COMMON PROVISIONS ..... 36

    CHAPTER II – SPECIFIC PROVISIONS ..... 40

    CHAPTER III – ENHANCED COOPERATION ..... 44

**TITLE VI – THE DEMOCRATIC LIFE OF THE UNION** ..... 46

**TITLE VII – THE UNION’S FINANCES** ..... 49

**TITLE VIII – THE UNION AND ITS NEIGHBOURS** ..... 51

**TITLE IX – UNION MEMBERSHIP** ..... 51

**PART II: THE CHARTER OF FUNDAMENTAL  
RIGHTS OF THE UNION** ..... 55

**PREAMBLE** ..... 55

**TITLE I – DIGNITY** ..... 56

**TITLE II – FREEDOMS** ..... 57

**TITLE III – EQUALITY** ..... 62

**TITLE IV – SOLIDARITY** ..... 62

**TITLE V – CITIZENS’ RIGHTS** ..... 65

**TITLE VI – JUSTICE** ..... 67

**TITLE VII – GENERAL PROVISIONS GOVERNING THE  
INTERPRETATION AND APPLICATION OF THE CHARTER** ..... 69

**PART III: THE POLICIES AND FUNCTIONING  
OF THE UNION** ..... 71

**TITLE I – PROVISIONS OF GENERAL APPLICATION** ..... 71

**TITLE II – NON-DISCRIMINATION AND CITIZENSHIP** ..... 72

**TITLE III – INTERNAL POLICIES AND ACTION** ..... 75

    CHAPTER I – INTERNAL MARKET ..... 75

        Section 1 – Establishment and functioning of the Internal Market ..... 75

        Section 2 – Free movement of persons and services ..... 76

            Subsection 1 – Workers ..... 76

            Subsection 2 – Freedom of establishment ..... 78

            Subsection 3 – Freedom to provide services ..... 82

        Section 3 – Free movement of goods ..... 84

Subsection 1 – Customs Union .....	84
Subsection 2 – Customs cooperation .....	85
Subsection 3 – Prohibition of quantitative restrictions .....	85
Section 4 – Capital and payments .....	86
Section 5 – Rules on competition .....	89
Subsection 1 – Rules applying to undertakings .....	89
Subsection 2 – Aids granted by Member States .....	92
Section 6 – Fiscal provisions .....	95
Section 7 – Common provisions .....	96
CHAPTER II – ECONOMIC AND MONETARY POLICY .....	99
Section 1 – Economic policy .....	100
Section 2 – Monetary policy .....	107
Section 3 – Institutional provisions .....	111
Section 4 – Provisions specific to Member States whose currency is the euro....	112
Section 5 – Transitional provisions .....	114
CHAPTER III – POLICIES IN OTHER AREAS .....	120
Section 1 – Employment .....	120
Section 2 – Social policy .....	122
Section 3 – Economic, social and territorial cohesion .....	130
Section 4 – Agriculture and fisheries .....	132
Section 5 – Environment .....	136
Section 6 – Consumer protection .....	139
Section 7 – Transport .....	139
Section 8 – Trans-European networks .....	143
Section 9 – Research and Technological Development, and Space .....	145
Section 10 – Energy .....	149
CHAPTER IV – AREA OF FREEDOM, SECURITY AND JUSTICE .....	150
Section 1 – General provisions .....	150
Section 2 – Policies on border checks, asylum and immigration .....	152
Section 3 – Judicial cooperation in civil matters .....	155
Section 4 – Judicial cooperation in criminal matters .....	157
Section 5 – Police cooperation .....	162
CHAPTER V – AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING, OR COMPLEMENTARY ACTION .....	164
Section 1 – Public health .....	164
Section 2 – Industry .....	166
Section 3 – Culture .....	167
Section 4 – Tourism .....	168
Section 5 – Education, youth, sport and vocational training .....	168
Section 6 – Civil protection .....	171
Section 7 – Administrative cooperation .....	172
<b>TITLE IV – ASSOCIATION OF THE     OVERSEAS COUNTRIES AND TERRITORIES .....</b>	<b>172</b>

<b>TITLE V – THE UNION’S EXTERNAL ACTION .....</b>	<b>175</b>
CHAPTER I – PROVISIONS HAVING GENERAL APPLICATION .....	175
CHAPTER II – COMMON FOREIGN AND SECURITY POLICY .....	177
Section 1 – Common provisions .....	177
Section 2 – The common security and defence policy .....	185
Section 3 – Financial provisions .....	188
CHAPTER III – COMMON COMMERCIAL POLICY .....	190
CHAPTER IV – COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID .....	192
Section 1 – Development cooperation .....	192
Section 2 – Economic, financial and technical cooperation with third countries .....	193
Section 3 – Humanitarian aid .....	194
CHAPTER V – RESTRICTIVE MEASURES .....	195
CHAPTER VI – INTERNATIONAL AGREEMENTS .....	196
CHAPTER VII – THE UNION’S RELATIONS WITH INTERNATIONAL ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS...	200
CHAPTER VIII – IMPLEMENTATION OF THE SOLIDARITY CLAUSE .....	200
<b>TITLE VI – THE FUNCTIONING OF THE UNION .....</b>	<b>201</b>
CHAPTER I – PROVISIONS GOVERNING THE INSTITUTIONS .....	201
Section 1 – The Institutions .....	201
Subsection 1 – The European Parliament .....	201
Subsection 2 – The European Council .....	205
Subsection 3 – The Council of Ministers .....	206
Subsection 4 – The European Commission .....	207
Subsection 5 – The Court of Justice of the European Union .....	209
Subsection 6 – The European Central Bank .....	221
Subsection 7 – The Court of Auditors .....	222
Section 2 – The Union’s advisory bodies .....	225
Subsection 1 – The Committee of the Regions .....	225
Subsection 2 – The Economic and Social Committee .....	227
Section 3 – The European Investment Bank .....	228
Section 4 – Provisions common to Union Institutions, bodies, offices and agencies .....	229
CHAPTER II - FINANCIAL PROVISIONS .....	234
Section 1 – The multiannual financial framework .....	234
Section 2 – The Union’s annual budget .....	235
Section 3 – Implementation of the budget and discharge .....	239
Section 4 – Common provisions .....	241
Section 5 – Combating fraud .....	242
CHAPTER III – ENHANCED COOPERATION .....	243
<b>TITLE VII – COMMON PROVISIONS .....</b>	<b>247</b>
<b>PART IV: GENERAL AND FINAL PROVISIONS .....</b>	<b>251</b>

<b>FINAL ACT .....</b>	<b>260</b>
<b>SELECTED PROTOCOLS .....</b>	<b>267</b>
PROTOCOL 1: On the role of national parliaments in the European Union .....	267
PROTOCOL 2: On the application of the principles of subsidiarity and proportionality .....	270
PROTOCOL 6: On the location of the seats of the Institutions and of certain bodies, offices, agencies and departments of the European Union .....	274
PROTOCOL 10: On the excessive deficit procedure .....	275
PROTOCOL 11: On the convergence criteria .....	276
PROTOCOL 12: On the Euro Group .....	278
PROTOCOL 13: On certain provisions relating to the United Kingdom of Great Britain and Northern Ireland as regards Economic and Monetary Union .....	279
PROTOCOL 14: On certain provisions relating to Denmark as regards Economic and Monetary Union .....	282
PROTOCOL 17: On the Schengen Acquis integrated into the framework of the European Union .....	283
PROTOCOL 19: On the position of the United Kingdom and Ireland on policies in respect of border controls, asylum and immigration, judicial cooperation in civil matters and on police cooperation .....	286
PROTOCOL 23: On permanent structured cooperation established by article I-41(6) and article III-312 of the Constitution .....	290
PROTOCOL 34: On the transitional provisions relating to the institutions and bodies of the Union .....	293
<b>SELECTED DECLARATIONS .....</b>	<b>300</b>
DECLARATION 5: On Article I-25 .....	300
DECLARATION 30: On the ratification of the Treaty establishing a Constitution for Europe.....	302
DECLARATION 40: Concerning the Protocol on the transitional provisions relating to the institutions and bodies of the Union .....	302
<b>TABLE OF EQUIVALENCES .....</b>	<b>305</b>
<b>INDEX.....</b>	<b>319</b>
<b>TABLE OF QUALIFIED MAJORITY .....</b>	<b>400</b>

# TREATY ESTABLISHING A CONSTITUTION FOR EUROPE

## PREAMBLE

HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE CZECH REPUBLIC, HER MAJESTY THE QUEEN OF DENMARK, THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, THE PRESIDENT OF THE REPUBLIC OF ESTONIA, THE PRESIDENT OF THE HELLENIC REPUBLIC, HIS MAJESTY THE KING OF SPAIN, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF IRELAND, THE PRESIDENT OF THE ITALIAN REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF CYPRUS, THE PRESIDENT OF THE REPUBLIC OF LATVIA, THE PRESIDENT OF THE REPUBLIC OF LITHUANIA, HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG, THE PRESIDENT OF THE REPUBLIC OF HUNGARY, THE PRESIDENT OF MALTA, HER MAJESTY THE QUEEN OF THE NETHERLANDS, THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA, THE PRESIDENT OF THE REPUBLIC OF POLAND, THE PRESIDENT OF THE PORTUGUESE REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF SLOVENIA, THE PRESIDENT OF THE SLOVAK REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF FINLAND, THE GOVERNMENT OF THE KINGDOM OF SWEDEN, HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

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

BELIEVING that Europe, reunited after bitter experiences, intends to continue along the path of civilisation, progress and prosperity,

The underlinings and remarks in the margin, comparisons to the Nice Treaty, the Xs and the\*s are in BLUE and do not from part of the Constitution

The signatories from Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom

(Romania, Bulgaria, and Turkey, have co-signed the Treaty due to their recognised candidacy)

Proposal to mention Christian heritage explicitly not included but reference to religious heritage included

for the good of all its inhabitants, including the weakest and most deprived; that it wishes to remain a continent open to culture, learning and social progress; and that it wishes to deepen the democratic and transparent nature of its public life, and to strive for peace, justice and solidarity throughout the world,

CONVINCED that, while remaining proud of their own national identities and history, the peoples of Europe are determined to transcend their former divisions and, united ever more closely, to forge a common destiny,

CONVINCED that, thus “United in diversity”, Europe offers them the best chance of pursuing, with due regard for the rights of each individual and in awareness of their responsibilities towards future generations and the Earth, the great venture which makes of it a special area of human hope,

Legal continuity  
of the European  
Communities

DETERMINED to continue the work accomplished within the framework of the Treaties establishing the European Communities and the Treaty on European Union, by ensuring the continuity of the Community acquis,

GRATEFUL to the members of the European Convention for having prepared the draft of this Constitution on behalf of the citizens and States of Europe,

The list of the 25  
Heads of State,  
Prime Ministers  
and Ministers  
for Foreign Affairs  
  
(Romania, Bulgaria  
and Turkey have  
signed the  
Final Act as  
Candidate countries)

HAVE DESIGNATED AS THEIR PLENIPOTENTIARIES:  
HIS MAJESTY THE KING OF THE BELGIANS,  
Guy VERHOFSTADT  
Prime Minister  
Karel DE GUCHT  
Minister for Foreign Affairs  
THE PRESIDENT OF THE CZECH REPUBLIC,  
Stanislav GROSS  
Prime Minister  
Cyril SVOBODA  
Minister for Foreign Affairs  
HER MAJESTY THE QUEEN OF DENMARK,  
Anders Fogh RASMUSSEN  
Prime Minister  
Per Stig MØLLER  
Minister for Foreign Affairs  
THE PRESIDENT OF THE FEDERAL REPUBLIC OF

GERMANY,  
Gerhard SCHRÖDER  
Federal Chancellor  
Joseph FISCHER  
Federal Minister for Foreign Affairs and Deputy Federal  
Chancellor  
THE PRESIDENT OF THE REPUBLIC OF ESTONIA,  
Juhan PARTS  
Prime Minister  
Kristiina OJULAND  
Minister for Foreign Affairs  
THE PRESIDENT OF THE HELLENIC REPUBLIC,  
Kostas KARAMANLIS  
Prime Minister  
Petros G. MOLYVIATIS  
Minister of Foreign Affairs  
HIS MAJESTY THE KING OF SPAIN,  
José Luis RODRÍGUEZ ZAPATERO  
President of the Government  
Miguel Angel MORATINOS CUYAUBÉ  
Minister for External Affairs and Cooperation  
THE PRESIDENT OF THE FRENCH REPUBLIC,  
Jacques CHIRAC  
President  
Jean-Pierre RAFFARIN  
Prime Minister  
Michel BARNIER  
Minister for Foreign Affairs  
THE PRESIDENT OF IRELAND,  
Bertie AHERN  
Taoiseach  
Dermot AHERN  
Minister for Foreign Affairs  
THE PRESIDENT OF THE ITALIAN REPUBLIC,  
Silvio BERLUSCONI  
Prime Minister  
Franco FRATTINI  
Minister for Foreign Affairs  
THE PRESIDENT OF THE REPUBLIC OF CYPRUS,  
Tassos PAPADOPOULOS  
President  
George IACOVOU  
Minister for Foreign Affairs

THE PRESIDENT OF THE REPUBLIC OF LATVIA,  
Vaira VIKE FREIBERGA  
President  
Indulis EMSIS  
Prime Minister  
Artis PABRIKS  
Minister for Foreign Affairs  
THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,  
Valdas ADAMKUS  
President  
Algirdas Mykolas BRAZAUSKAS  
Prime Minister  
Antanas VALIONIS  
Minister of Foreign Affairs  
HIS ROYAL HIGHNESS THE GRAND DUKE OF  
LUXEMBOURG,  
Jean-Claude JUNCKER  
Prime Minister, Ministre d'Etat  
Jean ASSELBORN  
Deputy Prime Minister, Minister for Foreign Affairs and  
Immigration  
THE PRESIDENT OF THE REPUBLIC OF HUNGARY,  
Ferenc GYURCSÁNY  
Prime Minister  
László KOVÁCS  
Minister for Foreign Affairs  
THE PRESIDENT OF MALTA,  
The Hon Lawrence GONZI  
Prime Minister  
The Hon Michael FRENDI  
Minister for Foreign Affairs  
HER MAJESTY THE QUEEN OF THE NETHERLANDS,  
Dr. J. P. BALKENENDE  
Prime Minister  
Dr. B. R. BOT  
Minister for Foreign Affairs  
THE FEDERAL PRESIDENT OF THE REPUBLIC OF  
AUSTRIA,  
Dr. Wolfgang SCHÜSSEL  
Federal Chancellor  
Dr. Ursula PLASSNIK  
Federal Minister for Foreign Affairs  
THE PRESIDENT OF THE REPUBLIC OF POLAND,

Marek BELKA  
Prime Minister  
Włodzimierz CIMOSZEWICZ  
Minister for Foreign Affairs  
THE PRESIDENT OF THE PORTUGUESE REPUBLIC,  
Pedro Miguel DE SANTANA LOPES  
Prime Minister  
António Victor MARTINS MONTEIRO  
Minister for Foreign Affairs and the Portuguese Communities  
THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,  
Anton ROP  
President of the Government  
Ivo VAJGL  
Minister for Foreign Affairs  
THE PRESIDENT OF THE SLOVAK REPUBLIC,  
Mikuláš DZURINDA  
Prime Minister  
Eduard KUKAN  
Minister for Foreign Affairs  
THE PRESIDENT OF THE REPUBLIC OF FINLAND,  
Matti VANHANEN  
Prime Minister  
Erkki TUOMIOJA  
Minister for Foreign Affairs  
THE GOVERNMENT OF THE KINGDOM OF SWEDEN,  
Göran PERSSON  
Prime Minister  
Laila FREIVALDS  
Minister for Foreign Affairs  
HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF  
GREAT BRITAIN AND NORTHERN IRELAND,  
The Rt. Hon Tony BLAIR  
Prime Minister  
The Rt. Hon Jack STRAW  
Secretary of State for Foreign and Commonwealth Affairs

WHO, having exchanged their full powers, found in good and due form, have agreed as follows:

# PART I

## TITLE I DEFINITION AND OBJECTIVES OF THE UNION

### Establishment of the Union

#### Article I-1: (ex Articles 1, 49 TEU) Establishment of the Union

Established by both:  
citizens and states

1. Reflecting the will of the citizens and States of Europe to build a common future, this Constitution establishes the European Union, on which the Member States confer competences to attain objectives they have in common. The Union shall coordinate the policies by which the Member States aim to achieve these objectives, and shall exercise on a Community basis the competences they confer on it.

Member States confer  
competences to the  
Union

Open to all European  
States sharing its  
values

2. The Union shall be open to all European States which respect its values and are committed to promoting them together.

### Values of the Union

#### Article I-2: (ex Article 6(1) TEU) The Union's values

Dignity, freedom,  
liberty, democracy,  
equality, rule of law,  
human rights and  
rights of minorities

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

### Objectives of the Union

#### Article I-3: (ex Articles 2 TEU, 2 TEC) The Union's objectives

- Promotion of peace,  
values and well-being

1. The Union's aim is to promote peace, its values and the wellbeing of its peoples.

- Justice, no internal  
frontiers, internal  
market, competition

2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, and an internal market where competition is free and undistorted.

- Sustainable  
development, growth,  
price stability, social

3. The Union shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full

employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

progress, full employment, environmental protection, scientific and technical advances, fight against social exclusion, promote social justice, gender equality, solidarity between generations, protection of children, respect diversity and cultural heritage

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

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

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

- Promotion of the Union’s values and interests in the wider world

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

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

Limits to the Union’s actions

**Article I-4: (ex Articles 14[2], 12 TEC)**  
Fundamental freedoms and non-discrimination

**No discrimination; the “four freedoms” of movement for:**  
persons, goods, services and capital.  
- Free establishment

1. The free movement of persons, services, goods and capital, and freedom of establishment shall be guaranteed within and by the Union, in accordance with the Constitution.

2. Within the scope of the Constitution, and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited.

No discrimination on grounds of nationality

**Article I-5: (ex Articles 6[3], 33 TEU, 10 TEC)**  
Relations between the Union and the Member States

**Union-Member State relations**

1. The Union shall respect the equality of Member States before

Equality of Member

States before the Constitution. National identities shall be respected

the Constitution as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security.

Member States shall assist the Union to implement Union law

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

Member States shall fulfil Union obligations

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

..and shall not jeopardise Union objectives

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

**Primacy of Union law:**

All Union law prevails over national law and national constitutions, according to the EU Court - disputed by some Member States in relation to their own Constitutions

**Article I-6: (new)**

Union law

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.

**Article I-7: (new, ex Article 281 TEC)**

Legal personality

**Legal personality** (the three pillars disappear)  
- Agreements with 3<sup>rd</sup> countries in all areas

The Union shall have legal personality.

**Article I-8: (new)**

The symbols of the Union

**Union symbols**

- Flag
- Anthem
- Motto
- Currency
- Europe day

The flag of the Union shall be a circle of twelve golden stars on a blue background.

The anthem of the Union shall be based on the "Ode to Joy" from the Ninth Symphony by Ludwig van Beethoven.

The motto of the Union shall be: "United in diversity".

The currency of the Union shall be the euro.

Europe day shall be celebrated on 9 May throughout the Union.

**TITLE II  
FUNDAMENTAL RIGHTS  
AND CITIZENSHIP OF THE UNION**

**UNION  
CITIZENSHIP**

**Article I-9: (new, ex Article 6[2] TEU)**  
Fundamental rights

**Fundamental Rights**  
Includes the Charter of  
Fundamental Rights

1. The Union shall recognise the rights, freedoms and principles set out in the Charter of Fundamental Rights which constitutes Part II.

Accession to the  
European Convention  
of Human Rights  
through Art. III-325,6  
- will not affect  
primacy of Union law  
See I-6, III-375 (2)

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

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

Fundamental  
rights become  
general principles  
of Union law

**Article I-10: (ex Articles 17 - 21 TEC)**  
Citizenship of the Union

**EU Citizenship**

1. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.

Double citizenship:  
national and Union,  
additional

2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Constitution. They shall have:

Union citizens'  
rights and duties:

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

- free movement and  
residence in the  
Union territory

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

- voting and standing  
for elections in all  
local and EP elections

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

- protection under all  
Member States'  
diplomatic authorities

Member State on the same conditions as the nationals of that State;

- using any Union language and receiving a reply in the same language

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

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

**UNION  
COMPETENCES**

**TITLE III  
UNION COMPETENCES**

**Fundamental principles**

**Article I-11:** *(ex Article 5 TEC, ex Article 2 [last sentence] TEU)*  
Fundamental principles

Principles governing Union Competence:

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.

**Conferral** - Union laws need legal base in the Constitution, otherwise competences remain with the Member States

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.

**Subsidiarity** - Union action only when aim can be "better achieved at Union level"

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.

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

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.

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

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.

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

**Article I-12: (new)**  
Categories of competence

1. When the Constitution confers on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.

2. When the Constitution confers on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence.

3. The Member States shall coordinate their economic and employment policies within arrangements as determined by Part III, which the Union shall have competence to provide.

4. The Union shall have competence to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.

5. In certain areas and under the conditions laid down in the Constitution, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.

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

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

**Competence categories**

**Exclusive competences:**  
Member States can only legislate if empowered by EU or when implementing EU Acts

**Shared competences:**  
Union and Member States may legislate, but Union law suppresses national competence

**Coordination of Member States' economic policies**

**Foreign, security and defence policy**

**Supportive measures:**  
Member States legislate, Union coordinates and adopt supportive legal acts

No harmonisation

Specific legal bases in Part III

**Exclusive competences**

**Article I-13: (new)**  
Areas of Exclusive competence

- customs union
  - competition rules for the internal market
  - monetary policy for the Euro-countries
  - marine biological resources
  - commercial policy
  
  - international agreements which affect internal competence
1. The Union shall have exclusive competence in the following areas:
- a) customs union,
  - b) the establishing of the competition rules necessary for the functioning of the internal market;
  - c) monetary policy for the Member States whose currency is the euro;
  - d) the conservation of marine biological resources under the common fisheries policy;
  - e) common commercial policy.
2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.

**Shared competence**

**Article I-14: (new)**  
Areas of shared competence

- General rule: when not exclusive competence or supportive action, then shared competence
- Non-exhaustive list of shared competences where a Union law suppresses national competence
1. The Union shall share competence with the Member States where the Constitution confers on it a competence which does not relate to the areas referred to in Articles I-13 and I-17.
2. Shared competence between the Union and the Member States applies in the following principal areas:
- a) internal market;
  - b) social policy, for the aspects defined in Part III;
  - c) economic, social and territorial cohesion;
  - d) agriculture and fisheries, excluding the conservation of marine biological resources;
  - e) environment;
  - f) consumer protection;
  - g) transport;
  - h) trans-European networks;
  - i) energy;
  - j) area of freedom, security and justice;
  - k) common safety concerns in public health matters, for the aspects defined in Part III.

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

Areas where the Union cannot prevent Member States from legislating

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

Development cooperation and humanitarian aid

**Article I-15:**

*(ex Articles 4[1], 99[1], 3[1][i], 125, 128, 140 TEC)*

The coordination of economic and employment policies

**Coordination of economic policies**

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

Special rules for Euro-countries: I-14.1c; III-185ff; III-194f

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

- for non-euro countries: I-30.4

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

Measures to ensure coordination of **employment policies**

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

Coordination of **social policies**

**Article I-16:** *(ex Articles 17, 11[2] TEU)*

The common foreign and security policy

**Foreign and security policy:**

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

Union competent in all areas of foreign, security and defence policy

2. Member States shall actively and unreservedly support the Union's common foreign and security policy in a spirit of loyalty and mutual solidarity and shall comply with the Union's action in this area. They shall refrain from action contrary to the Union's interests or likely to impair its effectiveness.

Loyalty and mutual solidarity. Member States refrain from actions against Union interests

**Article I-17: (new)**

**Supporting actions**

Areas of supporting, coordinating or complementary action

Areas of  
supportive action

The Union shall have competence to carry out supporting, coordinating or complementary action. The areas of such action shall, at European level, be:

- a) protection and improvement of human health;
- b) industry;
- c) culture;
- d) tourism;
- e) education, youth, sport and vocational training;
- f) civil protection;
- g) administrative cooperation.

**Flexibility clause:**

**Article I-18: (ex Article 308 TEC, 235 Rome Treaty)**

Flexibility clause

Extension of Union powers possible with unanimity in the Council and consent of EP. No ratification by national Parliaments or referenda needed; EP must now give consent

*U\*\*\** 1. If action by the Union should prove necessary, within the framework of the policies defined in Part III, to attain one of the objectives set out in the Constitution, and the Constitution has not provided the necessary powers, the Council of Ministers, acting unanimously on a proposal from the European Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures.

National Parliaments shall be notified in advance

2. Using the procedure for monitoring the subsidiarity principle referred to in Article I-11(3), the European Commission shall draw national Parliaments' attention to proposals based on this Article.

No harmonisation if forbidden by the Constitution

3. Measures based on this Article shall not entail harmonisation of Member States' laws or regulations in cases where the Constitution excludes such harmonisation.

**TITLE IV  
THE UNION’S INSTITUTIONS AND BODIES**

**THE INSTITUTIONS**

**CHAPTER I:  
INSTITUTIONAL FRAMEWORK**

**Article I-19:** *(ex Articles 3[1] TEU, 7[1] TEC, 5 TEU)*  
The Union’s Institutions

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

A single institutional framework for all areas of cooperation (no more pillars)

This institutional framework comprises:  
- The European Parliament,  
- The European Council,  
- The Council of Ministers (hereinafter referred to as the “Council”),  
- The European Commission (hereinafter referred to as the “Commission”),  
- The Court of Justice of the European Union.

The European Council is now an official institution of the Union

The institutions of the Union...

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

...shall act within the limits of the Constitution;  
Loyal co-operation

**Article I-20:** *(ex Articles 189, 192, 190, 197 TEC)*  
The European Parliament

**European Parliament**

1. The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the Constitution. It shall elect the President of the Commission.

- co-legislates, political control, chooses Commission President as proposed by the Prime Ministers

2. The European Parliament shall be composed of representatives of the Union’s citizens. They shall not exceed seven hundred and

EP now represents the “citizens” instead

<p>of the “peoples” (189 TEC) Max. 750 MEPs, seats divided by degressive proportionality Minimum: 6 seats Maximum: 96 seats - ex Article 190 (4)</p>	<p><u>fifty</u> in number. Representation of citizens shall be degressively proportional, with a minimum threshold of <u>six members per Member State</u>. No Member State shall be allocated more than <u>ninety-six seats</u>.</p>
<p>MEPs elected for 5 years by direct election</p>	<p><u>U***</u> The European Council shall adopt by <u>unanimity</u>, on the initiative of the European Parliament and with its <u>consent</u>, a European <u>decision</u> establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph.</p>
<p>The President of the EP and its officers</p>	<p>3. The members of the European Parliament shall be elected for a <u>term of five years</u> by <u>direct universal suffrage</u> in a <u>free and secret ballot</u>.</p> <p>4. The European Parliament shall elect its <u>President</u> and its <u>officers</u> from among its members.</p>

**Article I-21: (ex Article 4 TEU)**

The European Council

<p><b>European Council</b></p>	<p>1. The European Council shall provide the Union with the necessary impetus for its development and shall define the <u>general political directions and priorities thereof</u>. It shall not exercise legislative functions.</p>
<p>The Prime Ministers on “Union summits”</p>	<p>2. The European Council shall <u>consist of the Heads of State or Government of the Member States</u>, together with its <u>President</u> and <u>the President of the Commission</u>. The Union <u>Minister for Foreign Affairs</u> shall take part in its work.</p>
<p>Members of the European Council</p>	<p>3. The European Council shall <u>meet quarterly</u>, convened by its President. When the agenda so requires, the members of the European Council <u>may decide each to be assisted by a minister</u> and, in the case of the President of the Commission, by a member of the Commission. When the situation so <u>requires</u>, the <u>President</u> shall convene a <u>special meeting</u> of the European Council.</p>
<p>Quarterly meetings  President may convene additional meetings</p>	<p>4. Except where the Constitution provides otherwise, decisions of the European Council shall be taken by <u>consensus</u>.</p>
<p><b>Decisions by “consensus”</b></p>	

**Article I-22: (new)**

The European Council President

**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 term of office in accordance with the same procedure.

Prime Ministers elect President for 2½ years – may re-elect him/her once

2. The President of the European Council:

Tasks of the President

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

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

Representation of the Union in the wider world on CFSP issues

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

No national mandate

**Article I-23: (ex Articles 202, 203, 205[1] TEC)**

The Council of Ministers

**Council of Ministers**

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

- legislates  
- carries out policy making and coordinates

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

Civil servants often have status as ministers and can also commit the Member State

Qualified majority, the “Luxembourg veto-compromise” not used since the 1980s

3. The Council shall act by a qualified majority except where the Constitution provides otherwise.

**Council compositions**

**Article I-24:** *(ex Articles 203, 207[1] TEC)*  
Configurations of the Council of Ministers

Different configurations

1. The Council shall meet in different configurations.

**General Affairs Council**

- coordinates Council  
- prepares the European Council meetings

2. The General Affairs Council shall ensure consistency in the work of the different Council configurations.

It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.

**Foreign Affairs Council**

flashes out the EU’s external actions on the basis of guidelines

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

**Other configurations by qualified majority**

XX 4. The European Council shall adopt by a qualified majority a European decision establishing the list of other Council configurations.

**COREPER**

prepares the work of the Council

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

Council meets in public when deliberating and voting on legislation  
- does not apply to the many working groups  
- Presidency of the different Councils rotates. Foreign Affairs Council is permanently presided by the Foreign Affairs Minister (I-28.3)

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

XX 7. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established by a European decision of the European Council. The European Council shall act by a qualified majority.

**Article I-25:** *(ex Article 205[2] TEC)*  
Definition of qualified majority  
within the European Council and the Council

1. A qualified majority shall be defined as at least 55% of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65% of the population of the Union.

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

2. By way of derogation from paragraph 1, when the Council does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the qualified majority shall be defined as at least 72% of the members of the Council, representing Member States comprising at least 65% of the population of the Union.

3. Paragraphs 1 and 2 shall apply to the European Council when it is acting by a qualified majority.

4. Within the European Council, its President and the President of the Commission shall not take part in the vote.

**Article I-26:** *(ex Articles 211, 274, 214[1], 213[2], 201 TEC)*  
 The European Commission

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.

**Qualified majority:**

Until 01.11.2009:  
 232 of 321 votes from a majority of Member States and 62% of EU's population (Decl. N°5)  
**1.** 55% of Member States, at least 15 MSs  
**2.** 65% of the Union's population  
**3.** At least 4 Member States to block

**Enlarged qualified majority**, when not proposal from Commission or Minister for Foreign Affairs.  
**72%** of Member States  
**65%** of EU population

Summits by qualified majority (normally by consensus)

President does not have a vote

**The European Commission**

**Role:**  
 - promotion of the general EU interests  
 - scrutiny over the application of EU law  
 - execution of the budget  
 - implementation  
 - external representation  
 Monopoly of initiative

	<p>2. Union legislative acts may be <u>adopted only</u> on the basis of a <u>Commission proposal</u>, except where the Constitution provides otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Constitution so provides.</p>
5 years term	<p>3. The Commission's term of office shall be <u>five years</u>.</p>
<b>Criteria for being a Commissioner</b>	<p>4. The members of the Commission shall be chosen on the ground of their <u>general competence</u> and <u>European commitment</u> from persons whose <u>independence</u> is beyond doubt.</p>
<b>Until 2014, one commissioner per Member State</b>	<p>5. The <u>first Commission</u> appointed under the provisions of the Constitution shall consist of <u>one national</u> of <u>each Member State</u>, including its President and the Union Minister for Foreign Affairs who shall be one of its Vice-Presidents.</p>
<b>After 2014:</b> - only 2/3 of the Member States will have a Commissioner - unless the European Council unanimously alters that composition	<p>6. As from the end of the term of office of the Commission referred to in paragraph 5, the Commission shall consist of a number of members, including its President and the Union Minister for Foreign Affairs, corresponding to <u>two thirds of the number of Member States</u>, unless the <u>European Council</u>, acting <u>unanimously</u>, decides to <u>alter this number</u>.</p>
Rotation on an equal basis	<p>The members of the Commission shall be selected from among the nationals of the Member States on the basis of a system of <u>equal rotation</u> between the Member States. This system shall be <u>established by a European decision</u> adopted <u>unanimously</u> by the European Council and on the basis of the following principles:</p>
Maximum one term without a Commissioner	<p>(a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States <u>may never be more than one</u>;</p>
Commission reflects demographic and geographical range	<p>(b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the <u>demographic</u> and <u>geographical</u> range of all the Member States.</p>
<b>Independence:</b> Neither seek, nor take instructions	<p>7. In carrying out its responsibilities, the Commission shall be <u>completely independent</u>. Without prejudice to Article I-28(2), the members of the Commission shall <u>neither seek nor take</u></p>

instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

8. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article III-340, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the Union Minister for Foreign Affairs shall resign from the duties that he or she carries out in the Commission.

**Censure**, the EP can only censure the whole Commission, not individual members. Union Foreign Minister must also resign

**Article I-27: (ex Articles 214[2], 217 TEC)**

The President of the European Commission

**Commission President**

XX\*\*\*

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.

Heads of States and Governments propose by **qualified majority**  
- EP approves with **majority of Members**  
- If rejected, a new candidate shall be put forward within 1 month

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.

**Commission members**  
- Council and Commission President adopt list of Commissioners  
- EP approves now by **simple majority**  
- European Council appoints by **qualified majority**

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;

The Commission President decides guidelines and internal organisation, appoints

vice-Presidents and dismisses members (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;

The Foreign Affairs Minister can only be dismissed if the European Council agrees (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.

**EU Foreign Minister:**  
- elected by Heads of States and Governments by **qualified majority** in agreement with Commission President

**Article I-28: (new)**

The Union Minister for Foreign Affairs

Tasks of Foreign Minister

**XX** 1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the Union Minister for Foreign Affairs. The European Council may end his or her term of office by the same procedure.

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.

Presides over the Foreign Affairs Council

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

**Double hat**  
Foreign Minister, also Vice-President of Commission and Commissioner for external relations

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.

**The EU Court**

**Article I-29: (new, ex Articles 220 - 224 TEC)**

The Court of Justice of the European Union

Court of Justice and the

1. The Court of Justice of the European Union shall include the

Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the Constitution the law is observed.

High Court (currently Court of First Instance);  
Obligation to guarantee legal remedies against Union law at national level (Case C-50/00)

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

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

One judge from each Member State plus Advocates-General are appointed by common accord by Member States' governments

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

The judges and the Advocates-General of the Court of Justice and the judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles III-355 and III-356. They shall be appointed by common accord of the governments of the Member States for six years. Retiring judges and Advocates-General may be reappointed.

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

Competences of the Court of Justice  
- rulings on actions

(a) rule on actions brought by a Member State, an institution or a natural or legal person;

- preliminary rulings

(b) give preliminary rulings, at the request of courts or tribunals of the Member States, on the interpretation of Union law or the validity of acts adopted by the institutions;

- rulings on other cases

(c) rule in other cases provided for in the Constitution.

CHAPTER II:  
THE OTHER UNION INSTITUTIONS  
AND ADVISORY BODIES

**Article I-30:**

*(ex Articles 8, 107, 105 [1], 106, 108, 105 [4], 212 TEC)*

The European Central Bank

**The EU  
Central Bank**

ECB directs the European System of Central Banks (ESCB) and conducts monetary policy together with

1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks. The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the

national central banks	Eurosystem, shall <u>conduct</u> the <u>monetary policy</u> of the Union.
Primary goal is price stability	2. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The <u>primary objective</u> of the European System of Central Banks shall be to <u>maintain price stability</u> . Without prejudice to that objective, it shall <u>support the general economic policies in the Union</u> in order to <u>contribute to the achievement of the latter's objectives</u> . It shall conduct other Central Bank tasks in accordance with Part III and the Statute of the European System of Central Banks and of the European Central Bank.
ECB shall have legal personality, it alone issues the euro and it must be independent	3. The European Central Bank is an institution. It shall have <u>legal personality</u> . It <u>alone</u> may authorise the <u>issue</u> of the <u>euro</u> . It shall be <u>independent</u> in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.
The Member States who have not adopted the euro shall retain their powers in monetary affairs	4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles III-185 to III-191 and Article III-196, and with the conditions laid down in the Statute of the European System of Central Banks and of the European Central Bank. In accordance with these same Articles, those <u>Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters</u> .
ECB to be consulted on all proposals within its areas of competence	5. Within the areas falling <u>within its responsibilities</u> , the European Central Bank shall be <u>consulted on</u> all proposed <u>Union acts</u> , and all proposals for regulation at national level, and may give an <u>opinion</u> .
ECB = European Central bank ESCB = the whole system of central banks	6. The decision-making organs of the European Central Bank, their composition and operating methods are set out in Articles III-382 and III-383, as well as in the Statute of the European System of Central Banks and of the European Central Bank.
<b>Court of Auditors</b>	<p><b>Article I-31: (ex Articles 7, 246, 248, 247 TEC)</b> The Court of <u>Auditors</u></p> <p>1. The Court of Auditors is an institution. It shall carry out the Union's <u>audit</u>.</p> <p>2. It shall <u>examine the accounts</u> of <u>all Union revenue and expenditure</u>, and shall <u>ensure good financial management</u>.</p>
Tasks	

3. It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest.

One member per Member State  
- completely independent

**Article I-32:** (ex Articles 7[2], 263, 257, 258 TEC)

The Union's Advisory Bodies

**Advisory bodies**

1. The European Parliament, the Council and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee, exercising advisory functions.

Committee of the Regions, Economic and Social Committee

2. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.

Members of the Committee of the Regions

3. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas.

Members of the Economic and Social Committee

4. The members of the Committee of the Regions and the Economic and Social Committee shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the Union's general interest.

Representatives in advisory bodies must be completely independent

5. Rules governing the composition of these Committees, the designation of their members, their powers and their operations are set out in Articles III-386 to III-392.

Composition in Art. III-386 to III-392

**X** The rules referred to in paragraphs 2 and 3 governing the nature of their composition shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union. The Council, on a proposal from the Commission, shall adopt European decisions to that end.

New clause: Regular revision of rules by the Council with qualified majority

**EXERCISE OF  
COMPETENCE**

**TITLE V  
EXERCISE OF UNION COMPETENCE**

**CHAPTER I  
COMMON PROVISION**

**Article I-33: (ex Articles 249, TEC, 13, 34 TEU)**

The legal acts of the Union

**Legal acts**

Laws, framework laws, regulations, decisions, recommendations and opinions

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.

**Law:** binding in its entirety; directly applicable

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.

**Framework law:** binding as to the result, Member States transpose

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.

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

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.

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

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:** not binding

Recommendations and opinions shall have no binding force.

Exhaustive list of legal instruments

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.

**Article I-34: (new)**

Legislative acts

1. European laws and framework laws shall be adopted, on the basis of proposals from the Commission, jointly by the European Parliament and the Council under the ordinary legislative procedure as set out in Article III-396. If the two institutions cannot reach agreement on an act, it shall not be adopted.

2. In the specific cases provided for in the Constitution, European laws and framework laws shall be adopted by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament, in accordance with special legislative procedures.

3. In the specific cases provided for in the Constitution, European laws and framework laws may be adopted at the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.

**Legislative procedure**

The general rule in Art. III-396 = X\*\*

- Commission proposes  
- Council decides by qualified majority, EP with majority of members **or** votes

Sometimes only the Council or the EP adopt laws - the other institution participates

In special cases a group of Member States or the EP can take initiative

**Article I-35: (new)**

Non-legislative acts

1. The European Council shall adopt European decisions in the cases provided for in the Constitution.

2. The Council and the Commission, in particular in the cases referred to in Articles I-36 and I-37, and the European Central Bank in the specific cases provided for in the Constitution, shall adopt European regulations and decisions.

3. The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the Constitution provides that it shall adopt acts on a proposal from the Commission. It shall act unanimously in those areas in which unanimity is required for the adoption of a Union act. The Commission, and the European Central Bank in the specific cases provided for in the Constitution, shall adopt recommendations.

**Non-legislative acts**

“**Regulations**” and “**decisions**” to be used for delegation or implementation

Council, Commission and ECB can adopt decisions, regulations and recommendations

**Delegated regulations**

- a new category of legal acts

Commission can be empowered to legislate on its own on non-essential elements (it is not defined what is essential)

The act which delegates legislative powers to the Commission shall also explicitly state how to withdraw the power:  
- EP or Council can decide to revoke the delegation  
- EP or Council can block a regulation

Qualified majority in Council or an absolute majority in the EP

**Implementing acts**

EP gains co-decision  
Loyal implementation by Member States

The Commission or Council may implement if uniform conditions are needed

**Article I-36: (new)**

Delegated European regulations

X\*\*

1. European laws and framework laws may delegate to the Commission the power to adopt delegated European regulations to supplement or amend certain non-essential elements of the law or framework law.

The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the European laws and framework laws. The essential elements of an area shall be reserved for the European law or framework law and accordingly shall not be the subject of a delegation of power.

2. European laws and framework laws shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

(a) the European Parliament or the Council may decide to revoke the delegation;

(b) the delegated European regulation may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the European law or framework law.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

**Article I-37: (ex Articles 10, 202 TEC)**

Implementing acts

1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.

2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Article I-40, on the Council.

X\*\* 3. For the purposes of paragraph 2, European laws shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

Rules for Member States' control over implementing acts

4. Union implementing acts shall take the form of European implementing regulations or European implementing decisions.

Implementing regulations and decisions

**Article I-38: (ex Article 253 TEC)**  
Principles common to the Union's legal acts

1. Where the Constitution does not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality referred to in Article I-11.

Institutions shall decide according to the rules and the principle of proportionality

2. Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Constitution.

A law shall state the reasons on which it is based

**Article I-39: (ex Article 254 TEC)**  
Publication and entry into force

1. European laws and framework laws adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

Laws have to be signed by the Presidents of the deciding institutions

In other cases they shall be signed by the President of the institution which adopted them.

European laws and framework laws shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following their publication.

Entry into force as specified in the law or 20 days after publication

2. European regulations, and European decisions which do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

Regulations and decisions with no concrete addressees shall also enter into force 20 days after their publication

European regulations, and European decisions when the latter do not specify to whom they are addressed, shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence thereof, on the

twentieth day following that of their publication.

Other decisions take effect upon notification

3. European decisions other than those referred to in paragraph 2 shall be notified to those to whom they are addressed and shall take effect upon such notification.

CHAPTER II  
SPECIFIC PROVISIONS

**Common foreign and security policy**

**Article I-40:** *(ex Articles 13, 16, 23, new, 21 TEU)*

Specific provisions relating to the common foreign and security policy

*In principle U\*, implementation X/XX*

- solidarity among Member States
- identification of common interests
- convergence of actions

1. The European Union shall conduct a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.

The European Council shall identify the Union's interests and objectives and adopt decisions

2. The European Council shall identify the Union's strategic interests and determine the objectives of its common foreign and security policy. The Council shall frame this policy within the framework of the strategic guidelines established by the European Council and in accordance with Part III.

Foreign Ministers may also adopt decisions

3. The European Council and the Council shall adopt the necessary European decisions.

Shared responsibility for putting the policy into action

4. The common foreign and security policy shall be put into effect by the Union Minister for Foreign Affairs and by the Member States, using national and Union resources.

Member States shall consult each other before taking action on the international scene

5. Member States shall consult one another within the European Council and the Council on any foreign and security policy issue which is of general interest in order to determine a common approach. Before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity.

Mutual solidarity among Member States

6. European decisions relating to the common foreign and security policy shall be adopted by the European Council and the Council unanimously, except in the cases referred to in Part III. The European Council and the Council shall act on an initiative from a Member State, on a proposal from the Union Minister for Foreign Affairs or on a proposal from that Minister with the Commission's support. European laws and framework laws shall be excluded.

Unanimity, unless otherwise stated in Part III, Member States and Union Foreign Minister have the initiative. Laws and framework laws excluded

7. The European Council may, unanimously, adopt a European decision authorising the Council to act by a qualified majority in cases other than those referred to in Part III.

**By unanimity, European Council can change decision-making to qualified majority**  
- EP shall be consulted and kept informed

8. The European Parliament shall be regularly consulted on the main aspects and basic choices of the common foreign and security policy. It shall be kept informed of how it evolves.

**Article I-41: (ex Articles 17, 21 TEU)**  
Specific provisions relating to common security and defence policy

**Defence Policy**

*U\**

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

Operational capability: both military and civilian means. Can be used outside the EU for peacekeeping, conflict prevention and international security

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

Common defence to be decided unanimously. Ratification by Member States may be deemed necessary

The policy of the Union in accordance with this Article shall not prejudice the specific character of the security and defence policy of certain Member States, it shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation, under the North Atlantic Treaty, and be compatible with the common security and defence policy established within that framework.

Specific character of certain Member States' defence policies shall be respected  
- Neutral Countries  
- NATO

Obligation to make military capabilities available to the EU in order to meet the agreed objectives. Multinational forces can be part of common defence

Progressively improve military capabilities

European Defence Agency, decided by the Council on 16.06.2004

Decisions in the security and defence policies taken by unanimity

A group of Member States can carry out a Union task

New: Structured co-operation can be undertaken within the Union framework

**Mutual assistance clause** for ALL member states in case of an armed aggression. See also Art. 5 NATO and WEU treaties

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

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

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

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article III-310.

6. Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article III-312. It shall not affect the provisions of Article III-309.

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

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

This does not affect NATO commitments

8. The European Parliament shall be regularly consulted on the main aspects and basic choices of the common security and defence policy. It shall be kept informed of how it evolves.

EP shall be consulted and informed; national parliaments are not mentioned here

**Article I-42: (ex Articles 29 TEU and 61 TEC)**

Specific provisions relating to the area of freedom, security and justice

**Justice and Home Affairs**

X\*\* (general rule)

1. The Union shall constitute an area of freedom, security and justice:

Means for establishing an area of freedom, security and justice - adoption of laws

(a) by adopting European laws and framework laws intended, where necessary, to approximate laws and regulations of the Member States in the areas referred to in Part III;

- mutual recognition of juridical decisions

(b) by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions;

- cooperation between all authorities for internal security

(c) by operational cooperation between the competent authorities of the Member States, including the police, customs and other services specialising in the prevention and detection of criminal offences.

- operative cooperation; of all services

2. National Parliaments may, within the framework of the area of freedom, security and justice, participate in the evaluation mechanisms provided for in Article III-260. They shall be involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles III-276 and III-273.

Here national parliaments shall be involved in the political monitoring of Europol and Eurojust.

3. Member States shall have a right of initiative in the field of police and judicial cooperation in criminal matters, in accordance with Article III-264.

Both Commission and Member States have the right of initiative

**Article I-43: (new)**

Solidarity clause

**Terrorism clause**

X/U

Member States and the Union shall act jointly against terrorism and in event of natural or man-made disasters

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

Prevention

(a) - prevent the terrorist threat in the territory of the Member States;

Protection

- protect democratic institutions and the civilian population from any terrorist attack;

Assistance: terrorism

- assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;

Assistance: disaster

(b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.

See article III-329

2. The detailed arrangements for implementing this Article are set out in Article III-329.

**Enhanced cooperation**

CHAPTER III  
ENHANCED COOPERATION

**Article I-44: (ex Articles 27, 43 TEU, 11 TEC)**

Enhanced cooperation

Enhanced cooperation, see III-416 - 423

*X\*\*\*/U (for authorisation)*

*X/XX/U (for participation in already existing enhanced cooperation)*

Can be established within areas of shared competence and supportive action; Can use the Union's institutions

1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Constitution, subject to the limits and in accordance with the procedures laid down in this Article and in Articles III-416 to III-423.

Should further the Union's goals and integration

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article III-418.

2. The European decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least one third of the Member States participate in it. The Council shall act in accordance with the procedure laid down in Article III-419.

**Only as last resort**

1/3 of Member States must participate

3. All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote.

**Only the participating Member States take part in the vote and are included when calculating unanimity and qualified majority**

Unanimity shall be constituted by the votes of the representatives of the participating Member States only.

A qualified majority shall be defined as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.

Qualified majority is 55 % of Member States representing 65% of the EU population.

A blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

To block: 35 % plus one Member State

By way of derogation from the third and fourth subparagraphs, where the Council does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the required qualified majority shall be defined as at least 72% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.

Note: 72 % of Member States and 65 % of EU population when Council is acting on own initiative.

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

Decisions only bind participating states. Accessing countries do not have to accept decisions made under enhanced cooperation

**DEMOCRATIC LIFE**

**TITLE VI  
THE DEMOCRATIC LIFE OF THE UNION**

**Article I-45: (new)**

The principle of democratic equality

**Equality**

Principle of equality of all Union citizens (see e.g. Court case Karlsson C-292/97)

In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.

**Article I-46: (ex Articles 6[1], 1[1] TEU, 191 TEC)**

The principle of representative democracy

Principle of representative democracy

1. The functioning of the Union shall be founded on representative democracy.

EP represents citizens directly

2. Citizens are directly represented at Union level in the European Parliament.

Representatives in the councils accountable to their national Parliaments or citizens

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

As openly and as close to the citizens as possible

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

European parties form European awareness

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

Participatory democracy

**Article I-47: (new)**

The principle of participatory democracy

Right to discuss opinions with the institutions

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

Channels for dialogue with civil society

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

Commission shall

3. The Commission shall carry out broad consultations with

parties concerned in order to ensure that the Union’s actions are coherent and transparent.

consult all parties concerned

4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Constitution. European laws shall determine the provisions for the procedures and conditions required for such a citizens’ initiative, including the minimum number of Member States from which such citizens must come.

Citizens’ initiative  
- can ask  
Commission to submit proposal  
- a million signatures  
- Commission can refuse  
- detailed rules by qualified majority

**Article I-48:** *(ex Articles 138, 211, 212 TEC)*

The social partners and autonomous social dialogue

**Social Dialogue**

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

The Union recognises and promotes an autonomous social dialogue

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

**Article I-49:** *(ex Article 195 TEC)*

The European Ombudsman

**The Ombudsman**

\_ A European Ombudsman elected by the European Parliament shall receive, examine and report on complaints about maladministration in the activities of the Union institutions, bodies, offices or agencies, under the conditions laid down in the Constitution. The European Ombudsman shall be completely independent in the performance of his or her duties.

Elected by EP, he/she receives, investigates, and reports on complaints of maladministration

**Article I-50:** *(ex Articles 1 TEU, 255 TEC)*

Transparency of the proceedings of Union institutions, bodies, offices and agencies

**Transparency**  
“as open as possible”

X\*\*

1. In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible.

Legislates in public  
- does not cover working groups where most decisions are taken

2. The European Parliament shall meet in public, as shall the

Council when considering and voting on a draft legislative act.

Right of access to documents...

3. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State shall have, under the conditions laid down in Part III, a right of access to documents of the Union institutions, bodies, offices and agencies, whatever their medium.

...according to the statutes that the EP and the Council have adopted by law (CE no. 1049/2001)

European laws shall lay down the general principles and limits which, on grounds of public or private interest, govern the right of access to such documents.

Each body determines its own specific rules

4. Each institution, body, office or agency shall determine in its own rules of procedure specific provisions regarding access to its documents, in accordance with the European laws referred to in paragraph 3.

**Personal data**

**Article I-51: (ex Article 286 TEC)**

Protection of personal data

X\*\*

Protection of personal data

1. Everyone has the right to the protection of personal data concerning him or her.

The processing of personal data shall be controlled by an independent authority

2. European laws or framework laws shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

Union respects the Churches' national status

**Article I-52: (new)**

Status of churches and non-confessional organisations

There is no differentiation between Christians, Muslims or Atheists

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

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

EU dialogue with

3. Recognising their identity and their specific contribution, the

Union shall maintain an open, transparent and regular dialogue with these churches and organisations.

churches and others; new

## TITLE VII THE UNION'S FINANCES

## FINANCES

### Article I-53: (ex Articles 268, 270, 271, 280 TEC) Budgetary and financial principles

### The EU budget

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.

The Union budget shall include all revenues and expenditures

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

Balanced budget

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.

Annual budget expenditures to be authorised by law

*X\*\* (qmv for all areas from 2007; see also X\*\* in 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.

Expenditures require both money in the budget and a legal act

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.

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

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.

Principle of sound financial management

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.

Rules on countering fraud

**Article I-54: (ex Article 269 TEC)**

The Union's own resources

Union provides itself with enough resources

1. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

Union is financed from its own resources

2. Without prejudice to other revenue, the Union's budget shall be financed wholly from its own resources.

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

*U\** 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.

Detailed rules by qualified majority in Council, and now with the EP's consent

*X\*\*\** 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.

**Article I-55: (new)**

The multiannual financial framework

The multiannual financial framework shall determine the annual ceilings for each expenditure category (so far decided by inter-institutional agreement)

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.

Unanimity in Council and EP consent by majority of its members, national parliaments shall no longer approve - Budget shall respect multiannual framework

*U\*\*\** 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.

European Council can unanimously change to qualified majority - "Passerelle" clause

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 I-56: (new)**

The Union's budget

X\*\*

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

EP and Council shall determine the budget

**TITLE VIII  
THE UNION AND ITS NEIGHBOURS**

**NEIGHBOURS**

**Article I-57: (new)**

The Union and its neighbours

1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.

Policy towards neighbouring states

2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

EU agreements with neighbouring states:  
- reciprocal rights  
- joint activities  
- consultations

**TITLE IX  
UNION MEMBERSHIP**

**EU MEMBERSHIP**

**Article I-58: (ex Article 49 TEU)**

Conditions of eligibility and procedure for accession to the Union

**Requirements for membership**

1. The Union shall be open to all European States which respect the values referred to in Article I-2, and are committed to promoting them together.

Respect for the Union's values (Art. I-2)

U\*\*\* 2. Any European State which wishes to become a member of the Union shall address its application to the Council. The European Parliament and national Parliaments shall be notified of this application. The Council shall act unanimously after consulting the Commission and after obtaining the consent of the European Parliament, which shall act by a majority of its component members. The conditions and arrangements for

Aspiring members must:  
- write to the Council  
- inform EP and national Parliaments.  
Unanimous decision in the Council,

consent of EP by majority of its members admission shall be the subject of an agreement between the Member States and the candidate State. That agreement shall be subject to ratification by each contracting State, in accordance with its respective constitutional requirements.

**Suspension of rights**

**Article I-59: (ex Articles 7 TEU and 309 TEC)**

Suspension of certain rights resulting from Union membership

With the consent of the EP, the Council can decide by 4/5 majority that a Member State is in clear **risk** of breaching the Union's values (The lex-Austria clause)

1. On the reasoned initiative of one third of the Member States or the reasoned initiative of the European Parliament or on a proposal from the Commission, the Council may adopt a European decision determining that there is a clear risk of a serious breach by a Member State of the values referred to in Article I-2. The Council shall act by a majority of four fifths of its members after obtaining the consent of the European Parliament.

Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.

Regular verification

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

With the EP's consent, the European Council can state by unanimity that a persistent and serious breach of the values of the Union **exists**

*U\*\*\** 2. The European Council, on the initiative of one third of the Member States or on a proposal from the Commission, may adopt a European decision determining the existence of a serious and persistent breach by a Member State of the values mentioned in Article I-2, after inviting the Member State in question to submit its observations. The European Council shall act unanimously after obtaining the consent of the European Parliament.

The Council may, by qualified majority, suspend certain rights of a Member State, including voting rights

*X/XX* 3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may adopt a European decision suspending certain of the rights deriving from the application of the Constitution to the Member State in question, including the voting rights of the member of the Council representing that State. The Council shall take into account the possible consequences of such a suspension for the rights and obligations of natural and legal persons.

Obligations shall still bind the Member State

In any case, that State shall continue to be bound by its obligations under the Constitution.

XX 4. The Council, acting by a qualified majority, may adopt a European decision varying or revoking measures adopted under paragraph 3 in response to changes in the situation which led to their being imposed.

Suspension can be revoked by qualified majority

5. For the purposes of this Article, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2. Abstentions by members present in person or represented shall not prevent the adoption of European decisions referred to in paragraph 2.

No vote for sanctioned Member State

Abstentions shall not count

For the adoption of the European decisions referred to in paragraphs 3 and 4, a qualified majority shall be defined as at least 72% of the members of the Council, representing the participating Member States, comprising at least 65% of the population of these States.

Definition of enlarged qualified majority: 72 % of Member States and 65 % of population

Where, following a decision to suspend voting rights adopted pursuant to paragraph 3, the Council acts by a qualified majority on the basis of a provision of the Constitution, that qualified majority shall be defined as in the second subparagraph, or, where the Council acts on a proposal from the Commission or from the Union Minister for Foreign Affairs, as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States. In the latter case, a blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

Suspension of voting rights may require enlarged qualified majority

Blocking minority: 35 % of population plus one Member State

6. For the purposes of this Article, the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component members.

EP: 2/3 majority of the votes cast and a majority of its members

**Article I-60: (new)**  
Voluntary withdrawal from the Union

**Withdrawal:**  
Any Member State can leave the Union - now only covered by Vienna Convention Art. 54-62

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

Agreement on withdrawal between the Council and the Member State by  
- qualified majority in the Council (72%)  
- consent of the EP

XX\*\*\*, X\*\*\* 2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article III-325(3). It shall be concluded by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

A State can withdraw after 2 years even if no agreement is reached

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

The withdrawing State shall not participate in the discussions

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

Enlarged qualified majority (72%-65 %)

A qualified majority shall be defined as at least 72% of the members of the Council, representing the participating Member States, comprising at least 65% of the population of these States.

New re-entry procedure as for new members

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article I-58.

## PART II

### CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

First decided as a political declaration at the summit in Nice 8 December 2000

#### PREAMBLE

The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values.

Values and goals of the Union

Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice.

The Union contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels; it seeks to promote balanced and sustainable development and ensures free movement of persons, services, goods and capital, and the freedom of establishment.

To this end, it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible in a Charter.

Aim is to strengthen the protection of fundamental rights

This Charter reaffirms, with due regard for the powers and tasks of the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Union and by the Council of Europe and the case law of the Court of Justice of the European Union and of the European Court of Human Rights. In

this context the Charter will be interpreted by the courts of the Union and the Member States with due regard to the explanations prepared under the authority of the Praesidium of the Convention which drafted the Charter and updated under the responsibility of the Praesidium of the European Convention.

Enjoyment of these rights entails responsibilities and duties with regard to other persons, to the human community and to future generations.

The Union therefore recognises the rights, freedoms and principles set out hereafter.

**TITLE I  
DIGNITY**

**Article II-61:  
Human dignity**

Respect and protection of human dignity

Human dignity is inviolable. It must be respected and protected.

**Article II-62  
Right to life**

Right to life

1. Everyone has the right to life.

No death penalty

2. No one shall be condemned to the death penalty, or executed.

**Article II-63:  
Right to the integrity of the person**

**Physical and mental integrity of the person**

1. Everyone has the right to respect for his or her physical and mental integrity.

Within medicine:

2. In the fields of medicine and biology, the following must be respected in particular:

- consent of the person

(a) the free and informed consent of the person concerned, according to the procedures laid down by law;

- no selection of persons based on eugenic practices

(b) the prohibition of eugenic practices, in particular those aiming at the selection of persons;

(c) the prohibition on making the human body and its parts as such a source of financial gain; - no financial gain from human bodies

(d) the prohibition of the reproductive cloning of human beings. - no reproductive cloning of human beings

**Article II-64:**  
Prohibition of torture and inhuman or degrading treatment or punishment.

No one shall be subjected to torture or to inhuman or degrading treatment or punishment. No torture or degrading treatment/punishment

**Article II-65:**  
Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude. - no slavery

2. No one shall be required to perform forced or compulsory labour. - no forced labour

3. Trafficking in human beings is prohibited. - no trafficking in human beings

## TITLE II FREEDOMS

### Right to:

**Article II-66:**  
Right to liberty and security

Everyone has the right to liberty and security of person. - liberty and security

**Article II-67:**  
Respect for private and family life

Everyone has the right to respect for his or her private and family life, home and communications. - private and family life, homes, and communications

**Article II-68:**  
Protection of personal data

1. Everyone has the right to the protection of personal data concerning him or her. - protection of personal data

- uninhibited access to personal data

2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.

Independently controlled

3. Compliance with these rules shall be subject to control by an independent authority.

Marriages and family

**Article II-69:**

Right to marry and right to found a family

- Marriages protected according to national law

The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.

**Freedom of:**

**Article II-70:**

Freedom of thought, conscience and religion

- thought  
- conscience  
- religion

1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.

- conscientious objection

2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

**Freedom of expression**

**Article II-71:**

Freedom of expression and information

- information

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

- pluralism in media

2. The freedom and pluralism of the media shall be respected.

**Article II-72:**

Freedom of assembly and of association

- assembly

1. Everyone has the right to freedom of peaceful assembly and to

freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests. - association  
- trade unions

2. Political parties at Union level contribute to expressing the political will of the citizens of the Union. - EU-level political parties

**Article II-73:**

Freedom of the arts and sciences

The arts and scientific research shall be free of constraint. Academic freedom shall be respected. - art  
- science

**Article II-74:**

Right to education

**Right to:**

1. Everyone has the right to education and to have access to vocational and continuing training. - access to education

2. This right includes the possibility to receive free compulsory education. - free and compulsory education

3. The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right. Within the limits of national law, parents have the right to educate their children

**Article II-75:**

Freedom to choose an occupation and right to engage in work **Freedom:**

1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation. - to work

2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State. - of movement for workers, right to establishment and to provide services

3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions - of 3<sup>rd</sup> countries' citizens, same

working conditions as citizens of the Union equivalent to those of citizens of the Union.

**Article II-76:**

Freedom to conduct a business

- to conduct business The freedom to conduct a business in accordance with Union law and national laws and practices is recognised.

**Property**

**Article II-77:**

Right to property

Right to own, use and dispose of possessions 1. Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law insofar as is necessary for the general interest.

Expropriation only possible if fair compensation is given

Intellectual property 2. Intellectual property shall be protected.

**Asylum:**

**Article II-78:**

Right to asylum

The Union respects the Geneva Convention on refugees The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Constitution.

**Removal, expulsion and extradition**

**Article II-79:**

Protection in the event of removal, expulsion or extradition

- no collective expulsions 1. Collective expulsions are prohibited.

- no expulsion if risk of torture or death penalty 2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

**TITLE III  
EQUALITY**

**Article II-80:**  
Equality before the law

**Equality principle**

Everyone is equal before the law.

**Article II-81:**  
Non-discrimination

**No discrimination**

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

- on grounds of:  
sex, race, colour,  
origin, genetic  
features, language,  
religion, opinion,  
minority, property,  
birth, disability, age,  
sexual orientation

2. Within the scope of application of the Constitution and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited.

- nationality

**Article II-82:**  
Cultural, religious and linguistic diversity

**Respect of cultural,  
religious and  
linguistic diversity**

The Union shall respect cultural, religious and linguistic diversity.

**Article II-83:**  
Equality between women and men

**Equality between  
men and women**

Equality between women and men must be ensured in all areas, including employment, work and pay.

Special advantages  
for the  
underrepresented  
sex are allowed  
(positive  
discrimination)

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

**Article II-84:**  
The rights of the child

**Rights of children**

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters

- Protection and care  
- Free expression  
of views

which concern them in accordance with their age and maturity.

Child's best interests  
are the main concern

2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

Right to contact  
with both parents

3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

**Rights of the elderly**

**Article II-85:**

The rights of the elderly

Life of dignity  
and independence

The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

Disabled persons

**Article II-86:**

Integration of persons with disabilities

Right to be integrated  
into the normal life of  
the society

The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

**SOLIDARITY**

**TITLE IV**  
**SOLIDARITY**

**Article II-87:**

Workers' right to information and consultation within the undertaking

Workers' right to  
information and  
consultation

Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices.

**Collective  
bargaining**

**Article II-88:**

Right of collective bargaining and action

Right to strike

Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the

appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.

**Article II-89:**

Right of access to placement services

**Placement services**

Everyone has the right of access to a free placement service.

**Article II-90:**

Protection in the event of unjustified dismissal

Every worker has the right to protection against unjustified dismissal, in accordance with Union law and national laws and practices.

Protection against unjustified dismissal

**Article II-91:**

Fair and just working conditions

**Working conditions**

1. Every worker has the right to working conditions which respect his or her health, safety and dignity.

Workers' health, safety and dignity

2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.

Rest periods and paid leave

**Article II-92:**

Prohibition of child labour and protection of young people at work

**No child labour**

The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations.

Minimum age of employment is the same as the minimum age to leave school

Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.

Protection of children against exploitation

**Compatibility  
of family and  
professional life**

- protection of  
the family  
- protection against  
firing pregnant women  
- paid maternity leave  
- leave for both  
parents

**Article II-93:**  
Family and professional life

1. The family shall enjoy legal, economic and social protection.
2. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.

**Social security**

Social security  
within the limits  
of Union law

Right to social  
security

Right to social and  
housing assistance  
for those who lack  
sufficient resources

**Article II-94:**  
Social security and social assistance

1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices.

2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices.

3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices

**Right to health care**

High level of health,  
not the “highest”  
protection

**Article II-95:**  
Health care

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

Access to services of  
general interest

**Article II-96:**  
Access to services of general economic interest

The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in

accordance with the Constitution, in order to promote the social and territorial cohesion of the Union. within the limits of Union law

**Article II-97:**  
Environmental protection

**Environment**

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development. High level of protection, not “highest”

**Article II-98:**  
Consumer protection

**Consumer protection**

Union policies shall ensure a high level of consumer protection. “High level”

**TITLE V**  
**CITIZENS’ RIGHTS**

**Article II-99:**  
Right to vote and to stand as a candidate at elections to the European Parliament

**EP elections**

1. Every citizen of the Union has the right to vote and to stand as a candidate at elections to the European Parliament in the Member State in which he or she resides, under the same conditions as nationals of that State. Voting and standing as EP candidate in the country where you live

2. Members of the European Parliament shall be elected by direct universal suffrage in a free and secret ballot. Direct and secret voting

**Article II-100:**  
Right to vote and to stand as a candidate at municipal elections

**Right to vote and stand at local elections**

Every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he or she resides under the same conditions as nationals of that State. - does not apply to national elections

**Article II-101:**  
Right to good administration

**Good administration**

1. Every person has the right to have his or her affairs handled Treated impartially,

fairly, within a reasonable time

impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

Rights include:

- to be heard

2. This right includes:

a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;

- access to personal files

b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;

- reasons for decisions

c) the obligation of the administration to give reasons for its decisions.

Right to compensation for damages caused by the Union

3. Every person has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.

- to write to the institutions in any Union language and to receive a reply in the same language

4. Every person may write to the institutions of the Union in one of the languages of the Constitution and must have an answer in the same language.

#### Access to documents

#### Article II-102:

##### Right of access to documents

(unless Union laws forbid or limit)

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium.

#### Ombudsman

#### Article II-103:

##### European Ombudsman

- Investigates maladministration (see also article I-49 on the Ombudsman)

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the European Ombudsman cases of maladministration in the activities of the institutions, bodies, offices or agencies of the Union, with the exception of the Court of Justice of the European Union acting in its judicial role.

#### Petition to the EP

#### Article II-104:

##### Right to petition

EU citizens have the

Any citizen of the Union and any natural or legal person residing

or having its registered office in a Member State has the right to petition the European Parliament.

right to  
petition the EP

**Article II-105:**  
Freedom of movement and of residence

**Free movement  
and residence**

1. Every citizen of the Union has the right to move and reside freely within the territory of the Member States.

- right of all  
Union citizens

2. Freedom of movement and residence may be granted, in accordance with the Constitution, to nationals of third countries legally resident in the territory of a Member State.

Nationals of 3<sup>rd</sup>  
countries can be  
given the same right

**Article II-106:**  
Diplomatic and consular protection

Every citizen of the Union shall, in the territory of a third country in which the Member State of which he or she is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that Member State.

Protection by all  
Member States'  
diplomatic corps

**TITLE VI**  
**JUSTICE**

**Judicial rights**

**Article II-107:**  
Right to an effective remedy and to a fair trial

Access to:

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.

- effective remedies

Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law.

- impartial tribunal

Everyone shall have the possibility of being advised, defended and represented.

- legal defence

Legal aid shall be made available to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice.

- legal aid

**Article II-108:**

Presumption of innocence and right of defence

- Presumption of innocence 1. Everyone who has been charged shall be presumed innocent until proved guilty according to law.
- Right to a defence 2. Respect for the rights of the defence of anyone who has been charged shall be guaranteed.

**Article II-109:**

**Legality principle** Principles of legality and proportionality of criminal offences and penalties

- No retroactive effect 1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than that which was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable.
- Does not prejudice cases based on general principles 2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations.
- Penalty proportional to the offence 3. The severity of penalties must not be disproportionate to the criminal offence.

**Article II-110:**

**Punishable only once for the same crime** Right not to be tried or punished twice in criminal proceedings for the same criminal offence

- If convicted or acquitted of a crime, cannot be punished again No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted within the Union in accordance with the law.

**TITLE VII  
GENERAL PROVISIONS  
GOVERNING THE INTERPRETATION  
AND APPLICATION OF THE CHARTER**

**INTERPRETATION  
OF THE CHARTER**

**Article II-111:  
Field of application**

**Scope:**

1. The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the other Parts of the Constitution.

Charter applies to institutions, bodies and agencies of the Union and to Member States when implementing Union law

2. This Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks defined in the other Parts of the Constitution.

Charter does not modify or create any new EU powers or tasks

**Article II-112:  
“Scope and interpretation of rights and principles”**

1. Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.

Limitation of rights only allowed if in general interest and provided for by law. Essence of those rights must remain untouched

2. Rights recognised by this Charter for which provision is made in other Parts of the Constitution shall be exercised under the conditions and within the limits defined by these relevant Parts.

Rights are guaranteed within the limits of this Treaty

3. Insofar as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection.

Interpreted on the basis of the Convention of Human Rights - but Union can give more extensive protection

According to common constitutional traditions of Member States

4. Insofar as this Charter recognises fundamental rights as they result from the constitutional traditions common to the Member States, those rights shall be interpreted in harmony with those traditions.

Principles can be implemented by the Union. Legality of Union acts can be tried before the Court

5. The provisions of this Charter which contain principles may be implemented by legislative and executive acts taken by institutions, bodies, offices and agencies of the Union, and by acts of Member States when they are implementing Union law, in the exercise of their respective powers. They shall be judicially cognisable only in the interpretation of such acts and in the ruling on their legality.

Full account of national laws and practices

6. Full account shall be taken of national laws and practices as specified in this Charter.

Explanations should be used for interpretation (Declaration N° 12)

7. The explanations drawn up as a way of providing guidance in the interpretation of the Charter of Fundamental Rights shall be given due regard by the courts of the Union and of the Member States.

**Article II-113:**

Level of protection

Charter can only be interpreted to raise the level of human rights

Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by Union law and international law and by international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and by the Member States' constitutions.

**Article II-114:**

Prohibition of abuse of rights

Can not be interpreted to destroy rights and freedoms guaranteed by this Charter

Nothing in this Charter shall be interpreted as implying any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognised in this Charter or at their limitation to a greater extent than is provided for herein.

**PART III**

**THE POLICIES AND**

**FUNCTIONING OF THE UNION**

PART III comprises the content of the former Community policies - **can be changed by unanimity**

**TITLE I**

**PROVISIONS OF GENERAL APPLICATION**

**GENERAL PRINCIPLES FOR ALL POLICIES**

**Article III-115** *(ex Article 3 TEU)*

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

Consistency of the different policies and principle of conferral

**Article III-116** *(ex Article 3(2) TEC)*

In all the activities referred to in this Part, the Union shall aim to eliminate inequalities, and to promote equality, between women and men.

Eliminate inequality, promote equality

**Article III-117** *(new horizontal clause)*

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

**Social protection** must take into account:  
- employment,  
- social protection,  
- social exclusion  
- education, training  
- human health

**Article III-118** *(new horizontal clause)*

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

**Combat discrimination**

**Article III-119** *(ex Article 6 TEC)*

**Environment and sustainable development**

Environmental protection requirements must be integrated into the definition and implementation of the policies and activities referred

Integrated into other policies

to in this Part, in particular with a view to promoting sustainable development.

**Consumer protection**

**Article III-120** (ex Article 153[2] TEC)

Consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities.

**Animal welfare and respect of traditions**

**Article III-121**  
(ex Protocol and Declaration on the protection and welfare of animals)

- included in all policies
- But must respect:
- religious rites
- cultural traditions
- regional heritage (e.g. bull fighting)

In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the requirements of animal welfare, while respecting the legislative or administrative provisions and customs of Member States relating in particular to religious rites, cultural traditions and regional heritage.

**Services of general economic interest**

**Article III-122** (ex Article 16 TEC)

Shared responsibility of Union and Member States

X\*\*  
Without prejudice to Articles I-5, III-166, III-167 and III-238, and given the place occupied by services of general economic interest as services to which all in the Union attribute value as well as their role in promoting its social and territorial cohesion, the Union and the Member States, each within their respective competences and within the scope of application of the Constitution, shall take care that such services operate on the basis of principles and conditions, in particular economic and financial conditions, which enable them to fulfil their missions. European laws shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Constitution, to provide, to commission and to fund such services.

Law adopted by qualified majority defines the principles

**CITIZENSHIP**

**TITLE II  
NON-DISCRIMINATION AND CITIZENSHIP**

**No nationality discrimination**

**Article III-123** (ex Article 12 TEC)

- rules laid down in law

X\*\*  
European laws or framework laws may lay down rules to prohibit discrimination on grounds of nationality as referred to in Article I-4(2).

**Article III-124 (ex Article 13 TEC)**

U\*\*\* 1. Without prejudice to the other provisions of the Constitution and within the limits of the powers assigned by it to the Union, a European law or framework law of the Council may establish the measures needed to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council shall act unanimously after obtaining the consent of the European Parliament.

Measures against discrimination

Unanimity in the Council, EP must now give consent

X\*\* 2. By way of derogation from paragraph 1, European laws or framework laws may establish basic principles for Union incentive measures and define such measures, to support action taken by Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, excluding any harmonisation of their laws and regulations.

Incentive measures, not harmonisation, through a qualified majority, ordinary legislative procedure

**Article III-125 (ex Article 18[2-3] TEC)**

X\*\* 1. If action by the Union should prove necessary to facilitate the exercise of the right, referred to in Article I-10(2)(a), of every citizen of the Union to move and reside freely and the Constitution has not provided the necessary powers, European laws or framework laws may establish measures for that purpose.

**Free movement and settlement**

- If the Union cannot reach goals of Art. I-10, its powers can be extended by qualified majority

U\* 2. For the same purposes as those referred to in paragraph 1 and if the Constitution has not provided the necessary powers, a European law or framework law of the Council may establish measures concerning passports, identity cards, residence permits or any other such document and measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament.

Unanimity for:  
- passports  
- identity cards  
- residence permits  
- social security  
(See Article 18 (3) TEC in the Nice Treaty)

**Article III-126 (ex Article 19 TEC)**

U\* A European law or framework law of the Council shall determine the detailed arrangements for exercising the right, referred to in Article I-10(2)(b), for every citizen of the Union to vote and to stand as a candidate in municipal elections and elections to the European Parliament in his or her Member State of residence without being a national of that State. The Council shall act unanimously after consulting the European Parliament. These arrangements may provide for derogations where warranted by

**Election rules**

Unanimity in the Council

EP consulted

National derogations

problems specific to a Member State.

The right to vote and to stand as a candidate in elections to the European Parliament shall be exercised without prejudice to Article III-330(1) and the measures adopted for its implementation.

**Diplomatic protection**

**Article III-127 (ex Article 20 TEC)**

Member States shall adopt the necessary provisions to secure diplomatic and consular protection of citizens of the Union in third countries, as referred to in Article I-10(2)(c).

Member States shall commence the international negotiations required to secure this protection.

New: European law by qualified majority in the Council, and the EP consulted

X\* A European law of the Council may establish the measures necessary to facilitate such protection. The Council shall act after consulting the European Parliament.

**Languages**

**Article III-128 (ex Article 21 TEC)**

Official Union languages: those listed in Art. IV-448,1

The languages in which every citizen of the Union has the right to address the institutions or bodies under Article I-10(2)(d), and to have an answer, are those listed in Article IV-448(1). The institutions and bodies referred to in Article I-10(2)(d) are those listed in Articles I-19(1), second subparagraph, I-30, I-31 and I-32 and also the European Ombudsman.

**Report on Citizenship**

**Article III-129 (ex Article 22 TEC)**

- Report on development of Union citizenship every third year

The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of Article I-10 and of this Title. This report shall take account of the development of the Union.

New citizens' rights: Unanimity in Council, now EP's consent; national approval

U\*\*\* On the basis of this report, and without prejudice to the other provisions of the Constitution, a European law or framework law of the Council may add to the rights laid down in Article I-10. The Council shall act unanimously after obtaining the consent of the European Parliament. The law or framework law concerned shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

National ratification

**TITLE III  
INTERNAL POLICIES AND ACTION**

**CHAPTER I  
INTERNAL MARKET**

**SECTION 1  
ESTABLISHMENT AND FUNCTIONING  
OF THE INTERNAL MARKET**

**Article III-130** (*ex Articles 14, 15 TEC*)

Shared competence:  
**The Internal Market**

1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Constitution.

2. The internal market shall comprise an area without internal frontiers in which the free movement of persons, services, goods and capital is ensured in accordance with the Constitution.

Area without internal frontiers, allowing free movement

*X* 3. The Council, on a proposal from the Commission, shall adopt European regulations and decisions determining the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.

Council decides regulations/decisions, by qualified majority

4. When drawing up its proposals for achieving the objectives set out in paragraphs 1 and 2, the Commission shall take into account the extent of the effort that certain economies showing differences in development will have to sustain for the establishment of the internal market and it may propose appropriate measures.

Possibility of temporary exceptions from the internal market rules

If these measures take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the internal market.

Exceptions must cause as little disturbance as possible

**Article III-131** (*ex Article 297 TEC*)

**Consultations**

Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the internal market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war, serious international tension constituting a threat of war, or in order

Internal disturbances

War

to carry out obligations it has accepted for the purpose of maintaining peace and international security.

**Exclusive competence  
Distorted competition**

- If measures distort competition, the Commission and the Member State shall examine them

**Article III-132 (ex Article 298 TEC)**

If measures taken in the circumstances referred to in Articles III-131 and III-436 have the effect of distorting the conditions of competition in the internal market, the Commission shall, together with the Member State concerned, examine how these measures can be adjusted to the rules laid down in the Constitution.

Abuse shall be referred directly to the Court

By way of derogation from the procedure laid down in Articles III-360 and III-361, the Commission or any Member State may bring the matter directly before the Court of Justice if the Commission or Member State considers that another Member State is making improper use of the powers provided for in Articles III-131 and III-436. The Court of Justice shall give its ruling in camera.

SECTION 2

FREE MOVEMENT OF PERSONS AND SERVICES

Shared competence:  
**Free movement of workers**

**Subsection 1:  
Workers**

**Article III-133 (ex Article 39 TEC)**

1. Workers shall have the right to move freely within the Union.

No discrimination on grounds of nationality...

2. Any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment shall be prohibited.

...unless public policy, security or health

3. Workers shall have the right, subject to limitations justified on grounds of public policy, public security or public health:

Right to:

- accept offers

(a) to accept offers of employment actually made;

- move freely

(b) to move freely within the territory of Member States for this purpose;

(c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action; - stay and work

(d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in European regulations adopted by the Commission. - remain in new country; rules adopted by the Commission

4. This Article shall not apply to employment in the public service. Not public service

**Article III-134 (ex Article 40 TEC)**

X\*\*

European laws or framework laws shall establish the measures needed to bring about freedom of movement for workers, as defined in Article III-133. They shall be adopted after consultation of the Economic and Social Committee. **Free movement of workers** regulated by qualified majority

Such European laws or framework laws shall aim, in particular, to: Aims:

(a) ensure close cooperation between national employment services; - cooperation of employment services

(b) abolish those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers; - removal of administrative borders between States

(c) abolish all such qualifying periods and other restrictions provided for either under national legislation or under agreements previously concluded between Member States as impose on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned; - abolition of qualifying periods that hinder free choice of employment

(d) set up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries. - establishment of transnational contacts between employer and employee

**Exchange of young workers**

**Article III-135 (ex Article 41)**

Member States shall, within the framework of a joint programme, encourage the exchange of young workers.

Shared competence:  
**social protection**

**Article III-136 (ex Article 42 TEC)**

Social protection for migrant workers and their dependants by qualified majority

X\*\*  
1. In the field of social security, European laws or framework laws shall establish such measures as are necessary to bring about freedom of movement for workers by making arrangements to secure for employed and self-employed migrant workers and their dependants:

Periods of work in different countries used for calculating benefits

(a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the different countries;

System of payment of benefits

(b) payment of benefits to persons resident in the territories of Member States.

**Emergency break:**  
If proposal affects overall financial balance, the matter can be sent to the European Council, which within four months can:

2. Where a member of the Council considers that a draft European law or framework law referred to in paragraph 1 would affect fundamental aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the procedure referred to in Article III-396 shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- refer the draft back to the Council

(a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396, or

- ask the Commission to submit a new draft

(b) request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted.

**Freedom of establishment**

**Subsection 2:  
Freedom of establishment**

**Article III-137 (ex Article 43 TEC)**

No restriction on freedom of

Within the framework of this Subsection, restrictions on the freedom of establishment of nationals of a Member State in the

territory of another Member State shall be prohibited. Such **establishment, self-employment and management** prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

Nationals of a Member State shall have the right, in the territory of another Member State, to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article III-142, under the conditions laid down for its own nationals by the law of the Member State where such establishment is effected, subject to Section 4 relating to capital and payments.

**Article III-138** (*ex Article 44 TEC*)

X\*\*

1. European framework laws shall establish measures to attain **Framework laws** freedom of establishment as regards a particular activity. They shall be adopted after consultation of the Economic and Social Committee.

2. The European Parliament, the Council and the Commission shall carry out the duties devolving upon them under paragraph 1, in particular:

(a) by according, as a general rule, priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade;

(b) by ensuring close cooperation between the competent authorities in the Member States in order to ascertain the particular situation within the Union of the various activities concerned;

(c) by abolishing those administrative procedures and practices, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to freedom of establishment;

(d) by ensuring that workers from one Member State employed in the territory of another Member State may remain in that territory **Remaining in territory** for the purpose of taking up activities therein as self-employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that State at the time when they intended to take up such activities;

Acquisition of land and buildings, limited by III-227(2) - agriculture (e) by enabling a national of one Member State to acquire and use land and buildings situated in the territory of another Member State, insofar as this does not conflict with the principles laid down in Article III-227(2);

Abolition of restrictions for certain branches of activities (f) by effecting the progressive abolition of restrictions on freedom of establishment in every branch of activity under consideration, both as regards the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State and as regards the conditions governing the entry of personnel belonging to the main establishment into managerial or supervisory posts in such agencies, branches or subsidiaries;

Protection of Member States' interests (g) by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and others, are required by Member States of companies or firms within the meaning of the second paragraph of Article III-142 with a view to making such safeguards equivalent throughout the Union;

No distortion through aid by Member States (h) by satisfying themselves that the conditions of establishment are not distorted by aids granted by Member States.

**Article III-139:** (ex Article 45 TEC)

X\*\*

Official authorities exempted This Subsection shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.

Other exemptions possible through law European laws or framework laws may exclude certain activities from application of this Subsection.

**Article III-140:** (ex Article 46 TEC)

X\*\*

Special treatment for foreign nationals on grounds of public policy, public security and public health 1. This Subsection and measures adopted in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action in Member States providing for special treatment for foreign nationals on grounds of public policy, public security or public health.

Coordination through legislative procedure 2. European framework laws shall coordinate the national provisions referred to in paragraph 1.

<p style="text-align: center;"><b>Article III-141</b> (<i>ex Article 47 TEC</i>)</p> <p><u>X**/X**</u></p> <p>1. European <u>framework laws</u> shall make it <u>easier</u> for persons to take up and <u>pursue</u> activities as <u>self-employed</u> persons. They shall cover:</p> <p>(a) the <u>mutual recognition</u> of <u>diplomas</u>, certificates and other evidence of formal qualifications;</p> <p>(b) the <u>coordination</u> of the <u>provisions</u> laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons.</p> <p>2. In the case of the <u>medical and allied and pharmaceutical</u> professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for the exercise of such professions in the various Member States.</p>	<p><b>Self-employment and mutual recognition of diplomas, certificates</b></p> <p>Goal: to make self-employment easier via:</p> <ul style="list-style-type: none"><li>- mutual recognition of diplomas</li><li>- coordination of provisions</li></ul> <p>Medical and pharmaceutical professions coordination</p>
<p style="text-align: center;"><b>Article III-142</b> (<i>ex Article 48 TEC</i>)</p> <p><u>Companies</u> or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Union shall, for the purposes of this Subsection, be <u>treated</u> in the <u>same way</u> as <u>natural persons</u> who are nationals of Member States.</p> <p>“Companies or firms” means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.</p>	<p>Companies to be treated the same way as persons</p>
<p style="text-align: center;"><b>Article III-143</b> (<i>ex Article 294 TEC</i>)</p> <p>Member States shall accord <u>nationals of the other Member States</u> <u>the same treatment as their own nationals</u> as regards participation in the capital of companies or firms within the meaning of the second paragraph of Article III-142, without prejudice to the application of the other provisions of the Constitution.</p>	<p>No discrimination against other nationals regarding investments</p>

**Subsection 3:**

**Freedom to provide services**

**Free services**

EP gains co-decision

**Article III-144 (ex Article 49 TEC)**

Restrictions prohibited

X\*\*

Within the framework of this Subsection, restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended.

Rights can be extended to 3<sup>rd</sup> country nationals by qualified majority

European laws or framework laws may extend this Subsection to service providers who are nationals of a third State and who are established within the Union.

**Definition of “service”**

**Article III-145 (ex Article 50 TEC)**

- Paid services which do not fall under free movement of goods, capital and persons  
Definition includes:

Services shall be considered to be “services” for the purposes of the Constitution where they are normally provided for remuneration, insofar as they are not governed by the provisions relating to freedom of movement for persons, goods and capital.

“Services” shall in particular include:

- industrial activities
- commercial activities
- craftsmen
- professionals

- (a) activities of an industrial character;
- (b) activities of a commercial character;
- (c) activities of craftsmen;
- (d) activities of the professions.

Under the same conditions as the state’s own nationals

Without prejudice to Subsection 2 relating to freedom of establishment, the person providing a service may, in order to do so, temporarily pursue his or her activity in the Member State where the service is provided, under the same conditions as are imposed by that State on its own nationals.

**Article III-146 (ex Article 51 TEC)**

**Transport**

1. Freedom to provide services in the field of transport shall be governed by Section 7 of Chapter III relating to transport.

**Banking & insurance**

2. The liberalisation of banking and insurance services connected

with movements of capital shall be effected in step with the liberalisation of movement of capital.

**Article III-147** (ex Article 52 TEC)

X\*\*

1. European framework laws shall establish measures to achieve the liberalisation of a specific service. They shall be adopted after consultation of the Economic and Social Committee.

Liberalisation now by ordinary legislative procedure with EP

2. European framework laws referred to in paragraph 1 shall as a general rule give priority to those services which directly affect production costs or the liberalisation of which helps to promote trade in goods.

**Article III-148** (ex Article 53 TEC)

**Further liberalisation**

The Member States shall endeavour to undertake liberalisation of services beyond the extent required by the European framework laws adopted pursuant to Article III-147(1), if their general economic situation and the situation of the economic sector concerned so permit.

Possibility to adopt measures at a more rapid tempo

To this end, the Commission shall make recommendations to the Member States concerned.

Recommendations from the Commission

**Article III-149** (ex Article 54 TEC)

As long as restrictions on freedom to provide services have not been abolished, the Member States shall apply such restrictions without distinction on grounds of nationality or of residence to all persons providing services within the meaning of the first paragraph of Article III-144.

**No discrimination** on grounds of **nationality** or **residence**

**Article III-150** (ex Article 55 TEC)

Official authority and other derogations

Articles III-139 to III-142 shall apply to the matters covered by this Subsection.

Rules on services also used here

**Free movement  
of goods**

**SECTION 3:  
FREE MOVEMENT OF GOODS**

**Exclusive competence:  
Customs union**

**Subsection 1:  
Customs union**

Free movement  
of goods

**Article III-151** (*ex Articles 23 - 27 TEC*)

Ban on customs  
duties and all charges  
with same effect

1. The Union shall comprise a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.

Common  
customs tariff

2. Paragraph 4 and Subsection 3 on the prohibition of quantitative restrictions shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.

Products from 3<sup>rd</sup>  
countries are in  
“free circulation”  
once inside the Union

3. Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.

All customs duties  
between Member  
States prohibited

4. Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.

Customs tariff by  
qualified majority

~~X~~ 5. The Council, on a proposal from the Commission, shall adopt the European regulations and decisions fixing Common Customs Tariff duties.

The  
Commission must:

6. In carrying out the tasks entrusted to it under this Article the Commission shall be guided by:

- promote trade

(a) the need to promote trade between Member States and third countries;

- improve  
competitive capacity

(b) developments in conditions of competition within the Union insofar as they a) lead to an improvement in the competitive capacity of undertakings;

(c) the requirements of the Union as regards the supply of raw materials and b) semi-finished goods; in this connection the Commission shall take care to avoid distorting conditions of competition between Member States in respect of finished goods;

- ensure supply
- avoid competition distorting conditions

(d) the need to avoid serious disturbances in the economies of Member States and to ensure rational development of production and an expansion of consumption within the Union.

- avoid disturbances of economies
- increase consumption

**Subsection 2:  
Customs cooperation**

**Customs cooperation**

**Article III-152 (ex Article 135 TEC)**

X\*\*

Within the scope of application of the Constitution, European laws or framework laws shall establish measures in order to strengthen customs cooperation between Member States and between them and the Commission.

Customs cooperation through legislative procedure

**Subsection 3:  
Prohibition of quantitative restrictions**

**Prohibition of quantitative restrictions**

**Article III-153 (ex Articles 28, 29 TEC)**

Quantitative restrictions on imports and exports and all measures having equivalent effect shall be prohibited between Member States.

...and measures of equivalent effect

**Article III-154 (ex Article 30 TEC)**

**Exceptions:**

Article III-153 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

- morality
- public policy
- public security
- protection of health and life of humans, animals or plants, national treasures, industrial and commercial property

**Article III-155 (ex Article 31 TEC)**

**Public Monopolies**

1. Member States shall adjust any State monopolies of a commercial character so as to ensure that no discrimination

Member States shall not discriminate

regarding the conditions under which goods are procured and marketed exists between nationals of Member States.

(Article also applies indirectly)

This Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. It shall likewise apply to monopolies delegated by the State to others.

Member States shall refrain from new measures contrary to these principles

2. Member States shall refrain from introducing any new measure which is contrary to the principles laid down in paragraph 1 or which restricts the scope of the Articles dealing with the prohibition of customs duties and quantitative restrictions between Member States.

Special rules for monopolies dealing with agricultural products

3. If a State monopoly of a commercial character has rules which are designed to make it easier to dispose of agricultural products or obtain for them the best return, steps should be taken in applying this Article to ensure equivalent safeguards for the employment and standard of living of the producers concerned.

**Free movement of capital**

**SECTION 4:  
CAPITAL AND PAYMENTS**

**Article III-156 (ex Article 56 TEC)**

Ban on restrictions - both between Member States and 3<sup>rd</sup> countries

Within the framework of this Section, restrictions both on the movement of capital and on payments between Member States and between Member States and third countries shall be prohibited.

**Article III-157 (ex Article 57 TEC)**

Restrictions against 3<sup>rd</sup> countries which date from before 1993 are legal

1. Article III-156 shall be without prejudice to the application to third countries of any restrictions which existed on 31 December 1993 under national or Union law adopted in respect of the movement of capital to or from third countries involving direct investment – including investment in real estate, establishment, the provision of financial services or the admission of securities to capital markets. With regard to restrictions which exist under national law in Estonia and Hungary, the date in question shall be 31 December 1999.

X\*\* 2. European laws or framework laws shall enact measures on the movement of capital to or from third countries involving direct investment – including investment in real estate, establishment, the provision of financial services or the admission of securities to capital markets.

Objective: free movement to and from 3rd countries to the greatest extent possible

The European Parliament and the Council shall endeavour to achieve the objective of free movement of capital between Member States and third countries to the greatest extent possible and without prejudice to other provisions of the Constitution.

Liberalisation through legislative procedure

U\* 3. Notwithstanding paragraph 2, only a European law or framework law of the Council may enact measures which constitute a step backwards in Union law as regards the liberalisation of the movement of capital to or from third countries. The Council shall act unanimously after consulting the European Parliament.

Any **step backwards** requires **unanimity** in the Council

**Article III-158 (ex Article 58 TEC)**

**Taxation and supervision**

1. Article III-156 shall be without prejudice to the right of Member States:

(a) to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;

Tax systems can distinguish between the place of residence and the place of investment

(b) to take all requisite measures to prevent infringements of national provisions laid down by law or regulation, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.

Member States can take all steps to prevent infringements of tax law

2. This Section shall be without prejudice to the applicability of restrictions on the right of establishment which are compatible with the Constitution.

No restrictions of the rights of establishment

3. The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article III-156.

No arbitrary discrimination or disguised restriction

The Commission or the Council can declare tax measures against 3rd countries legal

Council acts unanimously

**Safeguard measures against third countries**

- Exceptional safeguard measures covering EMU  
- max duration: 6 months

The Council decides by qualified majority

**Fight against terror**

In fighting terrorism, the freezing of funds, assets and gains is acceptable  
- laws adopted by normal legislative procedure (Art. 308 TEC has been used so far)  
- implementation: Council acts by qualified majority

U 4. In the absence of a European law or framework law provided for in Article III-157(3), the Commission or, in the absence of a European decision of the Commission within three months from the request of the Member State concerned, the Council, may adopt a European decision stating that restrictive tax measures adopted by a Member State concerning one or more third countries are to be considered compatible with the Constitution insofar as they are justified by one of the objectives of the Union and compatible with the proper functioning of the internal market. The Council shall act unanimously on application by a Member State.

**Article III-159 (ex Article 59 TEC)**

X Where, in exceptional circumstances, movements of capital to or from third countries cause, or threaten to cause, serious difficulties for the functioning of economic and monetary union, the Council, on a proposal from the Commission, may adopt European regulations or decisions introducing safeguard measures with regard to third countries for a period not exceeding six months if such measures are strictly necessary. It shall act after consulting the European Central Bank.

**Article III-160 (new, ex Article 60 TEC)**

X\*\*

Where necessary to achieve the objectives set out in Article III-257, as regards preventing and combating terrorism and related activities, European laws shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.

The Council, on a proposal from the Commission, shall adopt European regulations or European decisions in order to implement the European laws referred to in the first paragraph.

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

SECTION 5  
RULES ON COMPETITION

**Competition**

**Subsection 1:**  
**Rules applying to undertakings**

**Article III-161** (*ex Article 81 TEC*)

Prohibition of:

1. The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

- agreements between undertakings
- decisions by associations
- concerted practices

(a) directly or indirectly fix purchase or selling prices or any other trading conditions

- fixing prices

(b) limit or control production, markets, technical development, or investment;

- limiting market mechanisms

(c) share markets or sources of supply;

- sharing markets

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

- discriminatory treatment of trading partners

(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

- demand of irrelevant supplementary obligations

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

Actions contrary to this article are automatically void...

3. Paragraph 1 may, however, be declared inapplicable in the case of:

...unless:

- any agreement or category of agreements between undertakings,
- any decision or category of decisions by associations of undertakings,
- any concerted practice or category of concerted practices,

- they improve the production and distribution of goods

which contributes to improving the production or distribution of

- promote technical or economic progress and do not result in: goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- non-indispensable restriction (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

- the possibility of eliminating competition (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

**Abuse of dominant position is prohibited**

**Article III-162 (ex Article 82 TEC)**

Forms of abuse:

Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market insofar as it may affect trade between Member States.

Such abuse may, in particular, consist in:

- unfair prices (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

- unfair limitations (b) limiting production, markets or technical development to the prejudice of consumers;

- dissimilar transaction conditions (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

- irrelevant supplementary obligations (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

**Decision-making on competition**

**Article III-163 (ex Article 83 TEC)**

- Regulations through qualified majority in Council X\* The Council, on a proposal from the Commission, shall adopt the European regulations to give effect to the principles set out in Articles III-161 and III-162. It shall act after consulting the European Parliament.

Goal of regulation: Such regulations shall be designed in particular:

- (a) to ensure compliance with the prohibitions laid down in Article III-161(1) and in Article III-162 by making provision for fines and periodic penalty payments;

- ensuring compliance through fines
- (b) to lay down detailed rules for the application of Article III-161(3), taking into account the need to ensure effective supervision on the one hand, and to simplify administration to the greatest possible extent on the other;

- effective supervision  
- simplifying administration
- (c) to define, if need be, in the various branches of the economy, the scope of Articles III-161 and III-162;

- defining scope of competition
- (d) to define the respective functions of the Commission and of the Court of Justice of the European Union in applying the provisions laid down in this paragraph;

- defining role of Commission and EU Court
- (e) to determine the relationship between Member States' laws and this Subsection as well as the European regulations adopted pursuant to this Article.

- determine relationship between Union and national laws

**Article III-164 (ex Article 84 TEC)**

**Member States**

Until the entry into force of the European regulations adopted pursuant to Article III-163, the authorities in Member States shall rule on the admissibility of agreements, decisions and concerted practices and on abuse of a dominant position in the internal market in accordance with their national law and Article III-161, in particular paragraph 3, and Article III-162.

competent until regulation adopted

**Article III-165 (ex Article 85 TEC)**

**Commission's role**

1. Without prejudice to Article III-164, the Commission shall ensure the application of the principles set out in Articles III-161 and III-162. On application by a Member State or on its own initiative, and in cooperation with the competent authorities in the Member States, which shall give it their assistance, the Commission shall investigate cases of suspected infringement of these principles. If it finds that there has been an infringement, it shall propose appropriate measures to bring it to an end.

Commission ensures principles by:  
- investigating cases  
- making proposals

2. If the infringement referred to in paragraph 1 is not brought to an end, the Commission shall adopt a reasoned European decision recording the infringement of the principles. The Commission may

- making a reasoned decision recording the infringement

publish its decision and authorise Member States to take the measures, the conditions and details of which it shall determine, needed to remedy the situation.

New: Commission adopts regulations on supervision and administration

3. The Commission may adopt European regulations relating to the categories of agreement in respect of which the Council has adopted a European regulation pursuant to Article III-163, second paragraph, (b).

**Public monopolies**

**Article III-166 (ex Article 86 TEC)**

must also obey the rules of competition...

1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the Constitution, in particular Article I-4(2) and Articles III-161 to III-169.

...unless this obstructs their performance

2. Undertakings entrusted with the operation of services of general economic interest or having the character of an income-producing monopoly shall be subject to the provisions of the Constitution, in particular to the rules on competition, insofar as the application of such provisions does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the Union’s interests.

The Commission adopts regulations/decisions

3. The Commission shall ensure the application of this Article and shall, where necessary, adopt appropriate European regulations or decisions.

**Subsection 2:**

**Aid granted by Member States**

**State Aid**

**Article III-167 (ex Article 87 TEC)**

**Ban on State aid affecting trade between Member States**

1. Save as otherwise provided in the Constitution, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the internal market.

2. The following shall be compatible with the internal market: Permitted:
- (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned; - social aid to individuals
  - (b) aid to make good the damage caused by natural disasters or exceptional occurrences; - compensation for exceptional occurrences and natural disasters
  - (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, insofar as such aid is required in order to compensate for the economic disadvantages caused by that division. Five years after the entry into force of the Treaty establishing a Constitution for Europe, the Council, acting on a proposal from the Commission, may adopt a European decision repealing this point. - aid to east Germany (This can be repealed 5 years after the Constitution comes into force with qualified majority)
3. The following may be considered to be compatible with the internal market: Can be permitted:
- (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article III-424, in view of their structural, economic and social situation; - aid for development of areas in special situations
  - (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State; - promotion of projects of common European interest
  - (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest; - certain economic activities and areas, without affecting trading conditions
  - (d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest; - culture and heritage, without affecting trading conditions
  - (e) such other categories of aid as may be specified by European regulations or decisions adopted by the Council on a proposal from the Commission. - other exceptions, decided by Council by qualified majority

**Commission's role**

**Article III-168 (ex Article 88 TEC)**

Commission shall constantly review Member States' aid

1. The Commission, in cooperation with Member States, shall keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the internal market.

Commission can adopt a decision requiring the abolition of aid

2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a Member State or through State resources is not compatible with the internal market having regard to Article III-167, or that such aid is being misused, it shall adopt a European decision requiring the Member State concerned to abolish or alter such aid within a period of time to be determined by the Commission.

Cases can be brought before the EU Court

If the Member State concerned does not comply with this European decision within the prescribed time, the Commission or any other interested Member State may, in derogation from Articles III-360 and III-361, refer the matter to the Court of Justice of the European Union directly.

**Dispensations**

States can ask the Council to declare their aid legal

*U* On application by a Member State, the Council may adopt unanimously a European decision that aid which that State is granting or intends to grant shall be considered to be compatible with the internal market, in derogation from Article III-167 or from European regulations provided for in Article III-169, if such a decision is justified by exceptional circumstances. If, as regards the aid in question, the Commission has already initiated the procedure provided for in the first subparagraph of this paragraph, the fact that the Member State concerned has made its application to the Council shall have the effect of suspending that procedure until the Council has made its attitude known.

This request suspends the above mentioned procedure for 3 months

If, however, the Council has not made its attitude known within three months of the said application being made, the Commission shall act.

The Commission has to be informed and must give its approval for intended aid

3. The Commission shall be informed by the Member States, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the internal market having regard to Article III-167, it shall without delay initiate the procedure

provided for in paragraph 2 of this Article. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.

The Member State shall await final decision

4. The Commission may adopt European regulations relating to the categories of State aid that the Council has, pursuant to Article III-169, determined may be exempted from the procedure provided for by paragraph 3 of this Article.

New: Commission adopts regulations

**Article III-169 (ex Article 89 TEC)**

X\*

The Council, on a proposal from the Commission, may adopt European regulations for the application of Articles III-167 and III-168 and for determining in particular the conditions in which Article III-168(3) shall apply and the categories of aid exempted from the procedure provided for in Article 168(3). It shall act after consulting the European Parliament.

Council adopts regulations by qualified majority

SECTION 6:

FISCAL PROVISIONS

**Tax and fiscal rules**

**Article III-170 (ex Articles 90 - 92 TEC)**

1. No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.

**Ban on discriminatory taxation**  
- including indirect taxes

Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products.

2. Where products are exported by a Member State to the territory of another Member State, any repayment of internal taxation shall not exceed the internal taxation imposed on them whether directly or indirectly.

For exports: repay not higher than the amount paid for internal taxes

3. In the case of charges other than turnover taxes, excise duties and other forms of indirect taxation, remissions and repayments in respect of exports to other Member States may not be granted and countervailing charges in respect of imports from Member States may not be imposed unless the provisions contemplated have been

A qualified majority in the Council can approve temporary exemptions after proposal from the Commission

previously approved for a limited period by a European decision adopted by the Council on a proposal from the Commission.

**Harmonisation of VAT and indirect taxation**

Indirect taxes to be harmonised by the Council acting unanimously

**Article III-171 (ex Article 93 TEC)**

U\*

A European law or framework law of the Council shall establish measures for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation provided that such harmonisation is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition. The Council shall act unanimously after consulting the European Parliament and the Economic and Social Committee.

**Harmonising of laws with the so-called environmental clause**

**Approximation of specific internal market laws**

Internal market laws and framework laws adopted through normal legislative procedure by qualified majority

No application to:

- taxation
- movement of persons
- employees' rights

High level of protection for health, safety, environment, consumer protection, but not the "highest" level

**"Environmental guarantee"**

SECTION 7  
COMMON PROVISIONS

**Article III-172 (ex Article 95 TEC)**

X\*\*

1. Save where otherwise provided in the Constitution, this Article shall apply for the achievement of the objectives set out in Article III-130. European laws or framework laws shall establish measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market. Such laws shall be adopted after consultation of the Economic and Social Committee.

2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons or to those relating to the rights and interests of employed persons.

3. The Commission, in its proposals submitted under paragraph 1 concerning health, safety, environmental protection and consumer protection, shall take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council shall also seek to achieve this objective.

4. If, after the adoption of a harmonisation measure by means of a European law or framework law or by means of a European

regulation of the Commission, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article III-154, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

**Keeping** better rules for the:  
- environment  
- working environment

5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by means of a European law or framework law or by means of a European regulation of the Commission, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions and the reasons for them.

**Introducing** better rules for:  
- environment  
- working environment  
- specific problems arising for a State after harmonisation

6. The Commission shall, within six months of the notifications referred to in paragraphs 4 and 5, adopt a European decision approving or rejecting the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market.

The Commission decides whether a measure is:  
- discriminatory  
- a hidden trade restriction  
- an obstacle to the functioning of the Internal Market

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger to human health, the Commission may notify the Member State concerned that the period referred to in this paragraph will be extended for a further period of up to six months.

Extension of period by 6 months

7. When, pursuant to paragraph 6, a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.

If a national derogation from harmonisation is approved, Commission can propose it for all

8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures.

Health not included in the foregoing so-called environmental guarantee

Reference directly to the EU Court if Member State makes improper use of powers

9. By way of derogation from the procedure laid down in Articles III-360 and III-361, the Commission and any Member State may bring the matter directly before the Court of Justice of the European Union if it considers that another Member State is making improper use of the powers provided for in this Article.

Safeguard clause under Union control

10. The harmonisation measures referred to in this Article shall, in appropriate cases, include a safeguard clause authorising the Member States to take, for one or more of the non-economic reasons referred to in Article III-154, provisional measures subject to a Union control procedure.

**General approximation of laws**

**Article III-173 (ex Article 94 TEC)**

*U\**

Laws to be harmonised by unanimity in the Council, if there is no specific legal basis

Without prejudice to Article III-172, a European framework law of the Council shall establish measures for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market. The Council shall act unanimously after consulting the European Parliament and the Economic and Social Committee.

**Distorted competition**

**Article III-174 (ex Article 96 TEC)**

Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.

Framework laws aimed to eliminate distortion

*X\*\** If such consultation does not result in agreement, European framework laws shall establish the measures necessary to eliminate the distortion in question. Any other appropriate measures provided for in the Constitution may be adopted.

**Consultation duty**

**Article III-175 (ex Article 97 TEC)**

Duty to consult with the Commission on possible distortion of competition

1. Where there is reason to fear that the adoption or amendment of a provision laid down by law, regulation or administrative action of a Member State may cause distortion within the meaning of Article III-174, a Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the

Commission shall address to the Member States concerned a recommendation on such measures as may be appropriate to avoid the distortion in question.

2. If a Member State desiring to introduce or amend its own provisions does not comply with the recommendation addressed to it by the Commission, other Member States shall not be required, pursuant to Article III-174, to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the recommendation of the Commission causes distortion detrimental only to itself, Article III-174 shall not apply.

**Article III-176 (new)**

X\*\* In the context of the establishment and functioning of the internal market, European laws or framework laws shall establish measures for the creation of European intellectual property rights to provide uniform intellectual property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements.

U\* A European law of the Council shall establish language arrangements for the European intellectual property rights. The Council shall act unanimously after consulting the European Parliament.

**Intellectual property**

Laws and framework laws adopted by qualified majority in the Council provide uniform intellectual property rights (Art. 308 TEC has been used so far)

**Language rules**  
by unanimity

CHAPTER II  
ECONOMIC AND MONETARY POLICY

**Article III-177 (ex Article 4 TEC)**

For the purposes set out in Article I-3, the activities of the Member States and the Union shall include, as provided in the Constitution, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.

Concurrently with the foregoing, and as provided in the Constitution and in accordance with the procedures set out therein,

**ECONOMIC POLICY AND THE EMU**

**Principles:**

Economic coordination

Open market economy

Monetary policy and the introduction of a

single currency  
are part of the  
economic policy

these activities shall include a single currency, the euro, and the definition and conduct of a single monetary policy and exchange-rate policy, the primary objective of both of which shall be to maintain price stability and, without prejudice to this objective, to support general economic policies in the Union, in accordance with the principle of an open market economy with free competition.

Stable prices

These activities of the Member States and the Union shall entail compliance with the following guiding principles: stable prices, sound public finances and monetary conditions and a stable balance of payments.

Sound public  
finances

SECTION 1  
ECONOMIC POLICY

**Objective:**

**Article III-178** (*ex Article 98 TEC*)

open market  
economy with free  
competition

Member States shall conduct their economic policies in order to contribute to the achievement of the Union's objectives, as defined in Article I-3, and in the context of the broad guidelines referred to in Article III-179(2). The Member States and the Union shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article III-177.

**Coordination of  
economic policy**

**Article III-179** (*ex Article 99 TEC*)

- EP change from  
cooperation procedure  
to co-decision

1. Member States shall regard their economic policies as a matter of common concern and shall coordinate them within the Council, in accordance with Article III-178.

General guidelines to  
be adopted by qualified  
majority in the Council  
as non-binding  
recommendations

*X* 2. The Council, on a recommendation from the Commission, shall formulate a draft for the broad guidelines of the economic policies of the Member States and of the Union, and shall report its findings to the European Council.

The European Council, on the basis of the report from the Council, shall discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the Union. On the basis of this conclusion, the Council shall adopt a recommendation setting out these broad guidelines. It shall inform the European Parliament of its recommendation.

3. In order to ensure closer coordination of economic policies and sustained convergence of the economic performances of the Member States, the Council, on the basis of reports submitted by the Commission, shall monitor economic developments in each of the Member States and in the Union, as well as the consistency of economic policies with the broad guidelines referred to in paragraph 2, and shall regularly carry out an overall assessment.

The Council monitors the economies of the Member States following reports from the Commission

For the purpose of this multilateral surveillance, Member States shall forward information to the Commission on important measures taken by them in the field of their economic policy and such other information as they deem necessary.

X 4. Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned. The Council, on a proposal from the Commission, may decide to make its recommendations public.

If guidelines are breached, the Commission adopts warnings and a qualified majority in the Council can:  
- make recommendations  
- publish them

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

The vote of the Member State concerned does not count

A qualified majority shall be defined as at least 55% of the other members of the Council, representing Member States comprising at least 65% of the population of the participating Member States.

A blocking minority must include at least the minimum number of these other Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

5. The President of the Council and the Commission shall report to the European Parliament on the results of multilateral surveillance. The President of the Council may be invited to appear before the competent committee of the European Parliament if the Council has made its recommendations public.

Report to the European Parliament and appear before the committee

X\*\* 6. European laws may lay down detailed rules for the

Rules for monitoring

by qualified majority multilateral surveillance procedure referred to in paragraphs 3 and 4.

**Severe difficulties**

**Article III-180 (ex Article 100 TEC)**

X

Measures can be taken if severe difficulties arise in supply

1. Without prejudice to any other procedures provided for in the Constitution, the Council, on a proposal from the Commission, may adopt a European decision laying down measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products.

Possibility of granting financial assistance in cases of exceptional occurrences or natural disasters

2. Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council, on a proposal from the Commission, may adopt a European decision granting, under certain conditions, Union financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision adopted.

**Ban on overdrafts**

**Article III-181 (ex Article 101 TEC)**

from the national banks and the Central Bank for other credit institutions

1. Overdraft facilities or any other type of credit facility with the European Central Bank or with the central banks of the Member States (hereinafter referred to as "national central banks") in favour of Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the European Central Bank or national central banks of debt instruments.

2. Paragraph 1 shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the European Central Bank as private credit institutions.

**No loan privileges**

**Article III-182 (ex Article 102 TEC)**

Any measure or provision, not based on prudential considerations, establishing privileged access by Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States to financial institutions shall be prohibited.

**Article III-183** (ex Article 103 TEC)

1. The Union shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project.

X\* 2. The Council, on a proposal from the Commission, may adopt European regulations or decisions specifying definitions for the application of the prohibitions laid down in Articles III-181 and III-182 and in this Article. It shall act after consulting the European Parliament.

**No Union liability for debt**

- with the exception of mutual guarantees

A qualified majority in the Council decides the details, now only after consulting the EP

**Article III-184** (ex Article 104 TEC)

1. Member States shall avoid excessive government deficits.

2. The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the Member States in order to identify gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following two criteria:

(a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, unless:

- i. either the ratio has declined substantially and continuously and reached a level that comes close to the reference value, or
- ii. alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value;

(b) whether the ratio of government debt to gross domestic product exceeds a reference value, unless the ratio is diminishing sufficiently and approaching the reference value at a satisfactory pace.

**Most important article on monetary union**

- Avoidance of **large deficits**  
- The Commission monitors **budgetary discipline**

Two criteria:  
**3%** of planned or actual government deficit - can exceed a reference value if:

- substantial decline  
- exceptional decline

exceeding **60% of overall government debt...** unless debt ratio is diminishing sufficiently

Reference values specified in the Protocol N° 10	The <u>reference values</u> are specified <u>in the Protocol</u> on the <u>excessive deficit procedure</u> .
Report on excessive deficits takes into account relevant factors, such as government's investments and medium-term position	3. If a Member State does <u>not fulfil</u> the requirements under one or both of these <u>criteria</u> , the Commission shall prepare a <u>report</u> . The Commission's report shall also take into account whether the government deficit exceeds government investment expenditure and <u>take into account</u> all other <u>relevant factors</u> , including the medium-term economic and budgetary position of the Member State.
Commission report about risk of excessive deficit	The Commission may <u>also</u> prepare a <u>report if</u> , notwithstanding the fulfilment of the requirements under the criteria, it is of the opinion that there is a <u>risk of an excessive deficit</u> in a Member State.
Committee gives opinion on report Commission's opinion to Member State on deficit	4. The <u>Economic</u> and <u>Financial Committee</u> set up under Article III-192 shall <u>formulate</u> an <u>opinion</u> on the Commission's report.  5. <u>If</u> the Commission considers that an <u>excessive deficit</u> in a Member State exists or may occur, it shall address an <u>opinion</u> to the Member State concerned and shall inform the Council accordingly.
The Council decides by qualified majority on a Commission proposal whether the deficit is excessive and makes a recommendation to the Member State concerned	<u>X</u> 6. The <u>Council</u> shall, on a <u>proposal</u> from the Commission, having considered any observations which the Member State concerned may wish to make and after an overall assessment, <u>decide whether</u> an <u>excessive deficit exists</u> . In that case it shall adopt, without undue delay, on a <u>recommendation</u> from the <u>Commission</u> , <u>recommendations</u> addressed to the Member State concerned with a view to <u>bringing</u> that <u>situation to an end</u> within a given period. Subject to paragraph 8, those recommendations shall not be made public.
No vote for Member State in question	Within the scope of this paragraph, the <u>Council</u> shall <u>act without</u> taking into account the <u>vote of</u> the member of the Council representing the <u>Member State concerned</u> .
- 55% of votes representing 65% of EU population required	A <u>qualified majority</u> shall be defined as <u>at least 55%</u> of the other members of the Council, representing Member States comprising at least <u>65%</u> of the <u>population</u> of the participating Member States.  A blocking minority must include at least the minimum number of

these other Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

X 7. The Council, on a recommendation from the Commission, shall adopt the European decisions and recommendations referred to in paragraphs 8 to 11.

Qualified majority used in paragraphs 8 to 11 without the vote of the Member State in question

It shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority shall be defined as at least 55% of the other members of the Council, representing Member States comprising at least 65% of the population of the participating Member States.

QMV = 55% of members of the Council comprising 65% of the population

A blocking minority must include at least the minimum number of these other Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

Blocking minority = 35% of the population of the Eurozone + 1 Member State

X 8. Where it adopts a European decision establishing that there has been no effective action in response to its recommendations within the period laid down, the Council may make its recommendations public.

Council can:  
- publish recommendations

X 9. If a Member State persists in failing to put the Council's recommendations into practice, the Council may adopt a European decision giving notice to the Member State to take, within a specified time-limit, measures for the deficit reduction which the Council judges necessary to remedy the situation.

- impose measures

In such a case, the Council may request the Member State concerned to submit reports in accordance with a specific timetable in order to examine the adjustment efforts of that Member State.

- request reports

X 10. As long as a Member State fails to comply with a European decision adopted in accordance with paragraph 9, the Council may decide to apply or, as the case may be, intensify one or more of the following measures:

If failure to comply, the following measures can be imposed:

(a) require the Member State concerned to publish additional information, to be specified by the Council, before issuing bonds and securities;

- request for information

- review of lending conditions	(b) invite the <u>European Investment Bank</u> to <u>reconsider its lending policy</u> towards the Member State concerned;
- demand of a <b>non-interest-bearing deposit</b>	(c) <u>require</u> the Member State concerned to make a <u>non-interest-bearing deposit</u> of an appropriate size with the Union until the Council considers that the excessive deficit has been corrected;
- imposition of <b>fin</b> es	(d) <u>impose fines</u> of an appropriate size.
EP informed	The President of the Council shall inform the European Parliament of the measures adopted.
When problem of excessive deficit is being solved, measures shall be repealed	<i>X</i> 11. The Council shall <u>repeal</u> some or all of the <u>measures</u> referred to in paragraph 6 and paragraphs 8, 9 and 10 if it considers the <u>excessive deficit</u> in the Member State concerned to <u>have been corrected</u> . If the Council has previously made public recommendations, it shall state publicly, as soon as the European decision referred to in paragraph 8 has been repealed, that there is no longer an excessive deficit in the Member State concerned.  12. The rights to bring <u>actions</u> provided for in Articles III-360 and III-361 shall not be exercised within the framework of paragraphs 1 to 6 or paragraphs 8 and 9.
Protocol N° 10 on deficits	13. Further provisions relating to the implementation of the procedure laid down in this Article are set out in the Protocol on the excessive deficit procedure.
Protocol N° 10 to be replaced by European law by unanimity	<i>U*</i> A European <u>law</u> of the Council shall lay down the appropriate measures to <u>replace</u> the said <u>Protocol</u> . The Council shall act <u>unanimously</u> after <u>consulting</u> the European <u>Parliament</u> and the European Central Bank.
Implementation by qualified majority in Council	<i>X*</i> Subject to the other provisions of this paragraph, the Council, on a proposal from the Commission, shall adopt European <u>regulations</u> or decisions laying down <u>detailed rules</u> and definitions <u>for the application</u> of the said <u>Protocol</u> . It shall act after <u>consulting</u> the European <u>Parliament</u> .

SECTION 2  
MONETARY POLICY

**Article III-185** (ex Article 105 TEC)

1. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to this objective, the European System of Central Banks shall support the general economic policies in the Union in order to contribute to the achievement of its objectives as laid down in Article I-3. The European System of Central Banks shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article III-177.

2. The basic tasks to be carried out through the European System of Central Banks shall be:

(a) to define and implement the Union's monetary policy;

(b) to conduct foreign-exchange operations consistent with Article III-326;

(c) to hold and manage the official foreign reserves of the Member States;

(d) to promote the smooth operation of payment systems.

3. Paragraph 2(c) shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.

4. The European Central Bank shall be consulted:

(a) on any proposed Union act in areas within its powers;

(b) by national authorities regarding any draft legislative provision in areas within its powers, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article III-187(4).

Exclusive competence:  
**Monetary policy**

**Objective of the  
Central Bank  
System**

**price stability**

Tasks of ESCB:

- monetary policy

- foreign exchange operations

- management of foreign reserves

- practical payment systems

Excluding the Government's own holdings

The Central Bank is to be consulted when:

- Union acts fall within its competence

- national legislation is adopted in areas within its powers

ECB can give an opinion

The European Central Bank may submit opinions to the Union institutions, bodies, offices or agencies or to national authorities on matters within its powers.

ESCB must supervise

5. The European System of Central Banks shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

Financial supervision decided by the Council with unanimity, EP is now only consulted (assent procedure today)

*U\** 6. A European law of the Council may confer specific tasks upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. The Council shall act unanimously after consulting the European Parliament and the European Central Bank.

**Article III-186** (*ex Article 106 TEC*)

**Exclusive right to authorise the issuing of bank notes**

1. The European Central Bank shall have the exclusive right to authorise the issue of euro bank notes in the Union. The European Central Bank and the national central banks may issue such notes. Only the bank notes issued by the European Central Bank and the national central banks shall have the status of legal tender within the Union.

Coins to be approved by ECB

2. Member States may issue euro coins subject to approval by the European Central Bank of the volume of the issue.

Regulations by qualified majority in the Council

*X\** The Council, on a proposal from the Commission, may adopt European regulations laying down measures to harmonise the denominations and technical specifications of coins intended for circulation to the extent necessary to permit their smooth circulation within the Union. The Council shall act after consulting the European Parliament and the European Central Bank.

**Organisation**

**Article III-187** (*ex Article 107 TEC*)

The governing Council and the Executive Board

1. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank, which shall be the Governing Council and the Executive Board.

Statute laid down in Protocol N° 4

2. The Statute of the European System of Central Banks is laid down in the Protocol on the Statute of the European System of

Central Banks and of the European Central Bank.

X\*\* 3. Article 5(1), (2) and (3), Articles 17 and 18, Article 19(1), Articles 22, 23, 24 and 26, Article 32(2), (3), (4) and (6), Article 33(1)(a) and Article 36 of the Statute of the European System of Central Banks and of the European Central Bank may be amended by European laws: The statute can be amended by laws if:

X\*\* (a) either on a proposal from the Commission and after consultation of the European Central Bank; - Commission proposes

XX\*\* (b) or on a recommendation from the European Central Bank and after consultation of the Commission. - ECB recommends

X\* 4. The Council shall adopt the European regulations and decisions laying down the measures referred to in Article 4, Article 5(4), Article 19(2), Article 20, Article 28(1), Article 29(2), Article 30(4) and Article 34(3) of the Statute of the European System of Central Banks and of the European Central Bank. It shall act after consulting the European Parliament: The Council adopts measures, EP is consulted

X\* (a) either on a proposal from the Commission and after consulting the European Central Bank; - Commission proposes; ECB is consulted

XX\* (b) or on a recommendation from the European Central Bank and after consulting the Commission. - ECB recommends, Commission is consulted

**Article III-188 (ex Article 108 TEC)**

**Independence**

When exercising the powers and carrying out the tasks and duties conferred upon them by the Constitution and the Statute of the European System of Central Banks and of the European Central Bank, neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body. The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks. Neither ECB nor national central banks can receive instructions from any other body

**Article III-189** (ex Article 109 TEC)

National adaptation of legislation

Each Member State shall ensure that its national legislation, including the statutes of its national central bank, is compatible with the Constitution and the Statute of the European System of Central Banks and of the European Central Bank.

**Article III-190** (ex Article 110 TEC)

**Regulations and decisions**

The ECB adopts:

1. In order to carry out the tasks entrusted to the European System of Central Banks, the European Central Bank shall, in accordance with the Constitution and under the conditions laid down in the Statute of the European System of Central Banks and of the European Central Bank, adopt:

- regulations for implementing tasks

(a) European regulations to the extent necessary to implement the tasks defined in Article 3(1)(a), Article 19(1), Article 22 and Article 25(2) of the Statute of the European System of Central Banks and of the European Central Bank and in cases which shall be laid down in European regulations and decisions as referred to in Article III-187(4);

- decisions carrying out tasks

(b) European decisions necessary for carrying out the tasks entrusted to the European System of Central Banks under the Constitution and the Statute of the European System of Central Banks and of the European Central Bank;

- recommendations and opinions

(c) recommendations and opinions.

ECB can publish own acts

2. The European Central Bank may decide to publish its European decisions, recommendations and opinions.

ECB can impose fines – the Council decides conditions by qualified majority

*X\*/XX\** 3. The Council shall, under the procedure laid down in Article III-187(4), adopt the European regulations establishing the limits and conditions under which the European Central Bank shall be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its European regulations and decisions.

**Euro-law**

**Article III-191** (ex Article 123(4) TEC)

Measures for use of the Euro adopted by

*X\*\**

Without prejudice to the powers of the European Central Bank, European laws or framework laws shall lay down the measures

necessary for use of the euro as the single currency. Such laws or framework laws shall be adopted after consultation of the European Central Bank.

legislative procedure;  
the ECB is consulted

SECTION 3:  
INSTITUTIONAL PROVISIONS

**Economic and  
Financial Committee**

**Article III-192 (ex Article 114[2-4] TEC)**

1. In order to promote coordination of the policies of Member States to the full extent needed for the functioning of the internal market, an Economic and Financial Committee is hereby set up.

- promotes  
coordination of  
Member States'  
policies

2. The Committee shall have the following tasks:

(a) to deliver opinions at the request of the Council or of the Commission, or on its own initiative, for submission to those institutions;

- delivers opinions

(b) to keep under review the economic and financial situation of the Member States and of the Union and to report on it regularly to the Council and to the Commission, in particular with regard to financial relations with third countries and international institutions;

- examines the  
economic and  
financial situation  
of Member States

(c) without prejudice to Article III-344, to contribute to the preparation of the work of the Council referred to in Article III-159, Article III-179(2), (3), (4) and (6), Articles III-180, III-183 and III-184, Article III-185(6), Article III-186(2), Article III-187(3) and (4), Articles III-191 and III-196, Article III-198(2) and (3), Article III-201, Article III-202(2) and (3) and Articles III-322 and III-326, and to carry out other advisory and preparatory tasks assigned to it by the Council;

- helps preparatory  
work of Council

(d) to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of the Constitution and of Union acts; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council on the outcome of this examination.

- examines all  
measures on  
movement of capital  
and freedom of  
payments

The Member States, the Commission and the European Central Bank shall each appoint no more than two members of the Committee.

Member States,  
Commission and  
ECB each appoint  
up to 2 members

Council decides composition of Economic and Financial Committee

X 3. The Council, on a proposal from the Commission, shall adopt a European decision laying down detailed provisions concerning the composition of the Economic and Financial Committee. It shall act after consulting the European Central Bank and the Committee. The President of the Council shall inform the European Parliament of that decision.

Member States with derogations

4. In addition to the tasks referred to in paragraph 2, if and as long as there are Member States with a derogation as referred to in Article III-197, the Committee shall keep under review the monetary and financial situation and the general payments system of those Member States and report regularly to the Council and to the Commission on the matter.

**Article III-193** (ex Article 115 TEC)

Request for a Commission recommendation or proposal

For matters within the scope of Article III-179(4), Article III-184 with the exception of paragraph 13, Articles III-191, III-196, Article III-198(3) and Article III-326, the Council or a Member State may request the Commission to make a recommendation or a proposal, as appropriate. The Commission shall examine this request and submit its conclusions to the Council without delay.

**Euro-zone budget discipline by qualified majority by euro-zone members only**

**SECTION 4**  
**PROVISIONS SPECIFIC TO MEMBER STATES WHOSE CURRENCY IS THE EURO**

**Article III-194** (new)

Complementary measures shall be adopted **for euro-zone countries**

X 1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Constitution, the Council shall, in accordance with the relevant procedure from among those referred to in Articles III-179 and III-184, with the exception of the procedure set out in Article III-184(13), adopt measures specific to those Member States whose currency is the euro:

Strengthening the coordination of their budgetary discipline

(a) to strengthen the coordination and surveillance of their budgetary discipline;

Economic guidelines

(b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.

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

Qualified majority among euro-zone members only, 55% of the members of the Council comprising 65% of the population

A qualified majority shall be defined as at least 55% of these members of the Council, representing Member States comprising at least 65% of the population of the participating Member States.

A blocking minority must include at least the minimum number of these Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

Blocking minority = 35% of the population of the Eurozone + 1 Member State

**Article III-195 (new)**

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

**Protocol N° 12 for euro-countries**

**Article III-196 (new)**

X

**The euro's place in the world**

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

New competence: Council adopts common position for the international monetary system by qualified majority

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

Qualified majority for a unified representation in international organisations

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

Council decides representation by qualified majority of the euro-zone members

A qualified majority shall be defined as at least 55% of these members of the Council, representing Member States comprising at least 65% of the population of the participating Member States.

A blocking minority must include at least the minimum number of these Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

SECTION 5  
TRANSITIONAL PROVISIONS

**Article III-197** *(ex Article 122(1, 3-5) TEC)*

**Derogations for Member States which do not have the euro**

For these Member States, the euro provisions do not apply

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

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

(a) adoption of the parts of the broad economic policy guidelines which concern the euro area generally (Article III-179(2));

(b) coercive means of remedying excessive deficits (Article III-184(9) and (10));

(c) the objectives and tasks of the European System of Central Banks (Article III-185(1), (2), (3) and (5));

(d) issue of the euro (Article III-186)

(e) acts of the European Central Bank (Article III-190)

(f) measures governing the use of the euro (Article III-191)

(g) monetary agreements and other measures relating to exchange-rate policy (Article III-326);

(h) appointment of members of the Executive Board of the European Central Bank (Article III-382(2));

(i) European decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences (Article III-196(1));

(j) measures to ensure unified representation within the international financial institutions and conferences (Article III-196(2)).

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

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

The exclusion of these Member States from the ESCB is laid down in the Statute

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

Member States with derogations have no voting rights in the Council when it deals with euro issues...

(a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings (Article III-179(4));

...especially not for recommendations following multilateral surveillance or for procedures in case of excessive deficits

(b) measures relating to excessive deficits concerning those Member States whose currency is the euro (Article III-184(6), (7), (8) and (11)).

A qualified majority shall be defined as at least 55% of the other members of the Council, representing Member States comprising at least 65% of the population of the participating Member States.

QMV= 55% of the members of the Council comprising 65% of the EU population

A blocking minority must include at least the minimum number of these other Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

**Article III-198** (ex Articles 121[1-2], 122[2], 123[5] TEC)

**Member States with derogation (no euro)**

1. At least once every two years, or at the request of a Member State with a derogation, the Commission and the European Central Bank shall report to the Council on the progress made by the Member States with a derogation in fulfilling their obligations

Commission and ECB each submit a yearly report on progress of the Member States

wanting to  
join the euro

regarding the achievement of economic and monetary union. These reports shall include an examination of the compatibility between the national legislation of each of these Member States, including the statutes of its national central bank, and Articles III-188 and III-189 and the Statute of the European System of Central Banks and of the European Central Bank. The reports shall also examine whether a high degree of sustainable convergence has been achieved, by analysing how far each of these Member States has fulfilled the following criteria:

The reports examine  
whether the  
following criteria  
have been fulfilled:

- price stability

(a) the achievement of a high degree of price stability; this is apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability;

- no excessive  
budget deficit

(b) the sustainability of the government financial position; this is apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article III-184(6);

- observance of  
normal fluctuation  
margins

(c) the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European monetary system, for at least two years, without devaluing against the euro;

- durability of  
convergence

(d) the durability of convergence achieved by the Member State with a derogation and of its participation in the exchange-rate mechanism, being reflected in the long-term interest-rate levels.

The 4 convergence  
criteria are specified  
in the Protocol N°11

The four criteria laid down in this paragraph and the relevant periods over which they are to be respected are developed further in the Protocol on the convergence criteria. The reports from the Commission and the European Central Bank shall also take account of the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

The Council decides  
by qualified majority  
who can join  
the euro-zone

X\* 2. After consulting the European Parliament and after discussion in the European Council, the Council, on a proposal from the Commission, shall adopt a European decision establishing which Member States with a derogation fulfil the necessary conditions on the basis of the criteria laid down in paragraph 1, and shall abrogate the derogations of the Member States concerned.

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

Qualified majority of euro-countries recommend

The qualified majority referred to in the second subparagraph shall be defined as at least 55% of these members of the Council, representing Member States comprising at least 65% of the population of the participating Member States. A blocking minority must include at least the minimum number of these Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

*U* 3. If it is decided, in accordance with the procedure set out in paragraph 2, to abrogate a derogation, the Council shall, on a proposal from the Commission, adopt the European regulations or decisions irrevocably fixing the rate at which the euro is to be substituted for the currency of the Member State concerned, and laying down the other measures necessary for the introduction of the euro as the single currency in that Member State.

The euro-zone fixes, by unanimity, the rate at which the euro substitutes the currency of the new euro-member

The Council shall act with the unanimous agreement of the members representing Member States whose currency is the euro and the Member State concerned, after consulting the European Central Bank.

#### **Article III-199** (ex Articles 123[3], 117[2] TEC)

1. If and as long as there are Member States with a derogation, and without prejudice to Article III-187(1), the General Council of the European Central Bank referred to in Article 45 of the Statute of the European System of Central Banks and of the European Central Bank shall be constituted as a third decision-making body of the European Central Bank.

General Council of the ECB

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

Relations between non-euro states and the ECB

(a) strengthen cooperation between the national central banks;

(b) strengthen the coordination of the monetary policies of the

Member States, with the aim of ensuring price stability;

(c) monitor the functioning of the exchange-rate mechanism;

(d) hold consultations concerning issues falling within the competence of the national central banks and affecting the stability of financial institutions and markets;

(e) carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute.

**Article III-200** (ex Article 124[1] TEC)

**Exchange-rate**  
is a matter of  
common interest

Each Member State with a derogation shall treat its exchange-rate policy as a matter of common interest. In so doing, it shall take account of the experience acquired in cooperation within the framework of the exchange-rate mechanism.

**Mutual assistance**

**Article III-201** (ex Article 119 TEC)

If balance of  
payments of a  
non-euro Member  
State is seriously  
threatened...

1. Where a Member State with a derogation is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of the internal market or the implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the Constitution. The Commission shall state what measures it recommends the Member State concerned to adopt.

...Commission can  
recommend mutual  
assistance

If the action taken by a Member State with a derogation and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the Economic and Financial Committee, recommend to the Council the granting of mutual assistance and appropriate methods.

The Commission shall keep the Council regularly informed of the situation and of how it evolves.

*XX* 2. The Council shall adopt European regulations or decisions granting such mutual assistance and laying down the conditions and details of such assistance, which may take such forms as:

The Council can grant mutual assistance by qualified majority

(a) a concerted approach to or within any other international organisations to which Member States with a derogation may have recourse;

(b) measures needed to avoid deflection of trade where the Member State with a derogation, which is in difficulties, maintains or reintroduces quantitative restrictions against third countries;

(c) the granting of limited credits by other Member States, subject to their agreement.

3. If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, the Commission shall authorise the Member State with a derogation, which is in difficulties, to take protective measures, the conditions and details of which the Commission shall determine.

Commission decides until a qualified majority in the Council revokes a decision

Such authorisation may be revoked and such conditions and details may be changed by the Council.

**Article III-202** (*ex Article 120 TEC*)

**Protective measures**

1. Where a sudden crisis in the balance of payments occurs and a European decision as referred to in Article III-201(2) is not immediately adopted, a Member State with a derogation may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the internal market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

Member States can take protective measures in a sudden crisis

2. The Commission and the other Member States shall be informed of the protective measures referred to in paragraph 1 not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article III-201.

Commission and other Member States are informed

*XX* 3. The Council, acting on a recommendation from the Commission and after consulting the Economic and Financial

Council decides by qualified majority

Committee may adopt a European decision stipulating that the Member State concerned shall amend, suspend or abolish the protective measures referred to in paragraph 1.

**Shared competences according to Art. I-14**  
**Coordinating competences, Art. I-15**

CHAPTER III  
POLICIES IN OTHER AREAS

**Employment chapter**  
- introduced by the Treaty of Amsterdam

SECTION 1  
EMPLOYMENT

Coordinated strategy for jobs  
- a high level of employment through promoting a skilled, trained and adaptable workforce

**Article III-203** (*ex Article 125 TEC*)

The Union and the Member States shall, in accordance with this Section, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives referred to in Article I-3.

**Promoting of jobs**

**Article III-204** (*ex Article 126 TEC*)

Member States are competent, but must pursue Union's objectives

1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article III-203 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Union adopted pursuant to Article III-179(2).

Promotion of employment to be coordinated

2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with Article III-206.

**High level of jobs**

**Article III-205** (*ex Article 127 TEC*)

The Union shall support Member States in achieving a high level of employment

1. The Union shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected.

2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of Union policies and activities.

Other Union policies shall take employment into consideration

**Article III-206 (ex Article 128 TEC)**

**Recommendations**

1. The European Council shall each year consider the employment situation in the Union and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.

Employment guidelines for the Member States

*X\** 2. On the basis of the conclusions of the European Council, the Council, on a proposal from the Commission, shall each year adopt guidelines which the Member States shall take into account in their employment policies. It shall act after consulting the European Parliament, the Committee of the Regions, the Economic and Social Committee and the Employment Committee.

The Council, by qualified majority, draws up non-binding employment guidelines in line with economic guidelines

These guidelines shall be consistent with the broad guidelines adopted pursuant to Article III-179(2).

3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.

Annual reports from each Member State

*XX* 4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, on a recommendation from the Commission, may adopt recommendations which it shall address to Member States.

The Council, on a recommendation from the Commission, issues recommendations to the Member States by qualified majority

*XX* 5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the Union and on the implementation of the guidelines for employment.

Joint annual report

**Article III-207 (ex Article 129 TEC)**

**Incentive measures**

*X\*\**

European laws or framework laws may establish incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment

- are established by qualified majority in the Council

through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

No harmonisation Such European laws or framework laws shall not include harmonisation of the laws and regulations of the Member States.

Employment Committee **Article III-208 (ex Article 130 TEC)**

advisory status *Simple majority\** The Council shall, by a simple majority, adopt a European decision establishing an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. It shall act after consulting the European Parliament.

The tasks of the Committee shall be:

- monitors (a) to monitor the employment situation and employment policies in the Union and the Member States;

- delivers opinions (b) without prejudice to Article III-344, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article III-206.

- consults social partners In fulfilling its mandate, the Committee shall consult management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

Shared competence: **Social and labour market policy** **SECTION 2**  
**SOCIAL POLICY**

Objectives **Article III-209 (ex Article 136 TEC)**

Rise of employment level and of the living and working conditions The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community

Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Union and the Member States shall act taking account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy.

They believe that such a development will ensue not only from the functioning of the internal market, which will favour the harmonisation of social systems, but also from the procedures provided for in the Constitution and from the approximation of provisions laid down by law, regulation or administrative action of the Member States.

**Article III-210** (ex Article 137 TEC)

1. With a view to achieving the objectives of Article III-209, the Union shall support and complement the activities of the Member States in the following fields:

- (a) improvement in particular of the working environment to protect workers' health and safety;
- (b) working conditions;
- (c) social security and social protection of workers;
- (d) protection of workers where their employment contract is terminated;
- (e) the information and consultation of workers;
- (f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 6;

Union's actions shall take account of diverse national practices in contractual relations and of the benefit of competitiveness

**Harmonisation of social systems**

**The most important social article**

The Union supports and complements

Legislative procedure (QMV, EP veto) X\*\*

Legislative procedure (QMV, EP veto) X\*\*

**Unanimity** in Council, EP consulted U\*

**Unanimity** in Council, EP consulted U\*

Legislative procedure (QMV, EP veto) X\*\*

**Unanimity** in Council, EP consulted U\*

<p><b>Unanimity</b> in Council, EP consulted U*</p>	<p>(g) conditions of employment for <u>third-country</u> nationals legally residing in Union territory;</p>
<p>Legislative procedure (QMV, EP veto) X**</p>	<p>(h) the <u>integration</u> of <u>persons</u> excluded from the <u>labour market</u>, without prejudice to Article III-283;</p>
<p>Legislative procedure (QMV, EP veto) X**</p>	<p>(i) <u>equality</u> between women and men with regard to labour market opportunities and treatment at work;</p>
<p>Legislative procedure (QMV, EP veto) X**</p>	<p>(j) the combating of <u>social exclusion</u>;</p>
<p>Legislative procedure (QMV, EP veto) X**</p>	<p>(k) the <u>modernisation of social protection</u> systems without prejudice to point (c).</p>

2. For the purposes of paragraph 1:

<p>Measures to encourage cooperation adopted through legislative procedure</p>	<p>X** (a) European <u>laws</u> or <u>framework laws</u> may establish <u>measures</u> designed to <u>encourage cooperation</u> between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, <u>excluding any harmonisation</u> of the laws and regulations of the Member States;</p>
<p>No harmonisation</p>	

<p>Minimum rules in points (a)-(i), see above</p>	<p>X** (b) in the fields referred to in paragraph 1(a) to (i), European framework laws may establish <u>minimum requirements</u> for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such European <u>framework laws</u> shall <u>avoid</u> imposing administrative, financial and legal constraints in a way which would <u>hold back</u> the creation and development of <u>small and medium-sized undertakings</u>.</p>
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In all cases, such European laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

U\* 3. By way of derogation from paragraph 2, in the fields referred to in paragraph 1(c), (d), (f) and (g), European laws or framework laws shall be adopted by the Council acting unanimously after consulting the European Parliament, the Committee of the Regions and the Economic and Social Committee.

The Council may, on a proposal from the Commission, adopt a European decision making the ordinary legislative procedure applicable to paragraph 1(d), (f) and (g). It shall act unanimously after consulting the European Parliament.

**A unanimous Council may change unanimity to ordinary legislative procedure with qualified majority**

4. A Member State may entrust management and labour, at their joint request, with the implementation of European framework laws adopted pursuant to paragraph 2 and 3 or, where appropriate, with the implementation of European regulations or decisions adopted in accordance with Article III-212.

Management and labour can implement framework laws

In this case, it shall ensure that, no later than the date on which a European framework law must be transposed, or a European regulation or decision implemented, the social partners have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that framework law, regulation or decision.

But, the Member State must guarantee the result

5. The European laws and framework laws adopted pursuant to this Article:

Union acts:

(a) shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium of such systems;

- may not affect fundamental principles of social systems

(b) shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Constitution.

- may not prevent higher standards when compatible with Constitution

6. This Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

Pay, right of association, strikes and lock-outs dealt with in Parts II and III-213(g)

**Article III-211 (ex Article 138 TEC)**

**Consultation**

1. The Commission shall promote the consultation of management and labour at Union level and shall adopt any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.

- of management and labour

- before submitting proposals      2. For the purposes of paragraph 1, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Union action.
- on content of proposal when submitting      3. If, after the consultation referred to in paragraph 2, the Commission considers Union action desirable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.
- Deadline: 9 months to come to an agreement according to III-212      4. On the occasion of the consultation referred to in paragraphs 2 and 3, management and labour may inform the Commission of their wish to initiate the process provided for in Article III-212(1). The duration of this process shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

**Collective agreements**

**Article III-212 (ex Article 139 TEC)**

- Management and labour can make Union-level agreements      1. Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements.
- Implementation:  
- labour-management practice  
- Member states  
- regulations/decisions of the Council (by qualified majority)      *X* 2. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article III-210, at the joint request of the signatory parties, by European regulations or decisions adopted by the Council on a proposal from the Commission. The European Parliament shall be informed.
- Unanimity in some cases      *U\** Where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to Article III-210(3), the Council shall act unanimously.

Commission role

**Article III-213 (ex Article 140 TEC)**

Commission shall encourage cooperation and coordination on:      With a view to achieving the objectives of Article III-209 and without prejudice to the other provisions of the Constitution, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this Section, particularly in matters relating to:

- |   |  |
|---|--|
| (a) <u>employment</u> ;   | - employment                                     |
| (b) <u>labour law</u> and <u>working conditions</u> ;   | - labour law and<br>working conditions           |
| (c) basic and advanced <u>vocational training</u> ;   | - training                                       |
| (d) <u>social security</u> ;  | - social security                                |
| (e) prevention of <u>occupational accidents and diseases</u> ;                                      | - prevention of accidents<br>and diseases        |
| (f) occupational <u>hygiene</u> ;   | - hygiene  |
| (g) the <u>right of association</u> and <u>collective bargaining</u> between employers and workers. | - right of association;<br>collective bargaining |

To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

Means:  
- studies  
- opinions  
- consultation  
- guidelines  
- best practice  
- monitoring  
- evaluation

Before delivering the opinions provided for in this Article, the Commission shall consult the Economic and Social Committee.

**Article III-214** (ex Article 141 TEC)

**Equality at work**

1. Each Member State shall ensure that the principle of equal pay for female and male workers for equal work or work of equal value is applied.

Equal pay for  
work of equal value

2. For the purpose of this Article, “pay” means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Broad definition  
of “pay”

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

Uniform calculation  
methods required

(b) that pay for work at time rates shall be the same for the same job.

Law by legislative procedure;  
consult EcoSoc

X\*\* 3. European laws or framework laws shall establish measures to ensure the application of the principle of equal opportunities and equal treatment of women and men in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value. They shall be adopted after consultation of the Economic and Social Committee.

Specific advantages for underrepresented sex allowed

4. With a view to ensuring full equality in practice between women and men in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity, or to prevent or compensate for disadvantages in professional careers.

Paid holiday

**Article III-215 (ex Article 142 TEC)**

Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.

Social report

**Article III-216 (ex Article 143 TEC)**

Annual Commission report on social situation

The Commission shall draw up a report each year on progress in achieving the objectives of Article III-209, including the demographic situation within the Union. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.

Social Protection Committee, advisory

**Article III-217 (ex Article 144 TEC)**

The Council decides by simple majority

*Simple majority\** The Council shall, by a simple majority, adopt a European decision establishing a Social Protection Committee with advisory status to promote cooperation on social protection policies between Member States and with the Commission. The Council shall act after consulting the European Parliament.

The Committee's tasks:

The tasks of the Committee shall be:

- monitoring of the social situation

(a) to monitor the social situation and the development of social protection policies in the Member States and within the Union;

<p>(b) to <u>promote</u> exchanges of information, experience and <u>good practice</u> between Member States and with the Commission;</p>	<p>- promotion of good practice</p>
<p>(c) without prejudice to Article III-344, to prepare <u>reports</u>, formulate <u>opinions</u> or undertake <u>other work</u> within the scope of its powers, at the request of either the Council or the Commission or on its own initiative.</p>	<p>- preparing reports and opinions</p>
<p>In fulfilling its mandate, the Committee shall establish <u>appropriate contacts with management and labour</u>.</p>	<p>Committee consists of 2 members from each Member State and 2 from the Commission</p>
<p>Each Member State and the Commission shall <u>appoint two members of the Committee</u>.</p>	
<p><b>Article III-218</b> <i>(ex Article 145 TEC)</i></p>	
<p>The Commission shall include a separate <u>chapter on social developments</u> within the Union <u>in its annual report</u> to the European Parliament.</p>	<p>Commission reports to EP on social development</p>
<p>The European <u>Parliament</u> may <u>invite the Commission</u> to draw up reports on any particular problems concerning social conditions.</p>	<p>EP may ask for more information</p>
<p><b>Article III-219</b> <i>(ex Articles 146 - 148 TEC)</i></p>	
<p>1. In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European <u>Social Fund</u> is hereby established; it shall <u>aim</u> to render the <u>employment of workers easier</u> and to increase their geographical and occupational <u>mobility</u> within the Union, and to <u>facilitate</u> their <u>adaptation to industrial changes</u> and to changes in production systems, in particular through vocational training and retraining.</p>	<p>European Social Fund promotes: - easy employment of workers - mobility of workers - workers' adaptation to industrial changes</p>
<p>2. The <u>Commission</u> shall <u>administer the Fund</u>. It shall be assisted in this task <u>by a Committee</u> presided over by a member of the Commission and composed of representatives of Member States, trade unions and employers' organisations.</p>	<p>Commission administers; assisted by a Committee of Member States, trade unions and employers</p>
<p>X** 3. European laws shall establish <u>implementing measures</u> relating to the Fund. Such <u>laws</u> shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.</p>	<p>Implementation through laws with qualified majority</p>

Shared competence:  
**Social and territorial cohesion**

SECTION 3:  
ECONOMIC, SOCIAL AND TERRITORIAL COHESION

Objectives:

**Article III-220** (*ex Article 158 TEC*)

In order to promote its overall harmonious development, the Union shall develop and pursue its action leading to the strengthening of its economic, social and territorial cohesion.

- reduction of disparities
- development of least favoured regions with particular attention to rural and other handicapped regions

In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions.

Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.

**Structural Funds**

**Article III-221** (*ex Article 159 TEC*)

Means:

- Coordination of Member States' economic policies
- Structural Funds
- European Investment Bank

Member States shall conduct their economic policies and shall coordinate them in such a way as, in addition, to attain the objectives set out in Article III-220. The formulation and implementation of the Union's policies and action and the implementation of the internal market shall take into account those objectives and shall contribute to their achievement. The Union shall also support the achievement of these objectives by the action it takes through the Structural Funds (European Agricultural Guidance and Guarantee Fund, Guidance Section; European Social Fund; European Regional Development Fund), the European Investment Bank and the other existing financial instruments.

Commission reports every third year

The Commission shall submit a report to the European Parliament, the Council, the Committee of the Regions and the Economic and Social Committee every three years on the progress made towards achieving economic, social and territorial cohesion and on the manner in which the various means provided for in this Article have contributed to it. This report shall, if necessary, be accompanied by appropriate proposals.

X\*\* European laws or framework laws may establish any specific measure outside the Funds, without prejudice to measures adopted within the framework of the Union's other policies. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Specific measures can be established besides the Funds by ordinary legislative procedure

**Article III-222** (ex Article 160 TEC)

**Regional Fund**

The European Regional Development Fund is intended to help to redress the main regional imbalances in the Union through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions.

**Article III-223** (ex Article 161 TEC)

**Tasks of Structural funds**

first U\*\*\*, then X\*\*

1. Without prejudice to Article III-224, European laws shall define the tasks, the priority objectives and the organisation of the Structural Funds, which may involve grouping the Funds, the general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing financial instruments.

Tasks of Structural Funds defined by laws (the Council decides by unanimity until 2007)

A Cohesion Fund set up by a European law shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.

Cohesion Fund for environment and trans-European networks

In all cases, such European laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

2. The first provisions on the Structural Funds and the Cohesion Fund to be adopted following those in force on the date on which the Treaty establishing a Constitution for Europe is signed shall be established by a European law of the Council. The Council shall act unanimously after obtaining the consent of the European Parliament.

First provisions for Structural and Cohesion Fund to be adopted unanimously by the Council

**Article III-224** (ex Article 162 TEC)

**Implementing measures, Regional Fund**

X\*\* European laws shall establish implementing measures relating to the European Regional Development Fund. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

adopted by qualified majority in the Council

With regard to the European Agricultural Guidance and Guarantee Fund, Guidance Section, and the European Social Fund, Articles III-231 and III-219(3) respectively shall apply.

Shared competence:  
**Agriculture and fisheries**, biological resources in the sea - exclusive competence

**SECTION 4:**  
**AGRICULTURE AND FISHERIES**

The common agricultural policy, CAP

**Article III-225** *(ex Article 32[1, 2. sentence] TEC)*

Definition of agriculture and fisheries

The Union shall define and implement a common agriculture and fisheries policy.

The concept “agriculture” subsumes fisheries

“Agricultural products” means the products of the soil, of stockfarming and of fisheries and products of first-stage processing directly related to these products. References to the common agricultural policy or to agriculture, and the use of the term “agricultural”, shall be understood as also referring to fisheries, having regard to the specific characteristics of this sector.

One internal market

**Article III-226** *(ex Article 32 TEC)*

Agriculture is part of the internal market

1. The internal market shall extend to agriculture and trade in agricultural products.

General rule: internal market rules apply to agriculture

2. Save as otherwise provided in Articles III-227 to III-232, the rules laid down for the establishment and functioning of the internal market shall apply to agricultural products.

3. The products listed in Annex I shall be subject to Articles III-227 to III-232.

Common Agricultural Policy (CAP)

4. The operation and development of the internal market for agricultural products must be accompanied by a common agricultural policy.

Objectives:

**Article III-227** *(ex Article 33 TEC)*

- increase of productivity

1. The objectives of the common agricultural policy shall be:  
(a) to increase agricultural productivity by promoting technical

progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;

(b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture; - ensuring fair standard of living for agricultural community

(c) to stabilise markets; - stabilising markets

(d) to assure the availability of supplies; - assuring supplies

(e) to ensure that supplies reach consumers at reasonable prices. - ensuring reasonable prices

2. In working out the common agricultural policy and the special methods for its application, account shall be taken of: CAP must take account of:

(a) the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions; - the particular nature of agricultural activity

(b) the need to effect the appropriate adjustments by degrees; - gradual adjustment

(c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole. - the close links between the economies

**Article III-228 (ex Article 34 TEC)**

Common Market Organisation (CMO)...

1. In order to attain the objectives set out in Article III-227, a common organisation of agricultural markets shall be established. ...through the following methods:

This organisation shall take one of the following forms, depending on the product concerned:

(a) common rules on competition; - competition rules

(b) compulsory coordination of the various national market organisations; - compulsory coordination of markets

(c) a European market organisation. - a European market organisation

<p>Means:</p> <ul style="list-style-type: none"> <li>- regulation of prices</li> <li>- aid</li> <li>- storage</li> <li>- import and export stabilisation</li> </ul>	<p>2. The common organisation established in accordance with paragraph 1 may include all measures required to attain the objectives set out in Article III-227, in particular <u>regulation of prices, aids for the production and marketing of the various products, storage and carryover arrangements</u> and common machinery for <u>stabilising imports or exports</u>.</p>
<p>No discrimination inside Union</p>	<p>The common organisation shall be limited to pursuit of the objectives set out in Article III-227 and shall <u>exclude any discrimination between producers or consumers within the Union</u>.</p>
<p>Uniform price calculation methods</p>	<p>Any common price policy shall be based on <u>common criteria and uniform methods of calculation</u>.</p>
<p>Guarantee Funds</p>	<p>3. In order to enable the common organisation referred to in paragraph 1 to attain its objectives, one or more agricultural guidance and <u>guarantee funds</u> may be set up.</p>

**Article III-229** (ex Article 35 TEC)

To enable the objectives set out in Article III-227 to be attained, provision may be made within the framework of the common agricultural policy for measures such as:

<p>Means:</p> <ul style="list-style-type: none"> <li>- coordination, training, research, dissemination of knowledge</li> <li>- promotion of consumption</li> </ul>	<p>(a) an effective <u>coordination</u> of efforts in the spheres of <u>vocational training</u>, of <u>research</u> and of the <u>dissemination of agricultural knowledge</u>; this may include <u>joint financing</u> of projects or institutions;</p> <p>(b) joint measures to <u>promote consumption</u> of certain products.</p>
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**Article III-230** (ex Article 36 TEC)

<p>Limits to the application of competition rules, legislation adopted by normal procedure</p>	<p>1. The Section relating to <u>rules on competition</u> shall <u>apply</u> to production of and trade in <u>agricultural products only</u> to the extent <u>determined by</u> a European <u>law or framework law</u> in accordance with Article III-231(2), having regard to the objectives set out in Article III-227.</p>
<p>Commission proposes, the Council decides granting of aid to:</p>	<p><i>X</i> 2. The Council, acting on a proposal from the Commission, may adopt a European <u>regulation</u> or <u>decision</u> authorising the granting of <u>aid</u>:</p>

(a) or the protection of enterprises handicapped by structural or natural conditions;

- companies in less favourable areas

(b) within the framework of economic development programmes.

- economic development programmes

**Article III-231 (ex Article 37 TEC)**

**Decision-making procedure**

1. The Commission shall submit proposals for working out and implementing the common agricultural policy, including the replacement of the national organisations by one of the forms of common organisation provided for in Article III-228(1), and for implementing the measures referred to in this Section.

Commission proposes

These proposals shall take account of the interdependence of the agricultural matters mentioned in this Section.

X\*\* 2. European laws or framework laws shall establish the common organisation of the market provided for in Article III-228(1)] and the other provisions necessary for the achievement of the objectives of the common agricultural policy and the common fisheries policy.

Legislative procedure for the organisation of markets, here EP gains co-decision...

X 3. The Council, acting on a proposal from the Commission, shall adopt the European regulations or decisions on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.

...Council alone on:  
- fixing prices, levies, aid and quantitative limitations  
- allocation of fishing

4. In accordance with paragraph 2, the national market organisations may be replaced by the common organisation provided for in Article III-128(1)] if:

Common Market replaces national markets if:

(a) the common organisation offers Member States which are opposed to this measure and which have an organisation of their own for the production in question equivalent safeguards for the employment and standard of living of the producers concerned, account being taken of the adjustments that will be possible and the specialisation that will be needed with the passage of time;

- account is taken of time needed to adjust and specialise

(b) such an organisation ensures conditions for trade within the Union similar to those existing in a national market.

- conditions similar to national market are ensured

5. If a common organisation for certain raw materials is established before a common organisation exists for the corresponding processed products, such raw materials as are used for processed products intended for export to third countries may be imported from outside the Union.

**Article III-232** (ex Article 38 TEC)

Countervailing charges in cases of discrimination

Where in a Member State a product is subject to a national market organisation or to internal rules having equivalent effect which affect the competitive position of similar production in another Member State, a countervailing charge shall be applied by Member States to imports of this product coming from the Member State where such organisation or rules exist, unless that State applies a countervailing charge on export.

Commission shall fix the amount of the necessary charges

The Commission shall adopt European decisions fix the amount of these charges at the level required to redress the balance; it may also authorise other measures, the conditions and details of which it shall determine.

Shared competence:  
**Environment**

SECTION 5  
ENVIRONMENT

**Article III-233** (ex Article 174 TEC)

Environmental objectives

1. Union policy on the environment shall contribute to pursuit of the following objectives:

- (a) preserving, protecting and improving the quality of the environment;
- (b) protecting human health;
- (c) prudent and rational utilisation of natural resources;
- (d) promoting measures at international level to deal with regional or worldwide environmental problems.

High level of protection, not the "highest".  
Principles:  
- Precautionary  
- Preventive  
- Polluter pays

2. Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

In this context, harmonisation measures answering environmental protection requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional steps, for non-economic environmental reasons, subject to a procedure of inspection by the Union.

Safeguard clause

3. In preparing its policy on the environment, the Union shall take account of:

Union takes account of:

- (a) available scientific and technical data;
- (b) environmental conditions in the various regions of the Union;
- (c) the potential benefits and costs of action or lack of action;
- (d) the economic and social development of the Union as a whole and the balanced development of its regions.

4. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for the Union's cooperation may be the subject of agreements between the Union and the third parties concerned.

Cooperation with 3<sup>rd</sup> countries and international organisations

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

**Article III-234** (ex Articles 175, 176 TEC)

*X\*\** 1. European laws or framework laws shall establish what action is to be taken in order to achieve the objectives referred to in Article III-233. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Action determined by normal legislation with qualified majority

*U\** 2. By way of derogation from paragraph 1 and without prejudice to Article III-172, the Council shall unanimously adopt European laws or framework laws establishing:

Unanimity required for:

- (a) provisions primarily of a fiscal nature;

- fiscal provisions

- (b) measures affecting:

- (i) town and country planning;

- town and country planning

- management of water resources (ii) quantitative management of water resources or affecting, directly or indirectly, the availability of those resources;
  - land use, minus waste management (iii) land use, with the exception of waste management;
  - choice of energy sources and supply (c) measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply.
- Council can decide by unanimity to apply the ordinary legislative procedure to the areas mentioned above** The Council, on a proposal from the Commission, may unanimously adopt a European decision making the ordinary legislative procedure applicable to the matters referred to in the first subparagraph .
- In all cases, the Council shall act after consulting the European Parliament, the Committee of the Regions and the Economic and Social Committee.
- Action programmes: ordinary legislative procedure *X\*\** 3. European laws shall establish general action programmes which set out priority objectives to be attained. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.
- The measures necessary for the implementation of these programmes shall be adopted under the terms of paragraph 1 or 2, as the case may be.
- Member States must finance and implement the environment policy 4. Without prejudice to certain measures adopted by the Union, the Member States shall finance and implement the environment policy.
- Temporary derogations when costs are too high 5. Without prejudice to the principle that the polluter should pay, if a measure based on paragraph 1 involves costs deemed disproportionate for the public authorities of a Member State, such measure shall provide in appropriate form for:
- temporary derogations (a) temporary derogations, and/or
  - financial support (b) financial support from the Cohesion Fund.
- Stricter national rules can be kept, if 6. The protective measures adopted pursuant to this Article shall not prevent any Member State from maintaining or introducing

more stringent protective measures. Such measures must be compatible with the Constitution. They shall be notified to the Commission.

compatible with the Constitution. Commission must be notified

SECTION 6  
CONSUMER PROTECTION

Shared competence:  
**Consumer Protection**

**Article III-235** (*ex Article 153[1, 3-5] TEC*)

Aims and means

1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.

Objective:  
a high level of protection, not the “highest” level

2. The Union shall contribute to the attainment of the objectives referred to in paragraph 1 through:

(a) measures adopted pursuant to Article III-172 in the context of the establishment and functioning of the internal market;

As part of the Internal Market

(b) measures which support, supplement and monitor the policy pursued by the Member States.

Special policies

X\*\* 3. European laws or framework laws shall establish the measures referred to in paragraph 2(b). Such laws shall be adopted after consultation of the Economic and Social Committee.

Legislative procedure with qualified majority

4. Acts adopted pursuant to paragraph 3 shall not prevent any Member State from maintaining or introducing more stringent protective provisions. Such provisions must be compatible with the Constitution. They shall be notified to the Commission.

Stricter national rules can be kept, if compatible with the Constitution. Commission must be notified

SECTION 7  
TRANSPORT

Shared competence:  
**Transport policy**

**Article III-236** (*ex Articles 70, 71 TEC*)

A common transport policy

1. The objectives of the Constitution shall, in matters governed by this Section, be pursued within the framework of a common transport policy.

Legislation by qualified majority in the Council (today QMV under 71 [1] and unanimity under 71 [2] TEC)

X\*\* 2. European laws or framework laws shall implement paragraph 1, taking into account the distinctive features of transport. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Legislation covers:

Such European laws or framework laws shall establish:

- international transport

(a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;

- transport services

(b) the conditions under which non-resident carriers may operate transport services within a Member State;

- transport safety

(c) measures to improve transport safety;

- any other measure

(d) any other appropriate measure.

Legislation shall take account of geographic differences

X\*\* 3. When the European laws or framework laws referred to in paragraph 2 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities.

Transition article

**Article III-237** (ex Article 72 TEC)

- unanimity required for less favourable treatment of carriers from other Member States

U Until the European laws or framework laws referred to in Article III-236(2) have been adopted, no Member State may, unless the Council has unanimously adopted a European decision granting a derogation, make the various provisions governing the subject on 1 January 1958 or, for acceding States, the date of their accession less favourable in their direct or indirect effect on carriers of other Member States as compared with carriers who are nationals of that State.

**Aid**

**Article III-238** (ex Article 73 TEC)

Aid is allowed up to a certain limit

Aids shall be compatible with the Constitution if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.

**Article III-239** (ex Article 74 TEC)

Transport rates

Any measures adopted within the framework of the Constitution in respect of transport rates and conditions shall take account of the economic circumstances of carriers.

Consideration for economic circumstances of carriers

**Article III-240** (ex Article 75 TEC)

Ban on discrimination

1. In the case of transport within the Union, discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the Member State of origin or of destination of the goods in question shall be prohibited.

2. Paragraph 1 shall not prevent the adoption of other European laws or framework laws pursuant to Article III-236(2).

*X\** 3. The Council, on a proposal from the Commission, shall adopt European regulations or decisions for implementing paragraph 1. It shall act after consulting the European Parliament and the Economic and Social Committee.

Detailed rules adopted by the Council by qualified majority

The Council may in particular adopt the European regulations and decisions needed to enable the institutions to secure compliance with the rule laid down in paragraph 1 and to ensure that users benefit from it to the full.

4. The Commission, acting on its own initiative or on application by a Member State, shall investigate any cases of discrimination falling within paragraph 1 and, after consulting any Member State concerned, adopt the necessary European decisions within the framework of the European regulations and decisions referred to in paragraph 3.

Commission shall intervene against discrimination

**Article III-241** (ex Article 76 TEC)

No national support

1. The imposition by a Member State, in respect of transport operations carried out within the Union, of rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries shall be prohibited, unless authorised by a European decision of the Commission.

unless authorised by the Commission

2. The Commission, acting on its own initiative or on application by a Member State, shall examine the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate regional economic policy, the needs of underdeveloped areas and the problems of areas seriously affected by political circumstances on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport on the other.

Commission  
adopts decisions

After consulting each Member State concerned, the Commission shall adopt the necessary European decisions.

Tariffs excepted

3. The prohibition provided for in paragraph 1 shall not apply to tariffs fixed to meet competition.

No profit on frontiers

**Article III-242** (*ex Article 77 TEC*)

Reasonable charges  
for crossing frontiers

Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to the transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account.

Member States shall endeavour to reduce these costs.

The Commission may make recommendations to Member States for the application of this Article.

Derogation for the  
division of Germany

**Article III-243** (*ex Article 78 TEC*)

Can be repealed by  
qualified majority  
after 5 years

X The provisions of this Section shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division. Five years after the entry into force of the Treaty establishing a Constitution for Europe, the Council, acting on a proposal from the Commission, may adopt a European decision repealing this Article.

Advisory Committee

**Article III-244** (*ex Article 79 TEC*)

An Advisory Committee consisting of experts designated by the governments of the Member States shall be attached to the

Commission. The Commission, whenever it considers it desirable, shall consult the Committee on transport matters.

**Article III-245** (ex Article 80 TEC)

Covered transports

1. This Section shall apply to transport by rail, road and inland waterway.

Title applies to transport by railway, road, waterway

*X\*\** 2. European laws or framework laws may lay down appropriate measures for sea and air transport. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

- sea  
- air

**SECTION 8**

**TRANS-EUROPEAN NETWORKS**

Shared competence:  
**Trans-European Networks**

**Article III-246** (ex Article 154 TEC)

Aims:

1. To help achieve the objectives referred to in Articles III-130 and III-220 and to enable citizens of the Union, economic operators and regional and local communities to derive full benefit from the setting-up of an area without internal frontiers, the Union shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.

Establishment of  
- transport  
- telecommunications  
- energy infrastructures

2. Within the framework of a system of open and competitive markets, action by the Union shall aim at promoting the interconnection and interoperability of national networks as well as access to such networks. It shall take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the Union.

Interconnection and interoperability

**Article III-247** (ex Articles 155, 156 TEC)

Means:

1. In order to achieve the objectives referred to in Article III-246, the Union:

(a) shall establish a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks; these guidelines shall identify projects of common interest;

- guidelines

- measures to ensure interoperability	(b) shall implement any measures that may prove necessary to ensure the <u>interoperability</u> of the networks, in particular in the field of technical standardisation;
- projects	(c) may support <u>projects of common</u> interest supported by Member States, which are identified in the framework of the guidelines referred to in point (a), particularly through feasibility studies, loan guarantees or interest-rate subsidies; the Union may also contribute, through the Cohesion Fund, to the financing of specific projects in Member States in the area of transport infrastructure.  The Union's activities shall take into account the potential economic viability of the projects.
Ordinary legislative procedure with qualified majority	X** 2. European <u>laws or framework laws</u> shall establish the guidelines and other measures referred to in paragraph 1. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.
Approval of Member State	<u>Guidelines</u> and projects of common interest which relate to the territory of a Member State shall require the <u>agreement</u> of that Member State.
Coordination among the Member States	3. <u>Member States</u> shall, in liaison with the Commission, <u>coordinate among themselves</u> the policies pursued at national level which may have a significant impact on the achievement of the objectives referred to in Article III-246. The Commission may, in close cooperation with the Member States, take any useful initiative to promote such coordination.
International cooperation	4. The Union may <u>cooperate with third countries</u> to promote projects of mutual interest and to ensure the interoperability of networks.

SECTION 9  
RESEARCH AND TECHNOLOGICAL  
DEVELOPMENT, AND SPACE

**Article III-248** *(ex Article 163 TEC)*

1. The Union shall aim to strengthen its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encourage it to become more competitive, including in its industry, while promoting all the research activities deemed necessary by virtue of other Chapters of the Constitution.

**Shared competence:**  
**Research,**  
**technological**  
**development, space**  
(Member States can still use their competence; I-14[3])

Aim: One European research area:  
- strengthening scientific and technological bases  
- promoting research

2. For the purposes referred to in paragraph 1 the Union shall, throughout the Union, encourage undertakings, including small and medium-sized undertakings, research centres and universities in their research and technological development activities of high quality. It shall support their efforts to cooperate with one another, aiming, notably, at permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential, in particular through the opening-up of national public contracts, the definition of common standards and the removal of legal and fiscal obstacles to that cooperation.

Encouraging and supporting:

- undertakings
- research centres
- universities
- free movement of researchers

3. All the Union's activities in the area of research and technological development, including demonstration projects, shall be decided on and implemented in accordance with this Section.

**Article III-249** *(ex Article 164 TEC)*

Means:

In pursuing the objectives referred to in Article III-248, the Union shall carry out the following activities, complementing the activities carried out in the Member States:

(a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;

- programmes

(b) promotion of cooperation in the field of the Union's research, technological development and demonstration with third countries and international organisations;

- cooperation

- information dissemination (c) dissemination and optimisation of the results of activities in the Union's research, technological development and demonstration;
- training and mobility (d) stimulation of the training and mobility of researchers in the Union.

**Article III-250** (ex Article 165 TEC)

- Coordination of Member States' activities
1. The Union and the Member States shall coordinate their research and technological development activities so as to ensure that national policies and the Union's policy are mutually consistent.
- guidelines
  - best practice
  - monitoring
  - evaluation
2. In close cooperation with the Member States, the Commission may take any useful initiative to promote the coordination referred to in paragraph 1, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

**Article III-251** (ex Article 166 TEC)

- Multiannual framework programme, adopted by legislative procedure
- X\*\* 1. European laws shall establish a multiannual framework programme, setting out all the activities financed by the Union. Such laws shall be adopted after consultation of the Economic and Social Committee.
- Programme will establish:
- The framework programme shall:
- objectives (a) establish the scientific and technological objectives to be achieved by the activities provided for in Article III-249 and lay down the relevant priorities;
  - (b) indicate the broad lines of such activities;
  - maximum financial involvement (c) lay down the maximum overall amount and the detailed rules for the Union's financial participation in the framework programme and the respective shares in each of the activities provided for.

2. The multiannual framework programme shall be adapted or supplemented as the situation changes.

*X\** 3. A European law of the Council shall establish specific programmes to implement the multiannual framework programme within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary. The sum of the amounts deemed necessary, fixed in the specific programmes, shall not exceed the overall maximum amount fixed for the framework programme and each activity. Such a law shall be adopted after consulting the European Parliament and the Economic and Social Committee.

Specific programmes

*X\*\** 4. As a complement to the activities planned in the multiannual framework programme, European laws shall establish the measures necessary for the implementation of the European research area. Such laws shall be adopted after consulting the Economic and Social Committee.

Detailed rules fixed by the Council by qualified majority on a proposal from the Commission

**Article III-252**

*(ex Articles 167,172 [2<sup>nd</sup> sentence],168, 169, 170 TEC)*

Implementation

*X\*\**

1. For the implementation of the multiannual framework programme, European laws or framework laws shall establish:

European laws or framework laws for:

(a) the rules for the participation of undertakings, research centres and universities;

- participation rules

(b) the rules governing the dissemination of research results.

- dissemination rules

Such European laws or framework laws shall be adopted after consultation of the Economic and Social Committee.

Ordinary legislative procedure with qualified majority

*X\*\** 2. In implementing the multiannual framework programme, European laws may establish supplementary programmes involving the participation of certain Member States only, which shall finance them subject to possible participation by the Union.

Supplementary programmes only for certain Member States

Such European laws shall determine the rules applicable to supplementary programmes, particularly as regards the dissemination of knowledge as well as access by other Member States. They shall be adopted after consultation of the

... are established by ordinary legislative procedure with qualified majority

The Union can participate in programmes undertaken by Member States

Economic and Social Committee and with the agreement of the Member States concerned.

*X\*\** 3. In implementing the multiannual framework programme, European laws may make provision, in agreement with the Member States concerned, for participation in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes.

Such European laws shall be adopted after consultation of the Economic and Social Committee.

International cooperation

4. In implementing the multiannual framework programme the Union may make provision for cooperation in the Union's research, technological development and demonstration with third countries or international organisations.

The detailed arrangements for such cooperation may be the subject of agreements between the Union and the third parties concerned.

Joint undertakings

**Article III-253** (ex Articles 171, 172 [1<sup>st</sup> sentence] TEC)

Detailed rules adopted by the Council with qualified majority

*X\** The Council, on a proposal from the Commission, may adopt European regulations or decisions to set up joint undertakings or any other structure necessary for the efficient execution of the Union's research, technological development and demonstration programmes. It shall act after consulting the European Parliament and the Economic and Social Committee.

Shared competence:  
**European Space Policy**  
(Member States can still use their competence)  
- promotes joint initiatives  
- supports research  
- coordinates efforts

**Article III-254** (new)

1. To promote scientific and technical progress, industrial competitiveness and the implementation of its policies, the Union shall draw up a European space policy. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space.

Laws by qualified majority

*X\*\** 2. To contribute to attaining the objectives referred to in paragraph 1, European laws or framework laws shall establish the

necessary measures, which may take the form of a European space programme.

3. The Union shall establish any appropriate relations with the European Space Agency.

Relations to European Space Agency

**Article III-255** (ex Article 173 TEC)

Annual report from the Commission

At the beginning of each year the Commission shall send a report to the European Parliament and the Council. The report shall include information on activities relating to research, technological development and the dissemination of results during the previous year, and the work programme for the current year.

**SECTION 10**  
**ENERGY**

Shared competence:  
**Energy**  
- new article with aim and means (Art. 308 TEC has been used so far)

**Article III-256** (new)

1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim to:

Internal energy market shall:

- (a) ensure the functioning of the energy market;
- (b) ensure security of energy supply in the Union, and
- (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy.

- ensure a functioning energy market
- ensure security of energy supply
- promote new and renewable forms of energy

**X\*\*** 2. Without prejudice to the application of other provisions of the Constitution, the objectives in paragraph 1 shall be achieved by measures enacted in European laws or framework laws. Such laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Legislation by qualified majority

Such European laws or framework laws shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and

Competence shall not affect Member States' choice of energy sources

Unanimity  
when question  
of fiscal nature

the general structure of its energy supply, without prejudice to Article III-234(2)(c).

U\* 3. By way of derogation from paragraph 2, a European law or framework law of the Council shall establish the measures referred to therein when they are primarily of a fiscal nature. The Council shall act unanimously after consulting the European Parliament.

Shared competence:  
**Area of freedom,  
security and justice**  
(Pillars disappear)

CHAPTER IV  
AREA OF FREEDOM, SECURITY AND JUSTICE

SECTION 1  
GENERAL PROVISIONS

Aims and means

**Article III-257** (ex Articles 29 TEU, 61 TEC)

Justice and  
Home affairs

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.

**No internal borders;**  
Common policy on  
asylum, immigration  
and external control

2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Chapter, stateless persons shall be treated as third-country nationals.

**Aim:** Fight crime,  
racism and  
xenophobia.  
**Means:** Cooperation  
between police and  
judicial authorities  
- mutual recognition  
of judgments  
- approximation of  
criminal law

3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.

Mutual recognition  
of civil judgments

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

**Article III-258 (new)**

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

**Strategic guidelines**

- decided by the European Council

**Article III-259 (new)**

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

**Participation of national parliaments**

- Shall secure subsidiarity within judicial co-operation in criminal matters and police cooperation

**Article III-260 (new)**

**X**

Without prejudice to Articles III-360 to III-362, the Council may, on a proposal from the Commission, adopt European regulations or decisions laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Chapter by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament and national Parliaments shall be informed of the content and results of the evaluation.

**Evaluation**

Commission and Member States evaluate implementation of policies under this chapter. The Council decides by qualified majority after proposal from the Commission

**Article III-261 (ex Article 36 TEU)**

A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article III-344, it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.

**Standing committee in the Council**

Committee ensures cooperation on internal security  
National parliaments and EP kept informed

**Article III-262 (ex Articles 33 TEU, 64[1] TEC)**

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

**Law and order**

Does not affect Member States' responsibility for law and order

**Article III-263** (ex Article 66 TEC)

X\*

Administrative cooperation through regulations adopted by qualified majority on a proposal by the Commission

The Council shall adopt European regulations to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Chapter, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article III-264, and after consulting the European Parliament.

**Shared initiative**

**Article III-264** (new)

Extraordinary initiative rights (for judicial cooperation and police cooperation) for either:

The acts referred to in Sections 4 and 5, together with the European regulations referred to in Article III-263 which ensure administrative cooperation in the areas covered by these Sections, shall be adopted:

- the Commission

(a) on a proposal from the Commission, or

- 1/4 of Member States

(b) on the initiative of a quarter of the Member States.

Shared competence:  
**Border checks,  
Asylum, Immigration**

SECTION 2  
POLICIES ON BORDER CHECKS,  
ASYLUM AND IMMIGRATION

Objectives:

**Article III-265** (ex Article 62 TEC)

1. The Union shall develop a policy with a view to:

- no internal border controls on persons

(a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;

- monitoring of external borders

(b) carrying out checks on persons and efficient monitoring of the crossing of external borders;

- integrated management system for external borders

(c) the gradual introduction of an integrated management system for external borders.

Measures by qualified majority:

2. For the purposes of paragraph 1, European laws or framework laws shall establish measures concerning:

- common visa policy

X\*\* (a) the common policy on visas and other short-stay residence permits;

<p><u>X**</u> (b) the <u>checks</u> to which <u>persons crossing external borders</u> are subject;</p>	<p>- control, crossing external borders</p>
<p><u>X**</u> (c) the <u>conditions</u> under which nationals of <u>third countries</u> shall have the freedom to travel within the Union for a short period;</p>	<p>- rules on travel of citizens of 3<sup>rd</sup> countries</p>
<p><u>X**</u> (d) any measure necessary for the gradual <u>establishment</u> of an <u>integrated management system</u> for external borders;</p>	<p>- an integrated management system (new)</p>
<p><u>X**</u> (e) the <u>absence</u> of any <u>controls</u> on <u>persons</u>, whatever their nationality, when crossing <u>internal borders</u>.</p>	<p>- no controls, crossing internal borders</p>
<p>3. This Article shall <u>not affect</u> the competence of the Member States concerning the <u>geographical demarcation</u> of their <u>borders</u>, in accordance with international law.</p>	<p>No effect on “demarcation” of borders</p>
<p><b>Article III-266</b> (<i>ex Articles 63 [points 1-2], 64[2] TEC</i>)</p>	
<p>1. The Union shall develop a <u>common policy on asylum, subsidiary protection</u> and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the <u>Geneva Convention</u> of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.</p>	<p><b>A common Asylum policy</b> - respect of the Geneva Convention</p>
<p><u>X**</u> 2. For the purposes of paragraph 1, European <u>laws</u> or <u>framework laws</u> shall lay down <u>measures</u> for a common European asylum system comprising:</p>	<p>Laws by qualified majority for:</p>
<p>(a) a <u>uniform</u> status of <u>asylum</u> for nationals of third countries, valid throughout the Union;</p>	<p>- uniform asylum system</p>
<p>(b) a <u>uniform</u> status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of <u>international protection</u>;</p>	<p>- uniform status for 3<sup>rd</sup> country nationals in need of protection</p>
<p>(c) a <u>common system</u> of <u>temporary protection</u> for <u>displaced persons</u> in the event of a <u>massive inflow</u>;</p>	<p>- common system for temporary protection for displaced persons</p>

- common procedures for granting and withdrawing asylum (d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
- determining who is responsible for an application for asylum (e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
- standards for the reception of asylum seekers (f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
- partnerships with 3<sup>rd</sup> countries to manage inflows (g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

Adoption of provisional measures in case of massive sudden inflow: Commission proposes, Council decides by qualified majority

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

**Common immigration policy**

**Article III-267 (ex Article 63 [points 3-4] TEC)**

- management of migration flows
- fair treatment
- fight against illegal immigration

X\*\*

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

Ordinary legislative procedure for:

2. For the purposes of paragraph 1, European laws or framework laws shall establish measures in the following areas:

- entry and residence
- long term visas
- residence permits
- family reunion
- definition of rights for 3<sup>rd</sup> country nationals

(a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;

(b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;

(c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;

- removal and repatriation

(d) combating trafficking in persons, in particular women and children.

- combat human trafficking

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

- readmission agreements

X\*\* 4. European laws or framework laws may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.

New: Support for the social integration of refugees;  
no harmonisation

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

Member States' competence to fix numbers of immigrants from 3<sup>rd</sup> countries

**Article III-268 (new)**

**Burden sharing**

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

Member States share financial implications resulting from this chapter

**SECTION 3**

**JUDICIAL COOPERATION IN CIVIL MATTERS**

**Article III-269 (ex Article 65 TEC)**

Shared competence:  
**Judicial cooperation in civil matters**  
(Art. 68 TEC on limited Court control disappears)

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

- mutual recognition of judgments  
- approximation of laws

<p>Ordinary legislative procedure by qualified majority for:</p> <ul style="list-style-type: none"> <li>- mutual recognition and enforcement of judgments</li> <li>- judicial and extrajudicial documents</li> <li>- compatibility of rules on conflicts of law and jurisdiction</li> <li>- the taking of evidence</li> <li>- access to justice</li> <li>- compatibility of rules on civil proceedings</li> <li>- alternative methods of dispute settlement</li> <li>- training</li> </ul>	<p><i>X**</i> 2. For the purposes of paragraph 1, European <u>laws or framework laws</u> shall establish measures, particularly when necessary for the proper functioning of the internal market, aimed at ensuring:</p> <ul style="list-style-type: none"> <li>(a) the <u>mutual recognition and enforcement</u> between Member States of <u>judgments</u> and decisions in extrajudicial cases;</li> <li>(b) the cross-border service of <u>judicial and extrajudicial documents</u>;</li> <li>(c) the <u>compatibility</u> of the <u>rules</u> applicable in the Member States concerning <u>conflict of laws</u> and of <u>jurisdiction</u>;</li> <li>(d) <u>cooperation</u> in the <u>taking of evidence</u>;</li> <li>(e) effective <u>access to justice</u>;</li> <li>(f) the elimination of obstacles to the proper functioning of <u>civil proceedings</u>, if necessary by promoting the <u>compatibility of the rules</u> on civil procedure applicable in the Member States;</li> <li>(g) the development of <u>alternative methods of dispute settlement</u>;</li> <li>(h) support for the <u>training</u> of the judiciary and judicial staff.</li> </ul>
<p>The Council decides on family law by <b>unanimity</b>,</p> <p>...unless Council decides unanimously that certain aspects of family law are adopted by <b>qualified majority</b> (Passerelle)</p>	<p><i>U*</i> 3. Notwithstanding paragraph 2, a European law or framework law of the <u>Council</u> shall establish measures concerning <u>family law</u> with cross-border implications. The Council shall act <u>unanimously</u> after <u>consulting</u> the European <u>Parliament</u>.</p> <p><i>U*</i> The Council, on a proposal from the Commission, may adopt a European decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary <u>legislative procedure</u>. The Council shall act <u>unanimously</u> after <u>consulting</u> the European <u>Parliament</u>.</p>

SECTION 4  
JUDICIAL COOPERATION IN CRIMINAL MATTERS

**Article III-270** (ex Article 31[1a-d] TEU)

X\*\* 1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article III-271.

European laws or framework laws shall establish measures to:

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

(b) prevent and settle conflicts of jurisdiction between Member States;

(c) support the training of the judiciary and judicial staff;

(d) facilitate cooperation between judicial authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

X\*\* 2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, European framework laws may establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

They shall concern:

(a) mutual admissibility of evidence between Member States;

(b) the rights of individuals in criminal procedure;

(c) the rights- of victims of crime;

**Judicial cooperation in criminal matters**

[When nothing else specified, Commission or ¼ of Member States can submit proposals in this section]

**Principles:**

- mutual recognition of judgments and decisions,
- approximation of laws and regulations

Legislative procedure for:

- rules ensuring recognition

- settling conflicts of jurisdiction

- training

- cooperation between judicial authorities on proceedings

Minimum rules adopted by legislative procedure...

respecting differences in legal traditions and concerning:

- admissibility of evidence
- rights of individuals in criminal procedure
- rights of victims

**The Council can expand this area by unanimity; EP must approve**

U\*\*\* (d) any other specific aspects of criminal procedure which the Council has identified in advance by a European decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the consent of the European Parliament.

Rules shall not prevent higher protection for individuals

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

Member State can refer draft law to the European Council if fundamental legal principles are breached

3. Where a member of the Council considers that a draft European framework law as referred to in paragraph 2 would affect fundamental aspects of its criminal justice system, it may request that the draft framework law be referred to the European Council. In that case, the procedure referred to in Article III-396 shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

The European Council can:

- refer the matter back to the Council

(a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396, or

- ask a new draft from Commission or from a group of Member States

(b) request the Commission or the group of Member States from which the draft originates to submit a new draft; in that case, the act originally proposed shall be deemed not to have been adopted.

If the European Council cannot agree, 1/3 of the countries can establish enhanced cooperation on the basis of a draft framework law

4. If, by the end of the period referred to in paragraph 3, either no action has been taken by the European Council or if, within 12 months from the submission of a new draft under paragraph 3(b), the European framework law has not been adopted, and at least one third of the Member States wish to establish enhanced cooperation on the basis of the draft framework law concerned, they shall notify the European Parliament, the Council and the Commission accordingly.

Other countries cannot block

In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles I-44(2) and III-419(1) shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

Definition of criminal offences and sanctions; **minimum rules for the crimes of:**

**Article III-271** (new, ex Article 31[1e] TEU)

X\*\* 1. European framework laws may establish minimum rules concerning the definition of criminal offences and sanctions in the

areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

- terrorism
- human trafficking
- sexual exploitation
- illicit drug trafficking
- money laundering
- corruption
- counterfeiting of means of payment
- computer crime
- organised crime

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

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

**The Council may extend these areas by unanimity**

X\*\*, X\*\*\*, U\*, U\*\*\* 2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, European framework laws may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such framework laws shall be adopted by the same procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article III-264.

In harmonised areas:  
Approximation of criminal legislation through minimum rules for offences and sanctions

3. Where a member of the Council considers that a draft European framework law as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft framework law be referred to the European Council. In that case, where the procedure referred to in Article III-396 is applicable, it shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

Member State can refer draft law to European Council if fundamental legal principles are breached  
- The European Council can:

(a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396 where it is applicable, or

- refer the draft back to the Council

(b) request the Commission or the group of Member States from which the draft originates to submit a new draft; in that case, the act originally proposed shall be deemed not to have been adopted.

- ask the Commission or a group of Member States for a new draft

If the European Council cannot agree, 1/3 of the countries can establish enhanced cooperation on the basis of a draft framework law

4. If, by the end of the period referred to in paragraph 3, either no action has been taken by the European Council or if, within 12 months from the submission of a new draft under paragraph 3(b), the European framework law has not been adopted, and at least one third of the Member States wish to establish enhanced cooperation on the basis of the draft framework law concerned, they shall notify the European Parliament, the Council and the Commission accordingly.

Other countries cannot block

In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles I-44(2) and III-419(1) shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

**Crime prevention**

**Article III-272 (new)**

X\*\*

Laws to support crime prevention by qualified majority, no harmonisation

European laws or framework laws may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States.

**Eurojust**

**Article III-273 (ex Article 31[2] TEU)**

X\*\*

Coordination of national investigations and prosecuting authorities; prosecution on common bases

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

Legislation determines tasks, e.g.:

In this context, European laws shall determine Eurojust’s structure, operation, field of action and tasks. Those tasks may include:

- initiation of criminal prosecutions

(a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions, conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;

- coordination of prosecutions

(b) the coordination of investigations and prosecutions referred to in point (a);

(c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

- strengthening of the judicial cooperation  
- resolution of jurisdiction conflicts

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

EP's and national parliaments' rights by legislative procedure

2. In the prosecutions referred to in paragraph 1, and without prejudice to Article III-274, formal acts of judicial procedure shall be carried out by the competent national officials.

Formal judicial acts adopted by national authorities

**Article III-274 (new)**

U\*\*\* 1. In order to combat crimes affecting the financial interests of the Union, a European law of the Council may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.

**New European Public Prosecutor's Office** combats crimes  
**- is established by unanimity in Council with approval from EP**

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

Prosecution of crimes that affect more than one Member State or Union's financial interests

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

Rules governing Prosecutor's office

U\*\*\* 4. The European Council may, at the same time or subsequently, adopt a European decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor's Office to include serious crime having a cross-border dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one

European Council can unanimously extend the powers of the Public Prosecutor, with the approval of the EP

Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission.

Shared competence:

**Police cooperation**

- When nothing else specified, Commission or ¼ of Member States can submit proposals in this section

- Police, customs, and specialised units  
- Tasks: prevention, detection, investigation

Legislation to establish measures for:

- information processing

- training, exchange of staff, equipment and research

- use of common investigative techniques

**Operational cooperation** decided by **unanimity** in the Council

**Europol**

Europol supports and strengthens police authorities' cooperation on cross-border crime

SECTION 5  
POLICE COOPERATION

**Article III-275 (ex Article 30[1] TEU)**

1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.

X\*\* 2. For the purposes of paragraph 1, European laws or framework laws may establish measures concerning:

(a) the collection, storage, processing, analysis and exchange of relevant information;

(b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;

common investigative techniques in relation to the detection of serious forms of organised crime.

U\* 3. A European law or framework law of the Council may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

**Article III-276 (ex Article 30[2] TEU)**

X\*\*

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

<p>2. European <u>laws</u> shall determine Europol’s structure, operation, field of action and tasks. These tasks may include:</p>	<p>Legislation to :</p>
<p>(a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;</p>	<p>- perform information processing</p>
<p>(b) the <u>coordination, organisation and implementation</u> of investigative and operational <u>action</u> carried out <u>jointly</u> with the Member States’ competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.</p>	<p>- coordinate, organise and implement joint actions of national authorities</p>
<p>European laws shall also lay down the procedures for scrutiny of Europol’s activities by the European Parliament, together with national Parliaments.</p>	<p>Role of EP and national parliaments through legislative procedure</p>
<p>3. Any operational action by Europol must be carried out in liaison and in <u>agreement with the authorities</u> of the Member State or States whose <u>territory is concerned</u>. The application of <u>coercive measures</u> shall be the <u>exclusive</u> responsibility of the competent <u>national authorities</u>.</p>	<p>Europol use of force requires agreement from Member State involved</p>
<p><b>Article III-277 (ex Article 32 TEU)</b></p>	<p>Cross frontier police</p>
<p><u>U*</u></p>	
<p>A European <u>law</u> or <u>framework law</u> of the Council shall lay down the conditions and limitations under which the <u>competent authorities</u> of the Member States referred to in Articles III-270 and III-275 may <u>operate in the territory of another Member State</u> in liaison and in agreement with the authorities of that State. The <u>Council</u> shall act <u>unanimously</u> after <u>consulting</u> the European <u>Parliament</u>.</p>	<p>Rules for authorities’ operations on other Member States’ territories.  Council decides by unanimity</p>

**Coordinating competence:**

- direct harmonisation is prohibited, see I-17
- health, industry, culture, education, administrative cooperation, youth, sport, tourism and civil protection (new areas)

**Public health**  
(security aspects are shared competence)

CHAPTER V

AREAS WHERE THE UNION MAY TAKE COORDINATING, SUPPLEMENTARY OR SUPPORTING ACTION

SECTION 1  
PUBLIC HEALTH

**Article III-278** (ex Article 152 TEC)

**A high level of health protection,** not the “highest”

1. A high level of human health protection shall be ensured in the definition and implementation of all the Union’s policies and activities.

Complementing Member States’ policies...

Action by the Union, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover:

(a) the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education;

(b) monitoring, early warning of and combating serious cross-border threats to health.

The Union shall complement the Member States’ action in reducing drug-related health damage, including information and prevention.

...and encouraging co-operation between Member States through:

2. The Union shall encourage cooperation between the Member States in the areas referred to in this Article and, if necessary, lend support to their action. It shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.

Member States shall, in liaison with the Commission, coordinate among themselves their policies and programmes in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

**Commission initiatives**

- guidelines
- best practice
- monitoring
- evaluation

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

Cooperation with 3<sup>rd</sup> countries

X\*\* 4. By way of derogation from Article I-12(5) and Article I-17(a) and in accordance with Article I-14(2)(k), European laws or framework laws shall contribute to the achievement of the objectives referred to in this Article by establishing the following measures in order to meet common safety concerns:

Ordinary legislative procedure by qualified majority determines:

(a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures;

- quality and safety of organs and blood; can be increased by Member States

(b) measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health;

- veterinary and phytosanitary fields

(c) measures setting high standards of quality and safety for medicinal products and devices for medical use;

- measures setting high quality standards

(d) measures concerning monitoring, early warning of and combating serious cross-border threats to health.

- cross-border threats to health

Such European laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Laws by qualified majority

X\*\* 5. European laws or framework laws may also establish incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, as well as measures which have as their direct objective the protection of public health regarding tobacco and the abuse of

New competence: Legislation to improve and protect human health

alcohol, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

The Council adopts recommendations

X 6. For the purposes of this Article, the Council, on a proposal from the Commission, may also adopt recommendations.

Respect for national competence for health services

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

Coordinating competence: **Industry**

SECTION 2  
INDUSTRY

**Article III-279** (*ex Article 157 TEC*)

Objective: to ensure the **competitiveness** of industry

1. The Union and the Member States shall ensure that the conditions necessary for the competitiveness of the Union's industry exist.

Means:

For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:

- (a) speeding up the adjustment of industry to structural changes;
- (b) encouraging an environment favourable to initiative and to the development of undertakings throughout the Union, particularly small and medium-sized undertakings;
- (c) encouraging an environment favourable to cooperation between undertakings;
- (d) fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

- guidelines  
- best practice

2. The Member States shall consult each other in liaison with the Commission and, where necessary, shall coordinate their action.

The Commission may take any useful initiative to promote such coordination, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

- monitoring  
- evaluation

X\*\* 3. The Union shall contribute to the achievement of the objectives set out in paragraph 1 through the policies and activities it pursues under other provisions of the Constitution. European laws or framework laws may establish specific measures in support of action taken in the Member States to achieve the objectives set out in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Economic and Social Committee.

Law or framework law can establish specific measures  
No harmonisation of national laws  
  
Legislative procedure with qualified majority

This Section shall not provide a basis for the introduction by the Union of any measure which could lead to distortion of competition or contains tax provisions or provisions relating to the rights and interests of employed persons.

No distortion of competition, tax or rights for employed

SECTION 3  
CULTURE

Coordinating competence:  
**Culture**

**Article III-280** (ex Article 151 TEC)

**Respect diversity**

1. The Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.

Objective: to contribute to the cultures of the Member States

2. Action by the Union shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and complementing their action in the following areas:

Encouraging cooperation between Member States:

(a) improvement of the knowledge and dissemination of the culture and history of the European peoples;

- culture and history

(b) conservation and safeguarding of cultural heritage of European significance;

- heritage

(c) non-commercial cultural exchanges;

- cultural exchanges

- art, literature, AV (d) artistic and literary creation, including in the audiovisual sector.
  
- international cooperation 3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.
  
- integrating culture in other activities 4. The Union shall take cultural aspects into account in its action under other provisions of the Constitution, in particular in order to respect and to promote the diversity of its cultures.
  
- From unanimity to qualified majority in the Council 5. In order to contribute to the achievement of the objectives referred to in this Article:
  
- Incentive actions through legislation: Legislative procedure by qualified majority X\*\* (a) European laws or framework laws shall establish incentive measures, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions;
  
- Council adopts recommendations X (b) the Council, on a proposal from the Commission, shall adopt recommendations.

Coordinating competence

**New section:  
Tourism**

**Promote tourism**

Goal: to promote a competitive tourist sector

Means:

- creating a favourable environment

- exchanging good practices

Qualified majority in

SECTION 4 (new)

TOURISM

**Article III-281 (new)**

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

To that end, Union action shall be aimed at:

(a) encouraging the creation of a favourable environment for the development of undertakings in this sector;

(b) promoting cooperation between the Member States, particularly by the exchange of good practice;

X\*\* 2. European laws or framework laws shall establish specific

measures to complement actions within the Member States to achieve the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States.

the Council;  
no harmonisation  
(Art. 308 TEC has  
been used so far)

SECTION 5  
EDUCATION, YOUTH, SPORT AND VOCATIONAL  
TRAINING

Coordinating  
competence  
**Education,**  
**vocational training,**  
**and new area: sport**

**Article III-282** (ex Article 149 TEC)

1. The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and complementing their action. It shall fully respect the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

Objective: to develop  
**quality education**

Full respect for  
national competence

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

**New:**  
**Promotion of sports**

Union action shall be aimed at:

Means:

(a) developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States;

- European dimension  
of education

(b) encouraging mobility of students and teachers, inter alia by encouraging the academic recognition of diplomas and periods of study;

- mobility

(c) promoting cooperation between educational establishments;

- cooperation

(d) developing exchanges of information and experience on issues common to the education systems of the Member States;

- exchange

(e) encouraging the development of youth exchanges and of exchanges of socio-educational instructors and encouraging the participation of young people in democratic life in Europe;

- youth exchange  
and participation  
in democratic life

- distance education (f) encouraging the development of distance education;
  
- European dimension of sports, promotes: (g) developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially young sportsmen and sportswomen.
- fairness and integrity
- physical and moral integrity
  
- Cooperation with 3<sup>rd</sup> countries and organisations 2. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education and sport, in particular the Council of Europe.
  
- Means: 3. In order to contribute to the achievement of the objectives referred to in this Article:
  
- incentive measures through by qualified majority, no harmonisation ~~X\*\*/X\*\*~~ (a) European laws or framework laws shall establish incentive measures, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee;
  
- recommendations adopted by the Council X (b) the Council, on a proposal from the Commission, shall adopt recommendations.

**Vocational training**

**Article III-283 (ex Article 150 TEC)**

- Full respect of national responsibilities 1. The Union shall implement a vocational training policy which shall support and complement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training.
  
- Aims: Union action shall aim to:
  
- industrial change (a) facilitate adaptation to industrial change, in particular through vocational training and retraining;
  
- vocational training (b) improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market;
  
- mobility (c) facilitate access to vocational training and encourage mobility of instructors and trainees and particularly young people;

(d) stimulate cooperation on training between educational or training establishments and firms; - cooperation

(e) develop exchanges of information and experience on issues common to the training systems of the Member States. - exchanges

2. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of vocational training. - international cooperation

3. In order to contribute to the achievement of the objectives referred to in this Article: Objectives to be achieved through legislation by qualified majority; no harmonisation

*X\*\** (a) European laws or framework laws shall establish the necessary measures, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee;

*X* (b) the Council, on a proposal from the Commission, shall adopt recommendations.

SECTION 6  
CIVIL PROTECTION

**New coordinating competence**  
**Civil protection**

**Article III-284** (*new*)

Prevent disasters

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

Union action shall aim to: Aims:

(a) support and complement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or man-made disasters within the Union; - supporting risk prevention and training

(b) promote swift, effective operational cooperation within the Union between national civil-protection services; - promoting operational cooperation

(c) promote consistency in international civil-protection work. - international cooperation

Legislation adopted by qualified majority in the Council (Art. 308 TEC has been used so far)

X\*\* 2. European laws or framework laws shall establish the measures necessary to help achieve the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States.

New coordinating competence:  
**Administrative cooperation**

SECTION 7  
ADMINISTRATIVE COOPERATION

Implementation of Union law in Member States is a matter of common interest

**Article III-285 (new)**

1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.

May support Member States in implementing Union law

X\*\* 2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. European laws shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.

Legislation without harmonisation (Art. 308 TEC has been used so far)

No prejudice to Member States' obligation to implement Union law

3. This Article shall be without prejudice to the obligations of the Member States to implement Union law or to the prerogatives and duties of the Commission. It shall also be without prejudice to other provisions of the Constitution providing for administrative cooperation among the Member States and between them and the Union.

**OCTs**

**TITLE IV**  
**ASSOCIATION OF THE OVERSEAS COUNTRIES**  
**AND TERRITORIES**

**Association of former colonies**

**Article III-286 (ex Articles 182, 188 TEC)**

Special relations between OCTs and the Union

1. The non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom shall be associated with the Union. These

countries and territories, hereinafter called the “countries and territories”, are listed in Annex II.

This title shall apply to Greenland, subject to the specific provisions of the Protocol on special arrangements for Greenland.

Greenland: special protocol

2. The purpose of association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Union.

Objectives:  
- promotion of economic and social development  
- close relationships

Association shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire.

**Article III-287 (ex Article 183 TEC)**

**Trade:**

Association shall have the following objectives.

(a) Member States shall apply to their trade with the countries and territories the same treatment as they accord each other pursuant to the Constitution;

OCTs are treated like a Member State...

(b) each country or territory shall apply to its trade with Member States and with the other countries and territories the same treatment as that which it applies to the European State with which it has special relations;

...and OCTs must treat all Member States equally

(c) Member States shall contribute to the investments required for the progressive development of these countries and territories;

- Investments

(d) for investments financed by the Union, participation in tenders and supplies shall be open on equal terms to all natural and legal persons who are nationals of a Member State or of one of the countries and territories;

- Tenders: Member States and OCTs to be treated equally

(e) in relations between Member States and the countries and territories, the right of establishment of nationals and companies or firms shall be regulated in accordance with the provisions of Subsection 2 of Section 2 of Chapter I of Title III relating to the freedom of establishment and under the procedures laid down in that Subsection, and on a non-discriminatory basis, subject to any acts adopted pursuant to Article III-291.

Freedom of establishment:  
no discriminatory treatment of companies and nationals from OCTs

**No customs duties**  
on imports from  
OCTs into the  
Union...

**Article III-288** (ex Article 184 TEC)

1. Customs duties on imports into the Member States of goods originating in the countries and territories shall be prohibited in conformity with the prohibition of customs duties between Member States provided for in the Constitution.

...and on imports  
from the Union  
into OCTs

2. Customs duties on imports into each country or territory from Member States or from the other countries or territories shall be prohibited in accordance with Article III-151(4).

**Exceptions**

3. The countries and territories may, however, levy customs duties which meet the needs of their development and industrialisation or produce revenue for their budgets.

The duties referred to in the first subparagraph shall not exceed the level of those imposed on imports of products from the Member State with which each country or territory has special relations.

4. Paragraph 2 shall not apply to countries and territories which, by reason of the particular international obligations by which they are bound, already apply a non-discriminatory customs tariff.

**No discrimination**  
between imports from  
different Member  
States

5. The introduction of or any change in customs duties imposed on goods imported into the countries and territories shall not, either in law or in fact, give rise to any direct or indirect discrimination between imports from the various Member States.

Goods from third  
countries

**Article III-289** (ex Article 185 TEC)

If the level of the duties applicable to goods from a third country on entry into a country or territory is liable, when Article III-288(1) has been applied, to cause deflections of trade to the detriment of any Member State, the latter may request the Commission to propose to the other Member States that they take the necessary measures to remedy the situation.

Safeguard measures

**Free movement  
of workers**

**Article III-290** (ex Article 186 TEC)

Subject to the provisions relating to public health, public security or public policy, freedom of movement within Member States for workers from the countries and territories, and within the countries

and territories for workers from Member States, shall be regulated by acts adopted in accordance with Article III-291.

**Article III-291** (ex Article 187 TEC)

Decision-making

U\*

The Council, on a proposal from the Commission, shall adopt unanimously, on the basis of the experience acquired under the association of the countries and territories with the Union, European laws, framework laws, regulations and decisions as regards the detailed rules and the procedure for the association of the countries and territories with the Union. These laws and framework laws shall be adopted after consultation of the European Parliament.

Acts adopted unanimously in the Council, EP is now consulted

**TITLE V  
THE UNION'S EXTERNAL ACTION**

**EXTERNAL  
ACTIONS**

**CHAPTER I  
PROVISIONS HAVING GENERAL APPLICATION**

**General provisions**

**Article III-292** (ex Articles 3[2<sup>nd</sup>] sentence), 11 TEU)

**Principles:**

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

Union shall defend the principles of:  
- democracy  
- rule of law  
- human rights  
- fundamental freedoms  
- human dignity  
- equality  
- solidarity  
- international law  
- partnerships  
- global organisations  
- the United Nations

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

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

The Union defines common policies and actions:

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

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

Union must ensure consistency between different areas of external action and other policies

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

**Article III-293 (ex Article 13[2] TEU)**

**Strategic interests**

U

1. On the basis of the principles and objectives set out in Article III-292, the European Council shall identify the strategic interests and objectives of the Union.

European Council determines interests and objectives unanimously (Foreign Minister consult and inform EP, see Art. 304 [1])

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

The European Council shall act unanimously on a recommendation from the Council, adopted by the latter under the arrangements laid down for each area.

*X/XX/U/X\*/XX\*/U\*\** European decisions of the European Council shall be implemented in accordance with the procedures provided for in the Constitution.

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

Minister of Foreign Affairs and Commission may propose jointly

CHAPTER II  
COMMON FOREIGN AND SECURITY POLICY

Closest to shared competence:  
**Foreign policy**

SECTION 1  
COMMON PROVISIONS

**Article III-294 (ex Articles 11, 12 TEU)**

**Instruments**

1. In the context of the principles and objectives of its external action, the Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy.

Union defines and implements its own foreign policy with....

2. The Member States shall support the common foreign and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity.

...the support of the Member States

Member States may not act against the interests of the Union	The Member States shall work together to enhance and develop their mutual political solidarity. They shall <u>refrain from any action</u> which is <u>contrary to the interests of the Union</u> or likely to impair its effectiveness as a cohesive force in international relations.
Council and Foreign Minister supervise	The Council and the Union Minister for Foreign Affairs shall ensure that these principles are complied with.
Means:	3. The Union shall conduct the common foreign and security policy by:
- general guidelines	<i>General rule U*</i> a) defining the general <u>guidelines</u> ;
- decisions	b) adopting European <u>decisions</u> defining:
- actions	<i>General rule U*</i> i) <u>actions</u> to be undertaken by the Union;
- positions	<i>General rule U*</i> ii) <u>positions</u> to be taken by the Union;
- implementation of decisions	<i>General rule XX</i> iii) arrangements for the <u>implementation</u> of the European decisions referred to in points (i) and (ii);
- cooperation between Member States	(c) strengthening systematic <u>cooperation between Member States</u> in the conduct of policy.

**General guidelines**

**Article III-295 (ex Article 13 TEU)**

*U\**

European Council defines by unanimity the general guidelines for foreign and defence policy	<p>1. The <u>European Council</u> shall <u>define</u> the general guidelines for the common foreign and security policy, including for matters with <u>defence</u> implications.</p> <p>If <u>international developments</u> so require, the President of the European Council shall convene an <u>extraordinary meeting</u> of the European Council in order to define the strategic lines of the Union's policy in the face of such developments.</p>
Council adopts more detailed rules	<p>2. The <u>Council</u> shall adopt the European decisions necessary for defining and <u>implementing the common foreign and security policy</u> on the basis of the general guidelines and strategic lines defined by the European Council.</p>

**Article III-296 (ex Articles 18[1-2], 26 TEU)**

**The Foreign Office**

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

Foreign Minister:  
- chairs the Foreign Affairs Council  
- makes proposals  
- implements decisions

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

- represents the Union externally (with the President of the European Council)

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

European External Action Service

**Article III-297 (ex Article 14 TEU)**

**Operational actions**

*U\**

1. Where the international situation requires operational action by the Union, the Council shall adopt the necessary European decisions. Such decisions shall lay down the objectives, the scope, the means to be made available to the Union, if necessary the duration, and the conditions for implementation of the action.

Council decides on international actions...

If there is a change in circumstances having a substantial effect on a question subject to such a European decision, the Council shall review the principles and objectives of that decision and adopt the necessary European decisions.

... and reviews decisions

2. The European decisions referred to in paragraph 1 shall commit the Member States in the positions they adopt and in the conduct of their activity.

Decisions commit Member States

Prior consultation before adoption of national position

3. Whenever there is any plan to adopt a national position or take national action pursuant to a European decision as referred to in paragraph 1, information shall be provided by the Member State concerned in time to allow, if necessary, for prior consultations within the Council. The obligation to provide prior information shall not apply to measures which are merely a national transposition of such a decision.

In emergency situations Member States can act instead of the Union...

4. In cases of imperative need arising from changes in the situation and failing a review of the European decision pursuant to the second subparagraph of paragraph 1, Member States may take the necessary measures as a matter of urgency, having regard to the general objectives of that decision. The Member State concerned shall inform the Council immediately of any such measures.

...but they must inform Council immediately

If there are “major difficulties” in implementing, refer to the Council

5. Should there be any major difficulties in implementing a European decision as referred to in this Article, a Member State shall refer them to the Council which shall discuss them and seek appropriate solutions. Such solutions shall not run counter to the objectives of the action or impair its effectiveness.

**Decisions, voting rules**

**Article III-298 (ex Article 15 TEU)**

U\*

The Council adopts decisions

The Council shall adopt European decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the positions of the Union.

**Initiatives**

**Article III-299 (ex Article 22 TEU)**

Proposals by:  
1) Member States  
2) Union Foreign Minister  
3) Foreign Minister and Commission

1. Any Member State, the Union Minister for Foreign Affairs, or that Minister with the Commission’s support, may refer any question relating to the common foreign and security policy to the Council and may submit to it initiatives or proposals as appropriate.

Extraordinary Council meeting when rapid decision is needed

2. In cases requiring a rapid decision, the Union Minister for Foreign Affairs, of the Minister’s own motion or at the request of a Member State, shall convene an extraordinary meeting of the Council within forty-eight hours or, in an emergency, within a shorter period.

**Article III-300 (ex Article 23 TEU)**

**Decision-making and voting rules**

*U\** 1. The European decisions referred to in this Chapter shall be adopted by the Council acting unanimously.

**General rule:**  
**Unanimity with constructive abstention**

When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration. In that case, it shall not be obliged to apply the European decision, but shall accept that the latter commits the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that decision and the other Member States shall respect its position. If the members of the Council qualifying their abstention in this way represent at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted.

Abstention by 1/3 of Member States comprising 1/3 of EU's population blocks a decision

*X/XX* 2. By way of derogation from paragraph 1, the Council shall act by a qualified majority:

The Council acts by **qualified majority:**

*XX* a) when adopting European decisions defining a Union action or position on the basis of a European decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article III-293(1);

- when European Council has previously determined interests by unanimity

*X* b) when adopting a European decision defining a Union action or position, on a proposal which the Union Minister for Foreign Affairs has presented following a specific request to him or her from the European Council, made on its own initiative or that of the Minister;

- when Foreign Minister proposes after request from European Council

*XX* c) when adopting a European decision implementing a European decision defining a Union action or position;

- when implementing decisions

*X* d) when adopting a European decision concerning the appointment of a special representative in accordance with Article III-302.

- when appointing a special representative

If a member of the Council declares that, for vital and stated reasons of national policy, it intends to oppose the adoption of a European decision to be adopted by a qualified majority, a vote shall not be taken. The Union Minister for Foreign Affairs will, in close consultation with the Member State involved, search for a solution acceptable to it. If he or she does not succeed, the Council may,

**Veto right for areas of vital national policy**

Member State can send the matter to the European Council

acting by a qualified majority, request that the matter be referred to the European Council for a European decision by unanimity.

**Extension of the qualified majority areas by unanimity in European Council**

3. In accordance with Article I-40(7) the European Council may unanimously adopt a European decision stipulating that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2 of this Article.

**No qualified majority on defence matters**

4. Paragraphs 2 and 3 shall not apply to decisions having military or defence implications.

**Diplomatic coordination**

**Article III-301 (new)**

Foreign Minister coordinates with his/her colleagues in Member States

1. When the European Council or the Council has defined a common approach of the Union within the meaning of Article I-40(5), the Union Minister for Foreign Affairs and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council.

Diplomatic missions cooperate

2. The diplomatic missions of the Member States and the Union delegations in third countries and at international organisations shall cooperate and shall contribute to formulating and implementing the common approach referred to in paragraph 1.

**Special representatives**

**Article III-302 (ex Article 18[5] TEU)**

The Council may appoint a special representative with a specific mandate

X

The Council may appoint, on a proposal from the Union Minister for Foreign Affairs, a special representative with a mandate in relation to particular policy issues. The special representative shall carry out his or her mandate under the Minister's authority.

**Agreements with 3<sup>rd</sup> countries**

**Article III-303 (ex Article 24 TEU)**

U

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

**Consultations**

**Article III-304 (ex Article 21 TEU)**

Foreign Minister consults and informs EP on main aspects and basic choices in CFSP and ESDP

1. The Union Minister for Foreign Affairs shall consult and inform the European Parliament in accordance with Article I-40(8) and Article I-41(8). He or she shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.

2. The European Parliament may ask questions of the Council and of the Union Minister for Foreign Affairs or make recommendations to them. Twice a year it shall hold a debate on progress in implementing the common foreign and security policy, including the common security and defence policy.

EP may submit recommendations

**Article III-305 (ex Article 19 TEU)**

**Coordination in international fora**

1. Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the Union's positions in such fora. The Union Minister for Foreign Affairs shall organise this coordination.

The Union presents a single position within international organisations

In international organisations and at international conferences where not all the Member States participate, those which do take part shall uphold the Union's positions.

Member States defend common positions

2. In accordance with Article I-16(2), Member States represented in international organisations or international conferences where not all the Member States participate shall keep the latter, as well as the Union Minister for Foreign Affairs, informed of any matter of common interest.

When only some Member States are represented in international organisations, they inform the others

Member States which are also members of the United Nations Security Council shall concert and keep the other Member States and the Union Minister for Foreign Affairs fully informed. Member States which are members of the Security Council will, in the execution of their functions, defend the positions and the interests of the Union, without prejudice to their responsibilities under the United Nations Charter.

Members of the UN Security Council defend Union-position

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

New: Foreign Minister shall present Union's position to the Security Council

**Article III-306 (ex Article 20 TEU)**

The diplomatic and consular missions of the Member States and the Union delegations in third countries and international conferences, and their representations to international

**Diplomatic missions** cooperate to ensure compliance and

implementation of the Union's position

organisations, shall cooperate in ensuring that the European decisions defining Union positions and actions adopted pursuant to this Chapter are complied with and implemented. They shall step up cooperation by exchanging information and carrying out joint assessments.

They shall contribute to the implementation of the right of European citizens to protection in the territory of third countries as referred to in Article I-10(2)(c) and the measures adopted pursuant to Article III-127.

**Political and Security Committee:**

**Article III-307 (ex Article 25 TEU)**

*U*

- monitors international situation

1. Without prejudice to Article III-344, a Political and Security Committee shall monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the latter, or of the Union Minister for Foreign Affairs, or on its own initiative. It shall also monitor the implementation of agreed policies, without prejudice to the powers of the Union Minister for Foreign Affairs.

- monitors implementation

- exercises political control with crisis management operations

2. Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council and of the Union Minister for Foreign Affairs, the political control and strategic direction of the crisis management operations referred to in Article III-309.

The Council may authorise the Committee to take decisions on its own

The Council may authorise the Committee, for the purpose and for the duration of a crisis management operation, as determined by the Council, to take the relevant measures concerning the political control and strategic direction of the operation.

Exercise of different competences

**Article III-308 (ex Article 47 TEU)**

CFSP does not affect the Union's competence in other areas

The implementation of the common foreign and security policy shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Constitution for the exercise of the Union competences referred to in Articles I-13 to I-15 and I-17.

Similarly, the implementation of the policies listed in those Articles shall not affect the application of the procedures and the

extent of the powers of the institutions laid down by the Constitution for the exercise of the Union competences under this Chapter.

**SECTION 2**  
**THE COMMON SECURITY AND DEFENCE POLICY**

**Article III-309 (ex Article 17(2) TEU)**

1. The tasks referred to in Article I-41(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

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

**Article III-310 (new)**

*U\**

1. Within the framework of the European decisions adopted in accordance with Article III-309, the Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the Union Minister for Foreign Affairs, shall agree among themselves on the management of the task.

2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major

Closest to shared competence:  
**Security and Defence Policy**

**Tasks:**

- Use of civilian or military means for
- disarmament
- humanitarian tasks
- military assistance
- combat forces
- conflict prevention
- peacemaking
- stabilisation

The Council decides by unanimity

Group of Member States

Decisions can be implemented by a group of Member States

Member States shall inform the Council

consequences or require amendment of the objective, scope and conditions determined for the task in the European decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary European decisions.

**European  
Defence Agency:**

**Article III-311 (new)**

Decided by the  
Council on  
16 June 2004

1. The Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency), established by Article I-41(3) and subject to the authority of the Council, shall have as its task to:

- identifies  
military needs
- promotes  
harmonisation of  
operational needs
- manages common  
programmes
- supports defence  
technology research
- strengthens  
defence sector

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

(b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;

(c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;

(d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;

(e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

Agency is open to  
all Member States

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

Decision on the  
Agency's statute, seat  
and rules adopted by  
qualified majority

**Article III-312 (new)**

1. Those Member States which wish to participate in the permanent structured cooperation referred to in Article I-41(6), which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation shall notify their intention to the Council and to the Union Minister for Foreign Affairs.

**New: Structured cooperation** (see also Protocol N° 23)

Member States with high military capabilities may establish structured cooperation

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

The Council adopts a decision to establish structured cooperation by **qualified majority**

3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the Union Minister for Foreign Affairs.

Structured cooperation open to all Member States

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

The Council confirms participation of Member State by qualified majority

Only participating Member States can vote

A qualified majority shall be defined as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

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

Suspension of a Member State's participation

**The Council decides by qualified majority**  
= 55% of the Member States comprising 65% of EU population

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

A qualified majority shall be defined as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.

Blocking minority = 35% of the population of the participating states + 1 Member State

A blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

Voluntary withdrawal

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

**Unanimity where nothing else stated**

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

**Financial provisions for Foreign Affairs with new start-up fund**

SECTION 3  
FINANCIAL PROVISIONS

**Article III-313** (*ex Article 28(2, 5) TEU*)

Administrative expenditures: always Union budget

1. Administrative expenditure which the implementation of this Chapter entails for the institutions shall be charged to the Union budget.

Operational expenditures: Union budget, unless military and defence operations

U 2. Operating expenditure to which the implementation of this Chapter gives rise shall also be charged to the Union budget, except for such expenditure arising from operations having military or defence implications and cases where the Council decides otherwise.

U In cases where expenditure is not charged to the Union budget it shall be charged to the Member States in accordance with the gross national product scale, unless the Council decides otherwise. As for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal declaration under Article III-300(1), second subparagraph, shall not be obliged to contribute to the financing thereof.

If not Union budget, then Member States' budgets, unless Council decides otherwise.

No costs for military and defence operations for those abstaining

U\* 3. The Council shall adopt a European decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article I-41(1) and Article III-309. It shall act after consulting the European Parliament.

Rapid access to budget for urgent financing

Consultation of the EP

Preparatory activities for the tasks referred to in Article I-41(1) and Article III-309 which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

New: Start-up fund

X The Council shall adopt by a qualified majority, on a proposal from the Union Minister for Foreign Affairs, European decisions establishing:

Qualified majority in the Council for:

(a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;

- establishing the fund

(b) the procedures for administering the start-up fund;

- administering the fund

(c) the financial control procedures.

- financial control

XX When the task planned in accordance with Article I-41(1) and Article III-309 cannot be charged to the Union budget, the Council shall authorise the Union Minister for Foreign Affairs to use the fund. The Union Minister for Foreign Affairs shall report to the Council on the implementation of this remit.

Foreign Minister can use the fund for "Petersberg-tasks" (Art. III-309)

Exclusive competence  
**Common  
 Commercial Policy**

CHAPTER III  
 COMMON COMMERCIAL POLICY

**Aims:**

**Article III-314** (ex Article 131 TEC)

- harmonious development of trade
- progressive abolition of trade restrictions
- removal of barriers

By establishing a customs union in accordance with Article III-151, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.

**Principles:**

**Article III-315** (ex Article 133 TEC)

Based on uniform principles

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

Legislative procedure with qualified majority, EP gains co-decision

*X\*\** 2. European laws shall establish the measures defining the framework for implementing the common commercial policy.

Procedure in Art. III-325

3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article III-325 shall apply, subject to the special provisions of this Article.

Council mandates Commission to negotiate

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

The Commission consults with a Council-appointed special committee

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

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

In principle:  
The Council acts by qualified majority

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

**Unanimity:**  
Trade agreements on **services**, commercial aspects of **intellectual property** and **foreign direct investment**

U\*/U\*\*\* The Council shall also act unanimously for the negotiation and conclusion of agreements:

when internal rules are by unanimity;  
Also when:  
- culture is involved  
- diversity is endangered

(a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union’s cultural and linguistic diversity;

(b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

- national social, education and health services are “disturbed”

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to Section 7 of Chapter III of Title III and to Article III-325.

Transport

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

Delimitation of competence between the Union and Member States is not affected

**International cooperation**

CHAPTER IV  
COOPERATION WITH THIRD COUNTRIES  
AND HUMANITARIAN AID

Shared competence:

**Development**  
(Member States  
can still use their  
competence: I-14[4])

SECTION 1  
DEVELOPMENT COOPERATION

Objectives:

**Article III-316** (ex Article 177 TEC)

- to limit poverty

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

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

Respect of UN commitments

2. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

**Implementation**

**Article III-317** (ex Articles 179, 181 TEC)

Legislative procedure with qualified majority

X\*\*

1. European laws or framework laws shall establish the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.

Agreements with 3<sup>rd</sup> countries

2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Articles III-292 and III-316.

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

3. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.

European Investment Bank

**Article III-318** (ex Articles 180, 181 TEC)

**Coordination**

1. In order to promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Union aid programmes.

- of Union and Member States' policies in international organisations

2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

Commission promotes coordination

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations.

Cooperation with 3<sup>rd</sup> countries

**SECTION 2**  
**ECONOMIC, FINANCIAL AND**  
**TECHNICAL COOPERATION WITH THIRD COUNTRIES**

**Article III-319** (ex Article 181a TEC)

**Means:**

1. Without prejudice to the other provisions of the Constitution, and in particular Articles III-316 to III-318, the Union shall carry out economic, financial and technical cooperation measures, including assistance, in particular financial assistance, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The Union's measures and those of the Member States shall complement and reinforce each other.

- financial, technical and economic cooperation

- financial assistance

<sup>X\*\*</sup> 2. European laws or framework laws shall establish the measures necessary for the implementation of paragraph 1.

Legislative procedure with qualified majority;

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the

EP gains co-decision

Agreements competent international organisations. The arrangements for Union cooperation may be the subject of agreements between the Union and the third parties concerned.

Member States also competent for aid given to developing countries The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.

**Urgent financial assistance**

- approved by decision in the Council (Art. 308 TEC has been used so far)

**Article III-320 (new)**

X

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

Shared competence: **Humanitarian aid** (Member States can still use their competence: I-14[4])

SECTION 3  
HUMANITARIAN AID

**Part of external action**

Help and protection for people in 3<sup>rd</sup> countries and for victims of disasters

**Article III-321 (new)**

X\*\*

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

Respect for impartiality, neutrality and non-discrimination

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

Legislative procedure with qualified majority

3. European laws or framework laws shall establish the measures defining the framework within which the Union's humanitarian aid operations shall be implemented.

International agreements and organisations

4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in paragraph 1 and in Article III-292.

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

X\*\* 5. In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. European laws shall determine the rules and procedures for the operation of the Corps.

European Voluntary Humanitarian Aid Corps by qualified majority

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

Coordination of Union and Member States' actions

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

United Nations

## CHAPTER V RESTRICTIVE MEASURES

**Boycott actions**

### **Article III-322** (*ex Article 301 TEC; new*)

X

1. Where a European decision, adopted in accordance with Chapter II, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the Union Minister for Foreign Affairs and the Commission, shall adopt the necessary European regulations or decisions. It shall inform the European Parliament thereof.

Interruption of relations with other countries

Qualified majority after joint proposal from Commission and EU Foreign Minister

2. Where a European decision adopted in accordance with Chapter II so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.

New: Boycotts against persons and groupings

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

Necessary legal safeguards

Exclusive competence when the EU has the internal competence  
**International agreements**

CHAPTER VI  
INTERNATIONAL AGREEMENTS

**Article III-323** (ex Articles 24 TEU, 300(7) TEC)

Agreements between Union and 3<sup>rd</sup> countries or international organisations

1. The Union may conclude an agreement with one or more third countries or international organisations where the Constitution so provides or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union’s policies, one of the objectives referred to in the Constitution, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.

Agreements also bind Member States

2. Agreements concluded by the Union are binding on the institutions of the Union and on its Member States.

**Association agreements**

**Article III-324** (ex Article 310 TEC)

*U\*\*\**

The Union may conclude an association agreement with one or more third countries or international organisations in order to establish an association involving reciprocal rights and obligations, common actions and special procedures.

**New procedures**

**Article III-325** (New, ex Articles 300 TEC, 24 TEU)

Procedure for conclusion of international agreements:

1. Without prejudice to the specific provisions laid down in Article III-315, agreements between the Union and third countries or international organisations shall be negotiated and concluded in accordance with the following procedure.

- the Council authorises, directs the negotiations and concludes

*XX (general rule)* 2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.

- Commission and Foreign Minister shall submit recommendations

*XX (general rule)* 3. The Commission, or the Union Minister for Foreign Affairs where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall submit recommendations to the Council, which shall adopt a European decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or head of the Union’s negotiating team.

- the Council nominates a negotiator and gives...

*XX (general rule)* 4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted. ...negotiating directives  
- special committee designated

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

*X (general rule)* 6. The Council, on a proposal by the negotiator, shall adopt a European decision concluding the agreement. The Council decides by **qualified majority** (paragraph 8)

*U* Except where agreements relate exclusively to the common foreign and security policy, the Council shall adopt the European decision concluding the agreement: Unless agreement relates only to CFSP...

*X\*\*\* (general rule)* (a) after obtaining the consent of the European Parliament in the following cases: ...the EP's consent is required for:

(i) association agreements; - association agreements

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

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

(iv) agreements with important budgetary implications for the Union; - agreements with important budgetary implications

(v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required. - agreements in areas where the legislative procedure applies

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

*X\* (general rule)* (b) after consulting the European Parliament in other cases. The European Parliament shall deliver its opinion within a time-limit which the Council may set depending on the **consultation with EP**

urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

Delegation of powers to amend agreements

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

General rule: **qualified majority** in the Council

*X/XX* 8. The Council shall act by a qualified majority throughout the procedure.

**Unanimity:**  
- if internal rules require unanimity  
- for association and accession agreements

However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements and the agreements referred to in Article III-319 with the States which are candidates for accession.

Suspension of agreements and Union position

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

EP to be informed at all stages

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

Opinion of the EU Court may be requested

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

**Exchange-rate system**

**Article III-326** (ex Article 111 (1-3, 5) TEC)

Agreements on exchange-rate systems:

*U\** 1. By way of derogation from Article III-325, the Council, either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the

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

The Council acts unanimously after consulting ECB and EP on the exchange-rate system

*XX* The Council, either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.

The Council acts by qualified majority after recommendation from ECB or Commission on the central rates within the exchange-rate system

*XX* 2. In the absence of an exchange-rate system in relation to one or more currencies of third States as referred to in paragraph 1, the Council, acting either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

General orientations adopted by Council

*XX* 3. By way of derogation from Article III-325, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more third States or international organisations, the Council, acting on a recommendation from the Commission and after consulting the European Central Bank, shall decide the arrangements for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Union expresses a single position. The Commission shall be fully associated with the negotiations.

The Council decides matters relating to monetary or exchange rate systems after consulting ECB

4. Without prejudice to Union competence and Union agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude agreements.

Member States' competence

**Diplomatic representation**

CHAPTER VII  
THE UNION’S RELATIONS WITH INTERNATIONAL ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS

**Cooperation with int’l organisations**

**Article III-327** (ex Articles 302 - 304 TEC)

UN,  
Council of Europe,  
OCSE and OECD

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

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

The Union’s Foreign Affairs Minister implements

2. The Union Minister for Foreign Affairs and the Commission shall be instructed to implement this Article.

**New:**  
**Union delegations**  
represent the Union...

**Article III-328** (new)

1. Union delegations in third countries and at international organisations shall represent the Union.

...under the authority of the Foreign Minister

2. Union delegations shall be placed under the authority of the Union Minister for Foreign Affairs. They shall act in close cooperation with Member States’ diplomatic and consular missions.

**New:**  
**Solidarity clause**

CHAPTER VIII  
IMPLEMENTATION OF THE SOLIDARITY CLAUSE

**Article III-329** (new)

Member States help each other in case of:  
- terrorist attack  
- disaster

1. Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

The Council decides

XU 2. The arrangements for the implementation by the Union of the

solidarity clause referred to in Article I-43 shall be defined by a European decision adopted by the Council acting on a joint proposal by the Commission and the Union Minister for Foreign Affairs. The Council shall act in accordance with Article III-300(1) where this decision has defence implications. The European Parliament shall be informed.

alone by qualified majority unless defence implications

For the purposes of this paragraph and without prejudice to Article III-344, the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article III-261; the two committees shall, if necessary, submit joint opinions.

Assistance of the Council by the Political and Security Committee

U 3. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.

Regular assessments of threats

**TITLE VI  
THE FUNCTIONING OF THE UNION**

**CHAPTER I  
PROVISIONS GOVERNING THE INSTITUTIONS**

**Institutions**

**SECTION 1  
THE INSTITUTIONS**

**Subsection 1  
The European Parliament**

**European Parliament, EP**

**Article III-330 (ex Article 190(4-5) TEC)**

**Election law**

U\*\*\* 1. A European law or framework law of the Council shall establish the necessary measures for the election of the Members of the European Parliament by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

Election by direct universal suffrage with a uniform procedure

U\*\*\* The Council shall act unanimously on initiative from, and after obtaining the consent of, the European Parliament, which shall act by a majority of its component members. This law or framework law shall enter into force after it has been approved by the Member States in accordance with their respective constitutional requirements.

EP proposes, Council decides by unanimity with consent of EP and the Member States' approval

EP decides its own regulations with the consent of the Council, by qualified majority

- taxation rules require unanimity

**Political parties**

Funding of European political parties adopted by qualified majority

**Request initiative**

Absolute majority of EP members may request an initiative from the Commission

**Temporary Committee of Inquiry**

¼ of EP members request; a simple majority decides on committee to investigate maladministration

It exists until a report is submitted

EP adopts law with consent from Council and Commission; now after common accord

*Laws of EP X\*\*/U\*\** 2. A European law of the European Parliament shall lay down the regulations and general conditions governing the performance of the duties of its Members. The European Parliament shall act on its own initiative after seeking an opinion from the Commission and after obtaining the consent of the Council. The Council shall act unanimously on all rules or conditions relating to the taxation of Members or former Members.

**Article III-331 (ex Article 191(point 2) TEC)**

X\*\*

European laws shall lay down the regulations governing the political parties at European level referred to in Article I-46(4), and in particular the rules regarding their funding.

**Article III-332 (ex Article 192 TEC)**

The European Parliament may, by a majority of its component Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Constitution. If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons.

**Article III-333 (ex Article 193 TEC)**

In the course of its duties, the European Parliament may, at the request of a quarter of its component Members, set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by the Constitution on other institutions or bodies, alleged contraventions or maladministration in the implementation of Union law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.

The temporary Committee of Inquiry shall cease to exist on submission of its report.

*Laws of EP XX\*\** A European law of the European Parliament shall lay down the detailed provisions governing the exercise of the right of inquiry. The European Parliament shall act on its own initiative after obtaining the consent of the Council and of the Commission.

**Article III-334** (ex Article 194 TEC)

In accordance with Article I-10(2)(d), any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other persons, a petition to the European Parliament on a matter which comes within the Union's fields of activity and which affects him, her or it directly.

**Petitions**

Right to  
petition the EP

**Article III-335** (ex Article 195 TEC)

1. The European Parliament shall elect a European Ombudsman. In accordance with Articles I-10(2)(d) and I-49, he or she shall be empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the Union's institutions, bodies, offices or agencies, with the exception of the Court of Justice of the European Union acting in its judicial role.

**Ombudsman**

EP elects an  
Ombudsman

Ombudsman  
receives complaints  
on maladministration

In accordance with his or her duties, the Ombudsman shall conduct inquiries for which he or she finds grounds, either on his or her own initiative or on the basis of complaints submitted to him or her direct or through a member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he or she shall refer the matter to the institution, body, office or agency concerned, which shall have a period of three months in which to inform him or her of its views. The European Ombudsman shall then forward a report to the European Parliament and the institution, body, office or agency concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

Ombudsman's  
own initiative

Concrete report of  
the Ombudsman to  
the EP on findings

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his or her inquiries.

General annual  
report to EP

2. The Ombudsman shall be elected after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment.

Ombudsman is  
appointed after  
each EP election

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he or she no longer fulfils the

May be reappointed

EU Court can dismiss him/her at EP request conditions required for the performance of his or her duties or if he or she is guilty of serious misconduct.

Completely independent 3. The Ombudsman shall be completely independent in the performance of his or her duties. In the performance of those duties he or she shall neither seek nor take instructions from any institution, body, office or agency. The Ombudsman shall not, during his or her term of office, engage in any other occupation, whether gainful or not.

EP adopts law with Council's consent *Laws of EP X\*\** 4. A European law of the European Parliament shall lay down the regulations and general conditions governing the performance of the Ombudsman's duties. The European Parliament shall act on its own initiative after seeking an opinion from the Commission and after obtaining the consent of the Council.

**Sessions** **Article III-336 (ex Article 196 TEC)**

At present, EP meets in plenary 12x4 days in Strasbourg and 6x2 days in Brussels The European Parliament shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March.

The European Parliament may meet in extraordinary part-session at the request of a majority of its component members or at the request of the Council or of the Commission.

**Mutual hearings** **Article III-337 (ex Articles 197, 200 TEC)**

Council shall be heard by the EP 1. The European Council and the Council shall be heard by the European Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council and those of the Council.

Commission shall be heard by and reply to EP 2. The Commission may attend all the meetings of the European Parliament and shall, at its request, be heard. It shall reply orally or in writing to questions put to it by the European Parliament or by its members.

Annual report 3. The European Parliament shall discuss in open session the annual general report submitted to it by the Commission.

**Article III-338** (ex Article 198 TEC)

Save as otherwise provided in the Constitution, the European Parliament shall act by a majority of the votes cast. Its Rules of Procedure shall determine the quorum.

**Voting rules**

Majority of votes cast if nothing else written  
- very often absolute majority of members

**Article III-339** (ex Article 199 TEC)

The European Parliament shall adopt its Rules of Procedure, by a majority of its component members.

**Rules of Procedure**

adopted by an absolute majority of members

The proceedings of the European Parliament shall be published in the manner laid down in the Constitution and the Rules of Procedure of the European Parliament.

**Article III-340** (ex Article 201 TEC)

If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and shall do so only by open vote.

**Censure of Commission**

- EP cannot vote until three days after tabling the motion  
- votes in open session  
- 2/3 majority of votes cast and absolute majority of members

If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the component members of the European Parliament, the members of the Commission shall resign as a body and the Union Minister for Foreign Affairs shall resign from duties that he or she carries out in the Commission. They shall remain in office and continue to deal with current business until they are replaced in accordance with Articles I-26 and I-27. In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired.

Commission shall resign as a body  
- no individual censure possible

**Subsection 2  
The European Council**

**Article III-341** (new)

1. Where a vote is taken, any member of the European Council may also act on behalf of not more than one other member.

**European Council  
- EU summits  
- Voting rules**

Members can represent **one** other Member

Abstentions by members present in person or represented shall not

Abstention does not

prevent adoption of acts by unanimity      prevent the adoption by the European Council of acts which require unanimity.

2. The President of the European Parliament may be invited to be heard by the European Council.

Procedural rules by simple majority      (*Simple majority*) 3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.

General Secretariat      4. The European Council shall be assisted by the General Secretariat of the Council.

**The Council of Ministers**

**Subsection 3  
The Council of Ministers**

**Article III-342** (*ex Article 204 TEC*)

President convenes the Council      The Council shall meet when convened by its President on his or her own initiative, or at the request of one of its members or of the Commission.

**Voting rules**      **Article III-343** (*ex Articles 205[1, 3], 206 TEC*)

Members can represent one other Member      1. Where a vote is taken, any member of the Council may act on behalf of not more than one other member.

Simple majority means majority of members      2. Where it is required to act by a simple majority, the Council shall act by a majority of its component members.

Abstention does not prevent unanimity      3. Abstentions by members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

**COREPER**      **Article III-344** (*ex Article 207 TEC*)

Permanent representatives from all Member States prepare Council's work      1. A committee consisting of the Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the latter. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.

XX 2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council.

Organisation of the Council secretariat by simple majority

*(Simple majority)* The Council shall decide on the organisation of the General Secretariat by a simple majority.

*(Simple majority)* 3. The Council shall act by a simple majority regarding procedural matters and for the adoption of its Rules of Procedure.

Rules of Procedure by simple majority

**Article III-345** *(ex Article 208 TEC)*

**Request initiative**

*(Simple majority)* The Council, by a simple majority, may request the Commission to undertake any studies the Council considers desirable for the attainment of the common objectives, and to submit any appropriate proposals to it. If the Commission does not submit a proposal, it shall inform the Council of the reasons.

Simple Council majority may request the Commission to submit a proposal

**Article III-346** *(ex Article 209 TEC)*

**Committees**

*(Simple majority)* The Council shall adopt European decisions laying down the rules governing the committees provided for in the Constitution. It shall act by a simple majority after consulting the Commission.

Rules for committees adopted by simple majority in the Council

**Subsection 4**  
**The European Commission**

**The Commission**

**Article III-347** *(ex Article 213(2) TEC)*

**Independence**

The members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks.

Completely independent

*(Simple majority)* The members of the Commission shall not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of

Commissioners cannot have other occupation

They must behave with integrity towards the office...

...if not, EU Court can compulsorily retire Members or deprive them of a pension

these obligations, the Court of Justice may, on application by the Council, acting by a simple majority, or the Commission, rule that the person concerned be, according to the circumstances, either compulsorily retired in accordance with Article III-349 or deprived of his or her right to a pension or other benefits in its stead.

**Resignations**

**Article III-348 (ex Article 215 TEC)**

President can fire other members

1. Apart from normal replacement, or death, the duties of a member of the Commission shall end when he or she resigns or is compulsorily retired.

Vacancy shall be filled by qualified majority and approval by Commission President

*XX* 2. A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the member's term of office by a new member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in Article I-26(4).

*U* The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not be filled, in particular when the remainder of the member's term of office is short.

Procedure for replacing the President

*XX* 3. In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his or her term of office in accordance with Article I-27(1).

Replacement of Foreign Minister

*XX* 4. In the event of resignation, compulsory retirement or death, the Union Minister for Foreign Affairs shall be replaced, for the remainder of his or her term of office, in accordance with Article I-28(1).

Shall remain in office until being replaced

5. In the case of the resignation of all the members of the Commission, they shall remain in office and continue to deal with current business until they have been replaced, for the remainder of their term of office, in accordance with Articles I-26 and I-27.

**Sacked by Court**

**Article III-349 (ex Article 216 TEC)**

Can be retired by EU Court

*(Simple majority)* If any member of the Commission no longer fulfils the conditions required for the performance of his or her duties or if he or she has been guilty of serious misconduct, the Court

of Justice may, on application by the Council, acting by a simple majority, or by the Commission, compulsorily retire him or her.

**Article III-350** (ex Article 217 TEC)

Without prejudice to Article I-28(4), the responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President, in accordance with Article I-27(3). The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The members of the Commission shall carry out the duties devolved upon them by the President under his or her authority.

**President**  
**decides portfolios**  
and may  
reshuffle them

**Article III-351** (ex Article 219 TEC)

The Commission shall act by a majority of its members. Its Rules of Procedure shall determine the quorum.

**Voting rule**  
Decides by majority  
of its members

**Article III-352** (ex Articles 218(2), 212 TEC)

1. The Commission shall adopt its Rules of Procedure so as to ensure both its own operation and that of its departments. It shall ensure that these rules are published.

2. The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Union.

**Rules of Procedure**  
  
  
  
  
**Annual general**  
report to EP

**Subsection 5**  
**The Court of Justice of the European Union**

**EU Court =**  
Court of Justice,  
General Court  
and specialised courts

**Article III-353** (ex Article 221 TEC)

The Court of Justice shall sit in chambers, as a Grand Chamber or as a full Court, in accordance with the Statute of the Court of Justice of the European Union.

**Three formations:**  
- chambers  
- Grand Chamber  
- full Court

**Article III-354** (ex Article 222 TEC)

*U* The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the

**Advocates-General**  
8 AGs - can be  
increased by unanimity

Council may, acting unanimously, adopt a European decision to increase the number of Advocates-General.

- impartial
- independent
- make submissions when their involvement is required

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice of the European Union, require his or her involvement.

**Appointments for Court of Justice**

**Article III-355 (ex Article 223 TEC)**

- Judges and Advocates-General shall have qualifications for the highest positions within their national legal systems
- chosen by common accord

*U* The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States after consultation of the panel provided for in Article III-357.

- Partial replacement every third year

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice of the European Union.

- Elects the President for 3 years, may re-elect

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He or she may be re-elected.

- The Council approves rules

*XX* The Court of Justice shall adopt its Rules of Procedure. Those Rules shall require the consent of the Council.

- General Court**
- former Court of First Instance

**Article III-356 (ex Article 224 TEC)**

- May have more than one judge from each country

The number of Judges of the General Court shall be determined by the Statute of the Court of Justice of the European Union. The Statute may provide for the General Court to be assisted by Advocates-General.

- Judges must be:
- independent

*U* The members of the General Court shall be chosen from persons whose independence is beyond doubt and who possess the

ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States after consultation of the panel provided for in Article III-357.

- able to hold  
high legal office

Appointed for 6 years;

The membership of the General Court shall be partially renewed every three years.

- partial rotation  
every 3 years

The Judges shall elect the President of the General Court from among their number for a term of three years. He or she may be re-elected.

Elects President for  
3 years; may re-elect

XX The General Court shall establish its Rules of Procedure in agreement with the Court of Justice. The Rules shall be subject to the consent of the Council.

Council approves  
rules by qualified  
majority

Unless the Statute provides otherwise, the provisions of the Constitution relating to the Court of Justice shall apply to the General Court.

**Article III-357 (new)**

**The panel**

A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles III-355 and III-356.

Panel gives opinions  
on candidates

XX The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament.

7 members  
- 6 proposed by  
President of the  
Court, 1 by the EP

XX The Council shall adopt a European decision establishing the panel's operating rules and a European decision appointing its members. It shall act on the initiative of the President of the Court of Justice.

The Council  
appoints them by  
qualified majority

**Article III-358 (ex Article 225 TEC)**

**Jurisdiction of  
General Court;  
competences**

1. The General Court shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles III-365,

In principle:  
Court of first instance

<p>Competence of the General Court can be extended in the Statute</p>	<p>III-367, III-370, III-372 and III-374, with the <u>exception</u> of those <u>assigned</u> to a <u>specialised court</u> set up under Article III-359 and those reserved in the <u>Statute</u> of the <u>Court of Justice of the European Union</u> for the Court of Justice. The Statute may provide for the General Court to <u>have jurisdiction</u> for <u>other classes</u> of action or proceeding.</p>
<p>Appeals to the Court of Justice only possible on points of law</p>	<p>Decisions given by the General Court under this paragraph may be subject to a right of <u>appeal</u> to the <u>Court of Justice</u> on points of <u>law only</u>, under the conditions and within the limits laid down by the Statute.</p>
<p>Decisions from the specialised courts can be subject to review by the General Court;</p> <p>- only exceptionally, General Court rulings can be reviewed by the Court of Justice</p>	<p>2. The General Court shall have jurisdiction to hear and determine actions or <u>proceedings</u> brought <u>against</u> decisions of the <u>specialised courts</u>.</p> <p>Decisions given by the General Court under this paragraph may exceptionally be subject to <u>review by the Court of Justice</u>, under the conditions and within the limits laid down by the Statute of the Court of Justice of the European Union, where there is a serious risk of the unity or consistency of Union law being affected.</p>
<p>Preliminary rulings</p>	<p>3. The General Court shall have <u>jurisdiction</u> to hear and determine questions referred for a preliminary ruling under <u>Article III-369</u>, in specific areas laid down by the Statute of the Court of Justice of the European Union.</p>
<p>Decision of principle by the General Court</p>	<p>Where the General Court considers that the case requires a <u>decision of principle</u> likely to affect the unity or consistency of Union law, it may refer the case to the <u>Court of Justice</u> for a ruling.</p> <p><u>Decisions</u> given by the General Court on questions referred for a <u>preliminary ruling</u> may exceptionally be subject to <u>review by the Court of Justice</u>, under the conditions and within the limits laid down by the Statute, <u>where</u> there is a <u>serious risk</u> of the <u>unity</u> or <u>consistency</u> of Union law being <u>affected</u>.</p>
<p><b>Specialised courts</b></p>	<p style="text-align: center;"><b>Article III-359</b> (<i>ex Articles 220 [2. sentence], 225a TEC</i>) <u>X**/XX**</u></p>
<p>Establishment by laws</p>	<p>1. European <u>laws</u> may establish <u>specialised courts</u> attached to the General Court to <u>hear</u> and <u>determine</u> at <u>first instance</u> certain classes of action or proceeding brought <u>in specific areas</u>. They shall be adopted either on a <u>proposal</u> from the <u>Commission</u> after consultation of the <u>Court of Justice</u> or at the request of the</p>
<p>Courts of first instance in specific areas</p>	

Court of Justice after consultation of the Commission.

2. The European law establishing a specialised court shall lay down the rules on the organisation of the court and the extent of the jurisdiction conferred upon it.

Rules laid down in law adopted by ordinary legislative procedure

3. Decisions given by specialised courts may be subject to a right of appeal on points of law only or, when provided for in the European law establishing the specialised court, a right of appeal also on matters of fact, before the General Court.

Appeals only on points of law, unless otherwise stated in the rules

*U* 4. The members of the specialised courts shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

Independent judges appointed unanimously by the Council

*XX* 5. The specialised courts shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the consent of the Council.

Rules of specialised courts adopted by the Council

6. Unless the European law establishing the specialised court provides otherwise, the provisions of the Constitution relating to the Court of Justice of the European Union and the provisions of the Statute of the Court of Justice of the European Union shall apply to the specialised courts. Title I of the Statute and Article 64 thereof shall in any case apply to the specialised courts.

Unless otherwise stated, rules for Court of Justice also apply to specialised courts

**Article III-360** (ex Article 226 TEC)

**Bringing a Member State before EU Court**

If the Commission considers that a Member State has failed to fulfil an obligation under the Constitution, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

**By the Commission:**

- 1. Letter of formal notice to the Member State
- 2. Response by the Member State
- 3. EU Court decision

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union.

**Article III-361** (ex Article 227 TEC)

**By another State:**

- 1. Sends matter to Commission

A Member State which considers that another Member State has

- 2. Each State submits response failed to fulfil an obligation under the Constitution may bring the matter before the Court of Justice of the European Union.
- 3. Reasoned opinion from Commission within 3 months Before a Member State brings an action against another Member State for an alleged infringement of an obligation under the Constitution, it shall bring the matter before the Commission.
- 4. EU Court decision

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court.

**Failure to comply with Court ruling**

**Article III-362 (ex Article 228 TEC)**

Member States must comply with EU Court rulings

1. If the Court of Justice of the European Union finds that a Member State has failed to fulfil an obligation under the Constitution that State shall be required to take the necessary measures to comply with the judgment of the Court.

Commission can take a Member State to court for non-compliance with EU Court decision

2. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the judgment referred to in paragraph 1, it may bring the case before the Court of Justice of the European Union after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

Penalty payment

Commission proposes fine; EU Court decides

If the Court finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article III-361.

Member States may be fined for failure to notify measures transposing framework law

3. When the Commission brings a case before the Court of Justice of the European Union pursuant to Article III-360 on the grounds that the Member State concerned has failed to fulfil its obligation to notify measures transposing a European framework law, it may,

when it deems appropriate, specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that there is an infringement it may impose a lump sum or penalty payment on the Member State concerned not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment.

Fines cannot be higher than those proposed by the Commission

#### Article III-363 (ex Article 229 TEC)

X\*\* European laws and regulations of the Council may give the Court of Justice of the European Union unlimited jurisdiction with regard to the penalties provided for in them.

#### Penalties

EU Court has unlimited jurisdiction over penalties

#### Article III-364 (ex Article 229a TEC)

X\*\* Without prejudice to the other provisions of the Constitution, a European law may confer on the Court of Justice of the European Union, to the extent that it shall determine, jurisdiction in disputes relating to the application of acts adopted on the basis of the Constitution which create European intellectual property rights.

EU Court's competence over **intellectual property** rights may be set out by law

#### Article III-365 (ex Article 230 TEC)

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.

#### Legality of acts

EU Court:

▶ reviews legality of legal acts

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.

▶ has jurisdiction over lack of competence and infringements of  
- procedural requirements  
- the Constitution  
- rule of law

EU Court's competence on complaints over prerogatives by:  
- Court of Auditors  
- Central Bank  
- Committee of the Regions

3. The Court of Justice of the European Union shall have jurisdiction under the conditions laid down in paragraphs 1 and 2 in actions brought by the Court of Auditors, by the European Central Bank and by the Committee of the Regions for the purpose of protecting their prerogatives.

Persons must be "directly and individually" concerned

4. Any natural or legal person may, under the conditions laid down in paragraphs 1 and 2, institute proceedings against an act addressed to that person or which is of direct and individual concern to him or her, and against a regulatory act which is of direct concern to him or her and does not entail implementing measures.

Special rules for offices, agencies and bodies

5. Acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them.

Deadline:  
Cases shall be brought before the EU Court within **2 months**

6. The proceedings provided for in this Article shall be instituted within two months of the publication of the act, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the plaintiff's knowledge, as the case may be.

**Validity**

**Article III-366 (ex Article 231 TEC)**

EU Court can declare an act void if not legal

If the action is well founded, the Court of Justice of the European Union shall declare the act concerned to be void.

It can also declare that some parts remain valid

However, the Court shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive.

**Non-action**

**Article III-367 (ex Article 232 TEC)**

Failure of an institution to act can be brought before the EU Court

Should the European Parliament, the European Council, the Council, the Commission or the European Central Bank, in infringement of the Constitution, fail to act, the Member States and the other institutions of the Union may bring an action before the Court of Justice of the European Union to have the infringement established. This Article shall apply, under the same conditions, to bodies, offices and agencies of the Union which fail to act.

The action shall be admissible only if the institution, body, office or agency concerned has first been called upon to act. If, within two months of being so called upon, the institution, body, office or agency concerned has not defined its position, the action may be brought within a further period of two months.

The institution first must have been called upon to act

Any natural or legal person may, under the conditions laid down in the first and second paragraphs, complain to the Court that an institution, body, office or agency of the Union has failed to address to that person any act other than a recommendation or an opinion.

Anyone may complain

**Article III-368** (ex Article 233 TEC)

**Obligation to comply with judgements**

The institution, body, office or agency whose act has been declared void, or whose failure to act has been declared contrary to the Constitution, shall be required to take the necessary measures to comply with the judgment of the Court of Justice of the European Union.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article III-431.

**Article III-369** (ex Article 234 TEC)

**Preliminary rulings**

The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings concerning

Areas of preliminary rulings:

(a) the interpretation of the Constitution;

- the Constitution

(b) the validity and interpretation of acts of the institutions, bodies, offices and agencies of the Union.

- acts of the institutions

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling thereon.

Any national court can ask for preliminary rulings

Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court.

If the national right of appeal has been exhausted, the matter shall be brought before the EU Court

If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court shall act with the minimum of delay.

**Compensation for damages**

**Article III-370** (ex Article 235 TEC)

The Court of Justice of the European Union shall have jurisdiction in disputes relating to compensation for damage provided for in the second and third paragraphs of Article III-431.

**Suspensions**

**Article III-371** (ex Article 46(e) TEU)

If the Council suspends membership rights, only procedural questions can be verified by the EU Court

The Court of Justice shall have jurisdiction to decide on the legality of an act adopted by the European Council or by the Council pursuant to Article I-59 solely at the request of the Member State concerned by a determination of the European Council or of the Council and in respect solely of the procedural stipulations contained in that Article.

Such a request must be made within one month from the date of such determination. The Court shall rule within one month from the date of the request.

**Staff disputes**

**Article III-372** (ex Article 236 TEC)

Disputes between Union and its servants

The Court of Justice of the European Union shall have jurisdiction in any dispute between the Union and its servants within the limits and under the conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union.

**European Investment Bank**

**Article III-373** (ex Article 237 TEC)

The Court can rule on:

The Court of Justice of the European Union shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning:

- the Statute of the EIB

(a) the fulfilment by Member States of obligations under the Statute of the European Investment Bank. In this connection, the Board of Directors of the Bank shall enjoy the powers conferred upon the Commission by Article III-360;

- measures adopted by EIB Board of Governors

(b) measures adopted by the Board of Governors of the European Investment Bank. In this connection, any Member State, the Commission or the Board of Directors of the Bank may institute

proceedings under the conditions laid down in Article III-365;

(c) measures adopted by the Board of Directors of the European Investment Bank. Proceedings against such measures may be instituted only by Member States or by the Commission, under the conditions laid down in Article III-365, and solely on the grounds of non-compliance with the procedure provided for in Article 19(2), (5), (6) and (7) of the Statute of the Bank;

(d) the fulfilment by national central banks of obligations under the Constitution and the Statute of the European System of Central Banks and of the European Central Bank. In this connection, the powers of the Governing Council of the European Central Bank in respect of national central banks shall be the same as those conferred upon the Commission in respect of Member States by Article III-360. If the Court of Justice of the European Union finds that a national central bank has failed to fulfil an obligation under the Constitution, that bank shall be required to take the necessary measures to comply with the judgment of the Court.

- fulfilment of obligations by national central banks

**Article III-374** (*ex Articles 238 TEC*)

**Arbitration**

The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Union, whether that contract be governed by public or private law.

Jurisdiction in cases of both private and public law

**Article III-375** (*ex Articles 240, 292, 239 TEC*)

**Competences of national courts**

1. Save where jurisdiction is conferred on the Court of Justice of the European Union by the Constitution, disputes to which the Union is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.

Member States' courts not excluded in cases where the EU is party [ **Primacy clause in Constitutional interpretation:**

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 courts, no national (High) court, can interpret the Constitution ]

3. The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject-matter of the Constitution if the dispute is submitted to it under a special agreement between the parties.

In any other dispute, the EU Court can rule if countries agree

**Common foreign and security policy**

**Article III-376 (ex Articles 46 TEU)**

EU Court has no jurisdiction, except for:

- Verification whether CFSP affects other EU competences
- Complaints by natural/legal persons, who have been boycotted

The Court of Justice of the European Union shall not have jurisdiction with respect to Articles I-40 and I-41 and the provisions of Chapter II of Title V concerning the common foreign and security policy and Article III-293 insofar as it concerns the common foreign and security policy.

However, the Court shall have jurisdiction to monitor compliance with Article III-308 and to rule on proceedings, brought in accordance with the conditions laid down in Article III-365(4), reviewing the legality of European decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter II of Title V.

**Area of freedom, security and justice**

**Article III-377 (ex Article 35(5) TEU)**

No jurisdiction over operations of national police and security authorities for maintenance of law, order and internal security

In exercising its powers regarding the provisions of Sections 4 and 5 of Chapter IV of Title III relating to the area of freedom, security and justice, the Court of Justice of the European Union shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

**Inapplicability of acts**

**Article III-378 (ex Article 241 TEC)**

Inapplicability of general acts can always be invoked

Notwithstanding the expiry of the period laid down in Article III-365(6), any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the Union is at issue, plead the grounds specified in Article III-365(2) in order to invoke before the Court of Justice of the European Union the inapplicability of that act.

**No suspensory effect**

**Article III-379 (ex Articles 242, 243 TEC)**

...but EU Court can decide to suspend the contested act

1. Actions brought before the Court of Justice of the European Union shall not have suspensory effect. The Court may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

Interim measures

2. The Court of Justice of the European Union may in any cases before it prescribe any necessary interim measures.

**Article III-380** (ex Article 244 TEC)

**Enforcement of judgments**

The judgments of the Court of Justice of the European Union shall be enforceable under the conditions laid down in Article III-401.

**Article III-381** (ex Article 245 TEC)

**Statute in Protocol N°3**

X\*\*/XX\*\*

The Statute of the Court of Justice of the European Union shall be laid down in a Protocol.

A European law may amend the provisions of the Statute, with the exception of Title I and Article 64. It shall be adopted either at the request of the Court of Justice and after consultation of the Commission, or on a proposal from the Commission and after consultation of the Court of Justice.

Amendment procedure, EP gains co-decision instead of consultation

**Subsection 6**

**The European Central Bank**

**Article III-382** (ex Article 112 TEC)

**Organisation**

XX\*

1. The Governing Council of the European Central Bank shall comprise the members of the Executive Board of the European Central Bank and the Governors of the national central banks of the Member States without a derogation as referred to in Article III-197.

Governing Council

2. The Executive Board shall comprise the President, the Vice-President and four other members.

Executive Board

The President, the Vice-President and the other members of the Executive Board shall be appointed by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters, on a recommendation from the Council and after consulting the European Parliament and the Governing Council of the European Central Bank.

Members of Executive Board with recognised standing and professional experience by qualified majority

Their term of office shall be eight years and shall not be renewable.

8 years; non-renewable

Only nationals of Member States may be members of the Executive Board..

Only EU citizens

**Functioning:**

**Article III-383 (ex Article 113 TEC)**

President of Council  
and one Commissioner  
may participate in  
Governing Council

1. The President of the Council and a member of the Commission may participate, without having the right to vote, in meetings of the Governing Council of the European Central Bank.

President of Council  
may submit a motion

The President of the Council may submit a motion for deliberation to the Governing Council of the European Central Bank.

President of ECB  
invited to relevant  
Council meetings

2. The President of the European Central Bank shall be invited to participate in meetings of the Council when it is discussing matters relating to the objectives and tasks of the European System of Central Banks.

Annual report  
presented to:  
- European Parliament  
- Council  
- Commission  
- European Council

3. The European Central Bank shall address an annual report on the activities of the European System of Central Banks and on the monetary policy of both the previous and the current year to the European Parliament, the European Council, the Council and the Commission. The President of the European Central Bank shall present this report to the European Parliament, which may hold a general debate on that basis, and to the Council.

Officials from the  
ECB are heard  
by the competent  
committees of EP

The President of the European Central Bank and the other members of the Executive Board may, at the request of the European Parliament or on their own initiative, be heard by the competent bodies of the European Parliament.

**Subsection 7**

**The Court of Auditors**

**Court of Auditors**

Tasks:

**Article III-384 (ex Article 248 TEC)**

- examination of  
all revenue and  
expenditure if not  
precluded

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Union. It shall also examine the accounts of all revenue and expenditure of any body, office or agency set up by the Union insofar as the instrument establishing that body, office or agency does not preclude such examination.

- statement of assurance  
(every year since  
1994 the Court of  
Auditors has expressed  
reservations)

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the Official Journal of the European Union. This statement may be supplemented by specific

assessments for each major area of Union activity.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound. In doing so, it shall report in particular on any cases of irregularity.

- check if lawful and sound management  
- report irregularities

The audit of revenue shall be carried out on the basis of the amounts established as due and the amounts actually paid to the Union.

- audit of both amounts established and amounts paid

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions, or on the premises of any body, office or agency which manages revenue or expenditure on behalf of the Union and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

- audits based on documents and inspections

...in liaison with national audit bodies

The other institutions, any bodies, offices or agencies managing revenue or expenditure on behalf of the Union, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

In respect of the European Investment Bank's activity in managing Union revenue and expenditure, rights of access by the Court of Auditors to information held by the Bank shall be governed by an agreement between the Court of Auditors, the Bank and the Commission. In the absence of an agreement, the Court of Auditors

Access to information of the Investment Bank

shall nevertheless have access to information necessary for the audit of Union expenditure and revenue managed by the Bank.

- annual report

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the Official Journal of the European Union.

- special reports

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions.

Annual reports  
by a majority  
of members

It shall adopt its annual reports, special reports or opinions by a majority of its component members. However, it may establish internal chambers in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.

- assist EP  
and Council

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

Rules of Procedure  
by consent of  
the Council

*XX* It shall adopt its Rules of Procedure. Those rules shall require the consent of the Council.

**Terms of  
employment:**

**Article III-385 (ex Article 247(2-7) TEC)**

- members must be  
especially qualified

1. The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective States to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

- term of 6 years;  
renewable

*XX\** 2. The members of the Court of Auditors shall be appointed for a term of six years. Their term of office shall be renewable. The Council shall adopt a European decision establishing the list of members drawn up in accordance with the proposals made by each Member State. It shall act after consulting the European Parliament.

- President is  
elected for 3 years;  
renewable

The members of the Court of Auditors shall elect their President from among their number for a term of three years. He or she may be re-elected.

3. In the performance of their duties, members of the Court of Auditors shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.

- complete independence

4. Members of the Court of Auditors shall not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

- no other occupation

- flawless and discreet behaviour

5. Apart from normal replacement, or death, the duties of a member of the Court of Auditors shall end when he or she resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 6.

- EU Court can retire auditors

The vacancy thus caused shall be filled for the remainder of the member's term of office.

Save in the case of compulsory retirement, members of the Court of Auditors shall remain in office until they have been replaced.

6. A member of the Court of Auditors may be deprived of his or her office or of his or her right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he or she no longer fulfils the requisite conditions or meets the obligations arising from his or her office.

- at the request of Court of Auditors, the EU Court can remove a member

**SECTION 2**

**THE UNION'S ADVISORY BODIES**

**Advisory bodies**

**Subsection 1**

**The Committee of the Regions**

**Committee of Regions**

**Article III-386 (ex Article 263 TEC)**

**Composition**

*U* The number of members of the Committee of the Regions shall not exceed 350. The Council, acting unanimously on a proposal from the Commission, shall adopt a European decision determining the Committee's composition.

**Maximum 350 members**

Term of office  
5 years; renewable  
- cannot be MEPs  
at the same time

The members of the Committee and an equal number of alternate members shall be appointed for five years. Their term of office shall be renewable. No member of the Committee shall at the same time be a member of the European Parliament.

The Council  
chooses members

XX The Council shall adopt the European decision establishing the list of members and alternate members drawn up in accordance with the proposals made by each Member State.

When the mandate referred to in Article I-32(2) on the basis of which they were proposed comes to an end, the term of office of members of the Committee shall terminate automatically and they shall then be replaced for the remainder of the said term of office in accordance with the same procedure.

**Leadership and internal rules**

**Article III-387 (ex Article 264 TEC)**

Chairman and officers elected for 2½ years

The Committee of the Regions shall elect its chairman and officers from among its members for a term of two and a half years.

It shall be convened by its chairman at the request of the European Parliament, of the Council or of the Commission. It may also meet on its own initiative.

It shall adopt its Rules of Procedure.

**Consultation**

**Article III-388 (ex Article 265 TEC)**

- when provided for or in cases of particular interest

The Committee of the Regions shall be consulted by the European Parliament, by the Council or by the Commission where the Constitution so provides and in all other cases in which one of these institutions considers it appropriate, in particular those which concern cross-border cooperation.

Time limit for opinions  
- minimum one month

The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time-limit which shall not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time-limit, the absence of an opinion shall not prevent further action.

CoR may issue own opinion when EcoSoc is consulted

Where the Economic and Social Committee is consulted, the Committee of the Regions shall be informed by the European Parliament, the Council or the Commission of the request for an

opinion. Where it considers that specific regional interests are involved, the Committee of the Regions may issue an opinion on the matter. It may also issue an opinion on its own initiative.

The opinion of the Committee, together with a record of its proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.

**Subsection 2**  
**The Economic and Social Committee**

**EcoSoc Committee**

**Article III-389 (ex Article 258(1-2) TEC)**

**Composition**

*U*

The number of members of the Economic and Social Committee shall not exceed 350. The Council, acting unanimously on a proposal from the Commission, shall adopt a European decision determining the Committee's composition.

Up to 350 members

**Article III-390 (ex Article 259 TEC)**

**Appointment**

*XX*

The members of the Economic and Social Committee shall be appointed for five years. Their term of office shall be renewable.

Term of office  
5 years; renewable

The Council shall adopt the European decision establishing the list of members drawn up in accordance with the proposals made by each Member State.

Council appoints  
after consulting  
Commission

The Council shall act after consulting the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors and of civil society to which the Union's activities are of concern.

**Article III-391 (ex Article 260 TEC)**

**Leadership  
and rules**

The Economic and Social Committee shall elect its chairman and officers from among its members for a term of two and a half years. It shall be convened by its chairman at the request of the European Parliament, of the Council or of the Commission. It may also meet on its own initiative.

Chairman and  
officers elected  
for 2½ years

It shall adopt its Rules of Procedure.

**Consultation**

**Article III-392 (ex Article 262 TEC)**

- when provided for or in cases of particular interest

The Economic and Social Committee shall be consulted by the European Parliament, by the Council or by the Commission where the Constitution so provides. It may be consulted by these institutions in all cases in which they consider it appropriate. It may also issue an opinion on its own initiative.

Time limit for opinions  
- minimum one month

The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time-limit which shall not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time-limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee, together with a record of its proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.

**European Investment Bank**

SECTION 3

THE EUROPEAN INVESTMENT BANK

**Article III-393 (ex Article 266 TEC)**

Legal personality

The European Investment Bank shall have legal personality.

Member States are members

Its members shall be the Member States.

The Statute of the European Investment Bank is laid down in a Protocol.

The Council adopts amendments to Statute by unanimity

*U\** A European law of the Council may amend the Statute of the European Investment Bank. The Council shall act unanimously, either at the request of the European Investment Bank and after consulting the European Parliament and the Commission, or on a proposal from the Commission and after consulting the European Parliament and the European Investment Bank.

**The Bank's role:**

**Article III-394 (ex Article 267 TEC)**

Balanced and steady development of the internal market with the help of non-profit loans

The task of the European Investment Bank shall be to contribute, by having recourse to the capital markets and utilising its own resources, to the balanced and steady development of the internal market in the Union's interest. For this purpose the European

Investment Bank shall, operating on a non-profit-making basis, in particular grant loans and give guarantees which facilitate the financing of the following projects in all sectors of the economy:

- (a) projects for developing less-developed regions; - development projects
- (b) projects for modernising or converting undertakings or for developing fresh activities called for by the establishment or functioning of the internal market, where these projects are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States; - modernising or converting undertakings  
- fresh activities
- (c) projects of common interest to several Member States which are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States. - large projects of common interest

In carrying out its task, the European Investment Bank shall facilitate the financing of investment programmes in conjunction with assistance from the Structural Funds and other Union financial instruments.

**SECTION 4**  
**PROVISIONS COMMON TO UNION**  
**INSTITUTIONS, BODIES, OFFICES AND AGENCIES**

**Article III-395 (ex Article 250 TEC)**

1. Where, pursuant to the Constitution, the Council acts on a proposal from the Commission, it may amend that proposal only by acting unanimously, except in the cases referred to in Articles I-55, I-56, III-396(10) and (13), III-404 and III-405(2).

2. As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Union act.

**Article III-396 (ex Article 251 TEC)**

X\*\*

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

**Decision-making procedures**

Strong monopoly of initiative to the Commission

**Unanimity** required in the Council **to amend** Commission proposals

Until the Council acts, Commission can amend its proposal

**The ordinary legislative procedure:**

1. **Commission** submits a **proposal** to EP and to Council
2. The Commission shall submit a proposal to the European Parliament and the Council.
- First reading
2. EP adopts a position, sends it to the Council
3. The European Parliament shall adopt its position at first reading and communicate it to the Council.
- 3a. Council approves by qualified majority = proposal is adopted
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.
- 3b. Council does not approve = makes own position by qualified majority; sends it to EP
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.
- Commission informs EP of its position
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 3 months, the European Parliament:
7. If, within three months of such communication, the European Parliament:
- 4a. - approves the Council position = proposal is adopted
- (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;
- 4b. rejects by an absolute majority of members = proposal is rejected
- (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;
- 4c. amends by absolute majority = proposal is sent back to the Council - **Commission** gives **opinion** on amendments
- (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:

If, within 3 months, the Council, by qualified majority:

(a) approves all those amendments, the act in question shall be deemed to have been adopted;

5a. approves EP’s position = proposal 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.

5.b. does not approve EP’s position = **Conciliation committee** is convened

*U* 9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.

**Unanimity, if the Commission has a negative opinion**

Conciliation

6. Conciliation Committee

*X\*\*\** 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.

Equal numbers from the Council and EP agree on **joint text**: Council by qualified majority, EP by majority of members of the Committee; Time-limit: 6 weeks

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.

Commission takes part in conciliation meetings

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.

If no approval in committee by both parts = proposal is rejected; Time limit: 6 weeks

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

7. Joint text sent to the Council and EP Council approves by

qualified majority, EP by majority of votes; Deadline: 6 weeks

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.

Deadlines can be extended

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

Special rules when legislative act is based on:

- initiative from a group of States
- ECB recommendation
- request from Court of Justice

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.

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

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.

**Inter-institutional agreements**

**Article III-397 (ex Article 218[1] TEC, new)**

Commission, EP and the Council can make inter-institutional agreements

The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Constitution, conclude interinstitutional agreements which may be of a binding nature.

**European public service**

**Article III-398 (new)**

- supports the institutions

X\*\*

1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.

Legislation adopted by qualified majority

2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of Article III-427, European laws shall establish provisions to that end.

**Article III-399** (ex Article 255 TEC)

X\*\*

1. The institutions, bodies, offices and agencies of the Union shall ensure transparency in their work and shall, pursuant to Article I-50, determine in their rules of procedure specific provisions for public access to their documents. The Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to the provisions of Article I-50(3) and to this Article only when exercising their administrative tasks.

2. The European Parliament and the Council shall ensure publication of the documents relating to the legislative procedures under the terms laid down by the European law referred to in Article I-50(3).

**Transparency**

Institutions, offices, agencies and bodies adopt their own rules for public access to documents

EP and the Council are responsible for making documents public

**Article III-400**

(ex Articles 210, 247[8], 258 [4. sentence] TEC)

XX

1. The Council shall adopt European regulations and decisions determining:

(a) the salaries, allowances and pensions of the President of the European Council, the President of the Commission, the Union Minister for Foreign Affairs, the members of the Commission, the Presidents, members and Registrars of the Court of Justice of the European Union, and the Secretary-General of the Council;

(b) the conditions of employment, in particular the salaries, allowances and pensions, of the President and members of the Court of Auditors;

(c) any payment to be made instead of remuneration to the persons referred to in points (a) and (b).

2. The Council shall adopt European regulations and decisions determining the allowances of the members of the Economic and Social Committee.

**Salaries**

The Council decides by qualified majority on:  
- salaries  
- allowances  
- pensions

**Article III-401** (ex Article 256 TEC)

Acts of the Council, of the Commission or of the European Central Bank which impose a pecuniary obligation on persons other than Member States shall be enforceable.

**Enforcement of acts**

Acts imposing fines are enforceable, but not on Member States

Enforcement shall be governed by the rules of civil procedure in force in the Member State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission and the Court of Justice of the European Union.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement by bringing the matter directly before the competent authority, in accordance with the national law.

Enforcement may be suspended only by a decision of the Court of Justice of the European Union. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

CHAPTER II  
FINANCIAL PROVISIONS

**Finances**

SECTION 1  
THE MULTIANNUAL FINANCIAL FRAMEWORK

**Multiannual  
financial  
framework**

**Article III-402 (new)**

U\*\*\*

Minimum of 5 years

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

Shall fix ceilings for  
expenditure areas

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.

Shall make budgetary  
procedure run  
smoothly

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 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.

If no new framework is adopted; the old one is extended

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.

Council, Commission and EP shall facilitate the procedure

SECTION 2  
THE UNION'S ANNUAL BUDGET

**The annual Budget**

**Article III-403** (ex Article 272[1] TEC)

Financial year

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

**Article III-404** (ex Article 272 TEC)

**Important general budget procedure**

X\*\*

European laws shall establish the Union's annual budget in accordance with the following provisions:

- established by law

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.

1. Each institution draws up an estimation of its expenditures

The draft budget shall contain an estimate of revenue and an estimate of expenditure.

2. Commission makes a draft budget...

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.

...and submits draft to the Council and the EP before 1st September

The Commission may amend the draft budget during the procedure until such time as the Conciliation Committee, referred to in paragraph 5, is convened.

Commission can amend until Conciliation Committee 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.

3. Council sends its position to EP before 1st October

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

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

4a. EP approves  
= budget adopted

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

4b. EP does not decide  
= budget adopted

(b) has not taken a decision, the European law establishing the budget shall be deemed to have been adopted;

4c. EP amends by majority of all members  
= Conciliation Committee is convened, unless the Council approves all EP amendments

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

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.

- Qualified majority in Council and majority of EP representatives

Commission participates in Conciliation Committee

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.

Joint text must be approved within 14 days;  
- if no joint text, see paragraph 8

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.

6. Conciliation Committee agrees

7. If, within the period of fourteen days referred to in paragraph 6:

X\*\*\* (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

6a. If both EP and Council approve, or only one approves and one (or both) take no decision = budget adopted

(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

6b. Both reject or one rejects and the other takes no decision = Commission presents new proposal

(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

6c. EP rejects = Commission presents new proposal

(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.

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. 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.

Conciliation Committee does not agree = Commission presents new draft budget

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.

7. EP President declares budget 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.

Must balance revenue and expenditure

**1/12, if budget is not approved**

If no annual budget is adopted, 1/12 of the previous year's budget may be spent each month, but not more than proposed by the draft budget

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

**One-year carry forward**

Expenditures may be carried forward to the next financial year

**Article III-405 (ex Article 273 TEC)**

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.

X\*\* 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 (ex Article 271 TEC)**

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.

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.

The expenditure of

- the European Parliament,
- the European Council and the Council,
- the Commission, and
- the Court of Justice of the European Union

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

shall be set out in separate sections of the budget, without prejudice to special arrangements for certain common items of expenditure.

SECTION 3:  
IMPLEMENTATION OF THE BUDGET AND DISCHARGE

**Implementation  
of the budget**

**Article III-407** *(ex Article 274 TEC)*

**Implementation**

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.

Commission and  
Member States  
implement budget

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.

Member States' control  
and audit obligations  
  
Institutions' rules  
and responsibilities

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.

Commission may  
transfer amounts  
between chapters  
of the budget

**Article III-408** *(ex Article 275 TEC)*

**Accounts and audit**

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.

Commission submits  
accounts to the EP  
and the Council

The Commission shall also submit to the European Parliament and

Evaluation report

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.

**Discharge**

**Article III-409 (ex Article 276 TEC)**

*XX\*\*\**

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 Commission

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.

Commission shall react on observations made by EP and Council

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.

SECTION 4  
COMMON PROVISIONS

**Article III-410** (ex Article 277 TEC)

**Budget in euros**

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

**Article III-411** (ex Article 278 TEC)

The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings in the currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of the Constitution. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.

Commission can transfer its holdings between currencies of Member States

The Commission shall deal with each Member State concerned through the authority designated by that State. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institution approved by that State.

**Article III-412** (ex Article 279 TEC)

**Financial rules**

X\*\* (from 01.01.2007) 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;

- established by law

(b) rules providing for checks on the responsibility of financial actors, in particular authorising officers and accounting officers.

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

Consultation of Court of Auditors

X\* 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

Rules on use of own resources; adopted by qualified majority in Council from 2007

need be, to meet cash requirements. The Council shall act after consulting the European Parliament and the Court of Auditors.

Council acts by unanimity until 2007

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

**Must respect legal obligations**

**Article III-413 (new)**

e.g. all commitments in the agricultural policy

The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.

**Triologue meetings**

**Article III-414 (new)**

Regular meetings between Council, EP and Commission 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.

**Combating fraud**

**SECTION 5  
COMBATING FRAUD**

**Article III-415 (ex Article 280 TEC)**

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.

Member States protect the Union's financial interests as their own

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.

Member States shall coordinate actions

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.

X\*\* 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.

Acts by qualified majority; Court of Auditors is consulted

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.

Annual report to EP and the Council

CHAPTER III  
ENHANCED COOPERATION

**Enhanced Cooperation**

**Article III-416**

*(ex Articles 43[b, c, e, f] TEU, 11[3] TEC)*

**Must comply with:**

- the Constitution and the law

Any enhanced cooperation shall comply with the Constitution and the law of the Union.

May especially not undermine:

Such cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.

- the internal market  
- economic, social and territorial cohesion  
- trade and competition

**Article III-417**

*(ex Articles 43[h], 44[2. last sentence] TEU)*

**The non-participants**

Any enhanced cooperation shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.

Mutual respect between participating and non-participating states

**Article III-418** *(ex Article 43[b] TEU, new)*

**Open to all Member States**

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the European authorising decision. It shall also be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to any such conditions.

at any time, within the rules already laid down

As many States as possible should participate

The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.

EP shall be kept informed

2. The Commission and, where appropriate, the Union Minister for Foreign Affairs shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.

**Decision-making:**

**Article III-419**

*(ex Articles 40[a], 27[c] TEU, 11 [1-2] TEC)*

Member States may ask Commission to propose

1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Constitution, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

The Council authorises by qualified majority after consent from EP

X\*\*\* Authorisation to proceed with enhanced cooperation shall be granted by a European decision of the Council, which shall act on a proposal from the Commission and after obtaining the consent of the European Parliament.

In CFSP: Member States address their request to:

- Council
- Foreign Minister
- Commission

U 2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the Union Minister for Foreign Affairs, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information.

Council authorises by unanimity; EP informed

Authorisation to proceed with enhanced cooperation shall be granted by a European decision of the Council acting unanimously.

**Article III-420** (ex Articles 40(b), 27(e) TEU, 11a TEC)

1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article III-419(1) shall notify its intention to the Council and the Commission.

The Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. It shall note where necessary that the conditions of participation have been fulfilled and shall adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request. On the expiry of that deadline, it shall re-examine the request, in accordance with the procedure set out in the second subparagraph. If the Commission considers that the conditions of participation have still not been met, the Member State concerned may refer the matter to the Council which shall decide on the request.

*XX/X* The Council shall act in accordance with Article I-44(3). It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, the Union Minister for Foreign Affairs and the Commission.

*U* The Council shall confirm the participation of the Member State concerned, after consulting the Union Minister for Foreign Affairs and after noting where necessary that the conditions of participation have been fulfilled. The Council, on a proposal from the Union Minister for Foreign Affairs, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request for participation.

**Application for participation:**

1. Notification of the Council

2. Assessment by Commission (if there is disagreement with Commission's assessment, Member State can refer assessment to Council)

3. Council decides by qualified majority

Enhanced cooperation in CFSP: The Minister of Foreign Affairs shall be consulted

In CFSP: The Council acts unanimously For the purposes of this paragraph, the Council shall act unanimously and in accordance with Article I-44(3).

**Expenditures** except administrative costs

**Article III-421** (ex Article 44 a TEU)

- unless otherwise decided, expenses shall be borne by participating states

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the Institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.

**Deepening clause**  
- **Passerelle**

**Article III-422** (new)

Council can decide unanimously to take decision by qualified majority

U 1. Where a provision of the Constitution which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article I-44(3), may decide to act by qualified majority.

Council can decide unanimously to move from special legislative procedure to ordinary legislative procedure  
- EP is consulted

U\* 2. Where a provision of the Constitution which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt European laws or framework laws under a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article I-44(3), may decide to act under the ordinary legislative procedure. The Council shall act after consulting the European Parliament.

**Not for defence**

3. Paragraphs 1 and 2 shall not apply to decisions having military or defence implications.

**Consistency**

**Article III-423** (ex Article 45 TEU)

The Council and Commission shall ensure consistency

The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end.

## TITLE VII COMMON PROVISIONS

### Article III-424 (*ex Article 299[2, 2. sentence, 3] TEC*)

X\*

Taking account of the structural economic and social situation of the Guadeloupe, French Guiana, Martinique, Reunion, the Azores, Madeira and the Canary Islands, which is compounded by their remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development, the Council of Ministers, on a proposal from the Commission, shall adopt European laws, framework laws, regulations and decisions aimed, in particular, at laying down the conditions of application of the Constitution to those regions, including common policies. It shall act after consulting the European Parliament.

The measures referred to in the first paragraph concern in particular areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of access to structural funds and to horizontal Union programmes.

The Council shall adopt the measures referred to in the first paragraph taking into account the special characteristics and constraints of the outermost regions without undermining the integrity and the coherence of the Union legal order, including the internal market and common policies.

### Article III-425 (*ex Article 295 TEC*)

The Constitution shall in no way prejudice the rules in Member States governing the system of property ownership.

### Article III-426 (*ex Article 282 TEC*)

In each of the Member States, the Union shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Union shall be represented by the Commission. However, it shall be represented by each of the Institutions, by virtue of their administrative autonomy, in matters relating to their respective operation.

### French overseas departments

On proposal from Commission and after consulting EP, Council, by qualified majority, sets out special arrangements for application of the Constitution

### Property rights

National property rights are not affected

### Legal capacity

The Union can buy property and go to court

**Staff regulations**

**Article III-427** (ex Article 283 TEC)

X\*\*

Qualified majority in the normal legislative procedure; EP gains co-decision

The Staff Regulations of Union officials and the Conditions of Employment of other servants of the Union shall be laid down by law. The law shall be adopted after consulting the other institutions concerned.

**Commission may collect any information**

**Article III-428** (ex Article 284 TEC)

*(Simple majority)* The Commission may, within the limits and under conditions laid down by a European regulation or decision adopted by a simple majority by the Council, collect any information and carry out any checks required for the performance of the tasks entrusted to it.

**Statistics**

**Article III-429** (ex Article 285 TEC)

X\*\*

Production conditions adopted by normal legislative procedure with qualified majority

1. Without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, measures for the production of statistics shall be laid down by a European law or framework law where necessary for the performance of the Union's activities.

2. The production of statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality; it shall not entail excessive burdens on economic operators.

**Confidentiality**

**Article III-430** (ex Article 287 TEC)

Also after duties have ceased

The members of the Union's institutions, the members of committees, and the officials and other Union servants shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

**Contractual liability**

**Article III-431** (ex Article 288 TEC)

The Union can be held responsible for damages and contractual liability

The Union's contractual liability shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Union shall, in

accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

Notwithstanding the second paragraph, the European Central Bank shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties.

The personal liability of its servants towards the Union shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of Employment applicable to them.

**Article III-432** (ex Article 289 TEC)

*U*

The seat of the Union's institutions shall be determined by common accord of the Governments of the Member States.

**Seats**

Determined by common accord; see Protocol 6

**Article III-433** (ex Article 290 TEC)

*U*

The Council of Ministers shall adopt unanimously a European regulation laying down the rules governing the languages of the Union's Institutions, without prejudice to the Statute of the Court of Justice of the European Union.

**Languages**

Council decides by **unanimity**

**Article III-434** (ex Article 291 TEC)

The Union shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union. The same shall apply to the European Central Bank and the European Investment Bank.

**Privileges and immunities**

**Article III-435** (ex Article 307 TEC)

The rights and obligations arising from agreements concluded before 1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the Constitution.

**Previous agreements**

Agreements between Member States and 3<sup>rd</sup> countries made before 1958, or made by new Members before their accession, are not affected by the Constitution

However Member States shall eliminate incompatibilities

To the extent that such agreements are not compatible with the Constitution, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.

In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under the Constitution by each Member State form an integral part of the Union and are thereby inseparably linked with the creation of institutions, on which powers have been conferred by the Constitution and the granting of identical advantages by all the other Member States.

**Information about arms production**

**Article III-436 (ex Article 296 TEC)**

Constitution does not:

1. The Constitution shall not preclude the application of the following rules:

- oblige the Member States to supply information about their national security

(a) no Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;

- hinder the Member States from deciding on arms production and trade, unless this affects competition in non-military areas

(b) any Member State may take such steps as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such steps shall not adversely affect the conditions of competition in the internal market regarding products which are not intended for specifically military purposes.

Changes to the list of military products by unanimity; proposal from Commission

*U* 2. The Council, acting on a proposal from the Commission, may unanimously adopt a European Decision making changes to the list of 15 April 1958 of the products to which the provisions of paragraph 1(b) apply.

## PART IV

### GENERAL AND FINAL PROVISIONS

#### FINAL PROVISIONS

#### Article IV-437 (*new*) Repeal of earlier Treaties

#### Repeal earlier Treaties

1. This Treaty establishing a Constitution for Europe shall repeal the Treaty establishing the European Community, the Treaty on European Union and, under the conditions laid down in the Protocol on the acts and treaties having supplemented or amended the Treaty establishing the European Community and the Treaty on European Union, the acts and treaties which have supplemented or amended them, subject to paragraph 2 of this Article.

All previous Treaties disappear, including protocols, unless they are amended or repeated in this Constitution

2. The Treaties on the Accession:

The Euratom Treaty is amended by Protocol N° 36

(a) of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland;

(b) of the Hellenic Republic;

(c) of the Kingdom of Spain and the Portuguese Republic;

(d) of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, and

(e) of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, shall be repealed.

Nevertheless:

- the provisions of the Treaties referred to in points (a) to (d) and set out or referred to in the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the

Kingdom of Sweden shall remain in force and their legal effects shall be preserved in accordance with that Protocol,

- the provisions of the Treaty referred to in point (e) and which are set out or referred to in the Protocol on the Treaty and Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic shall remain in force and their legal effects shall be preserved in accordance with that Protocol.

**Legal continuity**

**Article IV-438 (new):**  
Succession and legal continuity

New Union is established

1. The European Union established by this Treaty shall be the successor to the European Union established by the Treaty on European Union and to the European Community.

All rights and obligations continue, unless they are in breach of this new Constitution

2. Until new provisions have been adopted in implementation of this Treaty or until the end of their term of office, the institutions, bodies, offices and agencies existing on the date of the entry into force of this Treaty shall, subject to Article IV-439, exercise their powers within the meaning of this Treaty in their composition on that date.

Legal acts continue

3. The acts of the institutions, bodies, offices and agencies adopted on the basis of the treaties and acts repealed by Article IV-437 shall remain in force. Their legal effects shall be preserved until those acts are repealed, annulled or amended in implementation of this Treaty. The same shall apply to agreements concluded between Member States on the basis of the treaties and acts repealed by Article IV-437.

The other components of the acquis of the Community and of the Union existing at the time of the entry into force of this Treaty, in particular the interinstitutional agreements, decisions and agreements arrived at by the Representatives of the Governments of the Member States, meeting within the Council, the agreements concluded by the Member States on the functioning of the Union or of the Community or linked to action by the Union or by the Community, the declarations, including those made in the context of intergovernmental conferences, as well as the resolutions or

other positions adopted by the European Council or the Council and those relating to the Union or to the Community adopted by common accord by the Member States, shall also be preserved until they have been deleted or amended.

4. The case law of the Court of Justice of the European Communities and of the Court of First Instance on the interpretation and application of the treaties and acts repealed by Article IV-437, as well as of the acts and conventions adopted for their application, shall remain, mutatis mutandis, the source of interpretation of Union law and in particular of the comparable provisions of the Constitution.

Case-law “acquis”  
maintained

5. Continuity in administrative and legal procedures commenced prior to the date of entry into force of this Treaty shall be ensured in compliance with the Constitution. The institutions, bodies, offices and agencies responsible for those procedures shall take all appropriate measures to that effect.

#### Article IV-439 (new)

Transitional provisions relating to certain Institutions

**Transitional provisions**

The transitional provisions relating to the composition of the European Parliament, to the definition of a qualified majority in the European Council and in the Council, including those cases where not all members of the European Council or Council vote, and to the composition of the Commission, including the Union Minister for Foreign Affairs, shall be laid down in the Protocol on the transitional provisions relating to the institutions and bodies of the Union.

Protocol N° 34  
on transitional provisions

#### Article IV-440 (ex Article 299[1, 3-6] TEC)

Scope

**Geographical area**

*U*

1. This Treaty shall apply to the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak

All Member States  
  
(Romania, Bulgaria and Turkey have signed the Constitution as Candidate countries)

	Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.
French overseas departments: Azores, Madeira, Canary Islands	2. This Treaty shall apply to Guadeloupe, French Guiana, Martinique, Reunion, the <u>Azores</u> , <u>Madeira</u> and the <u>Canary Islands</u> in accordance with Article III-424.
Association	3. The special arrangements for association set out in Title IV of Part III shall apply to the <u>overseas countries and territories listed</u> in Annex II.
UK overseas countries not included	This Treaty shall not apply to <u>overseas countries and territories</u> having special relations with the <u>United Kingdom</u> of Great Britain and Northern Ireland which are not included in that list.
Applies to European territories represented by a Member State	4. This Treaty shall apply to the <u>European territories</u> for <u>whose</u> external relations a <u>Member State is responsible</u> .
Åland Islands	5. This Treaty shall apply to the <u>Åland Islands</u> with the derogations which originally appeared in the Treaty referred to in Article IV-437(2)(d) and which have been incorporated in Section 5 of Title V of the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.
Constitution does not apply to the Faroe Islands (or Greenland because it is a non-European territory)	6. Notwithstanding paragraphs 1 to 5:  (a) this Treaty shall not apply to the Faeroe Islands;  (b) this Treaty shall apply to Akrotiri and Dhekelia, the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, only to the extent necessary to ensure the implementation of the arrangements originally provided for in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, annexed to the Act of Accession which is an integral part of the Treaty referred to in Article IV-437(2)(e), and which have been incorporated in Title III of Part II of the Protocol on the Treaty and Act of Accession of the
Does not apply to UK base areas in Cyprus	

Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic;

(c) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands originally set out in the Treaty referred to in Article IV-437(2)(a), and which have been incorporated in Section 3 of Title II of the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

Applies partly to the Isle of Man and the Channel Islands

U 7. The European Council may, on the initiative of the Member State concerned, adopt a European decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 2 and 3. The European Council shall act unanimously after consulting the Commission.

European Council can change status of OCTs by unanimity

**Article IV-441 (ex Article 306 TEC)**  
Regional unions

**Regional unions**

This Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of the said Treaty.

Benelux recognised - no reference to the Nordic Union

**Article IV-442 (ex Article 311 TEC)**  
Protocols and Annexes

**Protocols have same legal status as the articles in the Treaty**

The Protocols and Annexes to this Treaty shall form an integral part thereof.

Old protocols repealed if not annexed here

**Article IV-443 (ex Article 48 TEU)**  
Ordinary revision procedure

**Ordinary Treaty amendments**

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of this Treaty. These proposals shall

Member States, EP and Commission can initiate amendments

be submitted to the European Council by the Council and the national Parliaments shall be notified.

European Council decides by a simple majority to examine amendments

A Convention is convened

*(Simple majority)* 2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

*U in Convention* The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in paragraph 3

EP can veto a decision NOT to call a Convention

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

Amendments decided “by common accord”

*U* 3. A conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to this Treaty.

Ratification by all Member States

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

Prime Ministers meet if up to 20% of the Member States fail to ratify Constitution within 2 years

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

**Article IV-444 (new)**  
Simplified revision procedure

**New: Simplified  
revision procedure  
Deepening clause**

U\*\*\* (veto) 1. Where Part III provides for the Council to act by unanimity in a given area or case, the European Council may adopt a European decision authorising the Council to act by a qualified majority in that area or in that case.

**European Council  
can unanimously  
move from unanimity  
to qualified majority**

This paragraph shall not apply to decisions with military implications or those in the area of defence.

Not for defence

U\*\*\* (veto) 2. Where Part III provides for European laws and framework laws to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a European decision allowing for the adoption of such European laws or framework laws in accordance with the ordinary legislative procedure.

**European Council  
can unanimously  
move to ordinary  
legislative procedure**

3. Any initiative taken by the European Council on the basis of paragraphs 1 or 2 shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the European decision referred to in paragraphs 1 or 2 shall not be adopted. In the absence of opposition, the European Council may adopt the decision.

Any national  
Parliament can  
veto that decision

For the adoption of the European decisions referred to in paragraphs 1 and 2, the European Council shall act by unanimity after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

Consent of the EP by  
absolute majority of  
the members needed

**Article IV-445 (new)**  
Simplified revision procedure  
concerning internal Union policies and action

**New: Easy revision  
procedure for  
internal policies**

1. The Government of any Member State, the European Parliament or the Commission may submit to the European Council proposals for revising all or part of the provisions of Title III of Part III on the internal policies and action of the Union.

Convening of  
Intergovernmental  
Conference  
not required

U\* 2. The European Council may adopt a European decision amending all or part of the provisions of Title III of Part III. The European Council shall act by unanimity after consulting the European Parliament and the Commission, and the European

European Council  
decides by unanimity  
to amend Part III, Title  
III (internal policies)

Central Bank in the case of institutional changes in the monetary area.

Amendments must be approved by the Member States...

Such a European decision shall not come into force until it has been approved by the Member States in accordance with their respective constitutional requirements.

... and cannot increase EU competences

3. The European decision referred to in paragraph 2 shall not increase the competences conferred on the Union in this Treaty.

**Duration**

**Article IV-446** (*ex Articles 51 TEU, 312 TEC*)  
Duration

“For ever” clause

This Treaty is concluded for an unlimited period.

**Ratification and entry into force**

**Article IV-447** (*ex Articles 52 TEU, 313 TEC*)  
Ratification and entry into force

Treaty must be ratified by all Member States

1. This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

Date of expected entry into force:  
**1 November 2006**

2. This Treaty shall enter into force on 1 November 2006, provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the second month following the deposit of the instrument of ratification by the last signatory State to take this step.

**Languages**

**Article IV-448** (*ex Articles 53 TEU, 314 TEC*)  
Authentic texts and translations

All versions are equal (but it is wise to consult the French version if there is doubt over interpretation; French is the language of the Court)

1. This Treaty, drawn up in a single original in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

2. This Treaty may also be translated into any other languages as

determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council.

**IN WITNESS WHEREOF, the undersigned plenipotentiaries have signed this Treaty.**

Done at ... this ...

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The final act lists the binding protocols and non-binding declarations

## FINAL ACT

THE CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, convened in Brussels on 30 September 2003 to adopt by common accord the Treaty establishing a Constitution for Europe, has adopted the following texts:

<b>The constitution</b>	I. Treaty establishing a <u>constitution</u> for Europe
<b>Protocols</b>	II. <u>Protocols</u> annexed to the treaty establishing a constitution for Europe
Role of the parliaments	1. Protocol on the role of <u>national parliaments</u> in the European Union
Subsidiarity and proportionality	2. Protocol on the application of the principles of <u>subsidiarity</u> and <u>proportionality</u>
Court	3. Protocol on the <u>Statute</u> of the <u>Court of Justice</u> of the European Union
Central bank	4. Protocol on the <u>Statute</u> of the European System of Central Banks and of the European <u>Central Bank</u>
Investment bank	5. Protocol on the <u>Statute</u> of the European <u>Investment Bank</u>
Seats	6. Protocol on the <u>location</u> of the seats of the <u>institutions</u> and of certain bodies, offices, agencies and departments of the European Union
Immunities	7. Protocol on the <u>privileges</u> and <u>immunities</u> of the European Union
Accession	8. Protocol on the <u>Treaties</u> and Acts of <u>Accession</u> of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden

- |  |   |
|--|---|
| 9. Protocol on the <u>Treaty</u> and the Act of <u>Accession</u> of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic | Accession 2004                                  |
| 10. Protocol on the <u>excessive deficit</u> procedure   | Deficit   |
| 11. Protocol on the <u>convergence criteria</u>  | Convergence                                     |
| 12. Protocol on the <u>Euro Group</u>  | Euro Group                                      |
| 13. Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland as regards economic and <u>monetary union</u>  | EMU<br>- UK and Ireland                         |
| 14. Protocol on certain provisions relating to <u>Denmark</u> as regards economic and <u>monetary union</u>  | EMU - Denmark                                   |
| 15. Protocol on certain tasks of the <u>National Bank of Denmark</u>   | Danish national bank                            |
| 16. Protocol on the <u>Pacific Financial Community franc system</u>  | CFP-franc                                       |
| 17. Protocol on the <u>Schengen</u> <i>acquis</i> integrated into the framework of the European Union  | Schengen  |
| 18. Protocol on the application of certain aspects of article <u>III-130</u> of the constitution to the <u>United Kingdom and to Ireland</u>   | UK and Ireland - area<br>without frontiers      |
| 19. Protocol on the position of the <u>United Kingdom and Ireland</u> on policies in respect of border controls, asylum and immigration, judicial cooperation in <u>civil matters</u> and on <u>police cooperation</u>   | UK and Ireland<br>- justice and<br>home affairs |
| 20. Protocol on the <u>position of Denmark</u>   | Danish derogations                              |
| 21. Protocol on external relations of the on external relations of the Member States with regard to the crossing of <u>external borders</u>  | Border control                                  |
| 22. Protocol on <u>asylum</u> for nationals of Member States   | Asylum  |
| 23. Protocol on permanent <u>structured cooperation</u> established by Article I-41(6) and article III-312 of the Constitution   | Defence   |

Defence	24. Protocol on <u>article I-41(2)</u> of the Constitution
Dutch antilles	25. Protocol concerning <u>imports</u> into the European Union of petroleum products refined in the <u>Netherlands Antilles</u>
Second homes	26. Protocol on the acquisition of <u>property in Denmark</u>
Public broadcasting	27. Protocol on the system of <u>public broadcasting</u> in the Member States
Equal pay	28. Protocol concerning <u>Article III-214</u> of the Constitution
Cohesion	29. Protocol on <u>economic, social and territorial cohesion</u>
Greenland	30. Protocol on special arrangements for Greenland
Abortion	31. Protocol on Article 40.3.3 of the Constitution of Ireland
Human rights	32. Protocol relating to Article I-9(2) of the Constitution on the accession of the Union to the European <u>Convention</u> on the Protection of <u>Human Rights</u> and Fundamental Freedoms
Acts and treaties	33. Protocol on the <u>Acts and Treaties</u> which have supplemented or amended the Treaty establishing the European Community and the Treaty on European Union
Transitional measures	34. Protocol on the <u>transitional provisions</u> relating to the institutions and bodies of the Union
Coal and steel	35. Protocol on the financial consequences of the expiry of the Treaty establishing the European <u>Coal and Steel</u> Community and the Research Fund for Coal and Steel
Euratom	36. Protocol amending the <u>Treaty</u> establishing the <u>European Atomic Energy Community</u>
	III. Annexes to the Treaty establishing a Constitution for Europe:
Food products	1. Annex I – List referred to in Article <u>III-226</u> of the Constitution
OCTs	2. Annex II – Overseas countries and territories to which Title IV of Part III of the Constitution applies

The Conference has adopted the following declarations annexed to this Final Act.

A. Declarations concerning provisions of the Constitution

- |   |                                     |
|---|-------------------------------------|
| 1. Declaration on Article I-6   | Primacy of EU Law                   |
| 2. Declaration on Article I-9(2)  | Human Rights                        |
| 3. Declaration on Articles I-22, I-27 and I-28  | Demographic differences             |
| 4. Declaration on Article I-24(7) concerning the European Council decision on the exercise of the Presidency of the Council | The presidency of the council       |
| 5. Declaration on Article I-25  | Voting in the council               |
| 6. Declaration on Article I-26  | Smaller commission                  |
| 7. Declaration on Article I-27  | Commission president                |
| 8. Declaration on Article I-36  | National experts                    |
| 9. Declaration on Articles I-43 and III-329   | Solidarity against terror           |
| 10. Declaration on Article I-51   | Personal data and national security |
| 11. Declaration on Article I-57   | Small neighbours                    |
| 12. Declaration concerning the explanations relating to the Charter of Fundamental Rights                                   | Charter explanations                |
| 13. Declaration on Article III-116  | Violence at home                    |
| 14. Declaration on Articles III-136 and III-267   | Social security                     |
| 15. Declaration on Articles III-160 and III-322   | Restrictive measures                |
| 16. Declaration on Article III-167(2)(c)  | Division of Germany<br>- aid        |

Growth and stability pact	17. Declaration on Article III-184
Labour law	18. Declaration on Article III-213
Islands	19. Declaration on Article III-220
Division of Germany - transport	20. Declaration on Article III-243
Research	21. Declaration on Article III-248
Energy	22. Declaration on Article III-256
Prosecutions	23. Declaration on Article III-273(1), second subparagraph
EU foreign office	24. Declaration on Article III-296
International agreements	25. Declaration on Article III-325 concerning the negotiation and conclusion of international agreements by Member States relating to the area of freedom, security and justice
Financial frames	26. Declaration on Article III-402(4)
Deepening clause	27. Declaration on Article III-419
Mayottes status	28. Declaration on Article IV-440(7)
Official languages	29. Declaration on Article IV-448(2)
EU Summit after rejections	30. Declaration on the ratification of the Treaty establishing a Constitution for Europe

B. Declarations concerning Protocols annexed to the Constitution

Declarations concerning the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden

- |   |   |
|---|---|
| 31. Declaration on the Åland islands  | <a href="#">Åland islands</a>             |
| 32. Declaration on the Sami people  | <a href="#">Sami people</a>               |
| Declarations concerning the Protocol on the Treaty and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic |   |
| 33. Declaration on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus   | <a href="#">UK-base in Cyprus</a>         |
| 34. Declaration by the commission on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus   | <a href="#">Commission on Cyprus</a>      |
| 35. Declaration on the Ignalina Nuclear Power Plant in Lithuania  | <a href="#">Ignalina Nuclear Plant</a>    |
| 36. Declaration on the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation   | <a href="#">Kaliningrad transit</a>       |
| 37. Declaration on Unit 1 and Unit 2 of the Bohunice V1 nuclear power plant in Slovakia   | <a href="#">Nuclear plant in Slovakia</a> |
| 38. Declaration on Cyprus   | <a href="#">Division in Cyprus</a>        |
| 39. Declaration concerning the Protocol on the position of Denmark  | <a href="#">Danish derogations</a>        |
| 40. Declaration concerning the Protocol on the transitional provisions relating to the institutions and bodies of the Union   | <a href="#">Bulgaria and Romania</a>      |
| 41. Declaration concerning Italy  | <a href="#">Backward regions in Italy</a> |
| Furthermore, the Conference has noted the declarations listed hereafter and annexed to this Final Act:  |   |
| 42. Declaration by the Kingdom of the Netherlands on Article I-55   | <a href="#">Dutch net payments</a>        |
| 43. Declaration by the Kingdom of the Netherlands on Article IV-440   | <a href="#">Dutch Antilles</a>            |

- Nuclear treaty                    44. Declaration by the Federal Republic of Germany, Ireland, the Republic of Hungary, the Republic of Austria and the Kingdom of Sweden
  
- Gibraltar                            45. Declaration by the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland
  
- UK “citizens”                    46. Declaration by the United Kingdom of Great Britain and Northern Ireland on the definition of the term “nationals”
  
- Spain about EU citizenship    47. Declaration by the Kingdom of Spain on the definition of the term “nationals”
  
- UK about EP voting rights    48. Declaration by the Kingdom of the United Kingdom of Great Britain and Northern Ireland on the franchise for elections to the European Parliament
  
- Belgian chambers                49. Declaration by the Kingdom of Belgium on national parliaments
  
- Spelling of euro                 50. Declaration by the Republic of Latvia and the Republic of Hungary on the spelling of the name of the single currency in the Treaty establishing a Constitution for Europe.

Done at Rome, this twenty-ninth day of October in the year two thousand and four

.....  
(all languages)  
For .....

The following have also signed this Final Act, in their capacity as candidate States for accession to the European Union, having been observers to the Conference:

- For Bulgaria, .....
  
- For Romania, .....
  
- For Turkey, .....

# PROTOCOLS

## ANNEXED TO THE TREATY ESTABLISHING A CONSTITUTION FOR EUROPE

*(A Selection)*

**Protocols are legally  
binding like treaties;  
Declarations are not**

### 1. PROTOCOL ON THE ROLE OF THE NATIONAL PARLIAMENTS IN THE EUROPEAN UNION

**National  
Parliaments**

EU THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which national Parliaments scrutinise their governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State;

The organisation of Parliaments is a purely national matter...

DESIRING to encourage greater involvement of national Parliaments in the activities of the European Union and to enhance their ability to express their views on draft European legislative acts as well as on other matters which may be of particular interest to them,

... but the Union would like to encourage them to participate in the activities of the EU

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe and to the Treaty establishing the European Atomic Energy Community:

#### TITLE 1

#### **Information for national Parliaments**

#### ARTICLE 1

Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to national Parliaments upon publication. The Commission shall also forward the annual legislative programme as well as any other

National Parliaments shall have all the strategic documents from the Commission

at the same time as the EP and the Council instrument of legislative planning or policy to national Parliaments, at the same time as to the European Parliament and the Council.

**ARTICLE 2**

Also legislative proposals Draft European legislative acts sent to the European Parliament and to the Council shall be forwarded to national Parliaments.

Definition of proposals For the purposes of this Protocol, “draft European legislative acts” shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a European legislative act.

Draft European legislative acts originating from the Commission shall be forwarded to national Parliaments directly by the Commission, at the same time as to the European Parliament and the Council.

Draft European legislative acts originating from the European Parliament shall be forwarded to national Parliaments directly by the European Parliament.

Draft European legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank shall be forwarded to national Parliaments by the Council.

**ARTICLE 3**

**National Parliaments can send a reasoned opinion regarding subsidiarity and proportionality** National Parliaments may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion on whether a draft European legislative act complies with the principle of subsidiarity, in accordance with the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

If the draft European legislative act originates from a group of Member States, the President of the Council shall forward the reasoned opinion or opinions to the governments of those Member States.

If the draft European legislative act originates from the Court of Justice, the European Central Bank or the European Investment

Bank, the President of the Council shall forward the reasoned opinion or opinions to the institution or body concerned.

**ARTICLE 4**

A six-week period shall elapse between a draft European legislative act being made available to national Parliaments in the official languages of the Union and the date when it is placed on a provisional agenda for the Council for its adoption or for adoption of a position under a legislative procedure. Exceptions shall be possible in cases of urgency, the reasons for which shall be stated in the act or position of the Council. Save in urgent cases for which due reasons have been given, no agreement may be reached on a draft European legislative act during those six weeks. Save in urgent cases for which due reasons have been given, a ten-day period shall elapse between the placing of a draft European legislative act on the provisional agenda for the Council and the adoption of a position.

**6 weeks** must pass before a proposal can be put to the Council's agenda

At least 10 days more before it can be decided upon

**ARTICLE 5**

The agendas for and the outcome of meetings of the Council, including the minutes of meetings where the Council is deliberating on draft European legislative acts, shall be forwarded directly to national Parliaments, at the same time as to Member States' governments.

Minutes from the legislative Council's meetings at the same time as governments

**ARTICLE 6**

When the European Council intends to make use of Article IV-444(1) or (2) of the Constitution, national Parliaments shall be informed of the initiative of the European Council at least six months before any European decision is adopted.

Changes in voting procedures and of changes from unanimity to qualified majority

**ARTICLE 7**

The Court of Auditors shall forward its annual report to national Parliaments, for information, at the same time as to the European Parliament and to the Council.

Court of Auditors' annual report also forwarded

**ARTICLE 8**

Where the national Parliamentary system is not unicameral, Articles 1 to 7 shall apply to the component chambers.

Both chambers of bicameral systems

**TITLE II**  
**Interparliamentary cooperation**

**ARTICLE 9**

The EP and national  
Parliaments decide  
on how to cooperate

The European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular interparliamentary cooperation within the Union.

**ARTICLE 10**

Conference of  
European Affairs  
Committees  
(COSAC)

...may send any  
contribution to the  
EP, the Council or the  
Commission if they  
see it appropriate

A conference of Parliamentary Committees for Union Affairs may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the conference shall not bind national Parliaments and shall not prejudice their positions.

**Subsidiarity**  
**Proportionality**

**2. PROTOCOL ON THE APPLICATION  
OF THE PRINCIPLES OF SUBSIDIARITY  
AND PROPORTIONALITY**

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the Union;

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as laid down in Article I-11 of the Constitution, and to establish a system for monitoring the application of those principles,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe:

**ARTICLE 1**

Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article I-11 of the Constitution.

All institutions shall respect subsidiarity and proportionality

**ARTICLE 2**

Before proposing European legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for its decision in its proposal.

The Commission shall consult widely before proposing legislation

**ARTICLE 3**

For the purposes of this Protocol, “draft European legislative acts” shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a European legislative act.

Definition of proposal

**ARTICLE 4**

The Commission shall forward its draft European legislative acts and its amended drafts to national Parliaments at the same time as to the Union legislator.

EP, the Council and Commission shall send legislative documents to national Parliaments

The European Parliament shall forward its draft European legislative acts and its amended drafts to national Parliaments.

The Council shall forward draft European legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank and amended drafts to national Parliaments.

Upon adoption, legislative resolutions of the European Parliament and positions of the Council shall be forwarded by them to national Parliaments.

**ARTICLE 5**

Draft European legislative acts shall be justified with regard to the principles of subsidiarity and proportionality. Any draft European legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain

Commission shall justify any proposal with regard to subsidiarity and proportionality

Reasons shall contain:  
 - assessment of financial impact  
 - why an objective is “better achieved at Union level”  
 - account of any burden

some assessment of the proposal’s financial impact and, in the case of a European framework law, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level shall be substantiated by qualitative and, wherever possible, quantitative indicators. Draft European legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

**Article 6**

A national Parliament, or any of its chambers, can send reasoned opinion if there is infringement of the principle of subsidiarity

Any national Parliament or any chamber of a national Parliament may, within six weeks from the date of transmission of a draft European legislative act, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.

If the draft European legislative act originates from a group of Member States, the President of the Council shall forward the opinion to the governments of those Member States.

If the draft European legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the opinion to the institution or body concerned.

**Alarm bell**  
 National Parliament can give opinion on all proposals

**Article 7**

The European Parliament, the Council and the Commission, and, where appropriate, the group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, shall take account of the reasoned opinions issued by national Parliaments or by a chamber of a national Parliament.

Unicameral parliaments - two votes; bicameral parliaments, one for each chamber

Each national Parliament shall have two votes, shared out on the basis of the national Parliamentary system. In the case of a bicameral Parliamentary system, each of the two chambers shall have one vote.

Where reasoned opinions on a draft European legislative act's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the national Parliaments in accordance with the second paragraph, the draft must be reviewed. This threshold shall be a quarter in the case of a draft European legislative act submitted on the basis of Article III-264 of the Constitution on the area of freedom, security and justice.

If 1/3 of the opinions see non-compliance, the draft is reviewed.

Only ¼ in Home and Justice affairs

After such review, the Commission or, where appropriate, the group of Member States, the European Parliament, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft European legislative act originates from them, may decide to maintain, amend or withdraw the draft. Reasons must be given for this decision.

No obligation to react to national parliaments' opinion; only need to explain decision

#### ARTICLE 8

The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a European legislative act, brought in accordance with the rules laid down in Article III-365 of the Constitution by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber of it.

Member States can bring infringement of the principle of subsidiarity before the EU Court, regional parliaments cannot

In accordance with the rules laid down in the said Article, the Committee of the Regions may also bring such actions against European legislative acts for the adoption of which the Constitution provides that it be consulted.

The Committee of Regions can do the same when consulted

#### ARTICLE 9

The Commission shall submit each year to the European Council, the European Parliament, the Council and national Parliaments a report on the application of Article I-11 of the Constitution. This annual report shall also be forwarded to the Committee of the Regions and to the Economic and Social Committee.

The Commission shall submit an annual report on the application of subsidiarity

**Location of seats**

**6. PROTOCOL ON THE LOCATION OF THE SEATS OF THE INSTITUTIONS AND OF CERTAIN BODIES, OFFICES, AGENCIES AND DEPARTMENTS OF THE EUROPEAN UNION**

**The seats can only be changed by a new Constitution**

THE HIGH CONTRACTING PARTIES,  
HAVING REGARD to Article III-432 of the Constitution,  
RECALLING AND CONFIRMING the Decision of 8 April 1965, and without prejudice to the decisions concerning the seat of future institutions, bodies, offices, agencies and departments,  
HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe and to the Treaty establishing the European Atomic Energy Community:

**SOLE ARTICLE**

**European Parliament**

1. The European Parliament shall have its seat in Strasbourg, where the 12 periods of monthly plenary sessions, including the budget session, shall be held. The periods of additional plenary sessions shall be held in Brussels. The committees of the European Parliament shall meet in Brussels. The General Secretariat of the European Parliament and its departments shall remain in Luxembourg.

**The Council**

2. The Council shall have its seat in Brussels. During the months of April, June and October, the Council shall hold its meetings in Luxembourg.

**The Commission**

3. The Commission shall have its seat in Brussels. The departments listed in Articles 7, 8 and 9 of the Decision of 8 April 1965 shall be established in Luxembourg.

**The Court**

4. The Court of Justice of the European Union shall have its seat in Luxembourg.

**The Central Bank**

5. The European Central Bank shall have its seat in Frankfurt.

**The Court of Auditors**

6. The Court of Auditors shall have its seat in Luxembourg.

- 7. The Committee of the Regions shall have its seat in Brussels. Committee of Regions
- 8. The Economic and Social Committee shall have its seat in Brussels. EcoSoc
- 9. The European Investment Bank shall have its seat in Luxembourg. Investment Bank
- 10. Europol shall have its seat in The Hague. Europol

**10. PROTOCOL ON THE  
EXCESSIVE DEFICIT PROCEDURE**

**Excessive  
deficit procedure**

THE HIGH CONTRACTING PARTIES,

DESIRING to lay down the details of the excessive deficit procedure referred to in Article III-184 of the Constitution,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe:

**ARTICLE 1**

The reference values referred to in Article III-184(2) of the Constitution are: Reference values

- (a) 3% for the ratio of the planned or actual government deficit to gross domestic product at market prices; **3% deficit**
- (b) 60% for the ratio of government debt to gross domestic product at market prices. **60% debt**

**ARTICLE 2**

For the purposes of Article III-184 of the Constitution and of this Protocol:

- (a) “government” means general government, that is central government, regional or local government and social security funds, to the exclusion of commercial operations, as defined in the European System of Integrated Economic Accounts;
- (b) “deficit” means net borrowing as defined in the European System of Integrated Economic Accounts;

(c) “investment” means gross fixed capital formation as defined in the European System of Integrated Economic Accounts;

(d) “debt” means total gross debt at nominal value outstanding at the end of the year and consolidated between and within the sectors of general government as defined in point (a).

Member States shall report deficits

**ARTICLE 3**

In order to ensure the effectiveness of the excessive deficit procedure, the governments of the Member States shall be responsible under this procedure for the deficits of general government as defined in Article 2(a). The Member States shall ensure that national procedures in the budgetary area enable them to meet their obligations in this area deriving from the Constitution. The Member States shall report their planned and actual deficits and the levels of their debt promptly and regularly to the Commission.

**ARTICLE 4**

The statistical data to be used for the application of this Protocol shall be provided by the Commission.

Convergence criteria

**11. PROTOCOL ON THE CONVERGENCE CRITERIA**

THE HIGH CONTRACTING PARTIES,

DESIRING to lay down the details of the convergence criteria which shall guide the Union in taking decisions referred to in Article III-198 of the Constitution to end the derogations of those Member States with a derogation,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe:

Price stability

**ARTICLE 1**

Inflation not to exceed 1.5% more than average of best 3 Member States

The criterion on price stability referred to in Article III-198(1)(a) of the Constitution shall mean that the Member State concerned has a price performance that is sustainable and an average rate of inflation, observed over a period of one year before the examination, that does not exceed by more than 1.5 percentage points that of, at most, the three best performing Member States in terms of price stability. Inflation shall be measured by means of the

consumer price index on a comparable basis, taking into account differences in national definitions.

#### ARTICLE 2

The criterion on the government budgetary position referred to in Article III-198(1)(b) of the Constitution shall mean that at the time of the examination the Member State concerned is not the subject of a European decision of the Council under Article III-184(6) of the Constitution that an excessive deficit exists.

#### ARTICLE 3

The criterion on participation in the exchange-rate mechanism of the European Monetary System referred to in Article III-198(1)(c) of the Constitution shall mean that the Member State concerned has respected the normal fluctuation margins provided for by the exchange-rate mechanism of the European Monetary System without severe tensions for at least the last two years before the examination. In particular, the Member State shall not have devalued its currency's bilateral central rate against the euro on its own initiative for the same period.

**Normal exchange rate for two years**

#### ARTICLE 4

The criterion on the convergence of interest rates referred to in Article III-198(1)(d) of the Constitution shall mean that, observed over a period of one year before the examination, the Member State concerned has had an average nominal long-term interest rate that does not exceed by more than 2 percentage points that of, at most, the three best performing Member States in terms of price stability. Interest rates shall be measured on the basis of long-term government bonds or comparable securities, taking into account differences in national definitions.

**Interest rate not higher than 2% over average of best 3 Member States**

#### ARTICLE 5

The statistical data to be used for the application of this Protocol shall be provided by the Commission.

#### ARTICLE 6

*U\** The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the European Central Bank, and the Economic and Financial Committee referred to in Article III-192 of the Constitution, adopt appropriate provisions to lay down the details of the convergence criteria referred to in Article III-198 of the Constitution, which shall then replace this Protocol.

**Details by unanimous decision**

**Euro-zone**

**12. PROTOCOL ON THE EURO GROUP**

Special cooperation  
for the euro countries

THE HIGH CONTRACTING PARTIES,

Promote ever-closer  
coordination of  
economic policies

DESIRING to promote conditions for stronger economic growth in the European Union and, to that end, to develop ever-closer coordination of economic policies within the euro area,

Enhance dialogue  
between euro-states

CONSCIOUS of the need to lay down special provisions for enhanced dialogue between the Member States whose currency is the euro, pending the euro becoming the currency of all Member States of the Union,

HAVE AGREED upon the following provisions, which are annexed to the Treaty establishing a Constitution for Europe:

**ARTICLE 1**

Euro-states  
meet informally;  
Commission and  
ECB participate

The Ministers of the Member States whose currency is the euro shall meet informally. Such meetings shall take place, when necessary, to discuss questions related to the specific responsibilities they share with regard to the single currency. The Commission shall take part in the meetings. The European Central Bank shall be invited to take part in such meetings, which shall be prepared by the representatives of the Ministers with responsibility for finance of the Member States whose currency is the euro and of the Commission.

**ARTICLE 2**

**Euro-President**  
- elected by majority  
of Euro-States  
for 2½ years

The Ministers of the Member States whose currency is the euro shall elect a president for two and a half years, by a majority of those Member States.

**13. PROTOCOL ON CERTAIN PROVISIONS  
RELATING TO THE UNITED KINGDOM OF GREAT  
BRITAIN AND NORTHERN IRELAND AS REGARDS  
ECONOMIC AND MONETARY UNION**

**UK and Northern  
Ireland membership  
of the Monetary  
Union**

THE HIGH CONTRACTING PARTIES,

RECOGNISING that the United Kingdom shall not be obliged or committed to adopt the euro without a separate decision to do so by its government and Parliament;

UK shall not be obliged to adopt the euro except by its own decision

GIVEN that on 16 October 1996 and 30 October 1997 the United Kingdom government notified the Council of its intention not to participate in the third stage of economic and monetary union, under the terms of paragraph 1 of the Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland, annexed to the Treaty establishing the European Community;

NOTING the practice of the government of the United Kingdom to fund its borrowing requirement by the sale of debt to the private sector,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe:

**ARTICLE 1**

Unless the United Kingdom notifies the Council that it intends to adopt the euro, it shall be under no obligation to do so.

Not obliged

**ARTICLE 2**

In view of the notice given to the Council by the United Kingdom government on 16 October 1996 and 30 October 1997, Articles 3 to 8 and 10 shall apply to the United Kingdom.

**ARTICLE 3**

The United Kingdom shall retain its powers in the field of monetary policy according to national law.

Retain  
monetary powers

**ARTICLE 4**

Articles I-30(2), with the exception of the first and last sentences thereof, I-30(5), III-177, second paragraph, III-184(1), (9) and (10), III-185(1) to (5), III-186, III-188, III-189, III-190, III-191,

III-196, III-198(3), III-326 and III-382 of the Constitution shall not apply to the United Kingdom. The same applies to Article III-179(2) of the Constitution as regards the adoption of the parts of the broad economic policy guidelines which concern the euro area generally.

In the provisions referred to in the first paragraph, references to the Union or the Member States shall not include the United Kingdom and references to national central banks shall not include the Bank of England.

#### **ARTICLE 5**

The United Kingdom shall endeavour to avoid an excessive government deficit.

Articles III-192(4) and III-200 of the Constitution shall apply to the United Kingdom as if it had a derogation. Articles III-201 and III-202 of the Constitution shall continue to apply to the United Kingdom.

#### **ARTICLE 6**

The voting rights of the United Kingdom shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in Article 4 and in the instances referred to in the first subparagraph of Article III-197(4) of the Constitution. For this purpose the second and third subparagraphs of Article III-197(4) of the Constitution shall apply.

The United Kingdom shall also have no right to participate in the appointment of the President, the Vice-President and the other members of the Executive Board of the European Central Bank under the second, third and fourth subparagraphs of Article III-382(2) of the Constitution.

#### **ARTICLE 7**

Articles 3, 4, 6, 7, 9(2), 10(1), (2) and (3), 11(2), 12(1), 14, 16, 18, 19, 20, 22, 23, 26, 27, 30, 31, 32, 33, 34 and 50 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank (the "Statute") shall not apply to the United Kingdom.

In those Articles, references to the Union or the Member States

shall not include the United Kingdom and references to national central banks or shareholders shall not include the Bank of England.

References in Articles 10(3) and 30(2) of the Statute to "subscribed capital of the European Central Bank" shall not include capital subscribed by the Bank of England.

#### **ARTICLE 8**

Article III-199 of the Constitution and Articles 43 to 47 of the Statute shall have effect, whether or not there is any Member State with a derogation, subject to the following amendments:

References in Article 43 of the Statute to the tasks of the European Central Bank and the European Monetary Institute shall include those tasks that still need to be performed after the introduction of the euro owing to the decision of the United Kingdom not to adopt the euro.

In addition to the tasks referred to in Article 46 of the Statute, the European Central Bank shall also give advice in relation to and contribute to the preparation of any European regulation or any European decision of the Council with regard to the United Kingdom taken in accordance with Article 9(a) and (c) of this Protocol.

The Bank of England shall pay up its subscription to the capital of the European Central Bank as a contribution to its operational costs on the same basis as national central banks of Member States with a derogation.

#### **ARTICLE 9**

The United Kingdom may notify the Council at any time of its intention to adopt the euro. In that event:

The United Kingdom shall have the right to adopt the euro provided only that it satisfies the necessary conditions. The Council, acting at the request of the United Kingdom and under the conditions and in accordance with the procedure laid down in Article III-198(1) and (2) of the Constitution, shall decide whether it fulfils the necessary conditions.

The Bank of England shall pay up its subscribed capital, transfer to

the European Central Bank foreign reserve assets and contribute to its reserves on the same basis as the national central bank of a Member State whose derogation has been abrogated.

The Council, acting under the conditions and in accordance with the procedure laid down in Article III-198(3) of the Constitution, shall take all other necessary decisions to enable the United Kingdom to adopt the euro.

If the United Kingdom adopts the euro pursuant to the provisions of this Article, Articles 3 to 8 shall cease to have effect.

**ARTICLE 10**

Notwithstanding Article III-181 of the Constitution and Article 21(1) of the Statute, the Government of the United Kingdom may maintain its "ways and means" facility with the Bank of England if and so long as the United Kingdom does not adopt the euro.

**Monetary Union  
relation to Denmark**

**14. PROTOCOL ON CERTAIN PROVISIONS  
RELATING TO DENMARK AS REGARDS ECONOMIC  
AND MONETARY UNION**

THE HIGH CONTRACTING PARTIES,

TAKING INTO ACCOUNT that the Danish Constitution contains provisions which may imply a referendum in Denmark prior to Denmark renouncing its exemption;

GIVEN THAT, on 3 November 1993, the Danish Government notified the Council of its intention not to participate in the third stage of economic and monetary union, under the terms of paragraph 1 of the Protocol on certain provisions relating to Denmark, annexed to the Treaty establishing the European Community,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe:

**ARTICLE 1**

In view of the notice given to the Council by the Danish Government on 3 November 1993, Denmark shall have an exemption. The effect of the exemption shall be that all provisions of the Constitution and the Statute of the European System of Central Banks and the European Central Bank referring to a derogation shall be applicable to Denmark.

**ARTICLE 2**

As for the abrogation of the exemption, the procedure referred to in Article III-198 of the Constitution shall only be initiated at the request of Denmark.

Only Denmark can drop the derogation

**ARTICLE 3**

In the event of abrogation of the exemption status, the provisions of this Protocol shall cease to apply.

**17. PROTOCOL ON THE SCHENGEN ACQUIS  
INTEGRATED INTO THE FRAMEWORK OF THE  
EUROPEAN UNION**

Schengen acquis

THE HIGH CONTRACTING PARTIES,

RECALLING that the provisions of the Schengen *acquis* consisting of the Agreements on the gradual abolition of checks at common borders, signed by some Member States of the European Union in Schengen on 14 June 1985 and on 19 June 1990, as well as related agreements and rules adopted on the basis of these agreements, have been integrated into the framework of the European Union by a Protocol annexed to the Treaty on European Union and to the Treaty establishing the European Community;

DESIRING to preserve the Schengen *acquis*, as developed since the entry into force of the abovementioned Protocol, within the framework of the Constitution, and to develop this *acquis* in order to contribute towards achieving the objective of offering citizens of the Union an area of freedom, security and justice without internal borders;

TAKING INTO ACCOUNT the special position of Denmark;

Denmark's special position

TAKING INTO ACCOUNT the fact that Ireland and the United Kingdom of Great Britain and Northern Ireland do not participate in all the provisions of the Schengen *acquis*; provision should, however, be made to allow those Member States to accept other provisions of this *acquis* in full or in part;

RECOGNISING that, as a consequence, it is necessary to make use of the provisions of the Constitution concerning closer cooperation between some Member States;

Norway and Iceland;  
Nordic passport  
union

TAKING INTO ACCOUNT the need to maintain a special relationship with the Republic of Iceland and the Kingdom of Norway, both States being bound by the provisions of the Nordic passport union, together with the Nordic States which are members of the European Union;

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe,

#### ARTICLE 1

The Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden shall be authorised to implement closer cooperation among themselves in areas covered by provisions defined by the Council which constitute the Schengen *acquis*. This cooperation shall be conducted within the institutional and legal framework of the Union and with respect for the relevant provisions of the Constitution.

#### ARTICLE 2

The Schengen acquis shall apply to the Member States referred to in Article 1, without prejudice to Article 3 of the Protocol on the Treaty and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of

Schengen applies  
to all Member  
States except UK  
and Ireland

Slovenia and the Slovak Republic. The Council will substitute itself for the Executive Committee established by the Schengen agreements.

**ARTICLE 3**

The participation of Denmark in the adoption of measures constituting a development of the Schengen *acquis*, as well as the implementation of these measures and their application to Denmark, shall be governed by the relevant provisions of the Protocol on the position of Denmark.

Danish derogation

**ARTICLE 4**

Ireland and the United Kingdom of Great Britain and Northern Ireland, may at any time request to take part in some or all of the provisions of the Schengen *acquis*.

UK, Ireland  
may join at any time

The Council shall adopt a European decision on this request. It shall act by a unanimous decision of the members referred to in Article 1 and of the member representing the government of the Member State concerned.

**ARTICLE 5**

Proposals and initiatives to build upon the Schengen *acquis* shall be subject to the relevant provisions of the Constitution.

In this context, where either Ireland or the United Kingdom or both have not notified the President of the Council in writing within a reasonable period that they wish to take part, the authorisation referred to in Article III-419(1) of the Constitution shall be deemed to have been granted to the Member States referred to in Article 1 and to Ireland or the United Kingdom where either of them wishes to take part in the areas of cooperation in question.

**ARTICLE 6**

The Republic of Iceland and the Kingdom of Norway shall be associated with the implementation of the Schengen *acquis* and its further development. Appropriate procedures shall be agreed to that effect in an Agreement to be concluded with those States by the Council, acting by the unanimity of its members mentioned in Article 1. That Agreement shall include provisions on the contribution of Iceland and Norway to any financial consequences resulting from the implementation of this Protocol.

Norway and Iceland

A separate Agreement shall be concluded by the Council, acting unanimously, with Iceland and Norway for the establishment of rights and obligations between Ireland and the United Kingdom of Great Britain and Northern Ireland on the one hand, and Iceland and Norway on the other, in domains of the Schengen *acquis* which apply to these States.

**ARTICLE 7**

New Member States must accept Schengen *acquis*

For the purposes of the negotiations for the admission of new Member States into the European Union, the Schengen *acquis* and further measures adopted by the institutions within its scope shall be regarded as an *acquis* which must be accepted in full by all States candidates for admission.

United Kingdom and Ireland on police and judicial cooperation

**19. PROTOCOL ON THE POSITION OF THE UNITED KINGDOM AND IRELAND ON POLICIES IN RESPECT OF BORDER CONTROLS, ASYLUM AND IMMIGRATION, JUDICIAL COOPERATION IN CIVIL MATTERS AND ON POLICE COOPERATION**

THE HIGH CONTRACTING PARTIES,

DESIRING to settle certain questions relating to the United Kingdom and Ireland;

HAVING REGARD to the Protocol on the application of certain aspects of Article III-130 of the Constitution to the United Kingdom and Ireland,

HAVE AGREED UPON the following provisions which shall be annexed to the Treaty establishing a Constitution for Europe:

**ARTICLE 1**

Do not take part in the adoption of measures concerning border control, judicial co-operation and civil matters

Subject to Article 3, the United Kingdom and Ireland shall not take part in the adoption by the Council of proposed measures pursuant to Section 2 or Section 3 of Chapter IV of Title III of Part III of the Constitution or to Article III-260 thereof, insofar as that Article relates to the areas covered by those Sections, to Article III-263 or to Article III-275(2)(a) of the Constitution. The unanimity of the members of the Council, with the exception of the representatives of the governments of the United Kingdom and Ireland, shall be

necessary for acts of the Council which must be adopted unanimously.

For the purposes of this Article, a qualified majority shall be defined as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

By way of derogation from the second and third paragraphs, where the Council does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the required qualified majority shall be defined as at least 72% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.

#### ARTICLE 2

In consequence of Article 1 and subject to Articles 3, 4 and 6, none of the provisions of Section 2 or Section 3 of Chapter IV of Title III of Part III of the Constitution or of Article III-260 of the Constitution, insofar as that Article relates to the areas covered by those Sections, or of Article III-263 or Article III-275(2)(a) of the Constitution, no measure adopted pursuant to those Sections or Articles, no provision of any international agreement concluded by the Union pursuant to those Sections or Articles, and no decision of the Court of Justice of the European Union interpreting any such provision or measure shall be binding upon or applicable in the United Kingdom or Ireland; and no such provision, measure or decision shall in any way affect the competences, rights and obligations of those States; and no such provision, measure or decision shall in any way affect the Community or Union *acquis* nor form part of Union law as they apply to the United Kingdom or Ireland.

May opt in  
within 3 months

#### ARTICLE 3

1. The United Kingdom or Ireland may notify the Council in writing, within three months after a proposal has been presented to the Council pursuant to Section 2 or Section 3 of Chapter IV of Title III of Part III of the Constitution or after a proposal or

initiative has been presented to the Council pursuant to Article III-263 or to Article III-275(2)(a) of the Constitution, that it wishes to take part in the adoption and application of any such proposed measure, whereupon that State shall be entitled to do so. The unanimity of the members of the Council, with the exception of a member which has not made such a notification, shall be necessary for acts of the Council which must be adopted unanimously. A measure adopted under this paragraph shall be binding upon all Member States which took part in its adoption. The European regulations or decisions adopted pursuant to Article III-260 of the Constitution shall lay down the conditions for the participation of the United Kingdom and Ireland in the evaluations concerning the areas covered by Section 2 or Section 3 of Chapter IV of Title III of Part III of the Constitution.

For the purposes of this Article, a qualified majority shall be defined as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

By way of derogation from the second and third subparagraphs, where the Council does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the required qualified majority shall be defined as at least 72% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.

2. If after a reasonable period of time a measure referred to in paragraph 1 cannot be adopted with the United Kingdom or Ireland taking part, the Council may adopt such measure in accordance with Article 1 without the participation of the United Kingdom or Ireland. In that case Article 2 applies.

#### **ARTICLE 4**

The United Kingdom or Ireland may, at any time after the adoption of a measure pursuant to Section 2 or Section 3 of Chapter IV of Title III of Part III of the Constitution or to Article III-263 or to Article III-275(2)(a) of the Constitution, notify its intention to

UK may join  
at any time

the Council and to the Commission that it wishes to accept that measure. In that case, the procedure provided for in Article III-420(1) of the Constitution shall apply *mutatis mutandis*.

**ARTICLE 5**

A Member State which is not bound by a measure adopted pursuant to Section 2 or Section 3 of Chapter IV of Title III of Part III of the Constitution, to Article III-263 or to Article III-275(2)(a) of the Constitution, shall bear no financial consequences of that measure other than administrative costs entailed for the institutions, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.

**ARTICLE 6**

Where, in cases referred to in this Protocol, the United Kingdom or Ireland is bound by a measure adopted pursuant to Section 2 or Section 3 of Chapter IV of Title III of Part III of the Constitution, to Article III-260 of the Constitution, insofar as that Article relates to the areas covered by those Sections, to Article III-263 or to Article III-275(2)(a) of the Constitution, the relevant provisions of the Constitution shall apply to that State in relation to that measure.

Ireland may withdraw  
without UK

**ARTICLE 7**

Articles 3 and 4 shall be without prejudice to the Protocol on the Schengen *acquis* integrated into the framework of the European Union.

**ARTICLE 8**

Ireland may notify the Council in writing that it no longer wishes to be covered by the terms of this Protocol. In that case, this Protocol shall no longer apply to Ireland.

**PERMANENT  
STRUCTURED  
COOPERATION IN  
SECURITY AND  
DEFENCE  
POLICY**

**23. PROTOCOL ON PERMANENT STRUCTURED  
COOPERATION ESTABLISHED BY ARTICLE I-41(6)  
AND ARTICLE III-312 OF THE CONSTITUTION**

THE HIGH CONTRACTING PARTIES,

HAVING REGARD TO Article I-41(6) and Article III-312 of the Constitution,

RECALLING that the Union is pursuing a common foreign and security policy based on the achievement of growing convergence of action by Member States;

Common security and defence policy:  
- an integral part of common foreign and security policy

RECALLING that the common security and defence policy is an integral part of the common foreign and security policy; that it provides the Union with operational capacity drawing on civil and military assets; that the Union may use such assets in the tasks referred to in Article III-309 of the Constitution outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter; that the performance of these tasks is to be undertaken using capabilities provided by the Member States in accordance with the principle of a single set of forces;

Principle:  
single set of forces

Neutrality

RECALLING that the common security and defence policy of the Union does not prejudice the specific character of the security and defence policy of certain Member States;

NATO

RECALLING that the common security and defence policy of the Union respects the obligations under the North Atlantic Treaty of those Member States, which see their common defence realised in the North Atlantic Treaty Organisation, which remains the foundation of the collective defence of its members, and is compatible with the common security and defence policy established within that framework;

More active security role for the Union

CONVINCED that a more assertive Union role in security and defence matters will contribute to the vitality of a renewed Atlantic Alliance, in accordance with the Berlin Plus arrangements;

Union responsible towards international community

DETERMINED to ensure that the Union is capable of fully assuming its responsibilities within the international community;

RECOGNISING that the United Nations Organisation may request the Union's assistance for the urgent implementation of missions undertaken under Chapters VI and VII of the United Nations Charter;

Speedy  
implementation  
of UN missions

RECOGNISING that the strengthening of the security and defence policy will require efforts by Member States in the area of capabilities;

Union needs  
more capabilities

CONSCIOUS that embarking on a new stage in the development of the European security and defence policy involves a determined effort by the Member States concerned;

Union needs  
more political will

RECALLING the importance of the Minister for Foreign Affairs being fully involved in proceedings relating to permanent structured cooperation,

Role of  
foreign minister

HAVE AGREED UPON the following provisions, which shall be annexed to the Constitution:

**ARTICLE 1**

The permanent structured cooperation referred to in Article I-41(6) of the Constitution shall be open to any Member State which undertakes, from the date of entry into force of the Treaty establishing a Constitution for Europe, to:

Open to all Member  
States, which:

- (a) proceed more intensively to develop its defence capacities through the development of its national contributions and participation, where appropriate, in multinational forces, in the main European equipment programmes, and in the activity of the Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency), and - develop defence capacities
- (b) have the capacity to supply by 2007 at the latest, either at national level or as a component of multinational force groups, targeted combat units for the missions planned, structured at a tactical level as a battle group, with support elements including transport and logistics, capable of carrying out the tasks referred to in Article III-309, within a period of 5 to 30 days, in particular in response to requests from the United Nations Organisation, and which can be sustained for an initial period of 30 days and be extended up to at least 120 days. - supply multinational forces

**ARTICLE 2**

To achieve the objectives laid down in Article 1, Member States participating in permanent structured cooperation shall undertake to:

- cooperate on military investments (a) cooperate, as from the entry into force of the Treaty establishing a Constitution for Europe, with a view to achieving approved objectives concerning the level of investment expenditure on defence equipment, and regularly review these objectives, in the light of the security environment and of the Union's international responsibilities;
- bring defence apparatus into line (b) bring their defence apparatus into line with each other as far as possible, particularly by harmonising the identification of their military needs, by pooling and, where appropriate, specialising their defence means and capabilities, and by encouraging cooperation in the fields of training and logistics;
- make forces more flexible (c) take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces, in particular by identifying common objectives regarding the commitment of forces, including possibly reviewing their national decision-making procedures;
- cooperate on capability development (d) work together to ensure that they take the necessary measures to make good, including through multinational approaches, and without prejudice to undertakings in this regard within the North Atlantic Treaty Organisation, the shortfalls perceived in the framework of the "Capability Development Mechanism";
- develop major joint programmes (e) take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency.

**ARTICLE 3**

Agency assesses military capabilities of participating Member States

The European Defence Agency shall contribute to the regular assessment of participating Member States' contributions with regard to capabilities, in particular contributions made in accordance with the criteria to be established *inter alia* on the basis of Article 2, and shall report thereon at least once a year. The

assessment may serve as a basis for Council recommendations and European decisions adopted in accordance with Article III-312 of the Constitution.

The Council adopts recommendations

### 34. PROTOCOL ON THE TRANSITIONAL PROVISIONS RELATING TO THE INSTITUTIONS AND BODIES OF THE UNION

Seats in EP and votes in the Council

THE HIGH CONTRACTING PARTIES,

WHEREAS, in order to organise the transition from the European Union established by the Treaty on European Union and the European Community to the European Union established by the Treaty establishing a Constitution for Europe which is their successor, it is necessary to lay down transitional provisions which will apply before all the provisions of the Constitution and the instruments necessary for their implementation take full effect,

Transitional provisions

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe and to the Treaty establishing the European Atomic Energy Community:

#### TITLE 1 Provisions concerning the European Parliament

European Parliament

##### ARTICLE 1

*U\*\*\** 1. In accordance with the second subparagraph of Article I-20(2) of the Constitution, the European Council shall adopt a European decision determining the composition of the European Parliament sufficiently in advance of the 2009 European Parliament elections.

New rules adopted before 2009 by unanimity

2. During the 2004-2009 parliamentary term, the composition and the number of representatives elected to the European Parliament in each Member State shall remain the same as on the date of the entry into force of the Treaty establishing a Constitution for Europe, the number of representatives being as follows:

Composition shall not change with enlargement until 2009

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
Slovenia	7
Slovakia	14
Finland	14
Sweden	19
United Kingdom	78

## The Council

**New qualified majority (55% of countries comprising 65% of the EU population) to take effect from 01.11.2009**

Until then the following weighting of votes applies:

## TITLE 2 Provisions concerning the European Council and the Council

### ARTICLE 2

1. The provisions of Article I-25(1), (2) and (3) of the Constitution on the definition of the qualified majority in the European Council and the Council shall take effect on 1 November 2009, after the 2009 European Parliament elections have taken place in accordance with Article I-20(2) of the Constitution.

2. The following provisions shall remain in force until 31 October 2009, without prejudice to Article I-25(4) of the Constitution.

For acts of the European Council and of the Council requiring a qualified majority, members' votes shall be weighted as follows:

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
Slovenia	4
Slovakia	7
Finland	7
Sweden	10
United Kingdom	29

Acts shall be adopted if there are at least 232 votes in favour representing a majority of the members where, under the Constitution, they must be adopted on a proposal from the Commission. In other cases decisions shall be adopted if there are at least 232 votes in favour representing at least two thirds of the members.

#### Qualified majority

1. 232 out of 321
2. majority of Member States
3. 62% of the EU population

A member of the European Council or the Council may request that, where an act is adopted by the European Council or the Council by a qualified majority, a check is made to ensure that the Member States comprising the qualified majority represent at least 62% of the total population of the Union. If that proves not to be the case, the act shall not be adopted.

Adjusted following  
enlargement  
according to the  
principles of Nice

3. For subsequent accessions, the threshold referred to in paragraph 2 shall be calculated to ensure that the qualified majority threshold expressed in votes does not exceed that resulting from the table in the Declaration on the enlargement of the European Union in the Final Act of the Conference which adopted the Treaty of Nice.

Articles in the  
Constitution  
taking effect  
from 01.11.2009

4. The provisions of the following Articles shall take effect on 1 November 2009:

- Article I-44(3), third, fourth and fifth subparagraphs, of the Constitution,
- Article I-59(5), second and third subparagraphs, of the Constitution,
- Article I-60(4), second subparagraph, of the Constitution,
- Article III-179(4), third and fourth subparagraphs, of the Constitution,
- Article III-184(6), third and fourth subparagraphs, of the Constitution,
- Article III-184(7), third and fourth subparagraphs, of the Constitution,
- Article III-194(2), second and third subparagraphs, of the Constitution,
- Article III-196(3), second and third subparagraphs, of the Constitution,
- Article III-197(4), second and third subparagraphs, of the Constitution,
- Article III-198(2), third subparagraph, of the Constitution,
- Article III-312(3), third and fourth subparagraphs, of the Constitution,
- Article III-312(4), third and fourth subparagraphs, of the Constitution,
- Article 1, second, third and fourth paragraphs, and Article 3(1), second, third and fourth subparagraphs, of the Protocol on the position of the United Kingdom and Ireland on policies in respect of border controls, asylum and immigration, judicial cooperation in civil matters and on police cooperation,
- Article 1, second, third and fourth paragraphs and Article 5, third, fourth and fifth paragraphs, of the Protocol on the position of Denmark.

Until 31 October 2009, the qualified majority shall, in cases where not all the members of the Council participate in voting, namely in the cases referred to in the articles mentioned in the first subparagraph, be defined as the same proportion of the weighted votes and the same proportion of the number of the Council members and, if appropriate, the same percentage of the population of the Member States concerned as laid down in paragraph 2.

If not all members vote then qualified majority is adjusted in accordance with the principles of Nice

#### ARTICLE 3

Until the entry into force of the European decision referred to in Article I-24(4) of the Constitution, the Council may meet in the configurations laid down in Article I-24(2) and (3) and in the other configurations on the list established by a European decision of the General Affairs Council, acting by a simple majority.

Until other decision on Council formations, General Affairs Council establishes Council by simple majority

#### TITLE 3

##### **Provisions concerning the Commission, including the Union's Minister of Foreign Affairs**

#### ARTICLE 4

The members of the Commission in office on the date of entry into force of the Treaty establishing a Constitution for Europe shall remain in office until the end of their term of office. However, on the day of the appointment of the Union Minister for Foreign Affairs, the term of office of the member having the same nationality as the Union Minister for Foreign Affairs shall end.

Commission stays until end of term, but when Foreign Minister is elected, the Commissioner of the same nationality shall resign

#### TITLE IV

##### **Provisions concerning the Secretary-General of the Council, High Representative for the common foreign and security policy, and the Deputy Secretary-General of the Council**

#### ARTICLE 5

The terms of office of the Secretary-General of the Council, High Representative for the common foreign and security policy, and the Deputy Secretary-General of the Council shall end on the date of entry into force of the Treaty establishing a Constitution for Europe. The Council shall appoint a Secretary-General in conformity with Article III-344(2) of the Constitution.

Secretary-General, Deputy and High Representative

**Committee of  
the Regions**

**TITLE V  
Provisions concerning advisory bodies**

**ARTICLE 6**

Until entry into force of the European decision referred to in Article III-386 of the Constitution, the allocation of members of the Committee of the Regions shall be as follows:

Belgium	12
Czech Republic	12
Denmark	9
Germany	24
Estonia	7
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Cyprus	6
Latvia	7
Lithuania	9
Luxembourg	6
Hungary	12
Malta	5
Netherlands	12
Austria	12
Poland	21
Portugal	12
Slovenia	7
Slovakia	9
Finland	9
Sweden	12
United Kingdom	24

**ARTICLE 7**

**Economic and  
Social Committee**

Until entry into force of the European decision referred to in Article III-389 of the Constitution, the allocation of members of the Economic and Social Committee shall be as follows:

Belgium	12
Czech Republic	12
Denmark	9
Germany	24
Estonia	7
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Cyprus	6
Latvia	7
Lithuania	9
Luxembourg	6
Hungary	12
Malta	5
Netherlands	12
Austria	12
Poland	21
Portugal	12
Slovenia	7
Slovakia	9
Finland	9
Sweden	12
United Kingdom	24

**A. DECLARATIONS**  
**CONCERNING PROVISIONS OF**  
**THE CONSTITUTION**

*(A Selection)*

**Voting in  
the Council**

**5. DECLARATION ON ARTICLE I-25**

The Conference declares that the European decision relating to the implementation of Article I-25 will be adopted by the Council on the day the Treaty establishing a Constitution for Europe enters into force. The draft decision is set out below:

Draft European decision of the Council relating to the implementation of Article I-25

THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

Nice system until  
31 October 2009  
(Qualified majority =  
232 out of 321 votes)

(1) Provisions should be adopted allowing for a smooth transition from the system for decision-making in the Council by a qualified majority as defined in the Treaty of Nice and set out in Article 2(2) of the Protocol on the transitional provisions relating to the institutions and bodies of the Union annexed to the Constitution, which will continue to apply until 31 October 2009, to the voting system provided for in Article I-25 of the Constitution, which will apply with effect from 1 November 2009.

(2) It is recalled that it is the practice of the Council to devote every effort to strengthening the democratic legitimacy of decisions taken by a qualified majority.

(3) It is judged appropriate to maintain this decision as long as is necessary to ensure smooth transition to the new voting system provided for in the Constitution,

HAS DECIDED AS FOLLOWS:

**ARTICLE 1**

If members of the Council, representing:

(a) at least three quarters of the population, or

(b) at least three quarters of the number of Member States

necessary to constitute a blocking minority resulting from the application of Article I-25(1), first subparagraph, or Article I-25(2), indicate their opposition to the Council adopting an act by a qualified majority, the Council shall discuss the issue.

**ARTICLE 2**

The Council shall, in the course of these discussions, do all in its power to reach, within a reasonable time and without prejudicing obligatory time limits laid down by Union law, a satisfactory solution to address concerns raised by the members of the Council referred to in Article 1.

**ARTICLE 3**

To this end, the President of the Council, with the assistance of the Commission and in compliance with the Rules of Procedure of the Council, shall undertake any initiative necessary to facilitate a wider basis of agreement in the Council. The members of the Council shall lend him or her their assistance.

**ARTICLE 4**

This decision shall take effect on 1 November 2009. It shall remain in force at least until 2014. Thereafter the Council may adopt a European decision repealing it.

From 1 November 2009, Art.I-25 basically applies

But political blocking is possible if a minority represents  $\frac{3}{4}$  of either the EU population or the number of Member States required for reaching a **blocking minority**

Then, the Council must do everything possible to reach a satisfactory solution

President of the Council and the Commission shall try to find a compromise

Present decision takes effect in 2009 and stays in force until at least 2014

**EU Summit  
after rejections**

**30. DECLARATION ON THE RATIFICATION  
OF THE TREATY ESTABLISHING  
A CONSTITUTION FOR EUROPE**

If 4/5 have ratified the Constitution after 2 years, but not all countries, the European Council will find a solution

The Conference notes that if, two years after the signature of the Treaty establishing a Constitution for Europe, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter will be referred to the European Council.

**B. DECLARATIONS**

**CONCERNING PROTOCOLS ANNEXED TO  
THE CONSTITUTION**

*(Declaration 40 selected)*

**Bulgaria  
and Romania**

**40. DECLARATION CONCERNING THE PROTOCOL  
ON THE TRANSITIONAL PROVISIONS RELATING TO  
THE INSTITUTIONS AND BODIES OF THE UNION**

The common position which will be taken by the Member States at the conferences on the accession to the Union of Romania and/or Bulgaria regarding the allocation of seats in the European Parliament and the weighting of votes in the European Council and the Council will be as follows.

1. If the accession to the Union of Romania and/or Bulgaria takes place before the entry into force of the European Council Decision referred to in Article I-20(2), the allocation of seats in the European Parliament throughout the 2004-2009 parliamentary term will be in accordance with the following table for a Union of 27 Member States.

<b>MEMBER STATES</b>	<b>SEATS IN THE EP</b>
Germany	99
United Kingdom	78
France	78
Italy	78
Spain	54
Poland	54
Romania	35
Netherlands	27
Greece	24
Czech Republic	24
Belgium	24
Hungary	24
Portugal	24
Sweden	19
Bulgaria	18
Austria	18
Slovakia	14
Denmark	14
Finland	14
Ireland	13
Lithuania	13
Latvia	9
Slovenia	7
Estonia	6
Cyprus	6
Luxembourg	6
Malta	5
<b>TOTAL</b>	<b>785</b>

The Treaty of Accession to the Union will therefore, by way of derogation from Article I-20(2) of the Constitution, stipulate that the number of members of the European Parliament may temporarily exceed 750 for the remainder of the 2004 to 2009 Parliamentary term.

2. In Article 2(2) of the Protocol on the transitional provisions relating to the institutions and bodies of the Union, the weighting of the votes of Romania and Bulgaria in the European Council and the Council will be set at 14 and 10 respectively.

3. At the time of each accession, the threshold referred to in the Protocol on the transitional provisions relating to the institutions and bodies of the Union will be calculated according to Article 2(3) of that Protocol.

## TABLE OF EQUIVALENCES

### On the EU Constitution

\* New Articles introduced by the Treaty Establishing a Constitution for Europe.

The EU Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
<b>Part I</b>		
<b>Title I</b>		
Art. I-1	Art. 1, 49 TEU	Art. A, O TEU
Art. I-2	Art. 6(1) TEU	Art. F(1) TEU
Art. I-3	Art. 2 TEU, 2 TEC	Art. B TEU, 2 TEC
Art. I-4	Art. 14(2), 12 TEC	Art. 7a, 6 TEC
Art. I-5	Art. 6(3), 33 TEU, 10 TEC	Art. F(1), K.5 TEU, 5 TEC
Art. I-6*		
Art. I-7(*)	Art. 281 TEC	Art. 210 TEC
Art. I-8*		
<b>Title II</b>		
Art. I-9(*)	Art. 6(2) TEU	Art. F(2) TEU
Art. I-10	Art. 17 - 21 TEC	Art. 8, 8a, 8b, 8c, 8d TEC
<b>Title III</b>		
Art. I-11	Art. 5 TEC, 2 (last sentence) TEU	Art. 3b TEC, B TEU
Art. I-12*		
Art. I-13*		
Art. I-14*		
Art. I-15	Art. 4(1) TEC Art. 99(1), 3(1)(i) TEC Art. 125 TEC Art. 128 TEC Art. 140 TEC	Art. 3a TEC Art. 103 TEC Art. 109n TEC Art. 109q TEC Art. 118c TEC
Art. I-16	Art. 17, 11(2) TEU	Art. J.7, J.1 TEU
Art. I-17*		
Art. I-18	Art. 308 TEC	Art. 235 TEC
<b>Title IV</b>		
Art. I-19	Art. 3(1) TEU, 7(1) TEC, 5 TEU	Art. C TEU, 4(1) TEC, E TEU
Art. I-20	Art. 189 TEC Art. 190 TEC	Art. 137 TEC Art. 138 TEC
<i>Art. I-20 cont.</i>	Art. 192 TEC	Art. 138b TEC

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
<i>Art. I-20 cont.</i>	Art. 197 TEC	Art. 140 TEC
Art. I-21	Art. 4 TEU	Art. D TEU
Art. I-22*		
Art. I-23	Art. 202 TEC	Art. 145 TEC
	Art. 203 TEC	Art. 146 TEC
	Art. 205(1) TEC	Art. 148 TEC
Art. I-24	Art. 203 TEC	Art. 146 TEC
	Art. 207(1) TEC	Art. 151 TEC
Art. I-25	Art. 205(2) TEC	Art. 148 TEC
Art. I-26	Art. 201 TEC	Art. 144 TEC
	Art. 211 TEC	Art. 155 TEC
	Art. 213(2) TEC	Art. 157 TEC
	Art. 214(1) TEC	Art. 158(1) TEC
	Art. 274 TEC	Art. 205 TEC
Art. I-27	Art. 214(2) TEC	Art. 158 TEC
	Art. 217 TEC	Art. 161 TEC
Art. I-28*		
Art. I-29(*)	Art. 220 - 224 TEC	Art. 164 - 168 TEC
Art. I-30	Art. 8, 107, 105(1), 106, 108, 105(4), 212 TEC	Art. 4a, 106, 105, 105a, 107, 156 TEC
Art. I-31	Art. 7, 246 - 248 TEC	Art. 4, 188a, 188b, 188c TEC
Art. I-32	Art. 7(2), 257, 258, 263 TEC	Art. 4(1), 193, 194, 198a TEC
<b>Title V</b>		
Art. I-33	Art. 249 TEC, 13, 34 TEU	Art. 198 TEC, J.3, K.6 TEU
Art. I-34*		
Art. I-35*		
Art. I-36*		
Art. I-37	Art. 10 TEC	Art. 5 TEC
	Art. 202 TEC	Art. 145 TEC
Art. I-38	Art. 253 TEC	Art. 190 TEC
Art. I-39	Art. 254 TEC	Art. 191
Art. I-40(*)	Art. 13, 16, 21, 23 TEU	Art. J.3, J.6, J.11, J.13 TEU
Art. I-41	Art. 17, 21 TEU	Art. J.7, J.11 TEU
Art. I-42	Art. 29 TEU, 61 TEC	Art K.1 TEU, 73i TEC
Art. I-43*		
Art. I-44	Art. 27, 43 TEU	Art. J.17, K.15 TEU
	Art. 11 TEC	Art. 5a TEC
<b>Title VI</b>		
Art. I-45*		
Art. I-46	Art. 1(1) TEU	Art. A TEU
<i>Art. I-46 cont.</i>	Art. 6(1) TEU	Art. F TEU

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Art. I-46 cont. Art. I-47* Art. I-48	Art. 191 TEC  Art. 138 TEC Art. 211, 212 TEC	Art. 138a TEC  Art. 118a TEC Art. 155, 156 TEC
Art. I-49 Art. I-50	Art. 195 TEC Art. 1 TEU Art. 255 TEC Art. 286 TEC	Art. 138e TEC Art. A TEC Art. 191a TEC Art. 213b TEC
Art. I-51 Art. I-52* <b>Title VII</b>		
Art. I-53 Art. I-54 Art. I-55* Art. I-56* <b>Title VIII</b>	Art. 268, 270, 271, 280 TEC Art. 269 TEC	Art. 199, 201a, 202, 209a TEC Art. 201 TEC
Art. I-57* <b>Title IX</b>		
Art. I-58 Art. I-59 Art. I-60* <b>Part II</b>	Art. 49 TEU Art. 7 TEU, 309 TEC	Art. O TEU Art. F.1 TEU, 236 TEC
<b>Title I</b>		
Art. II-61* Art. II-62* Art. II-63* Art. II-64* Art. II-65* <b>Title II</b>		
Art. II-66* Art. II-67* Art. II-68* Art. II-69* Art. II-70* Art. II-71* Art. II-72* Art. II-73* Art. II-74* Art. II-75* Art. II-76* Art. II-77* Art. II-78*		

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Art. II-79* <b>Title III</b>		
Art. II-80* Art. II-81* Art. II-82* Art. II-83* Art. II-84* Art. II-86* <b>Title IV</b>		
Art. II-87* Art. II-88* Art. II-89* Art. II-90* Art. II-91* Art. II-92* Art. II-93* Art. II-94* Art. II-95* Art. II-96* Art. II-97* Art. II-98* <b>Title V</b>		
Art. II-99* Art. II-100* Art. II-101* Art. II-102* Art. II-103* Art. II-104* Art. II-105* Art. II-106* <b>Title VI</b>		
Art. II-107* Art. II-108* Art. II-109* Art. II-110* <b>Title VII</b>		
Art. II-111* Art. II-112* Art. II-113* Art. II-114*		

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
<b>Part III</b>		
<b>Title I</b>		
Art. III-115	Art. 3 TEU	Art. C TEU
Art. III-116	Art. 3(2) TEC	Art. 3 TEC
Art. III-117*		
Art. III-118*		
Art. III-119	Art. 6 TEC	Art. 12 TEC
Art. III-120	Art. 153(2) TEC	Art. 129a TEC
Art. III-121	Protocol on protection and welfare of animals	Protocol on protection and welfare of animals
Art. III-122	Art. 16 TEC	Art. 7d TEC
<b>Title II</b>		
Art. III-123	Art. 12 TEC	Art. 6 TEC
Art. III-124	Art. 13 TEC	Art. 6a TEC
Art. III-125	Art. 18 (2-3) TEC	Art. 8a TEC
Art. III-126	Art. 19 TEC	Art. 8b TEC
Art. III-127	Art. 20 TEC	Art. 8c TEC
Art. III-128	Art. 21 TEC	Art. 8d TEC
Art. III-129	Art. 22 TEC	Art. 8e TEC
<b>Title III</b>		
Art. III-130	Art. 14, 15 TEC	Art. 7a, 7c TEC
Art. III-131	Art. 297 TEC	Art. 224 TEC
Art. III-132	Art. 298 TEC	Art. 225 TEC
Art. III-133	Art. 39 TEC	Art. 48 TEC
Art. III-134	Art. 40 TEC	Art. 49 TEC
Art. III-135	Art. 41 TEC	Art. 50 TEC
Art. III-136	Art. 42 TEC	Art. 51 TEC
Art. III-137	Art. 43 TEC	Art. 52 TEC
Art. III-138	Art. 44 TEC	Art. 54 TEC
Art. III-139	Art. 45 TEC	Art. 55 TEC
Art. III-140	Art. 46 TEC	Art. 56 TEC
Art. III-141	Art. 47 TEC	Art. 57 TEC
Art. III-142	Art. 48 TEC	Art. 58 TEC
Art. III-143	Art. 294 TEC	Art. 221 TEC
Art. III-144	Art. 49 TEC	Art. 59 TEC
Art. III-145	Art. 50 TEC	Art. 60 TEC
Art. III-146	Art. 51 TEC	Art. 61 TEC
Art. III-147	Art. 52 TEC	Art. 63 TEC
Art. III-148	Art. 53 TEC	Art. 64 TEC
Art. III-149	Art. 54 TEC	Art. 65 TEC
Art. III-150	Art. 55 TEC	Art. 66 TEC

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Art. III-151	Art. 23 TEC Art. 24 TEC Art. 25 TEC Art. 26 TEC Art. 27 TEC	Art. 9 TEC Art. 10 TEC Art. 12 TEC Art. 28 TEC Art. 29 TEC
Art. III-152	Art. 135 TEC	Art. 116 TEC
Art. III-153	Art. 28, 29 TEC	Art. 30, 34 TEC
Art. III-154	Art. 30 TEC	Art. 36 TEC
Art. III-155	Art. 31 TEC	Art. 37 TEC
Art. III-156	Art. 56 TEC	Art. 73b TEC
Art. III-157	Art. 57 TEC	Art. 73c TEC
Art. III-158	Art. 58 TEC	Art. 73d TEC
Art. III-159	Art. 59 TEC	Art. 73f TEC
Art. III-160(*)	Art. 60 TEC	Art. 73g TEC
Art. III-161	Art. 81 TEC	Art. 85 TEC
Art. III-162	Art. 82 TEC	Art. 86 TEC
Art. III-163	Art. 83 TEC	Art. 87 TEC
Art. III-164	Art. 84 TEC	Art. 88 TEC
Art. III-165	Art. 85 TEC	Art. 89 TEC
Art. III-166	Art. 86 TEC	Art. 90 TEC
Art. III-167	Art. 87 TEC	Art. 92 TEC
Art. III-168	Art. 88 TEC	Art. 93 TEC
Art. III-169	Art. 89 TEC	Art. 94 TEC
Art. III-170	Art. 90 - 92 TEC	Art. 95, 96, 98 TEC
Art. III-171	Art. 93 TEC	Art. 99 TEC
Art. III-172	Art. 95 TEC	Art. 100a TEC
Art. III-173	Art. 94 TEC	Art. 100 TEC
Art. III-174	Art. 96 TEC	Art. 101 TEC
Art. III-175	Art. 97 TEC	Art. 102 TEC
Art. III-176*		
Art. III-177	Art. 4 TEC	Art. 3a TEC
Art. III-178	Art. 98 TEC	Art. 102a TEC
Art. III-179	Art. 99 TEC	Art. 103 TEC
Art. III-180	Art. 100 TEC	Art. 103a TEC
Art. III-181	Art. 101 TEC	Art. 104 TEC
Art. III-182	Art. 102 TEC	Art. 104a TEC
Art. III-183	Art. 103 TEC	Art. 104b TEC
Art. III-184	Art. 104 TEC	Art. 104c TEC
Art. III-185	Art. 105 TEC	Art. 105 TEC
Art. III-186	Art. 106 TEC	Art. 105a TEC
Art. III-187	Art. 107 TEC	Art. 106 TEC

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Art. III-188	Art. 108 TEC	Art. 107 TEC
Art. III-189	Art. 109 TEC	Art. 108 TEC
Art. III-190	Art. 110 TEC	Art. 108a TEC
Art. III-191	Art. 123(4) TEC	Art. 109(l) TEC
Art. III-192	Art. 114(2-4) TEC	Art. 109c (2-4) TEC
Art. III-193	Art. 115 TEC	Art. 109d TEC
Art. III-194*		
Art. III-195*		
Art. III-196*		
Art. III-197	Art. 122(1), (3-5) TEC	Art 109k (1), (3-5) TEC
Art. III-198	Art. 121(1-2), 122(2), 123(5) TEC	Art. 109j (1), 109k(2), 109 l (5) TEC
Art. III-199	Art. 123(3), 117(2) TEC	Art. 109f (2), 109 l (3) TEC Art.
Art. III-200	Art. 124(1) TEC	109m(1) TEC
Art. III-201	Art. 119 TEC	Art 109h TEC
Art. III-202	Art. 120 TEC	Art. 109i TEC
Art. III-203	Art. 125 TEC	Art. 109n TEC
Art. III-204	Art. 126 TEC	Art. 109o TEC
Art. III-205	Art. 127 TEC	Art. 109p TEC
Art. III-206	Art. 128 TEC	Art. 109q TEC
Art. III-207	Art. 129 TEC	Art. 109r TEC
Art. III-208	Art. 130 TEC	Art. 109s TEC
Art. III-209	Art. 136 TEC	Art. 117 TEC
Art. III-210	Art. 137 TEC	Art. 118 TEC
Art. III-211	Art. 138 TEC	Art. 118a TEC
Art. III-212	Art. 139 TEC	Art. 118b TEC
Art. III-213	Art. 140 TEC	Art. 118c TEC
Art. III-214	Art. 141 TEC	Art. 119 TEC
Art. III-215	Art. 142 TEC	Art. 119a TEC
Art. III-216	Art. 143 TEC	Art. 120 TEC
Art. III-217	Art. 144 TEC	Art. 121 TEC
Art. III-218	Art. 145 TEC	Art. 122 TEC
Art. III-219	Art. 146 - 148 TEC	Art. 123 - 125 TEC
Art. III-220	Art. 158 TEC	Art. 130a TEC
Art. III-221	Art. 159 TEC	Art. 130b TEC
Art. III-222	Art. 160 TEC	Art. 130c TEC
Art. III-223	Art. 161 TEC	Art. 130d TEC
Art. III-224	Art. 162 TEC	Art. 130e TEC
Art. III-225	Art. 32 (1, 2 <sup>nd</sup> sentence) TEC	Art. 38 TEC
Art. III-226	Art. 32 TEC	Art. K.4 TEC
Art. III-227	Art. 33 TEC	Art. K.5 TEC
Art. III-228	Art. 34 TEC	Art. K.6 TEC

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Art. III-229	Art. 35 TEC	Art. K.7 TEC
Art. III-230	Art. 36 TEC	Art. K.8 TEC
Art. III-231	Art. 37 TEC	Art. K.9 TEC
Art. III-232	Art. 38 TEC	Art. K.10 TEC
Art. III-233	Art. 174 TEC	Art. 130r TEC
Art. III-234	Art. 175, 176 TEC	Art. 130s, 130t TEC
Art. III-235	Art. 153 (1, 3-5) TEC	Art. 129a TEC
Art. III-236	Art. 70, 71 TEC	Art. 74, 75 TEC
Art. III-237	Art. 72 TEC	Art. 76 TEC
Art. III-238	Art. 73 TEC	Art. 77 TEC
Art. III-239	Art. 74 TEC	Art. 78 TEC
Art. III-240	Art. 75 TEC	Art. 79 TEC
Art. III-241	Art. 76 TEC	Art. 80 TEC
Art. III-242	Art. 77 TEC	Art. 81 TEC
Art. III-243	Art. 78 TEC	Art. 82 TEC
Art. III-244	Art. 79 TEC	Art. 83 TEC
Art. III-245	Art. 80 TEC	Art. 84 TEC
Art. III-246	Art. 154 TEC	Art. 129b TEC
Art. III-247	Art. 155, 156 TEC	Art. 129c, 129d TEC
Art. III-248	Art. 163 TEC	Art. 130f TEC
Art. III-249	Art. 164 TEC	Art. 130g TEC
Art. III-250	Art. 165 TEC	Art. 130h TEC
Art. III-251	Art. 166 TEC	Art. 130i TEC
Art. III-252	Art. 167 - 170, 172 (2 <sup>nd</sup> sentence) TEC	Art. 130j, 130k, 130l, 130m, 130o 2. TEC
Art. III-253	Art. 171, 172 (1 <sup>st</sup> sentence) TEC	Art. 130n, 130o TEC
Art. III-254*		
Art. III-255	Art. 173 TEC	Art. 173 TEC
Art. III-256(*)		
Art. III-257	Art. 29 TEU, 61 TEC	Art. K.1 TEU, 73i TEC
Art. III-258*		
Art. III-259*		
Art. III-260*		
Art. III-261	Art. 36 TEU	Art. K.8 TEU
Art. III-262	Art. 33 TEU, 64(1) TEC	Art. K.5 TEU, 73 l(1) TEC
Art. III-263	Art. 66 TEC	Art. 73n TEC
Art. III-264*		
Art. III-265	Art. 62 TEC	Art. 73j TEC
Art. III-266	Art. 63 (points 1-2), 64(2) TEC	Art. 73k (1-2), 73 l TEC
Art. III-267	Art. 63 (points 3-4) TEC	Art. 73k (3-4) TEC
Art. III-268*		

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Art. III-269	Art. 65 TEC	Art. 73m TEC
Art. III-270	Art. 31(1) (a - d) TEU	Art. K.3 TEU
Art. III-271(*)	Art. 31(1) (e) TEU	Art. K.3 TEU
Art. III-272*		
Art. III-273	Art. 31(2) TEU	Art. K.3 TEU
Art. III-274*		
Art. III-275	Art. 30(1) TEU	Art. K.2 TEU
Art. III-276	Art. 30(2) TEU	Art. K.2 TEU
Art. III-277	Art. 32 TEU	Art. K.4 TEU
Art. III-278	Art. 152 TEC	Art. 129 TEC
Art. III-279	Art. 157 TEC	Art. 130 TEC
Art. III-280	Art. 151 TEC	Art. 128 TEC
Art. III-281*		
Art. III-282	Art. 149 TEC	Art. 126 TEC
Art. III-283	Art. 150 TEC	Art. 127 TEC
Art. III-284*		
Art. III-285*		
<b>Title IV</b>		
Art. III-286	Art. 182, 188 TEC	Art. 131, 136a TEC
Art. III-287	Art. 183 TEC	Art. 132 TEC
Art. III-288	Art. 184 TEC	Art. 133 TEC
Art. III-289	Art. 185 TEC	Art. 134 TEC
Art. III-290	Art. 186 TEC	Art. 135 TEC
Art. III-291	Art. 187 TEC	Art. 136 TEC
<b>Title V</b>		
Art. III-292	Art. 3, (2 <sup>nd</sup> sentence), 11 TEU	Art. C, J (1) TEU
Art. III-293	Art. 13 (2) TEU	Art. J.3 (1) TEU
Art. III-294	Art. 11, 12 TEU	Art. J.1, J.2 TEU
Art. III-295	Art. 13 TEU	Art. J.3 TEU
Art. III-296	Art. 18(1-2), 26 TEU	Art. J.8, J.16 TEU
Art. III-297	Art. 14 TEU	Art. J.4 TEU
Art. III-298	Art. 15 TEU	Art. J.5 TEU
Art. III-299	Art. 22 TEU	Art. J.12 TEU
Art. III-300	Art. 23 TUE	Art. J.13 TEU
Art. III-301*		
Art. III-302	Art. 18(5) TEU	Art. J.8 TEU
Art. III-303	Art. 24 TEU	Art. J.14 TEU
Art. III-304	Art. 21 TEU	Art. J.11 TEU
Art. III-305	Art. 19 TEU	Art. J.9 TEU
Art. III-306	Art. 20 TEU	Art. J.20 TEU
Art. III-307	Art. 25 TEU	Art. J.15 TEU

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Art. III-308	Art. 47 TEU	Art. M TEU
Art. III-309	Art. 17(2) TEU	Art. J.7 TEU
Art. III-310*		
Art. III-311*		
Art. III-312*		
Art. III-313	Art. 28(2, 5) TEU	Art. J.18 TEU
Art. III-314	Art. 131 TEC	Art. 110 TEC
Art. III-315	Art. 133 TEC	Art. 113 TEC
Art. III-316	Art. 177 TEC	Art. 130u TEC
Art. III-317	Art. 179, 181 TEC	Art. 130w, 130y TEC
Art. III-318	Art. 180, 181 TEC	Art. 130x, 130 y TEC
Art. III-319	Art. 181a TEC	Art. 130y TEC
Art. III-320*		
Art. III-321*		
Art. III-322	Art. 301 TEC	Art. 228a TEC
Art. III-323	Art. 24 TEU Art. 300(7) TEC	Art. J.14 TEU Art. 228 TEC
Art. III-324	Art. 310 TEC	Art. 238 TEC
Art. III-325(*)	Art. 300 TEC, 24 TEU	Art. 228 TEC, J.14 TEU
Art. III-326	Art. 111(1-3, 5) TEC	Art. 109 (1-3, 5) TEC
Art. III-327	Art. 302 - 304 TEC	Art. 229 – 231 TEC
Art. III-328*		
Art. III-329*		
<b>Title VI</b>		
Art. III-330	Art. 190(4-5) TEC	Art. 253 TEC
Art. III-331	Art. 191 (point 2) TEC	Art. 138a TEC
Art. III-332	Art. 192 TEC	Art. 138b TEC
Art. III-333	Art. 193 TEC	Art. 138c TEC
Art. III-334	Art. 194 TEC	Art. 138d TEC
Art. III-335	Art. 195 TEC	Art. 138e TEC
Art. III-336	Art. 196 TEC	Art. 139 TEC
Art. III-337	Art. 197, 200 TEC	Art. 140, 143 TEC
Art. III-338	Art. 198 TEC	Art. 141 TEC
Art. III-339	Art. 199 TEC	Art. 142 TEC
Art. III-340	Art. 201 TEC	Art. 144 TEC
Art. III-341*		
Art. III-342	Art. 204 TEC	Art. 147 TEC
Art. III-343	Art. 205(1, 3), 206 TEC	Art. 148, 150 TEC
Art. III-344	Art. 207 TEC	Art. 151 TEC
Art. III-345	Art. 208 TEC	Art. 152 TEC
Art. III-346	Art. 209 TEC	Art. 153 TEC

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Art. III-347	Art. 213(2) TEC	Art. 157 (2) TEC
Art. III-348	Art. 215 TEC	Art. 159 TEC
Art. III-349	Art. 216 TEC	Art. 160 TEC
Art. III-350	Art. 217 TEC	Art. 161 TEC
Art. III-351	Art. 219 TEC	Art. 163 TEC
Art. III-352	Art. 218(2), 212 TEC	Art. 156, 162 (2) TEC
Art. III-353	Art. 221 TEC	Art. 165 TEC
Art. III-354	Art. 222 TEC	Art. 222 TEC
Art. III-355	Art. 223 TEC	Art. 167 TEC
Art. III-356	Art. 224 TEC	Art. 168 TEC
Art. III-357*		
Art. III-358	Art. 225 TEC	Art. 168a TEC
Art. III-359	Art. 220 (2 <sup>nd</sup> sentence), 225a TEC	Art. 164 TEC
Art. III-360	Art. 226 TEC	Art. 169 TEC
Art. III-361	Art. 227 TEC	Art. 170 TEC
Art. III-362	Art. 228 TEC	Art. 171 TEC
Art. III-363	Art. 229 TEC	Art. 172 TEC
Art. III-364	Art. 229a TEC	
Art. III-365	Art. 230 TEC	Art. 173 TEC
Art. III-366	Art. 231 TEC	Art. 174 TEC
Art. III-367	Art. 232 TEC	Art. 175 TEC
Art. III-368	Art. 233 TEC	Art. 176 TEC
Art. III-369	Art. 234 TEC	Art. 177 TEC
Art. III-370	Art. 235 TEC	Art. 178 TEC
Art. III-371	Art. 46 e TEU	Art. L TEU
Art. III-372	Art. 236 TEC	Art. 179 TEC
Art. III-373	Art. 237 TEC	Art. 180 TEC
Art. III-374	Art. 238 TEC	Art. 181 TEC
Art. III-375	Art. 240, 292, 239 TEC	Art. 182, 183, 219 TEC
Art. III-376	Art. 46 TEU	Art. L, M TEU
Art. III-377	Art. 35(5) TEU	Art. K.7 TEU
Art. III-378	Art. 241 TEC	Art. 184 TEC
Art. III-379	Art. 242, 243 TEC	Art. 185, 186 TEC
Art. III-380	Art. 244 TEC	Art. 244 TEC
Art. III-381	Art. 245 TEC	Art. 245 TEC
Art. III-382	Art. 112 TEC	Art. 109a TEC
Art. III-383	Art. 113 TEC	Art. 109b TEC
Art. III-384	Art. 248 TEC	Art. 188c TEC
Art. III-385	Art. 247(2-7) TEC	Art. 188b (2-7) TEC
Art. III-386	Art. 263 TEC	Art. 198a TEC
Art. III-387	Art. 264 TEC	Art. 198b TEC

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Art. III-388	Art. 265 TEC	Art. 198c TEC
Art. III-389	Art. 258 (1-2) TEC	Art. 194 TEC
Art. III-390	Art. 259 TEC	Art. 195 TEC
Art. III-391	Art. 260 TEC	Art. 196 TEC
Art. III-392	Art. 262 TEC	Art. 198 TEC
Art. III-393	Art. 266 TEC	Art. 198d TEC
Art. III-394	Art. 267 TEC	Art. 198e TEC
Art. III-395	Art. 250 TEC	Art. 189a TEC
Art. III-396	Art. 251 TEC	Art. 189b TEC
Art. III-397 (*)	Art. 218(1) TEC	Art. 162(1) TEC
Art. III-398*		
Art. III-399	Art. 255 TEC	Art. 191a TEC
Art. III-400	Art. 210, 247(8), 258 (4 <sup>th</sup> sentence) TEC	Art. 154, 188b (8), 194 TEC
Art. III-401	Art. 256 TEC	Art. 192 TEC
Art. III-402*		
Art. III-403	Art. 272(1) TEC	Art. 203 TEC
Art. III-404	Art. 272 TEC	Art. 203 TEC
Art. III-405	Art. 273 TEC	Art. 204 TEC
Art. III-406	Art. 271 TEC	Art. 202 TEC
Art. III-407	Art. 274 TEC	Art. 205 TEC
Art. III-408	Art. 275 TEC	Art. 205a TEC
Art. III-409	Art. 276 TEC	Art. 206 TEC
Art. III-410	Art. 277 TEC	Art. 207 TEC
Art. III-411	Art. 278 TEC	Art. 208 TEC
Art. III-412	Art. 279 TEC	Art. 209 TEC
Art. III-413*		
Art. III-414*		
Art. III-415	Art. 280 TEC	Art. 209a TEC
Art. III-416	Art. 43 b, c, e, f TEU, 11(3) TEC	Art. K.15, J.1 TEU
Art. III-417	Art. 43 h, 44 (2, last sentence) TEU	Art. K.15, K.16 TEU
Art. III-418(*)	Art. 43 b TEU	Art. K.15 TEU
Art. III-419	Art. 40a, 27 c TEU, 11(1-2) TEC	** 5a TEC
Art. III-420	Art. 40b, 27e TEU, 11a TEC	
Art. III-421	Art. 44a TEU	
Art. III-422*		
Art. III-423	Art. 45 TEU	Art. K.17 TEU
<b>Title VII</b>		
Art. III-424	Art. 299(2), (2 <sup>nd</sup> sentence, 3) TEC	Art. 227 TEC
Art. III-425	Art. 295 TEC	Art. 222 TEC
Art. III-426	Art. 282 TEC	Art. 211 TEC

Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Art. III-427	Art. 283 TEC	Art. 212 TEC
Art. III-428	Art. 284 TEC	Art. 213 TEC
Art. III-429	Art. 285 TEC	Art. 213a TEC
Art. III-430	Art. 287 TEC	Art. 214 TEC
Art. III-431	Art. 288 TEC	Art. 215 TEC
Art. III-432	Art. 289 TEC	Art. 216 TEC
Art. III-433	Art. 290 TEC	Art. 217 TEC
Art. III-434	Art. 291 TEC	Art. 218 TEC
Art. III-435	Art. 307 TEC	Art. 234 TEC
Art. III-436	Art. 296 TEC	Art. 223 TEC
<b>Part IV</b>		
Art. IV-437*		
Art. IV-438*		
Art. IV-439*		
Art. IV-440	Art. 299(1, 3-6) TEC	Art. 227 TEC
Art. IV-441	Art. 306 TEC	Art. 233 TEC
Art. IV-442	Art. 311 TEC	Art. 239 TEC
Art. IV-443	Art. 48 TEU	Art. 39 TEC
Art. IV-444*		
Art. IV-445*		
Art. IV-446	Art. 51 TEU, 312 TEC	Art. Q TEU, 240 TEC
Art. IV-447	Art. 52 TEU, 313 TEC	Art. R TEU, 247 TEC
Art. IV-448	Art. 53 TEU, 314 TEC	Art. S TEU, 248 TEC



## I N D E X

The index has over 3000 entries. These also relate to Protocols and Declarations not included here in the printed version of the Reader-Friendly EU Constitution. You can view them at [www.EUABC.com](http://www.EUABC.com) - here you can also search for all words and find simple explanations in an Internet dictionary with over 1200 definitions.

### Using the Index

- ▶ the Roman numerals I, II, III and IV indicate the Part of the Constitution the article is in
- ▶ the first number after the hyphen indicates the article number
- ▶ the number after the dot indicates the paragraph number
- ▶ subsequent paragraphs are connected by a hyphen
- ▶ non-neighbouring paragraphs are divided by a comma
- ▶ individual references are divided by a semicolon

Example: I-3.1,3-5; means the first, third, fourth and fifth paragraphs of Article 3 in Part I

## A

**Aaland Islands**, Protocol N° 8, art. 56; Declaration N° 31; IV-440.5  
right of establishment, exceptions Protocol N° 8, art. 56

**Abolition of restrictions** for freedom of establishment, III-138.2f

### Abortion

Ireland, Protocol N° 31

Malta, Protocol N° 9, art. 62

right to life, II-62

as a provision of services, III-145

freedom to provide services, III-141; III-144-150; see also Services

**Absolute majority** of members in the EP, I-27.1; I-36.2; I-55.2; I-58.2; I-59.6; III-330.1; III-332; III-333; III-336; III-339; III-340; III-396.7b-c; III-404.4c, 7b,c,d; III-405.2; III-444.3

**Abuse** of dominant position, III-162

**Acceptance of offers**, III-133.3a

**Access**

to documents, I-50.3-4; II-102; III-399  
to personal data, II-101.2b  
limits, I-50.3  
protection of personal data, I-51; II-68

**Accession** to the European Union, I-58; Protocol N° 8

Croatia, no voting weights and seats decided yet  
Bulgaria, voting weights in Council and seats in the EP, Declaration N° 4  
May 2004 enlargement, Protocol N° 9  
Romania, voting weights in Council and seats in the EP, Declaration N° 40  
Turkey, no voting weights and seats decided yet

**Accidents and diseases**, III-213.e

**Accounts**, III-384

**Acquis communautaire** (all EU rules)

legal continuity, IV-438  
primacy of EU law, I-6; III-375.2  
relationship between the Union and the Member States, I-5; III-375

**Acquisition** of property

in Denmark, Protocol No 26  
in Malta, Protocol No 9, art. 61

**Actions**

supporting, coordinating, complementary, I-17

**Activities**

commercial character, III-145b  
state monopolies, III-155.1  
craftsmen, III-145c  
industrial character, III-145a  
professions, III-145d

**Acts**

delegated regulations (acts), I-36  
implementing acts, I-37  
legal acts, I-33  
legislative acts, I-34  
non-legislative acts, I-35  
principles, I-38

**Acts and treaties**, Protocol N° 33

**Administration**

European administration, III-398; I-47; I-50  
investigative committee, III-333  
maladministration, I-49; II-103; III-333; III-335  
Ombudsman, III-335; II-103; I-10.2.d; I-49  
right to good administration, II-101

**Administrative**

borders (workers), abolition of, III-134.b  
cooperation, new competence, III-285; III-263  
procedures,

- right of establishment, III-138.2c
- rules (foreign citizens), III-140
- Adoption** of the Treaty/Constitution, IV-443
- Advertising services**
  - freedom to provide services, III-141; III-144-150; see also Services
- Advice**
  - freedom to provide services III-141; III-144-150; see also Services
- Advisory Bodies**, I-32; III-386-392
  - Committee of the Regions, III-386-388
  - Economic and Social Committee, III-393-394
- Advisory Committee**, transport, III-244
- Advocates**, III-141, III-144-150; see also ‘Services’
- Advocates-General**, III-354-357; articles 3, 6, 8, 9, 14 of Protocol N° 3 art. 3, 6, 8, 9, 14
- Age**, no discrimination on grounds of, II-84–85; III-118; III-124.1
- Agencies**, III-138.2f; Protocol N° 6 on domiciles for EU agencies
- Agency**,
  - European Defence Agency, I-41.3; III-311
  - European Space Agency, III-254.3
- Agreements**
  - between undertakings, III-161.3
  - inter-institutional, III-397; IV-438.3
  - international, I-13.2; III 323-326
  - labour market, II-88; III-210.f; III-212
- Agricultural**
  - aid, III-239.2
  - CMO, III-228; III-231.2.4
  - goods, III-225
  - population, III-227.b
  - prices, levies, aid, limitation, III-234.3
  - products, III-155.3; III-225
  - storage, III-228.2; see also Agriculture
  - subsidies, III-228.2; see also Agriculture
- Agriculture and fisheries**, III-225-232
  - aid in Finland, III-220 (3); Protocol N° 8, art. 47-49
  - aid to enterprise handicapped by structural or national conditions, III-220 (3); III-230.2a
  - shared competence, I-14.2d
- Aid**
  - ban, III-167.1
  - establishment, III-138.2h
  - from Member States, III-167-169
  - in agriculture, III-230.2
  - information duty, III-168
  - social character, art. III-167.2a
  - special areas, Protocol N° 8; art. 48-49
- Aids to specific regions**, Protocol N° 8, art. 48-49
- Alcohol**, abuse of, III-278.5; see also ‘Health’ and ‘Agriculture’, III-225-232
- Alternative methods of dispute settlement**, III-269.2.g

- Alternative Report:** Democracies of Europe, see [www.EUABC.com](http://www.EUABC.com)
- Amendments** of the Treaty/Constitution, IV-443  
simplified revision procedure, IV-444  
simplified revision procedure of policies, IV-445
- Amusement parks**  
freedom to provide services, III-141; III-144-150; see also ‘Services’
- Animal health**, see Agriculture, III-231; III-154
- Animal welfare**, III-121; III-154
- Annual report**, III-218
- Anthem** of the Union, I-8
- Antidumping**, countervailing charge, III-232
- Appointment of members**  
Committee of the Regions, III-386  
Economic and Social Committee, III-390
- Approval**  
Council, III-330.2; III-333; III-335.4; III-359.5; III-384.4  
European Central Bank, III-186.2  
European Parliament, I-18; I-20.2; I-54.4; I-55.2; I-58.2; I-59.1-2; I-60.2;  
III-124.1; III-129; III-270.2d; III-271.1; III-274.1; III-325.6a; III-330.1;  
III-330.1; IV-443.2; IV-444.3  
Member States, I-54.3; III-129; III-330.1; IV-445.2
- Approximation of laws**, III-172-173; see also Harmonisation
- Arbitration clause** in agreements of the Union, III-374
- Architectural services**  
freedom to provide services, III-141, III-144-150; see also Services
- Area of application of**  
Charter of Fundamental Rights, II-111-114  
Constitution, IV-440
- Area of Freedom, Security and Justice**, I-42; I-14.2j; II-78; III-257-277  
Court, III-377  
emergency brake, III-270.3  
international agreements, Declaration N° 25 concerning Art. III-325
- Area without internal frontiers**, III-130.2
- Assessment of threats**, III-329.3
- Assistance clause**, I-41.7
- Association agreements**, III-286; III-291; III-324; IV-440.3
- Association**, right of, III-210.6; III-213.g
- Associations of companies/undertakings**, III-161.3
- Asylum**, III-257.2; III-266  
EU citizens, Protocol N° 22  
Member States as safe countries of origin, Protocol N° 22  
right to, II-78
- Austria**, voting weights and seats, Protocol N° 34  
*lex Austria*, I-59  
transport through, Protocol N° 8 art. 64-73
- Authorisations**  
freedom to provide services, III-141; III-144-150; see also Services
- Authorities’ operation** on other Member States’ territories, III-277

**Authority to vote for another** Member State in the Council, III-341.1  
**Azores**, III-424; IV-440.2

## **B**

**Bad administration**, I-49; II-103; III-333; III-335

**Balance of payments**, III-177; III-201.1; III-202

**Balanced progress**, internal market, III-130.3

**Balanced support** for partners at the labour market, III-211.1

**Ban on**

child labour, II-92

cloning of human beings, II-63.2d

collective expulsion, II-79.1

commercial exploitation of the human body, II-63.2c

competition limitations, III-161

customs, III-151; III-288

death penalty, II-62.2

deficit and debt over a certain size (EMU), III-184

discrimination investments, III-143

discrimination

internal taxation, III-170

nationality, I-4.2; II-81; III-123; III-133.2; III-137; III-143-144; III-149

religion, II-81; III-118; III-124.1

sex, race, etc., II-81.1

transport, III-240.1

workers, III-133.2; III-214

discrimination on grounds of nationality or residence, general services, III-149

dominant position, monopolies, III-162

duties and charges having equivalent effect, III-151.4; III-170

eugenic practices, II-63.2b

expulsion to countries where torture and death penalty exist, II-79.2

finance customs, III-151.4

import of commodities and customs, III-288

issue of money (EMU), III-186

liability (EMU), III-183

misuse of rights, II-114

overdrafts (EMU), III-181

privileged access to financial institutions, III-182

quantitative restrictions, III-151.2; III-153-155

restrictions

free establishment, III-137;

capital movements and payments, III-156; provide services, III-144

slavery or servitude, II-65

state subsidies, III-167

subsidies for certain undertakings in transport, III-241

torture or inhuman or degrading treatment, II-64

- trade restrictions, III-153
- trafficking in human beings, II-65.3
- Banking**, liberalisation – insurance services, III-146.2
- Battle groups**, III-309.1; see also Defence
- Belgium**
  - national parliaments, Declaration N°. 49
  - voting weights and representation in the EP, see Protocol N°. 34;
- Belief**, III-118; III-124.1
  - discrimination, II-81; III-118; III-124.1
  - freedom of, II-70
  - see also Religion
- Binding** in its entirety and directly applicable in all Member States, I-33.1
- Biotechnology**
  - freedom to provide services, III-144-150; see also Services
  - right to the integrity of the person in the sphere of, II-63.2
- Blocking minority**, I-25.1; see also Voting
- Blood**, III-278.4.a; III-278.7
- Bookmakers**, freedom to provide services, III-141; III-144-150; see also Services
- Border checks**, III-257.2, III-265
  - integrated management system, III-265.2d
- Border control**, III-265; Protocol N°. 21
  - integrated management system, III-265.2d
  - UK and Ireland, Protocol N°.18 and 19
- Borrowing**, III-183; III-247.1c; III-394
- Boycott**, restrictive measures, III-322; III-376.2
- Branches**, III-138.2f
- Broadcast**, see Services and Protocol N° 27
- Budget**, I-53-56; III-402-415;
  - budgetary and financial principles, I-53
  - discipline, III-194.1a; III-184.2, see also ‘Financial rules’
  - government budgetary position, Protocol N° 11, art. 2
  - implementation and approval (discharge), III-407-409
  - multiannual financial frames, I-55; III-402
  - procedure, III-404
- Building companies**, freedom to provide services, III-144-150; see also Services
- Bulgaria**, voting weights and seats after accession, Declaration N° 40

## C

- Canary Islands**, III-424; IV-440.2
- Cancer**, see also ‘Services’ and ‘Health’
  - combating major health scourges, III-278.1,5
  - protection of public health regarding tobacco, III-278.5
- Candidate countries**, I-58
- Capital**
  - ban on restrictions, III-156

- free movement, III-156-160
- limitations only by unanimity, III-157.3
- non-discrimination, III-143
- Capital markets**, admission of securities to, III-157.1
- Capital movements**, liberalisation of banking and insurance services, III-146.2
- Car hire**
  - freedom to provide services, III-141, III-144-150; see also ‘Services’
- Carryover arrangements**, III-228.2
- Case law**
  - primacy of Union law, I-6, Declaration N° 1
  - remains in force as part of the “acquis”, IV-438.4
- Cash benefits**, III-210.1c
- Catastrophes**
  - assistance, solidarity clause, I-43.1b
  - civil protection, III-284
- Categories of competence**, I-12
- Censure** of the Commission, I-26.8; I-27.3; III-340; III-348; III-349
- Central bank**, Protocol N° 4
- Certification**
  - freedom to provide services, III-141, III-144-150; see also ‘Services’
- Certification and testing services**
  - freedom to provide services, III-141, III-144-150; see also ‘Services’
- Ceuta and Melilla**, Protocol N° 8, art. 31-39
- CFSP**, see ‘Common Foreign and Security Policy’
- Chambers** of the Court
  - full court, Article 16 of Protocol N° 3
  - general court, Article 16 of Protocol N° 3
  - grand chamber, Article 16 of Protocol N° 3
- Channel Islands**, IV-440.6C
- Charges** for crossing frontiers, III-242
- Charter of Fundamental Rights**, I-9; Part II; Declaration N°12, concerning the explanations relating to the Charter
  - field of application, II-111
  - interpretation, II-111-114
  - limitation of scope of application, II-112-114
  - outlawing of abuse, II-114
- Chemicals**
  - consumer protection, III-235
  - environmental competences, III-233-234
  - public health, III-278
  - REACH (Registration, Evaluation and Authorisation of Chemicals), the chemical directive, legal base, III-172
- Child labour**, II-92
- Child porn**, III-269-274
- Children’s allowances**, follow rules on free movement, III-136; III-210.1c
- Children’s rights**, I-3.3-4; II-84; child labour, II-92
- Churches**, I-52; II 70; II-82; see also Religion
  - dialogue, I-52.3

- no discrimination, III 118; III 124.1
- status, I-52.1
- Citizens' influence**, I-45-47
- Citizens' initiative**, I-47.4
- Citizens of the Union**, citizenship, citizens' rights
  - access to documents, I-50.3; II-102
  - diplomatic protection, I-10.2c; II-106
  - freedom of movement and residence, I-10.2a; II-105
  - ombudsman, I-10.2d; II-103
  - right to good administration, I-10.2; I-49; II-101
  - right to petition the European Parliament, II-104; III-334
  - right to stand as a candidate at elections, I-10.2b; II-100
  - right to vote, I-10.2b; II-100
- Citizens' protection** from other countries' diplomatic/consular authorities, I-10.2c
- Citizenship**
  - double citizenship, I-10.1
  - nationals of third countries, III-144
  - offer services, III-145
  - rights for citizens of the Union, I-10.2; I-45; I-51; II-99–106
  - Spain about common citizenship, Declaration N° 47
- Civil aviation**, III-245.2,
  - Transport, III-236-245
- Civil matters**, III-257.4
- Civil protection**, I-17f; III-284
- Civil servants**
  - personal liability, III-431
  - rights, III-172.2; III-133; III-134c
  - salary, III-427
  - secrecy, III-430
  - staff disputes, III-372
  - staff regulations for civil servants ,III-427
- Cleaning**, freedom to provide services, III-141, III-144-150; see also 'Services'
- Cloning** of human beings, ban, II-63
- Closed doors**, Court, III-132
- Closer cooperation**,
  - enhanced cooperation, I-44; III-416-423
  - permanent structured defence cooperation, I-41.6; III-312; Protocol N° 23
- Coal and steel** community, Protocol N° 35
- Codetermination** for workers, III-210.1f
- Cohesion fund**, III-223; III-234.5b; III-247.1c
- Cohesion**, economic, social and territorial, III-220-224; Protocol N° 29
- Collective agreements** and bargaining, II-88; III-211.4; III-212.1; III-213g
- Collective bargaining**, II-88; III-211.4; III-212; III-213g
- Collective defence**, see also Defence
  - labour market, III-210.1f
- Combat forces**, III-309.1, see also Defence
- Comitology**, I-37; I-35-36
  - Lamfalussy procedure, Declaration N° 8

**Commercial**

- character of activities, III-145b; III-155.1
- policy, common commercial, III-314-315
- protection of commercial property, III-154

**Commercial property**, III-154

**Commercialisation** of the human body, II-63.2c

**Commission President**, I-27, Declaration N° 7; see also ‘European Commission’

**Commission** (European Commission), I-26-28; III-347-352

- access to
  - EP, III-337.2
  - documents, III-399
- annual report, III-255
- ban against other activities, III-347
- breach of obligations, III-347
- censure motion, I-26.8; III-340
- collection of any information, III-428
- competition competences, III-165
- compulsory retirement, III-347
- consultation, III-187.3b-4b; III-330.2; III-335.4; III-359.1; III-381; III-392
- decision making, quorum, III-351
- discharge, III-409
- dismissal of, request from Council, III-349
- election, I-27; I-20;
- end, III-348.1
- general report, III-352.2
- incompatibility, III-347
- independence, I-26.4; III-347
- initiative, monopoly of, I-26.2
- instructions prohibited, I-26.7
- misconduct, serious, III-349
- monopoly on initiatives, I-26.2
- President, I-27 I-21.2-3; I-22.2b; I-25.4; I-28; III-348.2; III-350; III-400.1a; Declaration N° 7
- questions in, EP III-337.2
- removal of, I-26.8; I-27.3
- replacements, III-348
- resignation as a body, I-26.8
- resignation, III-348
- responsibilities, portfolios, III-350; I-28.3
- role, I-26.1
- Rules of Procedure, III-352
- social report, III-216
- state subsidy control, III-168
- term of office, I-26.3
- vacancy, III-348.2
- Vice-Presidents, I-27.3c; I-28
- voting rule, III-351

**Committee of Social Protection**, III-217

- Committee of the Regions**, I-32; III-386-388
  - composition, III-386 and Protocol N° 34, art. 6
  - consultation, III-388
  - implementation measures, III-219.3
  - independence, III-386
  - President and presidium, III-387
  - Rules of Procedure, III-38
- Committees**
  - appointment of judges, III-356-III-357
  - governing rules, III-346
  - lists of committees and working groups, see [www.EUABC.com](http://www.EUABC.com)
  - procedures (comitology), I-37
- Common**
  - agriculture and fishery policy, III-225-232
  - asylum policy, III-266
  - border control, III-265
  - commercial policy, III-314, III-315
  - currency, III-191; III-177
  - customs tariff, III-151.5
  - enhanced cooperation, III-416-423
  - environment policy, III-233-234
  - exercise of competences of the Union, I-33-39
  - financial provisions, III-410-414
  - fishery policy, III-225, III-231 (2)
  - flag, I-8
  - foreign and security policy, (CFSP) I-40; and also I-16; I-22.2; I-12.4; I-41; III-294-313; III-325.6; III-376; III-419; III-420.2; See also Initiative solidarity and exclusion from CFSP-legislation, I-40.7
  - harmonisation with environmental clause, III-172-176
  - hymn, I-8
  - immigration policy, III-267
  - interest in economic aid, III-167.3c
  - legal policy, III-269
  - market, see 'Internal market'
  - police cooperation, III-275
  - provisions, III-426-436
  - request, partners in the labour market, III-212.2
  - rules for the institutions of the Union,
    - organs, offices and agencies, III-395-401
  - symbols, I-8
  - ways of functioning, III-424-436
- Common Foreign and Security Policy**, (CFSP), I-40; and I-16; I-22.2; I-12.4; I-41; III-294-313; III-325.6; III-376; III-419; III-420.2; See also Initiative solidarity and exclusion from CFSP legislation, I-40.7
- Common Market Organisation** (CMO), III-228; III-231.1.2.4
- Common market**, see Internal market
- Community Charter** of the Fundamental Social Rights of Workers, III-209
- Companies**

- capital of, III-143
- creation of, III-137
- from OTCs, III-287.e
- legal status of, III-142
- protection of, III-230.2a
- Compensation for damages**, III-370; III-431
- Competence-catalogue**, I-12; see also Competences
- Competences**, of the Union, I-5–6; I-11-12; I-18
  - common foreign and security policy, I-16
- Competence categories**, I-12
  - conferred competences, I-11.2
  - coordinating competences, I-17
  - coordination of economic and employment policies, I-15
  - exclusive competence, I-13
  - flexibility clause, I-18
  - primacy of Union law, I-6; III-375.2
  - shared competence, I-14
  - subsidiarity principle and proportionality principle, I-11.3-4; see also Protocol N° 2
  - supporting, coordinating and complementary action, I-17
- Competition**, III-161-169; I-3.2; I-13b; III-151.6c; III-171; III-177; III-178; III-436.1b
  - agreements, III-161
  - agriculture, III-228; III-230
  - avoid distortion of, III-171; III-174; III-175.1; III-279.3
  - common rules, III-163
  - conditions for, III-151.6.b
  - distortion of, III-132; III-171; III-174-175; III-279.3; III-416
  - economic policy, III-178
  - exclusive competence, I-13.1b
  - free and undistorted, I-3.2; III-151.6.c
  - infringements, III-165
  - market sharing, III-161c
  - principle to be respected by the European Central Bank, III-185.1
  - rules, I-13.1b
  - supplementary obligations, III-161.1e
  - transport, III-241
- Competition rules**, III-161-169
- Competition tariffs**, III-241.3
- Competitive capacity**, III-151.6b, III-248.1; III-279
- Compulsory coordination**, agriculture III-228.1b
- Compulsory education**, II-74
- Computer crime**, III-271.1
- Concerted practices**, III-161.1; III-164
- Concessions**, public undertakings and monopolies, III-166
- Conciliation Committee**
  - budget, III-404.5
  - legislation, III-396.10-13
- Conciliation procedure** III-396.10
- Conditions** for membership of the Union, I-58

- Conferral of powers**, III-115; I-11.2
- Confidentiality** in Court deliberations, Protocol N° 3, Art. 35  
Members of the institutions and civil servants, III-430
- Conflict prevention**, I-41; III-309.1
- Conscience and religion**, freedom of, II-70
- Conscientious objection**, II-70.2
- Consensus**, I-21.4; I-22.2c; III-326.1; IV-443.2
- Consent**  
Council, III-330.2; III-333; III-335.4; III-359.5; III-384.4  
European Central Bank, III-186.2  
European Parliament, I-18; I-20.2; I-54.4; I-55.2; I-58.2; I-59.1-2; I-60.2;  
III-124.1; III-129; III-270.2d; III-271.1; III-274.1; III-325.6a; III-330.1;  
III-330.1; IV-443.2; IV-444.3  
Member States, I-54.3; III-129; III-330.1; IV-445.2  
person, II-63.2a; II-68.2
- Consistency of** different Union policies, III-115  
with enhanced cooperation, III-423
- Constitution**, see also Passerelle  
adoption, IV-447  
amendments, IV-443; IV-445  
duration, IV-446  
entry into force, IV-447  
geographical scope, IV-440  
interpretation of, III-375.2  
legal continuity, IV-438  
limits of the Union, I-5.1, III-436  
national constitutions, I-5.1; I-9.3; II-112.4  
primacy of Constitution law, I-6; III-375.2  
problems with ratification, Declaration N° 30  
ratification, IV-443.3; IV-447  
withdrawal from, I-60.3
- Constitutional clause**, III-375.2
- Construction contracts**  
freedom to provide services, III-141, III-144-150; see also Services
- Constructive abstention**, I-59.5; III-300.1; III-341.1; III-343.3
- Consular protection**, III-127; II-106
- Consultancy**, freedom to provide services, III-141, III-144-150; see also Services
- Consultation**  
before candidates are proposed for the Presidency of the Commission, I-27.1  
Chair of the European Parliament, III-341.2  
civil society, I-47.2  
Commission, I-58.2; III-187.3b-4b; III-330.2; III-335.4; III-346; III-359.1;  
III-381; III-390; III-393; III-424; IV-440.7; IV-445.2  
Council of Ministers by Member States, III-297.3  
Court of Auditors, III-412; III-415.4  
Court of Justice, III-359; III-381  
Economic and Financial Committee, III-202.3  
Economic and Social Committee (EcoSoc), see Economic and Social

- Committee
- European Central Bank, III-159; III-184.13; III-185.6; III-186.2; III-187.3a; III-187.4a; III-191; III-192.3; III-196.1-2; III-326
- European Parliament, I-27.1; I-54.3; III-125.2; III-126; III-127; III-157.3; III-163.1; III-169; III-173; III-176; III-182.2; III-183.2; III-184.13; III-185.6; III-186.2; III-187.4; III-198.2; III-206.2; III-208; III-210.1,c,d,f,g and 3; III-217; III-234.2; III-240.3; III-251.3-4; III-253; III-263; III-266.3; III-269.3; III-274.4; III-275.3; III-277; III-291; III-304.1; III-313.3; III-325.6b; III-326.1; III-382.2; III-385.2; III-393; III-412.2; III-421; III-424; IV-443.2; IV-445.2
- Foreign Affairs Minister, III-312.2-3; III-420.2
- institutions concerned with conditions of employment, III-427
- management and labour, III-211; I-48
- Member States, III-213
- parties concerned by Union acts, I-47.3;
- workers, II-87 III-210.1e
- Consultation** of labour market partners, III-211.1
- Consumer protection**, III-235
  - “environment clause”, III-172.3
  - horizontal rule, III-120
  - protection level, III-235.1
  - shared competence, I-14.2f; II-98
  - stricter national rules, III-235.4; III-172.4.5
- Contract relations**, liability in, III-431
- Contractual liability**, III-431
- Control** at external frontiers, III-257.2
- Convention**, IV-443
  - revision of the Constitution without convention, IV-445
- Control on persons**, banned at internal borders, III-265.1b
- Convention on human rights**, accession of the Union, III-3256aII; Protocol N° 32
- Convention on the future of the European Union**, established in December 2001, finished its task by 10 July 2003, see [www.EUABC.com](http://www.EUABC.com)
- Convergence criteria**, III-198.1; Protocol N° 11
- Cooperation**
  - aid, III-321
  - civil protection, III-257.4; III-269; III-284
  - development, III-316-318
  - enhanced cooperation, I-44; III-416-423
  - inter-parliamentary, Protocol N° 1, art. 9
  - mutual military assistance, I-41.7; I-41.6
  - social and labour market policy, role of the Commission, III-213
  - structured military cooperation, I-41.6
  - third countries and humanitarian aid, III-316-321
- Coordinating action**, I-17
- Coordination**,
  - concerted practices effecting trade, III-161.1
  - economic and employment policies, general clause, I-15
  - economic policies, III-177ff

- economic policies of the Euro States, III-185
- employment policies, I-15.2; III-203; III-204; III-208
- freedom, security and justice, III-257
- industry, III-279.2
- public health, III-278.2
- research and technological development, III-250
- social policy, III-210.2; III-213; I-15.3
- Trans-European network, III-247.3
- Copyright**, II-77; III-176
  - Court, III-364
  - Trade with, III-315.1,4
- COREPER**, III-344
- Corruption**, fight against, III-271.1
- Council of Europe**, I-9; Preamble of the Charter; III-280.3; III-327
  - Accession of the Union to the ECHR, I-9, III-325.6a*ii*
- Council of Ministers**, I-23-24; I-19; III-342-346; see Protocol N° 35 for voting weights; decisions by simple majority, qualified majority, enlarged qualified majority and unanimity
  - abstention, from voting, III-343.3; I-59.5.2; III-300.1
  - access to documents, III-399
  - act on behalf of one other Member State, III-343.1
  - adoption of legal acts, I-34
  - adoption of non-legislative acts, I-35
  - amendments to proposals from Commission only by unanimity, III-395 (where demanded by the Constitution)
  - application for membership, I-58.2
  - composition, I-24
  - convening of meeting, III-342
  - COREPER, III-344.1; I-24.5
  - defence, I-41.5
  - delegation, I-36.1
    - revocation of delegation, I-36.2a
  - enhanced cooperation, I-44.2-3
  - enlarged qualified majority, I-25.2
  - foreign and security policy, I-40.2,3,5,6,7
  - formations, Protocol N° 34, art. 3; I-24
  - general legislative procedure, III-396
  - general secretariat and general secretary, III-344.2
  - implementation by, I-37
  - Minister for Foreign Affairs (of the Union), I-28; I-40.4
  - normal qualified majority, I-25.1
  - permanent representatives, COREPER, III-344.1; I-24.5
  - presidency, I-24.7; Declaration N° 4 with draft decision on presidency for the Council
  - procedural questions, simple majority, III-344.3
  - public meeting, I-24.6
  - qualified majority, I-25
    - as a general rule, I-23.3

- revocation of delegation, I-36.2a
- rules for committees, III-346
- Rules of Procedure, III-337.1
- simple majority, III-343.2
- Union Minister for Foreign Affairs, I-28; I-40.4
- weighting and votes, Protocol N° 34, art. 2
- Council**, see Council of Ministers
- Countervailing charges**, III-170.3;
  - agriculture, III-232
- Court of Auditors**, I-31; III-384-385;
  - actions for Court, III-365.3
  - annual report, III-384.4
  - ban on other activities, III-385.4
  - composition, III-385.1; I-31.3
  - consultation, III-412; III-415.4
  - cooperation with national, III-384.3
  - DAS-statement on the validity of the underlying transactions, III-384.1
  - discharge/approval, III-409.1,4
  - independence, III-385.3; I-31.3
  - national parliaments, Protocol N° 1, art. 7
  - opinions, III-384.4
  - president, III-385.2
  - replacement, III-385.5-6
  - rules of procedure, III-384.4 (5<sup>th</sup> part)
    - term of office, III-385.2
  - salary, III-400.1b;
  - special reporter, III-384.4
  - statement of assurance, III-384.1 (2<sup>nd</sup> part)
  - tasks, III-384; I-31
- Court of Justice**, I-29; III-353-381; Preamble in Part II
  - access to documents and transparency, III-399.1
  - act of general application, III-378
  - annulment of legal acts, also partly, III-366
  - annulment questions, III-365
  - appeal of decisions given by the General Court, III-359.3
  - appeal on point of law only, III-358.1
  - appointment of judges, III-355-357,
    - specialised courts, III-359
  - arbitration clause, III-374
  - budget, the Court's, III-406
  - chambers, grand chamber and full Court, III-353; Protocol N° 3, art. 16
  - Commissioner may be sacked by the Court, III-347; III-349
  - compensation for damage, III-370; III-431
  - competence,
    - EMU, III-373
    - foreign and security policy, III-376
    - intellectual rights, III-364

- Justice and Home Affairs, III-377
- competition rules, III-163d
- competition, misuse, internal market, directly to the Court, III-132
- constitution infringement by Member State, III-361, procedure III-360
- cooperation in criminal matters, II-270-274
- Court of Auditors,
  - between EU and Member States, III-375.2
  - between Member States, III-375.3
  - compensation for damages, III-370; III-431
  - members may be sacked by the Court, III-385.5-6
- duty of the institutions to implement judgments, III-368
- election of the President of the Court of Justice, III-355
- enforcement of judgments and pecuniary obligations, III-380; III-401
- environmental clause, misuse directly to the Court, III-172.9
- EU Court as supreme interpreter of Union law, III-365; III-375
- general advocates, III-354
- General Court competence, III-358
- hiring panel (new) for judges and more, III-357
- Human Rights Convention,
  - accession of the Union, III-325.6a; Protocol N° 32
  - dialogue with the Human Rights Court, Declaration N° 2
- interim measures, III-379.2
- international agreements, compatibility with Constitution, III-325.11
- Justice in the justice system, II-107-110
- language (Court language is French), III-433
- obligation to comply with judgments, III-368
- ombudsman and the Court, III-335
- passivity cases, failing to address, III-367
- penalty payments, fines, III-362
- police cooperation, II-275-277,
  - limitations in Court control over national police, III-377
- preliminary rulings, III-358.3; III-369
- principle decisions, referred from the General Court, III-358.3
- public prosecutor's office, III-274
- reasoned opinion from the Commission, III-360
- review of
  - lack of competence, or infringement of an essential procedural requirement, or misuse of powers, III-365.2
  - legality of legal acts, III-365.1,
  - penalties and sanctions, provided by law, III-363
- Rules of Procedure, III-355
- Specialised courts' competence, III-358
- staff cases, III-372
- state aid, directly to Court, III-168.2
- statute, III-381
- suspension of Member States rights, (lex Austria), III-371; I-59
- suspensory effect, III-379.1
- time limits for annulment cases (2 months), III-365.6

- use of law in specialised courts, III-359
- Craftsmen**, III-145c
- Crime**
  - combating, III-257.3; III-273-277, III-160, III-271
  - computer crime, III-271
  - double punishment for same crime prohibited, II-110;
  - Eurojust, I-42.2; III-273; III-259; III-274.1; III-276.2.b
  - European Union prosecutor, III-274
  - Europol, I-42.2; III-273-274; III-276
  - judicial cooperation, III-270–274
  - minimum rules, III-271
  - organised crime, III-160
  - police cooperation, III-275-277
  - prevention of, III-272
  - victims of, III-270.2c
- Criminal cases** III-270-274
- Criminal law** III-257.3; III-270; Declaration N° 23
  - Courts competence, III-377
  - harmonisation of, 270.2; 271.1.2
- Criminal offence**, II-109, II-110
- Crises management**, III-307; III-309
- Criteria** for membership of the Union, I-58
- Cross frontier areas**, economic coherence, III-220
- Cultural diversity**, II-82
- Cultural heritage**, Preamble; I-3.3; III-167.3d; III-280
- Culture**, III-280; Preamble to Part I; I-17.1c; I-3.3; II-73;
- Cultural diversity**, II-82
  - does not affect trading competition against common interest, III-167.3d;
  - unanimity in commercial policy III-315.4
- Customs**
  - free movement of goods, III-151-155; III-130.2
  - on products from overseas countries and territories, OCT III-288.1 and 5;  
III-289; III-424
  - on products from third countries, III-151.3
  - restrictions on free movement of goods, III-154
- Customs cooperation**, III-152
- Customs tariffs**, III-151.5
- Customs union**, III-151
  - duties, III-170
  - externally, III-314
- Cyprus**
  - British base, Protocol N° 9, art. 43-51; Declaration N° 33
  - Northern Cyprus Protocol no 9, art. 68-72
  - voting weights and seats, Protocol N° 34; IV-440.6b
- Czech Republic**
  - steel industry, policy for, Protocol N° 9, art. 42
  - voting weights and seats, Protocol N° 34;

## D

### **Dangerous substances**

#### Chemicals

REACH (Registration, Evaluation and Authorisation of Chemicals), the chemical directive, legal base, III-172

consumer protection, III-235

environmental competences, III-233-234

public health, III-278

**Danish derogations**, Protocol N° 20 and Declaration N° 39

**De facto**, de jure, State monopoly, III-155.1

**Death penalty**, II-62

**Debt**, public, III-181.1; III-183; III-184

**Decisions**, I-33.1; I-35; I-37.4; I-39.3; I-40.3,6,7; I-41.4;

continuity, IV-438.3

national decisions on the admissibility of cartels, III-164

OCTs (e.g. for Greenland), change in the status of, IV-440.7

**Declaration** of capital movements III-158.1b

**Declarations**, from 1 to 50 (not legally binding as Protocols)

Accession countries 2004, Declarations concerning the Protocol on the Treaty and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic

Aaland Islands, 31. Declaration on the Aaland Islands

backward regions in Italy, 41. Declaration concerning Italy

Belgian chambers, 49. Declaration by the Kingdom of Belgium on national parliaments

Bulgaria and Romania, 40. Declaration concerning the Protocol on the transitional provisions relating to the institutions and bodies of the Union

capital movements, III-158.1b

charter explanations, 12. Declaration concerning the explanations relation to the Charter of Fundamental Rights,

Commission of Cyprus, 34. Declaration by the Commission on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus

Commission President, 7. Declaration on Article I-27

Danish derogations, 39. Declaration concerning the Protocol on the position of Denmark

deepening clause, 27. Declaration on Article III-419

demographic differences, 3. Declaration on Articles I-22, I-27 and I-28

division in Cyprus, 38. Declaration on Cyprus

division of Germany

aid, 16. Declaration on Article III-167(2)(c)

transport, 20. Declaration on Article III-243

euro, spelling of, 50. Declaration by the Republic of Latvia and the Republic of Hungary on the spelling of the name of the single currency in the Treaty

establishing a Constitution for Europe.  
Dutch Antilles 43. Declaration by the Kingdom of the Netherlands on Article IV-440  
Dutch net payments, 42. Declaration by the Kingdom of the Netherlands on Article I-55  
energy, 22. Declaration on Article III-256  
EU Foreign Office, 24. Declaration on Article III-296  
EU Summit after rejections, 30. Declaration on the ratification of the Treaty establishing a Constitution for Europe  
financial frames, 26. Declaration on Article III-402(4)  
growth and stability pact, 17. Declaration on Article III-184  
Human Rights, 2. Declaration on I-9(2)  
Ignalina Nuclear Plant, 35. Declaration on the Ignalina Nuclear Power Plant in Lithuania  
international agreements, 25. Declaration on Article III-325 concerning the negotiation and conclusion of international agreements by Member States relating to the area of freedom, security and justice  
islands, 19. Declaration on Article III-220  
Kaliningrad transit, 36. Declaration on the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation  
labour law, 18. Declaration on Article III-213  
Mayottes status, 28. Declaration on Article IV-440 (7)  
national experts, 8. Declaration on Article I-36  
nuclear plant in Slovakia, 37. Declaration on Unit 1 and Unit 2 of the Bohunice V1 nuclear power plant in Slovakia  
Nuclear Treaty, 44. Declaration by the Federal Republic of Germany, Ireland, the Republic of Hungary, the Republic of Austria and the Kingdom of Sweden  
official languages, 29. Declaration on Article IV-448(2)  
personal data and national security, 10. Declaration on Article I-51  
presidency of the Council, 4. Declaration on Article I-24(7) concerning the European Council decision on the exercise of the Presidency of the Council  
primacy of EU-law, 1. Declaration on Article I-6  
prosecutions, 23. Declaration on Article III-273 (1), second subparagraph  
research, 21. Declaration on Article III-248  
restrictive measures, 15. Declaration on Articles III-160 and III-322  
Sami people, 32. Declaration on the Sami people  
smaller Commission, 6. Declaration on Article I-26  
social security, 14. Declaration on Articles III-136 and III-267  
solidarity against terror, 9. Declaration on Articles I-43 and III-329  
Spain about EU citizenship, 47. Declaration by the Kingdom of Spain on the definition of the term ‘nationals’  
Spelling of euro, 50. Declaration by the Republic of Latvia and the Republic of Hungary on the spelling of the name of the single currency in the Treaty establishing a Constitution for Europe.  
Status, IV-437; IV-438  
UK “citizens”, 46. Declaration by the United Kingdom of Great Britain and Northern Ireland on the definition of the term “nationals”  
UK about EP voting rights, 48. Declaration by the Kingdom of the United

- Kingdom of Great Britain and Northern Ireland on the franchise for elections to the European Parliament
- UK-base in Cyprus, 33. Declaration on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus
- violence at home, 14. Declaration on Article III-116
- voting in the Council, 5. Declaration on Article I-25
- Deepening clause**, IV-444; I-40.7; I-55.4; Declaration N° 27
- Defence Agency** I-41.3; III-311
- Defence policy** FI-41; III-309-312
  - common security and defence policy, I-41
  - competence, I-16
  - guidelines, III-295
  - implementation, III-309-313;
  - Minister of Foreign Affairs (Union's), I-28.2
  - NATO, Protocol N° 23
  - neutral countries, I-41.2
  - Petersberg tasks, III-309.1
  - progressive framing of, I-12.4
  - rapid reaction force, III-309
  - solidarity commitment, I-43
  - structured cooperation, III-312; see also III-304.2; III-329; I-41.7; Protocols N° 23 and N° 24 about defence and NATO
  - Union Minister of Foreign Affairs, I-28.2
  - Western European Union, Protocol N° 24
- Defence**, see Defence policy,
- Defendant**, II-107
- Deficit**, public, III-184; III-197.2b and 4b; III-198.1b; Protocol N° 10
- Definition** of qualified majority in the European Council and the Council I-25; see also Voting
- Definition** of services, III-145
- Degrading treatment** or punishment, II-64
- Delegated** European regulations, I-36
- Democracies of Europe, “Europe of Democracies”**, Alternative Report from the EU Convention's report to the European Council, see [www.EUABC.com](http://www.EUABC.com)
- Democracy**
  - defend democracy externally, III-292
  - democratic equality, I-45
  - democratic life of the Union, I-45-52
  - goals, I-2
  - participatory democracy, I-47
  - protection of democratic institutions against terror, I-43
  - representative democracy, I-46
- Demonstration projects**, research, III-248.3
- Denmark**,
  - acquisition of second homes, Protocol N° 26 on Danish acquisition of second homes, summer houses
  - derogations, Protocol N° 20 on the position of Denmark and their 4 derogations; Declaration N° 39

Greenland, association of Overseas Countries and Territories, Greenland as OCT country, III-286; IV-440.7; Protocol N° 30 on Greenland monetary union, Protocol N° 14 on Denmark and the monetary union national bank, Protocol N° 15 on the national bank of Denmark voting weights and seats, see Protocol N° 34 and Declaration N° 40 concerning the Union's institutions

**Dentists**

freedom to provide services, III-141, III-144-150; see also Services

**Deposit, non-interest-bearing**, punishment for failure to fulfil EMU requirement, III-184.10c

finances, III-184.10d

**Derogations**

British derogations, Protocol N°13 (EMU); British-Irish derogation on border control, Schengen-cooperation, Protocol N° 18 and N° 19

Danish derogations, Protocol no 14 (EMU), 20 (Denmark's position)

environment, III-234.2 and 5

environmental clause, III-172.4

internal market derogations, III-130.4

public authority, III-139

secondary residence/summer house derogation, Protocol N° 26

suffrage, III-126

trade restrictions, III-154

veto, foreign policy, III-300.2;

**Detergents**

Chemicals

REACH (Registration, Evaluation and Authorisation of Chemicals), chemical directive, legal base, III-172

environmental competences, III-233-234

consumer protection, III-235

public health, III-278

**Development cooperation** and humanitarian aid, I-14.4; III-316-321; III-292.2d

**Development**

areas, III-167.3a

regions, III-220-224

**Development section**, III-221

**Diabetes**, see also 'Services' and 'Health'

combating major health scourges, III-278.1, 5

**Dialogue** between the two sides of industry, III-211

**Diplomatic and consular protection**, I-10.2c; II-106; III-127

**Diplomatic service** III-296.3; Declaration N° 24;

**Diplomatic services and missions**

cooperation, III-306

representation, III-327, III-328

European External Action Service, III-296.3

Missions, III-301.2;

**Direct investment**, state monopolies, III-155

common commercial policy, III-314-315

free movement of capital, III-157.2

- Direct universal suffrage** for the European Parliament, III-330
- Disability**, III-136, III-210.1c; III-210.1h
- Disarmament**, III-309; improving military capacity, I-41.3
- Disaster**, assistance in cases of, I-43.1b
- Discharge**, III-407-409
- Discipline**, budgetary discipline, III-194.1a; 184.2
- Discrimination**, see also ‘Ban on’
- agricultural market, III-228.2
  - aid, III-167.2a
  - arbitrary, III-154; III-158.3; III-172.6
  - ban, I-4.2; II-81.1; III-118
  - combating, I-3.3; III-118; III-124
  - commodities, III-288.5
  - discrimination on grounds of nationality prohibited, I-4.2; II-81; III-133.2 enhanced cooperation, III-416
  - environmental clause, III-172.6
  - humanitarian aid, III-321.2
  - legislation, III-124
  - market for agricultural products, III-228.2 (2<sup>nd</sup> part)
  - non-discrimination, I-2; I-4; II-81; III-118
  - on grounds of nationality and residence, I-4.2, II-81.2; III-123
  - state monopolies III-155
  - pay, based on sex, III-214
  - prices, III-240.1
  - rates, III-240.1
  - services, interim provision, III-149
  - gender, I-2; I-3.3; II-81; III-116; III-214
  - general, III-118; I-2; I-3.3; I-4.2
  - social aid, III-167.2a
  - taxation/protectionism, III-170
  - transition periods, III-149
  - workers, III-133.2
- Dismissal of** the Commission, I-26.8; I-27.3; III-340
- Disputes for compensation for damages**, III-370; III-431
- Distance education**, III-282.1f
- Distorted competition**, III-132 III-171; III-174; III-279; III-416
- Distributive trades**, freedom to provide services, III-141, III-144-150; see also Services
- Disturbances**, III-131
- Diversity**, I-3.3; II-82; Declaration N° 3 concerning articles I-27 and I-28
- respect of, II-82
- Division**
- of Cyprus, Declaration N° 38
  - of Germany
    - aid, III-167.2c; Declaration N° 16
    - transport, III-243; Declaration N° 20
- Division of powers**, (see also ‘Legislative powers’, ‘Executive powers’, ‘Judicial powers’)
- Commission
    - initiates laws, I-26-2; III-396

- is given delegated competence, I-36-37
- Council of Ministers
  - legislates, I-23; I-25; III-396
- European Parliament
  - proposes amendments or rejects proposal by an absolute majority of its members (ordinary procedure), III-396
- Doctors**, III-141.2
  - free establishment after gradual removal of restrictions (service-directive), III-141.1
- Domestic services**, freedom to provide services, III-141, III-144-150; see also Services
- Dominant position**
  - abuse of, III-162
  - public undertakings III-166
  - State monopolies III-155
- Double cap**, I-28.4; see also ‘Union Minister of Foreign Affairs’
- Double hat** I-28.4
- Double majority**, I-25; see also ‘Voting’ and ‘Qualified majority’
- Driving licenses**, III-236.2
- Drugs**, III-271; III-278
- Duration** of the Treaty/Constitution, IV-446
- Dutch Antilles**, Protocol N° 25; Declaration N° 43;
- Duties and charges** for the passage of borders, III-242
  - ban against discriminating duties, III-170

## **E**

- Early retirement scheme**, III-209; III-210.1c
  - qualifying periods gained in other countries, III-136.1a
  - exportability of early retirement schemes, III-136.1b
- e-business**
  - freedom to provide services, III-144-150; see also Services
  - harmonisation of internal market, III-175
  - promotion of small-and-medium enterprises, III-248.2; III-279.1b; (III-210.2b)
  - promotion of technologies III-248, III-311
- ECB**, see European Central Bank
- ECHR** – European Court of Human Rights
  - dialogue with the EU-Court, Declaration N° 2
- Ecology**, see Agriculture, III-225-232; ‘Consumer protection’ III-235; ‘Environmental clause’, III-172.2; and Environment, III-233-234
- Economic and Financial Committee**, III-192; III-201
- Economic and Monetary Union**, III-177-202; see also Euro
  - failure to comply, III-184.10
- Economic and Social Committee**, I-32; III-389-392
  - appointment, III-390
  - composition, III-389; Protocol N° 34, art. 7
  - consultation concerning composition, III-390

consultation of/by ESC due to these regulations, III-139; III-134; III-138.1;  
III-147.1; III-172; III-173; III-206.2; III-207; III-210.2-3; III-213; III-214;  
III-216; III-219.3; III-221; III-223; III-224; II-234; III-235.3; III-236.2;  
III-240.3; III-245.2; III-247.2; III-251; III-252; III-253; III-256.2 III-278.4  
and 5; III-279.3; III-282.3a; III-283.3; III-388; III-400.2  
president and officers, III-391  
rules of procedure, III-391

**Economic development programmes**, III-230.2

**Economic guidelines**, III-179.2, III-194.1b

**Economic policies**

coordination of, I-12.3; I-14.2; I-15.1; III-177.1  
employment, III-204  
EMU III-177-202  
ESCB I-30.2  
Member States, III-194.1b; Protocol N° 12 on the Euro-group  
multilateral surveillance, III-179  
Structural Funds, III-221  
    in Germany, Declaration N° 20  
    in Italy, Declaration N° 41

**Economic restrictive measures** with third countries, boycott, III-322

**Economic, social and territorial cohesion**, III-220-224

**Economy**

Internal market, III-130; III-151.6d; III-179.3; III-227.2c

**EcoSoc Committee**, III-389-392, see also 'Economic and Social Committee'

**Edinburgh-Agreement** (Danish derogations since December 1992)

See Protocol N°20 and Declaration N°39

**Education**, III-282-283, see also Services

aid, social advantage according to rules on free movement, III-210.1c  
compulsory II-74  
consumer education, III-235.1  
coordinating competence, I-17e  
distance, III-282.1f  
exchange, III-282.1.e  
free, II-74.2  
health, III-278.1  
international cooperation, III-282.2; III-283.2  
Member States' responsibility, III-282.1  
recognition of diplomas, III-282.1b  
religious, II-74.2  
right to, II-74.1  
service-directive, III-141.1b  
vocational training, III-283

**EEA-Agreement**,

with Norway, Iceland, Switzerland and Liechtenstein, III-324; III-325

**Effective remedies** before a tribunal, II-107

**EFSP**, see 'Foreign and Security policy'

**EIB**, see 'European Investment Bank'

own resources, I-54; III-412.2

- Elderly**, rights of the, II-85
- Elections**, I-10.2b; II-99; II-100; III-126
  - European Parliament, I-20.3; III-330.1
  - President of the Commission, I-27.1; I-20.1
- Election rules**, III-126
- Electricity**, III-256; see also Energy
- Eligibility**
  - for the European Parliament, III-126; II-99
  - for municipal elections, II-100
- Embassies, consulates and delegations**, III-328,
  - diplomatic and consular protection, II-106; III-127
- Emergency brake**
  - justice and home affairs, III-270.3
  - social, III-136.2
- Employers**, II-88, III-210.1f
- Employment Committee**, III-206.2-4; III-208
- Employment** III-203-208 major chapter; III-133-136, see also Workers
  - aid from Member States, III-167
  - Charter, II-75; II-83; II-92; II-94
  - Committee, III-206.2-4; III-208
  - Commission's role III-213a
  - conditions, third country citizens, III-210.1g
  - contract, III-210.1d
  - coordination, I-15.2; I-12.3
  - discrimination, III-133.2
  - employment opportunities, European Social Fund, III-219.1
  - employment policies, I-12.3; III-204.2; III-206.2-4
  - European Social Fund, III-219.1
  - free movement III-133.1
  - goals, I-3.3
  - legislation on free movement, III-134-137
  - liability of civil servants, III-431
  - prohibited discrimination, I-133.2
  - right to stay, right to accept offers of employment, III-133.3
  - role of Commission, III-213a
  - salary for EU-leaders, III-400
  - self-employed, III-141
  - services (EURES), III-134.a, d
  - staff regulations for civil servants, III-427
  - work contracts, III-210.1d
- Employment services** (EURES), III-134.a, d
- EMU**, see Economic and Monetary Union and Euro
  - Denmark, Protocol N° 14
  - UK and Ireland, Protocol N° 13
- Energy**, I-14.2i
  - choice between different energy resources, 234.2c; III-256.2
  - EURATOM Treaty (nuclear power), Declaration N° 44
  - Infrastructure, III-246

- new competence, III-256; Declaration N° 22
- Enforceability of judgments**, III-380
- Enhanced cooperation**, I-44; III-416-423;
- Enlarged qualified majority**, I-25.2; I-22.1; I-24.4; I-27.1; I-44.3; I-55.4; I-59; I-60.2a; III-184.6-7; III-194.2; III-207
- Enlargement of the Union**, I-58
  - conditions of membership, I-1.2, I-58.1
  - procedure for accession, I-58.2
- Enterprises**, see Companies
- Entertainment**, freedom to provide services, III-141, III-144–150; see also Services
- Entry into force**
  - European laws and framework laws, I-39.1
  - regulations and decisions, I-39.2
  - Treaty/Constitution, IV-447
- Environment**, III-233-234; I-3.3; III-172.3–4
  - energy policy, III-256
  - externally, III-292.2f
  - guarantee, III-172.4-10
  - integration of environmental protection, II-97; III-119;
  - protection clause, III-233.2
  - shared competence, I-14.2e
  - stricter national rules, III-234.6
  - structural funds, III-223
- Equality**, Preamble, Part I; I-2; Preamble, Part II; II-80-83; III-124; III-292.1
  - before the law, II-80
  - between companies and persons, Union citizens, I-45; III-142
  - democratic, I-45
  - equal opportunities, III-210.1i
  - equal salary, III-214; Protocol N° 28 against retroactivity
  - gender, I-2; I-3.3; II-83; III-116; III-210.1i; III-214
  - labour market, III-214
  - law, before the, II-80
  - under-represented sex, III-214.4
- ESCB**, III-185.2
- ESDP**, see ‘European Security and Defence Policy’
- Establishment**
  - Aaland Islands, Protocol N° 8, art. 56
  - free establishment, I-4.1; Preamble in Part II; II-75.2; III-137-143;
  - internal market III-130.3
- Establishment/companies**, III-137;
  - abuse of a dominant position, III-162
  - agreements between undertakings, III-161
  - companies, III-142
  - education and establishment, III-283.1.d;
  - freedom of establishment, II-75; III-137
  - freedom of investment, III-142-143
  - overseas countries and territories, III-287e
  - public undertakings, III-166

- rules of competition, III-161-166
- Estonia,**
  - capital payments, III-157.1
  - voting weights and seats in the EP, see Protocol N° 34
- Ethnic origin**
  - Legislation, III-124, see also Civil servants
  - non-discrimination, III-118
- EU, European Union ; see also Union**
  - anthem, I-8
  - competences, I-11–18
  - control procedure, environment, III-233.2
  - Court, see Court
  - Establishment, I-1
  - flag, I-8
  - Foreign Minister, see Union Minister of Foreign Affairs
    - appointment by enhanced qualified majority I-28.1
    - competence III-293, III-294, III-296
    - double hat I-28.4
  - Foreign Office, see ‘European External Action Service’, Declaration N° 24
  - legal personality, I-7
  - membership
    - accession by unanimity, I-58
    - amending the status of OCT-areas, as Greenland, IV-440.7
    - political parties at EU level, I-46.4; II-72.2; III-331
    - suspension of rights (lex Austria), I-59
    - voluntary withdrawal, I-60
  - motto, I-8
  - objectives, I-3
  - Parliament, see the official name, ‘European Parliament’
  - projects, of common (European) interest, III-167.3b
  - relations between Union and Member States, I-5; I-11
  - salaries, III-400
  - Union Law, I-6
  - values, I-2
- EU Officials**
  - capacities
    - Commissioners I-26.4; III-347
    - Judges I-29.2; III-355; III-356; III-359
    - Members of the Court of Auditors, III-385
  - geographic/demographic diversity when choosing leading EU officials, Declaration N° 3
  - Institutions, I-19
- EU Court**, see Court
- EURATOM** - The Treaty establishing the European Atomic Energy Community on nuclear power, Protocol N° 36; needs to be amended, Declaration N° 44
- Euro Group** – enhanced dialogue, Protocol N° 12
- Euro**, III-194-196; I-13; I-15
  - common economic policy, III-194
  - convergence, Protocol N° 11

- countries outside, III-194; III-197.2; Protocol N° 12
- currency of the Union, I-8
- Danish derogation, Protocols N° 14 and N° 15
- deficit, Protocol N° 10
- ECB I-30.1; Protocol N° 4, art. 16
- EMU, III-177
- enhanced dialogue, Protocol N° 12
- exclusive right to bank notes, III-186.1
- exchange rate, III-326
- Euro Group, Protocol N° 12
- euro zone, III-194-196, see also Euro
- legislation, III-191
- membership, III-194-192
- notes and coins, III-186
- Transition, III-197-202
- UK derogation Protocol no 13
- Euro notes and coins**, III-186
- Euro zone**, III-194-196, see also Euro
- Eurojust**, I-42.2; III-273-274.1;
  - Europol, III-276.2b
- Europe**, Preamble, I-1, I-3.3
  - ‘Europe of Democracies’, alternative proposal from the constitutional convention to the European Council, see EUABC.com
  - peoples of, Part II, Preamble
  - “Treaty establishing a Constitution for Europe”, title; III-167.2c; III-223.2; III-243; IV-437.1
- Europe day**, I-8
- Europe of Democracies**, alternative report from the EU-convention’s report to the European Council, see EUABC.com
- European law**, I-33.1
  - delegated laws, I-36
  - implementing laws, I-37
  - laws (in Part III): 160; 176; 179.6; 184.13; 185.6; 113; 213; 224; 234.3; 251; 252.2-3; 273.1; 274; 276.2; 285.2; 315.2; 321.5; 330.2; 331; 333; 335.4; 359; 363; 364; 381; 393; 398.2; 402.4; 404; 412; 427
- European Central Bank**, ECB, I-30; I-34.3; I-35; III-159; III-181; III-185; III-186-192; III-199; III-326; III-365 (see also III-378); III-367; III-373d; III-382; III-383; III-396.15; III-399.1; III-429.1; III-431; III-434; IV-443; Protocol N° 4 on the Euro Group, art. 1
  - advisory function, Protocol N° 4, art. 4
  - decision-making body, Protocol N° 4, art. 12
  - ECB acts, I-35;
  - Executive Board, III-382; III-383; Protocol N° 4, art. 11
  - General Council of, III-199
  - Governing Council, III-187.1; III-382; III-383; Protocol N° 4, art. 10.1
  - independence, III-188
  - judicial control on ECB, Protocol N° 4, art. 35
  - legal acts, Protocol N° 4, art. 34
  - legal personality, Protocol N° 4, art. 9

- opinion, Protocol N° 4, art. 4
- President, Protocol N° 4, art. 13
- public reports, Protocol N° 4, art. 15
- secrecy, III-430
- share of Member States in ECB subscribed capital, Protocol N° 4, art. 29
- voting system, Protocol N° 4, art. 10.2
- consultation of, III-159; III-184.13; III-185.4-6; III-186; III-187.3-4; III-191; III-192.3; III-196; III-198.3; III-326.1
- European Coal and Steel Community**, Protocol N° 35
- European Convention** for the Protection of Human Rights and Fundamental Freedoms (ECHR), I-9; II-113; III-325.6a (ii) and 8
- European Council**, III-341.1; I-21; I-22
  - abstention from voting, III-341 (2nd part), and e.g. I-59.2 and 5
  - assistance from general secretariat, III-341.4
  - authority to vote for another Member State, III-341.1
  - composition, I-21.2
  - consensus, I-21.4
  - constructive abstention, III-341
  - consultation of European Parliament's President, III-341.2
  - decision making, I-21.4
  - election of president with enlarged qualified majority for 2 ½ year, I-22.1
  - election of the Commission President with enlarged qualified majority, I-27
  - foreign policy, general guidelines, III-295.1
  - judicial cooperation, strategic guidelines, III-258
  - meetings, I-21.3
  - permanent president, I-22; Declaration N° 3
  - presidencies, order of, I-24.7
  - president/permanent chair, I-22; Declaration N° 3
  - procedural questions with simple majority, III-341.3
  - Rules of Procedure, III-337.1
  - unanimity, III-341.1
  - voting rules, I-21.4; III-341
  - voting weights, Protocol N° 34, art. 2
- European Court of Human Rights** (ECHR), Declaration N° 2
  - dialogue with EU Court, Declaration N° 2
- European Court**, III-347-352, see also Court
  - decision-making, Protocol N° 4, art. 8
- European Court**, official name 'The Court of Justice of the European Union', I-29; III-353-381, see also Court
- European decision**, e.g. I-33; III-230.2; III-297-298
- European Defence Agency**, I-41.3; III-311
- European Employment Service** (EURES), III-134.a, d
- European External Action Service**, III-296.3; Declaration N° 24 on the European External Action Service (establishment of a common diplomatic service)
- European framework law**, I-33.1; I-34
  - only framework law, III-138; III-140.2; III-141.1; III-147; III-174; III-210.4; III-270.2; III-271; III-362.3
- European Fund for Regional Development**, III-222-224

**European health insurance card**, see Health, III-278

**European Institutions**

location of seats, Protocol N° 6

**European Investment Bank**, III-393-394; III-184.10b; III-221; III-317.3; III-373; III-384.3; III-399 III-434; Protocol N° 5

transitional rules, Protocol N° 9, art. 38-41

statute of Protocol N° 5

**European Judicial Network**, III-273.1c

**European market organisation**, III-228.1c

**European Ombudsman** I-10.2, I-49; III-335;

Appointment, III-335

citizens' right to complaint, I-10.2; II-103

dismissal, III-335.2

election of, III-335.1-2

independence, III-335.3

language, III-128

own initiative, III-335.1 (2nd sentence)

report to EP III-335.1 (3rd sentence)

statute, III-335.4

tasks, III-335

**European Parliament**, EP, I-20; II-99; III-330-340

forms of decision, information, consultation, co decision and approval with

absolute majority of members, OR votes or:

annual report from the Commission, discussion in the EP, III-337.3

approval of the Commission, I-27

approval/consent from EP, e.g. association agreements, III-325.6;

revision of the Constitution, IV-444.3

budget procedure, III-404

censure of the Commission, III-340

composition, I-20.2; Protocol N° 34, art. 1

consent/approval with absolute majority of members, e.g. IV-444.3

constitution revision initiative IV-443.1

consultation of European Parliament, marked in this book with one star\*:

III-126; III-127; III-157.3; III-163; III-169; III-173; III-176; III-182;

III-183; III-184.13; III-186; III-187.4; III-198.2; III-206.2; III-208;

III-210.3; III-217; III-234.2; III-240.3; III-251; III-253; III-263; III-266.3;

III-269.3; III-275.3; III-277; foreign policy III-304.1; III-313.3; III-326.1;

III-341.2; III-385.2; III-412; III-422, III-424

decisions with 2/3 majority and absolute majority of members, censure, III-340; I-59.6

decisions with 60 % of the votes, see budget article, III-404.7d

decisions with absolute majority of ALL elected members, e.g. III-330.1 (2<sup>nd</sup>

part) and III-396: shown in this book with two stars \*\* and

approval/consent procedure, shown here with 3 stars \*\*\*, e.g. IV-444.3

decisions with normal majority of votes, III-338

direct elections, III-330.1

direct elections and statute, III-330

discharge/approval of accounts III-409

- elections to, I-20.2, II-99
- extraordinary meetings, III-336
- information of EP, e.g. foreign policy, I-40.8; defence policy, I-41.8; EMU, III-326.1
- investigations and inquiry committee, III-333
- legislation, participation in, I-20.1; I-34; III-396
- number of representatives, I-20.2; Protocol no 34, art. 1
- municipal elections, II-100
- ombudsman, election of, I-10.2d; III-335.1; dismissal of, III-335.2
- openness, access to documents, transparency, III-339
- petitions from citizens to the EP, I-10.2d; III-334
- question to The Commission, III-337.2
- quorum, III-338
- request initiative from the Commission, III-332
- Rules of Procedure with absolute majority of members, III-339
- secrecy for members, III-430
- sessions, III-336
- statute for members, III-330.2
- statute for political parties in EU, III-331
- temporary inquiry committee, III-333
- voting rights and eligibility, II-99; III-126
- European political parties**, I-46.4; II-72.2; III-331
- European Public Prosecutors Office**, III-274
- European public service**, III-398-399
- European regulation**, e.g. I-33; III-230.2
- European Security and Defence Policy (ESDP)**, III-309-312; see also ‘Defence policy’
- European Security and Defence Policy (ESDP)**, see ‘Defence policy’
- European Social Fund**, III-219; III-221; III-224
- European space policy**, I-14.3; III-254.1, 3
- European System of Central Banks (ESCB)**, I-30; III-185; III-187-191; III-197.3; III-198; III-383; III-373.d; III-429.1; Protocol N° 4, art.1
  - decision making, Protocol N° 4, art. 8
  - function, Protocol N° 4, art. 17-24
  - independence, Protocol N° 4, art.10
  - objectives and tasks for, Protocol N° 4, art. 2-6
  - operation, Protocol N° 4, art. 17-24
  - statute, III-198-199; III-326; III-373.d; III-429
- European Voluntary Humanitarian Aid Corps**, III-321.5
- Europol**, I-42.2; III-376; III-273-275; see also III-259
- EU-summits**, see European Council
- Examination**
  - accounts, of, I-31.2; III-384.1; III-409
  - before a court, III-333
  - budgetary situation, III-184.2; III-198.1
  - Convention, IV-443.2
  - distorting effects, III-132
  - enhanced cooperation, III-420
  - national derogation, III-172.7-8

- Exams**, III-282.1b
- Exercise of Union Competences**, I-33-44
  - of public authority, I-139
- Excessive deficit procedure**, III-184
  - Court of Justice control, III-184.13
  - Fines, III-184.10
  - reference values, Protocol N° 10, art. 1
- Excessive deficit**, reference values, Protocol no 10, art. 1
- Exchange of best practise**, III-213
- Exchange**
  - young, the, III-282.1e
  - young workers III-135
- Exchange rate mechanism**, see Euro, Protocol N° 11, art.3
- Exchange rate policy**, III-177.2; III-198.3, III-326.2
  - derogation from, III-200
- Exclusion of harmonisation**, I-12.5
  - administrative cooperation, III-285.2
  - civil protection, III-284.2
  - culture, III-280.5a
  - education, vocational training, youth and sport, III-282.3a; III-283.3a
  - education, youth and sport, III-282.3a;
  - employment, III-207
    - for discrimination, III-124.2
    - for employment policies, III-207
  - general exclusion for coordinating, supplementary and supporting measures, I-12.5
  - general exclusion for flexibility clause, I-18.3
  - health, III-278.5
  - immigration policy, III-267.4
  - industry, III-279.3
  - public health, III-278.5
  - social policy, III-210.2a
  - tourism, III-281.2
  - vocational training, III-283.3a
- Exclusive competence**, I-13
  - biological resources, fishing
  - Common commercial policy
  - Competition rules
  - Customs union
  - International agreements, when the EU has the internal competence
  - Monetary policy
- Executive Board**
  - of the European Central Bank III-187.3; III-382.1; III-383.3; III-197.2h
- Executive powers**
  - Commission:
    - decides itself when given delegated powers, I-36
    - executes (implements) Union laws, I-26.1, I-37.2
  - Council:
    - executes exceptionally, I-37.2

- Member States:
  - Implement, I-37.1
- Exemption**, Member States with derogation from the monetary union, III-192.4; III-197.2h; III-198.2;
  - exchange-rate, III-200,
  - mutual assistance, III-201
  - protection measures, III-202, III-199,
- Expanded liberalisation of services**, III-148
- Expansion of consumption**, III-151.6d, III-229b
- Expenditures**, I-53
- Explanations to the Charter** on fundamental rights, part 5 of the preamble in Part II, Declaration N° 12 – explanations to the Charter
- Export credits**, III-228.2
- Export of goods**, customs union, III-151.4
- Expositions**, freedom to provide services, III-141, III-144-150; see also Services
- Expression and information**, freedom of, II-71
- Expulsion**, II-79.1
- Extraordinary meetings** in European Parliament, III-336
- Extension** of consumption, III-229b, III-151.6d
- Extension of time limits**, labour market, III-211.4
- External actions**, III-292-329
- External Action Service**, III-296.3; Declaration N° 24 on the creation of a European External Action Service
- External borders**, III-265.1b, III-257.2
- External border control**, III-257.2, III-265
  - integrated management system, III-265.2d
- External service**, III-296.3; Declaration N° 24 on the Creation of a European External Action Service
- Extrajudicial decisions**, III-257.4

## **F**

- Failure to act**,
  - proceedings for, III-367
- Failure to fulfil an obligation**/breach of law
  - committee of inquiry, III-333
  - Union law, III-361; III-365.2; III-367
  - Ombudsman, III-335
  - proceedings for, III-360–361
  - Protocol N° 2 on the principles of subsidiarity and proportionality, art. 5, 7
  - competition rules, III-165.1-2;
- Family allowances**, III-136, III-210.1c
- Family**
  - family and professional life, II-93
  - family law, III-269.3
  - family reunion, III-267.2a; III-269.3

- marriage, II-69
- private and family life, II-67
- Family conflicts**, III-269-274
- Faroe Islands**, IV-440.6a; Protocol N° 8, art. 7
- Field of application**
  - Charter on fundamental rights, II-111
  - Scope, territorial for the constitution, IV-440
- Finance customs**, III-151.4
- Finances**, of the Union, I-53-56; III-402-409; also see ‘Financial provisions’
- Financial assistance** to countries in difficulties, III-180
- Financial framework**, I-55; III-402; also see ‘Financial provisions’
  - consequences if not decided in due course, III-402.4 Declaration no 26
  - decision by qualified majority – Dutch position, Declaration N° 42
- Financial provisions**, III-402-409
  - annual budget, III-403
  - budget procedure, III-404
  - currency transactions, III-411
  - enhanced cooperation, III-421
  - foreign policy, III-313
  - fraud, III-415
  - implementation and approval of accounts, discharge, III-407-409
  - multiannual financial framework, I-55; III-402
  - own resources, I-54; III-412.2
  - respect for all obligations, III-413
  - start-up fund, III-313.3 (2<sup>nd</sup> paragraph)
  - transfers, III-406
  - trialogue meetings, III-414
  - twelfths (one twelfth of annual budget), III-405
  - urgent financing of foreign policy actions, III-313.3
- Financial year**, III-403
- Financial balance**, balanced budget, I-53.2
  - social security, III-210.5a
- Fines**
  - area of competition, III-163.a
  - Central bank, III-190.3
  - enforcement, III-401
  - non-compliance with a judgment by Member State, III-362.2
  - monetary union, III-184.10.d
- Finished goods** III-151.6c
- Finland**
  - agricultural subsidies, Protocol N° 8, art. 47-49
  - voting weights and seats, Protocol N° 34
- Firms**, III-137; III-138.2.g. III-142-143; III-161; III-162; III-283.1.d; III-287e
- First stage processing**, agriculture III-225
- Fiscal rules**, taxes, III-170-171; III-158; internal market III-172.2; monopolies, III-166.2
- Fisheries**, III-225-232; I-13.1; I-14.2; III-424
- Fitness**, freedom to provide services, III-141, III-144-150; see also Services
- Fixed prices** III-161.1a; agriculture III-231.3

- Fixing of prices in agriculture**, III-231.3
- Flag**, of the Union, I-8
- Flexibility clauses**, I-18; III-125.1;  
Passerelle, IV-444; I-40.7; I-55.4; Protocols N° 1 and N° 2
- Fluctuation margins**, normal Protocol N° 11, art. 3
- Food products**, list of, Annex I
- Foreign Affairs Council** I-40; I-24.3; III-296.1; see also ‘Union Minister of Foreign Minister’ and ‘Initiative’
- crises management, III-307
  - European External Action Service, III-296.3; III-313.3;
  - initiatives (proposals), I-28.2; I-40.6; I-41.4; III-293.2; III-296.3; III-299.1; III-300.2b; III-302; III-307.1; III-313.3; III-322; III-325.3 (recommendation); III-325.9; III-329.2; III-396.1; III-420.2
  - international agreements concerning the common foreign and security policy, III-325.3
  - passerelle, III-300.3
  - president of, I-28.3; III-296.1
  - qualified majority, III-300.2
  - secure consistency between different policies, III-292.3
  - solidarity clause, III-329
  - special representatives, III-302
  - structured cooperation, III-312.3
  - unanimity, III-300.1
  - upstart fund, III-313.3 (2<sup>nd</sup> part)
  - urgent financing, III-313.3
  - urgent meetings, III-299
  - veto, III-300.2 (2<sup>nd</sup> part)
  - voting rules, III-300
- Foreign and security policy**, I-12.4; I-16; I-22.2; I-28; I-40-41; III-294-312
- Foreign investments**, III-314; III-315
- Foreign nationals**, III-140
- Foreign policy**, III-294-312 III-293.2, see ‘Union Minister of Foreign Affairs’ and ‘Foreign Affairs Council’
- Foreign service**, see ‘European External Action Service’, III-296.3; Declaration N° 24
- Forests**, see Agriculture, III-225-232
- Formal notice**, letter of, (bringing Member State before EU Court), III-360-361
- Forms of legislative acts**, I-33-38
- Framework laws**, (presently Directives), I-33.1; I-34; e.g. III-210.2b; III-396  
areas where only framework laws can be adopted, III-138; III-140.2; III-141.1; III-147; III-174; III-210.4; III-270.2; III-271; III-362.3;
- Framework programme** and special programmes, III-251.1; III-252
- France** IV-440,  
French derogation transport, III-237  
French Guiana, IV-440.2  
French overseas departments III-424  
voting weights and seats, Protocol N° 34
- Fraud**, I-53.7; III-415
- Free establishment**, III-137-143

- Free movement**, III-130.2; III-133-160; III-172.2; III-265  
border control between UK and Ireland, Protocol N° 18  
capital and payments, I-4, III-156-160  
establishing undertakings, III-137-143  
for OCT countries, III-290  
free settlement, III-125  
goods, I-4; III-151-155  
persons, I-4; II-105; III-133-136  
services, I-4; III-144-150  
transport, III-236-247  
workers, III-133-136
- Freedom of Information**, II-71
- Freedom to provide services**, III-141.1b; III-144-150, see Services
- Freedom, Security and Justice**, see ‘Area of’,
- Freedom, see Rights**
- Freedom**s, II-66-79; Preamble  
assembly and association, II-72  
business freedom, free establishment I-4; Preamble in Part II; II-75.2; III-137-143  
conduct a business, establish own undertaking, II-76  
exceptions, III-139; III-141.2  
derogations, III-139; III-141.2  
expression and information, II-71  
externally, III-292.1  
of thought, conscience and religion, II-70
- Freezing of assets**, III-160; III-322
- Frontiers**, area without internal frontiers, III-130.2; I-3; duties III-242; also see ‘Border control’
- Fruit and vegetables**, see Agriculture, III-225-232
- Full equality**, specific advantages, III-214.4
- Fund for Regional development**, III-221-224
- Fundamental freedoms**, I-4; I-9; II-112.3; II-113; in foreign relations III-292.1;
- Fundamental principles**, social security, III-210.5a
- Fundamental rights**, I-4; see also Rights  
Charter of fundamental rights, Part II  
citizenship of the Union, I-10  
foreign relations, III-292.1  
general principles in EU law, I-9  
interpretation, II-112.3 and II-113
- Fundamental social rights** for workers, III-209; II-87-93

## G

- Gambling halls**, freedom to provide services, III-141, III-144-150; see also Services
- General advocates**, III-354-357; Protocol no 3 art. 3, 6, 8, 9, 14
- General and final provisions**, IV-437-448
- General Court**, I-29; III-356-359

- General economic interest**, public companies, III-166.2  
**General legal acts**, applicability III-378  
**General Secretariat of the Council**, III-341.4; III-344.2  
**General Affairs Council**, I-24.2  
**General Council**, of the ECB III-199  
**General voting rules**, EP III-338, see Voting  
**Generalised system of preferences**, III-315  
**Genetic engineering**, see Agriculture, III-225-232  
**Genetic manipulation**, limitations on, II-63.2b, d  
**Genetically modified organisms (GMO)**, see Agriculture, III-225-232  
**Geneva Convention** (on the status of refugees), II-78; III-266.1  
**Geographical and demographic diversity**, Declaration N° 3 concerning article I-27 and I-28  
**Germany**
  - aid to East Germany, III-167.2c; III-243
  - voting weights in the Council and seats in the EP, see Protocol N° 34; Declaration N° 40**Gibraltar**, Protocol N° 8, art. 6; Declaration N° 45  
**Glasses**, free movement of goods and freedom to provide services III-141, III-144-145, III-153; see also Services  
**GMOs (genetically modified organisms)**, see Agriculture, III-225-232  
**God**, see Religion and the Preamble  
**Governing Council and Executive Board**, ECB's, III-187.1; III-382; III-383  
**Grand Chamber**, Court, III-353  
**Greece**
  - Industrial policy, Protocol N° 8 art. 24
  - voting weights and seats, Protocol N° 34**Greenland**
  - customs free access against fishing rights, Protocol N° 30
  - OCT agreement III-286.1
  - possible membership IV-440**Growth and Stability Pact**, Declarations N° 17, see also 'Euro' and 'Economic and Monetary Union'  
**Guadeloupe**, IV-440.2  
**Guarantee fund** for agriculture, III-228.3  
**Guarantees**, special in agriculture, III-155.3  
**Guidelines**
  - area of freedom, security and justice, III-258
  - Commission's work, I-27.3
  - economic, I-15.1; III-179.2;
  - EFSP, I-40.2; III-294.3a, III-295 1
  - employment, I-15.2; III-206.2
  - euro-countries (euro zone), III-194.1b
  - human health, III-278.2
  - industry, III-279.2
  - internal market, III-130.3
  - judicial cooperation, European Council's programme for, III-258
  - negotiation on withdrawal, I-60.2
  - research and technological development, III-250.2

social policy, III-213  
Trans-European Networks (TEN) III-247.1a and 2

## H

- Handicap benefits**, III-136; III-210.1c; III-210.1h  
**Handicapped**, II-81; II-86; III-118; III-124  
**Harbour services**, freedom to provide services, III-141, III-144-150; see also Services  
**Harmonisation** of Member States laws and administrative rules, social policy and labour market, III-210.2a  
    criminal laws, III-271.2  
    defence, European Agency for defence capabilities development, research, acquisition and armaments, III-311.1b  
    environmental policy, III-172.4-10; III-233.2  
    European Armaments, Research and Military Capabilities Agency, III-311.1b  
    internal market, III-172-173  
    laws, III-172 –176  
    living and working conditions, III-209(1)  
    no harmonisation, I-12.5; see also ‘Exclusion of harmonisation’  
    social policy (by minimum standards), III-210.2b  
    social systems, III-209(3)  
    taxes, indirect VAT and duties, III-171  
    VAT, III-171  
**Health care**, II-95  
**Health**, III-278  
    Blood, III-278.4a  
    children, II-92  
    cross frontier health threats, III-278.1b and 4d  
    cross-border areas, III-278.2  
    establishment, III-137 and III-140  
    freedom to provide services, III-144-150  
    health care, II-95  
    health in environmental clause for the internal market, III-172.3, 6,8  
    human health as horizontal task, III-117  
    human health as objective for consumer protection, III-235.1b  
    human health as objective for environment policy, III-233.1b  
    incentive measures, III-278.5  
    information about drug-related health damage, III-278.1 (last sentence)  
    information and health education, III-278.1  
    introducing stricter rules, III-172.5  
    keeping stricter rules, III-172.4  
    major health scourges, III-278.1a  
    majority decisions for laws, III-278.4  
    medicinal products and medical devices, III-278.4c  
    Member States responsibility, III-278.7  
    organs and substances of human origin, III-278.4a

- protection and improvement of human health as coordinating competence, I-17
- shared competence for “common safety concerns in public health matters, for the aspects defined in Part III”, I-14.2k, otherwise coordinating competence, I-17a
- stricter national rules, III-278.4a
- third countries and international organisations, III-278.3
- trade, III-154;
- workers health, II-91, III-210.1a
- workers, III-133.3; III-290
- Health insurance**, III-136, III-210.1c, III-213.d
- Health services**, freedom to provide services, III-141, III-144-150; see also Services
- Heating**, freedom to provide services III-141, III-144-150; see also Services
- Helsinki**, final act III-292.2
- Heritage** (culture), Preamble in Part I; I-3.3; Preamble in Part II; III-280.1, 2b
- High Representative for the Common Foreign and Security Policy**, terms of office Protocol N° 34, art. 5
- HIV/AIDS**, see also ‘Services’ and ‘Health’
  - Combating major health scourges and serious cross border threats, III-278.1, 5
- Home service**, freedom to provide services, III-141, III-144-150; see also Services
- Hospital services** see also ‘Services’ and ‘Health’
  - access to services of general economic interest, II-96; III-122; III-141
  - ban on discrimination according to nationality and residence, III-149
  - ban on restrictions, free exchange of services, III-144
  - medical treatment in other Member States, III-144-145, III-153
  - services of general economic interest, III-122
- Hotels and restaurants**, freedom to provide services, III-141, III-144-150; see also Services
- Housing assistance**, II-94.3
- Human dignity**, I-2; Preamble of Part II; II-61; III-292.1
- Human rights**, I-2; I-3.4; I-9.2-3; Preamble of Part II; II-112.3; II-113; Part II, Titles I–IV
  - Accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms, I-9.2; III-325.6a; Protocol N° 32
  - externally, III-292.1 and 2b; Declaration N° 2 concerning art. I-9.2
  - Integrity of the person, II-63
- Humanitarian aid**, I-14.4; III-316-321; III-292.2d and g
- Humanitarian tasks**, III-309.1
- Hungary**, voting weights and seats, Protocol N° 34; III-157.1
- Hygiene**, III-213f
- Hymn** of the Union, I-8

## I

- Identity cards**, III-125.2
- Ignalina nuclear plant**, Declaration N° 35
- Immigration and asylum**, III-257.2; III-265-268
  - UK’s position, Protocol N° 19
- Immigration**, III-257.2; III-265-268
- Immunities**, III-434; Protocol N° 7

for MEP's, Protocol N° 7, art. 7-9  
for officials of the Union, Protocol N° 7, art. 11-15

**Impartial tribunal**, II-107

**Implementation of**

aims, programmes, finance in environment, III-234  
by Council, I-37.2; I-40  
by Member States, I-5.2; I-37.1  
by the Commission, I-26.1; I-37.2  
common foreign and security policy, I-40.3  
contraventions, III-333; III-335  
defence, I-41.4  
solidarity, procedure, III-329  
through delegated regulations, I-36  
through regulations or decisions, I-37.4  
Union law, I-37

**Incentive measures** III-124.2; III-207; III-278.5; III-282.4a

**Income** of the Union, own resources I-54

**Independence**

advocates general, III-354(2), 355(1)  
Commission, I-26.4, 7; III-347(1)  
Court of Auditors, III-385.1; III-384.3;  
data control I-51.2; II-68.3; Declaration N° 12 art. 8  
ECB I-30.3; III-188  
Eurostat, III-429  
judges, I-29.2; III-355(1); III-356(2); III-359.4  
ombudsman, I-49

**Indirect taxes**, III-170;

harmonisation, III.171

**Industrial policy, I-17b; III-279**

Czech steel industry, Protocol N° 9, art. 42  
Greece, Protocol N° 8, art. 21  
Ireland, Protocol N° 8, art. 14  
nuclear power plant in Lithuania, Protocol N° 9, art. 52-56  
nuclear power plant in Slovakia, Protocol N° 64-67  
Polish steel industry, Protocol N° 9, art. 63  
Portugal, Protocol N° 8, art. 41

**Industry**, I-17b; III-279

**Inequalities between women and men**, III-116

**Information and consultation**, II-87

**Infringement**

of competition rules, III-165.1-2  
of EU law, III-361; III-365.2; III-367  
of national laws, III-158.1b;  
protocol on subsidiarity and proportionality, art. 5, 7

**Infringement procedure**

Case by the Commission, III-360  
Case by a Member State, III-361

**Initiative**, monopoly, I-26.2

**Initiative**, right to

*Main rule for legislation: monopoly of the Commission, I-26.2*

*In Justice and Home affairs, ¼ of Member States may also initiate laws, I-34.3; III-264b*

*In Foreign Affairs, the Union Minister of Foreign Affairs, but also:  
a double initiative right from the Union Minister with the Commission,  
the Union Minister without the Commission,  
the Union Minister after having consulted the Commission,  
the Commission after having consulted the Union Minister of Foreign  
Affairs;  
and a triple right of initiative with the Member States, or the Commission  
and/or the Union Minister of Foreign Affairs (look in the different  
articles)*

CFSP and CSDP initiatives, I-40.6, I-41.4, III-299

definition of CFSP and CSDP by European Council, I-24.3; I-40.2;  
I-41.2

financing of CFSP initiatives, III-313.3

Foreign Affairs Minister

initiatives or proposals, I-40.6; I-41.4; III-296.1; III-299,  
III-302

Foreign Minister OR Commission proposals, III-325.9  
recommendations, III-325.3;

Foreign Minister WITH Commission's support or joint proposal,  
I-40.6, III-322

Only the Union Minister for Foreign Affairs AND the  
Commission together: boycott, III-322

Only the Union Minister for Foreign Affairs: special  
representatives, III-302

The Council, Union Minister for Foreign Affairs OR the Political  
and Security Committee, III-307.1

Triple initiative: 1. Member States, 2. Union Minister of Foreign  
Minister and 3. Union Minister of Foreign Minister  
supported by the Commission: Foreign and Security policy,  
III-299.1; III-300; rapid finance,  
III-313.3; (recommendation); III-396.1; III-420.2

Union Minister for Foreign Affairs OR the Commission:  
recommendations to the Council about international  
agreements, III-325.3; suspension of agreements,  
III-325.9

single Member State initiatives, I-40.6; I-41.4, III-299

citizens' initiatives, I-47.4

Commission proposals and initiatives, I-26.1-2, I-34.1, III-396.1

special qualified majority when no proposal, I-25.2; I-44.3(4);  
I-59.5(3)

Committee of the Regions, initiatives and opinions, III-387(2); III-388(3)

Court of Justice requests, I-34.3; III-359.1; III-381; III-396.15

President of the Court of Justice initiatives, III-357(2)

Economic and Financial Committee initiatives, III-192.2

- Economic and Social Committee, initiatives and opinions, III-391(2); III-392(1)
- Employment Committee initiatives, III-208.b
- European Central Bank recommendations, I-30.5; I-34.3; III-185.4(2); III-187.3b; III-326.1 and 2
  - President and members of the Executive Board initiatives, III-383.3(2)
- European Council initiatives, I-24.3; I-40.2; I-41.2, III-300.2b
  - President of the European Council, initiatives, I-22.2
- European Investment Bank requests, I-34.3, III-393; III-396.15
- European Parliament initiatives, I-20(2); I-34.3; I-59.1; III-304.2; III-330.1(2) and 2; III-396.14; III-333(3); III-335
- Foreign Affairs Minister
  - proposals or initiatives, I-28.2, I-40.6, I-41.4, III-III-293.2; III-296.3; III-299.1; III-300.2b; III-302; III-307.1; III-313.3; III-322; III-325.9; III-396.1; III-420.2
  - special qualified majority when no proposal, I-25.2; I-44.3(4); I-59.5(3)
  - recommendations, III-325.3
- Justice and Home Affairs initiatives
  - of a group of Member States, I-34.3; I-42.3; III-264(b), III-396.15
  - of the Commission, III-264(a), III-396.2
- Member States initiatives or requests
  - of a group of Member States, I-34.3; I-42.3; I-59.1-2; III-264.b, III-396.15
  - of single Member States, I-40.6; I-41.4; III-165.1; III-299.2; III-310.2; III-447
- Monopoly of the Commission's right of proposal, I-26.1, I-34.1, III-396.2
- Ombudsman initiatives, III-335.1(2)
- Political and Security Committee initiatives, III-307.1
- Social Protection Committee initiatives, III-217c
- Inquiry committee**, III-333
- Institutional frame**, I-19
- Institutional provisions**, III-192-193
- Institutions**, I-19-32; III-330-385;
  - location of seats, III-432; Protocol N° 6
- Instruments of ratification**, IV-447
- Insurance**,
  - liberalisation III-146.2;
  - supervision, III-185.6; Declaration N° 21
- Integration** of persons excluded from the labour market, III-210.1h
- Intellectual property**, II-77; III-176
  - Competence of the Court, III-364
  - Trade with, III-315.1,4
- Interest-rate subsidy**, III-247.1c
- Interests**, III-198.1, Protocol N° 11; see also Euro
- Intergovernmental conference**, IV-443
- Inter-institutional agreements**, III-397
- Internal borders** with no control, III-265.1a
- Internal disturbances** for the internal market, III-131

- Internal legislation**, labour market, III-134c
- Internal market**, I-3.2; I-14.2, III-130–176
- aids granted by Member States, III-167–169
  - approximation of legislation, III-172–176
  - competition rules, III-161–169
  - establishing and functioning, III-130–132
  - exclusive competence of the Union, I-13.1
  - fiscal provisions, III-170–171
  - free movement of capital and payments, III-156–160
  - free movement of goods, III-151–155
  - free movement of persons and services, III-133–150
  - free movement of workers, III-133–136
  - freedom of establishment, III-137–143
  - freedom to provide services, III-144–150
  - objective of the Union, I-3.2
  - restrictions of the principles, III-133.3; III-154; III-172.4 and 5;
  - shared competence of the Union, I-14.2a
- Internal taxes and duties**, III-170.1
- International agreements**, III-323–326
- area of freedom, security and justice, III-257–277; III-325 Declaration N° 25
  - development policy, III-317.2
  - economic, financial and technical cooperation, III-319.3
  - environmental issues, III-233.4
  - exclusive competence, I-13.2
  - humanitarian aid, III-321.4
  - respect of protection level in the Charter, II-113
  - trade agreements, III-315
- International development**, cooperation, III-317–318
- International law**, I-3.4; II-109.2; II-113; III-265.3; III-292.1
- International operation**, III-297
- International organisations** III-323–328; See also III-201.2a; III-233.4; III-249.b; III-252.4; III-278.3; III-280.3; III-282.3; III-283.3; III-296.2; III-301.2; III-303; III-305; III-306; III-315.3; III-316.2; III-317.2; III-318; III-319.3; III-321.4,7
- relations between the Union and international organisations, III-323–328
- International transport**, III-236.2a
- Internet services**, freedom to provide services III-141, III-144–150; see also Services
- Interpretation of the Charter** of Fundamental Rights, II-111–114; Declaration N° 12
- asylum – special cases: UK, Denmark, Declaration N° 12 art 18.
  - Charter cannot be interpreted as restriction, Declaration N° 12 art. 53, 54
  - conscientious objection, Declaration N° 12 art. 10.2
  - forced labour prohibited, exception, Declaration N° 12 art 5.2
  - freedom of assembly and associations, limitation, Declaration N° 12 art 12
  - freedom of expression, limitation, Declaration N° 12 art. 11
  - freedom of the art, limitation, Declaration N° 12 art 13
  - freedom to conduct business, national laws recognised, Declaration N° 12 art. 16
  - freedom to found educational establishments, Declaration N° 12 art 14
  - freedom to manifest belief, limitation, Declaration N° 12 art. 10.2
  - human dignity, Declaration N° 12 art 1

patent and trademark rights, Declaration N° 12 art. 17  
personal integrity in connection to medicine and biology, Declaration N° 12 art. 3  
pregnant workers, Declaration N° 12 art. 33.  
Privacy, exceptions, Declaration N° 12 art 7  
protection of personal data, independent control, Declaration N° 12 art. 8  
right to liberty, exceptions, Declaration N° 12 art 6  
right to life, exceptions, Declaration N° 12 art. 2  
right to property, deprived for public interest, Declaration N° 12 art. 17  
services of general economic interests, Declaration N° 12 art. 36  
social and housing assistance, Declaration N° 12 art. 34.  
torture and inhuman treatment, Declaration N° 12 art 4  
under-represented sex, Declaration N° 12 art 23.

**Invalidity**, III-133.2; III-210.1c; III-210.1h

**Investigation**

auditing of accounts, I-31.2; III-384.1; III-409  
budget situation, III-184.2; III-198.1  
convention, IV-443.2  
distorting effects, III-132  
enhanced cooperation, III-420  
examined before a court, III-333  
national derogations, III-172.7-8

**Investment**

direct, III-157.2  
foreign direct, III-314-315  
in property, III-157.1

**Investment Bank** Protocol N° 5, see also ‘European Investment Bank’

**Ireland**

Abortion, Protocol N° 9, art. 62  
border control between UK and Ireland, Protocol no 18  
policy on industrialisation, Protocol N° 8, art. 14  
voting weights and seats, Protocol N° 34

**Island states**, Declaration N° 19

**Isle of Man**, Protocol N° 8, art. 8-13; IV-440.6C

**IT**, freedom to provide services, III-141, III-144-150; see also Services

**Italy**

economic policy, special economic programmes, Declaration N° 41  
voting weights and seats, Protocol N° 34

## **J**

**JHA**, see Area of freedom, security and justice

**Job creation scheme**, III-204.2; III-206.2-4

**Judges**, also see Court and particularly Protocol N° 3

decisions, Protocol N° 3, art. 17  
dismissal, Protocol N° 3, art. 6  
independence, III-355; I-29.2

- immunity, Protocol N° 3, art 3
- legal proceedings, Protocol N° 19-46
- number of, I-29.2; Protocol 3, art. 48
- replacement of judges, Protocol N° 3, art 6, 9
- resignation, Protocol N° 3, art 5, 14
- terms of office, III-355–356
- Judgment**, compliance with and penalty payment, III-362
  - mutual recognition of, III-257.4; III-269.1
- Judicial and extrajudicial decisions**, mutual recognition of, III-257.4; III-269.1
- Judicial cooperation in criminal matters**, III-270-274
- Judicial Network**, European, III-273.2b
- Judicial powers**
  - case law remains source of interpretation of Union law, IV-438.4
  - EU Court is supreme interpreter of Union law, III-365; III-375
- Justice and Home affairs**, I-42; III-257-277
- Justice** in the judicial system, II-107-110

## K

- Kaliningrad**, Protocol N° 9, art. 57-60; Declaration N° 36
- Kidnapping**, III-269-274

## L

- Labour law**, III-210.1a-g, III-213b; Declaration N° 18
- Labour market**, III-209-219; also see III-203; III-208; III-210.1h-i; III-267.5
  - vocational training, III-283
- Labour market policy**, III-213
  - equal pay, III-214
- Laeken Declaration**, the EU Prime Ministers call for a Convention to draft this Constitution, see [www.EUABC.com](http://www.EUABC.com)
- Lamfalussy**, procedure Declaration N° 8
- Land use**, III-234.2b.iii
- Languages**
  - administration, right to write in own language to, I-10.2d; II-101.4; III-128
  - diversity, I-3.3; II-82
  - education III-282.2a
  - in Court (French), Protocol N° 3 art. 64 and the Rules of Procedure for the Court of Justice and the General Court
  - minority languages, I-2
    - official languages, III-128; IV-448.1; Protocol N° 9, art. 9
- Latvia**, voting weights and seats, Protocol N° 34
- Law and order** in Member States, III-262
- Laws after consultation**, e.g., III-210.2b
- Laws, European** - former regulations, I-33.1; I-34; I-38, III-396; see also ‘Initiative’

- areas where only laws and no framework laws can be adopted (all in Part III), III-160; 176; 179.6; 184.13; 185.6; 187.5; 219; 223; 224; 234.3; 251; 252.2 and 3; 273.2; 274; 276.2; 285.2; 315.2; 321.5; 330.2; 331; 333; 335.4; 359; 363; 364; 381; 393; 398.2; 402.4; 404; 412; 427
- delegated laws, I-36
- implementing laws, I-37
- Laws, European Framework, I-33; see European framework laws
- legislative procedure, III-396
- Legal acts**, I-33-34
  - continuity, IV-438.3
  - decisions, I-33
  - delegated regulations, I-36
  - general legal acts, applicability, III-378
  - implementing acts, I-37
  - laws and framework laws, I-33
  - legislative legal acts, I-34
  - non-legislative acts, I-35
  - opinions, I-33
  - principles, I-38
  - recommendation, I-33
  - regulations, I-33
- Legal capacity**, III-426
- Legal consultancy**, freedom to provide services, III-141, III-144-150; see also Services
- Legal continuity**, IV-438
- Legal effects**, III-161.2; III-366
- Legal instruments**, see 'Legal acts'
- Legal personality**, I-7; I-30.3; III-393
- Legal personality**, of the Union, I-7; ECB I-30.3;
  - Investment Bank, III-393
- Legal safeguards**, III-160
- Legal systems**, III-257.1; I-11; I-38-39
- Legality of laws** and other legal acts, III-365
- Legality principle** I-11.2; in the Charter II-109
- Legislation**, openness in Council, I-24.6; see also 'Initiative, right to'
- Legislative acts**, I-33-34; I-38
  - different types for, I-33-38
  - openness in decision making, I-24.6
  - publication, I-39;
  - transparency III-399
- Legislative Council**, I-24.6
- Legislative powers** (in the frame of the ordinary legislative procedure of III-396)
  - Council decides
    - by qualified majority, I-23.1, I-25, III-396.4,5,8,10,13 (voting weights until 2009: Protocol N° 34)
    - by unanimity, III-395.1, III-396.9
  - Commission proposes, I-26.2, III-396.2
  - European Parliament
    - adopting its position, III-396.3

approval:

- no need of approval III-396.7a,
- need of approval III-396.13

proposing amendments to proposal by absolute majority of its members, III-396.7c

rejecting proposal by absolute majority of its members, III-396.7b

**Legislative procedure** I-34; III-396;  
publication III-399

**Leisure services**, freedom to provide services, III-141, III-144-150; see also Services

**Leisure-time activities**, follow rules on free movement, III-133.2, see also Services

**Less developed areas**, III-241.2; III-394a

**Letter of formal notice**, bringing Member State before EU Court, III-360-361

**Lex Austria**, I-59

**Liability**,

contractual and non-contractual liability, III-431

damages by the Union, II-101.3

**Liberal professions**, III-145d

**Liberalisation of** (for Freedom to provide services, see III-144-150)

banking and insurance services, III-146.2

capital, unanimity for steps backwards, III-157.3

enhanced liberalisation beyond the extent required, III-148

services, III-148

specific services, III-147

trade, III-315

transport, III-146.1, see Transport

**Life**, right to, II-62

**Lithuania**

nuclear plant in, Protocol N° 9, art. 52-56

voting weights and seats, Protocol N° 34

**Living and working conditions**, III-209-210

**Living standard**, III-134d

**Loans**, III-182; III-183; III-201.2c; III-247.1.c; III-394

**Local and Regional authorities**

energy supply, III-234.2c

hospital services, see 'Services' and 'Health'

legal bases for potential service directives, (III-150) III-141; (III-146) III-236;

(III-146) III-156; (III-147); III-172-173

physical planning, III-234.2b (i)(iii)

public monopolies, III-165-166

public production, III-165-166

respect of the local self government, I-5.1

see also Services

transport policy, III-236-245

**Location** of seats for European institutions, Protocol N° 6

**Locations** for the European institutions, III-432; Protocol N° 6

**Lockout**, III-210.6

**Loyalty principle**

loyal cooperation, I-5.2  
in foreign policy, I-40

## M

**Madeira**, III-424; IV-440.2

**Maintenance services**, freedom to provide services, III-141, III-144-150; see also Services

**Majority voting**

“super” qualified majority in the Council or the European Council, I-25.2(2)  
enlarged qualified majority in the Council or the European Council, I-25.2 (2)  
from unanimity to qualified majority voting in the Council (passerelle), IV-444;  
I-40.7; I-55.4  
general rule in the Commission, III-351  
general rule in the Council, I-25.2; III-343  
general rule in the Court of Auditors, III-384.4.3  
general rule in the European Council, I-21.4  
general rule in the European Parliament, III-338  
motion of censure, III-340  
qualified majority, I-25; I-23.3; also see under the different institutions  
qualified majority, I-25; see also I-23.3  
qualified majority until 2009, Protocol N° 34 on transition provisions

**Maladministration**, I-49; II-103; III-333; III-335

**Malta**,

abortion, Protocol N° 9, art. 62  
neutrality, (Declaration on Malta’s neutrality not annexed to the Constitution)  
property, Protocol N° 9, art. 61  
voting weights and seats, Protocol N° 34

**Management**

ECB’s III-187; III-382.2; III-383.3;  
freedom to provide services, III-141, III-144-150; see also Services

**Market control**, III-161b

**Market organisation** for agricultural products, III-228

**Market**, see ‘Internal Market’

**Market sharing**, III-161c

**Marriage**, II-69

**Martinique**, IV-440.2

**Maternity benefit**, III-136; III-210.1c, i

**Maternity leave**, II-93.2; II-94

**Mayotte**, status, Declaration N° 28

**Means to pursue objectives of the Union**, I-3.5

**Media freedom** and pluralism, II-71.2

**Medical and pharmaceutical professions**, III-141.2

**Medical treatment**, II-95

**Member States**

adjustment of national monopolies, III-155

- assistance of the Union, I-5.2
- closer co-operation on defence, I-41.5
- common values, I-2; I-9.3; I-58.1
- conferral of competences to the Union, I-1; I-11.1
- distorted conditions of competition, III-138.2h, III-151.6c
- derogations, III-198, III-202, III-199, III-197, III-200, III-201
- enhanced cooperation, I-44; III-416-III-423
- failure to fulfil obligations, III-360-III-362
- interests when their social security system is affected, Declaration N° 14
- jurisdiction over disputes between Member States, III-375.3
- mutual admissibility of evidence, III-270.2a
- mutual assistance in case of terrorism or disaster, I-43; III-329
- mutual recognition of
  - diplomas, III-141.1a
  - judgements, III-257.4; III-269.1; III-270.1
- negotiation of international agreements, III-326.4
- new Member States, Protocol N° 9
- operational co-operation on internal security, III-261
- principle of subsidiarity, I-11.3
- promotion of trade with third countries, III-151.6a
- relation between the Union and Member States, I-5; I-37.1; I-40.5; I-42.2-3
- right of initiative
  - of a group of Member States, I-34.3; I-42.3; I-59.1 and 2; III-396.15
  - of a single Member State I-40.6; I-41.4; II-165.1; III-299; III-310.2; III-447
- operational capabilities, I-42.1
- role in services of general interest, III-122
- shared competence between Union and Member States, I-15
- support of Union foreign policy, I-16.2; I-40.1
- Member States** with derogation, III-198; III-202; III-199; III-197; III-200; III-201
- Membership** of the Union, I-1.2; I-58-60
- Men and Women**, equality between, I-2, II-83
- Migrant workers**, social security, III-136.1
- Migration**, III-257.2; III-267
- Military assistance**, I-41.7; I-43; III-309
- Military**, I-41; I-43; III-309-12;
  - improve military capabilities, I-41.3
  - make military capabilities available to the Union, I-41.3
  - structured cooperation, Protocol N° 23
- Military service**, see ‘Defence policy’
- Milk quotas**, III-228.2; see also Agriculture
- Minimum harmonisation** of sanctions, III-271
- Minimum rules**
  - criminal law, III-279
  - procedural law, III-270
  - social law, III-210.2b
- Minimum salary**, III-214.2
- Minorities**, the Sami people, Declaration N° 32

- Minority rights**, I-2; II-82
  - Sami people, Declaration N° 32
- Misuse of dominant position**, III-162
- Monetary Union**, also see Euro
  - competences of non-Euro zone members, I-30.4
  - excessive budget deficit procedure, III-184
  - Euro group, Protocol N° 12
  - Member States being part of the Euro-zone, III-194-196
  - Member States not fulfilling the conditions, III-197-202
  - Monetary Union include single currency, III-177.2
- Money laundering**, III-271.1
- Monitoring** of international situation, III-307
- Monopolies**, public, III-155; competition rules III-166
- Morality**, III-154
- Motherhood allowance**, III-136; III-210.1c, i
- Motion of censure** to The Commission, I-26.5; III-340
- Motto** of the Union, I-8
- Movement**, freedom of movement and of residence, II-105, see also Employment
- Multiannual Financial Framework**, I-55; III-402
- Multilateral surveillance**, III-179.3,5-6
- Multinational forces**, I-41.3
- Municipal elections**, II.100
- Mutual**
  - assistance in economic difficulties, III-201.2
  - defence, I-41.7; I-43
  - financial guarantees, III-183
- Mutual recognition of**
  - diplomas, III.141.1a
  - judgments, III-257.4; III-269.1

## N

- Narcotics**, III-271.1; health III-278
- National adaptation**, III-189
- National approval**, III-129
- National authorities**, temporary competence in competition cases, III-164
- National central banks**, III-181, III-188
- National competition law**, III-163.e
- National constitutions and the Constitution for Europe**
  - conflicts are resolved by the EU Court, III-375.2
  - obligation of loyalty, I-5.2
  - primacy of Union law, I-6;
  - respect of national identities and national constitutions, I-5.1, II-112.4, II-113
  - Union as a legal personality, I-7
- National courts**, III-375
- National criminal law**, III-257.3; III-271.2; III-262; III-377

- National experts**, Declaration N° 8 concerning I-36
- National identities**, respect of, I-5.1; Preamble
- National implementation of Union law**, III-285; I-6; III-375
- National laws**, I-6; I-42.1a; I-52; II-69; II-70.2; II-74.3; II-76; II-87; II-88; II-90; II-94; II-95; II-96; II-99.1; II-102; III-163.2e; III-164; III-257.3; III-262; III-271.2; III-279.3; III-369; III-377; III-401; (Changed Protocol N°5 on Denmark's position; Declaration N°1 concerning I-6)
- National legislation** III-134bc; III-138.2c; III-189; III-198
  - consumers, III-235.4
  - environment, III-234.6
  - health, III-278.4
  - stricter national rules, III-172.4.5; III-270.5; III-234.6; III-235.4
- National market organisation**, agriculture, III-231.1
- National measures**, distorted competition, III-132
- National parliaments**
  - control with the principle of subsidiarity, I-11.3
  - Eurojust, III-273.2
  - Europol and Eurojust, I-42.2
  - Europol, III-276.2
  - information of, flexibility, I-18.2
  - internal security, III-261
  - Lex Austria, I-59.2
  - participation in legislation, III-259; III-273.2; 276.2
  - principles of subsidiarity and proportionality, use of, Protocol N° 2
  - revision of the Constitution, IV-443
  - role, Protocol N° 1
  - simplified revision, IV-444
  - surveillance of justice and home affairs, II-259
  - to be informed, I-18.2; I-42.2; I-59.2; III-261; IV-443; IV-444
  - veto, IV-444.3
- National treasures**, III-154
- National treatment for capital investments**, III-143
- National rites and traditions**, animal welfare, III-121
- Nationality**
  - no discrimination on the grounds of, I-4.2; II-81.2; III-123
  - services, III-149
  - workers, III-133.2
- NATO**, North Atlantic Treaty Organisation, I- 41.7; Protocol N° 23 on permanent structured military cooperation
- Natural disasters**, III-167.2a; III-292.2g,
- Natural resources**, III-233.1c
- Necessary capability**, defence, III-310.1
- Negotiating international agreements**, III-325.3
- Neighbouring countries**, I-57
  - small neighbouring states, Declaration N° 11
- Netherlands**, III-286; IV-440; IV-441
  - net payment to EU budget, Declaration N° 42
  - Netherlands Antilles and/or Aruba, Declaration N° 43
  - OCT agreements, III-286

regional union, Benelux, IV-441  
scope, IV-440.7  
voting weights and seats, Protocol N° 34

**Net-payment**

Dutch contribution to the Union budget, Declaration N° 42

**Neutrality**, actual word not mentioned in the Constitution; see also ‘Defence policy’

NATO and defence issues, Protocols N° 23-24; I-41.7  
respect of neutrality (special characteristics in CFSP), I-41.2,7  
solidarity

in case of armed aggression, I-41.7

in case of terrorism, I-43; III-329.1

**New Member States**

accession to international agreements, Protocol N° 9, art. 5  
accession to the European Economic Area agreement, Protocol N° 9, art. 6,3  
application of Schengen-rules, Protocol N° 9, art 3  
budgetary compensation by the Union, Protocol N° 9, art. 18-19  
contribution to the Union budget, Protocol N° 9, art. 17, 20  
nuclear plants, Declarations N° 35; N° 37  
participation in the Economic and Monetary Union, Protocol N° 9, art. 4  
possibility for protective measures up to 2007, Protocol N° 9, art. 26  
transition facility to new Member States, Protocol N° 9, art. 23-24  
withdrawing from free trade agreements, Protocol N° 9, art. 8

**Non-confession**, I-52.2

**Non-discrimination**, I-2; I-4; II-81; III-123; III-155; III-288.5; III-321.2; III-416; see also

Discrimination

equal salary III-214;  
humanitarian aid, III-321.2  
nationality and citizenship, III-123-129

**Non-legislation acts**, I-35

**Non-participating Member States**, III-417; euro III-197

**Non-refoulement principle**, III-266.1

**Non-State entities**, terror, III-160 (1)

**North Atlantic Treaty Organisation**, see NATO

**Nuclear Energy**, Protocol N° 36

**Nuclear plants** in new Member States, Declarations N° 35 and N° 37

**Nuclear-treaty**, Protocol N° 36; Declaration N° 44

## O

**Objectives** of the Union, I-3

**Obligation of aid**, solidarity clause like NATO/WEU, art. 5, I-41.7

**Occupational accidents** and diseases, III-213.e

**Occupational diseases**, III-213e

**Occupational mobility**, III-219.1

**OCT**, see ‘Overseas Countries and Territories’

**Offences and sanctions**, minimum rules, III-271.2

- Official languages**, IV-448; Declaration N° 29
- Officials**, III-427;  
    secrecy, III-430
- Old age pension**, III-136; III-210.1c
- Ombudsman**, I-10.2d; I-49; II-103; III-128  
    election of, III-335
- Open method of Coordination** (not mentioned directly in the Constitution)  
    area of freedom, security and justice, III-257  
    employment, I-15.2; III-203; III-204; III-208  
    industry, III-279.1  
    public health, III-278.1  
    research and technological development, III-250  
    social policy, III-210.2; III-213  
    trans-European network, III-247.3
- Open**, efficient and independent administration, III-398
- Operational Union actions**, III-297
- Opinions**, I-33.1; I-35  
    civil society, I-47; III-390  
    Commission, III-184.3 and 5; III-202.3; III-213; III-335.4; III-360-III-361;  
    III-396.7c, 9 and 15; III-404.1; III-419.2  
    Committee of the Regions, III-388  
    Court of Auditors, III-384.4  
    Court of Justice, III-325.11  
    definition of, I-33  
    Economic and Financial Committee, III-184.4; III-192.2a  
    Economic and Social Committee, III-388; III-392  
    Employment Committee, III-208b  
    European Central Bank, I-30.5; III-185.4; III-190.1c and 2  
    European Parliament, III-296.3; I-59.1  
    legality of, III-365.1; III-367  
    management and labour, III-211.3  
    Minister for Foreign Affairs, III-419.2  
    National Parliaments, role, see Protocol N° 1, art. 3,5 and 6  
    non-discrimination on grounds of (political) opinions, II-81  
    Panel on Candidates for Court of Justice and Advocate-General, III-357  
    Political and Security Committee, III-307  
    representatives of various economic and social sectors, III-390  
    Social Protection Committee, III-217  
    Standing Committee on Internal Security and the Political and Security Committee,  
    III-307.1; III-329.2
- Opticians**, freedom to provide services, III-141, III-144-150; see also Services
- Ordinary legislative procedure**, III-396 and e.g. III-210.3,
- Organisation for Economic Cooperation and Development (OECD)**, III-327.1
- Organisation for Security and Cooperation in Europe (OSCE)**, III-327.1
- Organised crime**, III-160
- Organs in the Union**, see Institutions
- Organs**, donation of human organs, III-278.7
- Overdraft**, III-181.1, III-183.1

- Overseas Countries and Territories**, (OCT), III-286-291, see also Greenland  
association, III-286  
customs, III-288  
decision making (unanimity), III-291  
discrimination goods, III-288.5  
European Parliament consulted, III-291  
goods from third countries, III-289  
trade, III-287  
workers, III-290
- Own initiative**, see Initiative

## P

- Pacific Financial Community**, Franc System (CFP-franc), Protocol N° 16
- Paid leave**, II-91.2; III-215
- Panel**, III-356-III-357
- Paris-charter**, III-292.2
- Part time work**, III-210.b  
agreement of social partners, III-III-212
- Participatory democracy**, I-47
- Parties at Union level**, I-46.4; II-72.2; III-331
- “Passerelle”** (change from unanimity to qualified majority and from special legislative procedure to general legislative procedure, without amending the Constitution formally):  
**General** for the whole of Part III; IV-444; I-40.7; I-55.4;  
**Special** passerelles  
cooperation in civil matters, III-269.3 (2nd part)  
cooperation in criminal matters, III-270.2d; III-271.1 (3); III-271.2; III-274.4  
enhanced cooperation, IV-422  
environment, III-234.2  
foreign policy, III-300.3  
social policy, III-210.3
- Passivity question**, failure of an EU Institution to act, III-367
- Passports**, III-125.2
- Patents**, II-77; III-176  
competence of the Court, III-364  
trade with, III-315.1,4
- Pay**, III-133.2; III-210.6  
limited Union competence for pay, III-210.6  
no discrimination on grounds of  
gender, II-83, III-214  
nationality, III-133.2  
remunerations and salaries of the members of the European institutions, III-400
- Pay in kind**, salary, III-214.2
- Payment of**  
benefits, social security, III-136.1b  
fines, III-362.3

**Payment/salary** to employees of the Union, III-400; III-427

**Payments**

balance of, III-177; III-201.1; III-202

free movement of capital, III-156-160

**Peace keeping**, I-41.1; III-309.1

**Peace**, Preamble in Part I; I-3.1 and 4; I-41.1; III-131; III-292.2c; III-309

**Pedagogical convictions**, II-74

**Penalty**, II-109; II-110; III-163.2a; III-184.10d; III-190.3; III-362-III-363; III-401

payment, III-362.3

**Pensions**, III-136; III-210.1c

**Pensioners**, III-136; III-210.1c

**Permanent representatives**, COREPER, I-41.6; III-344; I-24.5

**Permanent** structured cooperation, military III-312; Protocol N° 23

**Personal data**, protection of, I-51; II-68;

national security, Declaration N° 10

**Pesticides**

Chemicals

REACH (Registration, Evaluation and Authorisation of Chemicals), the

chemical directive, legal base, III-172

consumer protection, III-235

environmental competences, III-233-234

public health, III-278

**“Petersberg tasks”** III-309.1

**Petitions**, the right to petition, I-10.2d; II-104; III-334

**Pharmaceutical professions**, III-141.2

**Pharmacies**, freedom to provide services, III-141, III-144-150; see also Services

**Pharmacists**

freedom of establishment, III-141.2

free establishment after gradual removal of restrictions; service-directive,

III-141.1

**Physical persons/companies**, III-142

**Physical planning**, III-234.2b(i)

**Physical and mental integrity**, II-63

**Piece rates**, work at, III-214.2a

**Pillars**, today cooperation is divided in 3 pillars, these will disappear with the Constitution,

see [www.EUABC.com](http://www.EUABC.com)

**Placement service**, II-89, III-134a,d

**Plants**, III-154

**Plumbing**, freedom to provide services, III-141, III-144-150; see also Services

**Pluralism**

media, II-71.2

values, I-2

**Poland**,

steel industry, Protocol N° 9, art. 63

voting weights and seats, Protocol N° 34

**Police authorities**, III-257.3

Europol III-276

**Police cooperation**, III-275-277

- Europol I-42.1c; III-273; III-275-277
- Political and Security Committee**, III-307; III-309.2; III-329.2
- Political control**
  - European Parliament, I-20.1
  - Foreign and Security Committee, III-307
- Political parties at Union level**, I-46.4; II-72.2; III-331
- Political, trade union and civic associations**, II-72
- Polluter-pays principle**, III-233.2; III-234.5
- Pools**, freedom to provide services, III-141, III-141, III-144-150; see also Services
- Portugal**
  - policy on industrialisation, Protocol N° 8, art 41
  - voting weights and seats, Protocol N° 34
- Post**
  - freedom to provide services, III-144-150; see also Services
  - liberalisation, III-147-148
  - services of general interest, II-96; III-122
- Post-conflict stabilisation**, III-309.1
- Poverty**
  - combating, II-94.3
  - eradication, I-3.4; III-292.2d; III-316.1
- Preamble** (introduction)
  - Charter on human rights and fundamental freedoms, Part II
  - Constitution, Part I
- Precautionary principle**, environment, III-233.2
- Pregnancy**, III-133.2; III-210.1a,c,i;
- Preliminary rulings**, I-29.3; III-358.3; III-369
- Preservation**, freedom to provide services, III-141, III-144-150; see also Services
- President**
  - Commission*, see also European Commission
    - election of, I-27; I-21.2 and 3; I-22.2b
    - no vote in the Council, I-25.4; I-28.1
    - replacements, III-348.2; III-350
    - role I-26
    - salary, III-400.1a; Declaration N° 7
  - Committee of the Regions*, III-387; see also ‘Committee of the Regions’
  - Council*, I-23
    - compositions, I-24
    - Presidency for the Council; Declaration N° 3
    - Presidency for Council compositions, I-24.7; see also Declaration N° 4
    - about draft decision on presidencies
  - Court of Auditors*, III-385.2; see also ‘Court of Auditors’
  - Court of Justice*, III-355; III-357; see also Court
  - Economic and Social Committee*, EcoSoc, III-391; see also ‘Economic and Social Committee’
  - European Central Bank*, ECB, III-382.2; see also ‘European Central Bank’
  - European Council*, decision, Declaration N° 4
  - European Parliament*, III-341, III-396.8b, III-404.4c; see also European Parliament
  - Foreign Affairs Council*, Union Minister for Foreign Affairs, I-28.1; III-296.1; also

- see Union Minister of Foreign Minister
- salaries**, III-400.1a; III-427
- European Council (permanent)**, I-22
- extraordinary meetings foreign policy, III-295
- revision of the Constitution, IV-443.2; see also 'European Council'
- Presumption of innocence**, II-108
- Preventive action**, III-233.2
- Price policy**, III-228.2
- Price regulation**, III-228.2
- Price stability**, I-3.3; I-30.2; III-177; III-185.1; III-198.1a; III-199.2b; III-326.1,2; Protocol N° 11, art. 1
- Primacy of EU law**, I-6, III-375.2; III-365.3; Declaration N° 1
- Principles**
  - conferral of competence, III-115
  - democratic equality, equality principle, I-45
  - legality, I-19.2; see also I-11 and I-38
  - loyalty, I-5.2, I-40.1
  - proportionality, I-11.4; I-38.1, II-109; III-259; Protocol N° 1 & 2
  - subsidiarity, I-11.3; I-18.2; Preamble in the Charter (Part II); II-111.1; Protocol N° 2
- Prior consultations**, Council and Member States, foreign policy, III-297.3
- Priority treatment**, III-138.2a
- Prisons**, III-269-274
- Privacy rights**, II-67
- Private business**, freedom to conduct a business, II-76
- Private property**, III-425; II-77
- Privileged access** to financial institutions, III-182
- Privileges and immunities**, III-434; Protocol N° 7
- Proceedings**, not twice for same offence (double jeopardy), II-110
- Procedure for**
  - budget, III-404
  - enhanced cooperation, III-419
  - excessive budget deficit, III-184; Protocol N° 10; fines III-184.10
  - for other countries participation, III-420
  - international agreements, III-315, III-325
  - legislation, III-396
  - ratification and entry into force, IV-447
  - simplified revision of internal policies, I-18; IV-445
  - simplified revision of the Constitution, IV-444
  - suspension of rights, I-59
  - treaty amendments, convention, intergovernmental conference, IV-443
  - urgent financial assistance, III-320
  - withdrawal, I-60
- Programme of action**, environment, III-234.3
- Progressive framing** of common defence policy, I-41.2
- Promoting trade**, III-151.6a
- Property**, III-138.2e; III-157.1; see also Secondary housing
  - acquisition of property
    - in Denmark, Protocol No 26

- in Malta, Protocol No 9, art. 61
- right to, II-77; national rules, III-425
- Property services**, freedom to provide services, III-141, III-144-150; see also Services
- Proportionality**, I-11.1; I-38.1; Protocols N° 1 and N° 2
  - proportionality in relation to punishment, II-109; III-377
  - role of national parliaments, III-259
- Proposals**, see also 'Initiative' and 'Legal acts', I-33.1
  - administrative co-operation, III-263; III-264
  - adopted by the ECB, I-35
  - agrarian market, III-228.2; III-230.2; III-231.3
  - aid granted by Member States, III-168.4; III-169
  - applying to undertakings, III-163.1; III-166.3
  - approximation in judicial co-operation, III-270.1
  - citizens, I-47.4
  - combating organised crime, III-160
  - Commission, I-18; I-25.2; I-26.2; I-32.5; I-34.1; I-35.3; I-48.4; I-59; III-130; III-151.5; III-159; III-160; III-163; III-167.2c and 3e; 169; III-179; III-180; III-182; III-183; III-186; III-192; III-196; III-198.2; III-206.2; III-210.3; III-221; III-230.2; III-231; III-243; III-253; III-264; III-269.3; III-291; III-320; III-348; III-395; III-405; III-412; III-436; III-445
  - common proposals, III-293.2; III-323.1; III-325.9; III-329
  - delegated regulations, I-36
  - economic policy, III-182; III-183.2; III-184.13
  - EU-Foreign minister, I-25.2; I-28.2; I-40.6; I-41.4; I-59.5; III-296; III-300.2b; III-302; III-313; III-420.2
  - exceptional safeguard measure, III-159
  - fixing Common Customs Tariff duties, III-151.5
  - formal requirements, I-39.2
  - higher environmental standards, III-172.4
  - immigration, III-266.3
  - implementing regulations, I-37.4
  - internal market, III-130.3
  - labour market, III-212.2
  - Member State, III-385; III-386; III-390; III-396.15; III-443
  - monetary policy, III-187.4; III-190.1a; III-198.3
  - no harmonisation of Member States' regulations, I-12.5; I-18.3; III-124.2; III-207; III-210.2.a; III-267.4; III-278.5; III-279.3; III-280.5a; III-281.2; III-282.3a; III-283.3a; III-284.2; III-285.2
  - Ombudsman's duties, III-335.4
  - request from:
    - Council or Member State, III-193
    - Council to Commission, III-345
    - European Parliament to Council, III-443; III-445
    - European Parliament to the Commission III-332
  - research and development, III-253
  - rules of the European Parliament, III-330.2; III-331
  - salaries of those employed in EU institutions, III-400
  - signature, I-39.2

social emergency brake, III-136.2b  
 staff regulations, III-372; III-427  
 proposal to revise the Treaties, III-445  
 transport, related to, III-240.3

**Protection level** in the Charter, II-113

**Protection of**

personal data, I-51; II-68  
 prerogatives, III-365.3

**Protectionist duties**, III-170

**Protective measures**

consumers, III-235.4  
 environment, III-234.6  
 labour market, III-210.5b

**Protocols** and annexes are legally binding as the Constitution, IV-442

**abortion**, Protocol N° 31 on Article 40.3.3 of the Constitution of Ireland

**Accession 2004**, Protocol N° 9 on the Treaty and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic

**accession**, Protocol N° 8 on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden

**acts and treaties**, Protocol N° 33 on the Acts and Treaties which have Supplemented or Amended the Treaty Establishing The European Community and the Treaty on European Union

**asylum**, Protocol N° 22 on Asylum for Nationals of Member States

**border control**, Protocol N° 21 on External Relations of the Member States with regard to the Crossing of External Borders

**Central Bank**, Protocol N° 4 on the Statute of the European System of Central Banks and of the European Central Bank

**CFP-Franc**, Protocol N° 16 on the Pacific Financial Community Franc System

**coal and steel**, Protocol N° 35 on the Financial Consequences of the Expiry of the Treaty Establishing the European Coal and Steel Community and on the Research Fund for Coal and Steel

**cohesion**, Protocol N° 29 on Economic, Social and Territorial Cohesion

**convergence**, Protocol N° 11 on the Convergence Criteria

**Court**, Protocol N° 3 on the Statute of the Court of Justice of the European Union

**Danish Derogations**, Protocol N° 20 on the Position of Denmark

**Danish National Bank**, Protocol N° 15 on Certain Tasks of the National Bank of Denmark

**defence**, Protocol N° 23 on Permanent Structured Cooperation Established by Article 1-41(6) and Article III-312 of the Constitution

**deficit**, Protocol N° 10 on the Excessive Deficit Procedure

**Dutch Antilles**, Protocol N° 25 Concerning Imports into the European Union of Petroleum Products Refined in the Netherlands Antilles

**EMU Denmark**, Protocol N° 14 on Certain Provisions relating to Denmark as regards Economic and Monetary Union

- EMU UK and Ireland**, Protocol N° 13 on Certain Provisions relating to the United Kingdom of Great Britain and Northern Ireland as regards Economic and Monetary Union
- equal pay**, Protocol N° 28 Concerning Article III-214 of the Constitution
- EURATOM**, Protocol N° 36 Amending the Treaty Establishing the European Atomic Energy Community
- Euro group**, Protocol N° 2 on the Euro group
- food products, ANNEX I** - List Referred to in Article III-226 of the Constitution
- Greenland**, Protocol N° 30 on Special Arrangements for Greenland
- human rights**, Protocol N° 32. Relating to Article I-9(2) of the Constitution on the Accession of the Union to the European Convention on the Protection of Human Rights and Fundamental Freedoms
- immunities**, Protocol N° 7 on the Privileges and Immunities of the European Union
- Investment Bank 5. Protocol on the Statute of the European Investment Bank
- OCT-Countries, ANNEX II** - Overseas Countries and Territories to which Title IV of Part III of the Constitution applies
- public service**, Protocol N° 27 on the System of Public Broadcasting in the Member States
- role of the parliaments**, Protocol N° 1 on the Role of the National Parliaments in the European Union
- Schengen**, Protocol N° 7 on the Schengen Acquis Integrated into the Framework of the European Union
- seats**, Protocol N° 6 on the Location of the Seats of the Institutions and of certain Bodies, Offices, Agencies and departments of the European Union
- second homes**, Protocol N° 6 on the Acquisition of Property in Denmark
- subsidiarity**, Protocol N° 2 on the application of the principles of subsidiarity and proportionality
- transitional measures**, Protocol N° 34 on the Transitional Provisions Relating to the Institutions and Bodies of the Union
- UK and Ireland**,  
area without frontiers, Protocol N° 18 on the Application of Certain Aspects of Article III-130 of the Constitution to the United Kingdom and to Ireland  
Justice and Home Affairs, Protocol N° 19 on the Position of the United Kingdom and Ireland on Policies in Respect of Border Controls, Asylum and Immigration, Judicial Cooperation in Civil Matters and on Police Cooperation
- Provisional steps**, in environmental protection, III-233.2
- Public**  
administration, workers, III-133.4  
European administration, III-398
- Public authorities**, III-139
- Public Council meetings**, I-24.6
- Public deficit**, III-184  
convergence criteria, III-198.1b
- Public finance**, III-177
- Public health**, see Health
- Public lending fees**  
ban on discrimination on ground of nationality, III-123

- Public monopolies** III-155; III-162; III-166  
**Public order**, derogation III-133.3; III-140.1; III-154; III-158.1b; III-290  
**Public procurement**, See ‘Public purchase’  
**Public prosecutor’s office**, establishment of, III-274  
**Public purchase**, III-166-167  
    tender rules, III-166, III-167, III-172, III-144, I-4  
**Public Relations**, freedom to provide services, III-141, III-144-150; see also Services  
**Public security**, health, public policy, III-140; III-133  
**Public service**, broadcast – state funding, III-166; Protocol N° 27  
**Public services**,  
    European public service, III-398  
    limit for transport subsidies, III-238  
    workers, III-133.4;  
**Public undertakings**, III-166  
**Publication** and entry into force, I-39

## Q

- Qualified majority**, voting in the Council and European Council, I-25  
    administrative co-operation, ensure, III-263  
    adoption of multiannual financial framework, I-55.2  
    appointment of Foreign Minister, I-28.1  
    balance of payments, threatening of, III-201.2 and 3  
    budget procedure, III-404.5,6  
    changing voting procedure to QMV (passerelle), IV-444; I-40.8; I-55.4  
    common commercial policy, III-315.4  
    common security and defence policy, III-300.2,4; III-311.2; III-312.2,4; III-313.3  
    custom tariff, III-151.5  
    decision of Council, I-23.3  
    decision on aid, III-167.3e  
    definition, I-25  
    delegated regulation, I-33  
    diplomatic protection, III-127  
    election of president of European Council, I-27.1  
    enhanced cooperation, I-44  
    establishing Council formations, I-24.4  
    Euro zone, in the, III-194.2  
    European Council president, I-22.1  
    European Defence Agency, III-311.2  
    exceptional safeguard measures, III-159  
    excessive deficit, III-184.6 and 7  
    fines imposed by the ECB, III-190.3  
    fiscal rules, III-170.3  
    general rule in the Council, I-23.3  
    guidelines for economic guidelines, breach of, III-179.4  
    guidelines for economic policy, III-179.2

guidelines for employment, III-206.2 and 4; III-207  
 implementation of the solidarity clause, III-329.2  
 implementing measures relating to European Regional Development Fund, III-224  
 incentive measures, III-124.2  
 initiating military structured co-operation, III-312.2  
 internal market laws, III-172.1  
 international agreements, III-325.6,8; III-326.1  
 interruption of relations with third countries, III-322.1  
 joining to the Euro zone, III-194.2  
 legislation, III-396  
 main rule, I-23.3  
 new rules on qualified majority take effect, see transitional provisions relating to the institutions and bodies of the union  
 ordinary legislative procedure, III-396.4, 5, 8,10 and 13; I-23.3; III-210.3; III-234.2; III-269.3; III-270.2d; III-271.1–2; III-274.4; III-300.3; III-422.2  
 passerelles from unanimity to qualified majority, IV-444; Declaration N° 7  
 president and members of the Executive Board of the ECB, III-382.2  
 prohibition of financial overdraft, III-183.2  
 refugees, sudden inflow of, III-266.3  
 regulations and decisions, III-130.3; III-151.5; III-159; III-160; III-163.1; III-167.3e; III-169; III-182; III-183; III-184; III-187.4; III-190.1a and 3; III-212.2; III-230.2; III-253; III-260; III-263; III-266.3; III-363; III-400; III-424  
 Rules of Procedure for High Court, III-356  
 salaries, allowances, pensions, III-400.1  
 suspension of rights of Member States, I-59  
 Union-level labour-management agreements, III-212.2  
 voluntary withdrawal from the Union, I-60.2,3a  
 voting by qualified majority in the Council:  
     55 % (at least 15 countries) of the Member States, I-25.1  
     65 % of the population in the whole of EU, I-25.1,2  
     72 % of Member States, I-25.2  
     80 % of Member States, IV-443.4 and Declaration N° 30

**Qualifying periods**, III-134c

workers III-134c

**Quantitative restrictions**, III-153**R****Race**, II-81; III-118; III-124.1**Racism**, III-257.3**Railways**, III-245.1**Rapid access** to finance defence actions, III-313.3**Rapid decision** to convene an extraordinary Council meeting, III-299.2**Rapid Reaction Force**, III-309; see also ‘Defence policy’**Ratification** (approval of amendments in Treaties), IV-443.3

Constitution, of this, IV-447

- problems by ratification, Declaration N° 30
- Raw materials**, III-151c
- Real estate agents**, freedom to provide services III-141, III-144-150; see also Services
- Reasoned European decision**, III-165.2
- Reasoned opinion** of the Commission in cases of non-fulfilment of Union obligations, III-360-361
- Recommendations**, I-33.1; I-38.2
  - Commission for international agreements, from, III-325.3
  - Commission to the Member States, III-148; III-175; III-242
  - Council to Member State, I-59.2 III-184.6; III-197.4; III198.2; III-206.4
  - Council, Commission and ECB adopt, I-35.3
  - crossing of frontiers, for charges concerning the, III-242
  - culture, in the field of, III-280.5b
  - economic policy, for, III-179.2, 4 and 5
  - education, sport, youth and vocational training, in the field of, III-282.3b, 283.3b
  - European Central Bank, I-34.3; I-35.3; III-187.3b and 4.b; III-190.1; III-326; III-396.15; Protocol N° 1 on the role of the National Parliaments art. 2; Protocol N° 4 on the statute of the system of the Central Banks and of the ECB, arts. 34 and 40-41
  - European Parliament on foreign policy, III-304.2
  - European Parliament to give a discharge, for the, III-409.1
  - excessive deficit, in the case of, III-184.6-9
  - exchange rate policy, for the, III-326.1, 2 and 3
  - implementation of the employment policies, III-206.4
  - labour market, for, III-211.3
  - nomination of president and members of Executive Board of ECB III-382.2
  - public health, in the field of, III-278.6
  - request of Member State, on the, III-193
  - System of European Central Banks, III-187.3b and 4b
- Recreation centres**, freedom to provide services, III-141, III-144-150; see also Services
- Recruitment services**
  - freedom to provide services III-141, III-144-150; see also Services
- Refugees**, II-78; III-266
- Regional Development Fund**, III-222-224
- Regional disparities**, III-222
- Regional policy**, III-220-224
  - Spain, recognition of regional policy in, Protocol N° 8, art. 40
- Regional unions**, IV-441
- Regulations**, I-33.1, see also ‘Laws and Delegated regulations’
  - administrative cooperation, III-263; III-264
  - adopted by the ECB, I-35
  - agrarian market, III-228.2; III-230.2; III-231.3
  - aid granted by Member States, III-168.4; III-169
  - applying for undertakings, III-163.1; III-166.3
  - approximation in judicial co-operation, III-270.1
  - combating organised crime, III-160
  - delegated regulations, I-36
  - economic policy, III-182; III-183.2; III-184.13
  - exceptional safeguard measure, III-159
  - fixing Common Customs Tariff duties, III-151.5

- formal requirements, I-39.2
- higher environmental standards, III-172.4
- immigration, III-266.3
- implementing regulations, I-37.4
- internal market, III-130.3
- labour market, III-212.2
- monetary policy, III-187.4; III-190.1a; III-198.3
- no harmonisation of Member States' regulations, I-12.5; I-18.3; III-124.2; III-207; III-210.2.a; III-267.4; III-278.5; III-279.3; III-280.5a; III-281.2; III-282.3a; III-283.3a; III-284.2; III-285.2;
- Ombudsman's duties, III-335.4
- research and development, III-253
- rules of the European Parliament, III-330.2; III-331
- salaries of those employed in EU institutions, III-400
- signature, I-39.2
- staff regulations, III-372; III-427
- transport, related to, III-240.3
- Religion**, II-70; II-81
  - Churches, I-52
  - combating discrimination
    - through measures, III-124
    - horizontal rule, III-118;
  - diversity, II-82
  - education of own religion, II-74.3
  - God, not directly mentioned in the Preamble
  - non-discrimination, principle of, II-81.1
  - religious
    - diversity, II-82
    - rites, animal welfare, III-121
    - freedom, II-70.1
    - heritage, Preamble in Part I
- Removal of articles**, partition of Germany, III-243
- Removal of existing treaties**, IV-437
- Removal of restrictions**, medical professions, III-141.2
- Removal, expulsion and extradition**
  - common measures for removal and repatriation, III-267.1c
  - protection in case of, II-79
- Remuneration**, see also 'Workers', 'Salary' and 'Pay'
  - limited Union competence, III-210.6
  - no discrimination on grounds of
    - nationality III-133.2
    - gender II-83, III-214
  - remunerations and salaries of the officials of the European institutions, III-400
- Repatriation**, III-267.2c
- Repeal of treaties**, IV-437
- Report on**, (by)
  - activities of the European System of Central Banks and monetary policy (by ECB), III-383.3

annual general report by the Commission, III-337.3; III-352.2  
broad economic guidelines (by Council), III-179.2  
citizenship and discrimination (by Commission), III-129  
combating fraud (by Commission) III-415.5  
Court of Auditors' report, III-384.2 and 4  
Economic and Financial Committee's report, III-192.2.b, d and 4  
economic, social and territorial cohesion (by Commission), III-221  
employment situation, III-206.1  
European Council President to the European Parliament, I-22.2.d  
European Ombudsman's report, I-49, III-335.1  
excessive deficits (by Commission), III-184.3  
implementation of the budget, III-408; III-409.4 see also III-384.4  
international trade negotiations (by Commission), III-315.3  
Member States on their adjustment efforts in cases of excessive deficit, III-184.9  
Member States' economic performance, III-179.2  
Member States' progress in fulfilling their obligation under the monetary union, III-198.1  
research and technological development (by Commission), III-255  
Social Protection Committee on social situation, III-217.c  
social situation (by Commission), III-216; III-218

**Representative democracy**, I-46

**Reproductive health**, see Health, III-278

**Request**

from the Council to the Commission, III-345  
from the European Parliament to the Commission to submit proposals, III-332

**Required action**, III-297.1

**Required operational action**, III-297.1

**Research**, I-14.3; III-248-255

**Residence**, I-10.2b; II-105

law, II-105  
no discrimination, III-149  
permits, passports and identity cards, III-125.2  
residence permits, III-125.2; III-126  
right to move and reside, I-10.2a; II-105  
right to vote, III-126

**Residence permits**, III-125.2

**Resources of the Union**, I-54

**Rest periods**, holidays with salary, II-91.2; III-215

**Rest time**, III-210.1b

**Restitutions** – Export subsidies, III-228.2; see also Agriculture

**Restrictions**

before 1993, III-157.1  
on trade, ban III-153  
derogation, III-154

**Restrictive measures** against States, physical and legal persons, boycott, III-322.2

**Reunion**, IV-440.2

**Revision**

internal policies, I-18; IV-445  
of Treaty/Constitution, IV-443

**Revision procedure**

general, IV-443  
simplified, IV-444; IV-445

**Rights, Fundamental rights**

abuse of, prohibited, II-114  
access to documents, II-102  
access to placement services, II-89  
arts and sciences, II-73  
assembly and association, II-72; III-210.6; III-213.g  
asylum, II-78  
between men and women, II-83  
child, II-84; II-92  
child labour, prohibition of, II-92  
citizens, I-10; II-99-106  
collective bargaining and action, II-88  
collective negotiations, III-213.g  
conduct business, II-76  
cultural, religious and linguistic diversity, II-82  
defence, presumed innocent, II-108  
dignity, II-61-65  
diplomatic and consular protection, II-106  
disabled, II-86  
education, II-74  
effective remedy and a fair trial, II-107  
elderly, II-85  
equality, before the law, II-80-86  
establishment, III-137-143; III-158.2  
European Ombudsman, II-103  
Exceptions, Protocol N° 8, art. 56  
expression and information, II-71  
freedoms, II-66-79  
good administration, II-101  
health care, II-95  
human dignity, II-61  
information and consultation, workers' right to, II-87  
integrity, II 63  
intellectual property, III-176; III-364  
judicial, II-107-110  
liberty and security, II-66  
life, II-62  
marriage, II-69  
minority groups, I-2  
movement and residence, II-105  
not to be tried/punished twice in criminal proceedings for same criminal offence, II-110  
petition, I-10.2d; II-104  
presumption of innocence and right to defence, II-108  
privacy, II-67  
private and family life, II-67

- profession, choice of, II-75
- property, II-77; III-425
- protection of personal data, II-68
- protection of unjustified dismissal, II-90
- remain in the territory, III-133.3d; III-138.2d
- reside freely, I-10; II-105; III-125
- solidarity, II-87-98
- thought, conscience and religion, II-70
- vote and stand as candidate, I-20.3; II-99.2; II-99-100; III-330.1
- workers, II-87-91
- working conditions, II-91

**Romania**, accession, voting weights in the Council and seats in the EP, Declaration N° 40

**Rule of law**, I-2; III-292.1; Preamble in Part I

**Rules for undertakings**, III-161; III-166; see also Undertakings

**Rules governing the committees**, III-346

**Rules of Procedure**

- access to documents and transparency, III-399; I-50.4; II-102
- Commission, III-351-352
- Committee of the Regions, III-387
- Council, III-342-344;
  - simple majority in the Council, III-344.3
  - Council in the EP, III-337.1
- Court, III-355-356; III-359.5
- Court of Auditors, III-384.4
- Economic and Social Committee, III-391
- EP by absolute majority of members, III-339
- procedure, European Council, III-341.3
- quorum EP, III-338

**Rural areas**, III-220

## S

**Safeguard clauses**, III-233.2

- harmonisation of rules concerning internal market, III-172.10

**Safeguard measure**, with regard to third countries, III-159

**Salaries for EU-leaders** III-400; III-427

**Salary**

- discrimination III-133.2
- equal pay II-83; III-214
- in the institutions of the Union III-400; III-427
- pay not covered III-210.6
- draft service directive, legal base III-141

**Sami people**, Protocol N° 8, art. 60-62; Declaration N° 32

**Sanctions**, EMU, III-184, see also ‘Fines’ and ‘Restrictive measures’

- boycott, III-322
- competence of Court for boycott, III-376

- fines and sanctions, II-64; II-109; II-110; III-163.2a; III-184.10d; III-190.3;  
III-362-363; III-401
- Schengen-acquis/rules**, Protocol N° 17
- Science**, I-3.3; II-73, III-248
  - environment, III-233.3a
  - environmental protection, III-172.3 and 5
  - framework programme, III-251.1a
  - limitations, II-63.2
  - scientific knowledge/facts, III-248.1
  - space policy, III-254.1, 3
  - statistics, III-429.2
- Scientific grounds/evidence/facts**
  - environmental protection, III-172.3 and 5
- Sea and air transport**, III-245.2
- Secondary residence**,
  - Danish summerhouses, Protocol N° 26,
  - Malta, Protocol N° 9, art. 61
- Secretariat of the Council and the Commission**, III-296.3
  - Council, III-341.4; III-344
- Secretary-General**
  - of the Council, III-344.2
  - salary, III-400.1a
  - terms of office, Protocol N° 34, art. 5
- Secrecy**
  - for judges, Protocol N° 3 art. 35
  - for members of the institutions and civil servants, III-430
- Secure supply** of raw materials and semi-finished goods, III-151.6c
- Security and defence policy**, I-12.4; I-41; III-309-312
- Security and justice**, I-3.2; I-14.2j; I-42; III-257-III-277
- Security** I-3.4; Preamble to Part II; II-66
  - area of freedom, security and justice, III-257-III-277; III-377
  - energy supply, III-256.1.b
  - environmental clause, III-172.3
  - externally, III-292.2a
  - internal, III-262; III-261; III-377
  - international, III-131; III-292.2c
  - national, I-5.1; III-262; III-436.1a
  - Political and Security Committee, III-329.2
  - public, III-133.3; III-140.1; III-154; III-290
  - trade/customs cooperation, III-154
  - workers, III-133.3
- Security services**, freedom to provide services, III-141, III-144-150; see also Services
- Self-employment**, II-76; III-137; III-141
- Semi-finished goods**, III-151.6c
- Service directives**, III-141
  - legal bases for potential service directives, (III-150); III-141; (III-146)  
III-236; (III-146); III-156; (III-147); III-172-173
- Services**, III-144-150

- ban against restrictions, III-144
  - banking and insurance, III-146.2
  - citizens from other countries, III-145 last sentence
  - commercial undertakings, III-145b
  - craftsmen, III-145c
  - definition of, paid services outside free movement of workers, goods and capital, III-145
  - discrimination, no, III-149
  - freedom to provide services, III-144-150
  - further liberalisation, III-148
  - general economic interest, II-96; III-122
  - industrial character, III-145a
  - insurance, III-146.2
  - legislation, III-144; III-147
  - liberal professions, III-145d
  - liberalisation of special branches, III-147
  - majority decisions, III-144; III-147
  - public authority, III-150
  - service-directive, III-141.1b
  - transport, III-146 referring to III-236-245
- Servitude**, II-65
- Sex**, III-118; III-124.1; III-214.4
- Sexual exploitation**, III-271.1, see also Trafficking of children, III-269-274
- Sexual orientation**, II-81; III-118; III-124.1
- Shared competence**, I-12.2; I-14
- this **list** is not exhaustive:
    - agriculture and fishing
    - consumer protection
    - economic, social and territorial coherence
    - economical, social and territorial solidarity
    - energy
    - enhanced cooperation with qualified majority, I-44
    - environment
    - health partly (common safety concerns in public health, aspects defined in part III)
    - internal market
    - legal cooperation, area of freedom, security and justice
    - research, technology and space
    - social policy, aspects defined in Part III
    - trans-European networks
    - transport
- Shared initiative**, III-264
- Shipbuilding**
- aids granted by Member States, III-167-168
  - freedom to provide services, III-144-150, see also Services
- Shipping**, III-236-245, see also Services
- Trans-European Networks (TEN), III 246-247

- transport, III-236-245
- freedom to provide services, III-146, III-236-245, see also Services
- Simple majority**, I-27.2; III-208; III-217; III-333; III-341.3; III-343.2; III-344.2-3; III-345; III-346; III-347; III-349; III-428; IV-443
- Single currency**, III-194-196; see also “Euro”
- Slavery and servitude**, II-65
- Slovakia**
  - nuclear plant, Protocol N° 9, art. 64-67
  - voting weights and seats, Protocol N° 34
- Slovenia**, voting weights and seats, Protocol N° 34
- Small neighbouring states**, I-57; Declaration N° 11
- Smaller Commission**, Declaration N° 6
- Social**
  - Clause, III-117
  - Commission’s role, III-213.d
  - Community Charter of Fundamental Social Rights of Workers, III-209 (1<sup>st</sup> sentence)
  - development, III-218
  - dialogue, I-48; II-88; III-211–212
  - emergency brake, III-136.2
  - European Social Charter (from Turin), III-209 (1<sup>st</sup> sentence)
  - exclusion, III-210.1j; I-3.3; II-94.3; III-117
  - harmonisation, III-209 (3<sup>rd</sup> sentence)
  - integration of the excluded, III-210.1h
  - majority decisions, III-136
    - with emergency brake, III-136.2
  - modernisation of social protection systems, III-210.1k
  - objectives, I-3.3; II-94
  - pact from Turin, III-209
  - payments and benefits of moving workers, III-136.1b
  - policy, I-14.2b; I-15.3; III-209-219
  - residence law, III-125.2
  - security and assistance, II-94
  - security and social protection, II-94; III-210.1c
  - security system, III-210.5a; interests of the Member States Declaration N° 14
  - shared competence, I-14
- Social benefits**, III-136; III-210.1c
- Social fund**, see ‘European Social Fund’
- Social partners**, I-48; II-87; II-88, III-211-212
  - consultation of the partners, III-211; I-48; II-87–88
  - dialogue and collective agreements between the partners, III-212
  - implementation of legal acts, III-210.4
  - partners and the social dialogue, I-48
  - role at EU level, I-48; III-117
- Social policy**, I-14.2; I-15.3; III-213; III-209-219; see also under Social
- Social Protection Committee**, III-217
- Social protection for worker’s dependants**, III-136.1
- Social protection**, III-210

- Committee for, III-217
- Social security**, II-94; III-125.2; III-136; III-210.1c and 5a; III-213.d; see also Social
- Social security and assistance**, II-94; see also under Social interests of the Member States, Declaration N° 14
- Software patents**, II-77; III-176
  - Competence of the Court, III-364
  - Trade with, III-315.1, 4
- Solidarity clause** against terrorism, I-43; III-329.1; Declaration N° 9
- Solidarity**, II-87-98; III-292.1
  - between Member States, I-3.3; I-5.2; I-40.1; I-41.7
  - in cases of disasters, Declaration N° 9
- Space organisation**, III-254.3
- Space policy**, I-14.3; III-254.1; III-254.3
- Space programme**, III-251.1
- Spain**
  - citizenship of the Union, Declaration N° 47
  - recognition of regional policy, Protocol N° 8, art. 40
  - voting weights and seats, Protocol N° 34
- Special committee**, III-315.3; III-325.4
- Special courts**, I-29.1; III-359
- Special legislative procedure**, IV-444.2
- Special programmes**, III-251.3
- Special representative**, III-302
- Specific advantages** for the underrepresented sex, II-83; III-214.4
- Specific rules** for the Euro-countries, III-194-196
- Spelling of euro**, Declaration N° 50
- Sport**
  - competitions, III-282.1g
  - coordinating competence, I-17.e
  - International sport cooperation, III-282.2
  - physical and moral integrity of sportsmen and sportswomen, especially young, III-282.1g
- Sport centres**, freedom to provide services, III-141, III-144-150; see also Services
- Stabilisation**
  - of conflict, III-309
  - of agriculture markets, III-227.c
- Stability and Growth Pact**, see 'Euro' and Declaration N° 17
- Staff disputes**, III-372
- Staff regulations**
  - civil servants, III-427, III-431
  - staff disputes, III-372
- Standing Committee on internal security**, III-261
- State aid**
  - ban on, III-167
  - constantly review aid, III-168.1
  - derogation in, III-168.2 and for less favoured areas in III-230.2
  - legislation according to, III-169
- State monopoly**, III-155

- Stateless** as third country citizens, III-257.2
- Statistics**, III-429
- Statute**
- direct elections for the European Parliament, III-330.1
  - European Investment Bank (EIB), Protocol N° 5
  - European Court of Justice, Protocol N° 3
  - European System of Central Banks of Member States, III-187 and Protocol N° 4
  - Members' Statute, European Parliament, III-330.2
  - Ombudsman, III-335.4
  - political parties at Union level, III-331
- Step backwards**, in liberalisation, III-157.3
- Stock farming**, III-225
- Strasbourg**, III-336
- Strategic interests**, I-40.2
- Stricter national rules**, III-172.4.5., III-234.6; III-235.4, 278.4a
- Strike law** and right to, III-210.6; II-88
- Structural adjustments**, III-222
- Structural funds**, III-221; III-223.2
- guarantee funds for agriculture III-228.3
- Structured military cooperation**, I-41.6; III-312.1; Protocol N° 23 on permanent structured cooperation
- Students**
- education policy and exchange, III-282
  - free movement and residence of students, III-125; III-130.2; III-133.2
  - recognition of exams, III-282.1b
    - to facilitate the free movement of workers, III-141.1a
  - teaching students as a service, see Services, free movement of
- Subsidiaries**, branches III-138.2f
- Subsidiarity principle**, I-11.3; I-18.2; III-259
- Protocols N° 1 and N° 2 on the role of national parliaments
- Subsidiarity**, Protocols N° 1 and N° 2
- Subsidiary protection**, III-266.1
- Succession and legal continuity**, IV-438
- Suffrage**, I-20.3; II-99.2; III-330.1
- Summits**, see 'European Council', I-21; I-48
- European Council meetings, I-21; I-22; I-25; I-40; I-41; I-59.2; I-60.2; III-136.2; III-179.2; III-198.2; III-206; III-258; III-270.3-4; III-271.4; III-293; III-295; III-301.1; III-329.3; III-341
- Social tripartite social summits** for growth and employment, I-48
- Sugar**, see Agriculture, III-225-232
- agricultural products, III-226 and Annex 1
  - Common Market Organisation, III-228; III-231.1-2, 4
- Super-qualified majority**, see "enlarged qualified majority", I-25.2
- Supervision**, taxes, III-158
- Supplementary competence**, I-17
- Supplementary obligations**, III-161.1e
- Supplementing programme**, III-252.2
- Supply and sales conditions**, state monopolies, III-155.1

- Supply security** (of raw materials and semi-finished goods), III-151.6c
- Support buying** (market interventions), III-227.1c; III-228.2; see also Agriculture, III-225-232
- Supporting action**, I-17
- Supportive actions**, I-12.5; I-17; I-44.1; III-267.4
- Supremacy of Union law**, I-6, III-365.3; Declaration N° 1 on Article I-6
- Supreme Court**, “Court of Justice of the European union”, I-29; III-353-381
- Surveillance procedure**, EMU, III-179
- Suspension**
  - of membership rights, (lex Austria) I-59
  - of procedure, III-136.2a
- Suspensory effect and interim measures**, III-379
- Sustainable development**, objectives, I-3.3-4
  - environmental protection, II-97
  - environmental protection, sustainable development, III-119
  - external action, III-292.2d
- Sweden**, voting weights and seats, Protocol N° 34

## T

### Tariffs

- customs, II-151.1
- duties, III-170
- trade policy, III-314; III-315.1
- Tax consultancy**, freedom to provide services, III-141, III-144-150; see also Services
- Taxes**, III-158; III-170; III-171; III-172.2
  - duties III-170; III-171
- Team presidencies**, I-24.7; Declaration N° 4 with a Draft decision of the European Council
- Technological development**, I-14.3; III-248-255
  - weapons, III-311.1d
- Telecommunications**, III-246.1
- Television without frontiers**
  - agreements in the field of audiovisual services, III-315.4a
  - culture, III-280
  - distorting competition, III-132; III-174
  - legal base of the television directive, III-172
  - public services, III-166
  - state aid, III-167; III-167.3d
- Temporary budget**, twelfths, III-405
- Temporary Committee of Inquiry**, III-333
- Temporary derogations**, environment, III-234.5a
- Temporary employment agencies**, freedom to provide services, III-141, III-144-150; see also Services
- Tender rules**, III-141; III-150; III-172
- Terrorism**, I-43; III-329
  - external action, III-309.1

- legislation, III-160
- solidarity clause, III-329.1; Declaration N° 9
- Testing**, freedom to provide services, III-141, III-144-150; see also Services
- The General Court** and The Court of Justice, I-29; III-356-359
- Third countries**
  - agreements with third countries and international organisations, III-325
  - association agreements, III-324
  - boycott, sanctions, III-322
  - environment agreements, III-233.4
- Third country citizens**, III-210.1g
- Time rates**, III-214.2b
- Time-share**, freedom to provide services, III-141, III-144-150; see also Services
- Tobacco**, abuse of, III-278.5; see also ‘Health’ and ‘Agriculture’, III-225-232
- Top jobs**, salary III-400;
  - geographic and demographic diversity, Declaration N° 3
- Torture**, II-64
- Tourism**, III-281
  - new coordinating competence, I-17d
- Tourist services**, freedom to provide services, III-141, III-144-150; see also Services
- Town and country planning**, III-234.2b (i)
- Town environment**, III-234.2b (i)(iii)
- Trade fairs**, organisation of trade fairs and exhibitions, freedom to provide services, III-141, III-144-150; see also Services
- Trade marks**, II-77; III-176
  - competence of the Court, III-364
  - trade with, III-315.1, 4
- Trade policy**, exclusive competence, I-13.1e; III-314-315
- Trade promotion**, III-151.6a
- Trade union**, II-72
- Trafficking in human beings**, II-65; III-160; III-267.1
- Trans European networks (TEN)**, I-14.2h; III-246-247
- Transfer between currencies**, III-411
- Transit**, III-154
- Transition rules**
  - competition, III-164
  - Institutions, Protocol N° 34; IV-439
  - transport, III-237
- Translations**, IV-448; Declaration N° 29
- Transparency**, I- 47.2; I-50.3-4; II-102; Preamble in Part I; III-399
- Transparency/Openness** and access to documents, III-399; I-50.4;
  - in public, I-24.6
  - in the Commission, Declaration N° 6
- Transport**, III-236-245
  - advisory committee, III-244
  - air transport, III-245.2
  - borders, III-242
  - common transport policy, III-236.1
  - companies/enterprises, III-237

- discrimination, ban, III-240.1
- East German derogation, III-243
- international, III-236.2a
- majority decisions, III-236.2
- national aid prohibited, III-241
- prices and conditions, III-239
- railway, III-245.1
- road, III-245.1
- sea and air transport, III-245.2
- security, III-236.2c
- service, III-236.2b
- shared competence, I-14.2g
- structural funds, infrastructure, III-223.1
- through Austria, Protocol N° 8, art. 64-73
- Trans European Networks, III-246.1
- waterway, channels, III-245.1

**Travel agencies**, freedom to provide services, III-141, III-144-150; see also Services

**Treaty amendments**, IV-443

- flexibility, I-18
- of internal policies, IV-445
- simplified, IV-444

## U

**UK “citizens”**, Declaration N° 46

**UK and Ireland**,

- area without internal borders, Protocol N° 18
- border controls, asylum and immigration, judicial cooperation in civil matters and on police cooperation, Protocol N° 19
- UN, III-327, see also United Nations
- voting weights and seats, Protocol N° 34

**Unanimity** (voting in the European Council or in the Council)

- abstention does not prevent unanimity, III-341.1; III-343.3
- accession of a new Member State, I-58.2
- agreements on a system of exchange rates for the euro, III-326.1
- amending Commission proposals, III-395.1; III-396.9
- amendments to Statute of EIB, III-393
- association of the overseas countries and territories, III-291
- breaching the values of the Union, I-59.2
- changing status of OCTs, IV-440.7
- changing unanimity to consensus, I-21.4
- changing unanimity to qualified majority, IV-444.1; I-40.7; I-55.4; III-300.3
- combating discrimination, III-118; III-124.1
- common foreign and security and defence policy, I-40.4; I-41.2 and 4
- composition Economic and Social Committee, III-389
- composition of the Commission College, I-26.5-6

- composition of the Committee of the Regions, III-386
- composition of the European Parliament, I-20.2
- currency substitution when a new euro-member joins, III-198.3
- election of the Members of the European Parliament, III-330.1
- enhanced co-operation on foreign and security policy, III-419.2; III-420.2
- environmental laws and framework laws, III-234.2
- establish public prosecutor, III-274.1
- expenditure for enhanced co-operation, III-421
- extend area for co-operation in criminal matters, III-270.2d; III-271.1; III-274.4
- family law, III-269.3
- financial rules for budget (up to December 2006), III-412.3
- first multiannual financial framework, I-55.4
- granting derogation on transportation, III-237
- guidelines for foreign and defence policy, III-295; III-300.1
- identifying the strategic interests and objectives of the Union, III-293.1
- international agreements, III-325.8
- languages of the Union's Institutions, III-433
- laws relating to the internal market to be harmonised if there is no specific legal basis, III-173
- limit of the Union's own resources, I-54.3
- members of the specialised courts, III-359.4
- number of advocates-General, III-354
- operational co-operation between national authorities in criminal matters, III-275.3
- power in the Constitution, insufficient, I-18; III-125
- Priorities of Structural Funds, (up to Jan 2007) III-223
- Protocol on reference values under the excessive deficit procedure change to a European law, III-184.13
- rules for authority for operating on other Member States' territory, III-277
- state aid compatible with the internal market, III-168.2
- step back in liberalisation of capital movement, III-157.3
- supporting Member States in the field of social policy, III-210.1,c,d,f and g; III-212.2
- taxation of Members of the European Parliament, III-330.2
- trade agreements for services, III-315.4
- trade in arms, III-436.2
- trade in cultural and audiovisual services, III-315.4
- using military and civilian means, III-309.2
- veto right for areas of vital national policy, III-300.2d
- Underemployment**, III-167.3a, see also employment
- Undertakings**, III-161-166
  - abuse of dominant position, III-162
  - establishment, II-75; III-137
  - merger control, III-163
  - prohibited agreements between undertakings, III-161
  - prohibited cartel agreements, III-161
  - public undertakings, III-166
- Unemployment benefit**, III-133.2; III-210.1c

- Union action**, management and labour, III-211.3
- Union citizens**, I-10; II-106; III-123-129
- Union citizenship**, I-10; III-123-129
  - Danish derogation, Protocol N° 20; Preamble and Edinburgh Declaration from 12 December 1992
  - Spain on Union citizenship, Declaration N° 47
- Union law, see also ‘Acquis communautaire’**
  - Charter, II-111.2
  - continuity, III IV-438.3
  - effective implementation, III-285.1
  - effective legal protection, I-29.1
  - ensure application, the Commission’s role, I-26
  - preliminary rulings on interpretation, I-29.3b
  - primacy of Union law, I-6 and III-375.2; Declaration N° 1 concerning art. I-6
- Union Minister for Foreign Affairs, The**, I-28; III-292-302; Competence: at times alone, at times with the Commission, sometimes with the Member States and sometimes no competence at all; look in the different articles
  - approval by the European Parliament, I-27.2
  - assistance from the European External Action Service, III-296.3; Declaration N° 24
  - boycott, propose restrictive measures, III-322
  - common proposals with the Commission
    - in general, III-293.2
    - optional, 299.1
    - voting rule, III-300
  - consultation and information of the European Parliament, III-304.1
  - control the loyalty obligations, III-294.2
  - coordination of Member States’ positions in international organisations, III-305; III-327.1; III-328.2
  - discussing with the European Parliament, III-304.2
  - double hat, I-28.4
  - election by enlarged qualified majority, I-28.1; Protocol N° 34, art. 4
  - enhanced cooperation for a group of countries, III-310.1; 419.2; 420.2
  - head the External service, III-296.3; III-328
  - implementation of foreign and security policy, I-40.4; III-327.2
  - international agreements related to foreign and security policy, proposing,, III-325.3
  - informing and consulting the European Parliament, III-304.1
  - military actions, coordinating, III-309.2; III-310.1
  - only Foreign Minister, special representatives, III-302
  - opinion on enhanced cooperation, III-419.2
    - consultation and proposals, 420.2
  - opinion on structured cooperation, III-312.3
  - own initiative, III-299.1
  - part of the Commission’s composition, I-26.4 and 5; I-28.4
  - participating in the European Council, I-21.2
  - presiding over Foreign Affairs Council, I-28.3; III-296.1
  - representing the Union externally, III-296.2
  - right of initiative, I-22.2d; I-40.8; I-41.8; III-299; III-302; III-307;

urgent financing, III-313.3; III-329  
Vice-President in the Commission, I-28.4

**Union ('s)**

advisory organs, I-32; III-386-392  
budget, III-403-406  
citizenship, I-10; III-123-129  
competence categories, I-12  
competences, I-11-18  
coordinating competence, I-17  
delegations, III-328  
exclusive competence, I-13  
establishment, I-1  
finances, I-53-I-56; III-402-414  
institutions and organs, I-19-21  
law, primacy of, I-6  
legal acts, I-33  
membership, I-1.2; I-58  
money, see Euro  
neighbourhood, I-57  
objectives, I-3  
organs, I-19-29  
own resources, I-54; III-412.2  
political parties, II-72.2  
primacy, I-6; III-375.2: Declaration N° 1  
relationship between Union and Member States, I-5  
shared competence, I-14  
status as legal personality, I-7  
strategic interests, I-40.2; III-293.1  
suspension of membership rights, I-59  
symbols, I-8  
values, I-2  
voluntary withdrawal, I-60

**United Kingdom**

border control between UK and Ireland, Protocol N°18  
immigration and asylum, Protocol N°19  
monetary union, EMU, British derogation, Protocol N°13  
OLT, III-286; IV-437.2  
repeal of earlier treaties, IV-437.2  
voting weights and seats, Protocol N° 34

**United Nations, III-327; III-321.7**

Charter of the United Nations, I-3.4; I-41.1 and 7; III-292.1 and 2c; III-305.2  
comply with commitments, III-316.2

**United Nations Security Council, III-305.2**

**Universal suffrage, I-20.3; II-99.2; II-100; III-330.1**

**Universities, III-248**

**Unjustified dismissal, II-90**

**Upstart fund for military actions, III-313**

**Urban areas**

- economic, social and territorial cohesion, III-220-224
- protection of environment (framework programme), III-234
- town and country planning, III-234.2bi

## V

**Values and interests**, I-2; I-3.4

- as requirements for membership, I-1.2

**VAT and duties**, III-171

**Veterinarians**

- animal health, III-121; III-231
  - measures in agriculture, III-231
  - restrictions of free movement of goods on grounds of, III-154
- animal welfare, III-121
- veterinary measures for the protection of human health, III-278.4b
- veterinary services, freedom to provide services, III-144-150; see also Services

**Veto**, see 'Voting' and 'Unanimity';

- from unanimity to qualified majority, IV-444.3
- in Foreign policy, voting rules and constructive abstention, passerelle, foreign policy, III-300

**Vice-President for the Commission**, I-26.5; I-27.3C; I-28.4

**Vienna Convention**, The, I-60

**Violence at home**, Declaration N° 13

**Visa**, III-265.2a

- border control in the UK and Ireland, Protocol N° 18

**Vocational education**, III-283

- as recipient for services, see Service
- coordinating competence, I-17.e
- educational aid, III-210.1c
- free movement, III-130.2; III-133.2
- free settlement, III-125
- general education policy and exchange, III-282
- professional education, III-213.c
- right for (Charter), II-74.1
- Social Fund, III-219.1
- training and exchange, III-283

**Vocational training**, III-283

- coordinating competence of the Union, I-17.e
- educational aid, III-210.1c
- exchange of young workers, III-135
- free movement, III-130.2; III-133.2
- free movement of the service to provide vocational training, see Services
- free settlement, III-125
- general education policy and exchange, III-282
- professional education, III-213.c

right of access to educational training for, (Charter), II-74.1

Social Fund, III-219.1

training and exchange of workers, III-283

**Voluntary Humanitarian Aid Corps**, European, III-321.5

**Voting in the Council**, see Council

**Voting weights**, Protocol N° 34 on transition rules concerning the institutions; Declaration N°30

**Voting, decisions by different majorities in the Council**

- 55 % (at least 15 countries) of the Member States, I-25.1, marked in this book with X

- 65 % of the population in the whole of EU, I-25.1, 2

- 72 % of Member States, I-25.2 = enlarged qualified majority marked with XX

- 80 % of Member States, IV-443.4 and Declaration N° 30

- 100 % - unanimity, marked with U

abstention from voting in the Council, III-300.1

- vital issues, III-300.2

approval of the President of the Commission, Union Minister for Foreign Affairs and all commissioners, I-27.2

- blocking minority, I-25.1

- censure of the Commission, III-340

- constructive abstention, I-59.5; III-300.1; III-341.1; III-343.3

definition of qualified majority, I-25.1

enlarged qualified majority, I-25.2

simple majority, see ‘Simple majority’

- voting in the Commission, III-351

- voting in the Council, III-343.2- voting in the European Council, III-341.3; I-25.4

voting in the Council on enhanced cooperation, I-44.3

- structured cooperation on defence III-312.3-4

- suspension of Member States rights I-59.5

voting in the European Council, I-25.4; Declaration N° 5

voting in the European Parliament, III-338; III-396

voting weights, Protocol N° 34 on transition rules concerning the institutions and organs of the Union

## WXY

**War**, III-131; III-436.1.b

**Warning against breach of economic guidelines**, III-179.4

**Waste**, III-234.2bIII

**Water resources**, III-234.2(ii)

**Well-being**, I-3.1

**Wine**, see Agriculture, III-225-232

agricultural products, III-226 and Annex 1

**Withdrawal from the Union**, I-60

- Women and men**, equality between, I-2; II-83
- Work programme the Commission**, III-255
- Workers**, III-133-136; III-210.1
- collective defence of interests, III-210.1f
  - consultation of, III-210.1e
  - cooperation, III-213
  - equal pay, III-214.1
  - European Social Fund, III-219.1
  - free movement, III-290
  - gender equality, III-210.1i
  - health and safety, III-210.1a
  - integration of the excluded, III-210.1h
  - objectives, III-209
  - right to work and choose an occupation, II-75
  - rights, II-87-91
  - social security and protection, III-210.1c
  - termination of work contracts, III-210.1d
  - third-country nationals, III-210.1g
  - working conditions, III-210.1b
- Working conditions**, II-75.3; II-91-92; III-209; III-210.1b; III-213.b; III-133.2, see also Workers
- Working environment**
- “guarantee clause”, III-172.4
  - legislation, III-210.1a
- Working hours**, II-91.2
- World economy**, III-292.2e
- World trade**, III-314
- Xenophobia**, III-257.3
- Yellow card**, see Protocols N° 1 and N° 2 on national parliaments and subsidiarity
- Young workers**, II-92; III-135; see also Workers
- Youth**, I-17.e; III-135, III-282-283
-

## QUALIFIED MAJORITY IN THE COUNCIL

	Voting weights (until 31 Oct. 2004)	Voting weights (from 1. Nov. 2004)	Population in EU 25 in 2003	Population share in EU 25 in 2003	Share of countries in EU 25
Belgium	5	12	10.396.400	2.27%	4%
Czech Rep.	5	12	10.211.500	2.23%	4%
Denmark	3	7	5.397.600	1.18%	4%
Germany	10	29	82.531.700	18.00%	4%
Estonia	3	4	1.350.600	0.29%	4%
Greece	5	12	11.041.10	2.41%	4%
Spain	8	27	42.345.300	9.29%	4%
France	10	29	61.684.700	13.45%	4%
Ireland	3	7	4.027.500	0.88%	4%
Italy	10	29	57.888.200	12.62%	4%
Cyprus	2	4	730.400	0.16%	4%
Latvia	3	4	2.319.200	0.51%	4%
Lithuania	3	7	3.445.900	0.75%	4%
Luxembourg	2	4	451.600	0.10%	4%
Hungary	5	12	10.116.700	2.21%	4%
Malta	2	3	399.900	0.09%	4%
Netherlands	5	13	16.258.000	3.55%	4%
Austria	4	10	8.114.00	1.77%	4%
Poland	8	27	38.190.600	8.33%	4%
Portugal	5	12	10.474.700	2.28%	4%
Slovenia	3	4	1.996.400	0.44%	4%
Slovakia	3	7	5.380.100	1.17%	4%
Finland	3	7	5.219.700	1.14%	4%
Sweden	4	10	8.975.700	1.96%	4%
U. K.	10	29	59.651.500	13.07%	4%
<b>TOTAL</b>	<b>124</b>	<b>321</b>	<b>458.599.300</b>	<b>100%</b>	<b>100%</b>
<b>QUALIFIED MAJORITY</b>	<b>88</b>	<b>232</b> + majority of Member States	<b>65% =</b> <b>298.082.350</b> <b>62% =</b> <b>284.331.400</b> (Nice Treaty)	<b>65 %</b>	<b>55 %</b> + 15 Member States