

The draft
EU CONSTITUTION

- reader friendly edition

Dear Reader,

Here is the draft EU Constitution containing the latest changes¹, all of which were produced by the member states' foreign ministers. This is not the final edition. It has yet to be approved by the heads of state and government.

We have made the draft EU Constitution reader friendly by:

- underlining the most important words, making it easy to skim through
- writing comments and cross references in the margin, making it easier to understand the content
- creating a comprehensive index

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The printed version is, unfortunately, not free: it costs €30 (excluding postage). You can order it from Notat, phone +45 86 48 16 00 or email: notat@notat.dk

This document is based on the official document² produced by the Convention, which has undergone two rounds of changes: firstly by the Council's legal service³ and then by the foreign ministers⁴ of the EU member states. Furthermore, an alternative report, which was part of the package of material the Convention presented to the intergovernmental conference, is included.

Other publications that we have produced concerning the EU Constitution are also available. For example, a powerpoint presentation giving a quick overview of the EU Constitution and a pamphlet called The Short Explanation of the EU Constitution. A more thorough explanation of the Constitution will be produced when the Constitution is finalised. You can find all our publications on www.euabc.com or www.eu04.com

Yours sincerely,
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¹ See document IGC 60/03 on http://ue.eu.int/igc/doc_register.asp?content=PRESID&lang=EN

² Can be found on <http://european-convention.eu.int>

³ See document IGC 50/03 http://ue.eu.int/igc/doc_register.asp?content=DOC&lang=EN

⁴ See note 1

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*The highlights and
remarks in the margin
are not part of the draft
Constitution*

THE DRAFT EU CONSTITUTION

- The reader friendly edition

PREAMBLE

*The cradle of
democracy stood in
Greece. Will this
constitution expand or
limit democracy?*

**Χρώμεθα γάρ πολιτεία ... καὶ ὄνομα μὲν διὰ τό μή ἐς ολίγους ἀλλ' ἐς
πλείονας οἰκεῖν δημοκρατία κέκληται ...**

*Our Constitution is called a democracy because power is in the hands not
of a minority but of the whole people.]*

Thucydides II, 37

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 PARLIAMENT 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,

Conscious that Europe is a continent that has brought forth civilisation; that its inhabitants, arriving in successive waves since the first ages of mankind, have gradually developed the values underlying humanism: equality of persons, freedom, respect for reason,

Drawing inspiration from the cultural, religious and humanist inheritance of

*Proposal to mention
Christian heritage
ignored*

Europe, whose values are always present in its heritage, and which has embedded within the life of society its perception of the central role of the human person and his inviolable and inalienable rights, and of respect for law,

Believing that reunited Europe intends to continue along this 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 and history, the peoples of Europe are determined to transcend their ancient divisions, and, united ever more closely, to forge a common destiny,

Convinced that, thus "united in its 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,

*Legal continuity of the
Communities*

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:
(list...)

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

PART ONE

TITLE I: Definition and objectives of the Union

Establishment of the Union

Established by both citizens and states

Member States confer competences on the Union

Open to European States sharing its values

Values of the Union

Dignity, liberty, democracy, equality, rule of law, human rights, rights of minorities, pluralism, tolerance, non-discrimination, justice, solidarity, and equality of men and women

Objectives of the Union

Promote peace, values and well-being

Area of freedom, security and justice without internal frontiers and an internal market with free competition

Article I-1: Establishment of the Union

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 in the Community way the competences they confer on it.

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

Article I-2: The Union's values

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

Article I-3: The Union's objectives

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

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

Sustainable development, balanced growth, social progress, full employment, environmental protection, scientific and technological advances.

Combat social exclusion, promote social justice, equality between men and women, solidarity between generations, protection of children, respect for diversity and defend Europe's heritage

Promotion of its values and interests in the wider world

Limits to the Union's actions

No discrimination

*Free movement of persons, goods, services and capital.
Freedom of establishment*

No discrimination on grounds of nationality

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

The Union 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 protection of human rights and in particular the rights of the child, as well as to strict observance and to development of international law, including respect for the principles of the United Nations Charter.

5. The Union shall pursue its objectives by appropriate means, depending on the extent to which the relevant competences are conferred upon it in this Constitution

Article I-4:

Fundamental freedoms and non-discrimination

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

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

***Union-Member State
relations***

Article I-5:
Relations between the Union and the Member States

*Obligation to respect
national identities
(not Constitutions)*

1. The Union shall respect the national identities of its Member States, inherent in their fundamental structures, political and constitutional, including for regional and local self government. It shall respect their essential State functions, including for ensuring the territorial integrity of the State, and for maintaining law and order and safeguarding national security.

*All States equal before
Union law*

2. Member States shall be treated equally in the application of Union law.

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

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

*Member States shall
fulfil Union obligations*

Member States shall take all appropriate measures, general or particular, to ensure fulfilment of the obligations flowing from the Constitution or resulting from the Union Institutions' acts.

*And shall not
jeopardise Union
objectives*

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

Primacy of Union law

Article I-5a:
Union law

*All Union law prevails
over national law and
national constitutions*

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

Legal personality

Article I-6:
Legal personality

*The Union will make
binding agreements
with 3rd countries in all
policy areas (the three
pillars disappear)*

The Union shall have legal personality.

Union symbols

- Flag

- Anthem

- Motto

- Currency

- Europe day

Article I-6a

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.

***UNION
CITIZENSHIP***

**TITLE II:
Fundamental rights and citizenship of the Union**

Fundamental Rights

Article I-7:
Fundamental rights

*Includes the Charter of
Fundamental Rights*

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

*Council of Europe's
Convention of Human
Rights will not affect
primacy of Union law*

2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Accession to that Convention shall not affect the Union's competences as defined in this Constitution.

*Fundamental rights
become general
principles of Union law*

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

Article I-8:
Citizenship of the Union

*Double citizenship:
national and 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; it shall not replace it.

*Union citizens'
Rights and duties:*

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

- free movement and residence in the Union territory

- to vote and stand for election in all local and EP elections

- protection under all Member States' diplomatic authorities

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

(Rights and duties from the Constitution prevail over national Constitutions if they are in conflict, see art I-5a)

Union COMPETENCES

Fundamental principles

*Principles governing
Union Competence:*

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

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

Principle of subsidiarity

- a) the right to move and reside freely within the territory of the Member States;
- b) the right to vote and to stand as a candidate 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 a national 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 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.

3. These rights shall be exercised in accordance with the conditions and limits defined by this Constitution and by the measures adopted to give it effect.

TITLE III: The Union's competences

Article I-9: 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 exclusive competence the Union shall act only if and insofar as the objectives of the intended 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.

*defined in attached
protocol
National Parliaments
shall ensure compliance*

*- Proportionality:
“Not exceed what is
necessary”*

The Union Institutions 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 the 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 shall apply the principle of proportionality as laid down in the Protocol referred to in paragraph 3.

Competence categories

Article I-11: Categories of competence

Exclusive competences
*Only Union legislation
can allow Member
States to legislate.*

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 acts.

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

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.

***Coordination of
economic policies***

3. The Union shall have competence to promote and coordinate the economic and employment policies of the Member States.

***Foreign, security and
defence policy***

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.

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

5. In certain areas and in 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.

*No harmonisation
under supportive
actions*

Legally binding acts adopted by the Union on the basis of the provisions specific to these areas in Part III may 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 specific to each area in Part III.

Exclusive competences

Article I-12:
Exclusive competence

- *customs union*
- *competition rules for the internal market*
- *monetary policy*
- *marine biological resources*
- *commercial policy*

1. The Union shall have exclusive competence in the following areas:

customs union,
The establishment of the competition rules necessary for the functioning of the internal market,
monetary policy, for the Member States whose currency is the euro,
the conservation of marine biological resources under the common fisheries policy.
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 competence internally, or insofar as its conclusion may affect common rules or alter their scope.

Shared competence

Article I-13:
Areas of shared competence

General rule: when not an exclusive competence or a supportive action then a 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-12 and I-16.

Non-exhaustive list of shared competences (where an Union law suppresses national competence to legislate)

2. Shared competence applies in the following principal areas:

- a) internal market,
- b) social policy, for 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 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 actions, in particular to <u>define and implement programmes</u> ; however, the exercise of that competence <u>may 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>take action and conduct a common policy</u> ; however, the exercise of that competence <u>may not result in Member States being prevented from exercising theirs</u> .
<i>Economic coordination</i>	Article I-14: The <u>coordination of economic and employment policies</u>
<i>Measures to ensure coordination of economic policies</i>	1. The Union shall take measures to <u>ensure coordination</u> of the <u>economic policies</u> of the Member States, in particular by defining broad guidelines for these policies. The Member States shall coordinate their economic policies within the Union.
<i>Special rules for Euro-countries</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>Possibility of ensuring 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-15: The common <u>foreign and security policy</u>
<i>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 <u>all areas of foreign policy</u> and all questions relating to the <u>Union's security</u> , including the <u>progressive framing of a common defence policy</u> , which might <u>lead</u> to a <u>common defence</u> .
<i>Loyalty and mutual solidarity. 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 actions in this area. They shall <u>refrain from action contrary to the Union's interests</u> or likely to <u>impair its effectiveness</u> .

Supporting actions

***Areas of supportive
action***

Flexibility clause

*Extension of Union
powers within
objectives of
Constitution if
unanimity in the
Council and consent of
EP*

*No ratification by
national Parliaments or
referenda as per treaty
changes*

*National Parliaments
shall be notified*

*No harmonisation if
forbidden by the
Constitution*

THE INSTITUTIONS

Article I-16:

Areas of supporting, coordinating or complementary action

1. The Union shall have competence to carry out supporting, coordinating or complementary action. Such actions shall, at European level, be:

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

Article I-17:

Flexibility clause

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 by the Constitution, and the Constitution has not provided the necessary powers, the Council, 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-9(3), the European Commission shall draw Member States' national Parliaments' attention to proposals based on this Article.

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

TITLE IV:

The Union's Institutions

Chapter I -

Institutional framework

Article I-18 : The Union's Institutions

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

1. The Union shall be served by 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.

The institutions of the Union

2. This institutional framework comprises :
The European Parliament,
The European Council,
The Council of Ministers (hereinafter "Council"),
The European Commission (hereinafter "Commission"),
The Court of Justice of the European Union.

...shall act within the limits of the Constitution

3. 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 practice full mutual cooperation.

European Parliament

*- co-legislates with the Council
- political control
- approves the Commission President as proposed by the Prime Ministers*

Article I-19: The European Parliament

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

Max. 736 MEPs, seats will be divided by degressive proportionality

2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and thirty-six in number. Representation of citizens shall be degressively proportional, with a minimum threshold of four members per Member State.

New composition of Parliament decided unanimously by

Sufficiently in advance of the European Parliamentary elections in 2009, and, as necessary thereafter, for further elections, The European Council shall adopt by unanimity, on initiative of the European Parliament and with

<i>European Council prior to 2009</i>	its <u>consent</u> , a European decision establishing the <u>composition</u> of the <u>European Parliament</u> , respecting the principles referred to in the first subparagraph.
<i>Elected for 5 years by direct election</i>	2a. The members of the European Parliament shall be elected for a <u>term of five years</u> by <u>direct universal suffrage</u> in a <u>free and secret ballot</u> .
<i>EP President</i>	3. The European Parliament shall elect its <u>President</u> and its <u>officers</u> from among its members.
<p>Article I-20: The <u>European Council</u></p>	
<i>European Council</i>	
<i>The Prime Ministers in "Union summits"</i>	1. The European Council shall provide the Union with the necessary <u>impetus</u> for its development, and shall define the <u>general political directions and priorities thereof</u> . It shall not exercise legislative function.
<i>Members of the European Council</i>	2. The European Council shall <u>consist of the Heads of State or Government of the Member States</u> , together with <u>its President</u> and <u>the President of the Commission</u> . The Union <u>Minister for Foreign Affairs</u> shall take part in its work.
<i>Meets quarterly</i>	3. The European Council shall <u>meet quarterly</u> , convened by its President. When the agenda so requires, the members of the European Council <u>may decide to be assisted by a minister</u> , and, in the case of the President of the Commission, a European Commissioner. When the situation so <u>requires</u> , the <u>President</u> shall convene an <u>special meeting</u> of the European Council.
<i>President may convene additional meetings</i>	
<i>Decisions by consensus, not unanimity as at present</i>	4. Except where the Constitution provides otherwise, decisions of the European Council shall be taken by <u>consensus</u> .
<p>Article I-21: The <u>European Council Chair</u></p>	
<i>The President/Chair</i>	
<i>Prime Ministers will elect President for 2½ years – may re-elect him/her once</i>	1. The European Council shall <u>elect</u> its <u>President</u> , by <u>qualified majority</u> , for a term of <u>two and a half years</u> , <u>renewable once</u> . In the event of an <u>impediment</u> or <u>serious misconduct</u> , the European Council can <u>end his mandate</u> according to 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 <u>proper preparation</u> and <u>continuity</u> in <u>cooperation</u> with the

	<p><u>President</u> of the <u>Commission</u>, and on the <u>basis</u> of the work of the <u>General Council</u>,</p> <p>c) shall endeavour to facilitate <u>cohesion</u> and <u>consensus</u> within the European Council,</p> <p>d) shall present a <u>report</u> to the European <u>Parliament</u> after each of the meetings of the European Council.</p>
<i>Represents 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>President cannot have a national mandate</i>	3. The President of the European Council may <u>not</u> hold a <u>national mandate</u> .
Council of Ministers	<p>Article I-22: The <u>Council of Ministers</u></p>
<ul style="list-style-type: none"> - legislates with EP - carries out policy making - coordinates 	<p>1. The Council shall, jointly with the European Parliament, <u>enact legislation</u> and exercise the budgetary function. It shall carry out <u>policy-making</u> and <u>coordinating functions</u>, as laid down in the Constitution.</p>
<i>Civil servants can have status as minister and 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 Member State in question, and cast its vote.
<i>Decides by qualified majority</i> <i>The “Luxembourg compromise” has not been used since the 1980s</i>	3. Except where the Constitution provides otherwise, decisions of the Council shall be taken by <u>qualified majority</u> .
Council compositions	<p>Article I-23: <u>Council formations</u></p>
<i>Different formations</i>	1. The Council shall meet in <u>different formations</u> .
General Affairs Council	2. The General Affairs Council shall <u>ensure consistency</u> in the work of the different Council formations.
<ul style="list-style-type: none"> - coordinates Council - prepares and follows 	It shall <u>prepare</u> and ensure the <u>follow-up</u> to <u>meetings</u> of the <u>European</u>

*up on European
Council meetings*

**Foreign Affairs
Council**
*- fleshes out the
Union's external action
on the basis of the
European Council
guidelines*

Other formations
*- established by
qualified majority*

*Council meets in public
when deliberating and
voting on legislative
acts
(does not apply to the
many working groups)*

*Presidency of Council
formations rotate*

*Foreign Affairs Council
is permanently presided
over by the Foreign
Affairs Minister (I-27.3)*

Qualified majority:

**1. Majority of Member
States**

**2. 60% of the Union's
population**

**Super qualified
majority**

1. 2/3 of Member States
**2. 60% of the Union's
population**

Council, in liaison with the President of the European Council and the Commission.

3. The Foreign Affairs Council shall flesh out 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.

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

5. 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.

6. The Presidency of Council formations, 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 unanimously by a European decision of the European Council.

Article I-24: Qualified majority

1. A qualified majority shall be defined as a majority of the member of the Council, representing Member States comprising at least three fifths of the population of the Union.

2. When the Council is not acting on a proposal of the Commission, or on the initiative of the Union Minister for Foreign Affairs, the required qualified majority shall be defined as a majority of two-thirds of the members of the Council, representing the Member States, comprising at least three fifths of the population

Apply to European Council

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

5. Within the European Council, its President and the President of the Commission do not vote.

The European Commission

Role:

- *promote general interests of the Union*
- *oversee application of Union law*
- *execute the budget*
- *implementation*
- *ensure external representation, outside the common foreign and security policy*

Monopoly of initiative:
No one else can propose new laws

Composition:
15 members, no longer one from each Member State
(will probably be changed)

Rotate on equal basis:
- max one term between having a member
- represent demographic and geographical range of the Union

Non-voting Commissioners from the other Member

Article I-25:
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 under 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. Except where the Constitution provides otherwise, Union legislative acts can be adopted only on the basis of a Commission proposal. Other acts are adopted on the basis of a Commission proposal where the Constitution so provides.

3. The Commission shall consist of a College comprising its President, the Union Minister of Foreign Affairs/Vice-President, and thirteen European Commissioners selected on the basis of a system of equal rotation between the Member States. This system shall be established by a European decision adopted unanimously of the European Council on the basis of the following principles:

- (a) Member States shall be treated on a strictly equal footing as regard determination of the sequence of, and the time spent by, their nationals as Members of the College; 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 college shall be so composed as to reflect satisfactorily the demographic and geographical range of all Member States of the Union

The Commission President shall appoint non-voting Commissioners, chosen according to the same criteria as apply for Members of the College

States

and coming from all other Member States.

Effect from 2009

These arrangements will take effect on 1 November 2009.

Independence

May not take instructions from any one

4. In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article I-27(2), the President, the European Commissioners, the Commissioners and the Union Minister for Foreign Affairs shall, in the discharge of their duties, neither seek nor take instructions from any government or other body.

Censure

The EP can only censure Commission as a single body, not as individual members

5. The Commission, as a College, shall be responsible to the European Parliament. The Commission President shall be responsible to the European Parliament for the activities of the Commissioners. Under the procedures set out in Article III-243, the European Parliament may pass a censure motion on the Commission. If such a motion is passed, the European Commissioners and Commissioners must all resign and the Union Minister for Foreign Affairs must resign from the Commission. The Commission shall continue to handle everyday business until a new college is nominated.

Union Foreign Minister must also resign from the Commission

Article I-26:

The President of the European Commission

Commission President

- 1) Heads of state and government elect by qualified majority*
- 2) EP approves with majority of Members*
- 3) If rejected, a new candidate shall be put forward within 1 month*

1. Taking into account the elections to the European Parliament, and after having held the appropriate consultations, the European Council, deciding by qualified majority, shall put forward to the European Parliament its proposed candidate for the Presidency of the Commission. This candidate shall be elected by the European Parliament by a majority of its members. If this candidate does not receive the required majority support, the European Council shall within one month put forward a new candidate, following the same procedure as before.

Commission members

- 3 candidates from each Member State*
- The Commission President selects 13 members*
- EP approves by simple majority*
- Must have European commitment*
- Term: 5 years*

2. Each Member State determined by the system of rotation shall establish a list of three persons, in which both genders shall be represented, whom it considers qualified to be a European Commissioner. By choosing one person from each of the proposed lists, the President-elect, shall select the thirteen European Commissioners for their competence, European commitment, and guaranteed independence. The President and the persons so nominated for membership of the College, including the future Union Minister for Foreign Affairs, as well as the persons nominated as non-voting Commissioners, shall be submitted collectively to a vote of approval by the European Parliament. The Commission's term of office shall be five years.

The Commission

3. The President of the Commission shall:

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

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

EU Foreign Minister

*Heads of state and
government elect by
qualified majority in
agreement with
Commission President*

*Tasks of Foreign
Minister*

- a) lay down guidelines within which the Commission is to work;
- b) decide its internal organisation, ensuring that it acts consistently, efficiently and on a collegiate basis;
- c) appoint vice-presidents from among the members of the College.

A European Commission or Commissioner shall resign if the President so requests. The Vice-President/Union Minister for Foreign Affairs shall resign if the President so requests with the European Council's agreement.

Article I-27:
The Foreign Minister

1. The European Council, acting by qualified majority, with the agreement of the President of the Commission, shall appoint the Union Minister for Foreign Minister. The European Council may end his tenure by the same procedure.

2. The Union Minister for Foreign Affairs shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.

*Foreign Minister
presides over the
Foreign Affairs Council*

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

The EU Court

*Court of Justice and the
High Court (currently
Court of First Instance)*

*Ensure right of appeal
to Union law*

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

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

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

4. The Union Minister for Foreign Affairs shall be one of the Vice-Presidents of the Commission. He or she shall ensure that the Union's action in external relations is consistent with the common foreign and security policy. He shall be responsible within the Commission for responsibilities falling to 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 the provisions of the above paragraphs 2 and 3.

Article I-28:

The Court of Justice of the European Union

1. The Court of Justice of the European Union shall include the Court of Justice, the High Court and specialised courts. It shall ensure respect for the law in the interpretation and application of the Constitution.

Member States shall provide rights of appeal 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 High 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 High Court, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article III-260 to III-261. They shall be appointed by common accord of the governments of the Member States for a term of six years. Retiring judges and Advocates-General may be reappointed.

3. The Court of Justice of the European Union shall in accordance with the provisions of 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 Member State courts, 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 Bodies

Article I-29: The European Central Bank

The EU Central Bank

Directs the EU system of Central Banks and implements monetary policy together with EU central banks

Primary goal is price stability

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

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

Central Bank to be consulted on all proposals within its areas of competence

*ECB= Central bank
ESCB= the whole system*

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 general economic policies in the Union in order to contribute to the achievement of the Union'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 the European Central Bank.

3. The European Central Bank is an institution which 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 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-77 to III-83 and III-90, and with the conditions laid down in the Statute of the European System of Central Banks and the European Central Bank. In accordance with these same articles, those Member States whose currency is 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-84 to III-87, as well as in the Statute of the European System of Central Banks and the

	European Central Bank.
<i>Court of Auditors</i>	Article I-30: The Court of <u>Auditors</u>
	1. The Court of Auditors is an institution. It shall carry out the Union's <u>audit</u> .
<i>Tasks</i>	2. It shall <u>examine the accounts of all Union revenue and expenditure</u> , and shall <u>ensure good financial management</u> .
<i>One member each - completely independent</i>	3. It shall consist of <u>one national of each Member State</u> . In the performance of their duties, its members shall be completely <u>independent</u> in the Union's general interest.
<i>Advisory bodies</i>	Article I-31: The Union's <u>Advisory Bodies</u>
- <i>Committee of the Regions</i> - <i>Economic and Social Committee</i>	1. The European Parliament, the Council of Ministers and the Commission shall be assisted by a <u>Committee of the Regions</u> and an <u>Economic and Social Committee</u> , exercising advisory functions.
<i>Members of the Committee of the Regions</i>	2. The <u>Committee of the Regions</u> shall consist of representatives of <u>regional and local bodies</u> who either <u>hold a regional or local authority electoral mandate</u> or are <u>politically accountable to an elected assembly</u> .
<i>Members of the Economic and Social Committee</i>	3. The <u>Economic and Social Committee</u> shall consist of <u>representatives of organisations of employers, of the employed, and of others representative of civil society</u> , notably in <u>socio-economic, civic, professional and cultural areas</u> .
<i>Representatives in advisory bodies must be completely independent</i>	4. The members of the Committee of the Regions and the Economic and Social Committee shall <u>not be bound by any mandatory instructions</u> . They shall be <u>completely independent</u> , in the performance of their duties, in <u>the Union's general interest</u> .
<i>Composition in art. III-288 to III-294</i>	5. Rules governing <u>the composition of these Committees</u> , the designation of their members, their powers and their operations, are <u>set out in Articles III-292 to III-298</u> .
	The rules referred to in paragraph 2 and 3 governing the nature of their <u>composition shall be reviewed</u> at regular intervals by the Council to take account of economic, social and demographic developments within the <u>Union</u> . The Council, on a proposal from the Commission, shall adopt European decisions to that end.

**EXERCISE OF
COMPETENCE**

**TITLE V:
EXERCISE OF UNION COMPETENCE**

Chapter I:
Common provision

Article I-32:
The legal acts of the Union

Legal acts

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

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

Law:
- binding in its entirety, directly applicable

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

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

A European framework law shall be a legislative act binding, as to the result to be achieved, on the Member States, but leaving the national authorities entirely free to choose the form and means of achieving that result.

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

A European regulation shall be a non-legislative act of general application for the implementation of legislative acts and of certain specific provisions of the Constitution. It may either be binding in its entirety and directly applicable in all Member States, or be binding, as regards the result to be achieved, on all Member States to which it is addressed, but leaving the national authorities entirely free to choose the form and means of achieving that result.

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

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

Recommendations and opinions: not binding

Recommendations and opinions shall have no binding force.

This is an exhaustive list of legal instruments

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

Article I-33:

Legislative procedure

- see art. III-302

General rule:

1) Commission

proposes

2) EP and Council

decides:

a) qualified majority in Council

b) Simple EP majority

Sometimes only the Council or the EP adopts laws - but the other institution participates

In special cases a group of Member States can take initiative - but still the EP or Council decides

Non-legislative acts

"Regulations" and "decisions" to be used for delegation or implementation

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

Legislative acts

1. European laws and European framework laws shall be adopted, on the basis of proposals from the Commission, jointly by the European Parliament and the Council of Ministers under the ordinary legislative procedure as set out in Article III-302. If the two institutions cannot reach agreement on an act, it shall not be adopted.

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

Article I-34:

Non-legislative acts

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

The Council and the Commission, in particular in the cases referred to in Articles I-35 and I-36, and the European Central Bank in the specific cases provided for in the Constitution, shall adopt European regulations and European decisions.

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.

Delegated regulations

The Commission can be permitted to legislate on its own on non-essential elements (what is non-essential?)

*In the act delegating legislative power to the Commission it shall be explicitly stated how the power can be redrawn. There are two methods:
1) EP or Council can decide to revoke the delegation
2) EP or Council can block a regulation*

Demands qualified majority in Council or an absolute majority of EP members

Implementing acts

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

**Article I-35:
Delegated regulations**

1. European laws and European framework laws may delegate to the Commission the power to adopt delegated 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 law or framework law and accordingly may not be the subject of a delegation of power.

2. The conditions of application to which the delegation is subject shall be explicitly determined in the laws and framework laws, which may be as follows:

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

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

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

**Article I-36:
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 specific cases duly justified, and in the cases provided for in Article I-39, on the Council.

3. European laws shall lay down in advance the rules and general principles for mechanisms for control by Member States of the Commission's exercise of implementing powers.

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

decisions

Article I-37:

Principles common to the Union's legal acts

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

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 procedures applying and with the principle of proportionality set out in Article I-9.

A law shall state the reasons on which it is based

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

Article I-38:

Publication and entry into force

Laws to be signed by the Presidents of the deciding institutions

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.

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

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

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

Regulations and decisions with no concrete addressees also 20 days after publication

2. European regulations and European decisions which do not specify those to whom they are addressed shall be signed by the President of the Institution which adopts them.

Where European regulations and European decisions do not specify to whom they are addressed, they shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence of such a stated date, on the twentieth day following their publication.

Other decisions take effect upon notification

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

Chapter II:

Common foreign and security policy

Based on:
- solidarity among Member States
- identification of common interests
- convergence of actions

The European Council shall identify the Union's interests

Heads of state and government and/or Foreign Ministers adopt decisions

Shared responsibility for putting the policy into action

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

Mutual solidarity among Member States

EP shall be consulted and be kept informed

Decisions taken unanimously, unless otherwise stated in Part III

Specific provision

Article I-39:

Specific provisions relating to the common foreign and security policy

1. The European Union shall conduct a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.
2. The European Council shall identify the Union's strategic interests and determine the objectives of its common foreign and security policy. The Council of Ministers shall frame this policy within the framework of the strategic guidelines established by the European Council and in accordance with the arrangements in Part III.
3. The European Council and the Council shall adopt the necessary European decisions.
4. The common foreign and security policy shall be put into effect by the Union Minister for Foreign Affairs and by the Member States, using national and Union resources.
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. 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.
7. 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 or the Council shall act on an initiative from a Member State, on a proposal from

*Member States and
Union Foreign Minister
have the right of
initiative*

*Laws and framework
laws excluded*

*Heads of state and
government can
unanimously change
voting procedure to
qualified majority*

Defence policy

*Operational capability:
both military and
civilian means
Can be used outside the
EU for peacekeeping,
conflict prevention and
strengthening of
international security.
The Union shall use
national capabilities*

*Common defence to be
decided unanimously*

*Specific character of
certain Member States'
defence policies shall
be respected*

Neutral Countries

NATO

*Obligation to make
military capabilities*

the Union Minister for Foreign Affairs or on a proposal from that Minister with the Commission's support. European Laws and framework laws are excluded.

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

Article I-40:

Specific provisions relating to common security and defence policy

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 capability drawing on assets civil and military. 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 and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation, under the North Atlantic Treaty, and be compatible with the common security and defence policy established within that framework.

3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence

*available to the EU.
Multinational forces
can be part of common
defence*

*Progressively improve
military capabilities*

*European Armaments
and Strategic Research
Agency*

*Defence policy
implemented by
unanimity*

*A group of Member
States can carry out a
Union task*

*Structured co-operation
can be undertaken
within the Union
framework*

*Mutual assistance
clause for ALL Member
states in case of an
armed aggression*

*Does not affect NATO
commitment*

*EP shall be consulted
and informed*

policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make those forces available to the common security and defence policy.

Member States shall undertake progressively to improve their military capabilities. A European Armaments, Research and Military Capabilities 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 on the implementation of the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council 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 maintain the Union's values and serve its interests. The execution of such a task shall be governed by Article III-211.

6. Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments in this area with a view to the most demanding missions shall establish structured cooperation within the Union framework. Such cooperation shall be governed by the provisions of Article III-213. It shall not affect the provisions of Article III-210.

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 NATO, which, for 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

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, secret services

National parliaments shall be involved in the political monitoring of Europol and Eurojust

In police and judicial cooperation Member States and the Commission have right of initiative

Terrorism clause

Member States and Union shall act jointly against terrorism and disasters

- prevention

- protection

- assistance: terrorism

shall be kept informed of how it evolves.

Article I-41:

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

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 national laws in the areas listed 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 freedom, security and justice, participate in the evaluation mechanisms foreseen in Article III-161. They shall be involved in the political monitoring of Eurojust's and Europol's activities in accordance with Articles III-177 and III-174.

3. Member States shall have the right of initiative in the field of police and judicial cooperation in criminal matters, in accordance with Article III-165.

Article I-42:

Solidarity clause

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the victim of terrorist attack or 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.

2. The detailed arrangements for implementing this Article are at Article III-231.

Enhanced cooperation

Chapter III:
Enhanced cooperation

Article I-43:
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-322 to III-328.

*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-324.

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 within that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided 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-325.

***Only the participating
Member States take
part in the vote***

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

*Only participating
Member States are
included when
calculating unanimity
and qualified majority*

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

*Qualified majority is
2/3 of Member States
representing 60% of
population when
Council is not acting on
a proposal from the
Commission or the
Foreign Minister*

A qualified majority shall be defined as a majority of the members of Council representing the participating Member States, comprising at least three fifths of the population of the participating Member States.

*Decisions only bind
participating states*

Where Council does not act on a Commission proposal, or on a proposal from the Union Minister for Foreign Affairs, the required qualified majority shall be defined as a majority of two-thirds of the members of the Council representing the participating Member States, comprising at least three fifths of the population of the participating Member States.

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

Countries do not have to accept decisions made under enhanced cooperation to join the Union

DEMOCRATIC LIFE

Equality

Principle of equality of all Union citizens

Principle of representative democracy

*EP represents citizens directly
Member States' representatives in the councils are either accountable to national Parliaments or citizens*

Decisions shall be taken as openly and as close to the citizens as possible

European parties form a European awareness

Right to discuss opinions with the

Title VI: The democratic life of the Union

Article I-44:

The principle of democratic equality

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

Article I-45:

The principle of representative democracy

1. The working of the Union shall be founded on the principle of 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 as possible 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 Union citizens.

Article I-46:

The principle of participatory democracy

1. The Institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly

<i>institutions</i>	exchange <u>their views</u> on all areas of Union action.
<i>Channels for dialogue with civil society</i>	2. The Union institutions shall maintain an <u>open, transparent and regular dialogue with representative associations and civil society</u> .
<i>Commission shall consult all parties concerned</i>	3. The <u>Commission</u> shall carry out <u>broad consultations</u> with <u>parties concerned</u> in order to <u>ensure</u> that the <u>Union's actions</u> are <u>coherent and transparent</u> .
<i>Citizens' initiative</i> - can ask Commission to submit proposal - a million signatures required - but Commission can refuse	4. A <u>significant number</u> of citizens, no <u>less than one million</u> , coming from a <u>significant number</u> of <u>Member States</u> may take the initiative of inviting the <u>Commission</u> within the framework of its power, to <u>submit</u> any appropriate <u>proposal</u> on matters where citizens consider that a legal act of the Union is required for the purpose of implementing this Constitution. A European law shall determine the provisions for the specific procedures and conditions required for such a citizens' initiative.
<i>Social Dialogue</i>	Article I-47: The <u>social partners</u> and <u>autonomous social dialogue</u>
<i>The Union recognises and promotes autonomous social dialogue</i>	The European Union <u>recognises</u> and <u>promotes</u> the role of the <u>social partners</u> at Union level, taking into account the <u>diversity of national systems</u> ; it shall <u>facilitate dialogue</u> between the social partners, <u>respecting their autonomy</u> .
<i>The Ombudsman</i>	Article I-48: The European <u>Ombudsman</u>
<i>Elected by EP</i> <i>Receives, investigates, and reports on complaints of maladministration</i>	A European Ombudsman <u>elected</u> by the European <u>Parliament</u> shall <u>receive, examine and report on complaints</u> about <u>maladministration</u> in the activities of the Union Institutions, bodies, offices or agencies under the conditions laid down in the Constitution. The European Ombudsman shall be <u>completely independent</u> in the performance of his duties.
<i>Transparency</i>	Article I-49: <u>Transparency</u> of the proceedings of the Union's Institutions, bodies, offices and agencies
<i>“as openly as possible”</i>	1. In order to promote good governance and ensure the participation of civil society, the Union's Institutions, bodies, offices and agencies shall conduct their work <u>as openly as possible</u> .
<i>The Council and EP</i>	2. The European <u>Parliament</u> shall meet <u>in public</u> , as shall the <u>Council</u> when

*shall meet in public
(does not apply to the
many working groups,
where the real law-
making occurs)*

*Right of access to
documents...*

*Each body determines
own specific rules
within the limits of the
above mentioned law*

Personal data

*Protection of personal
data*

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

Churches

*The EU respects their
status under national
law (the constitution
does not permit any
differentiation between,
say, Christians,
Muslims or Atheists)*

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

A European law 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 law referred to in paragraph 3.

Article I-50: Protection of personal data

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

2. A European law shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by the Union Institutions, bodies, offices and agencies, and by the Member States when carrying out activities which come under 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 an independent authorities.

Article I-51: 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.

EU dialogue with churches

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.

FINANCES

Title VII: Union finances

The EU budget

Article I-52:

Budgetary and financial principles

The Union budget shall include all revenue and expenditure

1. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part III.

Balanced budget

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

Rules on adopting expenditure to be defined in Part III

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-318.

Expenditure requires both money in the budget and a legal act

4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal 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-314, except in cases for which the 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 these acts 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-54.

Principle of sound financial management

6. The Union's 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 the principles of sound financial management.

Rules on countering fraud

7. The Union and the Member States, in accordance with Article III-321, shall counter fraud and any other illegal activities affecting the financial interests of the Union.

Article I-53:
The Union's resources

Provide itself with enough resources to attain its objectives

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

Financed from 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. The law shall be approved by all Member States

3. A European law of the Council shall lay down the limit of the Union's own resources and may establish new categories of 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 EP consent

4. A European law of the Council shall lay down the modalities relating to the Union's own resources. The Council shall act after obtaining the consent of the Parliament.

Article I-54:
The multiannual financial framework

The multiannual financial framework shall determine the annual ceilings for each expenditure category

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within its own resources limits. It shall determine the amounts of the annual ceilings for commitment appropriations for commitments by category of expenditure in accordance with the provisions of Article III-308.

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

2. A European law of the Council shall lay down the multiannual financial framework. The Council shall act after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

Annual budget shall stay within the multiannual framework

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

First multiannual framework adopted by unanimity

4. The Council shall act unanimously when adopting the first multiannual financial framework in accordance with the timetable in force on the date the Constitution is signed.

*For the following
multiannual framework,
the European Council
may decide by
unanimity to allow the
Council to act by
qualified majority*

The European Council may adopt by unanimity a European Decision authorising the Council to decide by qualified majority on the adoption of the multiannual financial framework following the first financial framework referred to in paragraph 1 above.

Article I-55:
The Union's budget

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

A European law shall establish the Union's annual budget in accordance with the arrangements laid down in Article III-310.

NEIGHBOURS

**Title IX:
The Union and its immediate environment**

Article I-56:
The Union and its immediate environment

*Policy towards
neighbour States*

1. The Union shall develop a special relationship with neighbouring States, 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 countries
- reciprocal rights and
obligations
- joint activities
- periodic consultation*

2. For this purpose, 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

**TITLE X:
UNION MEMBERSHIP**

***Requirements for
membership***

Article I-57:
Conditions and procedure for applying for Union membership

*Respect for the values
in Art. I-2*

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

*Would-be members
must:*

2. Any European State which wishes to become a member of the Union may address its application to the Council. The European Parliament and

*- write to the Council
- inform EP and
national Parliaments*

*Unanimous decision in
the Council*

the Member States' 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 all the contracting States, in accordance with their respective constitutional requirements.

Article I-58:

Suspension of certain rights resulting from Union membership

Suspension of rights

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

1. On the reasoned initiative of one third of the Member States, or 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 mentioned in I-2. The Council shall act by a majority of four fifths of its members after obtaining the consent of the European Parliament.

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

Regular verification

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

*The European Council
can decide by
unanimity that a
Member State is
persistently and
seriously breaching the
values of the Union.
Consent from EP*

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

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

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 this Constitution to the Member State in question, including the voting rights of the members of the Council representing that State. The Council shall take into account the possible consequences of such a suspension for the rights and obligations of natural and legal persons.

*Obligations shall still
bind the Member State*

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

*Suspension can be
revoked by qualified
majority*

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

*No vote for Member
State in question.
Abstention shall not
count*

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

*Definition of qualified
majority*

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

*Suspension of voting
rights require super
qualified majority (see
Art. 24.2)*

Where, following a decision to suspend voting rights adopted pursuant to paragraph 3, the Council acts by a qualified majority on the basis of a provision of the Constitution, that qualified majority shall be defined as in the second subparagraph, or, where the Council acts on a proposal from the Commission, as a majority of the members of the Council, representing the participating Member States, comprising at least three fifths of the population of the participating Member States.

*Consent of the EP
requires a 2/3 majority
and a majority of its
members*

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

Withdrawal

Article I-59: Voluntary withdrawal from the Union

*Any Member State can
leave the Union*

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

*Agreement on
withdrawal between the
Council and the
Member State
- qualified majority in
the Council
- and consent of EP*

2. A Member State which decides to withdraw shall notify the European Council of its intention; In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article III-227(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. This 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*

3a. 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 Council or European Council discussions or European decisions concerning it.

*Qualified majority (2/3
of Member States
representing 60% of the
Union population)*

A qualified majority shall be defined as a majority of two thirds of the members of the Council, representing the participating Member States, comprising at least three fifths of the population of the participating Member States.

*Re-entry procedure as
for new members*

4. If a State which has withdrawn from the Union asks to re-join, that request shall be subject to the procedure referred to in Article I-57.

PART II

CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

PREAMBLE

*Values and goals of the
Union*

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.

*Aim is to strengthen the
protection of
fundamental rights*

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 for the explanations prepared at the instigation 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-1:
Human dignity

*Respect and protect
human dignity*

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

Article II-2
Right to life

*Right to life
(controversial issue:
does this cover
abortion?)*

1. Everyone has the right to life.

No death penalty

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

Article II-3:
Right to the integrity of the person

Respect for:

*- physical and mental
integrity*

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

Within medicine:

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

- consent of the person

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

*- no selection of
persons based on
eugenic practices
- no financial gain from
human bodies*

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

(c) the prohibition on making the human body and its parts as such a source of financial gain,

- no reproductive cloning of human beings

(d) the prohibition of the reproductive cloning of human beings.

Article II-4:
Prohibition of torture and inhuman or degrading treatment or punishment

No torture or degrading treatment

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

Article II-5:
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 human beings

3. Trafficking in human beings is prohibited.

TITLE II FREEDOMS

Right to:

Article II-6:
Right to liberty and security

- liberty and security

Everyone has the right to liberty and security of person.

Article II-7:
Respect for private and family life

- respect for private and family life, homes, and communications

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

Article II-8:
Protection of personal data

- protection of personal data

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

- *uninhibited access to personal data*

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

Independently controlled

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

Article II-9:

Right to marry and right to found a family

- *Marriages protected according to national law*

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

Article II-10:

Freedom of thought, conscience and religion

Freedom of:

- *thought*

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.

- *conscience*

- *religion*

- *conscientious objection*

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

Article II-11:

Freedom of expression and information

- *expression*

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

- *information*

- *pluralism in media*

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

Article II-12:

Freedom of assembly and of association

- *assembly*

- *association*

1. Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions

- *trade unions*

for the protection of his or her interests.

- *EU-level political parties*

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

Article II-13:

Freedom of the arts and sciences

- *art*

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

- *science*

Article II-14:

Right to education

Right to:

- *access to education*

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

- *free compulsory education*

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

Within the limits of national law, parents have the right to educate their children

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

Article II-15:

Freedom to choose an occupation and right to engage in work

Freedom:

- *to work*

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

- *of movement for workers, right to establishment and to provide services*

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

- *of 3rd countries' citizens to have the same working conditions as citizens of the Union*

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-16:

- *conduct business*

Freedom to conduct a business

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

Property

Article II-17:
Right to property

*Right to own, use and
dispose of possessions*

*Only deprive a person
of possessions if fair
compensation is given*

*Protection of
intellectual 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 in so far as is necessary for the general interest.

2. Intellectual property shall be protected.

Asylum:

Article II-18:
Right to asylum

*The Union respects the
Geneva Convention on
refugees*

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

**Removal, expulsion
and extradition**

Article II-19:

Protection in the event of removal, expulsion or extradition

- *no collective
expulsion*

- *no expulsion if risk of
torture or death penalty*

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**

Equality principle

Article II-20:
Equality before the law

Everyone is equal before the law.

Article II-21:
Non-discrimination

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

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.

Respect of cultural, religious and linguistic diversity

Article II-22:
Cultural, religious and linguistic diversity

The Union shall respect cultural, religious and linguistic diversity.

Equality between men and women

Article II-23:
Equality between men and women

Special advantages for the underrepresented sex are allowed

Equality between men and women 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.

Protection of children

Article II-24:
The rights of the child

Shall be free to express

1. Children shall have the right to such protection and care as is necessary

their views, and these shall be considered

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.

The child's best interests are the main concern

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

Right to contact with both parents

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

Rights of the elderly:

Article II-25: 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-26: 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**

Workers' right to information and consultation

Article II-27: Workers' right to information and consultation within the undertaking

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-28: 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 service

Article II-29:
Right of access to placement services

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

***Protection against
unjustified dismissal***

Article II-30:
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-31:
Fair and just working conditions

***Secure 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.

Child labour

Article II-32:
Prohibition of child labour and protection of young people at work

***Minimum age of
employment the same
as the minimum school
leaving age***

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 derogation.

***Protection of children
against exploitation***

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-33:
Family and professional life

Protection of the family

1. The family shall enjoy legal, economic and social protection.

***- protection against
being fired when
pregnant
- paid maternity leave
- leave for both parents***

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.

after birth or adoption

Social security

*Social systems within
the limits of Union law*

Right to social security

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

Article II-34:

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-35:

Health care

Right to health care

*High level of health
protection*

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.

Article II-36:

Access to services of general economic interest

*Access to services of
general interest within
the limits of Union law*

The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Constitution, in order to promote the social and territorial cohesion of the Union.

Article II-37:

Environmental protection

Environment

*High level of
environmental
protection, not the
"highest"*

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

*environmental
protection*

Consumer protection

*High level of consumer
protection, not the
"highest" consumer
protection*

Article II-38:
Consumer protection

Union policies shall ensure a high level of consumer protection.

**TITLE V:
CITIZENS' RIGHTS**

Article II-39:

Right to vote and to stand as a candidate at elections to the European
Parliament

*Vote and stand as
candidate for the EP in
the country where you
live*

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

Direct and secret voting

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

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

*- but not yet for
national elections*

Article II-40:

Right to vote and to stand as a candidate at municipal elections

Every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he or she resides under the same conditions as nationals of that State.

Good administration

*Citizens to be treated
impartially, fairly and
within a reasonable
amount of time*

Article II-41:

Right to good administration

1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

*Rights include:
- to be heard*

2. This right includes:
a) the right of every person to be heard, before any individual measure

	which would affect him or her adversely is taken;
- to access	b) the right of every person to have <u>access</u> to his or her <u>file</u> , while respecting the legitimate interests of confidentiality and of professional and business secrecy;
- to reason for decisions	c) the obligation of the administration to give <u>reasons for its decisions</u> .
<i>Right to compensation for damages caused by the Union</i>	3. Every person has the right to have the Union <u>make good any damage caused by its institutions</u> or by its servants in the performance of their duties, <u>in accordance with</u> the general principles common to the <u>laws of the Member States</u> .
<i>Right to write to the institutions in any Union language and receive a reply in the same language</i>	4. Every citizen may <u>write</u> to the institutions of the Union in one of the languages of the Constitution and must <u>have an answer</u> in the same language.
Access to documents	Article II-42: Right of <u>access to documents</u>
<i>(but only if Union laws permits)</i>	Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a <u>right of access to documents</u> of the institutions, bodies, offices and agencies of the Union, <u>in whatever their medium</u> .
Ombudsman	Article II-43: Ombudsman
<i>- Investigates maladministration (see also article I-48 on the Ombudsman in part I)</i>	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 <u>refer to the Ombudsman</u> of the Union cases of <u>maladministration</u> in the activities of the Community institutions, bodies, offices and agencies with the exception of the Court of Justice of the European Union acting in its judicial role.
Petition to the EP	Article II-44: Right to <u>petition</u>
<i>EU citizens have the right to petition the EP</i>	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 <u>petition the European Parliament</u> .

Free movement and residence

- right of all Union citizens

Nationals of 3rd countries residing in the Union can be given the same right

Protection by all Member States' diplomatic corps

Access to:

- effective remedies

- impartial tribunal

- defence

- legal aid

Presumption of innocence

Right to a defence

Legality principle

Article II-45:
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.

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-46:
Diplomatic and consular protection

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

**TITLE VI:
JUSTICE**

Article II-47:
Right to an effective remedy and to a fair trial

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.

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

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

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

Article II-48: Presumption of innocence and right of defence

1. Everyone who has been charged shall be presumed innocent until proved guilty according to law.

2. Respect for the rights of the defence of anyone who has been charged shall be guaranteed.

Article II-49:
Principles of legality and proportionality of criminal offences and penalties

No retroactive effect

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than that which was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable.

Does not prejudice cases based on general principles

2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations.

Penalty proportional to the offence

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

Only punishable once

Article II-50:

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

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

No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted within the Union in accordance with the law.

INTERPRETATION

**TITLE VII:
GENERAL PROVISIONS**

Scope:

Article II-51:
Field of application

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

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.

This Charter does not modify or create any new powers or tasks for the Union

2. This Charter does not extend the scope 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-52:
"Scope and interpretation of rights and principles"

*Limitation of
fundamental rights only
allowed if in general
interest of the Union
and provided for by law*

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 within the limits
of the Treaties*

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.

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

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

*Interpreted according
to common
constitutional traditions
of Member States*

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

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

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

*Full account taken of
national laws and
practices*

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

Article II-53:
Level of protection

*Charter can only be
interpreted as raising
the level of human
rights*

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

Article II-54:
Prohibition of abuse of rights

*No rights to perform
activities aimed at
destroying rights and
freedoms guaranteed by
this Charter*

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

PART THREE

THE POLICIES AND FUNCTIONING OF THE UNION

GENERAL PRINCIPLES FOR ALL POLICIES

TITLE I PROVISIONS OF GENERAL APPLICATION

Article III-1

Consistency

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

Article III-2

Eliminating inequality

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

Gender equality

Social protection

Article III-2a

must take into account:

- *employment,*
- *social protection,*
- *education,*
- *training and*
- *protection of human health*

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.

Combat discrimination

Article III-3

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

The environment and sustainable development

Article III-4

Environmental protection requirements must be integrated into the

definition and implementation of the Union policies and activities referred to in this Part, in particular with a view to promoting sustainable development.

Consumer protection

Article III-5

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

Animal welfare

Article III-5a

- included in Union policies

Must respect:

- religious rites*
- cultural traditions*
- regional heritage*
(E.g. bull fighting, etc.)

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 pay full regard to the welfare requirements of animals, as sentient beings, while respecting the legislative or administrative provisions and customs of Member States relating in particular to religious rites, cultural traditions and regional heritage.

Services of general interest

Article III-6

Shared responsibility of Union and Member States

Law defines the principles

Without prejudice to Articles I-5, III-55, III-56 and III-136, 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 social and territorial cohesion, the Union and the Member States, each within their respective powers 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, which enable them to fulfil their missions. European laws shall define these principles and conditions without prejudice to the competence of Member States, in compliance with the Constitution, to provide, to commission and to fund such services.

CITIZENSHIP

TITLE II
NON-DISCRIMINATION AND CITIZENSHIP

No discrimination on nationality

Article III-7

- rules laid down in law

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

Article III-8

Measures against discrimination

Unanimity in the Council, EP gives consent

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

Free movement and settlement

If the Union lacks powers to obtain goal of Art. I-8, the Union's powers can be extended by unanimity

This includes:

- passports
- identity cards
- residence permits
- social security

Election rules

Unanimity in the Council

EP consulted

National derogations

1. Without prejudice to the other provisions of the Constitution and within the limits of the powers conferred by it upon the Union, a European law or framework law of the Council of Ministers 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 of Ministers shall act unanimously after obtaining the consent of the European Parliament.

2. By way of derogation from paragraph 1, European laws or framework laws may establish basic principles for Union incentive measures and define such incentive 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.

Article III-9

1. If action by the Union should prove necessary to facilitate the exercise of the right, referred to in Article I-8(2)(a), of every Union citizen 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.

2. For the same purposes as those referred to in paragraph 1 and unless the Constitution has provided for the necessary powers, measures concerning passports, identity cards, residence permits or any other such document and measures concerning social security or social protection may be laid down by a European law or framework law of the Council. The Council shall act unanimously after consulting the European Parliament.

Article III-10

A European law or framework law of the Council shall determine the detailed arrangements for exercising the right, referred to in Article I-8(2)(b), for every Union citizen to vote and to stand as a candidate in municipal elections and elections to the European Parliament in their 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-232(1) and the measures adopted for its implementation.

Diplomatic protection

Article III-11

*Qualified majority of
the Council, consult EP*

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-8(2)(c).

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

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

Languages

Article III-12

*Official Union
languages: those listed
in Art. IV-10*

The languages in which every citizen of the Union has the right to address the institutions or bodies under Article I-8(2)(d), and to have an answer, are those listed in Article IV-10. The institutions and advisory bodies referred to in Article I-8(2)(d) are those listed in Articles I-18(2), I-29, I-30 and I-31 and also the European Ombudsman.

Article III-13

*Report on development
of Union citizenship
every third year*

The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of Article I-8 and of this Title. This report shall take account of the development of the Union.

New citizens' rights

*Unanimity in Council,
EP consent, national
approval*

On this basis, 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-8. 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

The Internal Market

Article III-14

*Area without internal
frontiers, allowing
free movement*

*Council decides,
through regulations
and decisions, by
qualified majority
voting*

*Possibility of
temporary exceptions
from the internal
market rules*

*Exceptions must cause
as little disturbance as
possible*

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

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

3. The Council of Ministers, 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.

4. When drawing up its proposals with a view to achieving the objectives set out in paragraph 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.

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.

Article III-16

Internal disturbances

War

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 steps 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.

Article III-17

*If steps distort
competition, the*

If steps taken in the circumstances referred to in Articles III-16 and III-342 have the effect of distorting the conditions of competition in the internal

Commission and the Member State shall examine measures

market, the Commission shall, together with the Member State concerned, examine how these steps can be adjusted to the rules laid down in the Constitution.

Abuse referred directly to Court

By way of derogation from the procedure laid down in Articles III-265 and III-266, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Articles III-16 and III-342. The Court of Justice shall give its ruling in camera.

SECTION 2 FREE MOVEMENT OF PERSONS AND SERVICES

Subsection 1: Workers

Article III-18

Workers

Free movement for workers

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

No discrimination on grounds of nationality...

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

...unless on grounds of public policy, security or health

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

Right to:
- *accept offers*

(a) to accept offers of employment actually made;

- *move freely*

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

- *stay*

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

- *remain in new country after rules adopted by the Commission*

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

Not applicable to jobs

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

in public services

Article III-19

Free movement of workers through laws and framework laws.

European laws or framework laws shall establish the measures needed to bring about freedom of movement for workers, as defined in Article III-18. 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 cooperation between national employment services;

- to remove administrative borders between States

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

- to abolish qualifying periods that hinder free choice of employment

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

- to make transnational contact between employer and employee possible

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

Exchange of young workers

Article III-20

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

Social protection

Article III-21

Social protection for migrant workers and their dependants through legislative procedure

1. In the field of social security, a European law or framework law shall establish such measures as are necessary to bring about freedom of movement for workers by introducing a system to secure for employed and self-employed migrant workers and their dependants:

Periods of work in different countries used for calculating benefits

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

System of payment of benefits

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

If proposal affects overall financial balance the matter can be sent to the European Council, who can:

2. Where a Member of the Council considers that a draft European framework law referred to in paragraph 1 would infringe the fundamental principles of its social security system or would significantly affect the overall financial balance, it may request that the matter be referred to the European Council. In that case, the procedure referred to in Article III 302 shall be suspended.

After discussion, the European Council may:

- refer the draft back to the Council

(a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III 302, or

- ask the Commission to submit a new draft

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

Free establishment

Subsection 2: Freedom of establishment

Article III-22

No restriction on freedom of establishment, self-employment and management of companies and firms of citizens moving between the Member States

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-27, under the conditions laid down for its own nationals by the law of the Member State where such establishment is effected, subject to the provisions of Section 4 of this Chapter relating to capital and payments.

Article III-23

Framework laws

1. European framework laws shall establish measures in order to attain freedom of establishment as regards a particular activity. It shall be adopted after consulting 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;

Remain in territory

(d) by ensuring that workers of 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;

Acquire land and buildings
Limited by III-123(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 123(2);

Abolition of restriction on branches of companies

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

Protection of Member States' interests

(g) by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and others, are required by Member States of companies or firms within the meaning of [the second paragraph of Article 27 with a view to making such safeguards equivalent throughout the Community;

No distorting aids from

(h) by satisfying themselves that the conditions of establishment are not

<i>Member States</i>	<p><u>distorted by aids</u> granted by Member States.</p> <p style="text-align: center;">Article III-24</p>
<i>Public authorities exempted</i>	<p>This Subsection shall <u>not apply</u>, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of <u>official authority</u>.</p>
<i>Other exemptions possible through law</i>	<p>European <u>laws or framework laws</u> may <u>exempt certain activities</u> from application of this Subsection.</p> <p style="text-align: center;">Article III-25</p>
<i>Special treatment for public policy, public security and public health</i>	<p>1. This Subsection and measures adopted in pursuance thereof shall <u>not prejudice</u> the applicability of provisions laid down by law, regulation or administrative action in Member States providing for <u>special treatment for foreign nationals</u> on grounds of public policy, public security or public health.</p>
<i>Coordination through legislative procedure</i>	<p>2. A European <u>framework law</u> shall <u>coordinate the national provisions</u> referred to in paragraph 1.</p> <p style="text-align: center;">Article III-26</p>
<i>Self-employment</i>	
<i>Goal: to make self-employment easier via:</i>	<p>1. A European <u>framework law</u> shall make it <u>easier</u> for persons to take up and <u>pursue</u> activities as <u>self-employed</u> persons. It shall cover:</p>
<i>- mutual recognition</i>	<p>(a) the <u>mutual recognition</u> of <u>diplomas</u>, certificates and other evidence of formal qualifications;</p>
<i>- coordination of provisions</i>	<p>(b) the <u>coordination</u> of the <u>provisions</u> laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons.</p>
<i>For medical and pharmaceutical professions coordination, not law</i>	<p>2. In the case of the <u>medical and allied and pharmaceutical</u> professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for their exercise in the various Member States.</p> <p style="text-align: center;">Article III-27</p>
<i>Companies to be</i>	<p><u>Companies</u> or firms formed in accordance with the law of a Member State</p>

*treated the same way
as persons*

and having their registered office, central administration or principal place of business within the Union shall, for the purposes of [this ex-chapter], 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-28

*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-27, without prejudice to the application of the other provisions of the Constitution.

Free services

Subsection 3: Freedom to provide services

Article III-29

Restrictions prohibited

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 extended to 3rd
country nationals
through legislative
procedure*

A European law or framework law may extend the provisions of this chapter to nationals of a third country who provide services and who are established within the Union.

Definition of "service"

Article III-30

*Payment must be
involved and service
cannot fall under
freedom of movement
for goods, capital and
persons*

Services shall be considered to be "services" within the meaning 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 goods, capital and persons.

"Services" shall in particular include:

*Definition includes:
- industrial activities*

(a) activities of an industrial character;

- | | |
|--------------------------------|---|
| - <i>commercial activities</i> | (b) activities of a <u>commercial character</u> ; |
| - <i>craftsmen</i> | (c) activities of <u>craftsmen</u> ; |
| - <i>professionals</i> | (d) activities of the <u>professions</u> . |

Same conditions as Member State nationals Without prejudice to the Subsection relating to the right of establishment, the person providing a service may, in order to do so, temporarily pursue his 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-31

- | | |
|------------------------------|--|
| <i>Transport</i> | 1. Freedom to provide services in the field of <u>transport</u> shall be governed by the <u>Section relating to transport</u> . |
| <i>Banking and insurance</i> | 2. The liberalisation of <u>banking and insurance</u> services connected with movements of capital shall be effected <u>in step with the liberalisation of movement of capital</u> . |

Article III-32

- | | |
|--|---|
| <i>Liberalisation by legislative procedure</i> | 1. A European <u>framework law</u> shall establish the measures in order to achieve the <u>liberalisation of a specific service</u> . It shall be adopted after consulting the Economic and Social Committee. |
| | 2. As regards the European framework law referred to in paragraph 1, priority shall as a general rule be given to those services which directly affect production costs or the liberalisation of which helps to promote trade in goods. |

Article III-33

<i>Possible to adopt measures at a more rapid tempo</i>	The Member States shall endeavour to undertake the <u>liberalisation</u> of services <u>beyond the extent required</u> by the European framework law adopted pursuant to Article III-32(1), if their general economic situation and the situation of the economic sector concerned so permit.
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<i>Recommendations</i>	To this end, the <u>Commission</u> shall make <u>recommendations</u> to the Member States concerned.
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	Article III-34
<i>No discrimination on grounds of nationality</i>	As long as restrictions on freedom to provide services have not been abolished, the Member State shall apply such <u>restrictions without distinction on grounds of nationality</u> or of residence to all persons providing services within the meaning of the first paragraph of Article III-29.
	Article III-35
	Articles III-24 to III-27 shall apply to the matters covered by Subsection.
<i>Free movement of goods</i>	SECTION 3: FREE MOVEMENT OF GOODS
<i>Customs union</i>	Subsection 1: <u>Customs union</u>
	Article III-36/37/38/39/40
<i>Ban on customs duties and all charges with same effect</i>	1. The Union shall comprise a <u>customs union</u> which shall cover all trade in goods and which shall involve the <u>prohibition</u> between Member States of <u>customs duties</u> on imports and exports and of all <u>charges having equivalent effect</u> , and the adoption of a common <u>customs tariff</u> in their relations with third countries.
<i>Common tariff</i>	2. Paragraph 4 and Subsection 3 shall apply to <u>products originating in Member States</u> and to products coming from <u>third countries</u> which are in <u>free circulation</u> in Member States.
<i>Products from 3rd countries - in "free circulation" once inside the Union</i>	3. Products coming from a <u>third country</u> shall be considered to be in <u>free circulation</u> in a Member State if the import formalities have been complied with and any <u>customs duties</u> 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.
<i>All customs duties between Member States prohibited</i>	4. <u>Customs duties</u> on imports and exports and charges having equivalent effect shall be <u>prohibited between Member States</u> . This prohibition shall also apply to customs duties of a <u>fiscal nature</u> .
<i>The Council decides customs tariff by qualified majority</i>	5. The <u>Council</u> , on a proposal from the Commission, shall adopt the European <u>regulations</u> and <u>decisions</u> fixing Common Customs Tariff duties.
<i>The Commission must:</i>	6. In carrying out the tasks entrusted to it under this Article the

	<p><u>Commission</u> shall be <u>guided by</u>:</p> <p>(a) the need to <u>promote trade</u> between Member States and third countries;</p> <p>(b) developments in conditions of competition within the Union insofar as they lead to an <u>improvement</u> in the <u>competitive capacity</u> of undertakings;</p> <p>(c) the requirements of the Union as regards the <u>supply</u> of raw materials and semi-finished goods; in this connection the Commission shall take care to <u>avoid distorting conditions</u> of competition between Member States in respect of finished goods;</p> <p>(d) the need to <u>avoid</u> serious <u>disturbances in the economies</u> of Member States and to ensure rational development of production and an <u>expansion of consumption</u> within the Union.</p>
<i>Customs cooperation</i>	<p style="text-align: center;">Subsection 2: <u>Customs cooperation</u></p> <p style="text-align: center;">Article III-41</p> <p>Within the scope of application of the Constitution, a European <u>law or framework law</u> shall establish measures in order to <u>strengthen customs cooperation</u> between Member States and between the latter and the Commission. These measures shall <u>not concern</u> the application of <u>national criminal law</u> or the <u>national administration of justice</u>.</p>
<i>Quantitative restrictions</i>	<p style="text-align: center;">Subsection 3: <u>Prohibition of quantitative restrictions</u></p> <p style="text-align: center;">Article III-42</p> <p><u>Quantitative restrictions</u> on <u>imports and exports</u> and all measures having <u>equivalent effect</u> shall be <u>prohibited</u> between Member States.</p>
<i>Exceptions:</i> - <i>morality</i> - <i>public policy</i> - <i>public security</i> - <i>protection of:</i>	<p style="text-align: center;">Article III-43</p> <p>Article III-42 shall not preclude prohibitions or <u>restrictions</u> on imports, exports or goods in transit <u>justified</u> on grounds of <u>public morality</u>, <u>public policy</u> or <u>public security</u>; the <u>protection of health</u> and <u>life of humans</u>, <u>animals</u> or <u>plants</u>; the protection of <u>national treasures</u> possessing <u>artistic</u>,</p>

* *plants*
* *animals*
* *national treasures*
* *industrial and commercial property*

Public Monopolies

- *may not discriminate*

Shall also apply indirectly

- *refrain from new 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 from before 1993 with regard to 3rd countries are legal

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-44

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 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-45

1. Within the framework of this Chapter, 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-46

1. Article III-45 shall be without prejudice to the application to third countries of any restrictions which exist 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 in real estate –

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

Liberalisation through legislative procedure

Any moves backwards require unanimity in the Council

Taxation and supervision

Tax systems can discriminate regarding place of residence and the place capital is invested

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

Must not restrict right of establishment

Must not constitute arbitrary discrimination or

establishment, the provision of financial services or the admission of securities to capital markets.

2. A European law or framework law 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.

3. Notwithstanding paragraph 2, only a Council European law or framework law may enact measures which constitute a step back 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.

Article III-47

1. Article III-45 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 steps 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-45.

disguised restriction

Article III-48

Exceptional safeguard measures covering EMU - max duration: 6 months

The Council decide by qualified majority

Where, in exceptional circumstances, movements of capital to or from third countries cause, or threaten to cause, serious difficulties for the operation 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-49

In fighting organised crime, terrorism and human trafficking, freezing of funds, assets and gains is acceptable - laws by legislative procedure

Implementation: Council by qualified majority

Where necessary to achieve the objectives set out in Article III-158, in particular as regards preventing and combating organised crime, terrorism and trafficking in human beings, the European law shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-state entities.

The Council, on a proposal from the Commission, shall adopt European regulations or European decisions in order to implement the law referred to above. It shall act on a proposal from the Commission.

Competition

SECTION 5 RULES ON COMPETITION

Subsection 1:
Rules applying to undertakings

Article III-50

Prohibition of:
- *agreements between undertakings*
- *decisions by associations*
- *concerted practices*

-fixing prices

- limiting market

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

<i>mechanisms</i>	investment;
- <i>sharing markets</i>	(c) <u>share markets</u> or sources of supply;
- <i>discriminatory treatment of trading partners</i>	(d) apply <u>dissimilar conditions</u> to <u>equivalent transactions</u> with other trading parties, thereby placing them at a competitive disadvantage;
- <i>demanding irrelevant supplementary obligations</i>	(e) make the conclusion of contracts subject to acceptance by the other parties of <u>supplementary obligations</u> which, by their nature or according to commercial usage, have <u>no connection with the subject of such contracts</u> .
<i>Actions contrary to this article are automatically void...</i>	2. Any agreements or decisions prohibited pursuant to this Article shall be <u>automatically void</u> .
<i>... unless:</i>	3. Paragraph 1 may, however, be declared inapplicable in the case of:
	- any agreement or category of <u>agreements between undertakings</u> ;
	- any decision or category of <u>decisions by associations</u> of undertakings;
- <i>they improve the production and distribution of goods</i>	- any <u>concerted practice</u> or category of concerted practices, which contributes to <u>improving the production or distribution of goods</u> or to <u>promoting technical or economic progress</u> , while allowing consumers a fair share of the resulting benefit, and which does not:
- <i>they promote technical or economic progress</i>	
<i>...and do not result in:</i>	
- <i>non-indispensable restriction</i>	(a) impose on the undertakings concerned <u>restrictions</u> which are <u>not indispensable</u> to the attainment of these objectives;
- <i>the possibility of eliminating competition</i>	(b) afford such undertakings the <u>possibility of eliminating competition</u> in respect of a substantial part of the products in question.
<i>Abuse of a dominant position is prohibited</i>	Article III-51
<i>Forms of abuse:</i>	Any <u>abuse</u> by one or more undertakings of a <u>dominant position</u> within the internal market or in a substantial part of it shall be <u>prohibited</u> as incompatible with the internal market <u>insofar as it may affect trade between Member States</u> . Such abuse may, in particular, consist in:

- | | |
|---|---|
| - <i>unfair prices</i> | (a) directly or indirectly imposing <u>unfair</u> purchase or selling <u>prices</u> or other unfair trading conditions; |
| - <i>unfair limitations</i> | (b) <u>limiting</u> production, <u>markets</u> or technical development to the prejudice of consumers; |
| - <i>dissimilar transaction conditions</i> | (c) applying <u>dissimilar conditions</u> to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; |
| - <i>irrelevant supplementary obligations</i> | (d) making the conclusion of contracts subject to acceptance by the other parties of <u>supplementary obligations</u> which, by their nature or according to commercial usage, have no connection with the subject of such contracts. |

Decision making

Article III-52

Regulations through qualified majority in Council, consult EP

1. The Council, on a proposal from the Commission, shall adopt the European regulations to give effect to the principles set out in Articles III-50 and III-51. It shall act after consulting the European Parliament.

Goal of regulation:

2. The European regulations referred to in paragraph 1 shall be designed in particular:

- *to ensure compliance through fines*

(a) to ensure compliance with the prohibitions laid down in Article III-50(1) and in Article III-51 by making provision for fines and periodic penalty payments;

- *effective supervision*

(b) to lay down detailed rules for the application of Article III-51(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;

- *to simplify administration*

- *to define scope of competition*

(c) to define, if need be, in the various branches of the economy, the scope of the provisions of Articles III-50 and III-51];

- *to define the role of Commission and the EU Court*

(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;

- *to determine the relationship between Union and national laws*

(e) to determine the relationship between national laws and this Section or the European regulations adopted pursuant to this Article.

Article III-53

*Member States
competent until
regulation adopted*

Until the entry into force of the European regulations adopted in pursuance of Article III-52, 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 Articles III-50, in particular paragraph 3, and Article III-51.

Article III-54

*Commission ensure
principles by:
-investigating cases
-making proposals*

1. Without prejudice to Article III-53, the Commission shall ensure the application of the principles laid down in Articles III-50 and III-51. 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.

*-making a reasoned
decision recording that
infringement has taken
place*

2. If the infringement 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 steps, the conditions and details of which it shall determine, needed to remedy the situation.

*Commission adopts
regulations on
supervision and
administration*

3. The Commission may adopt European regulations relating to the categories of agreement in respect of which the Council has adopted a European regulation pursuant to Article III-52(2)(b).

Article III-55

*Public monopolies
must also conform to
the rules of
competition...*

1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the provisions of the Constitution, in particular Article I-4(2) and Articles III-52 to III-58.

*...unless this obstructs
their performance*

2. Undertakings entrusted with the operation of services of general economic interest or having the character of a 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 rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the Union's interests.

The Commission

3. The Commission shall ensure the application of this Article and

adopts regulations and decisions

shall, where necessary, adopt appropriate European regulations or decisions.

State Aid

Subsection 2:
Aids granted by Member States

Article III-56

Ban on State aid affecting trade between Member States

1. Save as otherwise provided in the Constitution, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the internal market.

Permitted:

2. The following shall be compatible with the internal market:

- social aid to individuals

(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;

- compensation in cases of exceptional occurrences and natural disasters

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

- aid to east Germany

(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.

May be permitted:

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

- aid for development of areas in special situations

(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;

- promote projects of common European interest

(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;

- develop certain economic activities and areas, without affecting trading conditions

(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;

- conservation of culture and heritage, without affecting trading conditions

- other exceptions decided by Council, by qualified majority

(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-57

Commission shall constantly review Member States' aid

1. The Commission, in cooperation with Member States, shall keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the internal market.

Commission can adopt a decision requiring the abolition of aid

2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a Member State or through State resources is not compatible with the internal market having regard to Article III-56, or that such aid is being misused, it shall adopt a European decision requiring the Member State concerned to abolish or alter such aid within a period of time to be determined by the Commission.

Cases can be brought before the EU Court

If the Member State concerned does not comply with this European decision within the prescribed time, the Commission or any other interested Member State may, in derogation from Articles III-265 and 267, refer the matter to the Court of Justice of the European Union direct.

States can ask the Council to declare its aid legal

On application by a Member State, the Council may adopt unanimously a European decision that aid which that State is granting or intends to grant shall be considered to be compatible with the internal market, in derogation from Article III-56 or from European regulations provided for in Article III-58, 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 give its decision on the case.

The Commission has to be informed of and to give its approval of intended aid

The Member State shall await final decision

Commission adopts regulations

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-56, it shall without delay initiate the procedure provided for in paragraph 2. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.

4. The Commission may adopt European regulations relating to the categories of State aid that the Council has, pursuant to Article III-58, determined may be exempted from the procedure provided for by paragraph 3.

Article III-58

Council adopts regulation by qualified majority, EP consulted

The Council, on a proposal from the Commission, may adopt European regulations for the application of Articles III-56 and III-57 and for determining in particular the conditions in which Article III-57(3) shall apply and the categories of aid exempted from this procedure. It shall act after consulting the European Parliament.

Fiscal rules

SECTION 6: FISCAL PROVISIONS

Article III-59

*Ban on discriminatory taxation
- 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 protection to other products.

For exports: not repay more than was paid

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.

A qualified majority in Council can approve temporary exemptions

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-62

Indirect taxes to be harmonised by the Council acting unanimously

1. 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 for the establishment or 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.

*Administrative cooperation and combating **tax fraud and evasion** by **qualified majority** in Council*

2. Where the Council, acting unanimously on a proposal from the Commission, finds that the measures referred to in paragraph 1 relate to administrative cooperation or to combating tax fraud and tax evasion and that they do not affect the fiscal regimes of the Member States, it shall act, notwithstanding paragraph 1, by a qualified majority when adopting the European law or framework law adopting these measures.

Deepening clause

Article III-63

*Council can **decide** by **unanimity** that measures on **company law** are of an administrative character or combating fraud and may be decided by **qualified majority**, EP consulted*

Where the Council, acting unanimously on a proposal from the Commission, finds that measures on company taxation relate to administrative cooperation or combating tax fraud and tax evasion, it shall adopt, by a qualified majority, a law or framework law laying down these measures, provided that they are necessary for the establishment or functioning of the internal market and to avoid distortion of competition.

The law or framework law shall be adopted after consulting the European Parliament and the Economic and Social Committee

Harmonising

SECTION 7 COMMON PROVISIONS

Article III-65

Internal market laws and framework laws made by legislative procedure, qualified majority voting

1. Save where otherwise provided in the Constitution, this Article shall apply for the achievement of the objectives set out in Article III-14. European laws or frameworks law 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 or functioning of the internal market. Such laws shall be

Excluding:

- taxation
- movement of persons
- employees' rights

High level of protection for health, safety, environment, consumer protection, but not the "highest" level

Environmental guarantee

Keep better rules for the:

- environment
- working environment

Introduce better rules for the:

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

The Commission decides whether a measure is:

- excluding
- discriminatory treatment
- a hidden trade restriction
- an obstruction to the functioning of the Internal Market

Extend period by six months

adopted after consulting 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, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.

4. If, after the adoption of a harmonisation measure by means of 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-43, 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 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 as 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 may be extended for a further period of up to six months.

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

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.

Health not included in the foregoing, so-called, environmental guarantee

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.

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-265 and III-266, 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 adopt, for one or more of the non-economic reasons referred to in Article III-43, provisional provisions subject to a Union control procedure.

Approximation of laws

Article III-65a

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

Without prejudice to Article III-65, 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-66

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 law eliminating distortion

If such consultation does not achieve the desired result, a European framework law shall establish the measures necessary to eliminate the distortion in question. Any other appropriate measures provided for in the Constitution may be adopted.

Article III-67

Duty to consult with the Commission on possible distortion of competition

1. Where there is a reason to fear that the adoption or amendment of a national provision laid down by law, regulation or administrative action may cause distortion within the meaning of Article III-66, 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, in pursuance of Article III-66, 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-66 shall not apply.

Intellectual property

Article III-68

Centralisation of intellectual-property rights under Union

In establishing an internal market, measures for the introduction of European instruments to provide uniform intellectual-property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements shall be established in European laws or framework laws.

Rules decided by unanimity, EP consulted

A European law of the Council shall establish language arrangements for the European instruments. The Council shall act unanimously after consulting the European Parliament.

***ECONOMIC POLICY
AND THE EMU***

**CHAPTER II
ECONOMIC AND MONETARY POLICY**

Article III-69

Economic coordination

1. 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

*Single currency and
monetary policy*

2. 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 the general economic policies in the Union, in accordance with the principle of an open market economy with free competition.

*Stable prices
Sound public finances*

3. 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-70

*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 of Part One, and in the context of the broad guidelines referred to in Article 71(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-69.

*Coordinate economic
policy*

Article III-71

1. Member States shall regard their economic policies as a matter of common concern and shall coordinate them within the Council, in accordance with the provisions of Article III-70.

*General guidelines to
be adopted by a
qualified majority in
the Council as a non-
binding
recommendation*

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 of Ministers 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*

3. In order to ensure closer coordination of economic policies and sustained convergence of the economic performances of the Member States,

*Member States
following reports from
the Commission*

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

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

*The vote of the Member
State concerned does
not count*

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 the majority of the other members of the Council representing Member States comprising at least three fifths of the populations of the participating Member States.

*Report to the European
Parliament*

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.

*Rules for monitoring
adopted by legislative
procedure*

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

Article III-72

*Measures can be taken
if severe difficulties
arise in supply*

1. Without prejudice to any other procedures provided for by the Constitution, the Council, on a proposal from the Commission, may adopt a European decision laying down measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products.

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

2. Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council, on a proposal from the Commission, may adopt a European decision granting, under certain conditions, Union financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision taken.

Article III-73

Ban on overdrafts 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, 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-74

No loan privileges

1. Any measure or provision, not based on prudential considerations, establishing privileged access by Union Institutions, offices, agencies or bodies, 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.

Regulations and decisions adopted by qualified majority, EP consulted

2. The Council, on a proposal from the Commission, may adopt European regulations or decisions specifying definitions for the application of the prohibition referred to in paragraph 1. It shall act after consulting the European Parliament.

Article III-75

*No Union liability for debt
- with the exception of*

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,

<i>mutual guarantees</i>	without prejudice to <u>mutual financial guarantees</u> for the joint <u>execution</u> of a <u>specific project</u> . A <u>Member State</u> shall <u>not</u> be <u>liable for</u> or assume the <u>commitments</u> 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 <u>mutual financial guarantees</u> for the joint <u>execution</u> of a <u>specific project</u> .
<i>A qualified majority in the Council decides the details</i>	2. The <u>Council</u> , on a proposal from the Commission, may adopt European <u>regulations</u> or <u>decisions</u> <u>specifying</u> definitions for the <u>application</u> of the <u>prohibitions</u> referred to in <u>Article III-73</u> and in <u>this Article</u> . It shall act after consulting the European Parliament.
<i>The most important article on monetary union</i>	Article III-76
<i>Avoid large deficits</i>	1. Member States shall <u>avoid excessive</u> government <u>deficits</u> .
<i>The Commission monitors budgetary discipline Two criteria:</i>	2. The <u>Commission</u> shall <u>monitor</u> the development of the <u>budgetary situation</u> and of the stock of government debt in the Member States in order to identify gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following two criteria:
<i>Deficit can exceed a reference value if:</i>	(a) whether the ratio of the planned or actual government <u>deficit</u> to gross domestic product <u>exceeds a reference</u> value, unless:
- <i>substantial decline</i>	(i) either the ratio has <u>declined substantially and continuously</u> and reached a level that comes close to the reference value;
- <i>exceptional decline</i>	(ii) or, alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value;
<i>The debt ratio is diminishing sufficiently</i>	(b) whether the <u>ratio of government debt</u> to gross domestic product <u>exceeds a reference value</u> , <u>unless</u> the ratio is <u>diminishing sufficiently</u> and <u>approaching</u> the reference value at a satisfactory pace.
<i>Reference values specified in a Protocol</i>	The <u>reference values</u> are specified <u>in</u> the <u>Protocol</u> on the <u>excessive deficit procedure</u> .
<i>Report on excessive deficits Take into account relevant factors: - governments</i>	3. If a Member State does <u>not fulfil</u> the requirements under one or both of these <u>criteria</u> , the <u>Commission</u> shall prepare a <u>report</u> . The report of the Commission shall also take into account whether the government deficit exceeds government investment expenditure and <u>take into account</u> all other <u>relevant factors</u> , including the medium-term economic and budgetary

<i>investments</i> <i>- medium-term position</i>	position of the Member State.
<i>Commission report about risk of excessive deficit</i>	The Commission may <u>also</u> prepare a <u>report if</u> , notwithstanding the fulfilment of the requirements under the criteria, it is of the opinion that there is a <u>risk of an excessive deficit</u> in a Member State.
<i>Committee give opinion on report</i>	4. The <u>Economic and Financial Committee</u> set up under Article III-86 shall <u>formulate an opinion</u> on the report of the Commission.
<i>Commission's opinion to Member State on deficit</i>	5. <u>If</u> the Commission considers that an <u>excessive deficit</u> in a Member State exists or may occur, it shall address an <u>opinion</u> to the Member State concerned and shall inform the Council accordingly.
<i>The Council decides by qualified majority if the deficit is excessive and make a recommendation to the Member State concerned</i>	6. The <u>Council</u> 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, <u>decide whether an excessive deficit exists</u> . Where the Council decides that an excessive deficit exists, it shall <u>adopt</u> , according to the same procedures, the <u>recommendations</u> addressed to the Member State concerned with a view to <u>bringing that situation to an end</u> within a given period. Subject to paragraph 8, those recommendations shall not be made public.
<i>No vote for Member State in question - majority of votes representing 60% of population required</i>	Within the scope of this paragraph, the <u>Council</u> shall <u>act without</u> taking into account the <u>vote of</u> the member of the Council representing the <u>Member State concerned</u> . A <u>qualified majority</u> shall be defined as the <u>majority</u> of the other members of the Council representing Member States comprising at least <u>three fifths</u> of the <u>populations</u> of the participating Member States.
<i>Qualified majority used in paragraph 8 -11 without vote of the Member State in question</i>	7. The Council of Ministers, on a recommendation from the Commission, shall adopt by a <u>qualified majority</u> the European decisions and <u>recommendations</u> referred to in <u>paragraphs 8 to 11</u> . It shall <u>act without</u> taking into account the <u>vote of</u> the member of the Council representing the <u>Member State concerned</u> . A <u>qualified majority</u> shall be defined as the majority of the other members of the Council representing Member States comprising at least three fifths of the populations of the participating Member States.
<i>Council can:</i> <i>- publishe recommendations</i>	8. Where it establishes that there has been no effective action in response to its recommendations within the period laid down, the Council <u>may make</u> its recommendations <u>public</u> .
<i>- impose measures</i>	9. If a Member State persists in failing to put into practice the recommendations of the Council, the Council may adopt a European decision giving notice to the Member State to take, within a specified time-limit, <u>measures for the deficit reduction</u> which is <u>judged necessary</u> by

	the <u>Council</u> in order to remedy the situation.
- request reports	In such a case, the <u>Council</u> may <u>request</u> the Member State concerned to submit <u>reports</u> in accordance with a specific timetable in order to examine the adjustment efforts of that Member State.
<i>If failure to comply, the following measures can be imposed:</i>	10. As long as a <u>Member State</u> <u>fails to comply</u> with a European decision adopted in accordance with paragraph 9, the <u>Council</u> may <u>decide</u> to apply or, as the case may be, intensify one or more of the <u>following measures</u> :
- request information	(a) to require the Member State concerned to <u>publish additional information</u> , to be specified by the Council, before issuing bonds and securities;
-review lending conditions	(b) to invite the <u>European Investment Bank</u> to <u>reconsider</u> its <u>lending policy</u> towards the Member State concerned;
- require non-interest-bearing deposit	(c) to <u>require</u> the Member State concerned to make a <u>non-interest-bearing deposit</u> of an appropriate size with the Union until the Council of Ministers considers that the excessive deficit has been corrected;
- impose fines	(d) to <u>impose fines</u> of an appropriate size.
	The President of the Council shall inform the European Parliament of the measures adopted.
<i>When problem of excessive deficit is being solved measures shall be removed</i>	11. The Council shall <u>abrogate</u> some or all of its <u>measures</u> referred to in paragraphs 6 and 8 to 10 if it considers the <u>excessive deficit</u> in the Member State concerned to <u>have been corrected</u> . If the Council has previously made public recommendations, it shall state publicly, as soon as the decision under paragraph 8 has been abrogated, that there is no longer an excessive deficit in the Member State concerned.
	12. The right to bring <u>actions</u> provided for in Articles III-265 and III-266 may, as regards paragraphs 1 to 6, only be exercised as to the <u>procedural stipulations</u> in those paragraphs.
<i>Protocol on deficits</i>	13. Further provisions relating to the implementation of the procedure described in this Article are set out in the Protocol on the excessive deficit procedure.
<i>Protocol to be replaced by European law - decided by unanimity in Council, EP consulted</i>	A European <u>law</u> of the Council shall lay down the appropriate measures to <u>replace</u> the said <u>Protocol</u> . The Council shall act <u>unanimously</u> after <u>consulting</u> the European <u>Parliament</u> and the European Central Bank.
<i>Implementation by qualified majority in Council, EP consulted</i>	Subject to the other provisions of this paragraph, the Council, on a proposal from the Commission, shall adopt European <u>regulations</u> or decisions laying down <u>detailed rules</u> and definitions <u>for the application</u> of the said <u>Protocol</u> . It shall act after <u>consulting</u> the European <u>Parliament</u> .

Monetary policy

SECTION 2
MONETARY POLICY

Article III-77

*Objective of the
Central Bank system:
price stability*

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 of Part One. The European System of Central Banks shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article III-69.

Tasks of ESCB:

2. The basic tasks to be carried out through the European System of Central Banks shall be:

- monetary policy

(a) to define and implement the Union's monetary policy;

*- foreign exchange
operations*

(b) to conduct foreign exchange operations consistent with the provisions of Article III-228;

*- manage foreign
reserves*

(c) to hold and manage the official foreign reserves of the Member States;

*- practical payment
systems*

(d) to promote the smooth operation of payment systems.

*Excluding the
Government's own
holdings*

3. Paragraph 2(c) shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.

*The Central Bank is to
be consulted on:*

4. The European Central Bank shall be consulted:

*- Union acts within its
competence*

(a) on any proposed Union act in areas within its powers;

*- national legislation,
the Council to set out
procedure*

(b) by national authorities regarding any draft legislative provision in areas within its powers, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article III-79(6).

ECB can give an

The European Central Bank may submit opinions to the Union Institutions,

opinion

bodies, offices or agencies or to national authorities on matters within its powers.

ESCB to supervise

5. The European System of Central Banks shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

*Financial supervision
decided by the Council,
ECB and EP consulted*

6. European laws of the Council may confer upon the European Central Bank specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. The Council shall act unanimously after consulting the European Central Bank and the European Parliament

Article III-78

*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
Rules by qualified
majority in the Council,
EP and ECB consulted*

2. Member States may issue euro coins subject to approval by the European Central Bank of the volume of the issue. A European law or framework law of the Council may lay down measures to harmonise the denominations and technical specifications of all coins intended for circulation to the extent necessary to permit their smooth circulation within the Union. Such law or framework law shall be adopted after consulting the European Parliament and the European Central Bank.

Organisation

Article III-79

*The governing Council
and the Executive
Board*

3. 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*

4. The Statute of the European System of Central Banks is laid down in the Protocol on the Statutes of the European System of Central Banks and the European Central Bank.

*The statute can be
amended by laws if:*

5. Articles 5(1), (2) and (3), Article 17 and 18, Article 19(1), Article 22, 23, 24 and 26, Article 32(2), (3), (4) and (6), 33(1)(a) and Article 36 of the Statute of the European System of Central Banks may be amended by European Laws:

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

- *ECB recommend it* (b) or on a recommendation from the European Central Bank and after consultation of the Commission.

The Council adopts measures after consulting EP 6. 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 4(3) of the Statute of the System of European Central Banks and the European Central Bank. It shall act after consulting the European Parliament:

- *Commission propose, ECB consulted* (a) either on a proposal from the Commission and after consulting the European Central Bank;

- *ECB recommend, Commission consulted* (b) or on a recommendation from the European Central Bank and after consulting the Commission.

Independence

Article III-80

Forbidden to receive instructions from any body 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, 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-81

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.

Article III-82

The ECB adopts: 1. In order to carry out the tasks entrusted to the European System of Central Banks, the European Central Bank shall, in accordance with the

	Constitution and under the conditions laid down in the Statute of the European System of Central Banks, <u>adopt</u> :
- <i>regulations implementing tasks</i>	(a) European <u>regulations</u> to the extent necessary to <u>implement</u> the <u>tasks</u> defined in Article 3(1), first indent, Articles 19.1, 22 and 25.2 of the Statute of the European System of Central Banks and in cases which shall be laid down in the acts of the Council referred to in Article III-79(6);
- <i>decisions carrying out tasks</i>	(b) European <u>decisions</u> necessary for <u>carrying out</u> the <u>tasks</u> entrusted to the European System of Central Banks under the Constitution and the Statute of the European System of Central Banks;
- <i>recommendations and opinions</i>	(c) <u>recommendations</u> and <u>opinions</u> .
<i>ECB can publish own acts</i>	2. The European Central Bank may decide to <u>publish</u> its European <u>decisions</u> , <u>recommendations</u> and <u>opinions</u> .
<i>ECB can impose fines – the Council decides conditions by qualified majority</i>	3. The Council shall, under the procedure laid down in Article III-79(6), adopt the European regulations establishing the limits and conditions under which the European <u>Central Bank</u> shall be entitled to <u>impose fines</u> or periodic penalty payments on undertakings for failure to comply with obligations under its European regulations and decisions.

Article III-83

<i>Measures for use of the Euro adopted by legislative procedure, consult ECB</i>	Without prejudice to the powers of the European Central Bank, a European <u>law</u> or <u>framework law</u> shall lay down the <u>measures</u> necessary for <u>use</u> of the <u>euro</u> as the single currency. Such law or framework law shall be adopted after <u>consulting</u> the European <u>Central Bank</u> .
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SECTION 3: INSTITUTIONAL PROVISIONS

Article III-86

<i>Economic and Financial Committee</i>	
- <i>to promote coordination of Member States' policies</i>	1. In order to <u>promote coordination</u> of the policies of Member States to the full extent needed for the functioning of the internal market, an <u>Economic and Financial Committee</u> is hereby set up.
	2. The Committee shall have the following tasks:
- <i>deliver opinions</i>	(a) to <u>deliver opinions</u> at the request of the Council or of the Commission, or on its own initiative for submission to those institutions;

<i>- examine the economic and financial situation of Member States</i>	(b) to keep under review the <u>economic and financial situation of the Member States</u> and of the Union and to report regularly thereon to the Council and to the Commission, in particular on financial relations with third countries and international institutions;
<i>- help preparatory work of Council</i>	(c) without prejudice to Article III-247, to contribute to the <u>preparation of the work</u> of the Council referred to in Article III-48, Article III-71(2), (3), (4) and (6), Articles III-72, III-74, III-75 and III-76, Article III-77(6), Article III-78(2), Article III-79(5) and (6), Articles III-83 and III-90, Article III-92(2) and (3), Article III-95, Article III-96(2) and (3) and Articles III-224 and III-228, and to carry out other advisory and preparatory tasks assigned to it by the Council;
<i>- examine all measures on movement of capital and freedom of payments</i>	(d) to examine, at least once a year, the <u>situation regarding the movement of capital and the freedom of payments</u> , as they result from the application of the Constitution and of measures adopted by the Council; 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.
<i>Member States, Commission and ECB each appoint up to 2 members</i>	The Member States, the Commission and the European Central Bank shall each appoint no more than two members of the Committee.
<i>Council decides composition of Economic and Financial Committee</i>	3. The <u>Council</u> of Ministers, on a proposal from the Commission, shall adopt a European decision laying down detailed provisions concerning the <u>composition of the Economic and Financial Committee</u> . It shall act after consulting the European Central Bank and the Committee. The President of the Council of Ministers shall inform the European Parliament of such a decision.
<i>Member States with derogations</i>	4. In addition to the tasks set out in paragraph 2, if and as long as there are <u>Member States with a derogation</u> as referred to in Articles III-91, 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 of Ministers and to the Commission on the matter.
<i>Request for a Commission recommendation or proposal</i>	<p style="text-align: center;">Article III-87</p> <p>For matters within the scope of Article III-71(4), Article III-76 with the exception of paragraph 13, Articles III-83, III-90 and III-91, Article III-92(3) and Article III-228, the Council or a Member State may <u>request the Commission to make a recommendation or a proposal</u>, as appropriate. The</p>

Euro-zone

Commission shall examine this request and submit its conclusions to the Council without delay.

SECTION 3a
PROVISIONS SPECIFIC TO MEMBER STATES WHOSE CURRENCY
IS THE EURO

Article III-88

Complementary measures shall be adopted for euro-zone countries

1. In order to ensure that economic and monetary union works properly, and in accordance with the relevant provisions of the Constitution, the Council shall, in accordance with the relevant procedure out of those referred to in Articles III-71 and III-76, adopt measures specific to those Member States whose currency is the euro shall be adopted:

Strengthen the coordination of their budgetary discipline

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

Economic guidelines

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

Qualified majority = among euro-zone members only

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

A qualified majority shall be defined as the majority of those members of the Council representing Member States comprising representing at least three fifths of the population of the participating Member States.

Article III-89

Protocol

Arrangements for meetings between ministers of those Member States whose currency is the euro shall be laid down by the protocol on the Euro Group.

International actions

Article III-90

Council adopt common position for the international monetary system

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

*Union representation
in international
organisations*

*Council decides
representation with
qualified majority
among euro-zone
members*

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 paragraph 1 and 2, only members of the Council representing Member States whose currency is the Euro shall vote.

A qualified majority shall be defined as the majority of the those members of the Council representing Member States comprising at least three fifths of the population of the participating Member States.

SECTION 4 TRANSITIONAL PROVISIONS

Article III-91

*Derogations for
Members States not
fulfilling conditions for
euro*

1. Member States which the Council has decided do not fulfil the necessary conditions for the adoption of the euro shall have a derogation as defined in paragraph 2 of this Article. Such Member States shall hereinafter be referred to as "Member States with a derogation".

*For these Member
States, the euro
provisions do not apply*

2. The following provisions of the Constitution do not apply to the Member State with a derogation:

(a) adoption of the parts of the broad economic-policy guidelines which concern the euro area generally (Article III-71(2))

(b) coercive means of remedying excessive deficits (Article III-76(9) and (10))

(c) the objectives and tasks of the European System of Central Banks (Article III-77 (1), (2), (3) and (5))

(d) issue of the euro (Article III-78)

(e) acts of the European Central Bank (Article III-82)

(f) measures governing the use of the euro (Article III-83)

(g) monetary agreements (Article III-228)

(h) appointment of members of the Executive Board of the European Central Bank (Article III-84(2)(b)).

(i) European decisions establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences (Article III-90(1))

(j) measures to ensure unified representation within the international financial institutions and conferences (Article III-90(2))

In the Articles referred to above, "Member State" shall therefore mean Member State 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 excessive deficits

3. Under Chapter IX of the Statute of the European System of Central Banks Member State with a derogation and their national central bank 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-71(4));

(b) measures relating to excessive deficits concerning those Member States whose currency is the euro (Article III-76(6), (7), (8) and (11)).

A qualified majority shall be defined as the majority of the other members of the Council representing Member States comprising at least three fifths of the population of the participating Member States.

Article III-92

Commission and ECB each submit a yearly report on progress of the Member States wanting to join the euro

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 each of these Member States' national legislation, including the statutes of its national central bank, and Articles III-80 and III-81 and the Statute of the European System of Central Banks and the

The reports examine whether the following criteria have been fulfilled:

- price stability

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;

- no excessive budget deficit

(b) the sustainability of the government financial position; this is apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article III-76(6);

- observance of normal fluctuation margins

(c) the observance of the normal fluctuation margins of the European monetary system provided for by the exchange-rate mechanism 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 a protocol

The four criteria mentioned 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 of 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

2. After consulting the European Parliament and after discussion in the European Council, the Council, acting 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 set out in paragraph 1, and abrogate the derogations of the Member States concerned.

The euro-zone fixes, by unanimity, the rate at which the euro is to be substituted for the currency of the new euro-member

3. If it is decided, according to 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-93

*General Council of the
ECB*

1. If and as long as there are Member States with a derogation, and without prejudice to Article III-79(3) of the Constitution, the General Council of the European Central Bank referred to in Article 45 of the Statute of the European System of Central Banks 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
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, previously taken over by the European Monetary Institute.

Article III-94

*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.

Article III-95

*If balance of payments
of a non-euro Member
State are 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

...Commission can recommend mutual assistance

shall state what measures it recommends the Member State concerned to take.

If the action taken by a Member State with a derogation and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the Economic and Financial Committee, recommend to the Council the granting of mutual assistance and appropriate methods.

The Commission shall keep the Council regularly informed of the situation and of how it evolves.

The Council can grant mutual assistance by qualified majority

2. The Council shall grant such mutual assistance; it shall adopt European framework laws or European decisions 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 decide until a qualified majority in the Council revoke 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 on its own initiative.

Article III-96

Member States can take protective measures in a sudden crisis

1. Where a sudden crisis in the balance of payments occurs and a decision within the meaning of Article III-95(2) is not immediately taken, 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 such protective measures not later than when they enter into force. The Commission may recommend to the Council of Ministers the granting of mutual assistance under Article III-95.

The Council decide by qualified majority

3. After the Commission has delivered an opinion and the Economic and Financial Committee has been consulted, the Council may decide that the Member State concerned shall amend, suspend or abolish the protective measures referred to above.

CHAPTER III POLICIES IN OTHER AREAS

Employment chapter - introduced by the Treaty of Amsterdam

SECTION 1 EMPLOYMENT

Article III-97

Coordinated strategy for jobs

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 defined in Article I-3.

Objective: a high level of employment through promoting a skilled, trained and adaptable workforce

Article III-98

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

1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article III-97 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-71(2).

Promotion of employment to be coordinated

2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with Article III-100.

Article III-99

The Union shall support Member States in achieving a high

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

level of employment

Member States shall be respected.

Other Union policies shall take employment into consideration

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-100

Employment guidelines for the Member States

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 of Ministers and the Commission.

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

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-71(2).

Annual reports from each Member State

3. Each Member State shall provide the Council of Ministers and the Commission with an annual report on the principal steps 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

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

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.

Article III-101

Incentive measures established by qualified majority in the Council

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

<i>and after consultation of CoR and ESC</i>	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. It shall be adopted after <u>consultation with the Committee of the Regions and the Economic and Social Committee</u> .
<i>No harmonisation</i>	The European law or framework law shall <u>not</u> include <u>harmonisation</u> of the laws and regulations of the Member States.
Article III-102	
<i>Employment Committee</i>	The Council, shall by a simple majority an <u>Employment Committee</u> with advisory status to promote coordination between Member States on employment and labour market policies. It shall act after consulting the European Parliament.
<i>- to monitor</i>	The tasks of the Committee shall be: (a) to <u>monitor the employment situation and employment policies</u> in the Union and the Member States;
<i>- to deliver opinions</i>	(b) without prejudice to Article III-247, 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-100.
<i>- to consult social partners</i>	In fulfilling its mandate, the Committee shall <u>consult management and labour</u> .
	<u>Each</u> Member State and the Commission shall appoint <u>two members</u> of the Committee.
<i>Social policy</i>	SECTION 2 SOCIAL POLICY
<i>Objectives</i>	Article III-103
<i>Raise employment level and living and working conditions</i>	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 between 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> .

Union's actions shall take account of diverse national practices in contractual relations and the benefit of competitiveness

Social harmonisation

To this end the Union and the Member States shall act taking account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy.

They believe that such a development will ensue not only from the functioning of the internal market, which will favour the harmonisation of social systems, but also from the procedures provided for in the Constitution and from the approximation of provisions laid down by law, regulation or administrative action.

Article III-104

The Union supports and complements

1. With a view to achieving the objectives of Article III-103, the Union shall support and complement the activities of the Member States in the following fields:

Legislative procedure (QMV, EP veto)

(a) improvement in particular of the working environment to protect workers' health and safety;

Legislative procedure (QMV, EP veto)

(b) working conditions;

Unanimity in Council, consult EP

(c) social security and social protection of workers;

Unanimity in Council, consult EP

(d) protection of workers where their employment contract is terminated;

Legislative procedure (QMV, EP veto)

(e) the information and consultation of workers;

Unanimity in Council, consult EP

(f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 6;

Unanimity in Council, consult EP

(g) conditions of employment for third-country nationals legally residing in Union territory;

Legislative procedure (QMV, EP veto)

(h) the integration of persons excluded from the labour market, without prejudice to Article III-183;

Legislative procedure (QMV, EP veto)

(i) equality between men and women with regard to labour market opportunities and treatment at work;

<i>Legislative procedure (QMV, EP veto)</i>	(j) the combating of <u>social exclusion</u> ;
<i>Legislative procedure (QMV, EP veto)</i>	(k) the <u>modernisation of social protection systems</u> without prejudice to point (c).
<i>Measures to encourage cooperation through legislative procedure</i>	2. To this end:
<i>Excluding harmonisation</i>	(a) European <u>laws or framework laws</u> may establish <u>measures designed to 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>- only minimum rules in point (a)-(i), see above</i>	(b) in the fields referred to in paragraph 1(a) to (i), European framework laws may establish <u>minimum requirements</u> for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such European <u>framework laws</u> shall <u>avoid</u> imposing administrative, financial and legal constraints in a way which would <u>hold back</u> the creation and development of <u>small and medium-sized undertakings</u> .
	In all cases, such European laws or framework laws shall be adopted after <u>consulting</u> the <u>Committee</u> of the <u>Regions</u> and the <u>Economic and Social Committee</u> .
<i>Social security by unanimity in Council, consult EP (Areas under unanimity)</i>	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 <u>Council</u> of Ministers acting <u>unanimously</u> after <u>consulting</u> the European <u>Parliament</u> , the Committee of the Regions and the Economic and Social Committee.
<i>Can be changed to qualified majority by unanimity in Council</i>	The Council may, on a proposal from the Commission, adopt a European <u>decision</u> making the <u>ordinary legislative procedure</u> applicable to paragraph 1(d), (f) and (g). It shall act unanimously after consulting the European Parliament.
<i>Management and labour can implement framework laws</i>	4. A Member State may <u>entrust management and labour</u> , at their joint request, <u>with</u> the <u>implementation</u> 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-106.
<i>But, the Member State must guarantee the same result</i>	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

Union acts:

*- may not affect
fundamental principles
of social systems*

*- may not prevent
higher standards when
compatible with
Constitution*

*Pay, right of
association, strikes and
lock-outs dealt with in
part II and Art. III-
107.g*

*Consultation of
management and
labour*

*- before submitting
proposals*

*- on content of
proposal when
submitting*

*9 months to get
agreements mentioned
below*

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.

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

(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 thereof;

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

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

Article III-105

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.

2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Union action.

3. If, after such consultation, the Commission considers Union action advisable, 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.

4. On the occasion of such consultation, management and labour may inform the Commission of their wish to initiate the process provided for in Article III-106. The duration of the procedure shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

Article III-106

Management and labour can make Union-level agreements Implement agreements either through labour-management practice or regulations and decisions by a qualified majority in the Council

Unanimity in some cases

Commission shall encourage cooperation and coordination on:

- employment

- labour law and working conditions

- training

- social security

- prevention of accidents and diseases
- hygiene

- right of association and collective bargaining

Achieved through:

- studies
- opinions
- consultation
- guidelines
- best practice

1. Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements.

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-104, at the joint request of the signatory parties, by a European regulation or decision adopted by the Council on a proposal from the Commission. The European Parliament shall be informed.

Where the agreement in question contains one or more provisions relating to one of the areas referred to in ex Article III-104, the Council shall act unanimously.

Article III-107

With a view to achieving the objectives of Article III-103 and without prejudice to the other provisions of the Constitution, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under [this Section], particularly in matters relating to:

(a) employment;

(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

- monitoring
- evaluation

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.

Equality at work

Article III-108

*Equal pay for work of
equal value*

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

Pay defined broadly

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:

*Uniform calculation
methods required*

(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.

*Law by legislative
procedure, consult
EcoSoc*

3. European laws or framework laws shall establish measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value. It shall be adopted after consulting the Economic and Social Committee.

*Specific advantages for
underrepresented sex
allowed*

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

Article III-109

Paid holiday

Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.

Article III-110

*Annual Commission
report on social
situation*

The Commission shall draw up a report each year on progress in achieving the objectives of Article III-103, including the demographic situation in the Union. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.

Article III-111

*Social Protection
Committee
The Council decide by
simple majority,
consult EP*

The Council shall, by a simple majority, adopt a European decision establishing a Social Protection Committee with advisory status to promote cooperation on social protection policies between Member States and with the Commission. The Council shall act after consulting the European Parliament.

The Committee's tasks:

The tasks of the Committee shall be:

*- to monitor social
situation*

(a) to monitor the social situation and the development of social protection policies in the Member States and the Union;

*- to promote good
practice*

(b) to promote exchanges of information, experience and good practice between Member States and with the Commission;

*- to make reports,
opinions and undertake
other work*

(c) without prejudice to Article III-247, to prepare reports, formulate opinions or undertake other work within the scope of its powers, at the request of either the Council or the Commission or on its own initiative.

*Consists of two
members from each
Member State and two
from the Commission*

In fulfilling its mandate, the Committee shall establish appropriate contacts with management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

Article III-112

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

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.

Article III-113/114/115

*European Social Fund
promotes:*

1. In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a

*- easy employment of workers
- mobility of workers
- worker adaptation to industrial changes*

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

Implementation through laws

European Social Fund is hereby established in accordance with this [Section]; 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.

3. Implementing measures relating to the Fund shall be enacted in European laws. It shall be adopted after consulting the Committee of the Regions and the Economic and Social Committee.

SECTION 3: ECONOMIC, SOCIAL AND TERRITORIAL COHESION

Social and territorial cohesion

Article III-116

*Objectives:
- reduce disparities
- develop 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 actions 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. In pursuing this objective, particular attention shall be paid to rural areas and to areas which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density, and some island, cross-border and mountain areas.

Article III-117

*Means:
- coordinate Member States' economic policies*

- Structural Funds

- European Investment

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-116. The formulation and implementation of the Union's policies and actions 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

<i>Bank</i>	Regional Development Fund), the <u>European Investment Bank</u> and the other existing financial instruments.
<i>Commission report every third year</i>	The Commission shall submit a <u>report</u> to the European Parliament, the Council of Ministers, the Committee of the Regions and the Economic and Social Committee <u>every three years</u> 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 <u>accompanied by appropriate proposals</u> .
<i>Specific measures can be established outside Funds by legislative procedure</i>	European <u>laws</u> or <u>framework laws</u> may establish <u>any specific measure</u> outside the Funds, without prejudice to measures adopted within the framework of the Union's other policies. It shall be adopted after consulting the Committee of the Regions and the Economic and Social Committee.
<i>The Regional Fund</i>	Article III-118 The European <u>Regional Development Fund</u> is intended to help to redress the main <u>regional imbalances</u> in the Union through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions.
	Article III-119
<i>Tasks of Structural Funds defined by legislative procedure, but the Council decides by unanimity until 2007</i>	Without prejudice to Article III-120, European <u>laws</u> or <u>framework laws</u> shall define the tasks, 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.
<i>Cohesion Fund</i>	A <u>Cohesion Fund</u> set up by a European law shall provide a financial contribution to projects in the fields of <u>environment and trans-European networks</u> in the area of transport infrastructure. In all cases, the European law or framework law shall be adopted after consulting the Committee of the Regions and the Economic and Social Committee. The <u>Council</u> shall act <u>unanimously until 1 January 2007</u> .
	Article III-120
<i>Implementing measures adopted by a qualified</i>	<u>Implementing measures</u> relating to the European <u>Regional Development Fund</u> shall be enacted in European <u>laws</u> . Such laws shall be adopted after

majority in the Council

consulting 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-127 and III-115 respectively shall apply.

***Agriculture and
fisheries***

SECTION 4:
AGRICULTURE AND FISHERIES

Article III-121

*Definition of
agriculture and
fisheries*

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

*The concept
agriculture subsumes
fisheries*

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

Article III-122

*Agriculture is part of
the internal market*

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

*General rule: internal
market rules apply to
agriculture*

2. Save as otherwise provided in Articles III-123 to III-128, the rules laid down for the establishment of the internal market shall apply to agricultural products.

3. The products listed in Annex I (This Annex, which corresponds to Annex I to the TEC, is to be drawn up) shall be subject to Articles III-123 to III-128.

*Common agricultural
policy*

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

Article III-123

Objectives:

1. The objectives of the common agricultural policy shall be:

*- to increase
productivity*

(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;
- to ensure fair standard of living for agricultural community	(b) thus to <u>ensure</u> a fair <u>standard of living</u> for the <u>agricultural community</u> , in particular by increasing the individual earnings of persons engaged in agriculture;
- to stabilise markets	(c) to <u>stabilise markets</u> ;
- to assure supplies	(d) to assure the availability of <u>supplies</u> ;
- to ensure reasonable prices	(e) to ensure that supplies reach consumers at <u>reasonable prices</u> .
Take account of:	2. In working out the common agricultural policy and the special methods for its application, account shall be taken of:
- the particular nature of agricultural activity	(a) the <u>particular nature</u> of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;
- gradual adjustment	(b) the need to effect the <u>appropriate adjustments</u> by <u>degrees</u> ;
- the close links between the economies	(c) the fact that in the Member States agriculture constitutes a sector <u>closely linked</u> with the <u>economy</u> as a whole.
Article III-124	
Common organisation of agriculture market...	1. In order to attain the objectives set out in Article III-123, a <u>common organisation</u> of agricultural markets shall be established.
...through the following methods:	This organisation shall take one of the <u>following forms</u> , depending on the product concerned:
- common competition rules	(a) <u>common rules</u> on <u>competition</u> ;
- compulsory coordination of national markets	(b) <u>compulsory coordination</u> of the various national market organisations;
- a European market	(c) a <u>European market organisation</u> .
Means:	2. The common organisation established in accordance with paragraph 1 may include all measures required to attain the objectives set out in Article III-123, in particular <u>regulation of prices</u> , <u>aids for the</u>
- regulation of prices	
- aid	

- storage
- imports and exports

production and marketing of the various products, storage and carryover arrangements and common machinery for stabilising imports or exports.

*No discrimination
inside Union*

The common organisation shall be limited to pursuit of the objectives set out in Article III-123 and shall exclude any discrimination between producers or consumers within the Union.

*Uniform price
calculation methods*

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

Guarantee funds

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-125

Means:

To enable the objectives set out in Article III-123 to be attained, provision may be made within the framework of the common agricultural policy for measures such as:

- coordinate training,
research, and
dissemination of
knowledge

(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;

- promote consumption

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

Article III-126

*Limits to the
application of
competition rules,
decided by legislative
procedure
Granting aid -
Commission propose,
the Council decide*

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-127(2), having regard to the objectives set out in Article III-123.

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

Granted to:
- companies in less-
favourable areas

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

- economic
development

(b) within the framework of economic development programmes.

programmes

***Decision-making
procedure***

Commission propose

Article III-127

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-124(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.

*Legislative procedure
for the organisation of
the market*

2. European laws or framework laws shall establish the common organisation of the market provided for in Article III-124(1)] and the other provisions necessary for the achievement of the objectives of the common agricultural policy and the common fisheries policy.

Council decides on:
*- fixing prices, levies
and aid*
*- quantitative
limitations*
- allocation of fishing

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.

*Replace national
market with European
if:*

4. In accordance with paragraph 2, the national market organisations may be replaced by the common organisation provided for in Article III-124(1)] if:

*- account is taken of
time needed to adjust
and specialise*

(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;

*- ensures conditions
similar to national
market*

(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-128

*Countervailing charges
if discrimination*

Where in a Member State a product is subject to a national market organisation or to internal rules having equivalent effect which affect the competitive position of similar production in another Member State, a countervailing charge shall be applied by Member States to imports of this product coming from the Member State where such organisation or rules exist, unless that State applies a countervailing charge on export.

*Commission shall fix
the charges necessary*

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.

Environment
- shared competence

SECTION 5
ENVIRONMENT

Article III-129

*Environmental
objectives*

1. Union policy on the environment shall contribute to pursuit of the following objectives:
 - (a) preserving, protecting and improving the quality of the environment;
 - (b) protecting human health;
 - (c) prudent and rational utilisation of natural resources;
 - (d) promoting measures at international level to deal with regional or worldwide environmental problems.

*A high level of
protection, not the
"highest" level
Precautionary
principle
Preventive principle
Causation principle*

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.

Safeguard clause

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.

Union takes account of:

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

Cooperation with 3rd countries and international organisations

- (a) available scientific and technical data;
- (b) environmental conditions in the various regions of the Union;
- (c) the potential benefits and costs of action or lack of action;
- (d) the economic and social development of the Union as a whole and the balanced development of its regions.

4. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for the Union's cooperation may be the subject of agreements between the Union and the third parties concerned.

The previous subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

Article III-130/131

Action determined by legislative procedure and consultation of CoR and EcoSoc

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-129. It shall be adopted after consulting the Committee of the Regions and the Economic and Social Committee.

Unanimity and consultation procedure required for:

2. By way of derogation from paragraph 1 and without prejudice to Article III-65 the Council shall adopt unanimously 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

- (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 use ordinary legislative procedure

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: legislative procedure and consultation of CoR and EcoSoc

3. General action programmes which set out priority objectives to be attained shall be enacted by European laws. Such laws shall be adopted after consulting the Committee of the Regions and the Economic and Social Committee.

The measures necessary for the implementation of these programmes shall be adopted under the terms of paragraph 1 or paragraph 2, according to the case.

Member States must finance and implement environment policy

4. Without prejudice to certain measures adopted by the Union, the Member States shall finance and implement the environment policy.

Temporary derogations when costs are too high

5. Without prejudice to the principle that the polluter should pay, if a measure based on the provisions of paragraph 1 involves costs deemed disproportionate for the public authorities of a Member State, such measure shall provide in appropriate form for:

- temporary derogations

(a) temporary derogations, and/or

- financial support

(b) financial support from the Cohesion Fund.

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

6. The protective measures adopted pursuant to this Article shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such provisions must be compatible with the Constitution. They shall be notified to the Commission.

Consumer Protection - shared competence

SECTION 6 CONSUMER PROTECTION

Article III-132

Objective: a high level of protection, not the "highest" level

1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.

*Legislative procedure
and consultation of
EcoSoc*

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

Transport policy
- shared competence

*Codecision and
consultation of CoR
and EcoSoc*

To cover:

*- international
transport*

- transport services

- transport safety

- any other measure

2. The Union shall contribute to the attainment of the objectives referred to in paragraph 1 through:

(a) measures adopted pursuant to Article III-65 in the context of the completion of the internal market;

(b) measures which support, supplement and monitor the policy pursued by the Member States.

3. The measures referred to in paragraph 2(b) shall be enacted by European laws. Such laws shall be adopted after consultation of the Economic and Social Committee.

4. Measures 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-133/134

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

2. European laws or framework laws shall implement paragraph 1, taking into account the distinctive features of transport. It shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Such European laws or framework laws shall lay down:

(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.

*Shall take account of
geographic differences*

3. When the European law or framework laws referred to in the second paragraph 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-135

Transition article

*- unanimity required if
access for carriers of
another Member States
is to be restricted*

Until the European laws or framework laws referred to in the first paragraph of Article III-134 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.

Article III-136

*Aid allowed up to a
certain limit*

Aids shall be compatible with the Constitution if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.

Article III-137

*Economic
circumstances of
carriers are to be
considered*

Any measures adopted within the framework of the Constitution in respect of transport rates and conditions shall take account of the economic circumstances of carriers.

Article III-138

Ban on discrimination

1. In the case of transport within the Union, discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the Member State of origin or of destination of the goods in question shall be prohibited.

2. Paragraph 1 shall not prevent the adoption of other European laws or framework laws in pursuance of Article III-134.

*Detailed rules adopted
by the Council*

3. The Council, on a proposal from the Commission, shall adopt European regulations or decisions for implementing paragraph 1. It shall act after consulting the European Parliament and the Economic and Social

*Commission shall
intervene against
discrimination*

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 Commission shall, acting on its own initiative or on application by a Member State, investigate any cases of discrimination falling within paragraph 1 and, after consulting any Member State concerned, shall adopt the necessary European decisions within the framework of the European regulations and decisions referred to in paragraph 3.

Article III-139

*No national support,
unless authorised by
the Commission*

1. The imposition by a Member State, in respect of transport operations carried out within the Union, of rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries shall be prohibited, unless authorised by a European decision of the Commission.

2. The Commission shall, acting on its own initiative or on application by a Member State, examine the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate regional economic policy, the needs of underdeveloped areas and the problems of areas seriously affected by political circumstances on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport on the other.

*Commission adopts
decisions*

After consulting each Member State concerned, the Commission shall adopt the necessary European decisions.

Tariffs excepted

3. The prohibition provided for in paragraph 1 shall not apply to tariffs fixed to meet competition.

Article III-140

*Reasonable charges for
crossing frontiers*

Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to the transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account.

Member States shall endeavour to reduce these costs

The Commission may make recommendations to Member States for the application of this Article.

Article III-141

*Derogation for the
division of Germany*

The provisions of this Section shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division.

Article III-142

Advisory Committee

An Advisory Committee consisting of experts designated by the governments of Member States shall be attached to the Commission. The Commission, whenever it considers it desirable, shall consult the Committee on transport matters.

Article III-143

Title applies to:
- railway,
- road
- waterway
transport
- sea transport and
- air transport

1. This Title shall apply to transport by rail, road and inland waterway.
2. European laws or framework laws may lay down appropriate measures for sea and air transport. It shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

***Trans-European
Networks***
- shared competence

SECTION 8
TRANS-EUROPEAN NETWORKS

Article III-144

Establishment of
- transport
- telecommunications
- energy
infrastructures

1. To help achieve the objectives referred to in Articles III-14 and III-116 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

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.

Article III-145

Means:

1. In order to achieve the objectives referred to in Article III-144, the Union:

- guidelines

(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;

- measures to ensure interoperability

(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 procedure, consult CoR and EcoSoc

2. The guidelines and other measures referred to in paragraph 1 shall be enacted by European laws or framework laws. It shall be adopted after consulting the Committee of the Regions and the Economic and Social Committee.

Approval

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

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-144. The Commission may, in close cooperation with the Member State, 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.

**Research,
technological
development and space**
- shared competences
(not prevent Member
States from using their
competence)

Objectives:
- strengthening
scientific and
technological bases
- promoting research

**Encourage and
support:**
- undertakings
- research centres
- universities
- free movement of
researchers

Means:

- programmes

- cooperation

- information
dissemination

SECTION 9
RESEARCH AND TECHNOLOGICAL DEVELOPMENT, AND SPACE

Article III-146

1. The Union's action 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.

2. For this purpose 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 enabling researchers to cooperate freely across borders and undertakings to exploit the internal market potential to the full, 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.

Article III-147

In pursuing the objectives referred to in Article III-146, the Union shall carry out the following activities, complementing the activities carried out in the Member States:

(a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;

(b) promotion of cooperation in the field of the Union's research, technological development and demonstration with third countries and international organisations;

(c) dissemination and optimisation of the results of activities in the Union's research, technological development and demonstration;

<p>- improved training and mobility of researchers</p>	<p>(d) stimulation of the <u>training and mobility of researchers</u> in the Union.</p>
<p><i>Coordination of Member States' activities</i></p> <p>- guidelines - best practice - monitoring - evaluation</p>	<p style="text-align: center;">Article III-148</p> <p>1. The Union and the <u>Member States shall coordinate</u> their research and technological development activities so as to ensure that national policies and the Union's policy are mutually consistent.</p> <p>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 <u>guidelines and indicators</u>, the organisation of exchange of <u>best practice</u>, and the preparation of the necessary elements for <u>periodic monitoring and evaluation</u>. The European Parliament shall be kept fully informed.</p>
<p><i>Multiannual framework programme, legislative procedure and consultation of EcoSoc</i></p>	<p style="text-align: center;">Article III-149</p> <p>1. A multiannual framework programme, setting out all the activities financed by the Union, shall be enacted by European laws. Such laws shall be adopted after consultation of the Economic and Social Committee.</p>
<p><i>Programme will establish:</i></p> <p>- objectives</p>	<p>The framework programme shall:</p> <p>(a) <u>establish the scientific and technological objectives</u> to be achieved by the activities provided for in Article III-147 and fix the relevant priorities;</p>
<p>- maximum financial involvement</p>	<p>(b) indicate the broad lines of such activities;</p> <p>(c) <u>fix the maximum</u> overall amount and the detailed rules for the <u>Union's financial participation in the framework programme</u> and the respective shares in each of the activities provided for.</p>
<p><i>Specific programmes</i></p>	<p>2. The framework programme shall be adapted or supplemented as the situation changes.</p> <p>3. A European law of the Council shall establish specific programmes to implement the 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, may not exceed the overall maximum amount fixed for the framework programme</p>

Detailed rules fixed by the Council on a proposal from the Commission

and each activity. Such a law shall be adopted after consultation of the European Parliament and the Economic and Social Committee.

4. As a complement to the activities planned in the multiannual framework programme, a European law of the Council shall establish the measures necessary for the implementation of the European research area. Such a law shall be adopted after consultation of the European Parliament and the Economic and Social Committee.

Article III-150/151/152/153

Implementation based on European law or framework law, establishing:

1. For the implementation of the multiannual framework programme, European laws or framework laws shall establish:

- participation rules

(a) the rules for the participation of undertakings, research centres and universities;

- dissemination rules

(b) the rules governing the dissemination of research results.

Ordinary legislative procedure and consultation of CoR

Such European laws or framework laws shall be adopted after consulting the Economic and Social Committee.

Supplementary programmes for certain Member States only...

2. In implementing the multiannual framework programme, European laws may establish supplementary programmes involving the participation of certain Member States only, which shall finance them subject to possible participation by the Union.

... by ordinary legislative procedure, EcoSoc consulted

Such laws shall determine the rules applicable to supplementary programmes, particularly as regards the dissemination of knowledge and 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.

The Union can participate in special programmes undertaken by a group of Member States

3. In implementing the multiannual framework programme, European laws may make provision, in agreement with the Member States concerned, for participation in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes.

Such European laws shall be adopted after consulting the Economic and Social Committee.

International cooperation

4. In implementing the multiannual framework programme the Union may make provision for cooperation in the Union's research, technological

development and demonstration with third countries or international organisations.

The detailed arrangements for such cooperation may be the subject of agreements between the Union and the third parties concerned.

Article III-154

*Detailed rules adopted
by the Council*

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.

Article III-155

**European Space
Policy**

- new competence
- promotes joint initiatives
- supports research
- coordinates efforts

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.

*European law and
framework law, by
legislative procedure*

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-156

*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 research, technological development and the dissemination of results during the previous year, and the work programme for the current year.

Energy

- shared competence

SECTION 10 ENERGY

- new article

Article III-157

Internal energy market

1. In establishing an internal market and with regard for the need to

It shall:

- ensure a functioning energy market

- ensure security of energy supply

- promote new and renewable forms of energy

Legislative procedure, consultation of committee of regions and EcoSoc

Shall not affect Member States' choice of energy sources

Area of freedom, security and justice

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 saving and the development of new and renewable forms of energy.

2. The measures necessary to achieve the objectives in paragraph 1 shall be enacted in European laws or framework laws. Such laws shall be adopted after consulting the Committee of the Regions and the Economic and Social Committee.

Such laws or framework laws shall not affect a Member State's choice between different energy sources and the general structure of its energy supply, without prejudice to Article III-130(2)(c).

CHAPTER IV AREA OF FREEDOM, SECURITY AND JUSTICE

SECTION 1 GENERAL PROVISIONS

Article III-158

Shared competence

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

No internal borders

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

Common policy on asylum, immigration and external border control

Combat crime, racism and xenophobia

3. The Union shall endeavour to ensure a high level of security by measures to prevent and combat crime, racism and xenophobia, and measures for coordination and cooperation between police and judicial

Cooperation between police and judicial authorities, mutual recognition of judgments and approximation of criminal law

Mutual recognition of documents and judgments in civil matters

Strategic guidelines

- decided by European Council

Participation of national parliaments

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

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

Standing committee in the Council

Ensure cooperation on internal security

authorities and other competent authorities, as well as by the mutual recognition of judgments in criminal matters and, if necessary, the approximation of criminal laws.

4. The Union shall facilitate access to justice, in particular by the principle of mutual recognition of documents and judgments in civil matters.

Article III-159

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

Article III-160

1. Member States' 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-161

Without prejudice to Articles III-265 to III-267, the Council of Ministers 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, as well as Member States' national parliaments, shall be informed of the content and results of the evaluation.

Article III-162

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-247, it shall facilitate coordination of the action of Member States' competent

*National parliaments
and EP kept informed*

authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and Member States' national parliaments shall be kept informed of the proceedings.

Article III-163

*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 maintaining law and order and safeguarding national security.

Article III-164

*Administrative
cooperation through
regulations
The Council adopts by
qualified majority,
Commission propose
and EP is consulted*

The Council of Ministers 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, without prejudice to Article III-165, and after consulting the European Parliament.

Article III-165

*Double initiative right
for judicial cooperation
and police cooperation,
from either:
- the Commission*

The acts referred to in Sections 4 and 5 of this Chapter, together with the European regulations referred to in Article III-164 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.

***Border Checks,
Asylum and
Immigration***

- shared competence

SECTION 2 POLICIES ON BORDER CHECKS, ASYLUM AND IMMIGRATION

Article III-166

Objectives:

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

*- no internal border
controls on persons*

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

*- monitoring of external
borders*

(b) carrying out checks on persons and efficient monitoring of the crossing of external borders;

- *integrated management system for external borders*

(c) the gradual introduction of a integrated management system for external borders.

Measures:

2. For this purpose, European laws or framework laws shall establish measures concerning:

- *common visa policy*

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

- *rules for control of persons crossing external borders*

(b) the controls to which persons crossing external borders are subject;

- *rules on travel of citizens of 3rd countries*

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

- *create an integrated management system*

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

- *no controls on persons crossing internal borders*

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

No effect on “demarcation” of 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.

Asylum policy

Article III-167

- *respect Geneva Convention*

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.

Ordinary Legislative procedure for:

2. For this purpose, European laws or framework laws shall lay down measures for a common European asylum system comprising:

- *uniform asylum system*

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

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

- common system for temporary protection for displaced persons

- common procedures for granting and withdrawing asylum
- system determining who is responsible for an application for asylum

- standards for application for asylum

- partnerships with 3rd countries to manage inflows

Adoption of provisional measures in case of massive sudden inflow Commission propose, Council decides by qualified majority, EP consulted

Common immigration policy

- manage migration flows
- fair treatment
- combat illegal immigration

Ordinary legislative procedure for:

- conditions for entry and residence
- long term visas

(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;

(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 with a view to managing inflows of people applying for asylum or subsidiary or temporary protection.

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-168

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. To this end, 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;

- residence permits
- family reunion

- definition of rights for
3rd countries

- removal and
repatriation

- combat human
trafficking
- readmission
agreements

*Supportive measures
for integration, no
harmonisation*

*Member States fix
number of immigrants
from 3rd countries*

*Member States share
financial implications
of this chapter*

***Judicial cooperation in
civil matters***

- only when cross-
border implications

(b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing the 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 readmission 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

4. European laws or framework laws may establish measures providing 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.

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.

Article III-169

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 acts of the Union adopted pursuant to the provisions of this Section shall contain appropriate measures to give effect to this principle.

SECTION 3 JUDICIAL COOPERATION IN CIVIL MATTERS

Article III-170

1. The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of

- mutual recognition of judgements
- approximation of laws

Ordinary legislative procedure for:

- mutual recognition and enforcement of judgements

- judicial and extrajudicial documents

- compatibility of rules on conflicts of law and jurisdiction

- the taking of evidence

- access to justice

- compatibility of rules on civil proceedings

- alternative methods of dispute settlement

- training

The Council decide on family law by unanimity, consult EP...

*...except if cross-border implications, then by qualified majority
Decide unanimously if cross-border implications*

Judicial cooperation in

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.

2. To this end, European law or framework law shall lay down measures, particularly when necessary for the proper functioning of the internal market, aimed inter alia at ensuring:

(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;

(e) effective access to justice;

(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.

3. Notwithstanding paragraph 2, measures concerning those aspects of family law with cross-border implications shall be laid down in a European framework law by the Council. The Council shall act unanimously after consulting the European Parliament.

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 adopted by the ordinary legislative procedure. The Council of Ministers shall act unanimously after consulting the European Parliament.

SECTION 4

criminal matters
[When nothing else
specified Commission
or 1/4 of Member States
propose in this section]

JUDICIAL COOPERATION IN CRIMINAL MATTERS

Article III-171

*Principle: mutual
recognition of
judgements and
decisions, and
approximation of laws
and regulations*

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-172.

European laws or framework laws shall establish measures to:

*Legislative procedure
for:*

*- rules ensuring
recognition*

(a) establish rules and procedures aimed at ensuring the recognition throughout the Union of all forms of judgments and judicial decisions;

*- settle conflicts of
jurisdiction*

(b) prevent and settle conflicts of jurisdiction between Member States;

- training

(c) encourage the training of the judiciary and judicial staff;

*- cooperation between
judicial authorities on
proceedings*

(d) facilitate cooperation in criminal matters between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

*Minimum rules by
legislative procedure*

2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters with 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 and in particular between the common-law systems and the others.

*Respect differences in
legal traditions*

and concern:

They shall concern:

*- admissibility of
evidence*

(a) mutual admissibility of evidence between Member States;

*- rights of individuals
in criminal procedure*

(b) definition of the rights of individuals in criminal procedure;

- rights of victims

(c) rights of victims of crime;

***The Council can
expand this area by***

(d) any other specific aspects of criminal procedure which the Council of Ministers has identified in advance by a European decision. The Council

unanimity, EP must approve

Rules shall not prevent higher protection of individual

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

The European Council can:

- terminate suspension

- ask new draft from Commission or a group of Member States

Definition of criminal offences and sanctions

Establish minimum rules:

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

The Council may extend areas by unanimity after approval of EP

Criminal legislation through minimum rules

of Ministers shall act unanimously after receiving the approval 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 the rights of individuals.

Where a member of the Council considers that a draft European framework law as referred to in this paragraph would infringe the fundamental principles of its legal system, it may request that the draft law be referred to the European Council. In this case, the procedure referred to in Article III-302 shall be suspended. After discussion, the European Council may:

- (a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-302, or
- (b) request the Commission or the group of Member States from which the draft framework law emanates to submit a new draft; in that case, the act originally proposed shall be deemed not to have been adopted.

Article III-172

1. European framework laws may establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with cross-border dimensions 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.

On the basis of developments in crime, the Council of Ministers may adopt a European decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after approval by the European Parliament

2. If the approximation of criminal legislation proves essential to ensure the effective implementation of a Union policy in an area which has

for offences and sanctions in harmonised areas Council adopts unanimously, EP approves

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

The European Council can:

- suspend termination

- ask the Commission or a group of Member States to submit a new draft

Laws to support crime prevention. No approximation of Member State laws

Eurojust

Coordinate national investigations and prosecuting authorities and prosecution on common bases

Legislative procedure

- initiate and coordinate criminal prosecutions

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. They shall be adopted by the same procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article III-165.

3. Where a member of the Council considers that a draft European framework law referred to in paragraphs 1 or 2 would infringe the fundamental principles of its legal system, it may request that the draft law be referred to the European Council for discussion. In that case, where the procedure referred to in Article III-302 is applicable, it shall be suspended. After discussion, the European Council may:

- (a) refer the draft back to the Council, which terminates the suspension of the procedure referred to in Article III-302 where it is applicable, or
- (b) request the Commission or the group of Member States from which the draft framework law emanates to submit a new draft; in that case, the act originally proposed shall be deemed not to have been adopted.

Article III-173

European laws or framework laws may establish measures to promote and support the action of Member States in the field of crime prevention. Such measures shall not include the approximation of Member States' legislative and regulatory provisions.

Article III-174

1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigations 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.

2. European laws shall determine Eurojust's structure, workings, scope of action and tasks. Those tasks may include:

- (a) the initiation and coordination of criminal investigations and prosecutions conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;

- strengthen judicial cooperation and resolution of jurisdiction conflicts EP and national parliaments' involvement decided by legislative procedure

Formal judicial acts adopted by national authorities

European Public Prosecutor's Office
Combat crimes

Established by unanimity in Council and approval from EP

Prosecute crimes affecting more than one Member State or Union's financial interests

Rules governing Prosecutor's office

European Council can unanimously extend the powers of the Public Prosecutor

(b) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

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

3. In the prosecutions referred to in this Article, and without prejudice to Article III-175, formal acts of judicial procedure shall be adopted by the competent national officials.

Article III-175

1. In order to combat serious crimes having a cross-border dimension as well as 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.

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 serious crimes affecting more than one Member State and of 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.

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.

4. The European Council may 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 consultation of the European Parliament and the Commission.

*Require national
ratification*

The European Council's decision shall not enter into force until it has been approved by the Member States, in accordance with their respective constitutional rules.

Police cooperation
*When nothing else
specified, Commission
or 1/4 of Member States
propose in this section
Police, customs, and
specialised units
Tasks: prevention,
detection, investigation*

SECTION 5 POLICE COOPERATION

Article III-176

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.

2. To this end, European laws or framework laws may establish measures concerning:

- (a) the collection, storage, processing, analysis and exchange of relevant information;
- (b) support for the training of staff and for cooperation on the exchange of staff, on equipment and on research into crime-detection;
- (c) common investigative techniques in relation to the detection of serious forms of organised crime.

3. A European law or framework law of the Council may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

Article III-177

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

1. Europol's mission is 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.

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

- (a) the collection, storage, processing, analysis and exchange of

*Legislative procedure
for:*

- perform information

processing

*- coordinate, organise
and implement joint
actions of national
authorities*

*Role of EP and
national parliaments
decided by legislative
procedure
Europol use of force
requires agreement
from Member State
involved*

*Rules for authorities'
operations on other
Member States'
territories
Council decides by
unanimity, EP is
consulted*

*Coordinating action
-direct harmonisation
is prohibited*

Public health

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

*Complement Member
States' policies...*

information forwarded particularly by the authorities of the Member States or third countries or bodies;

(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.

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

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

Article III-178

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-171 and III-176 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.

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

SECTION 1 PUBLIC HEALTH

Article III-179

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 the fight against the major health scourges, by promoting research into their causes, their transmission and their

...and encourage co-operation between Member States through:

(Commission initiates)

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

Co-operation with 3rd countries

Legislative procedure for:

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

- veterinary and phytosanitary fields

- measures of high quality standards

- incentive measures to improve and protect

prevention, as well as health information and education.

The Union shall complement the Member States' action in reducing drugs-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.

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.

4. By way of derogation from Article I-11(5) and Article I-16(a) and in accordance with Article I-13(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) by way of derogation from [ex Article 37], 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 health products and devices for medical use.

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

5. European laws or framework laws may also establish incentive measures designed to protect and improve human health and in particular to

<i>human health</i>	combat the major cross-border health scourges, <u>excluding</u> any
<i>Committee of Regions and EcoSoc consulted</i>	<u>harmonisation</u> of the <u>laws</u> and regulations of the Member States. It shall be adopted after consulting the Committee of the Regions and the Economic and Social Committee.
<i>The Council adopts recommendations</i>	6. For the purposes set out in this Article, the Council, on a proposal from the Commission, may also adopt <u>recommendations</u> .
<i>Respect for national responsibility in health services</i>	7. <u>Union</u> action in the field of public health shall <u>respect</u> the <u>responsibilities</u> of the <u>Member States</u> for the definition of their <u>health policy</u> and for the <u>organisation</u> and <u>delivery</u> of health services and <u>medical care</u> . 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. Measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.
<i>Industry</i>	<p style="text-align: center;">SECTION 2 INDUSTRY</p> <p style="text-align: center;">Article III-180</p>
<i>Objective: to ensure the competitiveness of industry</i>	1. The Union and the Member States shall ensure that the conditions necessary for the <u>competitiveness</u> of the Union's industry exist.
<i>Means:</i>	For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:
	<p>(a) speeding up the <u>adjustment of industry</u> to structural changes;</p> <p>(b) encouraging an environment favourable to initiative and to the <u>development of undertakings</u> throughout the Union, particularly small and medium-sized undertakings;</p> <p>(c) encouraging an environment favourable to cooperation between undertakings;</p> <p>(d) fostering better <u>exploitation</u> of the <u>industrial potential</u> of policies of innovation, research and technological development.</p>
<ul style="list-style-type: none"> - <i>guidelines</i> - <i>best practice</i> - <i>monitoring</i> 	2. The Member States shall consult each other in liaison with the Commission and, where necessary, shall coordinate their action. The <u>Commission</u> may take any useful initiative to <u>promote</u> such <u>coordination</u> in particular initiatives aiming at the establishment of <u>guidelines</u> and <u>indicators</u> , the organisation of exchange of <u>best practice</u> , and the preparation of the necessary elements for <u>periodic monitoring and evaluation</u> . The

- evaluation

*European law or
framework law can
establish specific
measures*

*No harmonisation of
national laws*

Legislative procedure

*No distortion of
competition*

Culture

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

*Encourage cooperation
between Member States
and support their
actions in:*

- culture and history

- heritage

- cultural exchanges

- art, literature, AV

- international
cooperation

- integrate culture

European Parliament shall be kept fully informed.

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. It shall be adopted after consultation of the Economic and Social Committee.

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.

SECTION 3 CULTURE

Article III-181

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.

2. Action by the Union shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action in the following areas:

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

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

(c) non-commercial cultural exchanges;

(d) artistic and literary creation, including in the audiovisual sector.

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.

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.

*Incentive actions
through law or
framework law
Legislative procedure*

*Council adopts
recommendations*

Tourism

*Goal: to promote a
competitive tourist
sector*

Means:

*- create a favourable
environment*

*- exchange of good
practice*

*Legislative procedure,
no harmonisation*

***Education, vocational
training, youth and
sport***

*Objective: to develop
quality education*

*Full respect for
national competence*

Promotion of sport

5. In order to contribute to the achievement of the objectives referred to in this Article:

(a) European laws or framework laws shall establish incentive actions, excluding any harmonisation of the laws and regulations of the Member States. It shall be adopted after consulting the Committee of the Regions;

(b) the Council, acting on a proposal from the Commission, shall adopt recommendations.

Article III-181a

1. The Union shall complement the action of the Member States to promote the competitiveness of Union enterprises in the tourist sector.

2. To that end, Union action shall be aimed at:

(a) encouraging the creation of a favourable environment for the development of enterprises in this sector;

(b) promoting cooperation between the Member States, particularly by the exchange of good practice;

3. A European law or framework law 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 4

EDUCATION, , YOUTH, SPORT AND VOCATIONAL TRAINING

Article III-182

1. The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing 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.

The Union shall contribute to the promotion of European sporting issues, while taking account of its special nature, its structures based on voluntary activity and its social and educational function.

Means:

- *European dimension of education*

- *mobility*

- *cooperation*

- *exchange*

- *youth exchange and participation in democratic life*

- *distance education*

- *European dimension of sports, promote:*

- *fairness and integrity*
- *physical and moral integrity*

Cooperation with 3rd countries and international organisations

Means:

- *incentive measures through legislative procedure without harmonisation*

- *the Council adopts recommendations*

Vocational training

Full respect of national

2. 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;

(c) promoting cooperation between educational establishments;

(d) developing exchanges of information and experience on issues common to the education systems of the Member States;

(e) encouraging the development of youth exchanges and of exchanges of socio-educational instructors, and encouraging the participation of young people in democratic life in Europe.

(f) encouraging the development of distance education;

(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.

3. 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.

4. In order to contribute to the achievement of the objectives referred to in this Article,

(a) European laws or framework laws shall establish incentive actions, excluding any harmonisation of the laws and regulations of the Member States. It shall be adopted after consulting the Committee of the Regions and the Economic and Social Committee.

(b) the Council, acting on a proposal from the Commission, shall adopt recommendations.

Article III-183

1. The Union shall implement a vocational training policy which shall

<i>responsibilities</i>	support and <u>supplement</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.
<i>Aims:</i>	2. Union action shall aim to:
- <i>industrial change</i>	(a) facilitate <u>adaptation to industrial change</u> , in particular through vocational training and retraining;
- <i>vocational training</i>	(b) improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market;
- <i>mobility</i>	(c) facilitate <u>access to vocational training</u> and encourage mobility of instructors and trainees and particularly young people;
- <i>cooperation</i>	(d) stimulate <u>cooperation</u> on training between <u>educational</u> or training <u>establishments</u> and firms;
- <i>exchanges</i>	(e) develop <u>exchanges of information</u> and experience on issues common to the training systems of the Member States.
- <i>international cooperation</i>	3. 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.
<i>Objectives achieved through legislative procedure without harmonisation</i>	4. In order to contribute to the achievement of the objectives referred to in this Article, (a) European <u>laws</u> or <u>framework laws</u> shall lay down the necessary measures, excluding any harmonisation of the laws and regulations of the Member States. It shall be adopted after consulting the Committee of the Regions and the Economic and Social Committee; (b) the Council, on a proposal from the Commission, shall adopt recommendations.
<i>Civil protection</i>	SECTION 5 CIVIL PROTECTION Article III-184
<i>Encourage cooperation between Member States</i>	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> .

Aims:

- support risk prevention and training

- promote operational cooperation

*- promote international cooperation
Law or framework law
Legislative procedure,
no harmonisation*

Administrative cooperation

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

Union may support Member States in implementing Union law

Legislative procedure, no harmonisation

No effect on Member States obligation to implement Union law

OCT Countries

Union action shall aim to:

(a) support and supplement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or man-made disasters within the Union;

(b) promote swift, effective operational cooperation within the Union between national civil-protection services;

(c) promote consistency in international civil-protection work.

2. The measures necessary to help achieve the objectives referred to in paragraph 1 shall be enacted in European laws or framework laws, excluding any harmonisation of the laws and regulations of the Member States.

SECTION 6 ADMINISTRATIVE COOPERATION

Article III-185

1. Effective national 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.

2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitation of exchange of information and of civil servants as well as supporting training and development schemes. No Member State shall be obliged to avail itself of such support. A European law shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.

3. This Article does not affect the obligations of the Member States to implement Union law or the prerogatives and duties of the Commission. Nor does this Article affect 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-186

*Special relations
between OCTs and the
Union*

1. The non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom shall be associated with the Union. These countries and territories (hereinafter called the "countries and territories") are listed in Annex II.

*Greenland: special
protocol*

This title shall apply to Greenland, subject to the specific provisions for Greenland set out in the Protocol on special arrangements for Greenland.

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

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.

Article III-187

Association shall have the following objectives.

*- Trade: OCTs 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.

*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 and procedures laid down in the [Chapter] relating to the right of establishment and on a non-discriminatory basis, subject to any acts adopted pursuant to Article III-191.

Article III-188

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 by 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-38.

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 may not exceed the level of those imposed on imports of products from the Member State with which each country or territory has special relations.

4. Paragraph 2 shall not apply to countries and territories which, by reason of the particular international obligations by which they are bound, already apply a non-discriminatory customs tariff.

No discrimination between imports from different Member States

5. The introduction of or any change in customs duties imposed on goods imported into the countries and territories shall not, either in law or in fact, give rise to any direct or indirect discrimination between imports from the various Member States.

Article III-189

Safeguard measures

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-188(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 steps to remedy the situation.

Article III-190

Free movement of workers

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-191.

Article III-191

*Adopted unanimously
in the Council*

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 and of the principles set out in the Constitution, 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.

**EXTERNAL
ACTIONS**

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

General provisions

**CHAPTER I
PROVISIONS HAVING GENERAL APPLICATION**

Article III-193

*Union shall defend the
principles of:*

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

*The Union's external
policies shall:*

- *safeguard common
interests*

- *consolidate human
rights*

1. The Union's action on the international scene shall be guided by, and designed to advance in the wider world, the principles which have inspired its own creation, development and enlargement: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, 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 countries, and 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 European Union shall define and pursue common policies and Union actions, and shall work for a maximum degree of cooperation in all fields of international relations, in order to:

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

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

- *preserve peace*

(c) preserve peace, prevent conflicts and strengthen international security, in conformity 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;

- *foster sustainable development*

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

- *a free world market*

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

- *the environment*

(f) 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;

- *humanitarian aid*

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

- *promote globalisation*

(h) promote an international system based on stronger multilateral cooperation and good global governance.

3. The Union shall respect the principles and pursue the objectives listed in paragraph 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 other Union policies.

Union must ensure consistency between different areas of external action and internal policies

The Union shall ensure consistency between the different areas of its external action and between these and its internal policies. The Council and the Commission, assisted to that end by the Union's Minister for Foreign Affairs, shall be responsible for ensuring this consistency and shall cooperate to that effect.

Article III-194

European Council determines interests and objectives unanimously

1. On the basis of the principles and objectives referred to in Article 193, the European Council shall identify the strategic interests and objectives of the Union.

European Council decisions on the strategic interests and objectives of the Union may relate to foreign 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. The decisions of the European Council shall be implemented in accordance with the procedures provided for in the Constitution.

Minister of Foreign Affairs and Commission may submit joint proposals

2. The Union Minister for Foreign Affairs, for the field of common foreign and security policy, and the Commission, for other fields of external action, may submit joint proposals to the Council.

Foreign policy

CHAPTER II COMMON FOREIGN AND SECURITY POLICY

SECTION 1 COMMON PROVISIONS

Article III-195

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

1. In the context of the principles and objectives of its external action as set out in Article 1 of this Title, the Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy

...the support of the Member States

2. The Member States shall support the Union's 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

(a) defining the general guidelines;

- decisions

(b) adopting decisions defining:

- actions

(i) actions to be undertaken by the Union,

- | | |
|---|---|
| <p>- <i>positions</i></p> | <p>(ii) <u>positions</u> to be taken by the Union,</p> |
| <p>- <i>implementation of decisions</i></p> | <p>(iii) arrangements for the <u>implementation</u> of the European decisions referred to in points (i) and (ii);</p> |
| <p>- <i>cooperation between Member States</i></p> | <p>(c) strengthening systematic <u>cooperation between Member States</u> in the conduct of policy.</p> |

Article III-196

European Council defines by unanimity 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 of Ministers shall take the 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.

Article III-197

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

1. The Union Minister for Foreign Affairs, who shall chair the Council for Foreign Affairs, shall contribute through his proposals towards the preparation of the common foreign and security policy and shall be responsible for implementing the decisions taken by the European Council and the Council of Ministers.

- represents the Union externally (with the President of the European Council)

2. The Minister for Foreign Affairs shall represent the Union for matters relating to the common foreign and security policy. He or she shall conduct political dialogue with third parties on the Union's behalf and shall express the Union's position in international organisations and at international conferences.

Foreign service

3. In fulfilling his 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. The organisation and functioning of the central administration of the European External Action Service, and of the Union's delegations, shall be established by a European Decision of the Council. The Council shall decide after

obtaining the opinion of the European Parliament and the consent of the Commission.

Article III-198

Council decides on international operational action...

1. Where the international situation requires operational action by the Union, the Council shall take the necessary decisions. A decision 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 the decision and adopt the necessary European decisions.

Decisions commit Member States

2. Such decisions 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 such 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 decisions.

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 revision of the European decision referred to in paragraph 1, Member States may take the necessary arrangements 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

The Council adopt decisions

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-199

The Council shall adopt 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-200

Proposals by:

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

Extraordinary Council meeting convened when a rapid decision is needed

1. Any Member State, the Union Minister for Foreign Affairs, or that Minister with the Commission's support, may refer to the Council any question relating to the common foreign and security policy 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 Council meeting within forty-eight hours or, in an emergency, within a shorter period.

Decision making

Article III-201

***General rule:
Unanimity with
constructive abstention***

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

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

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.

The Council act by qualified majority:

2. By way of derogation from paragraph 1, the Council shall act by qualified majority:

- when European Council has decided Union interest

(a) when adopting European decisions defining a Union actions or positions on the basis of a European decision of the European Council relating to the Union's strategic interests and objectives, as defined in Article III-194(1);

- following the initiative of the Foreign Minister

(b) when adopting, on a proposal from the Union Minister for Foreign Affairs, a European decision defining a Union action or position;

- when implementing

(c) when adopting a European decision implementing a European

actions and positions

decision defining a Union action or position;

- when appointing a special representative

(d) when appointing a special representative in accordance with Article III-203.

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 decision to be taken by 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 European decision by unanimity.

Qualified majority can send the matter to the European Council

Extension of qualified majority by unanimity in European Council

3. In accordance with Article I-39(8) 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.

No qualified majority on defence matters

4. Paragraphs 2 and 3 shall not apply to decisions having military or defence implications.

Article III-202

Foreign Minister coordinate 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-39(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.

Article III-203

The Council may appoint a special representative with a specific mandate

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 mandate under the authority of the Minister.

Article III-204

Agreement with 3rd

The Union may conclude agreements with one or more States or

countries

international organisations in areas covered by this Chapter.

Article III-205

*Foreign Minister
consults and informs
EP on the main aspects
and basic choices of
CFSP and ESDP*

1. The Union Minister for Foreign Affairs shall consult the European Parliament in accordance with Article I-39(6) and Article I-40(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 security and defence policy.

Article III-206

*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's Minister for Foreign Affairs shall organise this coordination.

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-15(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 will concert and keep the other Member States and the Union's 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.

*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.

Article III-207

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

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 decisions defining Union positions and actions adopted by virtue of 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 a third countries referred to in Article I-8(2)(c) and the measures adopted pursuant to Article III-11.

Article III-208

***Political and Security
Committee***

*- monitors
international situation*

*- monitors
implementation*

*- exercises political
control with crisis
management
operations*

Without prejudice to Article III-247, 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 responsibility of the Union Minister for Foreign Affairs.

Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council of Ministers and of the Union Minister for Foreign Affairs, political control and strategic direction of crisis management operations, as referred to in Article III-210.

*The Council may
authorise the
Committee to decide*

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-209

*CFSP does not affect
the Union's competence
in other areas*

The implementation of the common foreign and security policy shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Constitution for the exercise of the Union competences listed in Articles I-12 to I-14 and I-16. 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.

***Security and Defence
Policy***

**SECTION 2
THE COMMON SECURITY AND DEFENCE POLICY**

Article III-210

*Use of civilian or
military means for*
- *disarmament*
- *humanitarian tasks*
- *military assistance*
- *combat forces*
- *conflict prevention*
- *peacemaking*
- *stabilisation*

*The Council decides by
unanimity*

1. The tasks referred to in Article I-40(1), in the course of which the Union may use military and civilian 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 peacemaking, 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.

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 of Ministers 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-211

*Decision can be
implemented by a
group of Member
States*

*Member States shall
inform the Council*

1. Within the framework of the decisions adopted in accordance with Article III-210, 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 between 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 involve major consequences or require amendment of the objective, scope and conditions for the task determined in the European decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary European decisions.

Article III-212

European Armaments,

1. The European Armaments, Research and Military Capabilities

Research and Military Capabilities Agency

- identifies military needs

- promotes harmonisation of operational needs

- manages common programmes

- supports defence technology research

- strengthens defence sector

Agency open to all Member States

Agency, established by Article I-40(3) and subject to the authority of the Council of Ministers, shall have as its task to:

(a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;

(b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;

(c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;

(d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;

(e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

2. The Agency shall be open to all Member States wishing to be part of it. The Council authority, acting by qualified majority, shall adopt a decision defining the Agency's statute, seat and operational rules. Such rules should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.

Article III-213

Member States with high military capabilities may establish structured cooperation

The Council adopts a decision to establish structured cooperation by qualified majority

1. Those Member States which wish to participate in the permanent structured cooperation defined in Article I-40(6), which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation shall notify their intention to the Council and to the Union Minister for Foreign Affairs.

2. Within three months following such notification, the Council shall adopt a European decision establishing permanent structured cooperation and determining the list of participating member States. The Council shall act by a qualified majority after consulting the Union Minister for Foreign Affairs.

Structured cooperation open to all Member States

The Council confirm participation of Member State by qualified majority

Only participating Member States can vote

Suspension of a Member State's participation

The Council decide by qualified majority:
- majority of the participating Member States
- representing 60% of their populations

Concerned State has no voting right

Voluntary withdrawal

Unanimity where nothing else stated

Financial provisions

3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the Union Minister for Foreign Affairs.

The Council shall adopt a European decision confirming the participation of the Member State concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol referred to in paragraph 1. 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 a majority of the members of the Council representing the participating Member States, comprising at least three fifths of the population of those Member States.

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 mentioned in paragraph 1, 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 a majority of the members of the Council representing the participating Member States, with the exception of the Member State in question, comprising at least three fifths of the population of those Member States.

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.

6. The European decisions and recommendations by the Council adopted within the framework of 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.

SECTION 3 FINANCIAL PROVISIONS

Article III-215

Administrative expenditures: Union budget

Operational expenditures: always 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

Consult the EP

A start-up fund

Qualified majority in the Council for:

- establishing the fund

- administering the fund

- financial control

Foreign Minister can use fund

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

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 acting unanimously decides otherwise.

In cases where expenditure is not charged to the Union's budget it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously 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-201(1), second subparagraph, shall not be obliged to contribute to the financing thereof.

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 tasks as referred to in Article I-40(1) and III-210. It shall act after consulting the European Parliament.

Preparatory activities for tasks as referred to in Article I-40(1) and III-210 which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

The Council shall adopt by a qualified majority on a proposal from the Minister for Foreign Affairs:

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

(b) the procedures for administering the fund;

(c) the financial control procedures.

When the task, planned in accordance with Article I-40(1) and III-210, cannot be charged to the Union's budget, the Council shall authorise the Union Minister for Foreign Affairs to use the fund. The Union Minister for Foreign Affairs shall report to the Council on the implementation of the remit.

Common Commercial Policy

**CHAPTER III
COMMON COMMERCIAL POLICY**

Aims:

Article III-216

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

By establishing a customs union in accordance with Article III-36, 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-217

*Based on uniform
principles*

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

Legislative procedure

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

3. Where agreements with one or more States or international organisations need to be negotiated, the relevant provisions of Article I-227 shall apply subject to the special provisions of this Article.

*Council mandates
Commission to
negotiate*

The Commission shall make recommendations to the Council, which shall authorise the Commission 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
consult with a Council-
appointed special
committee*

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

*The Council act by
qualified majority*

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

Trade agreements need unanimity for services involving the movement of persons and commercial aspects of intellectual property

For the negotiation and conclusion of agreements in the fields of trade in services involving the movement of persons and the commercial aspects of intellectual property, the Council of Ministers shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

Unanimity when culture involved

The Council shall also act unanimously for the negotiation and conclusion of agreements in the field of trade in cultural and audiovisual services, where these risk prejudicing the Union's cultural and linguistic diversity.

Transport

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to the provisions of Section 7 of Chapter III of this Title and Article III-227.

Cannot undermine delimitation of competence between the Union and Member States

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

International cooperation

CHAPTER IV COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID

Development

SECTION 1 DEVELOPMENT COOPERATION

- shared competence

Article III-218

*Objective:
- to limit poverty*

1. Union policy in the sphere of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action as set out in [Article 1] of this Title. The Union's development cooperation policy and that of the Member States 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.

Article III-219

Legislative procedure

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-193 and III-218.

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.

Article III-220

Coordination of Union and Member States' policies in international organisations

1. 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, in order to promote the complementarity and efficiency of their action. 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-221

<p><i>Means:</i> - <i>financial, technical and economic cooperation</i> - <i>financial aid</i></p>	<p>1. Without prejudice to the other provisions of this Treaty, and in particular those of Articles III-218 to III-220 the Union shall carry out <u>economic, financial and technical cooperation</u> measures, including <u>financial aid</u> in particular, with <u>third countries other than developing countries</u>. 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 <u>Union's measures</u> and those of the <u>Member States</u> shall <u>complement and reinforce</u> each other.</p>
<p><i>Legislative procedure</i></p>	<p>2. European <u>laws</u> or <u>framework laws</u> shall establish the measures necessary for the implementation of paragraph 1.</p>
<p><i>Agreements</i></p>	<p>3. Within their respective spheres of competence, the <u>Union and the Member States</u> shall <u>cooperate with third countries and the competent international organisations</u>. The arrangements for Union cooperation may be the subject of agreements between the Union and the third parties concerned.</p>
<p><i>Member States also competent on aid to developing countries</i></p>	<p>The first subparagraph shall be without prejudice to <u>Member States' competence</u> to negotiate in international bodies and to conclude agreements.</p>
<p><i>Urgent financial aid - by decision in the Council</i></p>	<p style="text-align: center;">Article III-222</p> <p>When the situation in a third country requires <u>urgent financial aid</u> from the Union, the <u>Council</u> shall <u>adopt</u> the necessary European <u>decision</u>, on a proposal from the Commission.</p>
<p><i>Humanitarian aid</i></p>	<p style="text-align: center;">SECTION 3 HUMANITARIAN AID</p>
<p><i>Help and protection for people in 3rd countries and for victims of disasters</i></p>	<p style="text-align: center;">Article III-223</p> <p>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 <u>ad hoc assistance, relief and protection for people in third countries and victims of man-made and natural disasters</u>, in order to meet the humanitarian needs resulting from these different situations. The Union's actions and those of the Member States shall complement and reinforce each other.</p>
<p><i>Respect of impartiality, neutrality and non-discrimination</i></p>	<p>2. Humanitarian aid operations shall be conducted in compliance with the principles of <u>international law</u> and with the principles of <u>impartiality, neutrality and non-discrimination</u>.</p>

Legislative procedure

3. European laws or framework laws shall establish the necessary 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-193.

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

5. In order to establish a framework for joint contributions from young Europeans to the humanitarian actions of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. The European Parliament and the Council, in accordance with the legislative procedure, shall adopt a European law determining the rules and procedures for the operation of the Corps.

Legislative procedure

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 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-224

Interruption of relations with other countries

1. Where a decision adopted on the basis of Chapter II of this Title 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 take the necessary measures. It shall inform the European Parliament thereof.

Qualified majority after joint proposal from Commission and Foreign Minister

2. Where a European decision adopted on the basis of Chapter II of this Title so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and non-State groups or bodies.

***International
agreements***

*Agreements with 3rd
countries and
international
organisations when
internal acts are
affected*

*Agreements also bind
Member States*

***Association
agreements***

*Procedure for
conclusion of
agreements:*

*- the Council
authorises, adopts a
mandate and concludes
- Commission and
Foreign Minister shall
submit
recommendations
- the Council nominates
a negotiator...*

*and give negotiating
directives
- special committee*

**CHAPTER VI:
INTERNATIONAL AGREEMENTS**

Article III-225

1. The Union may conclude an agreements 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 fixed by the Constitution, is provided for in a binding Union legislative act or is likely to affect common Rules or alter their scope.
2. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

Article III-226

1. The Union may conclude an association agreements with one or more third countries or international organisations in order to establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common actions and special procedures.

Article III-227

1. Without prejudice to the specific provisions laid down in Article III-217, agreements between the Union and third States or international organisations shall be negotiated and concluded in accordance with the following procedure.
2. The Council shall authorise negotiations to be opened, adopt negotiating directives, authorise signing and conclude agreements.
3. The Commission, or the Union Minister for Foreign Affairs where the agreement exclusively or principally relates to the common foreign and security policy, shall submit recommendations to the Council, which shall authorise the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or leader of the Union's negotiating team.
4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

designated

The Council decide by qualified majority, unless the agreement only covers CFSP issues

EP consent 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

Delegation of powers to amend agreements

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.

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

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

(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 Parliament is required.

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

(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.

7. When concluding an agreement, the Council may, by way of derogation from paragraph 5, 6 and 9, authorise the negotiator to approve modifications on the Union's behalf where the agreement 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

*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

8. The Council of Ministers shall act by a qualified majority throughout the procedure.

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-221 with the States which are candidates for accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

9. The Council, on a proposal from the Commission or the Union Minister for Foreign Affairs, shall adopt a European decision to suspend the application of an agreement and shall establish 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 decisions having legal effects, with the exception of decisions 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 provisions of the Constitution. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless the Constitution is revised.

Article III-228

1. By way of derogation from Article III-227, the Council either on a recommendation from the European Central Bank or on a recommendation from the Commission and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability may conclude formal agreements on a system of exchange rates for the euro in relation to the currencies of third states. The Council shall act unanimously after consulting the European Parliament and in accordance with the procedure provided for in paragraph 3.

The Council 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.

*General orientations
adopted by Council*

2. In the absence of an exchange-rate system in relation to one or more currencies of third states as referred to in paragraph 1, the Council, acting either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

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

3. By way of derogation from Article III-227, 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 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 the 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 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**

Article III-229

*Cooperation with UN,
Council of Europe,
OCSE and OECD*

1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.

2. The Union shall also maintain such relations as are appropriate with other international organisations.

*The Union Minister for
Foreign Affairs
implements*

3. The Union Minister for Foreign Affairs and the Commission shall be instructed to implement the above paragraph.

Article III-230

*Union delegations
represent...*

1. Union delegations in third countries and to 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.

Solidarity clause

CHAPTER VIII IMPLEMENTATION OF THE SOLIDARITY CLAUSE

Article III-231

*Member States shall
help each other in case
of:*

- terrorist attack
- disaster

1. Should a Member State fall victim to a terrorist attack or a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

*The Council decide
alone by qualified
majority unless defence
implications*

2. The arrangements for the implementation by the Union of the solidarity clause referred to in Article I-42 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-210(1) where this decision has defence implications. The European parliament shall be informed.

*Assistance of the
Council by the Political
and Security
Committee*

For the purposes of this paragraph and without prejudice to Article III-247, 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-162, which shall, if necessary, submit joint opinions.

*Regular assessments of
threats*

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

Subsection 1
The European Parliament

Election law

Article III-232

Election by direct universal suffrage with a uniform procedure

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.

EP propose, Council decides by unanimity with consent from EP Member States approve

The Council shall act unanimously on an initiative from and after obtaining the consent of the European Parliament, which shall act by a majority of its component members. This law or framework law shall enter into force after it has been approved by the Member States in accordance with their respective constitutional requirements.

EP decides its own rules with consent of the Council

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 approval by the Council. Council shall act unanimously on all rules or conditions relating to the taxation of Members or former Members.

Taxation rules by unanimity in the Council

Political parties

Article III-233

Funding of European political parties by legislative procedure

A European law shall lay down the regulations governing political parties at European level referred to in Article I-45(4), and in particular the rules regarding their funding.

Article III-234

EP may request initiative from Commission by absolute majority

The European Parliament may, acting 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.

Temporary Committee of Inquiry

Article III-235

Request by 1/4 of EP members, decided by

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

simple majority

*Investigate
maladministration*

*Committees exist until
a report is submitted*

*EP decides law with
approval from the
Council and
Commission*

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 the submission of its report.

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 approval of the Council of Ministers and of the Commission.

Petitions

Article III-236

Right to petition EP

In accordance with Article I-8(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 citizens or persons, a petition to the European Parliament on a matter which comes within the Union's fields of activity and which affects him or her directly.

Ombudsman

Article III-237

*EP appoint an
Ombudsman*

*Ombudsman receives
complaints on
maladministration*

1. The European Parliament shall elect a European Ombudsman. In accordance with Article I-8(2)(d) and I-48 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 and agencies with the exception of the Court of Justice of the European Union acting in its judicial role.

Own initiative

In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him 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 shall refer the matter to the Institution, body, offices or agency concerned, which shall have a period of three months in which to inform him of its views. The Ombudsman shall then forward a report to the European Parliament and the Institution, body, offices or agency concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

*Report to EP on
findings*

<i>Annual report to EP</i>	The Ombudsman shall submit an <u>annual report</u> to the European Parliament on the outcome of his inquiries.
<i>Appointed after each EP election</i>	2. The Ombudsman shall be <u>elected after each election</u> of the European Parliament for the duration of its term of office.
<i>Reappointable</i>	The Ombudsman shall be eligible for <u>reappointment</u> .
<i>EU Court can dismiss at EP request</i>	The Ombudsman may be <u>dismissed by the Court of Justice</u> at the <u>request</u> of the European <u>Parliament</u> if he no longer fulfils the conditions required for the performance of his duties or if he is guilty of serious misconduct.
<i>Completely independent</i>	3. The Ombudsman shall be <u>completely independent</u> in the performance of his duties. In the performance of those duties he shall neither seek nor take instructions from any Institution, body, offices or agency. The Ombudsman may not, during his term of office, engage in any other occupation, whether gainful or not.
<i>EP decides law, the Council approves</i>	4. A <u>law</u> of the European Parliament shall lay down the <u>regulations</u> and general conditions governing the performance <u>of</u> the European Ombudsman's <u>duties</u> . The European Parliament act on its own initiative after seeking an <u>opinion</u> from the <u>Commission</u> and with the <u>approval</u> of the <u>Council</u> .
Article III-238	
<i>At present, EP meets 12x4 days in Strasbourg and 6x2 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 Members or at the request of the Council or of the Commission.
Article III-239/242	
<i>Council shall be heard</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 shall 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. 3. The European Parliament shall discuss in <u>open session</u> the annual

Annual report

general report submitted to it by the Commission.

Voting rule

Article III-240

Act by majority of votes cast

Save as otherwise provided in the Constitution, the European Parliament shall act by a majority of the votes cast. The Rules of Procedure shall determine the quorum.

Article III-241

Rules of Procedure by absolute majority of members

The European Parliament shall adopt its Rules of Procedure, acting 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 its Rules of Procedure.

Censure of Commission

Article III-243

*- cannot vote until three days after motion
- open session
- 2/3 majority of votes cast and majority of members*

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 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 Commission shall resign. It shall continue to deal with current business until they are replaced in accordance with Article I-25 and I-26. In this case, the term of office of the Members of the Commission appointed to replace it shall expire on the date on which the term of office of the Commission which was obliged to resign would have expired.

Commission shall resign as a body (no censure of specific individuals)

European Council

Subsection 2
The European Council

Article III-244

A member can represent one other member

1. Where a vote is taken, any member of the European Council may also act on behalf of not more than one other member.

Abstention does not prevent unanimity

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

*Procedural rules by
simple majority*

General Secretariat

The Council

*President convene
Council*

*A member can
represent one other
member
Simple majority is a
majority of members*

*Abstention does not
prevent unanimity*

COREPER

*Permanent
representative from all
Member States prepare
Council's work*

*Organisation of the
Council secretariat by
simple majority*

Rules of Procedure by

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

3. The European Council act by 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 of Ministers.

Subsection 3 The Council

Article III-245

The Council shall meet when convened by its President on his own initiative or at the request of one of its members or of the Commission.

Article III-246

1. Where a vote is taken, any member of the Council may also act on behalf of not more than one other member.

2. Where the Council is required to act by a simple majority, the Council shall act by a majority of its members.

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

Article III-247

1. A committee consisting of the Permanent Representatives 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 Rules of Procedure of the Council.

2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council of Ministers.

The Council shall decide on the organisation of the General Secretariat by a simple majority.

3. The Council shall act by a simple majority regarding procedural

<i>simple majority</i>	<p>matters and for the adoption of its <u>Rules of Procedure</u>.</p> <p style="text-align: center;">Article III-248</p> <p>The <u>Council</u>, acting by a <u>simple majority</u>, may <u>request</u> the <u>Commission</u> to undertake any studies the Council considers desirable for the attainment of the common objectives, and <u>to submit</u> to it any appropriate <u>proposals</u>. If the Commission does not submit a proposal, it shall inform the Council of the reasons.</p>
Committees	Article III-249
<i>Rules for committees adopted by simple majority in the Council</i>	<p>The <u>Council</u> shall adopt European decisions laying down the <u>rules governing the committees</u> provided for in the Constitution. It shall act by a <u>simple majority</u> after consulting the Commission.</p>
The Commission	<p>Subsection 4 The European Commission</p> <p>Article III-250</p>
<i>Term: 5 years Only Member States' nationals</i>	<p>1. European Commissioners and Commissioners shall be appointed for a <u>period of five years</u>, subject, if need be, to Article III-243, III-252 and III-253. <u>Only nationals</u> of Member States may be <u>European Commissioners</u> or <u>Commissioners</u>.</p> <p style="text-align: center;">Article III-251</p>
<i>Commission must be completely independent</i>	<p>European Commissioners and Commissioners shall refrain from any action incompatible with their duties. Each Member State shall respect their independence and shall <u>not to seek to influence</u> them in the performance of their tasks.</p>
<i>Commissioners have no other occupation</i>	<p>European Commissioners and Commissioners may <u>not</u>, during their term of office, engage in any <u>other occupation</u>, 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 <u>behave with integrity</u> 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 <u>Court</u> of Justice may, on application by the Council, acting by a simple majority, or the Commission, rule that the Member concerned be, according to the circumstances, either <u>compulsorily retired</u> in accordance with</p>
<i>Must behave with integrity towards the office...</i>	
<i>...if not EU Court can compulsorily retire</i>	

Members or deprive them of a pension

Article III-253 or deprived of his right to a pension or other benefits in its stead.

Article III-252

President can fire other members

1. Apart from normal replacement, or death, the duties of a European Commissioner or Commissioner shall end when he resigns or is compulsorily retired. A European Commissioner or Commissioner shall resign if the President so requests.

Vacancy shall be filled by normal appointment procedure

2. A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the European Commissioner or Commissioner's term of office by a new European Commissioner or Commissioner appointed by the President of the Commission in accordance with Article I-25 and Article I-26.

Procedure for replacing the President

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, by a European decision adopted in accordance with Article I-26(1).

If the whole Commission steps down it shall remain in office until replaced

4. In the case of the resignation of all European Commissioners and Commissioners, they shall remain in office until they have been replaced, for the remainder of their term of office, in accordance with the procedures laid down in Articles I-25 and I-26.

Article III-253

If a member does not fulfil duties or is guilty of serious misconduct they can be retired by EU Court

If any European Commissioner or Commissioner no longer fulfils the conditions required for the performance of his duties or if he 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.

Article III-254

*President decides portfolios
May reshuffle*

The responsibilities incumbent upon the Commission shall be structured and allocated among its Members by its President, subject to Article I-26(3) of the Constitution. The President may reshuffle the allocation of those responsibilities during the Commission's term of office. European Commissioners and Commissioners shall carry out the duties devolved upon them by the President under his authority.

Voting

*College acts by
majority of members*

Article III-255

The Commission shall act by a majority of the Members of the College. The Rules of Procedure shall determine the quorum.

Rules of Procedure

Article III-256/257

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.

The EU Court

Subsection 5

The Court of Justice of the European Union

Article III-258

*Three formations:
- 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 rules laid down for that purpose in the Statute of the Court of Justice of the European Union.

Advocates-General

Article III-259

*8 Advocates-General
Number can be
increased by unanimity*

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

*- impartial
- independent
- make submissions
when their involvement
is required*

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

Article III-260

*Shall have
qualifications for the
highest positions within
their national legal
systems*

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

Chosen by common accord

of the Member States after consulting the panel provided for in Article III-262.

Partial replacement every third year

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice of the European Union.

The Court elects its own President for three years. May re-elect

The Judges shall elect the President of the European Court of Justice from among their number for a term of three years. He may be re-elected.

The Council approves rules

The Court of Justice shall establish its Rules of Procedure. Those Rules shall require the approval of the Council.

The High Court
- Former Court of First Instance
May have more than one judge from each country

Article III-261

Independent
Able to hold high legal office
Six years renewable appointment
Partial rotation every three years

The number of Judges of the High Court shall be determined by the Statute of the Court of Justice of the European Union. The Statute may provide for the High Court to be assisted by Advocates-General.

The members of the High Court shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high legal office. They shall be appointed by common accord of the governments of the Member States for a term of six years after consulting the panel provided for in Article III-262.

The membership of the High Court shall be partially renewed every three years. Retiring members may be reappointed.

President for three years. May re-elect

The Judges shall elect the President of the High Court from among their number for a term of three years. He may be re-elected.

Council approves rules by qualified majority

The High Court shall establish its Rules of Procedure in agreement with the European Court of Justice. It shall act after receiving the approval of the Council of Ministers.

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

The panel

Article III-262

Panel gives opinion on

A panel shall be set up in order to give an opinion on candidates' suitability

<i>candidates</i>	to perform the duties of Judge and Advocate-General of the European Court of Justice and the High Court before the governments of the Member States make the appointment referred to in Articles III-260 and III-261.
<i>7 members</i> <i>- 6 proposed by</i> <i>President of the Court,</i> <i>one by EP</i> <i>- The Council appoint</i> <i>by qualified majority</i>	The panel shall comprise <u>seven persons</u> chosen from among <u>former</u> members of the <u>Court</u> of Justice and the High Court, <u>members of national supreme courts</u> and <u>lawyers of recognised competence</u> , <u>one</u> of whom shall be <u>proposed</u> by the European <u>Parliament</u> . The <u>Council</u> shall adopt a European decision establishing the panel's operating rules and a European decision <u>appointing</u> its members. It shall act on the <u>initiative</u> of the <u>President</u> of the <u>Court</u> of Justice.
<i>Jurisdiction of High Court</i>	Article III-263
<i>Competence of the High Court be extended in the Statute</i>	1. The High Court shall have <u>jurisdiction</u> to hear and determine at <u>first instance</u> actions or proceedings referred to in Articles III-270, III -272, n III-275, III-277 and III-279, with the <u>exception</u> of those <u>assigned</u> to a <u>judicial panel</u> and those reserved in the <u>Statute</u> for the <u>Court of Justice</u> . The Statute <u>may</u> provide for the High Court to <u>have jurisdiction</u> for <u>other classes</u> of action or proceeding.
<i>Appeal only on points of law</i>	Decisions given by the High Court under this paragraph <u>may</u> be subject to a right of <u>appeal</u> to the <u>Court of Justice</u> on points of <u>law only</u> , under the conditions and within the limits laid down by the Statute of the Court of Justice of the European Union.
<i>Decisions by the specialised courts can be appealed to the High Court</i>	2. The High Court shall have jurisdiction to hear and determine actions or <u>proceedings</u> brought <u>against</u> decisions of the <u>judicial panels</u> set up under Article III-264.
<i>Exceptionally, High Court rulings are reviewed by the Court of Justice</i>	Decisions given by the High Court under this paragraph may exceptionally be subject to <u>review</u> by the <u>Court of Justice</u> , under the conditions and within the limits laid down by the Statute of the Court of Justice of the European Union, where there is a serious risk of the unity or consistency of Union law being affected.
<i>Preliminary rulings</i>	3. The High Court shall have <u>jurisdiction</u> to hear and determine questions referred for a preliminary ruling under <u>Article III -274</u> , in specific areas laid down by the Statute of the Court of Justice of the European Union.
<i>Decision of principle can be tried by Court of Justice</i>	Where the High Court considers that the case requires a <u>decision</u> of <u>principle</u> likely to affect the unity or consistency of Union law, it <u>may refer</u> the case to the <u>Court of Justice</u> for a ruling.

Decisions given by the High Court on questions referred for a preliminary ruling may exceptionally be subject to review by the European 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.

Specialised courts

Article III-264

Determines cases in first instance in specific areas

1. European laws may establish specialised courts attached to the High 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.

Rules laid down in law by legislative procedure

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.

Appeals only on points of law, unless otherwise stated in the rules

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 High Court.

Independent judges appointed unanimously by the Council

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.

Rules of specialised courts adopted by the Council

5. The specialised courts shall establish their Rules of Procedure in agreement with the Court of Justice. They shall act after receiving the approval of the Council.

Unless otherwise stated, rules for Court of Justice also apply to specialised courts

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 shall apply to the specialised courts. Title I of the Statute and Article 64 thereof shall in any case apply to the specialised courts.

Bringing a Member State before EU Court
By the Commission:
1. Letter of formal notice to the Member

Article III-265

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

State

2. Response by the

Member State

3. EU Court decision

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.

Article III-266

By another Member State:

1) Sends matter to Commission

2) Each State submits response

3) Reasoned opinion from Commission

within three months

4) EU Court decision

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.

Failure of compliance with Court ruling

Member States must comply with EU Court rulings

Article III-267

1. If the Court of Justice of the European Union finds that a Member State has failed to fulfil an obligation under the Constitution, the State shall be required to take the necessary measures to comply with the judgement of the Court.

Commission can take a Member State to court for non-compliance with EU Court decision

2. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the judgement of the Court of Justice of the European Union, it may bring the case before the Court after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

Penalty payment

Commission propose fine, EU Court decides

If the Court finds that the Member State concerned has not complied with its judgement it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article III-266

Member States can be fined for failure to notify on measures transposing framework law

3. When the Commission brings a case before the Court of Justice of the European Union pursuant to Article III-265 on the grounds that the State concerned has failed to fulfil its obligations to notify measures transposing a European framework law, it may, when it deems appropriate, specify the amount of a 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 not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment.

Penalties

Article III-268

EU Court has unlimited jurisdiction over penalties

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-269

EU Court's competence over industrial property rights set out by law

Without prejudice to the other provisions of the Constitution, a European law shall 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 industrial property rights.

Legality of acts

Article III-270

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 ECB, 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 and agencies of the Union which 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 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 statement on complaints from Court of Auditors, Central Bank and Committee of the Regions to protect prerogatives

Persons must be "directly and individually" concerned

Special rules for offices, agencies and bodies

Deadline: cases shall be brought before the EU Court within two months

Validity

EU Court can declare an act void if not legal

Can also declare that some parts remain valid

Non-action

The failure of an institution to act can be brought before the EU Court

Must have been called upon to act

3. The Court shall have jurisdiction under the conditions referred to in paragraph 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.

4. Any natural or legal person may, under the conditions referred to in paragraph 1 and 2, institute proceedings against an act addressed to that person or which is of direct and individual concern to him, and against a regulatory act which is of direct concern to him without entailing implementing measures.

5. Acts setting up bodies, agencies and offices of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, agencies or offices intended to produce legal effects in relation to them.

6. The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

Article III-271

If the action is well founded the Court of Justice of the European Union shall declare the act concerned to be void.

However, the Court of Justice shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive.

Article III-272

Should the European Parliament, the European Council, the Council or the Commission, or the European Central Bank in infringement of the Constitution, fail to act, the Member States and the other institutions of the Union may bring an action before the Court of Justice of the European Union to have the infringement established. This provision shall apply, under the same conditions, to offices, agencies and bodies of the Union which fail to act.

The action shall be admissible only if the Institution, office, agency or body concerned has first been called upon to act. If, within two months of being

so called upon, the institution, agency or body concerned has not defined its position, the action may be brought within a further period of two months.

Anyone can complain

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court of Justice that an institution, offices, agency or body of the Union has failed to address to that person any act other than a recommendation or an opinion.

Article III-273

Obligation to comply with judgements

The institution, offices, agency or body whose act has been declared void, or whose failure to act has been declared contrary to the Constitution, shall be required to take the necessary measures to comply with the judgement 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-337

Preliminary rulings

Article III-274

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, organs, bodies and agencies of the Union;

Any 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 judgement, request the Court to give a ruling thereon.

If the national right of appeal has been exhausted the matter must 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.

Article III-275

Compensation for damages

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 paragraph of Article III-337.

Article III-276

If the Council suspend membership rights only procedural questions can be taken to 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-58 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.

Article III-277

Dispute 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 or the Conditions of Employment.

European Investment Bank

Article III-278

The Court can rule on:

The Court of Justice of the European Union shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning:

- the Statute of EIB

(a) the fulfilment by Member States of obligations under the Statute of the European Investment Bank. In this connection, the Board of Directors of the Bank shall enjoy the powers conferred upon the Commission by Article III-265;

- measures adopted by EIB Board of Governors

(b) measures adopted by the Board of Governors of the European Investment Bank. In this connection, any Member State, the Commission or the Board of Directors of the Bank may institute proceedings under the conditions laid down in Article III-270;

- measures adopted by EIB Board of Directors

(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-270, and solely on the grounds of non-compliance with

- fulfilment of obligations by national central banks

the procedure provided for in Article 21(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. 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-265. 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 judgement of the Court.

Arbitration

Article III-279

Jurisdiction in cases of both private and public law

The Court of Justice of the European Union shall have jurisdiction to give judgement 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-281/280/284

Member States' courts are not excluded in cases where the Union is party, unless otherwise specified

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.

Primacy clause in Constitutional interpretation.
Only use the EU Court, not the national High Courts, for interpretation

2. Member States undertake not to submit a dispute concerning the interpretation or application of the Constitution to any method of settlement other than those provided for therein.

In other disputes the EU Court can rule if parties in question agree to allow it

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.

Common foreign and security policy

Article III-282

- no jurisdiction

The Court of Justice of the European Union shall not have jurisdiction with respect to Articles I-39 and I-40 and the provisions of Chapter II of Title V

- rules of procedure

concerning the common foreign and security policy.

However, the Court shall have jurisdiction to monitor compliance with Article III-209 and to rule on proceedings, brought in accordance with the conditions laid down in Article III-207(4), reviewing the legality of European decisions providing for restrictive measures against natural or legal persons, adopted by the Council on the basis of Chapter II of Title V.

***Area of freedom,
security and justice***

Article III-283

*No jurisdiction over the
control of national
police and security
where such action is a
matter of national law*

In exercising its powers regarding the provisions of Sections 4 and 5 of Chapter IV of Title III concerning 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 national security, where such action is a matter of national law.

*Inapplicability of
general acts can
always be tested*

Article III-285

Notwithstanding the expiry of the period laid down in Article III-270(6), any party may, in proceedings in which a measure of general application adopted by an Institution, body, office or agency of the Union is at issue, plead the grounds specified in Article III-270(2) in order to invoke before the Court of Justice of the European Union the inapplicability of that act.

*No suspensory effect,
but EU Court can
choose to suspend the
contested act*

Article III-286

Actions brought before the Court of Justice of the European Union shall not have suspensory effect. The Court may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

Interim measures

Article III-287

The Court of Justice of the European Union may in any cases before it prescribe any necessary interim measures.

Article III-288

<i>Enforcement</i>	<p>The <u>judgements</u> of the Court of Justice of the European Union shall be <u>enforceable</u> under the conditions laid down in Article III-307.</p> <p style="text-align: center;">Article III-289</p>
<i>Statute in a protocol</i>	The <u>Statute</u> of the Court of Justice of the European Union shall be laid down <u>in a Protocol</u> .
<i>Amendment procedure</i>	A European <u>law may amend</u> the provisions of the Statute, with the <u>exception</u> of <u>Title I and Article 64</u> . 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.
	<p>Subsection 5a</p> <p>The European Central Bank</p> <p>Article III-289a</p>
<i>Governing Council</i>	1. The <u>Governing Council</u> 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.
<i>Executive Board</i>	2. (a) The <u>Executive Board</u> shall comprise the President, the Vice-President and four other members.
<i>Members of Executive Board = persons of recognised standing and professional experience</i> <i>Appointment by qualified majority</i>	(b) The President, the Vice-President and the other <u>members of the Executive Board</u> shall be appointed by the European Council, acting by a <u>qualified majority</u> , from among <u>persons of recognised standing and professional experience</u> in monetary or banking matters, on a recommendation from the Council, after it has consulted the European Parliament and the Governing Council of the European Central Bank.
<i>Term of office: 8 years, non-renewable</i> <i>Only EU citizens</i>	<p>Their <u>term of office</u> shall be eight years and shall not be renewable.</p> <p>Only <u>nationals</u> of <u>Member States</u> may be members of the Executive Board.</p> <p style="text-align: center;">Article III-289b</p>
<i>President of Council and one Commissioner</i>	1. The <u>President of the Council</u> and a member of the Commission may participate, without having the right to vote, in meetings of the Governing

*can participate in
Governing Council*

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 Council meetings when the Council is discussing matters relating to the objectives and tasks of the European System of Central Banks.

*Annual report
presented to:*
- *European Parliament*
- *the 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 current year to the European Parliament, the Council of Ministers and the Commission, and also to the European Council. The President of the European Central Bank shall present this report to the Council and to the European Parliament, which may hold a general debate on that basis.

*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 6 The Court of Auditors

Tasks:

Article III-290

*- examine 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 relevant constituent instrument establishing that body, office or agency does not preclude such examination.

*- tatement of assurance
and reliability of the
underlying transactions
(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 on
irregularities

report in particular on any cases of irregularity.

- audit both amounts
established and
amounts paid

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.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

- perform audits based
on documents and
inspections

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions, or on the premises of any body, office or agency which manages revenue or expenditure on behalf of the Union and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

...in liaison with
national audit bodies

The other Institutions, bodies, offices or agencies managing revenue or expenditure on behalf of the Union, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

Access to information
of the Investment Bank

In respect of the European Investment Bank's activity in managing Union revenue and expenditure, the Court's rights of access to information held by the Bank shall be governed by an agreement between the Court, the Bank and the Commission. In the absence of an agreement, the Court shall nevertheless have access to information necessary for the audit of Union expenditure and revenue managed by the Bank.

- draw up an annual
report

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Union*.

- submit special reports

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions.

<i>Adopts annual reports by a majority of members</i>	It shall adopt its annual reports, special reports or opinions by a <u>majority of its 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 powers of control over the implementation of the budget.
<i>Rules of Procedure, approved by the Council</i>	The Court of Auditors shall <u>adopt its Rules of Procedure</u> . It shall act after obtaining the approval of the Council
<i>Terms of employment:</i>	Article III-291
<i>- especially qualified</i>	1. The Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective States to <u>external audit bodies</u> or who are <u>especially qualified</u> for this office. Their <u>independence must be beyond doubt</u> .
<i>- term of six years, renewable</i>	2. The Members of the Court of Auditors shall be appointed for a <u>term of six years</u> . Their term of office shall be <u>renewable</u> . The Council shall adopt on its own initiative the list of Members drawn up in accordance with the proposals made by each Member State. It shall act after consulting the European Parliament.
<i>- president elected for three years, renewable</i>	The Members of the Court of Auditors shall <u>elect</u> their <u>President</u> from among their number for a term of <u>three years</u> . He may be <u>re-elected</u> .
<i>- completely independent</i>	3. In the performance of their duties, Members of the Court of Auditors shall <u>neither seek nor take instructions</u> from any government or from any other body. They shall refrain from any action incompatible with their duties.
<i>- no other occupation</i>	4. Members of the Court of Auditors may <u>not</u> , during their term of office, engage in any <u>other occupation</u> , 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 <u>behave with integrity</u> and discretion as regards the acceptance, after they have ceased <u>to hold office</u> , of certain appointments or benefits.
<i>- behave with integrity towards the office</i>	
<i>- EU Court can retire auditors</i>	5. Apart from normal replacement, or death, the duties of a Member of the Court of Auditors shall end when he resigns, or is <u>compulsorily retired</u> by a ruling of the <u>Court of Justice</u> pursuant to paragraph 6.

*- at the request of
Court of Auditors the
EU Court can remove a
member*

The vacancy thus caused shall be filled for the remainder of the Member's term of office.

Save in the case of compulsory retirement, Members of the Court of Auditors shall remain in office until they have been replaced.

6. A Member of the Court of Auditors may be deprived of his office or of his 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 no longer fulfils the requisite conditions or meets the obligations arising from his office.

Advisory bodies

SECTION 2 THE UNION'S ADVISORY BODIES

Committee of Regions

Subsection 1 The Committee of the Regions

Article III-292

*Maximum 350
members*

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 five-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.

Not EP-member

*The Council choose
members*

The Council shall adopt, on its own initiative, the European decision establishing the list of members and alternate members drawn up in accordance with the proposals made by each Member State.

When the mandate referred to in Article I-31(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.

Article III-293

*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.

The Committee 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-294

- when provided for or 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 on opinion - 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 may 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.

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. It may 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

Article III-295

Up to 350 members

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.

Article III-296

Term of five-years, renewable

The members of the Committee shall be appointed for five years. Their term of office shall be renewable. The Council shall adopt, on its own initiative a European decision establishing the list of members drawn up in

*The Council appoints
after consulting
Commission*

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.

Article III-297

*Chairman and officers
elected for 2½ years*

The Committee shall elect its chairman and officers from among its members for a term of two and a half years.

The Committee shall be convened by its chairman at the request of the European Parliament, of the Council of Ministers or of the Commission. It may also meet on its own initiative.

It shall adopt its Rules of Procedure.

Consultation

Article III-298

*- when provided for or
of particular interest*

The Economic and Social Committee shall be consulted by the European Parliament, by the Council or by the Commission where the Constitution so provides. It may be consulted by these institutions in all other cases which they consider it appropriate. It may also issue an opinion on its own initiative.

*Time limit on opinion -
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 may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time-limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee, together with a record of the proceedings, shall be forwarded to the European Parliament, the Council and to the Commission.

European Investment Bank

SECTION 3 THE EUROPEAN INVESTMENT BANK

Article III-299

Legal personality

The European Investment Bank shall have legal personality.

Member States are members

Its members shall be the Member States.

The Council decides amendments to Statute by unanimity

The Statute of the Bank is laid down in a Protocol.

European laws of the Council may amend the Statute of the Bank. The Council shall act unanimously, either at the request of the Bank and after consultation of the European Parliament and the Commission, or on a proposal from the Commission and after consultation of the European Parliament and the Bank.

The Bank's role:

Article III-300

- balanced and steady development of the internal market through non-profit loans

The task of the Bank shall be to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the internal market in the Union's interest. For this purpose the Bank shall, operating on a non-profit-making basis, grant loans and give guarantees which facilitate the financing of the following projects in all sectors of the economy:

- development projects

(a) projects for developing less-developed regions;

- modernising or converting undertakings

(b) projects for modernising or converting undertakings or for developing fresh activities called for by the progressive establishment 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;

- fresh activities

- large projects of common interest

(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 Bank shall facilitate the financing of investment programmes in conjunction with assistance from the Structural Funds and other Union financial instruments.

Decision making procedures

SECTION 4 PROVISIONS COMMON TO UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

Article III-301

Unanimity required in the Council to amend Commission proposals

1. Where, in pursuance of the Constitution, the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal, except in the cases referred to

*Until the Council acts
Commission can amend
its proposal*

in Articles I-54, I-55, III-302(10) and (13), III-310 and III-311(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.

***The legislative
procedure***

Article III-302

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

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

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

3. The European Parliament shall adopt its position at first reading and communicate it to the Council.

*3.a) The Council
approve = proposal is
adopted
(Council by QMV)*

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.

*3.b) The Council does
not approve = makes
own position, sends it
to EP
(Council by QMV)*

5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.

*Commission inform EP
of its position*

6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

Second reading

*If, within three months,
the EP:*

7. If, within three months of such communication, the European Parliament

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

(a) approves the position of the Council 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;

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

4.c) amends the Council position by absolute majority = sends it back to the Council

Commission gives opinion on amendments

If, within three 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 is required for the Council to amend if the Commission has given a negative opinion

6) Conciliation Committee

Composed of equal numbers from the Council and EP

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

(b) rejects, by an absolute majority of its component members, the position of the Council at first reading, the proposed act shall be deemed not to have been adopted;

(c) proposes, by an absolute majority of its component members, amendments to the position of the Council at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.

8. If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority,

(a) approves all those amendments, the act in question shall be deemed to have been adopted;

(b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.

Conciliation

10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of representatives of the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within six weeks of its being convened, on the basis of the positions of the Parliament and the Council at second reading.

Commission observe conciliation meetings

*If no approval in committee from either the Council or EP delegation the proposal is rejected
Time limit: 6 weeks*

7) Joint text to the Council and EP

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

Deadline: six weeks or else rejected

Deadlines can be extended

Special rules when a group of States are proposing

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

Inter-institutional agreements

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, Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

Third reading

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by an absolute 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 either of the two institutions fails to approve the proposed act within that period, it shall be deemed not to have been adopted.

14. The period of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

Special provisions

15. Where, in the case 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 or of the European Central Bank, paragraphs 2, 6 in fine and 9 shall not apply.

In such cases the European Parliament and the Council shall communicate to the Commission the proposal of the group of Member States or of the European Central Bank and their positions at first and second readings.

The European Parliament or the Council may request the opinion of the Commission throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee on the terms laid down in paragraph 11.

Article III-303

Commission, EP and the Council can make inter-institutional agreements

The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Constitution, conclude interinstitutional agreements which may be of a binding nature.

European public service

Article III-304

- supports the institutions

1. In carrying out their tasks, the institutions, offices, agencies and bodies of the Union shall have the support of an open, efficient and independent European administration.

Legislative procedure

2. Without prejudice to Article III-332, European laws shall establish specific provisions to that end.

Transparency

Article III-305

Institutions, offices, agencies and bodies make rules for public access

1. The Institutions, bodies, offices and agencies of the Union shall ensure transparency in their work and shall, in application of Article I-49, lay down in their rules of procedure the specific provisions for public access to 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-49(3) and to the present Article only when exercising their administrative tasks.

EP and the Council responsible for making documents public

2. The European Parliament and the Council of Ministers shall ensure publication of the documents relating to the legislative procedures under the terms laid down by the law referred to in Article I-49(4).

Salaries

Article III-306

The Council decide by qualified majority on:

- salaries

- allowances

- pensions

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 European Commissioners, the Commissioners, the President, Members and Registrar of the European 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 subparagraphs (a) and (b) above.

2. The Council shall adopt European regulations and decisions determining the allowances of the Members of the Economic and Social Committee.

Fines

Article III –307

Acts imposing fines are enforceable, but not on Member States

Acts of the Council of Ministers, 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-308

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-54.

Shall fix ceilings for expenditure areas

2. The financial framework shall fix 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, few in number, shall correspond to the Union's major sectors of activity.

*Shall make budgetary procedure run smoothly
If no new framework is adopted the old is extended*

The Council, Commission and EP shall facilitate the procedure

The Budget

Financial year

Budget provisions

- established by law

1) Each institution draws up an estimate

2) Commission makes a draft budget

Submit the draft budget before 15 June to Council and EP

3) The Council sends an opinion to EP

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

4. Where no European law of the Council determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that law is adopted.

5. Throughout the procedure leading to the adoption of the multiannual financial framework, the Parliament, the Council and the Commission shall take any measure necessary to facilitate the successful completion of the procedure.

SECTION 2
THE UNION'S ANNUAL BUDGET

Article III-309

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

Article III-310

A European law shall establish the Union's annual budget in accordance with the following provisions:

1. Each Institution shall, before 1 May, draw up estimates of its expenditure for the following year. The Commission shall consolidate these estimates in a draft budget. It shall attach thereto an opinion which may contain different estimates.

The draft budget shall contain an estimate of revenue and an estimate of expenditure.

The Commission may amend the draft budget during the procedure until such time as the Conciliation Committee, referred to in paragraph 5 below, is convened.

2. The Commission shall submit a proposal containing the draft budget to the European Parliament and the Council not later than 15 June of the year preceding that in which the budget is to be implemented.

3. The Council shall adopt its position on the draft budget law and forward it to the European Parliament not later than 1 September of the year

<i>before 1 September</i>	preceding that in which the budget is to be implemented. The Council of Ministers shall inform the European Parliament fully of the reasons which led it to adopt its position.
<i>4.a) EP approves = budget adopted</i>	4. If, <u>within 40 days</u> of such communication, the European Parliament: <ul style="list-style-type: none"> (a) <u>approves</u> the Council position, the European <u>law</u> establishing the <u>budget</u> shall be deemed to have been <u>adopted</u>;
<i>4.b) EP does not take a decision = 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 amend by majority of all members = Conciliation Committee is convened, unless the Council approves all EP amendments</i>	(c) <u>proposes amendments</u> to the Council position 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 immediately convene a meeting of the <u>Conciliation Committee</u> . However, if within <u>ten days</u> , the <u>Council</u> informs the European Parliament that it has <u>approved</u> all its amendments, the Conciliation Committee shall <u>not meet</u> .
<i>5.) The Council and EP agree on a joint text within 21 days</i>	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 representatives of 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 participate 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>6.a) Joint text to be approved within 21 days The Council decide by qualified majority, EP by majority of votes within 14 days</i>	6. If, within the <u>twenty-one days</u> referred to in paragraph 5, the Conciliation Committee approves a joint text, the European <u>Parliament</u> , acting by a <u>majority of the votes cast</u> , and the <u>Council</u> ¹ shall each have a period of <u>fourteen days</u> from the date of that approval <u>in which to adopt</u> the European law establishing the budget in accordance with the joint text.
<i>6.b) If Conciliation Committee does not</i>	7. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not approve a joint text or if, within the fourteen days

approve joint text within 21 days or the Council rejects the text = EP may confirm, by absolute majority and 60% of the votes cast, its amendments

7.a) The Council can request a new draft budget within 14 days

7.b) EP can ask for new budget by majority of members comprising 60% of votes cast

8) President of EP declares budget adopted

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

Expenditure can go

referred to in paragraph 6, the Council rejects the joint text⁵ or fails to take a decision on the joint text, the Parliament may, within fourteen days, acting by a majority of its component members and three fifths of the votes cast, confirm its amendments. Where the Parliament amendment is not confirmed, the position of the Council on the budget heading which is the subject of the amendment shall be deemed to have been adopted

8. The Council may, within a period of fourteen days from the date on which the European Parliament confirms its amendments, reject¹ the text resulting from the application of paragraph 7 and request¹ that a new draft budget be submitted by the Commission. If within that time the Council has not taken a decision, the European law establishing the budget shall be deemed to have been definitively adopted in accordance with the joint text.

9. However, if the European Parliament, acting by a majority of its component members and three fifths of the votes cast, rejects the joint text within the fourteen days referred to in paragraph 6, it may ask for a new draft budget to be submitted by the Commission. If, within that time limit, the European Parliament fails to take a decision, the European law establishing the budget shall be deemed to have been definitively adopted in accordance with the joint text.

10. 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.

11. Each institution shall exercise the powers conferred upon it under this Article in compliance with the provisions of 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-311

1. If at the beginning of a financial year no European law establishing the budget has been finally 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 provisions of the European law referred to in Article III-318; that sum may not, however, exceed one twelfth of the appropriations provided for in the draft budget.

2. The Council, on a proposal by the Commission and in compliance

⁵ p.m.: Under Article I-22(3), decisions of the Council shall be taken by qualified majority.

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

with the other conditions laid down in the first paragraph, may adopt a European decision authorising expenditure in excess of one twelfth in accordance with the European law referred to in Article III-318. The Council shall forward the decision immediately to the European Parliament.

The European decision shall lay down the necessary measures relating to resources to ensure application of this Article, in accordance with the European laws referred to in Article I-53(3) and (4).

It shall enter into force thirty days following its adoption if the European Parliament, acting by a majority of its component members, has not decided to reduce this expenditure within that time-limit.

Article III-312

Carry forward expenditures

In accordance with conditions laid down by the European law referred to in Article III-318, 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-318.

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

The expenditure of
- the European Parliament,
- the European Council and the Council,
- the Commission
- and the Court of Justice

shall be set out in separate sections of the budget, without prejudice to special arrangements for certain common items of expenditure.

Implementation

SECTION 3: IMPLEMENTATION OF THE BUDGET AND DISCHARGE

Article III-313

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-318, 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
Institutions' rules and responsibilities*

The European law referred to in Article III-318 shall establish the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities. It shall establish responsibilities and detailed rules for each Institution concerning its part in effecting its own expenditure.

Commission may transfer between chapters of the budget

The Commission may, subject to the limits and conditions laid down by the European law referred to in Article III-318, make transfers of appropriations between chapters or between subdivisions within the budget.

Accounts

Article III-314

Commission submit 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-315.

Discharge

Article III-315

EP gives discharge to Commission after recommendation of the Council

1. The European Parliament, on a recommendation from the Council, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts, the financial statement and the evaluation report referred to in Article III-290(1), 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-290(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 act on observations in

3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by

discharge

the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.

Commission reports on measures taken

4. At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget. These reports shall also be forwarded to the Court of Auditors.

SECTION 4 COMMON PROVISIONS

Article III-316

Budget in euros

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

Article III-317

Commission can transfer 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.

Article III-318

Financial rules

1. European laws shall establish:

- established in law

(a) the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;

(b) rules providing for checks on the responsibility of financial actors, in particular authorising officers and accounting officers.

*Consult Court of
Auditors*

It shall be adopted after consultation of the Court of Auditors.

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

2. A Council regulation adopted on a proposal from the Commission shall lay down measures determining 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 of Ministers shall act after consulting the European Parliament and the Court of Auditors.

*Council act by
unanimity until 2007*

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

Article III-319

*Must respect legal
obligations*

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-320

*Meetings between the
Council, Commission
and EP on budget
questions*

Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened on the initiative of the Commission under the budgetary procedures referred to in this Chapter. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the Institutions over which they preside to facilitate the implementation of the provisions of this Chapter.

Combating fraud

SECTION 5 COMBATING FRAUD

Article III-321

*Same measures to
protect the Union as
Member States*

1. The Union and the Member States shall counter fraud and any other illegal activities affecting the Union's financial interests through measures adopted 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 steps to counter fraud affecting the Union's financial interests as they take to counter fraud affecting their own financial interests.

Member States shall coordinate actions

3. Without prejudice to other provisions of the Constitution, the Member States shall coordinate their action aimed at protecting the Union's financial interests against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.

Acts adopted by legislative procedure, Court of Auditors consulted

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.

Annual report to EP and the Council

5. The Commission, in cooperation with Member States, shall each year submit to the European Parliament and to the Council a report on the measures and provisions adopted for the implementation of this Article.

Enhanced Cooperation

**CHAPTER III
ENHANCED COOPERATION**

Article III-322

Must comply with the Constitution and the law, may especially not undermine:
- the internal market
- economic, social and territorial cohesion
- trade
- competition

Any enhanced cooperation shall comply with the Union's Constitution and law.

Such cooperation shall not undermine the internal market or economic, social and territorial. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.

Article III-323

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.

Article III-324

Open to all Member States at any time

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of

*within the rules already
laid down*

*As many participating
States as possible*

*EP shall be kept
informed*

*Decision making:
Commission or
Member States propose
The Council decides by
qualified majority, after
assent from EP*

*In CFSP:
Member States address
their request to:
- the Council
- the Foreign Minister
- the Commission*

*The Council acts by
unanimity*

*Application for
participation:
1) Notification of the*

participation which may be laid down in the 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. The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.

2. The Commission and, where appropriate, the Minister for Foreign Affairs shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.

Article III-325

1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Constitution, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

Authorisation to proceed with enhanced cooperation shall be granted by a decision of the Council which shall act on a proposal from the Commission and after obtaining the consent of the European Parliament.

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 Minister for Foreign Affairs, who shall give an opinion on whether the enhanced cooperation contemplated 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 decision of the Council acting unanimously.

Article III-326

1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article III-325(1) shall notify its intention to the Council and the Commission.

Council

*2) Assessment by
Commission (if
disagreement with
Commission's
assessment - Member
State can refer
assessment to Council)*

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. The Council shall act in accordance with Article I-43(3). It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

*3) The Council decides
by qualified majority*

*Enhanced cooperation
in Common Foreign
and Security Policy, the
Minister of Foreign
Affairs shall be
consulted*

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-43(3).

Article III-327

*Unless otherwise
decided, all expenses
except administrative
shall be borne by*

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.

participating states

Article III-329

*The Council and
Commission shall
ensure consistency*

The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end.

**TITLE VII
COMMON PROVISIONS**

***French overseas
departments***

Article III-330

*The Council sets out
special arrangements
for application of the
Constitution on
proposal from
Commission, EP
consulted*

Taking account of the structural economic and social situation of the Guadeloupe, French Guiana, Martinique, Réunion, 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-331

*Property rights are not
affected*

The Constitution shall in no way prejudice the rules in Member States governing the system of property ownership.

Article III-332

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

Article III-333

Legislative procedure

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-334

Commission may collect any information

The Commission may, within the limits and under conditions laid down by a European regulation or decision adopted by a simple majority by the Council, collect any information and carry out any checks required for the performance of the tasks entrusted to it.

Statistics

Article III-335

Production conditions by legislative procedure

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.

Article III-336

The members of the Union's institutions, the members of committees, and the officials and other Union servants shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

Contractual liability

Article III-337

The Union can be held responsible for damage and contractual liability

The Union's contractual liability shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Union shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

Notwithstanding the second paragraph, the European Central Bank shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties.

The personal liability of its servants towards the Union shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of Employment applicable to them.

Seats

Article III-338

By common accord

The seat of the Union's institutions shall be determined by common accord of the Governments of the Member States.

Languages

Article III-339

The Council decides by unanimity

The Council of Ministers shall adopt unanimously a European regulation laying down the rules governing the languages of the Union's Institutions, without prejudice to the Statute of the Court of Justice of the European Union.

Privileges and immunities

Article III-340

The Union shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union. The same shall apply to the European Central Bank and the European Investment Bank.

Article III-341

Agreements between

The rights and obligations arising from agreements concluded before

Member States and 3rd countries made before 1958 or accession are not affected by the Constitution

1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the Constitution.

Member States shall eliminate incompatibilities

To the extent that such agreements are not compatible with the Constitution, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.

In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under the Constitution by each Member State form an integral part of the Union and are thereby inseparably linked with the creation of institutions, on which powers have been conferred by the Constitution and the granting of identical advantages by all the other Member States.

Article III-342

Constitution does not apply to:

1. The Constitution shall not preclude the application of the following rules:

- information about national security

(a) no Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;

- production for military purposes. Shall not, however, affect competition in non-military areas

(b) any Member State may take such steps as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such steps shall not adversely affect the conditions of competition in the internal market regarding products which are not intended for specifically military purposes.

Changes to list of military products made by unanimity in the Council, on proposal from Commission

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

**PART FOUR:
GENERAL AND FINAL PROVISIONS**

Article IV-2

Repeal earlier Treaties

Repeal of earlier Treaties

All previous Treaties disappear, including protocols, unless they are repeated in this Constitution

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 set out in the Protocol on the acts and treaties having supplemented or amended the EC Treaty and the EU Treaty, the acts and treaties which have supplemented or amended them

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 effect shall be preserved in accordance with that Protocol."

"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."

Legal continuity

All rights and obligations continue unless they are in breach of this new all-prevailing Constitution

Article IV-3:
Succession and legal continuity

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.
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 the provisions of Article IV-3a, exercise their powers within the meaning of this Treaty in their composition on that date.
3. the acts of the Institutions, bodies, offices and agencies adopted on the basis of the treaties and acts repealed by Article IV-2 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-2.

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, resolutions or other positions adopted by the European Council or the Council as well as 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 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-2, 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 undertaken prior to the date of entry into force of this Treaty shall be ensured in compliance with the Constitution. The Institutions and bodies responsible for those procedures shall take all appropriate measures to that effect.

Transitional provisions

Article IV-3a

Transitional provisions relating to certain Institutions

Protocol on transitional provision

The transitional provisions relating to the composition of the European Parliament, to [the definition of a qualified majority in the European Council and in the Council, including those cases where not all members of the European Council or Council vote,] and to [the composition of the Commission, including the Union Minister for Foreign Affairs], shall be set out in the Protocol on the transitional provisions relating to the Institutions and bodies of the Union.

Geographical area

Article IV-4

Scope

All Member States

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.

*French overseas departments
Azores, Madeira
Canary Islands*

2. This Treaty shall apply to Guadeloupe, French Guiana, Martinique, Réunion, the Azores, Madeira and the Canary Islands in accordance with Article III-330.

Association

3. The special arrangements for association set out in Title IV of Part III of this Treaty shall apply to the overseas countries and territories listed 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 which are externally represented by the Union</i>	4. This Treaty shall apply to the <u>European territories</u> for <u>whose</u> external relations a <u>Member State</u> is responsible.
<i>Åland Islands</i>	5. This Treaty shall apply to the <u>Åland Islands</u> in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.
	6. Notwithstanding the preceding paragraphs:
<i>Does not apply to the Faroe Islands (or Greenland because it is a non-European territory)</i>	(a) this Treaty shall not apply to the Faeroe Islands;
<i>Does not apply to UK base areas of Cyprus</i>	(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 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 concerning the conditions of accession to the European Union [of 2003], and in accordance with the provisions of that Protocol];
<i>Applies partly to the Isle of Man and the Channel Islands</i>	(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 set out in [the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community, signed on 22 January 1972].
<i>European Council can change status of OCTs by unanimity</i>	7. The <u>European Council</u> may, on the initiative of the Member State concerned, adopt a European decision <u>amending the status</u> , with regard to the Union, of a French or Netherlands <u>overseas country or territory</u> referred to in paragraphs 1, 2 and 3 of this Article, Article III-330 and Annex II. The European Council shall act <u>unanimously</u> after consulting the Commission.

Regional unions

The Union between Belgium, Luxembourg and the Netherlands accepted, (no reference to the Nordic Union)

Article IV-5
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.

Protocols

Old protocols repealed if not repeated here

Article IV-6
Protocols

The protocols annexed to this Treaty shall form an integral part thereof.

Treaty amendments

Member States, the EP and the Commission can initiate amendments

Article IV-7
Procedure for revision

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 of the Member States shall be notified.

The European Council decides by a simple majority to examine amendments

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 Member States, 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.

A Convention convened

EP can block decision not to call a 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 provided for in paragraph 3.

The European Council may decide by a simple majority, after approval by the European Parliament, not to convene the Convention should the scope of the amendments not warrant this. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States.

The result shall be decided "by common accord"

Ratification by all Member States

Political decision among Prime Ministers if up to 20% of the Member States fail to ratify within 2 years

Duration

**"For ever" clause
[this entry should be highlighted – and phrase underlined]**

Deepening clause

European Council can unanimously decide that the Council shall act by qualified majority

Not applicable in the area of defence

European Council can unanimously decide that the ordinary legislative procedure shall apply

Any national Parliament can veto the decision

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 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-7a Duration

This Treaty establishing the Constitution is concluded for an unlimited period.

Article IV-7a (new)

1. Where Part III provides that the Council should act by unanimity in a given area or case, the European Council may adopt a European decision authorising the Council to act by a qualified majority in that area or in that case.

This paragraph shall not apply to decisions with military implications or those in the area of defence.

2. Where Part III provides for European laws and framework laws to be adopted by the Council according to a special legislative procedure, the European Council may adopt a European decision allowing for the adoption of such European laws or framework laws according to the ordinary legislative procedure.

3. Any initiative taken by the European Council on the basis of paragraphs 1 or 2 shall be notified to the national Parliaments of the Member States. 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 is 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.

Easy revision for internal policies

Article IV-7b

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 of the Union.

European Council decides by unanimity to amend

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 consultation of the European Parliament and the Commission.

Amendments must be approved by the Member States....

Such a 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 the competence of the Union

3. The European decision referred to in paragraph 2 may not increase the competences attributed to the Union by this Treaty.

Ratification and entry into force

Article IV-8 Ratification and entry into force

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 entry into force

2. This Treaty shall enter into force on ..., 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-10 Authentic texts

All versions are equal, (but it is wise to consult the French version if

This Treaty, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish, Swedish and ... languages, the texts in each of these languages being

*there is doubt over
interpretation)*

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.

In witness whereof, the undersigned plenipotentiaries have signed this Treaty.

Done at ... this ...

**PROTOCOL ON THE ROLE OF MEMBER STATES' NATIONAL
PARLIAMENTS IN THE EUROPEAN UNION**

THE HIGH CONTRACTING PARTIES,

*The organisation of
Parliament is a purely
national question....*

RECALLING that the way in which national Parliaments scrutinise their own governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State.

*... but the Union would
like to encourage them
to participate in the
activities of the EU*

DESIRING to encourage greater involvement of national Parliaments in the activities of the European Union and to enhance their ability to express their views on draft European legislative acts as well as on other matters which may be of particular interest to them.

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe and to the Treaty establishing the European Atomic Energy Community:

TITLE 1

Information for national Parliaments

Article 1

*National Parliaments
shall have all the
strategic documents
produced by the
Commission at the
same time as the EP
and the Council*

Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to national Parliaments upon publication. The Commission shall also forward the annual legislative programme as well as any other instrument of legislative planning or policy strategy to national parliaments, at the same time as to the European Parliament and the Council.

Article 2

*The same applies for
legislative proposals*

Draft European legislative acts sent to the European Parliament and to the Council shall be forwarded to national Parliaments.

Definition of proposals

"Draft European legislative acts" shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank or requests for the European Investment Bank for the adoption of a European legislative act.

Draft European legislative acts stemming from the Commission shall be forwarded to national Parliaments directly by the Commission, at the same

time as to the European Parliament and the Council.

Draft European legislative acts stemming from the European Parliament shall be forwarded to national Parliaments directly by the European Parliament.

Draft European legislative acts stemming from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank shall be forwarded to national Parliaments by the Council.

Article 3

*National Parliament
can send a reasoned
opinion regarding
subsidiarity and
proportionality*

National Parliaments may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion on whether a draft European legislative act complies with the principle of subsidiarity, according to the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

If the draft European legislative act stems from a group of Member States, the President of the Council shall forward the reasoned opinion(s) to the governments of those Member States.

If the draft European legislative act stems from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the reasoned opinion(s) to the institution or body concerned.

Article 4

*From when a proposal
is made available to it
being placed on the
Council's agenda, **six
weeks** must pass.*

*From when a proposal
being placed on the
agenda until it being
decided on, **10 days**
must pass*

A six-week period shall elapse between a draft European legislative act being made available to national Parliaments in the official languages of the Union and the date when it is placed on provisional agenda for the Council for adoption of a position under a legislative procedure. Exceptions shall be possible in cases of urgency, the reasons for which shall be stated in the act or position by the Council. Save in urgent cases for which due reasons have been given, no agreement may be established on a draft European legislative acts during those six weeks. Save in urgent cases for which due reasons have been given, a ten days must elapse between the placing of a draft European legislative act on the provisional agenda for the Council and the adoption of a position.

Article 5

National Parliaments shall have minutes from the legislative Council's meetings at the same time as national governments

The agendas for and the outcome of the meetings of the Council, including the minutes of meetings where the Council is deliberating on draft European legislative acts, shall be forwarded directly to national Parliaments, at the same time as to Member States' governments.

Article 6

Inform national Parliaments if change of voting procedures

When the European Council intends to make use of the provision in Article IV-7a.2 of the Constitution, national parliaments shall be informed at least six months before any European decision is adopted.

...and when change from unanimity to qualified majority

When the European Council intends to make use of the provision in Article IV-7a.1, national parliaments shall be informed at least four months before any European decision is adopted.

Article 7

Also send report of the Court of Auditors

The Court of Auditors shall forward its annual report to national Parliaments, for information, at the same time as to the European Parliament and to the Council.

Article 8

Applies to both chambers of bicameral systems

In the case of bicameral national Parliaments, the provisions of Articles 1 to 7 shall apply to both chambers.

**Title II
Interparliamentary cooperation**

Article 9

The EP and national Parliaments decide how to cooperate with one another

The European Parliament and the national Parliaments shall together determine the organisation and promotion of effective and regular interparliamentary cooperation within the European Union.

Article 10

Conference of European Affairs Committees (COSAC)

The Conference of European Affairs Committees may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That Conference shall in

*- may send any
contribution to the EP,
the Council or the
Commission if they see
fit*

addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the Conference shall not bind national Parliaments and shall not prejudge their positions.

***Subsidiarity
Proportionality***

**PROTOCOL ON THE APPLICATION OF THE PRINCIPLES OF
SUBSIDIARITY AND PROPORTIONALITY**

THE HIGH CONTRACTING PARTIES, WISHING to ensure that decisions are taken as closely as possible to the citizens of the Union,

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as enshrined in Article I-9 of the Constitution, and to establish a system for monitoring the application by the Institutions of those principles,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe:

Article 1

All institutions shall ensure compliance with the principle of subsidiarity and proportionality

Each Institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article I-9 of the Constitution.

Article 2

The Commission shall consult widely before proposing legislation

Before proposing European legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for the decision in its proposal.

Article 2a

Definition of proposal

The term "draft European legislative act" shall denote Commission proposals, initiatives of groups of Member States, initiatives of the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a European legislative act.

Article 3

EP, the Council and

The Commission shall forward its proposal for European legislative acts

Commission shall send legislative documents to national Parliaments

and its amended proposals to the national Parliaments of the Member States at the same time as to the Union legislator.

The European Parliament shall forward its draft European legislative acts and its amended drafts to the national Parliaments.

The Council shall forward draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank and amended drafts to the national Parliaments of the Member States.

Upon adoption, legislative resolutions of the European Parliament and positions of the Council shall be forwarded by the latter to the national Parliaments.

Article 4

Commission shall justify any proposal with regard to subsidiarity and proportionality

Reasons shall contain:
- assessment of financial impact
- reason for: "better achieved at Union level"
- account of any burden

Draft European legislative acts shall be justified with regard to the principles of subsidiarity and proportionality. Any draft European legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a framework law, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level shall be substantiated by qualitative and, wherever possible, quantitative indicators. Draft European legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

Article 5

A national Parliament, or any chamber thereof, can send reasoned opinion if there is infringement of the principle of subsidiarity

Any national Parliament or any chamber of a national Parliament of a Member State may, within six weeks from the date of transmission of a draft European legislative acts, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional Parliaments with legislative powers.

If the draft European legislative act comes from a group of Member States,

the President of the Council shall forward the opinion to the governments of those Member States.

If the draft European legislative act comes from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the opinion to the institution or body concerned.

Alarm bell

National Parliament can give opinion on all proposals

Unicameral parliaments have two votes, in bicameral parliaments each chamber has one

If 1/3 of the opinions state non-compliance draft shall be reviewed Only 1/4 if within area of freedom, security and justice

No obligation to react to national Parliaments' opinion, only have to explain decision

Member States can bring cases of infringement of the principle of subsidiarity before the EU Court, regional parliaments cannot

The Committee of

Article 6

The European Parliament, the Council of Ministers and the Commission, and, where appropriate, the group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank if the draft legislative act comes from them, shall take account of the reasoned opinions issued by national Parliaments or by a chamber of a national Parliament.

Each national Parliament shall have two votes, shared out on the basis of the national Parliamentary system. In the case of a bicameral Parliamentary system, each of the two chambers shall have one vote.

Where reasoned opinions on a draft European legislative act's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the national Parliaments and their chambers, the draft must be reviewed. This threshold shall be a quarter in the case of a draft European legislative act submitted on the basis of Article III-165 of the Constitution on the area of freedom, security and justice.

After such review, the Commission or, where appropriate, the group of Member States, the European Parliament, the Court of Justice, the European Central Bank or the European Investment Bank if the draft European legislative act comes from them, may decide to maintain, amend or withdraw the draft. Reasons must be given for this decision.

Article 7

The Court of Justice of the European Union shall have jurisdiction to hear actions on grounds of infringement of the principle of subsidiarity by a European legislative act, brought in accordance with the rules laid down in Article III-270 by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber of it.

In accordance with the same Article of the Constitution, the Committee of the Regions may also bring such actions as regards European legislative acts for the adoption of which the Constitution provides that it be

*Regions can do the
same when consulted
on legislative acts*

consulted.

Article 8

*The Commission shall
submit an annual report
on the application of
subsidiarity*

The Commission shall submit each year to the European Council, the European Parliament, the Council and the national Parliaments a report on the application of Article I-9 of the Constitution. This annual report shall also be forwarded to the Committee of the Regions and to the Economic and Social Committee.

Seats in EP and votes in the Council

THE TRANSITIONAL PROVISIONS RELATING TO THE INSTITUTIONS AND BODIES OF THE UNION

THE HIGH CONTRACTING PARTIES,

Transitional provisions

WHEREAS, in order to organise the transition between the European Union established by the Treaty on European Union and the European Community and the European Union established by the Treaty establishing a Constitution for Europe which is their successor, it is necessary to lay down transitional provisions which will apply before all the provisions of the Constitution and the instruments necessary for their implementation take full effect,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe and to the Treaty establishing the European Atomic Energy Community:

TITLE 1

European Parliament

Provisions concerning the European Parliament

Article 1

New rules adopted before 2009 by unanimity

1. In accordance with Article I-19(2) of the Constitution, the European Council shall adopt a European decision determining the composition of the European Parliament sufficiently in advance of the 2009 parliamentary elections.

Composition shall not change with new enlargements until 2009

2. During the 2004-2009 parliamentary term, the composition and the number of representatives elected to the European Parliament in each Member State shall remain the same as on the date of the entry into force of the Treaty establishing a Constitution for Europe, the number of representatives being as follows:

Belgium	24
Czech Republic	24
Denmark	14
Germany	99
Estonia	6
Greece	24
Spain	54
France	78

Ireland	13
Italy	78
Cyprus	6
Latvia	9
Lithuania	13
Luxembourg	6
Hungary	24
Malta	5
Netherlands	27
Austria	18
Poland	54
Portugal	24
Slovenia	7
Slovakia	14
Finland	14
Sweden	19
United Kingdom	78

TITLE 2

The Council

[Provisions concerning the European Council and the Council of Ministers]

Article 2

*New qualified majority
(majority of countries
comprising 60% of the
EU population) to take
effect from 1/11/2009*

1. The provisions of Article I-24(1) (2) and (2a) of the Constitution on the definition of the qualified majority in the European Council and the Council shall take effect on 1 November 2009, after the 2009 European Parliament elections have taken place in accordance with Article I-19(2).

*Until then the following
weighting of votes
applies:*

2. The following provisions shall remain in force until 31 October 2009, without prejudice to Article I-24 of the Constitution.

For deliberations of the European Council and of the Council requiring a qualified majority, members' votes shall be weighted as follows:

Belgium	12
Czech Republic	12
Denmark	7
Germany	29
Estonia	4
Greece	12
Spain	27
France	29
Ireland	7

Italy	29
Cyprus	4
Latvia	4
Lithuania	7
Luxembourg	4
Hungary	12
Malta	3
Netherlands	13
Austria	10
Poland	27
Portugal	12
Slovenia	4
Slovakia	7
Finland	7
Sweden	10
United Kingdom	29

Qualified majority

1. 232 out of 321
2. majority of Member States
3. 62% of the population

Decisions shall be adopted if there are at least 232 votes in favour representing a majority of the members where, under the Constitution, they must be adopted on a proposal from the Commission. In other cases decisions shall be adopted if there are at least 232 votes in favour representing at least two thirds of the members.

A member of the European Council or the Council may request that, where an act is adopted by the European Council or the Council by a qualified majority, a check is made to ensure that the Member States comprising the qualified majority represent at least 62% of the total population of the Union. If that proves not to be the case, the act shall not be adopted.

Adjusted following enlargement according to the principles of Nice

3. For subsequent accessions, the threshold referred to in paragraph 2 shall be calculated to ensure that the qualified majority threshold expressed in votes does not exceed that resulting from the table in the Declaration on the enlargement of the European Union in the Final Act of the Conference which adopted the Treaty of Nice.

Articles in the Constitution taking effect from 1/11/2009

4. The provisions of Articles I-43(3), third and fourth subparagraphs, I-58(5), second and third subparagraphs, I-59(3a), second subparagraph, III-71(4), third subparagraph, III-76(6), third subparagraph, and (7), third subparagraph, III-88(2), second subparagraph, III-90(3), second subparagraph, and III-91(4), second subparagraph, of the Constitution, and Article 1, second subparagraph, and Article 3(1), second subparagraph, of the Protocol on the position of the United Kingdom and Ireland on policies in respect of border controls, asylum and immigration and on judicial cooperation in civil matters shall take effect on 1 November 2009.

If not all members vote

Until 31 October 2009, the qualified majority shall, in cases where not all

*then qualified majority
adjusted after the
principles of Nice*

the members of the Council participate in voting, namely in the cases referred to in the articles mentioned in the first subparagraph, be defined as the same proportion of the weighted votes and the same proportion of the number of the Council members and, if appropriate, the same percentage of the population of the Member States concerned as laid down in paragraph 2

Article 2a

*First multiannual
financial framework after
entry into force of the
Constitution adopted by
unanimity*

By way of derogation from Article I-54(2) of the Constitution, the Council shall decide on the basis of unanimity when adopting the first multiannual financial framework following the date of entry into force of the Treaty establishing a Constitution for Europe.

Article 3

*Until other decision on
council formations,
General Affairs Council
establish councils by
simple majority*

Until entry into force of the decision referred to in Article I-23(3) of the Constitution, the Council may meet in the configurations laid down in Article I-23(1) and (2) and in the other configurations on the list established by a decision of the General Affairs Council, acting by a simple majority.

TITLE 3

Provisions concerning the Commission, including the Union's Minister of Foreign Affairs ²

Article 4

TITLE 4

Provisions concerning advisory bodies

Committee of the Regions

Article 5

Until entry into force of the decision referred to in Article III-292, the allocation of members of the Committee of the Regions shall be as follows:

Belgium	12
Czech Republic	12
Denmark	9

² This provision has not been examined by the Working Party of Legal Experts.

Germany	24
Estonia	7
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Cyprus	6
Latvia	7
Lithuania	9
Luxembourg	6
Hungary	12
Malta	5
Netherlands	12
Austria	12
Poland	21
Portugal	12
Slovenia	7
Slovakia	9
Finland	9
Sweden	12
United Kingdom	24

Article 6

Economic and Social Committee

Until entry into force of the decision referred to in Article III-295, the allocation of members of the Economic and Social Committee shall be as follows:

Belgium	12
Czech Republic	12
Denmark	9
Germany	24
Estonia	7
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Cyprus	6
Latvia	7
Lithuania	9
Luxembourg	6
Hungary	12
Malta	5
Netherlands	12

Austria	12
Poland	21
Portugal	12
Slovenia	7
Slovakia	9
Finland	9
Sweden	12
United Kingdom	24

**DECLARATION ON
INSTITUTIONS
FOLLOWING THE
ACCESSION OF
ROMANIA AND
BULGARIA**

*If Romania and Bulgaria
join before 2009, there
will be more than 736
Members of Parliament:
786*

*Romania: 36 seats
Bulgaria: 18 seats
TOTAL: 786 seats from
200?-2009*

**DECLARATION OF THE CONFERENCE ON THE PROTOCOL
ON THE TRANSITIONAL PROVISIONS RELATING TO THE
INSTITUTIONS AND BODIES OF THE UNION**

The common position which will be taken by the Member States at the conferences on the accession to the Union of Romania and/or Bulgaria regarding the allocation of seats in the European Parliament and the weighting of votes in the European Council and the Council shall be as follows.

1. If the accession to the Union of Romania and/or Bulgaria takes place before the entry into force of the European Council Decision referred to in Article I-19(2) of the Constitution, the allocation of seats in the European Parliament throughout the 2004-2009 parliamentary term will be in accordance with the following table for a Union of 27 Member States.

MEMBER STATES	SEATS IN THE EP
Germany	99
United Kingdom	78
France	78
Italy	78
Spain	54
Poland	54
Romania	36
Netherlands	27
Greece	24
Czech	24
Republic Belgium	24
Hungary	24
Portugal	24
Sweden	19
Bulgaria	18
Austria	18
Slovakia	14
Denmark	14
Finland	14
Ireland	13
Lithuania	13
Latvia	9
Slovenia	7
Estonia	6
Cyprus	6

	Luxembourg	6
	Malta	5
<i>Not 736, but 786 MEPs for a certain period until 2009</i>	The Treaty of Accession to the Union will therefore, by way of derogation from Article I-19(2) of the Constitution, stipulate that the number of members of the European Parliament may temporarily exceed 736 for the remainder of the 2004 to 2009 Parliamentary term.	
<i>Romania 14, Bulgaria 10 votes in the Council</i>	<p>2. Without prejudice to Article I-24(2) of the Constitution, the weighting of the votes of Romania and Bulgaria in the European Council and the Council shall be set at 14 and 10 respectively until 31 October 2009.</p> <p>3. At the time of each accession, the threshold referred to in the Protocol on the transitional provisions relating to the Institutions and bodies of the Union shall be decided by the Council.</p>	

Euro-zone

*Special cooperation for
the euro countries*

*Promote ever-closer
coordination of economic
policies*

*Enhance dialogue
between euro-states*

PROTOCOL ON THE EURO GROUP

The High Contracting Parties,

Desiring to promote conditions for stronger economic growth in the European Union and, to that end, to develop ever-closer coordination of economic policies within the euro area,

Conscious of the need to lay down special provisions for enhanced dialogue between the Member States whose currency is the euro, pending the euro becoming the currency of all Member States of the Union,

Have agreed upon the following provisions, which are annexed to the Treaty establishing a Constitution for Europe:

Article 1

*Euro-states meet
informally, Commission
and ECB participate*

The Ministers of the Member States whose currency is the euro shall meet informally. Such meetings shall take place, when necessary, to discuss questions related to the specific responsibilities they share with regard to the single currency. The Commission shall take part in the meetings. The European Central Bank shall be invited to take part in such meetings, which shall be prepared by the representatives of the Ministers with responsibility for finance of the Member States whose currency is the euro and of the Commission.

Euro-President

*- elected by majority for
2½ years*

Article 2

The Ministers of the Member States whose currency is the euro shall elect a president for two and a half years, by a majority of those Member States.

**THE NUCLEAR
TREATY**

*The EURATOM treaty
regarding support for
nuclear plants is annexed
to the Constitution,
thereby prolonging its
effect beyond 2007*

*We have made a reader
friendly version of the
whole EURATOM treaty.
You can download it from
www.euabc.com*

**AMENDING THE TREATY ESTABLISHING THE EUROPEAN
ATOMIC ENERGY COMMUNITY**

THE HIGH CONTRACTING PARTIES,

RECALLING the necessity that the provisions of the Treaty establishing the European Atomic Energy Community should continue to have full legal effect,

DESIRING to adapt that Treaty to the new rules established by the Treaty establishing a Constitution for Europe, in particular in the institutional and financial fields,

HAVE AGREED UPON the following provisions, which are annexed to the Treaty establishing a Constitution for Europe and amend the Treaty establishing the European Atomic Energy Community in its version in force at the time of entry into force of the Treaty establishing a Constitution for Europe as follows:

Article 1

This Protocol shall amend the Treaty establishing the European Atomic Energy Community in its version in force at the time of entry into force of the Treaty establishing a Constitution for Europe.

Article 2

The heading of Title III "Institutional provisions" shall be replaced by the following: "Institutional and financial provisions".

Article 3

The following new chapter shall be inserted at the beginning of Title III:

"Chapter 1

**Application of certain provisions of the Treaty establishing a Constitution
for Europe**

Article 106a

1. Articles I-18 to I-28, Articles I-30 to I-38, Articles I-48 and I-49, Articles I-52 to I-55, Articles I-57 to I-59, Articles III-232 to III-277,

Articles III-279 to III-281, Articles III-284 to III-289, Articles III-290 and III-291, Articles III-295 to III-298, Articles III-301 to III-316, Articles III-18 to III-321 and Articles III-333, IV-3a and IV-7 of the Treaty establishing a Constitution for Europe shall apply to this Treaty

2. Within the framework of this Treaty, the references to the Union and to the Constitution in the provisions referred to in paragraph 1 and those in the protocols annexed both to the Treaty establishing a Constitution for Europe and to this Treaty shall be taken, respectively, as references to the European Atomic Energy Community and to this Treaty.

3. The provisions of the Treaty establishing a Constitution for Europe shall not derogate from the stipulations of this Treaty".

Article 3a

Chapters 1, 2 and 3 of Title III shall be renumbered 2, 3 and 4.

Article 3b

1. Article 3, Articles 107a to 132, Articles 136 to 143, Articles 146 to 156, Articles 158 to 163, Articles 165 to 170, Articles 173 and 173aA, Article 175, Articles 177 to 179a, and Articles 180b, 181, 183, 183aA, 190 and 204 shall be repealed.

The protocols previously annexed to the Treaty establishing the European Atomic Energy Community shall be repealed.

Article 4

The heading of Title IV "Financial provisions" shall be replaced by the following: "Specific financial provisions".

Article 5

1. In the third paragraph of Article 38 and the third paragraph of Article 82 the references to Articles 141 and 142 shall be replaced by references to Articles III-265 and III-266 respectively of the Treaty establishing a Constitution for Europe.

2. In Article 171(2) and Article 176(3) the references to Article 183 shall be replaced by references to Article III-318 of the Treaty establishing a Constitution for Europe.

3. In Article 172(4) the reference to Article 177(5) shall be replaced by a reference to Article III-310 of the Treaty establishing a Constitution for Europe.

4. In Articles 38, 82, 96 and 98 the word "directive" shall be replaced by "European Regulation".

5. In the Treaty the word "decision" shall be replaced by "European decision".

6. In the Treaty the expression "Court of Justice" shall be replaced by "Court of Justice of the European Union".

Article 6a

Article 191 shall be replaced by the following:

"Within the territories of the Member States the Community shall enjoy the privileges and immunities necessary for it to perform its function subject to the conditions defined in the Protocol on the privileges and immunities of the European Union".

Article 7

Article 9

Article 206 shall be amended to read as follows:

"The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.

These agreements shall be concluded by the Council of Ministers, acting unanimously after consulting the European Parliament.

Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article IV-7 of the Treaty establishing a Constitution for Europe".

**PERMANENT
STRUCTURED
COOPERATION**

**PROTOCOL ON PERMANENT STRUCTURED COOPERATION
ESTABLISHED BY ARTICLES I-40(6) AND III-213 OF THE
CONSTITUTION**

THE HIGH CONTRACTING PARTIES,

Having regard to Articles I-40(6) and III-213 of the Constitution,

RECALLING that the Union is pursuing a common foreign and security policy based on the achievement of growing convergence of action by Member States.

*Common security and
defence policy integral
part of common foreign
and security policy*

RECALLING that the common security and defence policy is an integral part of the common foreign and security policy; that it provides the Union with operational capacity drawing on assets civil and military; that the Union may use such assets on missions referred to in Article III-210 outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter; that the performance of these tasks is to be undertaken using capabilities provided by the Member State in accordance with the principle of a single set of forces;

*Principle: one set of
forces*

Neutrality

RECALLING that the common security and defence policy of the Union does not prejudice the specific character of the security and defence policy of certain Member States;

NATO

RECALLING that the common security and defence policy of the Union respects the obligations under the North Atlantic Treaty of those Member States, which see their common defence realised in the North Atlantic Treaty Organisation, which remains the foundation of the collective defence of its members, and is compatible with the common security and defence policy established within that framework;

*More active security role
for the Union*

CONVINCED that a more assertive Union role in security and defence matters will contribute to the vitality of a renewed Atlantic Alliance, in accordance with the Berlin Plus arrangements;

*Union responsible
towards international
community*

DETERMINED to ensure that the Union is capable of fully assuming its responsibilities within the international community;

*Speedy implementation
of UN missions*

RECOGNISING that the United Nations Organisation may request the Union's assistance for the urgent implementation of missions undertaken under Chapters VI and VII of the United Nations Charter;

RECOGNISING that the strengthening of the security and defence policy

Union needs more capabilities

will require efforts by Member States in the area of capabilities;

Union needs more political will

CONSCIOUS that embarking on a new stage in the development of the European security and defence policy involves a determined effort by the Member States concerned;

Role of foreign minister

RECALLING the importance of the Minister for Foreign Affairs being fully involved in proceedings relating to permanent structured cooperation;

HAVE AGREED UPON the following provisions, which shall be annexed to the Constitution:

Article 1

Open to all Member States, who:

The permanent structured cooperation referred to in Article I-40(6) of the Constitution shall be open to any Member State which undertakes, from the date of entry into force of the Treaty establishing a Constitution for Europe, to:

- develop defence capacities

(a) proceed more intensively to develop its defence capacities through the development of its national contributions and participation where appropriate, in multinational forces, in the main European equipment programmes, and in the activity of the European agency in the field of defence capabilities development, research, acquisition and armaments (hereinafter referred to as the "Agency"), and

- supply multinational forces

(b) have the capacity to supply by 2007 at the latest, either at national level or as a component of multinational force groups, targeted combat units for the missions planned, structured at a tactical level as combat formations, with support elements including transport and logistics, capable of carrying out the tasks referred in Article III-210, within a period of 5 to 30 days, in particular in response to requests from the United Nations Organisation, and which can be sustained for an initial period of 30 days and be extended up to at least 120 days.

Article 2

To achieve the objectives laid down in Articles 1 and 2, Member States participating in permanent structured cooperation shall undertake to:

- cooperate on military investments

(a) cooperate, as from the entry into force of the Treaty establishing a Constitution for Europe, with a view to achieving approved objectives concerning the level of investment expenditure on defence equipment, and regularly review these objectives in the light of the security environment and of the Union's international

- bring defence apparatus into line

- make forces more flexible

- cooperate on capability development

- develop major joint programmes

Agency assesses military capabilities of participating Member States

The Council adopts recommendations

responsibilities;

- (b) bring their defence apparatus into line with each other as far as possible, particularly by harmonising the identification of their military needs, by pooling and, where appropriate, specialising their defence means and capabilities, and by encouraging cooperation in the fields of training and logistics;
- (c) take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces, in particular by identifying common objectives regarding the commitment of forces, including possibly reviewing their national decision-making procedures;
- (d) work together to ensure that they take the necessary measures to make good, including through multinational approaches and without prejudice to undertakings in this regard within NATO, the shortfalls; perceived in the framework of the "Capability Development Mechanism";
- (e) take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the Agency.

Article 3

The Agency shall contribute to the regular assessment of participating Member States' contributions with regard to capabilities, in particular contributions made in accordance with the criteria to be established *inter alia* on the basis of Article 2, and shall report on them at least once a year. The assessment may serve as a basis for Council recommendations, and decisions adopted in accordance with Article III-213 of the Constitution.

**PROTOCOL ON THE
EXCEPTIONS FOR
DENMARK**

**AMENDED PROTOCOL NO. 5 ON
THE POSITION OF DENMARK**

*Decided upon in
Edinburgh, 1992*

THE HIGH CONTRACTING PARTIES,

RECALLING the decision of the Heads of State or Government, meeting within the European Council at Edinburgh on 12 December 1992, concerning certain problems raised by Denmark on the Treaty on European Union,

Denmark's position on:
- citizenship
- economic and monetary union
- defence policy
- justice and home affairs

HAVING NOTED the position of Denmark with regard to citizenship, economic and monetary union, defence policy, and justice and home affairs as laid down in the Edinburgh decision,

*In the Union's interest to
safeguard Danish
participation*

CONSCIOUS of the fact that a continuation under the Constitution of the legal regime originating in the Edinburgh decision will significantly limit Denmark's participation in important areas of cooperation of the Union, and that it would be in the best interest of the Union to ensure the integrity of the acquis in the area of freedom, security and justice,

*Give Denmark possibility
of 'opting in' to area of
freedom, security and
justice*

WISHING therefore to establish a legal framework that will provide an option for Denmark to participate in the adoption of measures proposed on the basis of Part III, Title III, Chapter IV of the Constitution and welcoming the intention of Denmark to avail itself of this option when possible in accordance with its constitutional requirements,

*Denmark will not be able
to block further
integration*

NOTING that Denmark will not prevent the other Member States from further developing their cooperation with respect to measures not binding on Denmark,

Schengen

BEARING IN MIND the Protocol on the Schengen acquis integrated into the framework of the European Union,

HAVE AGREED UPON the following provisions, which shall be annexed to the Constitution:

***Justice and Home
Affairs***

PART I

Article 1

Denmark shall not participate in Justice and Home Affairs

Decisions made by unanimity and by qualified majority do not require Denmark's vote

No decision taken within Justice and Home Affairs shall bind Denmark

Denmark will only fund administrative aspects

Denmark shall decide within 6 months whether to apply the Schengen rules. If yes = obligation under international law – not EU-law

If no = “appropriate steps” will apply

Agreements entered into before Constitution

Denmark shall not take part in the adoption by the Council of proposed measures pursuant to Part III, Title III, Chapter IV of the Constitution.

The unanimity of the members of the Council, with the exception of the representative of the government of Denmark, shall be necessary for the decisions of the Council which must be adopted unanimously. For the purposes of this Article, a qualified majority shall be defined as a majority of the members of the Council representing the participating Member States, comprising at least three fifths of the population of the participating Member States.

Article 2

None of the provisions of Part III, Title III, Chapter IV of the Constitution, no measure adopted pursuant to that Chapter, no provision of any international agreement concluded by the Union pursuant to that Chapter, and no decision of the Court of Justice of the European Union interpreting any such provision or measure shall be binding upon or applicable in Denmark; and no such provision, measure or decision shall in any way affect the competences, rights and obligations of Denmark; and no such provision, measure or decision shall in any way affect the *acquis communautaire* and of the Union nor form part of Union law as they apply to Denmark.

Article 3

Denmark shall bear no financial consequences of measures referred to in Article 1, other than administrative costs entailed for the institutions.

Article 4

1. Denmark shall decide within a period of 6 months after the adoption of a measure to build upon the Schengen *acquis* covered by Part I of this Protocol whether it will implement this measure in its national law. If it decides to do so, this measure will create an obligation under international law between Denmark and the other Member States bound by the measure.

2. If Denmark decides not to implement a measure of the Council as referred to in paragraph 1, the Member States bound by that measure and Denmark will consider appropriate steps to be taken.

3. Denmark shall maintain the rights and obligations existing before the entry into force of the Constitution with regard to the Schengen acquis.

*enters into force still
apply*

Common defence

PART II

Article 5

*Denmark shall not
participate in the
Common Defence and
Security Policy*

With regard to measures adopted by the Council pursuant to Articles I-40, III-196(1) and Articles III-210 to III-215 of the Constitution, Denmark does not participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications. Therefore Denmark shall not participate in their adoption. Denmark will not prevent the other Member States from further developing their cooperation in this area. Denmark shall not be obliged to contribute to the financing of operational expenditure arising from such measures, nor to make military capabilities available to the Union.

*Not prevent others to
proceed in that area*

PART III

Article 6

*Legal continuity of all
agreements between the
Union and Denmark*

This Protocol shall also apply to measures remaining in force by virtue of Article IV-3 of the Constitution, which were covered by the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community prior to the entry into force of the Constitution.

Article 7

*No opt out from visas for
3rd countries*

Articles 1, 2 and 3 shall not apply to measures determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States, or measures relating to a uniform format for visas.

PART IV

Article 8

Denmark can always join

At any time Denmark may, in accordance with its constitutional requirements, inform the other Member States that it no longer wishes to avail itself of all or part of this Protocol. In that event, Denmark will apply in full all relevant measures then in force taken within the framework of

the Union.

Article 9

*Denmark can change its
opt out to an opt in, as
set out in annex*

1. At any time and without prejudice to Article 8 Denmark may, in accordance with its constitutional requirements, notify the other Member States that with effect from the first day of the month following the notification Part I of this Protocol shall consist of the provisions in the Annex to this Protocol.

*Rules in these areas will
be Union law for
Denmark*

2. Six months after the date on which such notification takes effect all Schengen *acquis* and measures adopted to build upon this *acquis*, which until then have been binding on Denmark as obligations under international law, shall be binding upon Denmark as Union law.

ANNEX TO THE PROTOCOL

Article 1

*Denmark shall not take
part in Justice and Home
Affairs*

Subject to Article 3, Denmark shall not take part in the adoption by the Council of measures proposed pursuant to Part III, Title III, Chapter IV of the Constitution.

*Decisions made by
unanimity and by
qualified majority do not
require Denmark's vote*

The unanimity of the members of the Council, with the exception of the representative of the government of Denmark, shall be necessary for the decisions of the Council which must be adopted unanimously. For the purposes of this Article, a qualified majority shall be defined as a majority of the members of the Council representing the participating Member States, comprising at least three fifths of the population of the participating Member States.

Article 2

*No decision taken within
Justice and Home Affairs
shall bind Denmark*

In consequence of Article 1 and subject to Articles 3, 4 and 6 none of the provisions in Part III, Title III, Chapter IV of the Constitution, no measure adopted pursuant to that Chapter, no provision of any international agreements concluded by the Union pursuant to that Chapter, no decision of the Court of Justice of the European Union interpreting any such provision or measure shall be binding upon or applicable in Denmark; and no such provision, measure or decision shall in any way affect the competences, rights and obligations of Denmark; and no such provision, measure or decision shall in any way affect the *acquis communautaire* and of the Union nor form part of Union law as they apply to Denmark.

Denmark can always decide to take part in adoption of proposals within Justice and Home Affairs

But Denmark cannot block a decision

Denmark can always accept such measures In that case the procedure to participate in enhanced cooperation applies

Denmark has 6 months to accept...

...or else Union takes "appropriate measures"

When Denmark participates in adopting a decision the

Article 3

1. Denmark may notify the President of the Council in writing, within three months after a proposal or initiative has been presented to the Council pursuant to Part III, Title III, Chapter IV of the Constitution, that it wishes to take part in the adoption and application of any such proposed measure, whereupon Denmark shall be entitled to do so.

2. If after a reasonable period of time a measure referred to in paragraph 1 cannot be adopted with Denmark taking part, the Council may adopt such measure in accordance with Article 1 without the participation of Denmark. In that case Article 2 applies.

Article 4

Denmark may at any time after the adoption of a measure pursuant to Part III, Title III, Chapter IV of the Constitution notify its intention to the Council and the Commission that it wishes to accept that measure. In that case, the procedure provided for in Article III-326(1) of the Constitution shall apply *mutatis mutandis*.

Article 5

1. Notification pursuant to Article 4 shall be submitted no later than 6 months after the final adoption of a measure if this measure is building upon the Schengen *acquis*. In case Denmark does not submit a notification in accordance with Articles 3 or 4 regarding measures building upon the Schengen *acquis*, the Member States bound by those measures and Denmark will consider appropriate steps to be taken.

2. A notification pursuant to Article 3 or Article 4 with respect to measures building upon the Schengen *acquis* shall be deemed irrevocably to be a notification pursuant to Article 3 with respect to any further proposal or initiative aiming to build upon that measure to the extent that such proposal or initiative is building upon the Schengen *acquis*.

Article 6

Where, in cases referred to in this Part, Denmark is bound by a measure adopted by the Council pursuant to Part III, Title III, Chapter IV of the Constitution, the relevant provisions of the Constitution shall apply to

Constitution binds

Denmark in relation to that measure.

Article 7

Denmark will only fund administrative aspects

Where Denmark is not bound by a measure adopted pursuant to Part III, Title III, Chapter IV of the Constitution, it shall bear no financial consequences of that measure other than administrative costs entailed for the institutions unless the Council, acting unanimously after consulting the European Parliament, decides otherwise.

Mutual declaration of obligation

**DECLARATION BY THE CONFERENCE IN RELATION TO THE
PROTOCOL ON DENMARK**

Denmark shall not block decisions not applicable to Denmark

The Conference notes that with respect to legal acts to be adopted by the Council acting alone or jointly with the European Parliament and containing provisions applicable to Denmark as well as provisions not applicable to Denmark because they have a legal basis to which Part I of the Protocol on Denmark applies, Denmark declares that it will not use its voting right to prevent the adoption of the provisions which are not applicable to Denmark.

Furthermore, the Conference notes that on the basis of the Declaration by the Conference on Articles I-42 and III-231 of the Constitution Denmark declares that Danish participation in actions or legal acts pursuant to Articles I-42 and III-231 will take place with respect of Part I and Part II of the Protocol on the position of Denmark.

**DECLARATION ON THE CREATION OF A EUROPEAN
EXTERNAL ACTION SERVICE**

*A common foreign affairs
office with a joint service
from the Council,
Commission and national
diplomatic services*

"To assist the future Union Minister for Foreign Affairs, introduced in Article I-27 of the Constitution, to perform his or her duties, the Convention agrees on the need for the Council of Ministers and the Commission to agree, without prejudice to the rights of the European Parliament, to establish under the Minister's authority one joint service (European External Action Service) composed of officials from relevant departments of the General Secretariat of the Council of Ministers and of the Commission and staff seconded from national diplomatic services.

The staff of the Union's delegations, as defined in Article III-230, shall be provided from this joint service.

The Convention is of the view that the necessary arrangements for the establishment of the joint service should be made within the first year after entry into force of the Treaty establishing a Constitution for Europe."

**DECLARATION FOR INCORPORATION IN THE FINAL ACT
RE ARTICLE I-5A**

*Primacy of law applies
today in the EU Court's
case law*

The Conference notes that the provisions of Article I-5a reflect existing Court of Justice case law.

**DECLARATION FOR INCORPORATION IN THE FINAL ACT
CONCERNING THE EXPLANATIONS RELATING TO THE
CHARTER OF FUNDAMENTAL RIGHTS**

*Explanations relating to
the Charter is a
contribution when
interpreting the Charter*

The Conference takes note of the explanations relating to the Charter of Fundamental Rights prepared at the instigation of the Praesidium of the Convention which drafted the Charter and updated under the responsibility of the Praesidium of the European Convention, as set out below.

Council formations

**DRAFT DECISION OF THE EUROPEAN COUNCIL ON THE
EXERCISE OF THE PRESIDENCY OF THE COUNCIL OF
MINISTERS**

[The draft decision will be adopted on the day the Treaty enters into force.]

Article 1

Council formations are chaired by group of 3 Member States for 18 months on the basis of equal rotation

The Presidency of Council formations, other than those of General Affairs and Foreign Affairs, shall be held collectively by pre-established groups of three Member States for a continuous period of 18 months. The groups shall be made up on a basis of equal rotation among the Member States, taking into account their diversity and geographical balance within the Union.

The Presidency of the formations shall be shared equally

The Presidency of the different Council formations shall be shared equally among the Member States of the group performing their duty throughout the entire period referred to in the first paragraph.

Article 2

General Affairs Council: Presidency changes every 6 months

The Presidency of the General Affairs Council and the chair of the Permanent Representatives Committee shall be held for six months by each of the members of the group in turn.

Article 3

Chair and Presidency congruent

The chair of the preparatory bodies of the Council formations referred to in Article 1 shall fall to the Member State holding the Presidency, unless decided otherwise in accordance with the procedure laid down in Article 5.

The Union Foreign Minister

The chair of the Political and Security Committee shall be held by a representative of the Union Minister for Foreign Affairs.

Article 4

General Affairs Council = leading and coordinating Council

The General Affairs Council shall ensure consistency and continuity in the work of the different Council formations in the framework of multiannual programmes. The Member States holding the Presidency shall take all necessary measures for the organisation and smooth operation of the Council's work, with the assistance of the General Secretariat of the Council.

Article 5

*Implementing decision
needed by qualified
majority*

The Council shall, by a qualified majority, adopt a European decision establishing the measures for the implementation of this decision.
[Conference declaration providing for the European Council to begin preparing the decision under Article 5 as soon as the Constitutional Treaty is signed and to give political approval within six months.]

**ELECTION OF
COMMISSION
PRESIDENT**

*Both Council and
Parliament participate in
finding candidate for the
Commission President*

**DECLARATION FOR INCORPORATION IN THE FINAL ACT
RE ARTICLE I-26**

The Conference considers that, under the terms of the Constitution, the European Parliament and the European Council hold joint responsibility for the smooth running of the process leading to the election of the President of the European Commission. Prior to the decision of the European Council, representatives of the European Parliament and of the European Council will thus conduct the necessary consultations in the framework deemed the most appropriate. These consultations will focus on the backgrounds of the candidates for the Presidency of the Commission, taking particular account of the elections to the European Parliament, in accordance with Article I-26(1). The arrangements for such consultations may be determined in due course by mutual agreement between the European Parliament and the European Council.

**ELECTION OF
PRESIDENTS**

*Geographical and
demographic diversity
respected when choosing
Presidents
- not for EP*

**DECLARATION FOR INCORPORATION IN THE FINAL ACT
RE ARTICLES I-21, I-26 AND I-27**

In choosing the persons called upon to hold the offices of President of the European Council, President of the Commission and Union Minister for Foreign Affairs due account is to be taken of the need to respect the geographical and demographic diversity of the Union and its Member States.

**DECLARATION FOR INCORPORATION IN THE FINAL ACT
RE ARTICLE I-35**

"Lamfalussy" procedure

The Conference takes note of the Commission's intention to continue to consult experts from the Member States in the preparation of delegated regulations in the financial services area, in accordance with its established practice.

***FREEDOM,
SOLIDARITY AND
JUSTICE***

*Member States right to
conclude international
agreements in the areas
of freedom, security and
justice*

DECLARATION FOR INCORPORATION IN THE FINAL ACT

The Conference confirms that Member States may negotiate and conclude agreement with third countries or international organisations in the areas covered by Sections 3, 4 and 5 of Chapter IV of Title III of Part III of the Treaty establishing a Constitution for Europe insofar as such agreements comply with Union law.

SOLIDARITY CLAUSE

*Member States are free
to define how to comply
with that solidarity
clause*

**DECLARATION BY THE CONFERENCE ON ARTICLES I-42
AND III-231 OF THE CONSTITUTION**

Without prejudice to the measures adopted by the Union to comply with its solidarity obligation towards a Member State which is the object of terrorist attack or the victim of natural or man-made disaster, none of the provisions of Articles I-42 and III-231 of the Constitution is intended to affect the right of another Member State to choose the most appropriate means to comply with its own solidarity obligation towards that Member State.

SOCIAL POLICY

*Measures only
complementary with
social policy*

**DECLARATION FOR INCORPORATION IN THE FINAL ACT RE
ARTICLE III-107**

The Conference confirms that the policies described in Article III-107 fall essentially within the competence of the Member States. Measures to provide encouragement and promote coordination to be taken at Union level in accordance with this Article shall be of a complementary nature. They shall serve to strengthen cooperation between Member States and not to harmonise national systems. The guarantees and practices existing in each Member State as regards the responsibility of the social partners will not be affected.

ENERGY POLICY

*Member States can take
measures to secure*

**DECLARATION FOR INCORPORATION IN THE FINAL ACT RE
ARTICLE III-157**

The Conference believes that Article III-157 does not affect the right of the Member States to take the necessary measures to ensure their energy

energy supply

supply under the conditions provided for in Article III-16.

***DECLARATION ON
SMALL
NEIGHBOURING
STATES***

*Special considerations to
small neighbouring
states*

**DECLARATION FOR INCORPORATION IN THE FINAL ACT RE
ARTICLE I-56**

The Union will take into account the particular situation of small-sized
States which maintain specific relations of proximity with it.

***SUBSIDIARITY AND
PROPORTIONALITY***

*Member States shall
communicate the
addresses of their
national parliaments*

**DECLARATION FOR INCORPORATION IN THE FINAL ACT
RE ARTICLE 6 OF THE PROTOCOL ON THE APPLICATION OF
THE PRINCIPLES OF SUBSIDIARITY AND
PROPORTIONALITY AND RE ARTICLE 8 OF THE PROTOCOL
ON THE ROLE OF MEMBER STATES' NATIONAL
PARLIAMENTS IN THE EUROPEAN UNION**

Member States shall notify the Union's institutions of the addresses of the components of their national Parliaments with which institutions should correspond in accordance with the Protocol on the application of the principles of subsidiarity and proportionality, and the Protocol on the role of national parliaments in the European Union.

Alternative Report

THE EUROPE OF DEMOCRACIES

*A cooperation built on
national democracies*

*The Convention's task not
completed*

Laeken's Lost Mission. As members of the Convention, we cannot endorse the draft European Constitution. It does not meet the requirements of the Laeken Declaration of December 2001.

*The Union is not closer to
the citizens*

Laeken says "**the Union must be brought closer to its citizens**". The transfer of more decision making from member states to the Union, concerning criminal justice matters and new areas of domestic policy, will make the Union more remote.

*No clear division of
competences...
...and EU Court decides
(it shall favour more
integration)*

Laeken adds that "**the division of competences be made more transparent**". But the new category of 'shared competences' gives no assurance about how power is to be shared, particularly as member states will be forbidden to legislate in these areas if the Union decides to act. The EU Court in Luxembourg will decide on any doubt.

Union is too bureaucratic

Laeken describes the Union as "**behaving too bureaucratically**". The draft Constitution fails to address the 97,000 accumulated pages of the acquis communautaire, and proposes a new legal instrument, the 'Non Legislative Act', whereby the non-elected Commission can pass binding laws.

*Unwieldy and rigid
institutions*

Laeken calls for the "**European institutions to be less unwieldy and rigid**". But the Constitution gives more power to all the existing EU institutions and creates a Europe of Presidents, with more jobs for politicians and less influence for the people.

Europe of Presidents

*Less influence for
national Parliaments*

Laeken highlights the importance of national parliaments, and the Nice Treaty "**stressed the need to examine their role in European integration**". National Parliaments lose influence relative to the Commission, the European Parliament and the European Council. Their proposed new role in 'ensuring' compliance with the subsidiarity principle is in reality no more than a request which the Commission can ignore. Not one competence will be returned to member states.

*No real subsidiarity
principle*

*More power to institutions
which have been involved
in mismanagement, waste
and fraud*

Laeken calls for "**more transparency and efficiency**" in the Union. The Constitution concentrates more executive and budgetary power in the very EU institutions which have been the subject of repeated and continuing scandals over mismanagement, waste and fraud.

No study of alternatives to a constitution

Laeken suggests the possibility of a constitution: "**The question ultimately arises as to whether this simplification and reorganisation might not lead in the long run to the adoption of a constitutional text of the Union**". The suggestion that the existing intergovernmental Treaties be transformed into a new European Constitution was rapidly seized upon, but without any study of either the alternatives on offer or the long-term consequences of such an act.

The Constitution creates a centralised state

Lastly, Laeken's overriding aim was a **Democratic Europe**. The draft Constitution creates a new centralised European state, more powerful, more remote, with more politicians, more bureaucracy, and a wider gap between the rulers and the ruled. The EURATOM treaty was brought into the Constitution in the last moment without any working group having the time to revise it.

Not democratic :

The draft EU constitution was never drafted through normal democratic methods

- applicant countries no influence

- The applicant countries were treated as observers in the Praesidium and had no real say

- only three biggest political families

- Only 3 political families were represented in the powerful Praesidium which drafted the tunnel vision text.

- no normal political process

- The members were refused the right to have their amendments translated, distributed, discussed and voted upon

- not representative

- The Convention had no Members for that half of the population, which rejected the Maastricht treaty in France or the Nice treaty in Ireland. Not one single Eurosceptic or Eurorealist person was allowed to observe or participate in the work in the Praesidium, nor any of its assisting secretariats.

A new Convention should be convened

Giscard did not allow democracy and normal voting in the Convention. The draft Constitution runs counter to all democratic principles. We want a new draft from a much more representative Convention, democratic in content and democratic in procedures.

15 points for a Europe of Democracies

We hereby submit the following 15 points to the consideration for our Prime ministers and the other following citizens.

EU organised as an interparliamentary cooperation

1. EUROPE OF DEMOCRACIES. The European Union (EU) shall not have a constitution. Instead, Europe should be organised on an interparliamentary basis by means of a Treaty on European Cooperation. This will create a Europe of Democracies (ED) in place of the existing EU.

	If the EU should have a new name it should be Europe of Democracies.
<i>EU should only focus on cross-frontier issues</i>	2. A SLIMLINE TREATY. The present 97,000 pages of the acquis communautaire covering the EU and EEA must be <u>radically simplified</u> . Instead, focus shall be placed on <u>cross-frontier issues</u> where national parliaments cannot effectively act by themselves. Decisions on <u>subsidiarity</u> shall be <u>resolved by the national parliaments</u> .
<i>Open to all democratic countries</i>	3. OPEN TO ALL DEMOCRACIES. Membership of the ED shall be <u>open to any democratic European state</u> which is a signatory of, and respects fully, the <u>European Convention on Human Rights</u> .
<i>Simple decision making: - two kinds of laws - majority = 75 % of the countries</i>	4. SIMPLIFIED DECISION-MAKING. The present 30 different ways of making decisions in the EU shall be reduced to two: <u>laws and recommendations</u> . Where <u>qualified majority</u> voting applies, the proposal in question shall require the support of <u>75 % of the votes</u> to be cast in favour, unless otherwise stated.
<i>National parliaments shall have a veto</i>	5. A VETO ON VITAL ISSUES. Laws shall be valid only if they have been <u>passed by national parliaments</u> . A national parliament shall have a <u>veto</u> on an issue it deems important.
<i>Only legislate on questions of common concern</i>	6. THE COMMON CORE ISSUES. Laws shall deal with the <u>rules</u> for the <u>Common Market</u> and <u>certain common minimum standards</u> to protect <u>employees, consumers, health, safety and the environment</u> . In other areas the ED shall have the power to issue recommendations for Member States, which are always free to adopt higher standards.
<i>Always use minimum standards</i>	
<i>A group of countries can engage in closer cooperation</i>	7. FLEXIBLE COOPERATION. The ED may unanimously approve <u>flexible cooperation</u> for those nations that want to take part in closer cooperation. The ED shall also recognise and support other pan-European organisations, such as the Council of Europe.
<i>All meetings and documents public unless a qualified majority decide exception</i>	8. OPENNESS AND TRANSPARENCY. The decision-making process and relevant documents shall be <u>open and accessible</u> , unless a reasonable cause for exception is <u>confirmed by qualified majority</u> .
<i>Simple voting - one country one vote - majority = 75% of countries representing 50% of EU population</i>	9. STRAIGHT FORWARD COUNCIL VOTING. A simplified voting system shall operate in the Council, which may comprise each Member State possessing one vote in the ED Council. A decision by <u>qualified majority</u> shall require the support of <u>countries with more than half the total ED population</u> .

*National Parliaments:
- choose own
commissioner
- choose President of the
Commission together
- adopt the annual
legislative program*

10. NATIONAL PARLIAMENTS ELECT THE COMMISSION. Every national parliament should elect its own member of the Commission. The Commissioner shall attend the European Scrutiny Committees of the national parliament concerned. National parliaments shall have the power to dismiss their Commissioner. The President of the Commission shall be elected by the national parliaments. National parliaments shall decide on the annual legislative programme and the Commission shall correspondingly act as a secretariat for the Council and the national parliaments.

*EU Court may not
legislate*

11. NO LEGISLATION BY THE COURT. Legal activism by the European Court in Luxembourg shall be curbed, and the Court shall respect the European Convention on Human Rights.

*Make agreements
concerning trade and aid
with third countries*

12. PARTNERSHIP AGREEMENTS. The Member States and the ED may enter into partnership agreements of mutual interest with states or groups of states. The ED shall respect the parliamentary democracy of its partners and may assist poorer ones with a financial aid, while fostering free trade agreements.

*More opportunity for
control*

13. BETTER SCRUTINY. The European Ombudsman, the Court of Auditors and the Budget Control Committees of the European and national parliaments shall have access to all documents and all financial accounts.

All languages are equal

14. EQUALITY OF LANGUAGES. When legislating, all official ED languages shall be treated equally.

No European army

15. UNITED NATIONS. The ED shall not have its own army. Peacekeeping and peacemaking should be mandated by the United Nations and the Organisation for Security and Cooperation in Europe. Member States shall decide themselves whether they opt for a common defence through NATO, independent defence, or follow a neutrality policy.

*UN and OSCE gives
mandate to ED*

Contribution by Convention members:

Abitbol, William - (Alternate Member) European Parliament
Bonde, Jens-Peter - (Member) European Parliament
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- the first number after the hyphen indicates the article number
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