

THE EU CONSTITUTION

- The Reader-Friendly Edition

The EU Constitution

The Reader-Friendly Edition with

- 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*

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READER'S NOTE

There are many different ways of making decisions in the EU. In this Reader-Friendly Edition of the proposed EU Constitution, we assist you with comments in the margins, highlights of the most important words, an alphabetical index and symbols at the beginning of many Articles which make it easier to read. We have also mentioned the equivalent Article numbers from the existing treaties and inserted a table of equivalences to facilitate comparison.

Most terms and concepts relating to the Constitution are explained in the multilingual dictionary of EU terms at www.EUABC.com

*All comments and signs and previous Article numbers are given in **italics** 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 signs 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 X`s 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.*

NOTE: For more details see Box below: “Key to Symbols”

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 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 text¹ produced by the Convention on the Future of Europe, which has undergone three rounds of changes: firstly by the Council's legal service,² then by the Heads of State and Government³ of the EU Member States, and then again by the legal specialists from the Member States and the Council's legal service.

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.

We have used working documents from the European Commission, the Convention, the COSAC secretariat, the French Senate and the EU Information Office of the Danish Parliament. We would also like to thank Klaus Heeger, Katrine Busch, Ingvild Olsen, Jonas Ludvigsen, Karoly Lorant, Line Sophie Munk Olsen, Kevin Bonici, Hans Kloster, Bjarke Lyster, Kresten Dørup, Peter Jonasson, Anne-Mette Hjortebjerg Lund, Iben Søndergård, Helle Fich Pedersen, Jannie Borup Larsen, Charlotte Gjellerup, Toke Skou Larsen, Sara Lilja Steensig, Thea Pedersen, Hanne Dahl and the translation service of the European Parliament for many thousand of hours of assistance over the past 3 years in the work that has led to this edition.

2 April 2005

Treaty establishing a

CONSTITUTION FOR EUROPE

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

² See document IGC 50/03 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

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

Key to Symbols

The most important general legislative procedure has the sign: X**

European Parliament

- * means that the European Parliament must be **consulted**, i.e. makes a public statement, gives advice.
- ** means that the European Parliament may **co-decide**; 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 cannot propose formal amendments.
- no stars means that the European Parliament is not involved or only informed

Council of Ministers

- 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% (18 of 25) 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.

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.

TABLE OF CONTENTS

<u>PREAMBLE</u>	09
<u>PART I</u>	14
TITLE I: DEFINITION AND OBJECTIVES OF THE UNION	14
TITLE II: FUNDAMENTAL RIGHTS AND CITIZENSHIP OF THE UNION	16
TITLE III: UNION COMPETENCES	17
TITLE IV: THE UNION'S INSTITUTIONS AND BODIES	21
<i>CHAPTER I - THE INSTITUTIONAL FRAMEWORK</i>	21
<i>CHAPTER II -THE OTHER UNION INSTITUTIONS AND ADVISORY BODIES</i>	29
TITLE V: EXERCISE OF UNION COMPETENCE	31
<i>CHAPTER I – COMMON PROVISIONS</i>	31
<i>CHAPTER II – SPECIFIC PROVISIONS</i>	34
<i>CHAPTER III - ENHANCED COOPERATION</i>	38
TITLE VI: THE DEMOCRATIC LIFE OF THE UNION	39
TITLE VII: THE UNION'S FINANCES	41
TITLE VIII: THE UNION AND ITS NEIGHBOURS	43
TITLE IX: UNION MEMBERSHIP	44
<u>PART II: THE CHARTER OF FUNDAMENTAL RIGHTS OF THE UNION</u>	47
PREAMBLE	47
TITLE I – DIGNITY	48
TITLE II – FREEDOMS	49
TITLE III – EQUALITY	51
TITLE IV – SOLIDARITY	53
TITLE V – CITIZENS' RIGHTS	55
TITLE VI – JUSTICE	57
TITLE VII - GENERAL PROVISIONS GOVERNING THE INTERPRETATION AND APPLICATION OF THE CHARTER	58
<u>PART III: THE POLICIES AND FUNCTIONING OF THE UNION</u>	60
TITLE I - PROVISIONS OF GENERAL APPLICATION	60
TITLE II - NON-DISCRIMINATION AND CITIZENSHIP	61
TITLE III - INTERNAL POLICIES AND ACTION	63

<i>CHAPTER I - INTERNAL MARKET</i>	63
Section 1 - Establishment and functioning of the Internal Market	63
Section 2 – Free movement of persons and services	64
Subsection 1 – Workers	64
Subsection 2 - Freedom of establishment	66
Subsection 3 - Freedom to provide services	69
Section 3 – Free movement of goods	71
Subsection 1 - Customs Union	71
Subsection 2 - Customs cooperation	72
Subsection 3 - Prohibition of quantitative restrictions	72
Section 4 - Capital and payments	73
Section 5 - Rules on competition	75
Subsection 1 - Rules applying to undertakings	75
Subsection 2 - Aids granted by Member States	78
Section 6 - Fiscal provisions	80
Section 7 – Common provisions	81
<i>CHAPTER II - ECONOMIC AND MONETARY POLICY</i>	84
Section 1 - Economic policy	85
Section 2 – Monetary policy	90
Section 3 – Institutional provisions	94
Section 4 - Provisions specific to Member States whose currency is the euro	95
Section 5 - Transitional provisions	97
<i>CHAPTER III - POLICIES IN OTHER AREAS</i>	102
Section 1 – Employment	102
Section 2 - Social policy	104
Section 3 - Economic, social and territorial cohesion	110
Section 4 - Agriculture and fisheries	112
Section 5 – Environment	116
Section 6 - Consumer protection	118
Section 7 – Transport	119
Section 8 - Trans-European networks	122
Section 9 – Research and Technological Development, and Space	123

Section 10 – Energy	126
<i>CHAPTER IV - AREA OF FREEDOM, SECURITY AND JUSTICE</i>	127
Section 1 - General provisions	127
Section 2 - Policies on border checks, asylum and immigration	129
Section 3 - Judicial cooperation in civil matters	132
Section 4 - Judicial cooperation in criminal matters	133
Section 5 - Police cooperation	137
<i>CHAPTER V - AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING, OR COMPLEMENTARY ACTION</i>	138
Section 1 - Public health	139
Section 2 – Industry	141
Section 3 – Culture	142
Section 4 – Tourism	143
Section 5 - Education, youth, sport and vocational training,	143
Section 6 – Civil protection	145
Section 7 - Administrative cooperation	146
TITLE IV - ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES	146
TITLE V - THE UNION'S EXTERNAL ACTION	148
<i>CHAPTER I - PROVISIONS HAVING GENERAL APPLICATION</i>	148
<i>CHAPTER II - COMMON FOREIGN AND SECURITY POLICY</i>	150
Section 1 – Common provisions	150
Section 2 - The common security and defence policy	157
Section 3 – Financial provisions	160
<i>CHAPTER III - COMMON COMMERCIAL POLICY</i>	161
<i>CHAPTER IV - COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID</i>	162
Section 1 - Development cooperation	162
Section 2 - Economic, financial and technical cooperation with third countries	163
Section 3 - Humanitarian aid	164
<i>CHAPTER V - RESTRICTIVE MEASURES</i>	165
<i>CHAPTER VI - INTERNATIONAL AGREEMENTS</i>	166
<i>CHAPTER VII - THE UNION'S RELATIONS WITH INTERNATIONAL</i>	169

<i>ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS</i>	
<i>CHAPTER VIII - IMPLEMENTATION OF THE SOLIDARITY CLAUSE</i>	170
TITLE VI - THE FUNCTIONING OF THE UNION	170
<i>CHAPTER I - PROVISIONS GOVERNING THE INSTITUTIONS</i>	170
Section 1 - The Institutions	170
Subsection 1 - The European Parliament	170
Subsection 2 - The European Council	174
Subsection 3 - The Council of Ministers	174
Subsection 4 - The European Commission	175
Subsection 5 - The Court of Justice of the European Union	177
Subsection 6 - The European Central Bank	187
Subsection 7 - The Court of Auditors	188
Section 2 - The Union's advisory bodies	191
Subsection 1 - The Committee of the Regions	191
Subsection 2 - The Economic and Social Committee	192
Section 3 - The European Investment Bank	193
Section 4 - Provisions common to Union Institutions, bodies, offices and agencies	194
<i>CHAPTER II - FINANCIAL PROVISIONS</i>	198
Section 1 - The multiannual financial framework	198
Section 2 - The Union's annual budget	199
Section 3 - Implementation of the budget and discharge	202
Section 4 – Common provisions	204
Section 5 - Combating fraud	205
<i>CHAPTER III - ENHANCED COOPERATION</i>	206
TITLE VII: COMMON PROVISIONS	209
<u>PART IV: GENERAL AND FINAL PROVISIONS</u>	213

*The underlinings and remarks in the margin, comparisons to the Nice Treaty, the Xs and the *s are put in ITALIC and is not part of the constitution*

The signers from

- Austria
- Belgium
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Greece
- Germany
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- The Nederland
- 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

THE DRAFT EU CONSTITUTION

- The Reader-Friendly Edition

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, 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

included.

Legal continuity of the European Communities

The list of the 25 Heads of State, Prime Ministers and Ministers for Foreign Affairs

(Romania, Bulgaria and Turkey has signed the Final act as Candidate-countries)

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,

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,

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 VĪŽE 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 FRENDU
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
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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 well-being 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
developm., growth,
price stability, social
progress, full
employment, environm.
protection, scientific
and techn. advances,
fight against social
exclusion, promote
social justice, gender
equality, solidarity*

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. 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.

*between generations,
protection of children,
respect diversity and
cultural heritage
- Promotion of the
Union's values and
interests in the wider
world*

*Limits to the Union's
actions*

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

*No discrimination on
grounds of nationality*

***Union-Member State
relations***

*Equality of Member
States before the
Constitution. National
identities shall be
respected*

*Member States shall
assist the Union to
implement Union law*

*Member States shall
fulfil Union obligations*

*..and shall not
jeopardise Union
objectives*

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

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.

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

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.

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

1. The Union shall respect the equality of Member States before the Constitution as well as their national identities, inherent in their fundamental structures, political and constitutional, 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.

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.

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.

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

Legal personality (the three pillars disappear)

Agreements with 3rd countries in all areas

Union symbols

- Flag
- Anthem
- Motto
- Currency
- Europe day

**UNION
CITIZENSHIP**

Fundamental Rights
Includes the Charter of Fundamental Rights

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) Fundamental rights become general principles of Union law

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

The Union shall have legal personality.

Article I-8: (new)

The symbols of the Union

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**

Article I-9: (new, ex Article 6(2) TEU)

Fundamental rights

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

~~***X/XX~~ 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.

EU Citizenship

*Double citizenship:
national and Union,
additional*

*Union citizens'
rights and duties:*

- *free movement and residence in the Union territory*
- *voting and standing for elections in all local and EP elections*
- *protection under all Member States' diplomatic authorities*

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

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

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.

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

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

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

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

(d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the 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

Fundamental principles

*Principles governing
Union Competence:*

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

Subsidiarity: Union

TITLE III: UNION COMPETENCES

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

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

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

3. Under the principle of subsidiarity, in areas which do not fall within its

action only when aim can be “better achieved at -Union level”

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

Proportionality:
“Not exceed what is necessary”

Competence categories

Exclusive competences
Member States can only legislate if empowered by the 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

exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

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

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

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

No harmonisation

Part III relating to these areas shall not entail harmonisation of Member States' laws or regulations.

Specific legal bases in Part III

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.

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*

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.

- *international agreements which affect internal competence*

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 coordinating action, then shared 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.

Non-exhaustive list of shared competences where an Union law suppresses national competence

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.
<i>Areas where the Union cannot prevent Member States from legislating</i>	3. In the areas of <u>research, technological development and space</u> , the Union shall have competence to carry out activities, in particular to <u>define and implement programmes</u> ; however, the exercise of that competence <u>shall not result in Member States being prevented</u> from exercising theirs.
<i>Development cooperation and humanitarian aid</i>	4. In the areas of <u>development cooperation and humanitarian aid</u> , the Union shall have competence to <u>carry out activities and conduct a common policy</u> ; however, the exercise of that competence <u>shall not result in Member States being prevented from exercising theirs</u> .
<i>Coordination of economic policies</i>	Article I-15: (ex Articles 4(1), 99(1), 3(1)(i), 125, 128, 140 TEC) The <u>coordination of economic and employment</u> policies
<i>Special rules for Euro-countries I-14.1c; III-185ff; III-194f</i>	1. The Member States shall <u>coordinate their economic</u> policies within the Union. To this end, the <u>Council of Ministers</u> shall <u>adopt measures</u> , in particular <u>broad guidelines</u> for these policies.
<i>- for non-euro Countries I-30.4</i>	<u>Specific provisions</u> shall apply to those Member States whose currency is <u>the euro</u> .
<i>Measures to ensure coordination of employment policies</i>	2. The Union shall take measures to <u>ensure coordination</u> of the <u>employment policies</u> of the Member States, in particular by defining guidelines for these policies.
<i>Coordination of social policies</i>	3. The Union <u>may</u> take initiatives to <u>ensure coordination</u> of Member States' <u>social policies</u> .
<i>Foreign and security policy:</i>	Article I-16: (ex Articles 17, 11(2) TEU) The common <u>foreign and security policy</u>
<i>Union competent in all areas of foreign, security and defence policy</i>	1. The Union's competence in matters of common foreign and security policy shall cover all <u>areas of foreign policy</u> and all questions relating to the Union's security, including the <u>progressive framing of a common defence policy</u> that might <u>lead to a common defence</u> .
<i>Loyalty and mutual solidarity. Member States refrain from actions against Union interests</i>	2. <u>Member States</u> shall actively and unreservedly support the Union's common <u>foreign and security policy</u> in a spirit of <u>loyalty and mutual solidarity</u> and shall comply with the Union's action in this area. They shall <u>refrain from action contrary to the Union's interests</u> or likely to <u>impair its effectiveness</u> .
<i>Coordinationg actions</i>	Article I-17: (new) Areas of <u>supporting, coordinating or complementary action</u> The Union shall have competence to carry out supporting, coordinating or complementary action. The areas of such action shall, at European level,

Areas of supportive action

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

National Parliaments shall be notified in advance

No harmonisation if forbidden by the Constitution

THE INSTITUTIONS

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

The European Council now official institution of the Union

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.

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

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.

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.

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

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.

This institutional framework comprises:

- The European Parliament,
- The European Council,
- The Council of Ministers (hereinafter referred to as the "Council"),

The institutions of the Union...

...shall act within the limits of the Constitution.

Loyal co-operation

European Parliament

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

EP now represents the "citizens" instead of the "peoples" (189 TEC)

Max. 750 MEPs, seats will be divided by degressive

proportionality

Minimum: 6 seats

Maximum: 96 seats

ex Article 190 (4)

MEPs elected for 5 years by direct election

The President of the EP and its officers

European Council

The Prime Ministers on "Union summits"

Members of the European Council

Quarterly meetings

President may convene

- The European Commission (hereinafter referred to as the "Commission"),
- The Court of Justice of the European 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.

Article I-20: (ex Articles 189, 192, 190, 197 TEC)

The European Parliament

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

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

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

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

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

Article I-21: (ex Article 4 TEU)

The European Council

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

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

3. The European Council shall meet quarterly, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of

<i>additional meetings</i>	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.
Decisions by “consensus”	4. Except where the Constitution provides otherwise, decisions of the European Council shall be taken by <u>consensus</u> .
The President/Chair	<p style="text-align: center;">Article I-22: (new) The <u>European Council President</u></p>
<i>Prime Ministers elect President for 2½ years – may re-elect him/her once</i>	1. The European Council shall <u>elect its President</u> , by a <u>qualified majority</u> , for a term of <u>two and a half years, renewable once</u> . In the event of an impediment or serious misconduct, the European Council can <u>end his or her term of office</u> in accordance with the same procedure.
<i>Tasks of the President</i>	2. The President of the European Council: a) shall <u>chair</u> it and <u>drive forward</u> its work; b) shall ensure the <u>preparation</u> and <u>continuity</u> of the work of the European Council in <u>cooperation</u> with the <u>President</u> of the <u>Commission</u> , and on the <u>basis</u> of the work of the <u>General Affairs Council</u> ; c) shall endeavour to facilitate <u>cohesion</u> and <u>consensus</u> within the European Council; d) shall present a <u>report</u> to the European <u>Parliament</u> after each of the meetings of the European Council.
<i>Representation of the Union in the wider world on CFSP issues</i>	The President of the European Council shall, at his or her level and in that capacity, ensure the <u>external representation</u> of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the Union Minister for Foreign Affairs.
<i>No national mandate</i>	3. The President of the European Council shall <u>not</u> hold a <u>national office</u> .
Council of Ministers	<p style="text-align: center;">Article I-23: (ex Articles 202, 203, 205(1) TEC) The <u>Council of Ministers</u></p>
<i>- legislates - carries out policy making and coordinates</i>	1. The Council shall, jointly with the European Parliament, <u>exercise legislative</u> and budgetary functions. It shall carry out <u>policy-making</u> and <u>coordinating functions</u> as laid down in the Constitution.
<i>Civil servants have often status as ministers and can also commit the Member State</i>	2. The Council shall consist of <u>a representative of each Member State at ministerial level</u> , who may commit the government of the Member State in question and cast its vote.
<i>Qualified majority, the “Luxembourg-veto-compromise” not used</i>	3. The Council shall act by a <u>qualified majority</u> except where the Constitution provides otherwise.

since the 1980s

Council compositions

Different configurations

General Affairs Council

*- coordinates Council
- prepares the
European Council
meetings*

Foreign Affairs Council *fleshes out the
EU's external action on
the basis of guidelines*

***Other configurations
by qualified majority***

COREPER *- prepares
work of 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)*

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

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

It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.
3. The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.
- XX** 4. The European Council shall adopt by a qualified majority a European decision establishing the list of other Council configurations.
5. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.
6. The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.
- 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.

Qualified majority:

Until 01/11/2009: 232 of 321 votes from a majority of Member States and 62% of EU's population

(Declaration n°5)

1. 55% of Member States, at least 15 Member States

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 of the application of EU law
- execution of the budget
- implementation
- external representation

Monopoly of initiative

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.

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

5 years term

Criteria for being a Commissioner

Until 2014, one commissioner per Member State

After 2014, only 2/3 of the Member States will have a Commissioner - unless the European Council unanimously alters that composition

Rotation on an equal basis

Maximum one term without a Commissioner

Commission reflects demographic and geographical range

Independence
Neither seek nor take instructions

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

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

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

5. The first Commission appointed under the provisions of the Constitution shall consist of one national of each Member State, including its President and the Union Minister for Foreign Affairs who shall be one of its Vice-Presidents.

6. As from the end of the term of office of the Commission referred to in paragraph 5, the Commission shall consist of a number of members, including its President and the Union Minister for Foreign Affairs, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.

The members of the Commission shall be selected from among the nationals of the Member States on the basis of a system of equal rotation between the Member States. This system shall be established by a European decision adopted unanimously by the European Council and on the basis of the following principles:

(a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;

(b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States.

7. In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article I-28(2), the members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

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.

Commission President

*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*

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

The Commission President decides guidelines and internal organisation, appoints vice-Presidents and dismisses members

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

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

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

The President of the European Commission

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.

2. The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in Article I-26(4) and (6), second subparagraph.

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

3. The President of the Commission shall:

(a) lay down guidelines within which the Commission is to work;

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

(c) appoint Vice-Presidents, other than the Union Minister for Foreign Affairs, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The Union Minister for Foreign Affairs shall resign, in accordance with the procedure set out in Article I-28(1), if the President so requests.

Article I-28: (new)

The Union Minister for Foreign Affairs

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.

Tasks of Foreign Minister

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 High Court (currently Court of First Instance)
Obligation to guarantee legal remedies against Union law at national level (Case C-50/00)
One judge from each Member State plus Advocates-General are appointed by common accord by Member States' governments

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.

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

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

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

The judges and the Advocates-General of the Court of Justice and the judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles III-355 and III-356. 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.

Competences of the Court of Justice
- rulings on actions
- preliminary rulings
- rulings on other cases

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

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

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

(c) rule in other cases provided for in the 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 national central banks

Primary goal is price stability

ECB shall have legal personality, it alone issues the Euro and it must be independent

The Member States who have not adopted the Euro shall retain their powers in monetary affairs

ECB to be consulted on all proposals within its areas of competence

*ECB = European Central bank
ESCB = the whole system of central banks*

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

2. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives. 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.

3. The European Central Bank is an institution. It shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.

4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles III-185 to III-191 and Article III-196, and with the conditions laid down in the Statute of the European System of Central Banks and of the European Central Bank. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.

5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion.

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.

Court of Auditors

Article I-31: (ex Articles 7, 246, 248, 247 TEC)

The Court of Auditors

Tasks

One member per Member State - completely independent

1. The Court of Auditors is an institution. It shall carry out the Union's audit.

2. It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.

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.

Advisory bodies

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

The Union's Advisory Bodies

Committee of the Regions, Economic and Social Committee

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.

Members of the Committee of the Regions

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 Economic and Social Committee

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.

Representatives in advisory bodies must be completely independent

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.

Composition in art. III-386 to III-392

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.

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

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.

**EXERCISE OF
COMPETENCE**

Legal acts

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

Law: *binding in its entirety, directly applicable*

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

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

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

Recommendations and opinions: *not binding*

Exhaustive list of legal instruments

Legislative procedure
*The general rule in art. III-396 = X***

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

**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

1. To exercise the Union's competences the institutions shall use as legal instruments, in accordance with Part III, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.

A European law shall be a legislative act of general application. It shall be binding in its entirety and directly applicable in all Member States.

A European framework law shall be a legislative act binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A European regulation shall be a non-legislative act of general application for the implementation of legislative acts and of certain provisions of the Constitution. It may either be binding in its entirety and directly applicable in all Member States, or be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A European decision shall be a non-legislative act, binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

Recommendations and opinions shall have no binding force.

2. When considering draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the relevant legislative procedure in the area in question.

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.

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

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*

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.

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.

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;

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

Rules for Member States' control over implementing acts

Implementing regulations and decisions

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

A law shall state the reasons on which it is based

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

(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.

X** 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.

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

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.

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.

<p><i>Entry into force as specified in the law or 20 days after publication</i></p>	<p>In <u>other cases</u> they shall be signed by the President of the <u>institution</u> which adopted them.</p>
<p><i>Regulations and decisions with no concrete addressees shall also enter into force 20 days after their publication</i></p>	<p>European laws and framework laws shall be <u>published</u> in the <u>Official Journal</u> of the European Union and shall <u>enter into force</u> on the <u>date specified</u> in them or, in the absence thereof, on the <u>twentieth day</u> following their publication.</p>
<p><i>Other decisions take effect upon notification</i></p>	<p>2. European <u>regulations</u>, and European decisions which do <u>not specify</u> to whom they are <u>addressed</u>, shall be signed by the President of the institution which adopted them.</p> <p>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 <u>enter into force</u> on the <u>date specified</u> in them <u>or</u>, in the absence thereof, on the <u>twentieth day following</u> that of their <u>publication</u>.</p>
	<p>3. European <u>decisions</u> other than those referred to in paragraph 2 shall be <u>notified</u> to those to whom they are addressed and shall take effect <u>upon</u> such <u>notification</u>.</p>
	<p style="text-align: center;"><i>Chapter II:</i></p> <p style="text-align: center;"><i>Specific provisions</i></p>
<p>Common foreign and security policy</p>	<p style="text-align: center;">Article I-40: <i>(ex Articles 13, 16, 23, new, 21 TEU)</i></p> <p style="text-align: center;">Specific provisions relating to the <u>common foreign and security policy</u></p>
<p><i>- solidarity among Member States</i></p> <p><i>- identification of common interests</i></p> <p><i>- convergence of actions</i></p>	<p><i>In principle U*, implementation X/XX</i></p> <p>1. The European Union shall <u>conduct a common foreign and security policy</u>, based on the <u>development</u> of mutual political <u>solidarity</u> among Member States, the <u>identification</u> of questions of <u>general interest</u> and the achievement of an <u>ever-increasing degree of convergence</u> of Member States' actions.</p>
<p><i>The European Council shall identify the Union's interests and objectives and adopt decisions</i></p>	<p>2. The <u>European Council</u> shall identify the Union's <u>strategic interests</u> and determine the <u>objectives</u> of its common foreign and security policy. The Council shall frame this policy within the framework of the strategic guidelines established by the European Council and in accordance with Part III.</p>
<p><i>Foreign Ministers may also adopt decisions</i></p>	<p>3. The <u>European Council</u> and the <u>Council</u> shall adopt the <u>necessary European decisions</u>.</p>
<p><i>Shared responsibility for putting the policy</i></p>	<p>4. The common foreign and security policy shall be <u>put into effect</u> by the Union <u>Minister for Foreign Affairs</u> and by the <u>Member States</u>, using</p>

into action

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

Mutual solidarity among Member States

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

European Council can unanimously change to qualified majority

EP shall be consulted and be kept informed

Defence Policy

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

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

Specific character of certain Member States' defence policies shall

national and Union resources.

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.

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.

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.

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
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.

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.

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

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 12.6.2004

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*

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.

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

*This does not affect
NATO commitments*

*EP shall be consulted
and informed, national
parliaments not
mentioned here*

Justice and Home Affairs

*Means for establishing
an area of freedom,
security and justice
- adoption of laws
- mutual recognition of
juridical decisions
- cooperation between
all authorities for
internal security*

*- operative cooperation,
of all services*

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

*Both Commission AND
Member States have the
right of initiative*

Terrorism clause

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

*Prevention
Protection*

Assistance: terrorism

those States which are members of it, remains the foundation of their collective defence and the forum for its implementation.

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.

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

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

X (general rule)**

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

(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;

(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;

(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.

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.

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.

Article I-43: (new)

Solidarity clause

X/U

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

(a) - prevent the terrorist threat in the territory of the Member States;
- protect democratic institutions and the civilian population from any terrorist attack;

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

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*

***Enhanced cooperation,
see III-416 - 423***

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

Enhanced cooperation

*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.

Only as last resort

*1/3 of Member States
must participate*

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

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

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

*Qualified majority is 55
% of Member States
representing 65% of the
EU population.
To block 35 % plus one
Member State*

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.

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

Decisions only bind participating states.

Acceding countries do not have to accept decisions made under enhanced cooperation

DEMOCRATIC LIFE

Equality

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

Principle of representative democracy

*EP represents citizens directly
Representatives in the councils accountable to their national Parliaments or citizens*

As openly and as closely to the citizens as possible

European parties form European awareness

Participatory democracy

Right to discuss opinions with the institutions

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.

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.

TITLE VI: THE DEMOCRATIC LIFE OF THE UNION

Article I-45: (new)

The principle of democratic equality

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

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

The principle of representative democracy

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

2. Citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

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

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

Article I-47: (new)

The principle of participatory democracy

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

Commission shall consult all parties concerned

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

Social Dialogue

The Union recognises and promotes the autonomous social dialogue

The Ombudsman

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

Transparency
“as open as possible”

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

Right of access to documents...

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

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

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

Article I-48: *(ex Articles 138, 211, 212 TEC)*
The social partners and autonomous 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 Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.

Article I-49: *(ex Article 195 TEC)*
The European 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.

Article I-50: *(ex Articles 1 TEU, 255 TEC)*
Transparency of the proceedings of Union institutions, bodies, offices and agencies

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.

2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.

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

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

Each body determines its own specific rules

Personal data

Protection of personal data

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

Churches respect of the national status - but no discrimination of Christians, Muslims or Atheists

EU dialogue with churches and others, new

FINANCES

The EU budget

The Union budget shall include all revenues and expenditures

conditions laid down in Part III, a right of access to documents of the Union institutions, bodies, offices and agencies, whatever their medium.

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.

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.

Article I-51: (ex Article 286 TEC)

Protection of personal data

X**

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

Article I-52: (new)

Status of churches and non-confessional organisations

1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.
2. The Union equally respects the status under national law of philosophical and non-confessional organisations.
3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.

TITLE VII: THE UNION'S FINANCES

Article I-53: (ex Articles 268, 270, 271, 280 TEC)

Budgetary and financial principles

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.

Balanced budget

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

Annual budget expenditures to be authorised by law

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.

Expenditures require both money in the budget and a legal act

X** 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.

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

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.

Principle of sound financial management

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.

Rules on countering fraud

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.

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

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

the EP's consent

shall act after obtaining the consent of the European Parliament.

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

Article I-55: (new)
The multiannual financial framework

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

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.

Budget shall respect the multiannual framework

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

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

U Passerelle 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.

EP and Council shall determine the budget

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.

NEIGHBOURS

**TITLE VIII:
THE UNION AND ITS NEIGHBOURS**

Article I-57: (new)
The Union and its neighbours

Policy towards neighbouring states

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.

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

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 MEMBERSHIP

Requirements for membership

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

Wannabe members must:
- write to the Council
- inform EP and national Parliaments.
Unanimous decision in the Council, consent of EP by majority of its members

Suspension of rights

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)

Regular verification

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

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

TITLE IX: UNION MEMBERSHIP

Article I-58: (ex Article 49 TEU)

Conditions of eligibility and procedure for accession to the Union

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.

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 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.

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

Suspension of certain rights resulting from Union membership

XX*** 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.

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

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.

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

<i>including voting rights</i>	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.
<i>Obligations shall still bind the Member State</i>	In any case, that State shall <u>continue</u> to be <u>bound by its obligations</u> under the Constitution.
<i>Suspension can be revoked by qualified majority</i>	XX 4. The <u>Council</u> , acting by a <u>qualified majority</u> , may adopt a European decision varying or <u>revoking measures</u> adopted under paragraph 3 in response to changes in the situation which led to their being imposed.
<i>No vote for sanctioned Member State. Abstentions shall not count</i>	5. For the purposes of this Article, the member of the European Council or of the Council representing the <u>Member State in question</u> shall <u>not</u> take part in the <u>vote</u> 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. <u>Abstentions</u> by members present in person or represented shall not prevent the adoption of European decisions referred to in paragraph 2.
<i>Definition of enlarged qualified majority: 72 % of Member States and 65 % of population</i>	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 <u>members</u> of the <u>Council</u> , representing the participating Member States, comprising at least <u>65%</u> of the <u>population</u> of these States.
<i>Suspension of voting rights may require enlarged qualified majority</i>	Where, following a decision to <u>suspend voting rights</u> adopted pursuant to paragraph 3, the Council acts by a qualified majority on the basis of a provision of the Constitution, that <u>qualified majority</u> shall be defined as in the <u>second subparagraph</u> , 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 <u>more than 35% of the population</u> of the participating Member States, <u>plus one member</u> , failing which the qualified majority shall be deemed attained.
<i>Blocking minority: 35 % of population plus one Member State</i>	
<i>EP: 2/3 majority of the votes cast and a majority of its members</i>	6. For the purposes of this Article, the European <u>Parliament</u> shall act by a <u>two-thirds majority</u> of the votes cast, representing the <u>majority</u> of its component <u>members</u> .
Withdrawal Any Member State can leave the Union - now only covered by Vienna Convention Art. 54-62	<p style="text-align: center;">Article I-60: (new) Voluntary <u>withdrawal from the Union</u></p> <p>1. <u>Any Member State</u> may decide to <u>withdraw</u> from the Union in accordance with its own constitutional requirements.</p>
<i>Agreement on withdrawal between the</i>	XX*** 2. A Member State which decides to withdraw shall <u>notify the European Council</u> of its intention. In the light of the <u>guidelines</u> provided by

*Council and the
Member State by
- qualified majority in
the Council (72%)
- and consent of EP*

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.

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

Values and goals of the Union

Aim is to strengthen the protection of fundamental rights

PART II **CHARTER OF FUNDAMENTAL RIGHTS** **OF THE EUROPEAN UNION**

PREAMBLE

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

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.

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:
- consent of the person
- no selection of
persons based on
eugenic practices
- no financial gain from
human bodies
- no reproductive
cloning of human
beings*

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

- (a) the free and informed consent of the person concerned, according to the procedures laid down by law;
- (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;
- (d) the prohibition of the reproductive cloning of human beings.

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

*No torture or degrading
treatment/punishment*

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

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

- no slavery

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

- no forced labour

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

- no trafficking in

3. Trafficking in human beings is prohibited.

human beings

Right to:

- liberty and security

- private and family life,
homes, and
communications

- protection of personal
data

- uninhibited access to
personal data

Independently
controlled

Marriages and family

- Marriages protected
according to national
law

Freedom of:

- thought
- conscience
- religion

- conscientious
objection

TITLE II FREEDOMS

Article II-66:

Right to liberty and security

Everyone has the right to liberty and security of person.

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.

Article II-68:

Protection of personal data

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

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.

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

Article II-69:

Right to marry and right to found a family

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.

Article II-70:

Freedom of thought, conscience and 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.

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 <u>expression</u> and <u>information</u>
- <i>information</i>	1. Everyone has the right to <u>freedom of expression</u> . This right shall include freedom to hold <u>opinions</u> and to <u>receive</u> and <u>impart information</u> and <u>ideas</u> without interference by public authority and <u>regardless of frontiers</u> .
- <i>pluralism in media</i>	2. The freedom and <u>pluralism</u> of the <u>media</u> shall be respected.
	Article II-72: Freedom of <u>assembly</u> and of <u>association</u>
- <i>assembly</i>	1. Everyone has the right to freedom of <u>peaceful assembly</u> and to freedom of association at all levels, in particular in <u>political, trade union and civic matters</u> , which implies the right of everyone to form and to <u>join trade unions</u> for the <u>protection</u> of his or her <u>interests</u> .
- <i>association</i>	
- <i>trade unions</i>	
- <i>EU-level political parties</i>	2. <u>Political parties</u> at Union level contribute to <u>expressing the political will</u> of the <u>citizens</u> of the Union.
	Article II-73: Freedom of the <u>arts</u> and <u>sciences</u>
- <i>art</i>	The arts and scientific research shall be free of constraint. Academic freedom shall be respected.
- <i>science</i>	
	Article II-74: Right to <u>education</u>
Right to:	
- <i>access to education</i>	1. Everyone has the <u>right to education</u> and to have access to <u>vocational</u> and <u>continuing training</u> .
- <i>free and compulsory</i>	2. This right includes the possibility to receive <u>free compulsory education</u> .
<i>Within the limits of national law, parents have the right to educate their children</i>	3. The freedom to <u>found educational establishments</u> with due respect for <u>democratic principles</u> and the right of <u>parents</u> to ensure the <u>education</u> and teaching of <u>their children</u> in conformity with their <u>religious, philosophical and pedagogical convictions</u> shall be respected, in accordance with the <u>national laws</u> governing the exercise of such freedom and right.
	Article II-75: Freedom to <u>choose an occupation</u> and right to <u>engage in work</u>
- <i>to work</i>	1. Everyone has the <u>right to engage in work</u> and to pursue a <u>freely chosen or accepted occupation</u> .
- <i>of movement for workers, right to</i>	2. Every citizen of the Union has the freedom to <u>seek employment</u> , to <u>work</u> , to exercise the <u>right of establishment</u> and to <u>provide services in any</u>

establishment and to provide services

- of 3rd countries' citizens, same working conditions as citizens of the Union

- to conduct business

Property

Right to own, use and dispose of possessions

Expropriation only possible if fair compensation is given

Intellectual property

Asylum:

The Union respects the Geneva Convention on refugees

Removal, expulsion and extradition

- no collective expulsion

- no expulsion if risk of torture or death penalty

Equality principle

Member State.

3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.

Article II-76:

Freedom to conduct a business

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

Article II-77:

Right to property

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.

2. Intellectual property shall be protected.

Article II-78:

Right to asylum

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.

Article II-79:

Protection in the event of removal, expulsion or extradition

1. Collective expulsions are prohibited.

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

TITLE III:

EQUALITY

Article II-80:

Equality before the law

Everyone is equal before the law.

No discrimination on grounds of:
sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political opinion, national minority, property, birth, disability, age, sexual orientation

- nationality

Respect of cultural, religious and linguistic diversity

Equality between men and women

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

Rights of children

Protection and care

Free expression of views

Child's best interests are the main concern

Right to contact with both parents

Rights of the elderly

Article II-81:
Non-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.
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.

Article II-82:
Cultural, religious and linguistic diversity

The Union shall respect cultural, religious and linguistic diversity.

Article II-83:
Equality between women and men

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

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 which concern them in accordance with their age and maturity.
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.
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.

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.

Placement services

Article II-89:

Right of access to placement services

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

Protection against unjustified dismissal

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.

Working conditions

Article II-91:

Fair and just working conditions

Workers' health, safety and dignity

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

Rest periods and paid leave

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.

No child labour

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

Protection of children against exploitation

Compatibility of family and professional life

Protection of the family

*- protection against firing pregnant
- paid maternity leave
- leave for both parents*

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

Right to health care

High level of health, not the "highest" protection

Article II-92:

Prohibition of child labour and protection of young people at work

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.

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.

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.

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

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.

<p><i>Access to services of general interest within the limits of Union law</i></p>	<p style="text-align: center;">Article II-96: <u>Access to services of general economic interest</u></p> <p>The Union recognises and respects <u>access</u> to services of general economic interest as <u>provided for in national laws and practices</u>, in <u>accordance with the Constitution</u>, in order to <u>promote the social and territorial cohesion</u> of the Union.</p>
<p>Environment</p>	<p style="text-align: center;">Article II-97: <u>Environmental protection</u></p> <p>A <u>high level</u> of environmental protection and the improvement of the quality of the environment must be <u>integrated into the policies of the Union</u> and ensured in <u>accordance</u> with the principle of <u>sustainable development</u>.</p>
<p><i>High level of protection, not "highest"</i></p>	
<p>Consumer protection</p>	<p style="text-align: center;">Article II-98: <u>Consumer protection</u></p> <p>Union policies shall ensure a <u>high level of consumer protection</u>.</p>
<p><i>"High level"</i></p>	
	<p style="text-align: center;">TITLE V: CITIZENS' RIGHTS</p>
<p>EP elections</p>	<p style="text-align: center;">Article II-99: <u>Right to vote and to stand as a candidate at elections to the European Parliament</u></p> <p>1. <u>Every citizen</u> 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 <u>same conditions as nationals of that State</u>.</p> <p>2. Members of the European Parliament shall be elected by <u>direct universal suffrage</u> in a <u>free and secret ballot</u>.</p>
<p><i>Voting and standing as EP candidate in the country where you live</i></p>	
<p><i>Direct and secret voting</i></p>	
<p>Right to vote and stand at local elections</p>	<p style="text-align: center;">Article II-100: <u>Right to vote and to stand as a candidate at municipal elections</u></p> <p><u>Every citizen</u> 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 <u>same conditions as nationals of that State</u>.</p>
<p><i>- does not apply to national elections</i></p>	
<p>Good administration</p>	<p style="text-align: center;">Article II-101: <u>Right to good administration</u></p> <p>1. Every person has the right to have his or her affairs handled <u>impartially, fairly</u> and within a <u>reasonable time</u> by the institutions, bodies, offices and agencies of the Union.</p>
<p><i>Treated impartially, fairly, within a reasonable time</i></p>	

Rights include:

- *to be heard*
- *access to personal files*
- *reasons for decisions*

Right to compensation for damages caused by the Union

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

Access to documents

(unless Union laws forbid or limit)

Ombudsman

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

Petition to the EP

EU citizens have the right to petition the EP

Free movement and residence

- right of all Union citizens

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

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.

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.

Article II-102:

Right of access to documents

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.

Article II-103:

European 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.

Article II-104:

Right to petition

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.

Article II-105:

Freedom of movement and of residence

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

Nationals of 3rd countries can be given the same right

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.

Article II-106:

Diplomatic and consular protection

Protection by all Member States' diplomatic corps

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.

Judicial rights

**TITLE VI:
JUSTICE**

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

- impartial tribunal

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

- legal defence

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

- legal aid

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

Presumption of innocence

Article II-108:

Presumption of innocence and right of defence

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.

Legality principle

Article II-109:

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

Does not prejudice cases based on general principles

Penalty proportional to the offence

Only punishable once for the same crime

If convicted or acquitted of a crime, not be punished again

INTERPRETATION OF THE CHARTER

Scope:

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

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

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

offence, the law provides for a lighter penalty, that penalty shall be applicable.

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.

3. The severity of penalties must not be disproportionate to the criminal offence.

Article II-110:

Right not to be tried or punished twice in criminal proceedings for the same criminal offence

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

Article II-111:

Field of application

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.

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.

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.

Rights are guaranteed within the limits of this Treaty

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

According to common constitutional traditions of Member States

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

*Full account taken of national laws and practices
Explanations should be used for interpretation (Declaration n° 12)*

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

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

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.

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.

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.

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.

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

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

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

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 THREE

THE POLICIES AND FUNCTIONING **OF THE UNION**

TITLE I **PROVISIONS OF GENERAL APPLICATION**

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.

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.

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.

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.

Article III-119 (ex Article 6 TEC)

Environmental protection requirements must be integrated into the definition and implementation of the policies and activities referred to in this Part, in particular with a view to promoting sustainable development.

Article III-120 (ex Article 153(2) TEC)

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

In Part III you find the content of the former Community policies.

Can be changed by unanimity

GENERAL PRINCIPLES FOR ALL POLICIES

Consistency of the different policies and principle of conferral

Eliminate inequality, promote equality

Social protection must take into account:

- *employment,*
- *social protection,*
- *social exclusion*
- *education, training*
- *human health*

Combat discrimination

Environment and sustainable development

Integrated into other policies

Consumer protection

Animal welfare and respect of traditions

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

Services of general economic interest

Shared responsibility of Union and Member States

Law adopted by qualified majority defines the principles

CITIZENSHIP

No nationality discrimination

- rules laid down in law

Measures against discrimination

Unanimity in the Council, EP must now give consent

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

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

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.

Article III-122 (ex Article 16 TEC)

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.

TITLE II
NON-DISCRIMINATION AND CITIZENSHIP

Article III-123 (ex Article 12 TEC)

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.

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.

Free movement and settlement

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

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

Election rules

Unanimity in the Council

EP consulted

National derogations

Diplomatic protection

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

Languages

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

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.

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.

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 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.

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.

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.

Article III-128 (ex Article 21 TEC)

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**

*Report on development
of Union citizenship
every third year*

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

National ratification

Article III-129 (ex Article 22 TEC)

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.

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.

**TITLE III
INTERNAL POLICIES AND ACTION**

CHAPTER I

INTERNAL MARKET

SECTION 1

ESTABLISHMENT AND FUNCTIONING

OF THE INTERNAL MARKET

*Shared competence:
The Internal Market*

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

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.

*Area without internal
frontiers, allowing
free movement*

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.

*Council decides
regulations/decisions,
by qualified majority*

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.

Possibility of temporary

4. When drawing up its proposals for achieving the objectives set out in

exceptions from the internal market rules

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.

Exceptions must cause as little disturbance as possible

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.

Consultations

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

Internal disturbances

Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the internal market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war, serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

War

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*)

No discrimination on

1. Workers shall have the right to move freely within the Union.
2. Any discrimination based on nationality between workers of the

grounds of nationality...	Member States as regards <u>employment</u> , <u>remuneration</u> and other conditions of work and employment shall be <u>prohibited</u> .
...unless public policy, security or health	3. Workers shall have the right, subject to <u>limitations</u> justified on grounds of <u>public policy</u> , public <u>security</u> or public <u>health</u> :
Right to:	
- accept offers	(a) to <u>accept offers</u> of employment actually made;
- move freely	(b) to <u>move freely</u> within the territory of Member States for this purpose;
- stay	(c) to <u>stay</u> in a Member State <u>for</u> the purpose of <u>employment</u> in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
- remain in new country, rules adopted by the Commission	(d) to <u>remain</u> in the territory of a Member State <u>after</u> having been <u>employed</u> in that State, subject to conditions which shall be embodied in <u>European regulations</u> adopted by the Commission.
Not public service	4. This Article shall <u>not</u> apply to employment in the <u>public service</u> .
	Article III-134 (ex Article 40 TEC)
	X**
Free movement of workers regulated by qualified majority	European <u>laws or framework laws</u> shall establish the measures needed to bring about <u>freedom of movement</u> for <u>workers</u> , as defined in Article III-133. They shall be adopted after consultation of the Economic and Social Committee.
Aims:	Such European laws or framework laws shall aim, in particular, to:
- cooperation of employment services	(a) ensure close <u>cooperation</u> between national <u>employment services</u> ;
- removal of administrative borders between States	(b) <u>abolish</u> those <u>administrative procedures</u> 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 <u>movement of workers</u> ;
- abolition of qualifying periods that hinder free choice of employment	(c) <u>abolish</u> all such <u>qualifying periods</u> 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 <u>regarding the free choice of employment</u> other than those imposed on workers of the State concerned;
- establishment of transnational contacts between employer and employee	(d) set up appropriate machinery to bring offers of <u>employment into touch</u> with <u>applications</u> 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

Exchange of young workers

*Shared competence:
Social protection
Social protection for migrant workers and their dependants by qualified majority*

Periods of work in different countries used for calculating benefits

System of payment of benefits

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

- refer the draft back to the Council

- ask the Commission to submit a new draft

Freedom of establishment

No restriction on freedom of establishment, self-employment and management

employment in the various regions and industries.

Article III-135 (ex Article 41)

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

Article III-136 (ex Article 42 TEC)

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:

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

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

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:

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

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

**Subsection 2:
Freedom of establishment**

Article III-137 (ex Article 43 TEC)

Within the framework of this Subsection, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

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**

Framework laws

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

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;

Remaining in territory

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

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

(g) by coordinating to the necessary extent the safeguards which, for the

States' interests

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 aids 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 treatments 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.

Article III-141 (ex Article 47 TEC)

X**/X**

Self-employment and mutual recognition of diplomas, certificates
Goal: to make self-employment easier via:

1. European framework laws shall make it easier for persons to take up and pursue activities as self-employed persons. They shall cover:

- mutual recognition of diplomas

(a) the mutual recognition of diplomas, certificates and other evidence of formal qualifications;

- coordination of provisions

(b) the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons.

Medical and pharmaceutical professions coordination

2. In the case of the medical and allied and pharmaceutical professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for the exercise of such professions in the various Member States.

Article III-142 (ex Article 48 TEC)

Companies to be treated the same way as persons

Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Union shall, for the purposes of this Subsection, be treated in the same way as natural persons who are nationals of Member States.

"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.

Article III-143 (ex Article 294 TEC)

No discrimination against other nationals regarding investments

Member States shall accord nationals of the other Member States the same treatment as their own nationals as regards participation in the capital of companies or firms within the meaning of the second paragraph of Article III-142, without prejudice to the application of the other provisions of the Constitution.

Subsection 3:

Freedom to provide services

Free services

Article III-144 (ex Article 49 TEC)

EP gain co-decision

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 3rd 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

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.

*Definition includes:
- industrial activities*

"Services" shall in particular include:
(a) activities of an industrial character;

- commercial activities

(b) activities of a commercial character;

- craftsmen

(c) activities of craftsmen;

- professionals

Under the same conditions as the state's own nationals

(d) activities of the professions.

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 and 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)

Liberalisation now by ordinary legislative procedure with EP

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.

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.

Further liberalisation

Article III-148 (ex Article 53 TEC)

Possibility to adopt measures at a more rapid tempo

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.

Recommendations From the Commission

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

Article III-149 (ex Article 54 TEC)

No discrimination on grounds of nationality or residence

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.

Official authority and other derogations Rules on services also used here

Article III-150 (ex Article 55 TEC)

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

Free movement of goods

Exclusive competence Customs union

Free movement of goods

Ban on customs duties and all charges with same effect

Common customs tariff

Products from 3rd countries are in "free circulation" once inside the Union

All customs duties between Member States prohibited

Customs tariff by qualified majority

The Commission must:

- promote trade

- improve competitive capacity

- ensure supply

- avoid competition distorting conditions

SECTION 3:

FREE MOVEMENT OF GOODS

**Subsection 1:
Customs union**

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

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.

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.

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.

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.

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

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

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

(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;

- avoid disturbances of economies
- increase consumption

Customs cooperation

Customs cooperation through legislative procedure

Prohibition of quantitative restrictions

and measures of equivalent effect

Exceptions:

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

Public Monopolies

Member States shall not discriminate

(Article also applies indirectly)

Member States shall refrain from new

(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.

**Subsection 2:
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.

**Subsection 3:
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.

Article III-154 (ex Article 30 TEC)

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.

Article III-155 (ex Article 31 TEC)

1. Member States shall adjust any State monopolies of a commercial character so as to ensure that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.

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.

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

measures contrary to these principles

Special rules for monopolies dealing with agricultural products

Free movement of capital

Ban on restrictions - both between Member States and 3rd countries

Restrictions against 3rd countries which date from before 1993 are legal

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

Liberalisation through legislative procedure

Any step backwards requires unanimity in the Council

scope of the Articles dealing with the prohibition of customs duties and quantitative restrictions between Member States.

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.

SECTION 4:

CAPITAL AND PAYMENTS

Article III-156 (ex Article 56 TEC)

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)

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.

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.

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.

Taxation and supervision

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

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

No restrictions of the rights of establishment

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

Article III-158 (ex Article 58 TEC)

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;

(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.

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

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.

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

acceptable
- laws adopted by normal legislative procedure (Art. 308 TEC has been used so far)
- implementation: Council acts by qualified majority

Competition

Prohibition of:

- agreements between undertakings
- decisions by associations
- concerted practices

- fixing prices

- limiting market mechanisms

- sharing markets

- discriminatory treatment of trading partners

- demand of irrelevant supplementary obligations

Actions contrary to this article are automatically void...

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

Subsection 1: Rules applying to undertakings

Article III-161 (ex Article 81 TEC)

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:

(a) directly or indirectly fix purchase or selling prices or any other trading conditions

(b) limit or control production, markets, technical development, or investment;

(c) share markets or sources of supply;

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(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.

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

... unless:

- improve the production and distribution of goods
- promote technical or economic progress and do not result in:
- non-indispensable restriction

- the possibility of eliminating competition

Abuse of a dominant position is prohibited

Forms of abuse:

- unfair prices

- unfair limitations

- dissimilar trans-action conditions

- irrelevant supplementary obligations

Decision-making on competition

Regulations through qualified majority in Council

3. Paragraph 1 may, however, be declared inapplicable in the case of:

- 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,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article III-162 (ex Article 82 TEC)

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:

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

(b) limiting production, markets or technical development to the prejudice of consumers;

(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(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.

Article III-163 (ex Article 83 TEC)

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:

- ensuring compliance through fines

- effective supervision

- simplifying administration

- defining scope of competition

- defining role of Commission and EU Court

- determine relationship between Union and national laws

Member States
competent until regulation adopted

Commission role

Commission ensure principles by:

- investigating cases
- making proposals

- making a reasoned decision recording that infringement has taken place

New: Commission

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;

(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;

(c) to define, if need be, in the various branches of the economy, the scope of Articles III-161 and III-162;

(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;

(e) to determine the relationship between Member States' laws and this Subsection as well as the European regulations adopted pursuant to this Article.

Article III-164 (ex Article 84 TEC)

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.

Article III-165 (ex Article 85 TEC)

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.

2. If the infringement referred to in paragraph 1 is not brought to an end, the Commission shall adopt a reasoned European decision recording the infringement of the principles. The Commission may publish its decision and authorise Member States to take the measures, the conditions and details of which it shall determine, needed to remedy the situation.

3. The Commission may adopt European regulations relating to the

adopts regulations on supervision and administration

Public monopolies
must also obey the rules of competition...

...unless this obstructs their performance

The Commission adopts regulations/decisions

State Aid

Ban on State aid
affecting trade between Member States

Permitted:

- social aid to individuals

- compensation by exceptional occurrences and natural disasters

- aid to east Germany (This can be repealed 5 years after the Constitution comes into force with qualified

categories of agreement in respect of which the Council has adopted a European regulation pursuant to Article III-163, second paragraph, (b).

Article III-166 (*ex Article 86 TEC*)

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.

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.

3. The Commission shall ensure the application of this Article and shall, where necessary, adopt appropriate European regulations or decisions.

Subsection 2:
Aids granted by Member States

Article III-167 (*ex Article 87 TEC*)

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:

(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;

(b) aid to make good the damage caused by natural disasters or exceptional occurrences;

(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

majority)

Can be permitted:

- aid for development of areas in special situations

- promotion of projects of common European interest

- certain economic activities and areas, without affecting trading conditions

- culture and heritage, without affecting trading conditions

- other exceptions, decided by Council by qualified majority

Commission role

Commission shall constantly review Member States' aid

Commission can adopt a decision requiring the abolition of aid

Cases can be brought before the EU Court

Dispensations
States can ask the

Commission, may adopt a European decision repealing this point.

3. The following may be considered to be compatible with the internal market:

(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;

(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;

(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;

(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;

(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.

Article III-168 (ex Article 88 TEC)

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.

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.

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.

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

Council to declare their aids legal

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 three 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

New: Commission adopts regulations

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.

Article III-169 (ex Article 89 TEC)

X*

Council adopts regulations by qualified majority

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.

Tax and fiscal rules

SECTION 6:

FISCAL PROVISIONS

Ban on discriminatory taxation

Article III-170 (ex Articles 90 - 92 TEC)

- including indirect taxes

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.

Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect

For exports: repay not higher than the amount paid for internal taxes

A qualified majority in the Council can approve temporary exemptions after proposal from the Commission

Harmonisation of VAT and indirect taxation

Indirect taxes to be harmonised by the Council acting unanimously

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 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.

3. In the case of charges other than turnover taxes, excise duties and other forms of indirect taxation, remissions and repayments in respect of exports to other Member States may not be granted and countervailing charges in respect of imports from Member States may not be imposed unless the provisions contemplated have been previously approved for a limited period by a European decision adopted by the Council on a proposal from the Commission.

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.

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

protection, but not the "highest" level

“Environmental guarantee”

Keeping better rules for the:

- environment
- working environment
- In regard to Art. 154 (eg. health)

Introducing better rules for the:

- environment
- working environment
- specific problems arising for a State after harmonisation

The Commission decides whether a measure is:

- discriminatory
- a hidden trade restriction
- an obstacle to the functioning of the Internal Market

Extension of period by 6 months

If a national derogation from harmonisation is approved, Commission can propose it for all

Health not included in the foregoing so-called environmental guarantee

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.

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.

6. The Commission shall, within six months of the notifications referred to in paragraphs 4 and 5, adopt a European decision approving or rejecting the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger to human health, the Commission may notify the Member State concerned that the period referred to in this paragraph will be extended for a further period of up to six months.

7. When, pursuant to paragraph 6, a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.

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.

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)

Laws to be harmonised by unanimity in the Council, if there is no specific legal basis

*U**

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 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.

Intellectual property

Article III-176 (new)

Laws and framework laws adopted by qualified majority in the Council provide uniform intellectual property rights (Art. 308 TEC has been used so far)

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.

Language rules by unanimity

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.

ECONOMIC POLICY AND THE EMU

CHAPTER II

ECONOMIC AND MONETARY POLICY

Principles:

Article III-177 (ex Article 4 TEC)

Economic coordination

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.

Open market economy

Monetary policy and the introduction of a single currency are part of the economic policy

Concurrently with the foregoing, and as provided in the Constitution and in accordance with the procedures set out therein, these activities shall include a single currency, the euro, and the definition and conduct of a single monetary policy and exchange-rate policy, the primary objective of both of which shall be to maintain price stability and, without prejudice to this objective, to support general economic policies in the Union, in accordance with the principle of an open market economy with free competition.

Stable prices

Sound public finances

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.

SECTION 1

ECONOMIC POLICY

Article III-178 (ex Article 98 TEC)

Objective:

*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.

Article III-179 (ex Article 99 TEC)

**Coordination of
economic policy**

*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.

*The Council monitors
the economies of the
Member States
following reports from
the Commission*

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.

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.

If guidelines are

X 4. Where it is established, under the procedure referred to in

breached, the Commission adopts warnings and a qualified majority in the Council can:
- make recommendations
- publish them

The vote of the Member State concerned does not count

Report to the European Parliament and appear before the committee

Rules for monitoring by qualified majority

Severe difficulties

Measures can be taken if severe difficulties arise in supply

Possibility of granting financial assistance in cases of exceptional occurrences or natural disasters

Ban on overdrafts

paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned. The Council, on a proposal from the Commission, may decide to make its recommendations public.

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

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

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

5. The President of the Council and the Commission shall report to the European Parliament on the results of multilateral surveillance. The President of the Council may be invited to appear before the competent committee of the European Parliament if the Council has made its recommendations public.

X** 6. European laws may lay down detailed rules for the multilateral surveillance procedure referred to in paragraphs 3 and 4.

Article III-180 (ex Article 100 TEC)

X

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.

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.

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.

Article III-182 (ex Article 102 TEC)

No loan privileges

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)

***No Union liability for
debt***

*- with the exception of
mutual guarantees*

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.

*A qualified majority in
the Council decides the
details, now only after
consulting the EP*

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.

Article III-184 (ex Article 104 TEC)

***The most important
article on monetary
union***

*Avoidance of large
deficits
The Commission
monitors **budgetary
discipline***

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

Two criteria:

*3% of the planned or actual government deficit - can exceed a reference value if:
- substantial decline*

- exceptional decline

exceeding 60% of overall government debt... unless the debt ratio is diminishing sufficiently

Reference values specified in the Protocol n° 10

Report on excessive deficits takes into account relevant factors as government's investments and medium-term position. Commission report about risk of excessive deficit

Committee gives opinion on report

Commission's opinion to Member State on deficit

The Council decides by qualified majority on a Commission proposal whether the deficit is excessive and makes a recommendation to the Member State concerned

No vote for Member

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.

The reference values are specified in the Protocol on the excessive deficit procedure.

3. If a Member State does not fulfil the requirements under one or both of these criteria, the Commission shall prepare a report. The Commission's report shall also take into account whether the government deficit exceeds government investment expenditure and take into account all other relevant factors, including the medium-term economic and budgetary position of the Member State.

The Commission may also prepare a report if, notwithstanding the fulfilment of the requirements under the criteria, it is of the opinion that there is a risk of an excessive deficit in a Member State.

4. The Economic and Financial Committee set up under Article III-192 shall formulate an opinion on the Commission's report.

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

X 6. The Council shall, on a proposal from the Commission, having considered any observations which the Member State concerned may wish to make and after an overall assessment, decide whether an excessive deficit exists. In that case it shall adopt, without undue delay, on a recommendation from the Commission, recommendations addressed to the Member State concerned with a view to bringing that situation to an end within a given period. Subject to paragraph 8, those recommendations shall not be made public.

Within the scope of this paragraph, the Council shall act without taking into

State in question - 55% of votes representing 65% of population required

account the vote of the member of the Council representing the Member State concerned.

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

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

Qualified majority used in paragraphs 8 -11 without vote of the Member State in question

X 7. The Council, on a recommendation from the Commission, shall adopt the European decisions and recommendations referred to in paragraphs 8 to 11.

It shall act without taking into account the vote of the member of the Council representing the Member State concerned.

*QMV = 55% of the members of the Council comprising 65% of the population.
Blocking minority = 35% of the population of the Eurozone + 1 Member State*

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.

*Council can:
- publish recommendations*

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.

- impose measures

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.

- request reports

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.

If failure to comply, the following measures can be imposed:

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:

- request of information

(a) require the Member State concerned to publish additional information, to be specified by the Council, before issuing bonds and securities;

- review of lending conditions

- demand of a **non-interest-bearing deposit**

- imposition of **fin**es

EP informed

When problem of excessive deficit is being solved, measures shall be repealed

Protocol n° 10 on deficits

Protocol n° 10 to be replaced by European law by unanimity

Implementation by qualified majority in Council

Exclusive competence
Monetary policy

Objective of the Central Bank System

price stability

(b) invite the European Investment Bank to reconsider its lending policy towards the Member State concerned;

(c) require the Member State concerned to make a non-interest-bearing deposit of an appropriate size with the Union until the Council considers that the excessive deficit has been corrected;

(d) impose fines of an appropriate size. to

The President of the Council shall inform the European Parliament of the measures adopted.

X 11. The Council shall repeal some or all of the measures referred to in paragraph 6 and paragraphs 8, 9 and 10 if it considers the excessive deficit in the Member State concerned to have been corrected. If the Council has previously made public recommendations, it shall state publicly, as soon as the European decision referred to in paragraph 8 has been repealed, that there is no longer an excessive deficit in the Member State concerned.

12. The rights to bring actions provided for in Articles III-360 and III-361 shall not be exercised within the framework of paragraphs 1 to 6 or paragraphs 8 and 9.

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.

U* A European law of the Council shall lay down the appropriate measures to replace the said Protocol. The Council shall act unanimously after consulting the European Parliament and the European Central Bank.

X* Subject to the other provisions of this paragraph, the Council, on a proposal from the Commission, shall adopt European regulations or decisions laying down detailed rules and definitions for the application of the said Protocol. It shall act after consulting the European Parliament.

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

	<p>Banks shall act in accordance with the principle of an <u>open market economy</u> with <u>free competition</u>, favouring an efficient allocation of resources, and in compliance with the principles set out in Article III-177.</p>
<p><i>Tasks of ESCB:</i></p>	<p>2. The basic <u>tasks</u> to be carried out through the <u>European System of Central Banks</u> shall be:</p>
<p><i>- monetary policy</i></p>	<p>(a) to define and implement the Union's <u>monetary policy</u>;</p>
<p><i>- foreign exchange operations</i></p>	<p>(b) to conduct foreign-exchange <u>operations</u> consistent with Article III-326;</p>
<p><i>- management of foreign reserves</i></p>	<p>(c) to hold and <u>manage</u> the official <u>foreign reserves</u> of the Member States;</p>
<p><i>- practical payment systems</i></p>	<p>(d) to <u>promote the smooth operation of payment systems</u>.</p>
<p><i>Excluding the Government's own holdings</i></p>	<p>3. Paragraph 2(c) shall be <u>without prejudice</u> to the <u>holding</u> and management by the governments of <u>Member States</u> of <u>foreign-exchange</u> working balances.</p>
<p><i>The Central Bank is to be consulted when:</i></p>	<p>4. The <u>European Central Bank</u> shall be <u>consulted</u>:</p>
<p><i>- Union acts fall within its competence</i></p>	<p>(a) on any proposed <u>Union act</u> in areas within its powers;</p>
<p><i>- national legislation is adopted in areas within its powers</i></p>	<p>(b) by <u>national authorities</u> regarding any draft <u>legislative</u> provision in areas within <u>its powers</u>, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article III-187(4).</p>
<p><i>ECB can give an opinion</i></p>	<p>The European Central Bank may <u>submit opinions</u> to the Union institutions, bodies, offices or agencies or to national authorities on matters within its powers.</p>
<p><i>ESCB must supervise</i></p>	<p>5. The <u>European System of Central Banks</u> shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential <u>supervision of credit institutions</u> and the stability of the financial system.</p>
<p><i>Financial supervision decided by the Council with unanimity, EP is now only consulted (assent procedure today)</i></p>	<p>U* 6. A European <u>law of the Council</u> may confer specific tasks upon the European Central Bank concerning policies relating to the <u>prudential supervision of credit institutions</u> and other financial institutions with the exception of insurance undertakings. The Council shall act <u>unanimously</u> after <u>consulting</u> the European Parliament and the European <u>Central Bank</u>.</p>

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
Regulations by qualified majority in the Council*

2. Member States may issue euro coins subject to approval by the European Central Bank of the volume of the issue.

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.

The statute can be amended by laws if:

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:

- Commission proposes

X** (a) either on a proposal from the Commission and after consultation of the European Central Bank;

- ECB recommends it

XX** (b) or on a recommendation from the European Central Bank and after consultation of the Commission.

The Council adopts measures, EP is consulted

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:

- Commission proposes, ECB is consulted

X* (a) either on a proposal from the Commission and after consulting the European Central Bank;

- ECB recommends, Commission is

XX* (b) or on a recommendation from the European Central Bank and after consulting the Commission.

consulted

Independence

Neither ECB nor national central banks can receive instructions from any body

Article III-188 (ex Article 108 TEC)

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.

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.

Regulations and decisions

The ECB adopts:

Article III-190 (ex Article 110 TEC)

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
ECB can publish own acts*

(c) recommendations and opinions.

2. The European Central Bank may decide to publish its European decisions, recommendations and opinions.

ECB can impose fines – the Council decides

X*/XX* 3. The Council shall, under the procedure laid down in Article III-187(4), adopt the European regulations establishing the limits

conditions by qualified majority

Euro-law

Measures for use of the Euro adopted by legislative procedure, the ECB is consulted

Economic and Financial Committee

- promotes coordination of Member States' policies

- delivers opinions

- examines the economic and financial situation of Member States

- helps preparatory work of Council

- examines all measures on movement of capital and freedom of payments

Member States, Commission and ECB

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.

Article III-191 (ex Article 123(4) TEC)

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.

SECTION 3:

INSTITUTIONAL PROVISIONS

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.

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;

(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;

(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;

(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.

each appoint up to 2 members

Council decides composition of Economic and Financial Committee

Member States with derogations

Request for a Commission recommendation or proposal

Euro-zone budget discipline by qualified majority by Euro-zone members only

Complementary measures shall be adopted for euro-zone countries

Strengthening the coordination of their budgetary discipline

Economic guidelines

The Member States, the Commission and the European Central Bank shall each appoint no more than two members of the 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.

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)

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.

SECTION 4

PROVISIONS SPECIFIC TO MEMBER

STATES WHOSE CURRENCY IS THE EURO

Article III-194 (new)

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:

(a) to strengthen the coordination and surveillance of their budgetary discipline;

(b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.

Qualified majority among euro-zone members only, 55% of the members of the Council comprising 65% of the population

Blocking minority = 35% of the population of the Eurozone + 1 Member State

Protocol n° 12 for Euro-countries

The Euros place in the world

New competence: Council adopts common position for the international monetary system by qualified majority

Qualified majority for a unified representation in international organisations

Council decides representation by qualified majority of the euro-zone members

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

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

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

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.

Article III-196 (new)

X

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.

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

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

A qualified majority 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.

The exclusion of these Member States from the ESCB is laid down in the Statute

Member States with derogations have no voting rights in the Council when it deals with euro issues...

...especially not for recommendations following multilateral surveillance or for procedures in case of excessive deficits

QMV= 55% of the members of the Council comprising 65% of the population

Member States with derogation (no Euro)
Commission and ECB each submit a yearly report on progress of the Member States wanting to join the euro

The reports examine whether the following criteria have been fulfilled:

- price stability

- no excessive budget deficit

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

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

(a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings (Article III-179(4));

(b) measures relating to excessive deficits concerning those Member States whose currency is the euro (Article III-184(6), (7), (8) and (11)).

A qualified majority 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.

Article III-198 (ex Articles 121(1-2), 122(2), 123(5) TEC)

1. At least once every two years, or at the request of a Member State with a derogation, the Commission and the European Central Bank shall report to the Council on the progress made by the Member States with a derogation in fulfilling their obligations regarding the achievement of economic and monetary union. These reports shall include an examination of the compatibility between the national legislation of each of these Member States, including the statutes of its national central bank, and Articles III-188 and III-189 and the Statute of the European System of Central Banks and of the European Central Bank. The reports shall also examine whether a high degree of sustainable convergence has been achieved, by analysing how far each of these Member States has fulfilled the following criteria:

(a) the achievement of a high degree of price stability; this is apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability;

(b) the sustainability of the government financial position; this is apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article III-184(6);

- 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.

Qualified majority of euro-countries recommend

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

The qualified majority referred to in the second subparagraph shall be defined as at least 55% of these members of the Council, representing Member States comprising at least 65% of the population of the participating Member States. A blocking minority must include at least the minimum number of these Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

The euro-zone fixes, by unanimity, the rate at which the euro substitutes the currency of the new euro-member

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 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)

General Council of the ECB

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.

Relations between non-euro states and 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:

- (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.

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

...Commission can recommend mutual assistance

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.

The Council can grant mutual assistance by qualified majority

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:

(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.

Commission decides until a qualified majority in the Council revokes a decision

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.

Such authorisation may be revoked and such conditions and details may be changed by the Council.

Protective measures

Article III-202 (ex Article 120 TEC)

Member States can take protective measures in a sudden crisis

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.

Commission and other Member States are informed

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.

Council decides by qualified majority

XX 3. The Council, acting on a recommendation from the Commission and after consulting the Economic and Financial Committee may adopt a European decision stipulating that the Member State concerned shall

amend, suspend or abolish the protective measures referred to in paragraph 1.

Shared competences according to Art. I-14
Coordinating competences, Art. I-15

Employment chapter -
introduced by the Treaty of Amsterdam

Coordinated strategy for jobs
- a high level of employment through promoting a skilled, trained and adaptable workforce

Promoting of jobs

Member States are competent, but must pursue Union's objectives

Promotion of employment to be coordinated

High level of jobs

The Union shall support Member States in achieving a high level of employment

Other Union policies shall take employment into consideration

Recommendations

Employment guidelines for the Member States

CHAPTER III

POLICIES IN OTHER AREAS

SECTION 1

EMPLOYMENT

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.

Article III-204 (ex Article 126 TEC)

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).

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.

Article III-205 (ex Article 127 TEC)

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.

Article III-206 (ex Article 128 TEC)

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.

The Council, by qualified majority, draws up non-binding employment guidelines in line with economic guidelines

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.

These guidelines shall be consistent with the broad guidelines adopted pursuant to Article III-179(2).

Annual reports from each Member State

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.

The Council, on a recommendation from the Commission, issues recommendations to the Member States by qualified majority

X 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.

Joint annual report

X 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.

Incentive measures

Article III-207 (ex Article 129 TEC)

are established by qualified majority in the Council

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 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.

	<p>The tasks of the Committee shall be:</p>
<p>- monitors</p>	<p>(a) to <u>monitor the employment situation and employment policies</u> in the Union and the Member States;</p>
<p>- delivers opinions</p>	<p>(b) without prejudice to Article III-344, to <u>formulate opinions</u> 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.</p>
<p>- consults social partners</p>	<p>In fulfilling its mandate, the Committee shall <u>consult management and labour</u>.</p>
	<p><u>Each</u> Member State and the Commission shall appoint <u>two members</u> of the Committee.</p>
	<p style="text-align: center;"><u>SECTION 2</u></p> <p style="text-align: center;"><u>SOCIAL POLICY</u></p>
<p><i>Shared competence:</i> Social and labour market policy</p>	<p style="text-align: center;">Article III-209 (ex Article 136 TEC)</p>
<p><i>Objectives</i></p>	<p>The Union and the Member States, having in mind fundamental social rights such as those set out in the European <u>Social Charter</u> signed at Turin on 18 October 1961 and in the 1989 <u>Community Charter of the Fundamental Social Rights of Workers</u>, shall have as their <u>objectives</u> the <u>promotion of employment, improved living and working conditions</u>, so as to make possible their <u>harmonisation</u> while the <u>improvement</u> is being <u>maintained</u>, proper <u>social protection</u>, <u>dialogue</u> between <u>management and labour</u>, the development of <u>human resources</u> with a view to lasting <u>high employment</u> and the <u>combating of exclusion</u>.</p>
<p><i>Rise of employment level and of the living and working conditions</i></p>	<p>To this end the <u>Union</u> and the Member States shall <u>act</u> taking <u>account</u> of the <u>diverse</u> forms of <u>national practices</u>, in particular in the field of <u>contractual relations</u>, and the need to maintain the <u>competitiveness</u> of the Union economy.</p>
<p><i>Union's actions shall take account of diverse national practices in contractual relations and of the benefit of competitiveness</i></p>	<p>They believe that such a development will ensue not only from the functioning of the internal market, which will favour the <u>harmonisation of social systems</u>, but also from the procedures provided for in the Constitution and from the <u>approximation of provisions</u> laid down by law, regulation or administrative action of the Member States.</p>
<p>Harmonisation of social systems</p>	
<p>The most important social article</p>	<p style="text-align: center;">Article III-210 (ex Article 137 TEC)</p>
<p><i>The Union supports and</i></p>	<p>1. With a view to achieving the objectives of Article III-209, the <u>Union</u></p>

<i>complements</i>	shall <u>support and complement</u> the activities of the <u>Member States</u> in the following fields:
<i>Legislative procedure (QMV, EP veto) X**</i>	(a) <u>improvement</u> in particular of the <u>working environment</u> to protect workers' health and safety;
<i>Legislative procedure (QMV, EP veto) X**</i>	(b) <u>working conditions</u> ;
<i>Unanimity in Council, EP consulted U*</i>	(c) <u>social security</u> and <u>social protection of workers</u> ;
<i>Unanimity in Council, EP consulted U*</i>	(d) protection of workers where their <u>employment contract</u> is <u>terminated</u> ;
<i>Legislative procedure (QMV, EP veto) X**</i>	(e) the information and <u>consultation</u> of workers;
<i>Unanimity in Council, EP consulted U*</i>	(f) representation and <u>collective defence</u> of the interests of workers and employers, including <u>co-determination</u> , subject to paragraph 6;
<i>Unanimity in Council, EP consulted U*</i>	(g) conditions of employment for <u>third-country</u> nationals legally residing in Union territory;
<i>Legislative procedure (QMV, EP veto) X**</i>	(h) the <u>integration of persons</u> excluded from the <u>labour market</u> , without prejudice to Article III-283;
<i>Legislative procedure (QMV, EP veto) X**</i>	(i) <u>equality</u> between women and men with regard to labour market opportunities and treatment at work;
<i>Legislative procedure (QMV, EP veto) X**</i>	(j) the combating of <u>social exclusion</u> ;
<i>Legislative procedure (QMV, EP veto) X**</i>	(k) the <u>modernisation of social protection</u> systems without prejudice to point (c).
	2. For the purposes of paragraph 1:
<i>Measures to encourage cooperation adopted through legislative procedure</i>	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;
<i>No harmonisation</i>	
<i>Minimum rules in points (a)-(i), see above</i>	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 framework laws shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

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.

A unanimous Council may change unanimity to ordinary legislative procedure with qualified majority

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.

Management and labour can implement framework laws

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.

But, the Member State must guarantee the result

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.

Union acts:

5. The European laws and framework laws adopted pursuant to this Article:

- may not affect fundamental principles of social systems

(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 prevent higher standards when compatible with Constitution

(b) shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Constitution.

Pay, right of association, strikes and lock-outs dealt with in part II and III-213g

6. This Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

Consultation

Article III-211 (ex Article 138 TEC)

of management and labour

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.

- 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 a 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:

- employment

(a) employment;

- labour law and working conditions

- training

- social security

- prevention of accidents and diseases

- hygiene

- right of association and collective bargaining

Means:

- studies

- opinions

- consultation

- guidelines

- best practice

- monitoring

- evaluation

Equality at work

Equal pay for work of equal value

Broad definition of "pay"

Uniform calculation methods required

Law by legislative procedure, consult EcoSoc

(b) labour law and working conditions;

(c) basic and advanced vocational training;

(d) social security;

(e) prevention of occupational accidents and diseases;

(f) occupational hygiene;

(g) the right of association and collective bargaining between employers and workers.

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.

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)

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.

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.

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;

(b) that pay for work at time rates shall be the same for the same job.

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

<i>Specific advantages for underrepresented sex allowed</i>	<u>Committee.</u> 4. With a view to ensuring full equality in practice between women and men in working life, the principle of equal treatment shall <u>not prevent</u> any Member State from maintaining or adopting measures providing for <u>specific advantages</u> in order to make it easier <u>for the under-represented</u> sex to pursue a vocational activity, or to prevent or compensate for disadvantages in professional careers.
<i>Paid holiday</i>	<p style="text-align: center;">Article III-215 (ex Article 142 TEC)</p> Member States shall endeavour to maintain the existing <u>equivalence</u> between <u>paid holiday schemes</u> .
<i>Social report</i>	<p style="text-align: center;">Article III-216 (ex Article 143 TEC)</p> The Commission shall draw up a <u>report</u> each year on progress in achieving the <u>objectives</u> 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.
<i>Social Protection Committee, advisory</i>	<p style="text-align: center;">Article III-217 (ex Article 144 TEC)</p> <i>Simple majority*</i> The <u>Council</u> shall, by a <u>simple majority</u> , adopt a European decision establishing a <u>Social Protection Committee</u> with <u>advisory status</u> to promote cooperation on social protection policies between Member States and with the Commission. The Council shall act after <u>consulting</u> the European <u>Parliament</u> .
<i>The Council decide by simple majority</i>	The tasks of the Committee shall be:
<i>The Committee's tasks:</i>	<ul style="list-style-type: none">(a) to <u>monitor</u> the <u>social situation</u> and the development of social protection policies in the Member States and within the Union;(b) to <u>promote</u> exchanges of information, experience and <u>good practice</u> between Member States and with the Commission;(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.
<i>- monitoring of the social situation</i>	
<i>- promotion of good practice</i>	
<i>- making of reports, opinions</i>	
<i>Committee consists of 2 members from each Member State and 2 from the Commission</i>	In fulfilling its mandate, the Committee shall establish <u>appropriate contacts with management and labour</u> . Each Member State and the Commission shall <u>appoint two members of the Committee</u> .

Social chapter

*Commission reports to EP on social development
EP may ask for more information*

Article III-218 (ex Article 145 TEC)

The Commission shall include a separate chapter on social developments within the Union in its annual report to the European Parliament.

The European Parliament may invite the Commission to draw up reports on any particular problems concerning social conditions.

Social Fund

*European Social Fund promotes:
- easy employment of workers
- mobility of workers
- workers' adaptation to industrial changes*

Commission administer assisted by a Committee of Member States, trade unions and employers

Implementation through laws with qualified majority

*Shared competence:
Social and territorial cohesion*

Article III-219 (ex Articles 146 - 148 TEC)

1. In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established; it shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the Union, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining.

2. The Commission shall administer the Fund. It shall be assisted in this task by a Committee presided over by a member of the Commission and composed of representatives of Member States, trade unions and employers' organisations.

X** 3. European laws shall establish implementing measures relating to the Fund. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

SECTION 3:

ECONOMIC, SOCIAL AND TERRITORIAL COHESION

Article III-220 (ex Article 158 TEC)

Objectives:

*- reduction of disparities
- development of least favoured regions with particular attention to rural and other handicapped regions*

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.

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

Commission reports every third year

Specific measures can be established besides the Funds by ordinary legislative procedure

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.

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.

Regional Fund

Article III-222 (ex Article 160 TEC)

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.

Tasks of Structural funds

Tasks of Structural Funds defined by laws (the Council decides by unanimity until 2007)

Article III-223 (ex Article 161 TEC)

*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.

Cohesion Fund for environment and trans-European networks

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.

First provisions for Structural and Cohesion Fund to be adopted unanimously by the Council

Implementing measures, Regional adopted by qualified majority in the Council

Shared competence: Agriculture and fisheries, biological resources in the sea is exclusive competence

The common agricultural policy, CAP Definition of agriculture and fisheries

The concept "agriculture" subsumes fisheries

One internal market

Agriculture is part of the internal market

General rule: internal market rules apply to agriculture

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.

Article III-224 (ex Article 162 TEC)

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.

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.

SECTION 4:

AGRICULTURE AND FISHERIES

Article III-225 (ex Article 32(1, 2. sentence) TEC)

The Union shall define and implement a common agriculture and fisheries policy.

"Agricultural products" means the products of the soil, of stockfarming and of fisheries and products of first-stage processing directly related to these products. References to the common agricultural policy or to agriculture, and the use of the term "agricultural", shall be understood as also referring to fisheries, having regard to the specific characteristics of this sector.

Article III-226 (ex Article 32 TEC)

1. The internal market shall extend to agriculture and trade in agricultural products.

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)

Objectives:

- increase of productivity

- ensuring fair standard of living for agricultural community

- stabilising markets

- assuring supplies

- ensuring reasonable prices

CAP must take account of:

- the particular nature of agricultural activity

- gradual adjustment

- the close links between the economies

Common Market Organisation (CMO)...

...through the following methods:

- competition rules

- compulsory coordination of markets

4. The operation and development of the internal market for agricultural products must be accompanied by a common agricultural policy.

Article III-227 (ex Article 33 TEC)

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;

(c) to stabilise markets;

(d) to assure the availability of supplies;

(e) to ensure that supplies reach consumers at reasonable prices.

2. In working out the common agricultural policy and the special methods for its application, account shall be taken 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;

(b) the need to effect the appropriate adjustments by degrees;

(c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole.

Article III-228 (ex Article 34 TEC)

1. In order to attain the objectives set out in Article III-227, a common organisation of agricultural markets shall be established.

This organisation shall take one of the following forms, depending on the product concerned:

(a) common rules on competition;

(b) compulsory coordination of the various national market organisations;

- a European market organisation

Means:

- regulation of prices
- aid
- storage
- import and export-stabilisation

No discrimination inside Union

Uniform price calculation methods

Guarantee Funds

Means:

- coordination, training, research, dissemination of knowledge
- promotion of consumption

Competition rules

Limits to the application of competition rules, legislation adopted by normal procedure
Commission proposes, the Council decides granting of aid to:
- companies in less-favourable areas

- economic development programmes

(c) a European market organisation.

2. The common organisation established in accordance with paragraph 1 may include all measures required to attain the objectives set out in Article III-227, in particular regulation of prices, aids for the production and marketing of the various products, storage and carryover arrangements and common machinery for stabilising imports or exports.

The common organisation shall be limited to pursuit of the objectives set out in Article III-227 and shall exclude any discrimination between producers or consumers within the Union.

Any common price policy shall be based on common criteria and uniform methods of calculation.

3. In order to enable the common organisation referred to in paragraph 1 to attain its objectives, one or more agricultural guidance and guarantee funds may be set up.

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:

(a) an effective coordination of efforts in the spheres of vocational training, of research and of the dissemination of agricultural knowledge; this may include joint financing of projects or institutions;

(b) joint measures to promote consumption of certain products.

Article III-230 (ex Article 36 TEC)

1. The Section relating to rules on competition shall apply to production of and trade in agricultural products only to the extent determined by a European law or framework law in accordance with Article III-231(2), having regard to the objectives set out in Article III-227.

X 2. The Council, acting on a proposal from the Commission, may adopt a European regulation or decision authorising the granting of aid:

(a) or the protection of enterprises handicapped by structural or natural conditions;

(b) within the framework of economic development programmes.

Decision-making procedure

Commission proposes

Legislative procedure for the organisation of markets, here EP gain co-decision

Council only on:

- fixing prices, levies, aid and quantitative limitations

- allocation of fishing

Common Market replaces national markets if:

- account is taken of time needed to adjust and specialise

- conditions similar to national market are ensured

Countervailing charges if discrimination

Article III-231 (ex Article 37 TEC)

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.

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.

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.

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:

(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;

(b) such an organisation ensures conditions for trade within the Union similar to those existing in a national market.

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)

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

Commission shall fix the amount of the necessary charges

Shared competence: Environment

Environmental objectives

*High level of protection, not the "highest". Principles:
- Precautionary
- Preventive
- Polluter pay*

Safeguard clause

Union takes account of:

exist, unless that State applies a countervailing charge on export.

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.

SECTION 5

ENVIRONMENT

Article III-233 (ex Article 174 TEC)

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.

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.

3. In preparing its policy on the environment, the Union shall take 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.

Cooperation with 3rd countries and international organisations

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.

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)

Action determined by normal legislation with qualified majority

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.

Unanimity required for:

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:

- fiscal provisions

(a) provisions primarily of a fiscal nature;

(b) measures affecting:

- town and country planning

(i) 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.

	<p>The measures necessary for the implementation of these programmes shall be adopted under the terms of paragraph 1 or 2, as the case may be.</p>
<p><i>Member States must finance and implement the environment policy</i></p>	<p>4. Without prejudice to certain measures adopted by the Union, the <u>Member States shall finance and implement the environment policy.</u></p>
<p><i>Temporary derogations when costs are too high</i></p>	<p>5. Without prejudice to the principle that the polluter should pay, if a measure based on paragraph 1 involves <u>costs deemed</u> disproportionate for the public authorities of a Member State, such measure shall provide in appropriate form for:</p>
<p><i>- temporary derogations</i></p>	<p>(a) <u>temporary derogations</u>, and/or</p>
<p><i>- financial support</i></p>	<p>(b) <u>financial support</u> from the Cohesion Fund.</p>
<p><i>Stricter national rules can be kept, if compatible with the Constitution. Commission must be notified</i></p>	<p>6. The protective measures adopted pursuant to this Article <u>shall not prevent any Member State from maintaining or introducing more stringent protective measures.</u> Such measures <u>must be compatible with the Constitution.</u> They <u>shall be notified</u> to the Commission.</p>
<p><i>Shared competence: Consumer Protection</i></p>	<p style="text-align: center;"><u>SECTION 6</u> <u>CONSUMER PROTECTION</u></p>
<p><i>Aims and means</i></p>	<p style="text-align: center;">Article III-235 (ex Article 153(1, 3-5) TEC)</p>
<p><i>Objective: a high level of protection, not the "highest" level</i></p>	<p>1. In order to promote the interests of consumers and to ensure a <u>high level of consumer protection</u>, the Union shall contribute to protecting the <u>health, safety and economic interests of consumers</u>, as well as to promoting their <u>right to information, education</u> and to <u>organise</u> themselves in order to safeguard their interests.</p>
	<p>2. The Union shall contribute to the attainment of the objectives referred to in paragraph 1 through:</p>
<p><i>As part of the Internal Market</i></p>	<p>(a) <u>measures</u> adopted pursuant to Article III-172 in the context of the establishment and functioning of the <u>internal market</u>;</p>
<p><i>Special policies</i></p>	<p>(b) measures which <u>support, supplement and monitor</u> the policy pursued by the Member States.</p>
<p><i>Legislative procedure with qualified majority</i></p>	<p>X** 3. European laws or framework <u>laws</u> shall establish the measures referred to in paragraph 2(b). Such laws shall be adopted after consultation of the Economic and Social Committee.</p>

Stricter national rules can be kept, if compatible with the Constitution. Commission must be notified

Shared competence: Transport policy

A common transport policy

Legislation by qualified majority in the Council, (today QMV under 71 (1) and unanimity under 71 (2) TEC)

*Legislation covers:
- international transport*

- transport services

- transport safety

- any other measure

Legislation shall take account of geographic differences

Transition article

- unanimity required less favourable treatment of carriers from other Member States

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.

SECTION 7

TRANSPORT

Article III-236 (ex Articles 70, 71 TEC)

1. The objectives of the Constitution shall, in matters governed by this Section, be pursued within the framework of a common transport policy.

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.

Such European laws or framework laws shall establish:

(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;

(b) the conditions under which non-resident carriers may operate transport services within a Member State;

(c) measures to improve transport safety;

(d) any other appropriate measure.

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.

Article III-237 (ex Article 72 TEC)

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)
<i>Aid allowed up to a certain limit</i>	<u>Aids</u> 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.
Transport rates	Article III-239 (ex Article 74 TEC)
<i>Consider economic circumstances of carriers</i>	Any measures adopted within the framework of the Constitution in respect of transport rates and conditions shall <u>take account</u> of the <u>economic circumstances of carriers</u> .
<i>Ban on discrimination</i>	Article III-240 (ex Article 75 TEC) 1. In the case of transport within the Union, <u>discrimination</u> 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 <u>prohibited</u> . 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 <u>European regulations or decisions</u> for implementing paragraph 1. It shall act after consulting the European Parliament and the Economic and Social Committee. 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 <u>Commission</u> , acting on its own initiative or on application by a Member State, shall investigate any cases of <u>discrimination</u> 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.
<i>Detailed rules adopted by the Council by qualified majority</i>	
<i>Commission shall intervene against discrimination</i>	
No national support,	Article III-241 (ex Article 76 TEC)
<i>unless authorised by the Commission</i>	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 <u>support or protection</u> in the interest of one or more particular undertakings or industries shall be <u>prohibited</u> , unless authorised by a European decision of the Commission.

	<p>2. The <u>Commission</u>, acting on its own initiative or on application by a Member State, shall <u>examine</u> the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate <u>regional economic policy</u>, the <u>needs of underdeveloped areas</u> and the problems of areas seriously affected by political circumstances on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport on the other.</p>
<i>Commission adopts decisions</i>	<p>After consulting each Member State concerned, the <u>Commission</u> shall adopt the necessary European <u>decisions</u>.</p>
<i>Tariffs excepted</i>	<p>3. The prohibition provided for in paragraph 1 shall <u>not apply to tariffs</u> fixed to meet competition.</p>
<i>No profit on frontiers</i>	<p style="text-align: center;">Article III-242 (ex Article 77 TEC)</p>
<i>Reasonable charges for crossing frontiers</i>	<p><u>Charges</u> or dues in respect of the <u>crossing of frontiers</u> which are charged by a carrier in addition to the transport rates shall <u>not exceed a reasonable level</u> after taking the costs actually incurred thereby into account.</p> <p>Member States shall endeavour to reduce these costs.</p> <p>The Commission may make recommendations to Member States for the application of this Article.</p>
<i>Derogation for the division of Germany</i>	<p style="text-align: center;">Article III-243 (ex Article 78 TEC)</p>
<i>Can be repealed by qualified majority after 5 years</i>	<p><u>X</u></p> <p>The provisions of this Section shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the <u>division of Germany</u> to the economy of certain areas of the Federal Republic affected by that division. <u>Five years</u> after the entry into force of the Treaty establishing a Constitution for Europe, the <u>Council</u>, acting on a proposal from the Commission, may adopt a European decision <u>repealing this Article</u>.</p>
<i>Advisory Committee</i>	<p style="text-align: center;">Article III-244 (ex Article 79 TEC)</p> <p>An <u>Advisory Committee</u> consisting of experts designated by the governments of the Member States shall be attached to the Commission. The Commission, whenever it considers it desirable, shall consult the Committee on transport matters.</p>
<i>Covered transports</i>	<p style="text-align: center;">Article III-245 (ex Article 80 TEC)</p>
<i>Title applies to transport by railway, road, waterway</i>	<p>1. This Section shall apply to transport by <u>rail</u>, <u>road</u> and <u>inland waterway</u>.</p>

- sea
- air

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.

Shared competence:
**Trans-European
Networks**

SECTION 8

TRANS-EUROPEAN NETWORKS

Aims:

Article III-246 (ex Article 154 TEC)

Establishment of
- transport
- telecommunications
- energy infrastructures

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.

*Interconnection and
interoperability*

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.

Means:

Article III-247 (ex Articles 155, 156 TEC)

- guidelines

1. In order to achieve the objectives referred to in Article III-246, the Union:

- measures to ensure
interoperability

(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;

(b) shall implement any measures that may prove necessary to ensure the interoperability of the networks, in particular in the field of technical standardisation;

- projects

(c) may support projects of common interest supported by Member States, which are identified in the framework of the guidelines referred to in point (a), particularly through feasibility studies, loan guarantees or interest-rate subsidies; the Union may also contribute, through the Cohesion Fund, to the financing of specific projects in Member States in the area of transport infrastructure.

The Union's activities shall take into account the potential economic viability of the projects.

Ordinary legislative

X** 2. European laws or framework laws shall establish the guidelines

procedure with qualified majority

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

Guidelines and projects of common interest which relate to the territory of a Member State shall require the agreement of that Member State.

Coordination among the Member States

3. Member States shall, in liaison with the Commission, coordinate among themselves the policies pursued at national level which may have a significant impact on the achievement of the objectives referred to in Article 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 cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks.

*Shared competence:
Research,
technological
development and space*

SECTION 9

RESEARCH AND TECHNOLOGICAL DEVELOPMENT, AND SPACE

(Member State can still use their competence - I-14(3))

Article III-248 (ex Article 163 TEC)

*Aim: One European research area
- strengthening scientific and technological bases
- promoting research*

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.

*Encouraging and supporting:
- undertakings
- research centres
- universities
- free movement of researchers*

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.

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.

Means:

Article III-249 (ex Article 164 TEC)

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:
- *programmes* (a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;
 - *cooperation* (b) promotion of cooperation in the field of the Union's research, technological development and demonstration with third countries and international organisations;
 - *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

- *guidelines*
- *best practice*
- *monitoring*
- *evaluation*

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.

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

Programme will establish:
- *objectives*

- *maximum financial involvement*

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.

The framework programme shall:

(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;

(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.
<i>Specific programmes</i>	<p>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 <u>consulting</u> the European <u>Parliament</u> and the Economic and Social Committee.</p>
<i>Detailed rules fixed by the Council by qualified majority on a proposal from the Commission</i>	<p>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.</p>
<i>Implementation</i>	<p>Article III-252 (ex Articles 167, 172 (2.sentence), 168, 169, 170 TEC)</p>
<i>European laws or framework laws for:</i>	<p>X** 1. For the implementation of the multiannual framework programme, <u>European laws</u> or <u>framework laws</u> shall establish:</p>
<i>- participation rules</i>	<p>(a) the <u>rules for the participation</u> of undertakings, research centres and universities;</p>
<i>- dissemination rules</i>	<p>(b) the <u>rules governing the dissemination</u> of research results.</p>
<i>Ordinary legislative procedure with qualified majority</i>	<p>Such European laws or framework laws shall be adopted after consultation of the Economic and Social Committee.</p>
<i>Supplementary programmes only for certain Member States</i>	<p>X** 2. In implementing the multiannual framework programme, European laws may establish <u>supplementary programmes</u> involving the participation of certain <u>Member States</u> only, which shall finance them subject to possible participation by the Union.</p>
<i>... are established by ordinary legislative procedure with qualified majority</i>	<p>Such European <u>laws</u> shall <u>determine</u> the <u>rules</u> applicable to <u>supplementary programmes</u>, particularly as regards the dissemination of knowledge as well as access by other Member States. They shall be adopted after consultation of the Economic and Social Committee and with the agreement of the Member States concerned.</p>
<i>The Union can participate in programmes undertaken by Member States</i>	<p>X** 3. In <u>implementing</u> the <u>multiannual framework programme</u>, 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.</p>

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. sentence) TEC)

X*

Detailed rules adopted by the Council with qualified majority

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 State 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.

Relations to European Space Agency

3. The Union shall establish any appropriate relations with the 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.

*Shared competence:
Energy*

SECTION 10

ENERGY

- new article with aim and means (Art. 308 TEC has been used so

Article III-256 (new)

far)

Internal energy market shall:

- ensure a functioning energy market
- ensure security of energy supply
- promote new and renewable forms of energy

Legislation by qualified majority

Competence shall not affect Member States' choice of energy sources

Unanimity when question of fiscal nature

Shared competence: Area of freedom, security and justice (Pillars disappear)

Aims and means

Justice and Home affairs

No internal borders Common policy on asylum, immigration and external control

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:

(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.

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.

Such European laws or framework laws shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article III-234(2)(c).

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.

CHAPTER IV

AREA OF FREEDOM, SECURITY AND JUSTICE

SECTION 1

GENERAL PROVISIONS

Article III-257 (ex Articles 29 TEU, 61 TEC)

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.

2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Chapter, stateless persons

Aim: Fight against crime, racism and xenophobia.
Means: Cooperation between police and judicial authorities
- mutual recognition of judgments
- approximation of criminal law

Mutual recognition of civil judgments

Strategic guidelines

- decided by the European Council

Participation of national parliaments

- Shall secure subsidiarity within judicial co-operation in criminal matters and police cooperation

Evaluation

Commission and Member States evaluate implementation of policies under this chapter.
The Council decides by qualified majority after proposal from the Commission

Standing committee in the Council

Committee ensures cooperation on internal security

shall be treated as third-country nationals.

3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.

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

Article III-258 (new)

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

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.

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.

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

National parliaments and EP kept informed

concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.

Law and order

Article III-262 (ex Articles 33 TEU, 64(1) TEC)

Does not affect Member States' responsibility for law and order

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.

Administrative cooperation through regulations adopted by qualified majority on a Commission proposal

Article III-263 (ex Article 66 TEC)

X*

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 Commission*

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:

- 1/4 of Member States

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

*Shared competence:
**Border Checks,
Asylum and
Immigration***

SECTION 2

POLICIES ON BORDER CHECKS, ASYLUM AND IMMIGRATION

Objectives:

Article III-265 (ex Article 62 TEC)

- no internal border controls on persons

1. The Union shall develop a policy with a view to:

(a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;

- 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

2. For the purposes of paragraph 1, European laws or framework laws shall

majority:

- common visa policy

- control, crossing external borders

- rules on travel of citizens of 3rd countries

- an integrated management system

- no controls, crossing internal borders

No effect on "demarcation" of borders

A common Asylum policy

- respect of the Geneva Convention

Laws by qualified majority for:

- uniform asylum system

- uniform status for 3rd country nationals in need of protection

- common system for temporary protection for displaced persons

- common procedures for granting and withdrawing asylum

establish measures concerning:

X** (a) the common policy on visas and other short-stay residence permits;

X** (b) the checks to which persons crossing external borders are subject;

X** (c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;

X** (d) any measure necessary for the gradual establishment of an integrated management system for external borders;

X** (e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.

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

Article III-266 (ex Articles 63 (points 1-2), 64(2) TEC)

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

X** 2. For the purposes of paragraph 1, European laws or framework laws shall lay down measures for a common European asylum system comprising:

(a) a uniform status of asylum for nationals of third countries, valid throughout the Union;

(b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;

(c) a common system of temporary protection for displaced persons in the event of a massive inflow;

(d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;

- determining who is responsible for an application for asylum

- standards for the reception of asylum seekers

- partnerships with 3rd countries to manage inflows

Adoption of provisional measures in case of massive sudden inflow: Commission proposes, Council decides by qualified majority

Common immigration policy

- management of migration flows
- fair treatment
- fight against illegal immigration

Ordinary legislative procedure for:

- entry and residence
- long term visas
- residence permits
- family reunion
- definition of rights for 3rd country nationals

- removal and repatriation

- combat human trafficking
- readmission agreements

(e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;

(f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;

(g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

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.

Article III-267 (ex Article 63 (points 3-4) TEC)

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.

2. For the purposes of paragraph 1, European laws or framework laws shall establish measures in the following areas:

(a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;

(b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;

(c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;

(d) combating trafficking in persons, in particular women and children.

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

Support of the social integration of refugees, no harmonisation

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.

Member States' competence to fix numbers of immigrants from 3rd countries

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.

Burden sharing

Article III-268 (new)

Member States share financial implications resulting from this chapter

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.

Shared competence: Judicial cooperation in civil matters (Art. 68 TEC on limited Court control disappears)

SECTION 3

JUDICIAL COOPERATION IN CIVIL MATTERS

Article III-269 (ex Article 65 TEC)

*- mutual recognition of judgments
- approximation of laws*

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.

Ordinary legislative procedure by qualified majority for:

X** 2. For the purposes of paragraph 1, European laws or framework laws shall establish measures, particularly when necessary for the proper functioning of the internal market, aimed at ensuring:

*- mutual recognition and enforcement of judgments
- judicial and extrajudicial documents
- compatibility of rules on conflicts of law and jurisdiction
- the taking of evidence*

(a) the mutual recognition and enforcement between Member States of judgments and decisions in extrajudicial cases;

(b) the cross-border service of judicial and extrajudicial documents;

(c) the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction;

(d) cooperation in the taking of evidence;

- access to justice

(e) effective access to justice;

- compatibility of rules on civil proceedings

- alternative methods of dispute settlement

- training

The Council decides on family law by **unanimity**,

...unless Council decides unanimously that certain aspects of family law are adopted by **qualified majority** (Passerelle)

Judicial cooperation in criminal matters

[When nothing else specified, Commission or 1/4 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

(f) the elimination of obstacles to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;

(g) the development of alternative methods of dispute settlement;

(h) support for the training of the judiciary and judicial staff.

U* 3. Notwithstanding paragraph 2, a European law or framework law of the Council shall establish measures concerning family law with cross-border implications. The Council shall act unanimously after consulting the European Parliament.

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

SECTION 4

JUDICIAL COOPERATION IN CRIMINAL MATTERS

Article III-270 (ex Article 31(1) (a-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 or equivalent 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

*Respect differences in legal traditions and concern:
- admissibility of evidence*

*- rights of individuals in criminal procedure
- rights of victims*

The Council can expand this area by unanimity, EP must approve

Rules shall not prevent higher protection for individuals

Member State can refer draft law to the European Council if fundamental legal principles are breached

*The European Council can:
- refer the matter back to the Council
- ask a new draft from Commission or from a group of Member States*

If the European Council cannot agree, 1/3 of the countries can establish enhanced cooperation on the basis of a draft framework law

Other countries cannot block

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;

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.

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

3. Where a member of the Council considers that a draft 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:

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

(b) request the Commission or the group of Member States from which the draft originates to submit a new draft; in that case, the act originally proposed shall be deemed not to have been adopted.

4. If, by the end of the period referred to in paragraph 3, either no action has been taken by the European Council or if, within 12 months from the submission of a new draft under paragraph 3(b), the European framework law has not been adopted, and at least one third of the Member States wish to establish enhanced cooperation on the basis of the draft framework law concerned, they shall notify the European Parliament, the Council and the Commission accordingly.

In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles I-44(2) and III-419(1) shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

Definition of criminal offences and sanctions, **minimum rules for the crimes of:**

- terrorism
- human trafficking
- sexual exploitation
- illicit drug trafficking
- money laundering
- corruption
- counterfeiting of means of payment
- computer crime
- organised crime

The Council may extend these areas by unanimity

*In harmonised areas:
Approximation of the criminal legislation through minimum rules for offences and sanctions*

Member State can refer draft law to European Council if fundamental legal principles are breached

The European Council can:

- refer the draft back to the Council
- 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

Article III-271 (new, ex Article 31(1)(e) 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.

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.

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.

3. Where a member of the Council considers that a draft European framework law as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft framework law be referred to the European Council. In that case, where the procedure referred to in Article III-396 is applicable, it shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- (a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396 where it is applicable, or
- (b) request the Commission or the group of Member States from which the draft originates to submit a new draft; in that case, the act originally proposed shall be deemed not to have been adopted.

4. If, by the end of the period referred to in paragraph 3, either no action has been taken by the European Council or if, within 12 months from the submission of a new draft under paragraph 3(b), the European framework law has not been adopted, and at least one third of the Member States wish to establish 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)

Laws to support crime prevention by qualified majority, no harmonisation

X**

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)

Coordination of national investigations and prosecuting authorities, prosecution on common bases

X**

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,
- strengthening of the judicial cooperation,
- resolution of jurisdiction conflicts*

(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.

EP's and national parliaments' rights by legislative procedure

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

Formal judicial acts adopted by national authorities

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.

New European Public Prosecutor's Office

Article III-274 (new)

*combats crimes
Is established by unanimity in Council and approval from EP*

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.

Prosecution of crimes that affect more than one Member State or Union's financial interests

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.

Rules governing Prosecutor's office

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.

European Council can unanimously extend the powers of the Public Prosecutor, with the approval from the EP

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 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*

SECTION 5

POLICE COOPERATION

Article III-275 (ex Article 30(1) TEU)

*Police, customs, and specialised units
Tasks: prevention, detection, investigation*

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.

*Legislation to establish measures for:
- information processing*

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;

- training, exchange of staff, equipment and research

(b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;

- use of common investigative techniques

common investigative techniques in relation to the detection of serious forms of organised crime.

Operational

U* 3. A European law or framework law of the Council may establish

cooperation decided by unanimity in the Council

measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

Europol

Article III-276 (ex Article 30(2) TEU)

Europol supports and strengthens police authorities cooperation on cross-border crime

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.

Legislation to :

2. European laws shall determine Europol's structure, operation, field of action and tasks. These tasks may include:

- perform information processing

(a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;

- coordinate, organise and implement joint actions of national authorities

(b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.

Role of EP and national parliaments through legislative procedure

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

Europol uses of force requires agreement from Member State involved

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

Cross frontier police

Article III-277 (ex Article 32 TEU)

Rules for authorities' operations on other Member States' territories.
Council decides by unanimity

U*

A European law or framework law of the Council shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles III-270 and III-275 may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament.

Coordinating competence

*- direct harmonisation is prohibited, see I-17
- health, industry, culture, education,*

CHAPTER V

AREAS WHERE THE UNION MAY TAKE COORDINATING, SUPPLEMENTARY OR SUPPORTING ACTION

*administrative
cooperation, youth,
sport, tourism and civil
protection (new areas)*

*Coordinating
competence:
Public health (security
aspects are shared
competence)*

***A high level of health
protection, not the
"highest"***

*Complementing
Member States'
policies...*

*...and encouraging co-
operation between
Member States through:*

Commission initiates

*- guidelines
- best practice
- monitoring
- evaluation*

*Cooperation with 3rd
countries*

SECTION 1

PUBLIC HEALTH

Article III-278 (ex Article 152 TEC)

1. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities.

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.

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.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

Ordinary legislative procedure by qualified majority determines:

- quality and safety of organs and blood - can be increased by Member States

- veterinary and phytosanitary fields

- measures setting high quality standards

- cross-border threats to health

Laws by qualified majority

New competence: Legislation to improve and protect human health

The Council adopts recommendations

Respect for national competence for health services

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:

(a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures;

(b) measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health;

(c) measures setting high standards of quality and safety for medicinal products and devices for medical use;

(d) measures concerning monitoring, early warning of and combating serious cross-border threats to health.

Such European laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

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 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.

X 6. For the purposes of this Article, the Council, on a proposal from the Commission, may also adopt recommendations.

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

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
- monitoring
- evaluation*

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.

*Law or framework law
can establish specific
measures
No harmonisation of
national laws*

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.

*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*

Coordinating
competence
Culture

SECTION 3

CULTURE

Respect diversity

Article III-280 (ex Article 151 TEC)

*Objective: to contribute
to the cultures of the
Member States*

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.

*Encouraging
cooperation between
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:

- culture and history

(a) improvement of the knowledge and dissemination of the culture and history of the European peoples;

- heritage

(b) conservation and safeguarding of cultural heritage of European significance;

- cultural exchanges

(c) non-commercial 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*

X** 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*

(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
the Council, no
harmonisation (Art. 308
TEC has been used so
far)*

Coordinating
competence
**Education, vocational
training, and the new
area: sport**

*Objective: to develop
quality education*

*Full respect for
national competence*

**New: Promotion of
sports**

Means:

*- European dimension
of education*

- mobility

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.

SECTION 5

EDUCATION, YOUTH, SPORT AND VOCATIONAL TRAINING

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.

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.

Union action shall be aimed at:

(a) developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States;

(b) encouraging mobility of students and teachers, inter alia by encouraging the academic recognition of diplomas and periods of study;

<p>- cooperation</p>	<p>(c) promoting <u>cooperation</u> between educational establishments;</p>
<p>- exchange</p>	<p>(d) developing <u>exchanges</u> of information and experience on issues common to the education systems of the Member States;</p>
<p>- youth exchange and participation in democratic life</p>	<p>(e) encouraging the development of <u>youth exchanges</u> and of exchanges of socio-educational instructors and encouraging the <u>participation</u> of young people in <u>democratic life</u> in Europe;</p>
<p>- distance education</p>	<p>(f) encouraging the development of <u>distance education</u>;</p>
<p>- European dimension of sports, promotes: - fairness and integrity - physical and moral integrity</p>	<p>(g) developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially young sportsmen and sportswomen.</p>
<p>Cooperation with 3rd countries and organisations</p>	<p>2. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education and sport, in particular the Council of Europe.</p>
<p>Means:</p>	<p>3. In order to contribute to the achievement of the objectives referred to in this Article:</p>
<p>- incentive measures through by qualified majority, no harmonisation</p>	<p>X**/X** (a) European <u>laws</u> or <u>framework laws</u> shall establish <u>incentive measures</u>, <u>excluding</u> any <u>harmonisation</u> of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee;</p>
<p>- recommendations adopted by the Council</p>	<p>X (b) the Council, on a proposal from the Commission, shall adopt <u>recommendations</u>.</p>
<p>Vocational training</p>	<p>Article III-283 (ex Article 150 TEC)</p>
<p>Full respect of national responsibilities</p>	<p>1. The Union shall implement a <u>vocational training</u> policy which shall support and <u>complement</u> the action of the Member States, while <u>fully respecting</u> the <u>responsibility of the Member States</u> for the content and organisation of vocational training.</p>
<p>Aims:</p>	<p>Union action shall aim to:</p>
<p>- industrial change</p>	<p>(a) facilitate <u>adaptation to industrial change</u>, in particular through vocational training and retraining;</p>
<p>- vocational training</p>	<p>(b) improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market;</p>
<p>- mobility</p>	<p>(c) facilitate <u>access to vocational training</u> and encourage mobility of</p>

<p>- cooperation</p>	<p>instructors and trainees and particularly young people;</p> <p>(d) stimulate <u>cooperation</u> on training between <u>educational</u> or training <u>establishments</u> and firms;</p>
<p>- exchanges</p>	<p>(e) develop <u>exchanges of information</u> and experience on issues common to the training systems of the Member States.</p>
<p>- international cooperation</p>	<p>2. The <u>Union</u> and the <u>Member States</u> shall foster cooperation with <u>third countries</u> and the competent international organisations in the sphere of vocational training.</p>
<p><i>Objectives to be achieved through legislation by qualified majority, no harmonisation</i></p>	<p>3. In order to contribute to the achievement of the objectives referred to in this Article:</p> <p>X** (a) European <u>laws</u> or <u>framework laws</u> shall establish the necessary measures, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee;</p> <p>X (b) the Council, on a proposal from the Commission, shall adopt recommendations.</p>
<p><i>New coordinating competence</i> <i>Civil protection</i></p>	<p><u>SECTION 6</u></p> <p><u>CIVIL PROTECTION</u></p>
<p><i>Prevent and protect against disasters</i> <i>Encouraging cooperation between Member States</i></p>	<p>Article III-284 (new)</p>
<p><i>Aims:</i></p>	<p>1. The Union shall <u>encourage cooperation</u> between Member States in order to <u>improve</u> the effectiveness of systems for <u>preventing and protecting against</u> natural or man-made <u>disasters</u>.</p> <p>Union action shall aim to:</p>
<p>- supporting risk prevention and training</p>	<p>(a) <u>support</u> and <u>complement</u> Member States' action at national, regional and local level in <u>risk prevention</u>, in <u>preparing their civil-protection personnel</u> and in responding to natural or man-made disasters within the Union;</p>
<p>- promoting operational cooperation</p>	<p>(b) promote swift, effective <u>operational cooperation</u> within the Union between national <u>civil-protection services</u>;</p>
<p>-international cooperation</p>	<p>(c) promote consistency in international civil-protection work.</p>
<p><i>Legislation adopted by qualified majority in the Council (Art. 308 TEC</i></p>	<p>X** 2. European <u>laws</u> or <u>framework laws</u> shall establish the measures necessary to help achieve the objectives referred to in paragraph 1, <u>excluding any harmonisation</u> of the laws and regulations of the</p>

has been used so far)

**New coordinating competence
Administrative cooperation**

Implementation of Union law in Member States is a matter of common interest

May support Member States in implementing Union law
-Legislation without harmonisation (Art. 308 TEC has been used so far)

No prejudice to Member States' obligation to implement Union law

OCT Countries

**Association of former colonies
Special relations between OCTs and the Union**

Greenland: special protocol

Objectives:
- promotion of economic and social development
- close relationships

Member States.

SECTION 7

ADMINISTRATIVE COOPERATION

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.

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.

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.

TITLE IV

ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES

Article III-286 (ex Articles 182, 188 TEC)

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.

2. The purpose of association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Union.

Association shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the

economic, social and cultural development to which they aspire.

Trade:

Article III-287 (ex Article 183 TEC)

Association shall have the following objectives.

OCTs are treated like a Member State...

(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;

..and OCTs must treat all Member States equally

(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;

- Investments

(c) Member States shall contribute to the investments required for the progressive development of these countries and territories;

- Tenders: Member States and OCTs to be treated equally

(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;

Freedom of establishment: no discriminatory treatment of companies and nationals from OCTs

(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.

Article III-288 (ex Article 184 TEC)

No customs duties on imports from OCTs into the Union...

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

No discrimination
*between imports from
different Member States*

*Goods from third
countries
Safeguard measures*

**Free movement of
workers**

Decision-making

*Acts adopted
unanimously in the
Council, EP is now
consulted*

**EXTERNAL
ACTIONS**

General provisions

Principles:

*Union shall defend the
principles of:
- democracy*

apply a non-discriminatory customs tariff.

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.

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.

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)

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.

**TITLE V
THE UNION'S EXTERNAL ACTION**

CHAPTER I

PROVISIONS HAVING GENERAL APPLICATION

Article III-292 (ex Articles 3(2. sentence), 11 TEU)

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,

- *rule of law*
- *human rights*
- *fundamental freedoms*
- *human dignity*
- *equality*
- *solidarity*
- *international law*
- *partnerships*
- *global organisations*
- *the United Nations*

The Union define common policies and actions:

- *safeguards common interests*
- *consolidates human rights*
- *preserves peace*
- *fosters sustainable development*
- *aims at a free world market*
- *helps environment*
- *gives humanitarian aid*
- *promotes globalisation*

Union must ensure

the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

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

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

(a) safeguard its values, fundamental interests, security, independence and integrity;

(b) consolidate and support democracy, the rule of law, human rights and the principles of international law;

(c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;

(d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;

(e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;

(f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;

(g) assist populations, countries and regions confronting natural or man-made disasters;

(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.

consistency between different areas of external action and other policies

Strategic interests

European Council determines interests and objectives unanimously (Foreign Minister consult and inform EP, see Art. 304 (1))

Minister of Foreign Affairs and Commission may propose jointly

Closest to shared competence: Foreign policy

Instruments

Union defines and implements its own foreign policy with....

...the support of the Member States

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)

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 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.

CHAPTER II

COMMON FOREIGN AND SECURITY POLICY

SECTION 1

COMMON PROVISIONS

Article III-294 (ex Articles 11, 12 TEU)

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.

2. The Member States shall support the common foreign and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity.

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 refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.

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

*General rule U** a) defining the general guidelines;

- decisions

b) adopting European decisions defining:

- actions

*General rule U** i) actions to be undertaken by the Union;

- positions

*General rule U** ii) positions to be taken by the Union;

- implementation of decisions

*General rule XX** iii) arrangements for the implementation of the European decisions referred to in points (i) and (ii);

- cooperation between Member States

(c) strengthening systematic cooperation between Member States 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

1. The European Council shall define the general guidelines for the common foreign and security policy, including for matters with defence implications.

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

Council adopts more detailed rules

2. The Council shall adopt the European decisions necessary for defining and implementing the common foreign and security policy on the basis of the general guidelines and strategic lines defined by the European Council.

The Foreign Office

Article III-296 (ex Articles 18(1-2), 26 TEU)

*Foreign Minister:
- chairs the Foreign Affairs Council
- makes proposals
- implements decisions*

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.

- represents the Union

2. The Minister for Foreign Affairs shall represent the Union for matters

externally (with the President of the European Council)

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.

European External Action Service

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.

Operational actions

Article III-297 (ex Article 14 TEU)

Council decides on international 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.

... and reviews decisions

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.

Decisions commit Member States

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.

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 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 must inform Council immediately

“Major difficulties” in implementing, refer to the Council

Decisions, voting rules

The Council adopts decisions

Initiative

Proposals by:

- 1) Member States
- 2) Foreign Minister
- 3) Foreign Minister and Commission

Extraordinary Council meeting when rapid decision is needed

Decision-making and voting rules

General rule:

Unanimity with constructive abstention

Abstention by 1/3 of Member States comprising 1/3 of EU's population blocks a decision

*The Council acts by **qualified majority:***

- when European Council has previously determined interests by unanimity

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.

Article III-298 (ex Article 15 TEU)

*U**

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.

Article III-299 (ex Article 22 TEU)

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.

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)

U 1. The European decisions referred to in this Chapter shall be adopted by the Council acting unanimously.

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.

X/XX 2. By way of derogation from paragraph 1, the Council shall act by a 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 Foreign Minister propose after request from European Council

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 implementing decisions

XX c) when adopting a European decision implementing a European decision defining a Union action or position;

- when appointing a special representative

XX d) when adopting a European decision concerning the appointment of a special representative in accordance with Article III-302.

Veto right for areas of vital national policy

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, acting by a qualified majority, request that the matter be referred to the European Council for a European decision by unanimity.

Member State can send the matter to the European Council

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 colleagues

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

XX

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 3rd 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 the 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.

EP may submit recommendations

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.

Coordination in international fora

Article III-305 (ex Article 19 TEU)

The Union presents a single position within international organisations

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.

Member States defend common positions

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.

When only some Member States are represented in international organisations, they inform the others

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.

Members of the UN Security Council defend Union-position

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.

New: Foreign Minister shall present Union-position to the Security Council

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.

Diplomatic missions

cooperate to ensure compliance and implementation of the Union's position

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 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:

- monitors international situation

- monitors implementation

- exercises political control with crisis management operations

The Council may authorise the Committee to take decisions on its own

*Exercise of different competences
CFSP does not affect the Union's competence in other areas*

Article III-307 (ex Article 25 TEU)

U

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.

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, 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.

Article III-308 (ex Article 47 TEU)

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.

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

**European Defence
Agency:**

Decided by the Council
on 16 June 2004

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 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.

Article III-311 (new)

1. The Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency), established by Article I-41(3) and subject to the authority of the Council, shall have as its task to:

<p><i>- identifies military needs</i></p>	<p>(a) contribute to <u>identifying</u> the Member States' <u>military capability objectives</u> and evaluating observance of the capability commitments given by the Member States;</p>
<p><i>- promotes harmonisation of operational needs</i></p>	<p>(b) promote <u>harmonisation of operational needs</u> and adoption of effective, compatible procurement methods;</p>
<p><i>- manages common programmes</i></p>	<p>(c) propose multilateral <u>projects</u> to fulfil the objectives in terms of <u>military capabilities</u>, ensure <u>coordination</u> of the programmes implemented by the Member States and <u>management of specific cooperation programmes</u>;</p>
<p><i>- supports defence technology research</i></p>	<p>(d) <u>support defence technology research</u>, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;</p>
<p><i>- strengthens defence sector</i></p>	<p>(e) contribute to identifying and, if necessary, implementing any useful measure for <u>strengthening the industrial and technological base of the defence sector</u> and for improving the effectiveness of military expenditure.</p>
<p><i>Agency is open to all Member States</i></p>	<p>XX 2. The European Defence <u>Agency shall be open to all Member States</u> 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 <u>in liaison with the Commission</u> where necessary.</p>
<p><i>Decision on the Agency's statute, seat and rules adopted by qualified majority</i></p>	<p style="text-align: center;">Article III-312 (new)</p>
<p><i>New: Structured cooperation (see also Protocol no 23)</i> <i>Member States with high military capabilities may establish structured cooperation</i></p>	<p>1. Those <u>Member States</u> which wish to <u>participate in the permanent structured cooperation</u> referred to in Article I-41(6), which <u>fulfil the criteria and have made the commitments on military capabilities</u> set out in the Protocol on permanent structured cooperation <u>shall notify</u> their intention to <u>the Council</u> and to <u>the Union Minister for Foreign Affairs</u>.</p>
<p><i>The Council adopts a decision to establish structured cooperation by qualified majority</i></p>	<p>2. Within three months following the notification referred to in paragraph 1 the Council shall adopt a <u>European decision establishing permanent structured cooperation</u> and determining the list of participating Member States. The Council shall act <u>by a qualified majority</u> after consulting the Union Minister for Foreign Affairs.</p>
<p><i>Structured cooperation open to all Member States</i></p>	<p>3. <u>Any Member State</u> which, at a later stage, <u>wishes to participate</u> in the permanent structured cooperation shall notify its intention to the Council and to the Union Minister for Foreign Affairs.</p>
<p><i>The Council confirms</i></p>	<p>XX The <u>Council shall adopt a European decision confirming the</u></p>

participation of Member State by qualified majority

Only participating Member States can vote

Suspension of a Member State's participation

The Council decides by qualified majority
= 55% of the Member States comprising 65% of the population

Blocking minority = 35% of the population of the participating states + 1 Member State

Voluntary withdrawal

Unanimity where nothing else stated

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.

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.

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.

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.

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.

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**

*Administrative
expenditures: always
Union budget
Operational
expenditures: Union
budget, unless military
and defence operations*

*If not Union budget,
then Member States'
budgets, unless Council
decides otherwise.
Costs for military and
defence operations not
for those abstaining*

*Rapid access to budget
for urgent financing*

Consultation of the EP

New: Start-up fund

*Qualified majority in
the Council for:*

- establishing the fund

- administering the fund

- financial control

*Foreign Minister can
use the fund for
"Petersberg-tasks"
(Art. III-309)*

SECTION 3

FINANCIAL PROVISIONS

Article III-313 (ex Article 28(2, 5) TEU)

1. Administrative expenditure which the implementation of this Chapter entails for the institutions shall be charged to the Union budget.

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.

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.

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.

X The Council shall adopt by a qualified majority, on a proposal from the Union Minister for Foreign Affairs, European decisions establishing:

(a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;

(b) the procedures for administering the start-up fund;

(c) the financial control procedures.

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

**Exclusive competence
Common Commercial
Policy**

Aims:

- harmonious development of trade
- progressive abolition of trade restrictions
- removal of barriers

Principles:

Based on uniform principles

Legislative procedure with qualified majority, EP gain co-decision

Procedure in Art. III-325

Council mandates Commission to negotiate

The Commission consults with a Council-appointed special committee

In principle: The

Council acts by qualified majority

Trade agreements on

implementation of this remit.

CHAPTER III

COMMON COMMERCIAL POLICY

Article III-314 (ex Article 131 TEC)

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.

Article III-315 (ex Article 133 TEC)

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.

X** 2. European laws shall establish the measures defining the framework for implementing the common commercial policy.

3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article III-325 shall apply, subject to the special provisions of this Article.

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 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.

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

U*/U*** For the negotiation and conclusion of agreements in the fields of

*services, commercial aspects of **intellectual property** and **foreign direct investment** by unanimity when internal rules are by unanimity. also when:*

- culture is involved

- national social, education and health services are "disturbed"

Transport

Delimitation of competence between the Union and Member States is not affected

International cooperation

*Shared competence: **Development** (Member States can still use their competence - I-14(4))*

Objectives:

- to limit poverty

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.

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

(a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity;

(b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to Section 7 of Chapter III of Title III and to Article III-325.

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

CHAPTER IV

COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID

SECTION 1

DEVELOPMENT COOPERATION

Article III-316 (ex Article 177 TEC)

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 3rd 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.

European Investment Bank

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.

Coordination

Article III-318 (ex Articles 180, 181 TEC)

of Union and Member States' policies in international organisations

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.

Commission promotes coordination

2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

Cooperation with 3rd countries

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations.

SECTION 2

ECONOMIC, FINANCIAL AND

TECHNICAL COOPERATION WITH THIRD COUNTRIES

Article III-319 (ex Article 181a TEC)

Means:
- financial, technical

1. Without prejudice to the other provisions of the Constitution, and in

*and economic cooperation
- financial assistance*

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.

Legislative procedure with qualified majority, EP gain co-decision

X** 2. European laws or framework laws shall establish the measures necessary for the implementation of paragraph 1.

Agreements

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations. The arrangements 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)

XX

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

Article III-321 (new)

Help and protection for people in 3rd countries and for victims of disasters

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 of 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.

European Voluntary Humanitarian Aid Corps by qualified majority

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.

Coordination of Union and Member States' actions

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.

United Nations

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.

Boycott actions

CHAPTER V

RESTRICTIVE MEASURES

Article III-322 (ex Article 301 TEC)

Interruption of relations with other countries

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.

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.

Necessary legal

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

safeguards

Exclusive competence when the EU has the internal competence
International agreements

Agreements between Union and 3rd countries or international organisations

Agreements also bind Member States

Association agreements

New procedures

Procedure for conclusion of international agreements:

- the Council authorises, directs the negotiations and concludes

- Commission and Foreign Minister shall submit recommendations

- the Council nominates a negotiator and gives...

...negotiating directives

legal safeguards.

CHAPTER VI:

INTERNATIONAL AGREEMENTS

Article III-323 (ex Articles 24 TEU, 300(7) TEC)

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.

2. Agreements concluded by the Union are binding on the institutions of the Union and on its Member States.

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.

Article III-325 (New, ex Articles 300 TEC, 24 TEU)

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.

U/XX (general rule) 2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.

U/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.

U/XX (general rule) 4. The Council may address directives to the

- special committee designated

negotiator and designate a special committee in consultation with which the negotiations must be conducted.

The Council decides by qualified majority (paragraph 8)

U/XX/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.

Unless agreement relates only to CFSP,...

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

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

...the EP's consent is required for:

- association agreements*
- accession of the Union to ECHR*
- agreements establishing a specific institutional framework*
- agreements with important budgetary implications*
- agreements in areas where the legislative procedure applies*

*U***/X***/XX**** (a) after obtaining the consent of the European Parliament in the following cases:

(i) association agreements;

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

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

(iv) agreements with important budgetary implications for the Union;

(v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required.

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

Otherwise, only consultation of EP

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

Delegation of powers to amend agreements

X/XX/U 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

*Suspension of
agreements and Union
position*

*EP to be informed at all
stages*

*Opinion of the EU
Court may be requested*

Exchange-rate system

*Agreements on
exchange-rate systems:*

*The Council acts
unanimously after
consultation of ECB
and EP on the
exchange-rate system*

*The Council acts by
qualified majority after
recommendation from
ECB or Commission on
the central rates within
the exchange-rate
system*

*General orientations
adopted by Council*

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.

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.

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

11. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the 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.

Article III-326 (ex Article 111 (1-3, 5) TEC)

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.

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.

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

The Council decides matters relating to monetary or exchange rate systems after consulting ECB

Banks, to maintain price stability.

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.

Member States' competence

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.

Diplomatic representation

CHAPTER VII

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

Cooperation with int. organisations
UN, Council of Europe, OCSE and OECD

Article III-327 (ex Articles 302 - 304 TEC)

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 Minister for Foreign Affairs implements
New: Union delegations

2. The Union Minister for Foreign Affairs and the Commission shall be instructed to implement this Article.

Article III-328 (new)

represent the Union...

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.

CHAPTER VIII

IMPLEMENTATION OF THE SOLIDARITY CLAUSE

Article III-329 (new)

New: Solidarity clause

Member States help each other in case of:
- terrorist attack
- disaster

The Council decides alone by qualified majority unless defence implications

Assistance of the Council by the Political and Security Committee

Regular assessments of threats

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.

X/U 2. The arrangements for the implementation by the Union of the solidarity clause referred to in Article I-43 shall be defined by a European decision adopted by the Council acting on a joint proposal by the Commission and the Union Minister for Foreign Affairs. The Council shall act in accordance with Article III-300(1) where this decision has defence implications. The European Parliament shall be informed.

For the purposes of this paragraph and without prejudice to Article III-344, the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article III-261; the two committees shall, if necessary, submit joint opinions.

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.

TITLE VI

THE FUNCTIONING OF THE UNION

Institutions

CHAPTER I

PROVISIONS GOVERNING THE INSTITUTIONS

SECTION 1

THE INSTITUTIONS

European Parliament, EP

**Subsection 1
The European Parliament**

Election law

Election by direct universal suffrage with a uniform procedure

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 have been 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 decide on committee to investigate maladministration

It exists until a report is submitted

Article III-330 (ex Article 190(4-5) TEC)

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.

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.

*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.

EP adopts law with consent from Council and Commission, now after common accord

*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.

Petitions

Article III-334 (ex Article 194 TEC)

Right to petition the EP

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.

Ombudsman

Article III-335 (ex Article 195 TEC)

EP elects an Ombudsman

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 receives complaints on maladministration

Ombudsman's own initiative

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.

Concrete report of the Ombudsman to the EP on findings

General annual report to EP

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his or her inquiries.

Ombudsman is appointed after each EP election

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.

May be reappointed

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he or she no longer fulfils the conditions required for the performance of his or her duties or if he or she is guilty of serious misconduct.

EU Court can dismiss him/her at EP request

<i>Completely independent</i>	3. The Ombudsman shall be <u>completely independent</u> 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.
<i>EP adopts law with Council's consent</i>	<i>Laws of EP X**</i> 4. A European <u>law</u> of the European Parliament shall lay down the <u>regulations</u> and general conditions governing the performance of the Ombudsman's <u>duties</u> . The European Parliament shall act on its own initiative after seeking an <u>opinion</u> from the <u>Commission</u> and after obtaining the <u>consent</u> of the <u>Council</u> .
Sessions	Article III-336 (ex Article 196 TEC)
<i>At present, EP meets in plenary 12x4 days in Strasbourg and 6x2 days in Brussels</i>	The European <u>Parliament</u> shall hold an <u>annual session</u> . It shall meet, without requiring to be convened, on the <u>second Tuesday in March</u> . 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)
<i>Council shall be heard by the EP</i>	1. The European <u>Council</u> and the Council shall be <u>heard</u> 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.
<i>Commission shall be heard by and reply to EP</i>	2. The <u>Commission</u> may <u>attend</u> all the meetings of the European Parliament and <u>shall</u> , at its request, <u>be heard</u> . It <u>shall reply</u> orally or in writing to questions put to it by the European Parliament or by its members.
<i>Annual report</i>	3. The European Parliament shall discuss in <u>open session</u> the annual general <u>report</u> submitted to it by the <u>Commission</u> .
Voting rules	Article III-338 (ex Article 198 TEC)
<i>Majority of votes cast if nothing else written - very often absolute majority of members</i>	Save as otherwise provided in the Constitution, the European Parliament shall <u>act</u> by a <u>majority of the votes cast</u> . Its Rules of Procedure shall determine the quorum.
Rules of Procedure adopted by an absolute majority of members	Article III-339 (ex Article 199 TEC) The European Parliament shall adopt its <u>Rules of Procedure</u> , by a majority of its component members. The proceedings of the European Parliament shall be published in the manner laid down in the Constitution and the Rules of Procedure of the European Parliament.

**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

Commission shall
resign as a body - no
individual censure
possible

**European Council,
- EU summits
Voting rules**

Members can represent
one other

Abstention does not
prevent adoption of acts
by unanimity

Procedural rules by
simple majority

General Secretariat

**The Council
of Ministers**

President convenes the
Council

Voting rules

Members can represent

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.

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.

**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.

Abstentions by members present in person or represented shall not prevent the adoption by the European Council of acts which require unanimity.

2. The President of the European Parliament may be invited to be heard by the European Council.

Simple majority - 3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.

4. The European Council shall be assisted by the General Secretariat of the Council.

**Subsection 3
The Council of Ministers**

Article III-342 (ex Article 204 TEC)

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.

Article III-343 (ex Articles 205(1, 3), 206 TEC)

1. Where a vote is taken, any member of the Council may act on behalf of

one another

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.

Rules of Procedure by 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.

Request initiative

Article III-345 (ex Article 208 TEC)

Simple Council majority may request the Commission to submit a proposal

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.

Committees

Article III-346 (ex Article 209 TEC)

Rules for committees adopted by simple majority in the Council

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.

The Commission

Subsection 4 The European Commission

Independence

Article III-347 (ex Article 213(2) TEC)

Completely independent

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.

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

Resignations

President can fire other members

Vacancy shall be filled through normal appointment procedure

Procedure for replacing the President

Replacement of Foreign Minister

Shall remain in office until being replaced

Sacked by Court

Can be retired by EU Court

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 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.

Article III-348 (ex Article 215 TEC)

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.

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.

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).

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).

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.

Article III-349 (ex Article 216 TEC)

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.

President decides portfolios and may reshuffle them

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.

Voting rule

Article III-351 (ex Article 219 TEC)

Decides by majority of its members

The Commission shall act by a majority of its members. Its Rules of Procedure shall determine the quorum.

Rules of Procedure

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.

Annual general report to EP

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.

EU Court = Court of Justice, General Court and specialised courts

**Subsection 5
The Court of Justice of the European Union**

Three formations:

Article III-353 (ex Article 221 TEC)

- chambers
- Grand Chamber
- full Court

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.

Advocates-General

Article III-354 (ex Article 222 TEC)

- 8 Advocates-General - can be increased by unanimity
- impartial
- independent
- make submissions when their involvement is required

U
The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council may, acting unanimously, adopt a European decision to increase the number of Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice of the European Union, require his or her involvement.

Appointments for Court of Justice

Judges and Advocates-General shall have qualifications for the highest positions within their national legal systems - chosen by common accord

Partial replacement every third year

Elects the President for 3 years, may re-elect

The Council approves rules

General Court - former Court of First Instance

May have more than one judge from each country

*Judges must be:
- independent
- able to hold high legal office*

Are appointed for 6 years, partial rotation every 3 years

Elects President for 3 years, may re-elect

Council approves rules by qualified majority

Article III-355 (ex Article 223 TEC)

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.

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.

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.

XX The Court of Justice shall adopt its Rules of Procedure. Those Rules shall require the consent of the Council.

Article III-356 (ex Article 224 TEC)

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.

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.

The membership of the General Court shall be partially renewed every three 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.

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.

Unless the Statute provides otherwise, the provisions of the Constitution relating to the Court of Justice shall apply to the General Court.

The panel

Panel gives opinions on candidates

7 members

- 6 proposed by President of the Court, 1 by the EP

- The Council appoints them by qualified majority

Jurisdiction of General Court, competences

In principle: Court of first instance

Competence of the General Court can be extended in the Statute

Appeals to the Court of Justice only possible on points of law

Decisions from the specialised courts can be subject to review by the General Court, only exceptionally, General Court rulings can be reviewed by the Court of Justice

Preliminary rulings

Decision of principle by the General Court

Article III-357 (new)

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.

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. **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.

Article III-358 (ex Article 225 TEC)

1. The General Court shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles III-365, III-367, III-370, III-372 and III-374, with the exception of those assigned to a specialised court set up under Article III-359 and those reserved in the Statute of the Court of Justice of the European Union for the Court of Justice. The Statute may provide for the General Court to have jurisdiction for other classes of action or proceeding.

Decisions given by the General Court under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.

2. The General Court shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the specialised courts. Decisions given by the General Court under this paragraph may exceptionally be subject to review by the Court of Justice, 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.

3. The General Court shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article III-369, in specific areas laid down by the Statute of the Court of Justice of the European Union.

Where the General Court considers that the case requires a decision of principle likely to affect the unity or consistency of Union law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the General Court on questions referred for a

preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Union law being affected.

Specialised courts

Establishment by laws

Courts of first instance in specific areas

Rules laid down in law adopted by ordinary legislative procedure

Appeals only on points of law, unless otherwise stated in the rules

Independent judges appointed unanimously by the Council

Rules of specialised courts adopted by the Council

Unless otherwise stated, rules for Court of Justice also apply to specialised courts

Bringing a Member State before EU Court

By the Commission:

1. Letter of formal notice to the Member State

2. Response by the Member State

3. EU Court decision

Article III-359 (ex Articles 220(2. sentence), 225a TEC)

X**

1. European laws may establish specialised courts attached to the General Court to hear and determine at first instance certain classes of action or proceeding brought in specific areas. They shall be adopted either on a proposal from the Commission after consultation of the Court of Justice or at the request of the Court of Justice after consultation of the Commission.

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.

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.

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.

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.

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.

Article III-360 (ex Article 226 TEC)

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.

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.

By another State:

- 1. Sends matter to Commission*
- 2. Each State submits response*
- 3. Reasoned opinion from Commission within 3 months*
- 4. EU Court decision*

Failure to comply with Court ruling

Member States must comply with EU Court rulings

Commission can take a Member State to court for non-compliance with EU Court decision

Penalty payment

Commission proposes fine, EU Court decides

Member States can be fined for failure to notify measures transposing framework law

Fines cannot be higher than those proposed by

Article III-361 (ex Article 227 TEC)

A Member State which considers that another Member State has failed to fulfil an obligation under the Constitution may bring the matter before the Court of Justice of the European Union.

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.

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.

Article III-362 (ex Article 228 TEC)

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.

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.

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.

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

Commission

specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment.

Penalties

Article III-363 (ex Article 229 TEC)

EU Court has unlimited jurisdiction over penalties

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.

"

Article III-364 (ex Article 229a TEC)

EU Court's competence over **intellectual property** rights may be set out by law

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.

Legality of acts

Article III-365 (ex Article 230 TEC)

EU Court shall review:

- legality of legal acts

1. The Court of Justice of the European Union shall review the legality of European laws and framework laws, of acts of the Council, of the Commission and of the European Central Bank, other than recommendations and opinions, and of acts of the European Parliament and of the European Council intended to produce legal effects vis-à-vis third parties. It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects vis-à-vis third parties.

- lack of competence
- procedural requirements
- the Constitution
- rule of law

2. For the purposes of paragraph 1, the Court of Justice of the European Union shall have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Constitution or of any rule of law relating to its application, or misuse of powers.

EU Court's competence for complaints of
- Court of Auditors,
- Central Bank and
- Committee of the Regions prerogatives

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.
<i>Deadline: Cases shall be brought before the EU Court within 2 months</i>	6. The proceedings provided for in this Article shall be instituted within <u>two months</u> of the publication of the act, <u>or of its notification</u> 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)
<i>EU Court can declare an act void if not legal</i>	If the action is well founded, the Court of Justice of the European Union shall declare the act concerned to be <u>void</u> .
<i>It can also declare that some parts remain valid</i>	However, the Court shall, if it considers this necessary, state which of the effects of the act <u>which it has declared void shall be considered as definitive</u> .
Non-action	Article III-367 (ex Article 232 TEC)
<i>Failure of an institution to act can be brought before the EU Court</i>	Should the European Parliament, the European Council, the Council, the Commission or the European Central Bank, in infringement of the <u>Constitution, fail to act</u> , the Member States and the other institutions of the Union may <u>bring an action</u> 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.
<i>The institution first must have been called upon to act</i>	The action shall be admissible <u>only</u> if the institution, body, office or agency concerned has first been <u>called upon to act</u> . 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.
<i>Anyone can complain</i>	Any <u>natural or legal person</u> 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 <u>has failed to address to that person any act</u> other than a recommendation or an opinion.
<u>Obligation to comply with judgements</u>	Article III-368 (ex Article 233 TEC)
	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 <u>required to take the necessary measures</u> 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.

Preliminary rulings

Article III-369 (ex Article 234 TEC)

Areas of preliminary rulings:

The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings concerning:

- the Constitution

(a) the interpretation of the Constitution;

- acts of the institutions

(b) the validity and interpretation of acts of the institutions, bodies, offices and agencies of the Union.

Any national court can ask for preliminary rulings

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.

If the national right of appeal has been exhausted, the matter shall be brought before the EU Court

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 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

The Court can rule on:

- the Statute of the EIB

- measures adopted by EIB Board of Governors

- fulfilments of obligations by national central banks

Arbitration

Jurisdiction in cases of both private and public law

Competences of national courts

Member States' courts not excluded in cases where the EU is party
Primacy clause in Constitutional interpretation:

Article III-373 (ex Article 237 TEC)

The Court of Justice of the European Union shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning:

(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;

(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.

Article III-374 (ex Articles 238 TEC)

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.

Article III-375 (ex Articles 240, 292, 239 TEC)

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.

Only the EU courts, no national (High) court, is supposed to interpret the Constitution

In any other dispute, the EU Court can rule if parties agree

Common foreign and security policy

- *EU Court has no jurisdiction, except for:*
- *Verification whether CFSP affects other EU competences*
- *Complaints of natural/legal persons, who have been boycotted*

Area of freedom, security and justice

No jurisdiction over operations of national police and security authorities for maintenance of law, order and internal security

Inapplicability of acts

Inapplicability of general acts can always be invoked

No suspensory effect,

but EU Court can decide to suspend the contested act

Interim measures

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.

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.

Article III-376 (ex Articles 46 TEU)

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.

Article III-377 (ex Article 35(5) TEU)

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.

Article III-378 (ex Article 241 TEC)

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.

Article III-379 (ex Articles 242, 243 TEC)

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.

2. The Court of Justice of the European Union may in any cases before it

Enforcement of judgments

prescribe any necessary interim measures.

Article III-380 (ex Article 244 TEC)

The judgments of the Court of Justice of the European Union shall be enforceable under the conditions laid down in Article III-401.

Statute in Protocol n°3

Article III-381 (ex Article 245 TEC)

X**/XX**

The Statute of the Court of Justice of the European Union shall be laid down in a Protocol.

Amendment procedure, EP gain co-decision instead of consultation

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.

Subsection 6

The European Central Bank

Organisation

Article III-382 (ex Article 112 TEC)

Governing Council

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.

Executive Board

2. The Executive Board shall comprise the President, the Vice-President and four other members.

Members of Executive Board with recognised standing and professional experience by qualified majority

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.

8 years, non-renewable

Their term of office shall be eight years and shall not be renewable.

Only EU citizens

Only nationals of Member States may be members of the Executive Board.

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 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.

Court of Auditors

**Subsection 7
The 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 stated 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.

- check if lawful and sound management

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.

- 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.

<i>- audits based on documents and inspections</i>	These audits may be carried out <u>before the closure of accounts</u> for the financial year in question.
<i>...in liaison with national audit bodies</i>	3. The audit shall be based on <u>records</u> and, if necessary, <u>performed on the spot</u> in the other <u>institutions</u> , 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 <u>any natural or legal person in receipt of payments</u> from the budget. In the Member States the audit shall be carried out in <u>liaison with national audit bodies or</u> , 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 <u>independence</u> . These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit. The other institutions, any bodies, offices or agencies managing revenue or expenditure on behalf of the Union, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall <u>forward</u> to the Court of Auditors, <u>at its request</u> , <u>any document</u> or information necessary to carry out its task.
<i>Access to information of the Investment Bank</i>	In respect of the European <u>Investment Bank's</u> 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 shall nevertheless have access to information necessary for the audit of Union expenditure and revenue managed by the Bank.
<i>- annual report</i>	4. The Court of Auditors shall draw up an <u>annual report</u> 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.
<i>- special reports</i>	The Court of Auditors may also, at any time, submit observations, particularly in the form of <u>special reports</u> , on specific questions and deliver opinions at the request of one of the other institutions.
<i>Annual reports by a majority of members</i>	It shall adopt its annual reports, special reports or opinions by a <u>majority of its component members</u> . However, it may establish <u>internal chambers</u> in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.
<i>- assist EP and Council</i>	It shall <u>assist</u> the European Parliament and the Council in exercising their <u>powers of control</u> over the implementation of the budget.
<i>Rules of Procedure by</i>	XX It shall <u>adopt its Rules of Procedure</u> . Those rules shall require the

consent of the Council

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.

- complete independence

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.

- no other occupation

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.

- flawless and discreet behaviour

- EU Court can retire auditors

5. Apart from normal replacement, or death, the duties of a member of the Court of Auditors shall end when he or she resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 6.

The vacancy thus caused shall be filled for the remainder of the member's term of office.

Save in the case of compulsory retirement, members of the Court of Auditors shall remain in office until they have been replaced.

- at the request of Court of Auditors, the EU Court can remove a member

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.

Advisory bodies

SECTION 2

THE UNION'S ADVISORY BODIES

Committee of Regions

Subsection 1

The Committee of the Regions

Composition

Article III-386 (ex Article 263 TEC)

Maximum 350 members

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.

Term of office 5 years, renewable

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.

Cannot be EP-members at the same time

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.

The Council chooses members

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.

EcoSoc Committee

Subsection 2

The Economic and Social Committee

Composition

Article III-389 (ex Article 258(1-2) TEC)

Up to 350 members

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.

Appointment

Article III-390 (ex Article 259 TEC)

*Term of office 5 years,
renewable*

XX

The members of the Economic and Social Committee shall be appointed for five years. Their term of office shall be renewable.

*Council appoints after
consulting Commission*

The Council shall adopt the European decision establishing the list of members drawn up in accordance with the proposals made by each Member State.

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.

Leadership and rules

Article III-391 (ex Article 260 TEC)

*Chairman and officers
elected for 2½ years*

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.

	<p>It shall adopt its <u>Rules of Procedure</u>.</p>
<p>Consultation</p> <p><i>- when provided for or in cases of particular interest</i></p>	<p style="text-align: center;">Article III-392 (ex Article 262 TEC)</p> <p>The Economic and Social Committee shall be <u>consulted</u> by the European Parliament, by the Council or by the Commission <u>where the Constitution so provides</u>. It may be consulted by these institutions in all cases in which they consider it appropriate. It may also issue an opinion on its own initiative.</p>
<p><i>Time limit for opinions - minimum one month</i></p>	<p>The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a <u>time-limit</u> which shall <u>not be less than one month</u> from the date on which the chairman receives notification to this effect. Upon expiry of the time-limit, the absence of an opinion shall not prevent further action.</p>
	<p>The opinion of the Committee, together with a record of its proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.</p>
<p>European Investment Bank</p>	<p style="text-align: center;"><u>SECTION 3</u></p> <p style="text-align: center;"><u>THE EUROPEAN INVESTMENT BANK</u></p>
	<p style="text-align: center;">Article III-393 (ex Article 266 TEC)</p>
<p><i>Legal personality</i></p>	<p>The European Investment Bank shall have <u>legal personality</u>.</p>
<p><i>Member States are members</i></p>	<p>Its <u>members</u> shall be the <u>Member States</u>.</p>
	<p>The <u>Statute</u> of the European Investment Bank is laid down in a <u>Protocol</u>.</p>
<p><i>The Council adopts amendments to Statute by unanimity</i></p>	<p>U* A European law of the Council may <u>amend</u> the Statute of the European Investment Bank. The Council shall act <u>unanimously</u>, 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 <u>consulting</u> the European <u>Parliament</u> and the European Investment Bank.</p>
<p>The Bank's role:</p>	<p style="text-align: center;">Article III-394 (ex Article 267 TEC)</p>
<p><i>- balanced and steady development of the internal market with the help of non-profit loans</i></p>	<p>The <u>task</u> of the European Investment Bank shall be to contribute, by having recourse to the capital markets and utilising its own resources, to the <u>balanced and steady development of the internal market</u> in the Union's interest. For this purpose the European Investment Bank shall, operating on a <u>non-profit-making</u> basis, in particular <u>grant loans</u> and give guarantees which facilitate the financing of the following projects in all sectors of the economy:</p>

- development projects

- modernising or
converting
undertakings

- fresh activities

- large projects of
common interest

(a) projects for developing less-developed regions;

(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;

(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.

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

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:

*X***

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

2. EP adopts a position,

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.

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

First reading

3. The European Parliament shall adopt its position at first reading and

sends it to the Council

3.a. Council approves by qualified majority = proposal is adopted

3.b. Council does not approve = makes own position by qualified majority, sends it to EP

Commission informs EP of its position

If, within 3 months, the European Parliament:

4.a. approves the Council position = proposal is adopted

4.b. rejects by an absolute majority of members = proposal is rejected

*4.c. amends by absolute majority = proposal is sent back to the Council
Commission gives opinion on amendments*

If, within 3 months, the Council, by qualified majority:

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

*5.b. does not approve EP's position = Conciliation committee is convened
Unanimity, if the*

communicate it to the Council.

X 4. If the Council approves the European Parliament's position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.

5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.

6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

Second reading

7. If, within three months of such communication, the European Parliament:

(a) approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;

(b) rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;

(c) proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.

X 8. If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:

(a) approves all those amendments, the act in question shall be deemed to have been adopted;

(b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

U 9. The Council shall act unanimously on the amendments on which the

Commission has a **negative opinion**

6. Conciliation Committee

Equal numbers from the Council and EP agrees on **joint text**: Council by qualified majority, EP by majority of members of the Committee
Time-limit: 6 weeks

Commission take part in conciliation meetings

If no approval in committee by both parts = proposal is rejected
Time limit: 6 weeks

7. Joint text sent to the Council and EP. Council approves by qualified majority, EP by majority of votes.
Deadline: 6 weeks

Deadlines can be extended

Special rules when legislative act is based on:
- initiative from a group of States
- ECB recommendation
- request from Court of Justice

Commission shall be

Commission has delivered a negative opinion.

Conciliation

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.

11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

Third reading

X 13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.

14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

Special provisions

XX 15. Where, in the cases provided for in the Constitution, a law or framework law is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the opinion

informed and give opinion on its own initiative or on request

Inter-institutional agreements

Commission, EP and the Council can make inter-institutional agreements

European public service

- supports the institutions

Legislation adopted by qualified majority

Transparency

Institutions, offices, agencies and bodies adopt their own rules for public access to documents

EP and the Council responsible for making documents public

Salaries

The Council decides by qualified majority on:

- salaries

- allowances

- pensions

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.

Article III-397 (ex Article 218(1) TEC, new)

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.

Article III-398 (new)

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.

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** in I-50*

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).

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.

Enforcement of acts

Article III-401 (ex Article 256 TEC)

Acts imposing fines are enforceable, but not on Member States

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 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.

Finances

CHAPTER II

FINANCIAL PROVISIONS

Multiannual financial framework

SECTION 1

THE 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, <u>limited in number</u> , shall correspond to the Union's major sectors of activity.
<i>Shall make budgetary procedure run smoothly</i>	3. The financial framework shall lay down any <u>other provisions</u> required for the annual <u>budgetary procedure to run smoothly</u> .
<i>If no new framework is adopted, the old is extended</i>	4. Where <u>no</u> European law of the Council determining a <u>new financial framework</u> 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 <u>extended</u> until such time as that law is adopted.
<i>Council, Commission and EP shall facilitate the procedure</i>	5. Throughout the procedure leading to the adoption of the financial framework, the European <u>Parliament</u> , the <u>Council</u> and the <u>Commission</u> shall take any measure necessary to <u>facilitate the successful completion</u> of the procedure.
	<u>SECTION 2</u> <u>THE UNION'S ANNUAL BUDGET</u>
<i>The annual Budget</i>	Article III-403 (ex Article 272(1) TEC)
<i>Financial year</i>	The financial year shall run from <u>1 January to 31 December</u> .
<i>The important general Budget procedure</i> <i>- established by law</i>	Article III-404 (ex Article 272 TEC) <i>X** (however different from III-396)</i> European <u>laws</u> shall establish the Union's annual <u>budget</u> in accordance with the following <u>provisions</u> :
<i>1. Each institution draws up an estimation of its expenditures</i>	1. Each <u>institution</u> shall, before 1 July, draw up <u>estimates</u> of its <u>expenditure</u> for the following financial year. The <u>Commission</u> shall consolidate these estimates in a draft budget which may contain different estimates.
<i>2. Commission makes a draft budget..</i>	The draft budget shall contain an <u>estimate</u> of <u>revenue</u> and an estimate of <u>expenditure</u> .
<i>.. and submits the draft before 1st September to Council and EP</i>	2. The Commission shall <u>submit</u> a proposal containing the draft budget to the European <u>Parliament</u> and to the <u>Council</u> <u>not later than 1 September</u> of the year preceding that in which the budget is to be implemented.
<i>Commission can amend until Conciliation Committee is convened</i>	The <u>Commission</u> may <u>amend</u> the draft budget during the procedure <u>until</u> such time as the <u>Conciliation Committee</u> , referred to in paragraph 5, is convened.
<i>3. Council sends its position to EP before</i>	<i>X</i> 3. The <u>Council</u> shall <u>adopt</u> its <u>position</u> on the draft budget and forward it to the European <u>Parliament</u> not later than <u>1 October</u> of the year preceding

<i>1st October</i>	that in which the budget is to be implemented. The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.
<i>4.a. EP approves = budget adopted</i>	4. If, <u>within forty-two days</u> of such communication, the European Parliament: (a) <u>approves</u> the position of the Council, the European <u>law</u> establishing the <u>budget</u> shall be <u>adopted</u> ;
<i>4.b. EP does not decide = budget adopted</i>	(b) has not taken a decision, the European law establishing the budget shall be deemed to have been adopted;
<i>4.c. EP amends by majority of all members = Conciliation Committee is convened, unless the Council approves all EP amendments</i>	(c) <u>adopts amendments</u> by a <u>majority of its component members</u> , 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 <u>immediately</u> convene a meeting of the <u>Conciliation Committee</u> . However, if within <u>ten days</u> of the draft being forwarded the <u>Council</u> informs the European Parliament that it has <u>approved</u> all its amendments, the Conciliation Committee <u>shall not meet</u> .
<i>5. Council and EP agree on a joint text within 21 days - Qualified majority in Council and majority of EP representatives</i>	X*** 5. The <u>Conciliation Committee</u> , which shall be <u>composed</u> of the members of the <u>Council</u> or their representatives and an equal number of members representing the European <u>Parliament</u> , shall have the task of reaching agreement on a <u>joint text</u> , by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament <u>within twenty-one days</u> of its being convened, on the basis of the positions of the European Parliament and the Council.
<i>Commission participates in Conciliation Committee</i>	The <u>Commission</u> shall <u>take part</u> 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.
<i>Joint text must be approved within 14 days - if no joint text see paragraph 8</i>	X 6. If, within the <u>twenty-one days</u> referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European <u>Parliament</u> and the Council shall each have a period of fourteen days from the date of that agreement in which to <u>approve the joint text</u> .
<i>6. Conciliation Committee agrees</i>	7. If, within the period of fourteen days referred to in paragraph 6:
<i>6a. Both approve, one approves and one or both take no decision = budget adopted</i>	X*** (a) the European Parliament and the Council <u>both approve</u> the joint text or <u>fail to take a decision</u> , or <u>if one of these institutions approves</u> the joint text while the <u>other one fails to take a decision</u> , the European law establishing the <u>budget</u> shall be <u>deemed</u> to be definitively <u>adopted</u> in accordance with the <u>joint text</u> , or
<i>6b. Both reject or one</i>	(b) the European Parliament, acting by a majority of its component

rejects and the other takes no decision = Commission presents new proposal
6c. EU-Parliament rejects = Commission presents new proposal

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

Conciliation Committee does not agree = Commission presents new draft budget

7. EP President declares budget adopted

Must balance revenue and expenditure

Twelfth - 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 Commission and if EP does not decide, by

members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission, or

(c) the European Parliament, acting by a majority of its component members, rejects the joint text while the Council approves it, a new draft budget shall be submitted by the Commission, or

(d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation committee on the budget heading which is the subject of the amendment shall be retained. The European law establishing the budget shall be deemed to be definitively adopted on this basis.

8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.

9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the European law establishing the budget has been definitively adopted.

10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Constitution and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure.

Article III-405 (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.

*majority of its members,
to reduce expenditure*

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.

One year carry over

Article III-406 (ex Article 271 TEC)

*Expenditures may be
carried forward to the
next financial year*

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

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

- the European Parliament,
- the European Council and the Council,
- the Commission, and
- the Court of Justice of the European Union

shall be set out in separate sections of the budget, without prejudice to special arrangements for certain common items of expenditure.

***Implementation
of the budget***

SECTION 3:

IMPLEMENTATION OF THE BUDGET AND DISCHARGE

Implementation

Article III-407 (ex Article 274 TEC)

*Commission and
Member States
implement budget*

The Commission shall implement the budget in cooperation with the Member States, in accordance with the European law referred to in Article III-412, on its own responsibility and within the limits of the appropriations allocated, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with those principles.

*Member States' control
and audit obligations*

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.

*Institutions' rules and
responsibilities*

Commission may transfer amounts between chapters of the budget

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.

Accounts and audit

Article III-408 (ex Article 275 TEC)

Commission submits accounts to EP and the Council

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.

Evaluation report

The Commission shall also submit to the European Parliament and to the Council an evaluation report on the Union's finances based on the results achieved, in particular in relation to the indications given by the European Parliament and the Council pursuant to Article III-409.

Discharge

Article III-409 (ex Article 276 TEC)

EP gives discharge to Commission after recommendation of the Council

XX***

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

Budget in euros

Article III-410 (ex Article 277 TEC)

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

Article III-411 (ex Article 278 TEC)

Commission can transfer its holdings between currencies of Member States

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.

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.

Financial rules

Article III-412 (ex Article 279 TEC)

- established by law

X** 1. European laws shall establish:

a) the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;

(b) rules providing for checks on the responsibility of financial actors, in particular authorising officers and accounting officers.

Consultation of Court of Auditors

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

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

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 need be, to meet cash requirements. The Council shall act after consulting the European Parliament and the Court of Auditors.

Council acts by

U* 3. The Council shall act unanimously until 31 December 2006 in all the

unanimity until 2007

Must respect legal obligations, e.g. all commitments in the agricultural policy

Trilogue meetings

Regular meetings between Council, EP and Commission on budget questions

Combating fraud

Member States protect the Union's financial interests as their own

Member States shall coordinate actions

Acts by qualified majority, Court of Auditors is consulted

Annual report to EP

cases referred to by this Article.

Article III-413 (new)

The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.

Article III-414 (new)

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.

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.

2. Member States shall take the same measures to counter fraud affecting the Union's financial interests as they take to counter fraud affecting their own financial interests.

3. Without prejudice to other provisions of the Constitution, the Member States shall coordinate their action aimed at protecting the Union's financial interests against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.

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.

5. The Commission, in cooperation with Member States, shall each year

and the Council

submit to the European Parliament and to the Council a report on the measures taken for the implementation of this Article.

Enhanced Cooperation

CHAPTER III

ENHANCED COOPERATION

Must comply with:

Article III-416 (ex Articles 43(b, c, e, f) TEU, 11(3) TEC)

- the Constitution and the law. May especially not undermine:

Any enhanced cooperation shall comply with the Constitution and the law of the Union.

*- the internal market
- economic, social and territorial cohesion
- trade and competition*

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 non-participants

Article III-417 (ex Articles 43(h), 44(2, last sentence) TEU)

Mutual respect between participating and non-participating states

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.

Open to all Member States at any time, within the rules already laid down

Article III-418 (ex Article 43(b) TEU, new)

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.

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 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

The Council authorises by qualified majority after consent from EP

*In CFSP:
Member States address their request to:
- Council
- Foreign Minister
- Commission*

Council authorises by unanimity, EP informed

Application for participation:

*1. Notification of the Council
2. Assessment by Commission (if disagreement with Commission's assessment, Member State can refer assessment to Council)*

3. Council decides by qualified majority

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.

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.

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.

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.

Enhanced cooperation in CFSP: The Minister of Foreign Affairs shall be consulted

U 2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, the Union Minister for Foreign Affairs and the Commission.

The Council shall confirm the participation of the Member State concerned, after consulting the Union Minister for Foreign Affairs and after noting where necessary that the conditions of participation have been fulfilled. The Council, on a proposal from the Union Minister for Foreign Affairs, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the 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.

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
- Unless otherwise decided, expenses shall be borne by participating states

Article III-421 (ex Article 44 a TEU)

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
Not for defence

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.
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

The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of

ensure consistency

such activities with the policies of the Union, and shall cooperate to that end.

TITLE VII COMMON PROVISIONS

French overseas departments

Article III-424 *(ex Article 299(2), 2. sentence, 3) TEC)*

On proposal from Commission and after consultation of EP, Council by qualified majority sets out special arrangements for application of the Constitution

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.

Property rights

Article III-425 *(ex Article 295 TEC)*

National property rights are not affected

The Constitution shall in no way prejudice the rules in Member States governing the system of property ownership.

Legal capacity

Article III-426 *(ex Article 282 TEC)*

The Union can buy property and go to court

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.

Staff regulations

Qualified majority in the normal legislative procedure, EP gain co-decision

Commission may collect any information

Article III-427 (ex Article 283 TEC)

X**

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.

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

Production conditions adopted by normal legislative procedure with qualified majority

Article III-429 (ex Article 285 TEC)

X**

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

Also after duties have ceased

Article III-430 (ex Article 287 TEC)

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

The Union can be held responsible for damages and contractual liability

Article III-431 (ex Article 288 TEC)

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.

	<p>The <u>personal liability of its servants</u> towards the Union shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of Employment applicable to them.</p>
<p>Seats</p> <p><i>Determined by common accord, see Protocol 6</i></p>	<p style="text-align: center;">Article III-432 (ex Article 289 TEC)</p> <p><i>U</i></p> <p>The <u>seat of the Union's institutions</u> shall be determined by <u>common accord</u> of the Governments of the Member States.</p>
<p>Languages</p> <p><i>Council decides by unanimity</i></p>	<p style="text-align: center;">Article III-433 (ex Article 290 TEC)</p> <p><i>U</i></p> <p>The <u>Council</u> of Ministers shall adopt <u>unanimously</u> a European regulation laying down the rules governing the <u>languages of the Union's Institutions</u>, without prejudice to the Statute of the Court of Justice of the European Union.</p>
<p>Privileges and immunities</p>	<p style="text-align: center;">Article III-434 (ex Article 291 TEC)</p> <p>The Union shall enjoy in the territories of the Member States such <u>privileges and immunities</u> 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.</p>
<p>Previous agreements</p> <p><i>Agreements between Member States and 3rd countries made before 1958 or made by new countries before their accession are not affected by the Constitution</i></p> <p><i>However Member States shall eliminate incompatibilities</i></p>	<p style="text-align: center;">Article III-435 (ex Article 307 TEC)</p> <p>The rights and obligations arising from <u>agreements concluded</u> before 1 January 1958 or, for acceding States, <u>before the date of their accession</u>, between one or more Member States on the one hand, and one or more third countries on the other, <u>shall not be affected</u> by the Constitution.</p> <p>To the extent that such agreements are not compatible with the Constitution, the Member State or States concerned shall take all appropriate steps to <u>eliminate the incompatibilities</u> established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.</p> <p>In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under the Constitution by each Member State form an integral part of the Union and are thereby inseparably linked with the creation of institutions, on which powers have been conferred by the Constitution and the granting of identical advantages by all the other Member States.</p>
<p>Information about arms production</p> <p><i>Constitution does not:</i></p>	<p style="text-align: center;">Article III-436 (ex Article 296 TEC)</p> <p>1. The Constitution shall not preclude the application of the following rules:</p>

- oblige the Member States to supply information about their national security
- hinder the Member States from deciding on arms production and trade, unless this affect competition in non-military areas

Changes to the list of military products by unanimity, proposal from Commission

(a) no Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;

(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.

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.

FINAL PROVISIONS

Repeal earlier Treaties

*All previous Treaties disappear, including protocols, unless they are amended or repeated in this Constitution
The Euratom Treaty is amended by Protocol no 36*

PART IV:
GENERAL AND FINAL PROVISIONS

Article IV-437 (new)
Repeal of 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.

2. The Treaties on the Accession:

- (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.

Article IV-438 (new):
Succession and legal continuity

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.

Case-law "acquis" maintained

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.

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.
Transitional provisions	Article IV-439 (new) <u>Transitional provisions</u> relating to certain Institutions
<i>Protocol n° 34 on the transitional provisions</i>	The <u>transitional provisions</u> 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 <u>laid down in the Protocol</u> on the transitional provisions relating to the institutions and bodies of the Union.
Geographical area	Article IV-440 (ex Article 299(1, 3-6) TEC) <u>Scope</u>
<i>All Member States</i>	<i>U</i> 1. This Treaty shall apply to the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.
<i>(Romania, Bulgaria and Turkey have signed the constitution as Candidate-countries)</i>	
<i>French overseas departments, Azores, Madeira, Canary Islands</i>	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.
<i>Association</i>	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.
<i>UK overseas countries not included</i>	This Treaty shall not apply to <u>overseas</u> countries and <u>territories</u> having special relations with the <u>United Kingdom</u> of Great Britain and Northern Ireland which are not included in that list.
<i>Applies to European territories represented by a Member State</i>	4. This Treaty shall apply to the <u>European territories</u> for <u>whose</u> external relations a <u>Member State is responsible</u> .
<i>Åland Islands</i>	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.
<i>Constitution does not</i>	

apply to the Faroe Islands (or Greenland because it is a non-European territory)

Does not apply to UK base areas of Cyprus

Applies partly to the Isle of Man and the Channel Islands

European Council can change status of OCTs by unanimity

Regional unions

Benelux recognised - no reference to the Nordic Union

Protocols have the same legal status as the articles in the Treaty
Old protocols repealed if not annexed here

6. Notwithstanding paragraphs 1 to 5:

(a) this Treaty shall not apply to the Faeroe Islands;

(b) this Treaty shall apply to Akrotiri and Dhekelia, the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, only to the extent necessary to ensure the implementation of the arrangements originally provided for in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, annexed to the Act of Accession which is an integral part of the Treaty referred to in Article IV-437(2)(e), and which have been incorporated in Title III of Part II of the Protocol on the Treaty and Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic;

(c) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands originally set out in the Treaty referred to in Article IV-437(2)(a), and which have been incorporated in Section 3 of Title II of the Protocol on the 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.

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.

Article IV-441 (ex Article 306 TEC)

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.

Article IV-442 (ex Article 311 TEC)

Protocols and Annexes

The Protocols and Annexes to this Treaty shall form an integral part thereof.

Ordinary

Treaty amendments

Member States, EP and Commission can initiate amendments

European Council decides by a simple majority to examine amendments

A Convention is convened

EP can veto a decision NOT to call a Convention

Amendments decided "by common accord"

Ratification by all Member States

Prime Ministers meet if up to 20% of the Member States fail to ratify within 2 years

New: Simplified revision procedure Deepening clause

European Council can unanimously move from unanimity to

Article IV-443 (ex Article 48 TEU)

Ordinary revision procedure

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of this Treaty. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.

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

*Simple majority and **** 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.

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.

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

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

*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

qualified majority

or in that case.

Not for defence

This paragraph shall not apply to decisions with military implications or those in the area of defence.

European Council can unanimously move to ordinary legislative procedure

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.

Any national Parliament can veto that decision

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.

Consent of the EP by absolute majority of the members needed

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.

New: Easy revision procedure for internal policies

Article IV-445 (new)
Simplified revision procedure concerning internal Union policies and action

Convening of Intergovernmental Conference not required

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.

European Council decides by unanimity to amend Part III, Title III (internal policies)

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 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 ...
