

AUTUMN 2006

**The European Constitution**  
**What can be done / what should be done**

# PLAN A +

**Revival of  
the European  
Constitutional  
Process**

## Constitution

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Vice-president of the European Parliament  
Member of the Committee on Constitutional Affairs

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## PART III

# GENERAL AND FINAL PROVISIONS

# TREATY ESTABLISHING A CONSTITUTION FOR EUROPE

## PREAMBLE

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

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

BELIEVING that Europe, reunited after bitter experiences, intends to continue along the path of civilisation, progress and prosperity, for the good of all its inhabitants, including the weakest and most deprived; that it wishes to remain a continent open to culture, learning and social progress; and that it wishes to deepen the democratic and transparent nature of its public life, and to strive for peace, justice and solidarity throughout the world,

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

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

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

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

HAVE DESIGNATED AS THEIR PLENIPOTENTIARIES:

HIS MAJESTY THE KING OF THE BELGIANS,

Guy VERHOFSTADT  
Prime Minister

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Karel DE GUCHT  
Minister for Foreign Affairs

THE PRESIDENT OF THE CZECH REPUBLIC,

Stanislav GROSS  
Prime Minister

Cyril SVOBODA  
Minister for Foreign Affairs

HER MAJESTY THE QUEEN OF DENMARK,

Anders Fogh RASMUSSEN  
Prime Minister

Per Stig MØLLER  
Minister for Foreign Affairs

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

Gerhard SCHRÖDER  
Federal Chancellor

Joseph FISCHER  
Federal Minister for Foreign Affairs and Deputy Federal Chancellor

THE PRESIDENT OF THE REPUBLIC OF ESTONIA,

Juhan PARTS  
Prime Minister

Kristiina OJULAND  
Minister for Foreign Affairs

THE PRESIDENT OF THE HELLENIC REPUBLIC,

Kostas KARAMANLIS  
Prime Minister

Petros G. MOLYVIATIS  
Minister of Foreign Affairs

HIS MAJESTY THE KING OF SPAIN,

José Luis RODRÍGUEZ ZAPATERO  
President of the Government

Miguel Angel MORATINOS CUYAUBÉ  
Minister for External Affairs and Cooperation

THE PRESIDENT OF THE FRENCH REPUBLIC,

Jacques CHIRAC  
President

Jean-Pierre RAFFARIN  
Prime Minister

Michel BARNIER  
Minister for Foreign Affairs

THE PRESIDENT OF IRELAND,

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Bertie AHERN  
Taoiseach

Dermot AHERN  
Minister for Foreign Affairs

THE PRESIDENT OF THE ITALIAN REPUBLIC,

Silvio BERLUSCONI  
Prime Minister

Franco FRATTINI  
Minister for Foreign Affairs

THE PRESIDENT OF THE REPUBLIC OF CYPRUS,

Tassos PAPADOPOULOS  
President

George IACOVOU  
Minister for Foreign Affairs

THE PRESIDENT OF THE REPUBLIC OF LATVIA,

Vaira VĪĶE FREIBERGA  
President

Indulis EMSIS  
Prime Minister

Artis PABRIKS  
Minister for Foreign Affairs

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,

Valdas ADAMKUS  
President

Algirdas Mykolas BRAZAUSKAS  
Prime Minister

Antanas VALIONIS  
Minister of Foreign Affairs

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

Jean-Claude JUNCKER  
Prime Minister, Ministre d'Etat

Jean ASSELBORN  
Deputy Prime Minister, Minister for Foreign Affairs and Immigration

THE PRESIDENT OF THE REPUBLIC OF HUNGARY,

Ferenc GYURCSÁNY  
Prime Minister

László KOVÁCS  
Minister for Foreign Affairs

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THE PRESIDENT OF MALTA,

The Hon Lawrence GONZI  
Prime Minister

The Hon Michael FRENDU  
Minister for Foreign Affairs

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

Dr. J. P. BALKENENDE  
Prime Minister

Dr. B. R. BOT  
Minister for Foreign Affairs

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

Dr. Wolfgang SCHÜSSEL  
Federal Chancellor

Dr. Ursula PLASSNIK  
Federal Minister for Foreign Affairs

THE PRESIDENT OF THE REPUBLIC OF POLAND,

Marek BELKA  
Prime Minister

Włodzimierz CIMOSZEWICZ  
Minister for Foreign Affairs

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

Pedro Miguel DE SANTANA LOPES  
Prime Minister

António Victor MARTINS MONTEIRO  
Minister for Foreign Affairs and the Portuguese Communities

THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,

Anton ROP  
President of the Government

Ivo VAJGL  
Minister for Foreign Affairs

THE PRESIDENT OF THE SLOVAK REPUBLIC,

Mikuláš DZURINDA  
Prime Minister

Eduard KUKAN  
Minister for Foreign Affairs

THE PRESIDENT OF THE REPUBLIC OF FINLAND,

Matti VANHANEN  
Prime Minister

Erkki TUOMIOJA  
Minister for Foreign Affairs

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THE GOVERNMENT OF THE KINGDOM OF SWEDEN,

Göran PERSSON  
Prime Minister

Laila FREIVALDS  
Minister for Foreign Affairs

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

The Rt. Hon Tony BLAIR  
Prime Minister

The Rt. Hon Jack STRAW  
Secretary of State for Foreign and Commonwealth Affairs

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



# **PART I**

## **TITLE I DEFINITION AND OBJECTIVES OF THE UNION**

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

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

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

## 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 ... <sup>1</sup> *whose principles and operation are defined by the European Treaty (Internal Market).*
3. The Union shall work for the sustainable development of Europe ... <sup>2</sup>, *in the framework of an economy aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.*  
  
It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.
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, ... <sup>3</sup> *eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.*
5. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Constitution.

## ARTICLE I-4 **Fundamental freedoms and non-discrimination**

1. The free movement of persons, services, goods and capital, and freedom of establishment shall be guaranteed within and by the Union, in accordance with the *European Treaty*.
2. Within the scope of the Constitution, and without prejudice to any of specific provisions of the *European Treaty*, any discrimination on grounds of nationality shall be prohibited.

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<sup>1</sup> “in which competition is free and undistorted“, art I-16-2 of the *European Treaty*.

<sup>2</sup> “based on balanced economic growth and price stability, a highly competitive social market economy“, art I-3 of the *European Treaty*.

<sup>3</sup> “free and fair trade“, art-200 of the *European Treaty*.

ARTICLE I-5  
**Relations between the Union and the Member States**

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

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

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

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

ARTICLE I-6  
**Union law**

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

ARTICLE I-7  
**Legal personality**

The Union shall have legal personality.

ARTICLE I-8  
**The symbols of the Union**

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

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

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

The currency of the Union shall be the euro.

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

## TITLE II

# FUNDAMENTAL RIGHTS AND CITIZENSHIP OF THE UNION

### ARTICLE I-9

#### **Fundamental rights**

1. The Union shall recognise the rights, freedoms and principles set out in the Charter of Fundamental Rights which constitutes Part II.
2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Constitution.
3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

### ARTICLE I-10

#### **Citizenship of the Union**

1. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.
2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Constitution. They shall have:
  - (a) the right to move and reside freely within the territory of the Member States;
  - (b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;
  - (c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
  - (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Constitution's languages and to obtain a reply in the same language.

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

## TITLE III UNION COMPETENCES

### ARTICLE I-11 **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 proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

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

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

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

### ARTICLE I-12 **Categories of competence**

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

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

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

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

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

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

6. The scope and arrangements for exercising the Union's competences shall be determined by the provisions relating to each area in the *European Treaty*.

#### ARTICLE I-13 **Areas of exclusive competence**

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

- (a) customs union;
- (b) the establishing of the competition rules necessary for the functioning of the internal market;
- (c) monetary policy for the Member States whose currency is the euro;
- (d) the conservation of marine biological resources under the common fisheries policy;
- (e) common commercial policy.

2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.

#### ARTICLE I-14 **Areas of shared competence**

1. The Union shall share competence with the Member States where the Constitution confers on it a competence which does not relate to the areas referred to in Articles I-13 and I-17.

2. Shared competence between the Union and the Member States applies in the following principal areas:

- (a) internal market;
- (b) social policy, for the aspects defined in European Treaty;
- (c) economic, social and territorial cohesion;
- (d) agriculture and fisheries, excluding the conservation of marine biological resources;
- (e) environment;
- (f) consumer protection;
- (g) transport;
- (h) trans-European networks;
- (i) energy;
- (j) area of freedom, security and justice;
- (k) common safety concerns in public health matters, for the aspects defined in the *European Treaty*.

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

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

#### ARTICLE I-15

##### **The coordination of economic and employment policies**

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

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

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

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

#### ARTICLE I-16

##### **The common foreign and security policy**

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

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

#### ARTICLE I-17

##### **Areas of supporting, coordinating or complementary action**

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

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

#### ARTICLE I-18

##### **Flexibility clause**

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

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

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



## TITLE IV THE UNION'S INSTITUTIONS AND BODIES

### CHAPTER I THE INSTITUTIONAL FRAMEWORK

#### ARTICLE I-19 **The Union's institutions**

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

This institutional framework comprises:

- The European Parliament,
  - The European Council,
  - The Council of Ministers (hereinafter referred to as the "Council"),
  - The European Commission (hereinafter referred to as the "Commission"),
  - The Court of Justice of the European Union.
2. Each institution shall act within the limits of the powers conferred on it in the Constitution, and in conformity with the procedures and conditions set out in the *European Treaty*. The institutions shall practise mutual sincere cooperation.

#### ARTICLE I-20 **The European Parliament**

1. The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the Constitution and the *European Treaty*. It shall elect the President of the Commission. *In the application of its missions it has a right of investigation which it exerts*

*according to dispositions of article II-218 of the European Treaty*

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

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

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

*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<sup>4</sup>.*

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

#### ARTICLE I-21<sup>5</sup>

The European Parliament shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March.

The European Parliament may meet in extraordinary part-session at the request of a majority of its component members or at the request of the Council or of the Commission.

#### ARTICLE I-22<sup>6</sup>

1. The European Council and the Council shall be heard by the European Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council and those of the Council.

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<sup>4</sup>

*Art. III-330-1 of the Treaty establishing a Constitution for Europe.*

<sup>5</sup>

*Art. III-336 of the Treaty establishing a Constitution for Europe.*

<sup>6</sup>

*Art. III-337 of the Treaty establishing a Constitution for Europe.*

2. The Commission may attend all the meetings of the European Parliament and shall, at its request, be heard. It shall reply orally or in writing to questions put to it by the European Parliament or by its members.
3. The European Parliament shall discuss in open session the annual general report submitted to it by the Commission.

#### ARTICLE I-23<sup>7</sup>

The European Parliament may, by a majority of its component Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Constitution. If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons

#### ARTICLE I-24 **The European Council**

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

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<sup>7</sup> *Art. III-332 of the Treaty establishing a Constitution for Europe.*

ARTICLE I-25  
**The European Council President**

1. The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end his or her term of office in accordance with the same procedure.
2. The President of the European Council:
  - (a) shall chair it and drive forward its work;
  - (b) shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;
  - (c) shall endeavour to facilitate cohesion and consensus within the European Council;
  - (d) shall present a report to the European Parliament after each of the meetings of the European Council.

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

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

ARTICLE I-26  
**The Council of Ministers**

1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the *European Treaty*.
2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.
3. The Council shall act by a qualified majority except where the Constitution provides otherwise.

## ARTICLE I-27<sup>8</sup>

The Council, by a simple majority, may request the Commission to undertake any studies the Council considers desirable for the attainment of the common objectives, and to submit any appropriate proposals to it. If the Commission does not submit a proposal, it shall inform the Council of the reasons.

## ARTICLE I-28

### **Configurations of the Council of Ministers**

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

## ARTICLE I-29

### **Definition of qualified majority within the European Council and the Council**

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

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

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

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

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

## ARTICLE I-30

### **The European Commission**

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Constitution, and measures adopted by the institutions pursuant to the Constitution and the *European Treaty*. 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 and the *European Treaty*, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

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

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

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

5. The first Commission appointed under the provisions of the Constitution shall

consist of one national of each Member State, including its President and the Union Minister for Foreign Affairs who shall be one of its Vice-Presidents.

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

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

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

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

7. In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article I-33(2), the members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

8. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article II-223 of the *European Treaty*, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the Union Minister for Foreign Affairs shall resign from the duties that he or she carries out in the Commission.

## ARTICLE I-31<sup>9</sup>

If the Commission considers that a Member State has failed to fulfil an obligation under the Constitution, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union.

## ARTICLE I-32

### **The President of the European Commission**

1. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he or she does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

2. The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in Article I-30(4) and (6), second subparagraph.

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

The President of the Commission shall:

- (a) lay down guidelines within which the Commission is to work;
- (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;
- (c) appoint Vice-Presidents, other than the Union Minister for Foreign Affairs, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The Union Minister for Foreign Affairs shall resign, in accordance with the procedure set out in Article I-33(1), if the President so requests.

## ARTICLE I-33

### **The Union Minister for Foreign Affairs**

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

2. The Union Minister for Foreign Affairs shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development



of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy. *In the achievement of his mandate, the Foreign Minister of the Union is based on a European service for the external action*<sup>10</sup>.

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

4. The Union Minister for Foreign Affairs shall be one of the Vice-Presidents of the Commission. He or she shall ensure the consistency of the Union's external action. He or she shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the Union Minister for Foreign Affairs shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3.

#### ARTICLE I-34 **The Court of Justice of the European Union**

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

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

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

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

The judges and the Advocates-General of the Court of Justice and the judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles II-237 and II-238 of the *European Treaty*. They shall be appointed by common accord of the governments of the Member States for six years. Retiring judges and Advocates-General may be reappointed.

3. The Court of Justice of the European Union shall in accordance with article II-235 and II-262 of the *European Treaty*:

- (a) rule on actions brought by a Member State, an institution or a natural or legal person;
- (b) give preliminary rulings, at the request of courts or tribunals of the Member States, on the interpretation of Union law or the validity of acts adopted by the institutions;
- (c) rule in other cases provided for in the Constitution.

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<sup>10</sup> *Art. III-296-3 of the Treaty establishing a Constitution for Europe.*

## **CHAPTER II**

### **THE OTHER UNION INSTITUTIONS AND ADVISORY BODIES**

#### ARTICLE I-35

##### **The European Central Bank**

1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks. The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.
2. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives. It shall conduct other Central Bank tasks in accordance with the *European Treaty* and the Statute of the European System of Central Banks and of the European Central Bank.
3. The European Central Bank is an institution. It shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.
4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles I-71 to I-77 and Article I-82 of the *European Treaty*, and with the conditions laid down in the Statute of the European System of Central Banks and of the European Central Bank. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.
5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion.
6. The decision-making organs of the European Central Bank, their composition and operating methods are set out in Articles I-36 of the Constitution, I-78 and I-79 and II-263 of the *European Treaty*, as well as in the Statute of the European System of Central Banks and of the European Central Bank.

## ARTICLE I-36<sup>11</sup>

1. The Governing Council of the European Central Bank shall comprise the members of the Executive Board of the European Central Bank and the Governors of the national central banks of the Member States without a derogation as referred to in Article I-83 of the *European Treaty*.

2. The Executive Board shall comprise the President, the Vice-President and four other members.

The President, the Vice-President and the other members of the Executive Board shall be appointed by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters, on a recommendation from the Council and after consulting the European Parliament and the Governing Council of the European Central Bank.

Their term of office shall be eight years and shall not be renewable.

Only nationals of Member States may be members of the Executive Board

## ARTICLE I-37 **The Court of Auditors**

1. The Court of Auditors is an institution. It shall carry out the Union's audit in accordance with article II-264 of the *European Treaty*.

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

3. It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest and according to the conditions of article II-265 of the *European treaty*.

## ARTICLE I-38<sup>12</sup>

1. The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective States to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

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11 *Art. III-382 of the Treaty establishing a Constitution for Europe.*

12 *Art. III-385, paragraphs 1 and 2 of the Treaty establishing a Constitution for Europe.*

2. The members of the Court of Auditors shall be appointed for a term of six years. Their term of office shall be renewable. The Council shall adopt a European decision establishing the list of members drawn up in accordance with the proposals made by each Member State. It shall act after consulting the European Parliament.

The members of the Court of Auditors shall elect their President from among their number for a term of three years. He or she may be re-elected.

## ARTICLE I-39 **The Union's advisory bodies**

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

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

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

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

5. Rules governing the composition of these Committees, the designation of their members, their powers and their operations are set out in Articles II-266 to II-272 of the *European Treaty*.

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

## TITLE V EXERCISE OF UNION COMPETENCE

### CHAPTER I COMMON PROVISIONS

#### ARTICLE I-40 **The legal acts of the Union**

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

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

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

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

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

Recommendations and opinions shall have no binding force.

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

#### ARTICLE I-41 **Legislative acts**

1. European laws and framework laws shall be adopted, on the basis of proposals from the Commission, jointly by the European Parliament and the Council under the ordinary legislative procedure as set out in Article I-43. If the two institutions cannot reach

agreement on an act, it shall not be adopted.

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

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

#### ARTICLE I-42<sup>13</sup>

1. Where, pursuant to the Constitution, the Council acts on a proposal from the Commission, it may amend that proposal only by acting unanimously, except in the cases referred to in Articles I-43 (10 and 13), I-64 and I-65 of the Constitution, and Articles II-282, II-283(2) of the *European Treaty*.

2. As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Union act.

#### ARTICLE I-43<sup>14</sup>

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

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

First reading

3. The European Parliament shall adopt its position at first reading and communicate it to the Council.

4. If the Council approves the European Parliament's position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.

5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.

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13 *Old art. III-395 of the constitutional Treaty.*

14 *Old art. III-396 of the constitutionnal Treaty.*

6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

#### Second reading

7. If, within three months of such communication, the European Parliament:

- (a) approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;
- (b) rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;
- (c) proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.

8. If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:

- (a) approves all those amendments, the act in question shall be deemed to have been adopted;
- (b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.

#### Conciliation

10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.

11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

#### Third reading

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.

14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

#### Special provisions

15. Where, in the cases provided for in the Constitution and the *European Treaty*, a law or framework law is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the opinion of the Commission throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee in accordance with paragraph 11.

### ARTICLE I-44

#### **Non-legislative acts**

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

2. The Council and the Commission, in particular in the cases referred to in Articles I-45 and I-46, and the European Central Bank in the specific cases provided for in the *European Treaty*, shall adopt European regulations and decisions.

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



ARTICLE I-45  
**Delegated European regulations**

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

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

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

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

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

ARTICLE I-46  
**Implementing acts**

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

2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Article I-49, on the Council.

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

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

## ARTICLE I-47

### **Principles common to the Union's legal acts**

1. Where neither the Constitution nor the *European Treaty* do not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality referred to in Article I-11.
2. Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Constitution and the *European Treaty*.

## ARTICLE I-48

### **Publication and entry into force**

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

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

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

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

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

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

## **CHAPTER II SPECIFIC PROVISIONS**

### **ARTICLE I-49**

#### **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 shall frame this policy within the framework of the strategic guidelines established by the European Council and in accordance with the *European Treaty*.
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. 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 the *European Treaty*. The European Council and the Council shall act on an initiative from a Member State, on a proposal from the Union Minister for Foreign Affairs or on a proposal from that Minister with the Commission's support. European laws and framework laws shall be excluded.
7. The European Council may, unanimously, adopt a European decision authorising the Council to act by a qualified majority in cases other than those referred to in the *European Treaty*.
8. The European Parliament shall be regularly consulted on the main aspects and basic choices of the common foreign and security policy. It shall be kept informed of how it evolves.

ARTICLE I-50

**Specific provisions relating to the 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 capacity drawing on civil and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks, defined by the Article I-195 of the *European Treaty*, 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.

... 15

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

... 16

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

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article I-196 of the *European Treaty*.

6. Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article I-198 of the *European Treaty*. It shall not affect the provisions of Article I-195 of it.

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15 *Art. I-195-3 of the European Treaty.*

16 *Art. I-197-1 of the European Treaty.*

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.

... 17

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

#### ARTICLE I-51

##### **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 laws and regulations of the Member States in the areas provided for in the *European Treaty*;
  - (b) by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions;
  - (c) by operational cooperation between the competent authorities of the Member States, including the police, customs and other services specialising in the prevention and detection of criminal offences.
2. National Parliaments may, within the framework of the area of freedom, security and justice, participate in the evaluation mechanisms provided for in Article I-146 of the *European Treaty*. They shall be involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles I-162 and I-159 of the *European Treaty*.
3. Member States shall have a right of initiative in the field of police and judicial cooperation in criminal matters, in accordance with Article I-150 of the *European Treaty*.

ARTICLE I-52  
**Solidarity clause**

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:
  - (a)
    - prevent the terrorist threat in the territory of the Member States;
    - protect democratic institutions and the civilian population from any terrorist attack;
    - assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;
  - (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 set out in Article I-215 of *the European Treaty*.

**CHAPTER III**  
**ENHANCED COOPERATION**

ARTICLE I-53  
**Enhanced cooperation**

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 II-294 to II-301 of *the European Treaty*.

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 II-296 of *the European Treaty*.

2. The European decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least one third of the Member States participate in it. The Council shall act in accordance with the procedure laid down in Article II-297 of *the European Treaty*.

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

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

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

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

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

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

## TITLE VI THE DEMOCRATIC LIFE OF THE UNION

### ARTICLE I-54 **The principle of democratic equality**

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

### ARTICLE I-55 **The principle of representative democracy**

1. The functioning of the Union shall be founded on representative democracy.
2. Citizens are directly represented at Union level in the European Parliament.

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

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

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

#### ARTICLE I-56

##### **The principle of participatory democracy**

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

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

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

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

#### ARTICLE I-57

##### **The social partners and autonomous social dialogue**

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

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

#### ARTICLE I-58

##### **The European Ombudsman**

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



#### ARTICLE I-59

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

1. In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible.
2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.
3. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State shall have, under the conditions laid down in the *European Treaty*, a right of access to documents of the Union institutions, bodies, offices and agencies, whatever their medium.

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

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

#### ARTICLE I-60

##### **Protection of personal data**

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

#### ARTICLE I-61

##### **Status of churches and non-confessional organisations**

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

## TITLE VII THE UNION'S FINANCES

### ARTICLE I-62 **Budgetary and financial principles**

1. The budget is adopted in joint decision by the Parliament and the European Council according to methods' defined by the *European Treaty*.

2. All items of Union revenue and expenditure shall be included in estimates drawn up for each financial year and shall be shown in the Union's budget, in accordance with provisions of the *European Treaty*.

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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 II-290 of the *European Treaty*.

4. The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the European law referred to in Article II-290 of the *European Treaty*, except in cases for which that law provides.

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5. The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.

6. The Union and the Member States, in accordance with Article II-293 of the *European Treaty*, shall counter fraud and any other illegal activities affecting the financial interests of the Union.

### ARTICLE I-63 **The Union's own resources**

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

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

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18 *Art. II-288-2 of the European Treaty.*

19 *Art. II-288-3 Of the European Treaty.*

3. A European law of the Council shall lay down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. The Council shall act unanimously after consulting the European Parliament. That law shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

4. A European law of the Council shall lay down implementing measures of the Union's own resources system insofar as this is provided for in the European law adopted on the basis of paragraph 3. The Council shall act after obtaining the consent of the European Parliament.

#### ARTICLE I-64

##### **The multiannual financial framework**

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources. It shall determine the amounts of the annual ceilings of appropriations for commitments by category of expenditure in accordance with Article II-280 of the *European Treaty*.

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

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

4. The European Council may, unanimously, adopt a European decision authorising the Council to act by a qualified majority when adopting the European law of the Council referred to in paragraph 2.

#### ARTICLE I-65

##### **The Union's budget**

A European law shall establish the Union's annual budget in accordance with Article II-283 of the *European Treaty*.

## TITLE VIII THE UNION AND ITS NEIGHBOURS

### ARTICLE I-66 **The Union and its neighbours**

1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.
2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

## TITLE IX UNION MEMBERSHIP

### ARTICLE I-67 **Conditions of eligibility and procedure for accession to the Union**

1. The Union shall be open to all European States which respect the values referred to in Article I-2, and are committed to promoting them together.
2. Any European State which wishes to become a member of the Union shall address its application to the Council. The European Parliament and national Parliaments shall be notified of this application. The Council shall act unanimously after consulting the Commission and after obtaining the consent of the European Parliament, which shall act by a majority of its component members. The conditions and arrangements for admission shall be the subject of an agreement between the Member States and the candidate State. That agreement shall be subject to ratification by each contracting State, in accordance with its respective constitutional requirements.

### ARTICLE I-68 **Suspension of certain rights resulting from Union membership**

1. On the reasoned initiative of one third of the Member States or the reasoned initiative of the European Parliament or on a proposal from the Commission, the Council may adopt a European decision determining that there is a clear risk of a serious breach

by a Member State of the values referred to in Article I-2. The Council shall act by a majority of four fifths of its members after obtaining the consent of the European Parliament.

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

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

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

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

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

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

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.

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

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

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

ARTICLE I-69  
**Voluntary withdrawal from the Union**

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.
  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 I-211(3) *of the European Treaty*. It shall be concluded by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.
  3. The Constitution *and the European Treaty* 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.
  4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in European decisions concerning it.
- A qualified majority shall be defined as at least 72% of the members of the Council, representing the participating Member States, comprising at least 65% of the population of these States.
5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article I-67.

## PART II

# THE CHARTER OF FUNDAMENTAL RIGHTS OF THE UNION

## **PREAMBLE**

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

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

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

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

This Charter reaffirms, with due regard for the powers and tasks of the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Union and by the Council of Europe and the case law of the Court of Justice of the European Union and of the European Court of Human Rights. In this context the Charter will be interpreted by the courts of the Union and the Member States with due regard to the explanations ... <sup>20</sup> *contained in the declaration relating to the Charter of Fundamental rights annexed to the European Treaty*<sup>21</sup>.

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.

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<sup>20</sup> “prepared under the authority of the Praesidium of the Convention which drafted the Charter and updated under the responsibility of the Praesidium of the European Convention”.

<sup>21</sup> See the declaration N°12, annexed to the European Treaty, concerning the explications relating to the Charter of Fundamental Rights.



## **TITLE I DIGNITY**

### **ARTICLE II-70 Human dignity**

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

### **ARTICLE II-71 Right to life**

1. Everyone has the right to life.
2. No one shall be condemned to the death penalty, or executed.

### **ARTICLE II-72 Right to the integrity of the person**

1. Everyone has the right to respect for his or her physical and mental integrity.
2. In the fields of medicine and biology, the following must be respected in particular:
  - (a) the free and informed consent of the person concerned, according to the procedures laid down by law;
  - (b) the prohibition of eugenic practices, in particular those aiming at the selection of persons;
  - (c) the prohibition on making the human body and its parts as such a source of financial gain;
  - (d) the prohibition of the reproductive cloning of human beings.

### **ARTICLE II-73 Prohibition of torture and inhuman or degrading treatment or punishment**

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

ARTICLE II-74  
**Prohibition of slavery and forced labour**

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. Trafficking in human beings is prohibited.

TITLE II  
**FREEDOMS**

ARTICLE II-75  
**Right to liberty and security**

Everyone has the right to liberty and security of person.

ARTICLE II-76  
**Respect for private and family life**

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

ARTICLE II-77  
**Protection of personal data**

1. Everyone has the right to the protection of personal data concerning him or her.
2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.
3. Compliance with these rules shall be subject to control by an independent authority.

ARTICLE II-78

**Right to marry and right to found a family**

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

ARTICLE II-79

**Freedom of thought, conscience and religion**

1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.
2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

ARTICLE II-80

**Freedom of expression and information**

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

ARTICLE II-81

**Freedom of assembly and of 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 for the protection of his or her interests.

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

#### ARTICLE II-82

##### **Freedom of the arts and sciences**

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

#### ARTICLE II-83

##### **Right to education**

1. Everyone has the right to education and to have access to vocational and continuing training.
2. This right includes the possibility to receive free compulsory education.
3. The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.

#### ARTICLE II-84

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

1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation.
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.
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-85

##### **Freedom to conduct a business**

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

ARTICLE II-86

**Right to property**

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

ARTICLE II-87

**Right to asylum**

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

ARTICLE II-88

**Protection in the event of removal, expulsion or extradition**

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

TITLE III

**EQUALITY**

ARTICLE II-89

**Equality before the law**

Everyone is equal before the law.

ARTICLE II-90  
**Non-discrimination**

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Constitution *and the European Treaty* and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited.

ARTICLE II-91  
**Cultural, religious and linguistic diversity**

The Union shall respect cultural, religious and linguistic diversity.

ARTICLE II-92  
**Equality between women and men**

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

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

ARTICLE II-93  
**The rights of the child**

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.
3. Every child shall have the right to maintain on a regular basis a personal

relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

#### ARTICLE II-94

##### **The rights of the elderly**

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.

#### ARTICLE II-95

##### **Integration of persons with disabilities**

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.

### TITLE IV **SOLIDARITY**

#### ARTICLE II-96

##### **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.

#### ARTICLE II-97

##### **Right of collective bargaining and action**

Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.

#### ARTICLE II-98

## **Right of access to placement services**

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

### **ARTICLE II-99**

#### **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.

### **ARTICLE II-100**

#### **Fair and just working conditions**

1. Every worker has the right to working conditions which respect his or her health, safety and dignity.
2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.

### **ARTICLE II-101**

#### **Prohibition of child labour and protection of young people at work**

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

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



## ARTICLE II-102

### **Family and professional life**

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

## ARTICLE II-103

### **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-104

### **Health care**

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

ARTICLE II-105

**Access to services of general economic interest**

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

ARTICLE II-106

**Environmental protection**

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.

ARTICLE II-107

**Consumer protection**

Union policies shall ensure a high level of consumer protection.

TITLE V

**CITIZENS' RIGHTS**

ARTICLE II-108

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

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

## ARTICLE II-109

### **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.

## ARTICLE II-110

### **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.
2. This right includes:
  - (a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
  - (b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;
  - (c) the obligation of the administration to give reasons for its decisions.
3. Every person has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
4. Every person may write to the institutions of the Union in one of the languages of the Constitution and must have an answer in the same language.

## ARTICLE II-111

### **Right of access to documents**

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

ARTICLE II-112

**European Ombudsman**

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

ARTICLE II-113

**Right to petition**

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to petition the European Parliament.

ARTICLE II-114

**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-115

**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-116

#### **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 insofar as such aid is necessary to ensure effective access to justice.

### ARTICLE II-117

#### **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-118

#### **Principles of legality and proportionality of criminal offences and penalties**

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

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

#### ARTICLE II-119

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

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

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

#### ARTICLE II-120 **Field of application**

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

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

#### ARTICLE II-121 **Scope and interpretation of rights and principles**

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

2. Rights recognised by this Charter for which provision is made in the Constitution *or*

*the European Treaty* shall be exercised under the conditions and within the limits defined by these relevant texts.

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

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

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

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

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

## ARTICLE II-122

### **Level of protection**

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

## ARTICLE II-123

### **Prohibition of abuse of rights**

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

## PART III

# GENERAL AND FINAL PROVISIONS



## ARTICLE III-124

### Scope

1. The Constitution 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.

2. *The Constitution* shall apply to Guadeloupe, French Guiana, Martinique, Réunion, the Azores, Madeira and the Canary Islands in accordance with Article II-302 of the European Treaty.

3. The special arrangements for association set out in Title IV of the European Treaty shall apply to the overseas countries and territories listed in Annex II.

*The Constitution* shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. *The Constitution* shall apply to the European territories for whose external relations a Member State is responsible.

5. *The Constitution* shall apply to the Åland Islands with the derogations which originally appeared in the Treaty referred to in Article III-315(2)(d) of the *European Treaty* and which have been incorporated in Section 5 of Title V of the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

6. Notwithstanding paragraphs 1 to 5:

(a) *The Constitution* shall not apply to the Faeroe Islands;

(b) *The present Treaty* shall apply to Akrotiri and Dhekelia, the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, only to the extent necessary to ensure the implementation of the arrangements originally provided for in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, annexed to the Act of Accession which is an integral part of the Treaty referred to in Article III-315(2)(e) of the European Treaty, and which have been incorporated in Title III of Part II of the Protocol on the Treaty and Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic;

- (c) The Present Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands originally set out in the Treaty referred to in Article III-315(2)(a) *of the European Treaty*, and which have been incorporated in Section 3 of Title II of the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.
- 7. The European Council may, on the initiative of the Member State concerned, adopt a European decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 2 and 3. The European Council shall act unanimously after consulting the Commission.

#### ARTICLE III-125 **Regional unions**

*The Constitution* 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 its application or in that of the European Treaty.

#### ARTICLE III-126 **Ordinary revision procedure**

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment *of the Constitution*. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.
2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in paragraph 3.

The European Council may decide by a simple majority, after obtaining the consent of the European Parliament, not to convene a Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for a conference of representatives of the governments of the Member States.

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 *the Constitution*.

The amendments shall enter into force after **being approved by the European Parliament and after** ~~being ratified by all the Member States in accordance with their respective constitutional requirements~~ **a European ballot of all citizens of the Union held on the same day.**

4. ~~If, two years after the signature of the treaty amending this Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.~~ **The amendments shall be approved by a majority of votes cast in the Union, the latter being considered as a single constituency, and a majority of votes cast in over half the Member States, each Member State being considered a separate constituency for that purpose.**

#### ARTICLE III-127 Simplified revision procedure

1. Where *the Constitution* provides for the Council to act by unanimity in a given area or case, the European Council may adopt a European decision authorising the Council to act by a qualified majority in that area or in that case.

This paragraph shall not apply to decisions with military implications or those in the area of defence.

2. Where *the Constitution* provides for European laws and framework laws to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a European decision allowing for the adoption of such European laws or framework laws in accordance with the ordinary legislative procedure.

3. Any initiative taken by the European Council on the basis of paragraphs 1 or 2 shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the European decision referred to in paragraphs 1 or 2 shall not be adopted. In the absence of opposition, the European Council may adopt the decision.

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.

ARTICLE III-128  
**Ratification and entry into force**

1. ~~The Constitution shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements.~~ **by a European ballot of all citizens of the Union held on the same day. The Constitution shall be approved by a majority of votes cast in the Union, the latter being considered as a single constituency, and a majority of votes cast in over half the Member States, each Member State being considered a separate constituency for that purpose.** The instruments of ratification shall be deposited with the Government of the Italian Republic.

2. ~~The Constitution shall enter into force on 1 November 2006, provided that all the instruments of ratification have been deposited or, failing that, on the first day of the second month following the deposit of the instrument of ratification by the last signatory State to take this step.~~ **After promulgation of the results of the European ballot ratifying the Constitution, where it has been ratified. The entry into force shall not take effect until after the ratification of the European Treaty.**

ARTICLE III-129  
**Authentic texts and translations**

1. *The Constitution*, drawn up in a single original in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

2. *The Constitution* may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council.