

FREIBURG DRAFT OF A EUROPEAN CONSTITUTIONAL TREATY

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Preface

This draft of a European Constitutional Treaty has been prepared on the basis of intensive discussions in the framework of a Franco-German working group. It is the result of an academic research project; it is not a mandated expert opinion or an advisory paper for any specific institution.

The following people were members of the research working group:

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Dr. *Karl von Wogau*, MEP, Strassbourg; Dr. *Jan-Peter Hix*, Legal Service of the Council, Brussels, as well as *Florian Schmidt*, LL.M., also research assistant in Freiburg, took part in the deliberations of the working group from time to time.

Insofar as expert opinions of the members of the working group have found their way into the draft, such expertise reflects their personal opinion only.

The seeds of this project were sown by a comparative research project which was carried out by the undersigned in cooperation with research teams from five other Member States of the EU.

This earlier project arrived at the conclusion that, despite all the differences in terms of historical development and conceptual features, there was clear evidence for an approximation of the analyzed national constitutional orders in particular due to the requirements of European integration which meant the time seemed right to draft a European Constitutional Treaty.

The results of the above mentioned research project on constitutional law have been published in their entirety in 2000 by the Nomos Verlag, Baden-Baden in a tome called "Die Entstehung einer europäischen Verfassungsordnung" (ed. J. Schwarze).

They are also available in an English language version („The Birth of a European Constitutional Order", Nomos-Verlag, Baden-Baden 2001) and a French edition („La naissance d'un ordre constitutionnel européen“, Nomos Verlag, Baden-Baden 2001).

The idea for the current project which has resulted in this draft of a European Constitutional Treaty was born at a time when the Constitutional Convention which is now chaired by the former French President Giscard d'Estaing was not even agreed upon let alone constituted. In keeping with the earlier project, this research project has again been kindly sponsored by the Fritz Thyssen Stiftung.

This draft follows the model of a treaty dichotomy, i.e. the separation into two component parts: One (fundamental) part consisting of the actual Constitutional Treaty which is complemented by a second Treaty on the Policies of the Union. Specific amendments and modifications notwithstanding, the rules of the existing Treaties are contained in the Treaty on the Policies of the Union. This differentiation would have the following consequences: As far as the Treaty on the Policies of the Union is concerned, there would be special rules that would allow for easier treaty amendments in the future – albeit subject to the continued requirement for unanimity of the Member States. In keeping with the aims and the nature of the research project, the draft presented hereafter only contains the (fundamental) Treaty for a European Constitution. This approach is justified particularly in view of the fact that the necessary amendments within the Treaty on the Policies of the Union are mainly technical in nature.

The draft focuses on four issues which have been identified in the course of the meetings of the European Council at Nice and Laeken as having priority for the European constitutional reform:

1. A better delimitation of competencies between the Union and its Member States.
2. An improved standard for the protection of human rights by recourse to the Charter of Fundamental Rights.
3. The simplification of the Treaties.
4. The reform of the institutional structure involving the national parliaments.

This draft offers a workable model and proposals regarding these key issues. Furthermore, it proposes certain material modifications towards a reform of the Treaties, based on the extended remit of Laeken. These modifications notwithstanding, the draft is largely based on the current primary law, aiming predominantly at a simplification of the text of the Treaty.

The work of the Convention hitherto has been taken into account in this draft. We reserve the right to continue to amend and modify the presented draft text in the course of the further deliberations of the Convention and in view of the evolving European public debate.

A preliminary draft of this text was discussed on October 11/12, 2002 in Freiburg by a larger group of experts. We now present an updated version. It is to be hoped that the Freiburg Draft will not only serve to inspire academic debate but may also be of use for the deliberations of the Convention and the subsequent Intergovernmental Conference.

Freiburg, November 12, 2002

Jürgen Schwarze

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Section A: Fundamental Provisions

Art. 1 [Treaty on the Constitution for the European Union]

- (1) Through this Treaty the Member States establish a Constitution for the European Union
- (2) Continuing the process of European integration achieved so far, the Union aims to promote the peaceful co-existence of the peoples in a spirit of open-minded international cooperation, to safeguard a closer unity of the Member States within a uniform institutional framework and to secure economic welfare as well as social balance in an internal market. The Union shall place the citizens of the Union at the heart of its activities.
- (3) This Treaty provides the foundations for the activities of the Union and limits the exercise of its competencies vis-à-vis the Member States and the citizens of the Union.
- (4) The Union has legal personality.

Art. 2 [Fundamental Provisions of the Union]

- (1) The Union is founded on the principles which are common to the legal orders of all the Member States, i.e. the principles of liberty, democracy, the rule of law, respect for human rights and fundamental freedoms, solidarity and compliance with the rules of public international law. It shall take its decisions as openly and as close to the citizens as possible.
- (2) The Union shall respect the national identity and the organisational structure of its Member States. It shall respect the variety of the cultures and traditions of the peoples of Europe.
- (3) The Member States and the Union are committed to exercising their respective competencies in a spirit of mutual loyalty. The Member States are also obliged to cooperate loyally amongst themselves.

Art. 3 [Primacy and Direct Effect of the Union Law]

- (1) The Union law shall prevail over the law of the Member States.
- (2) Insofar as Union law places direct and unconditional obligations on the Member States, it shall also have direct effect for the individual.

Art. 4 [Fundamental Rights]

- (1) In consideration of the common constitutional traditions of the Member States and the guarantees enshrined in the European Convention on Human Rights, the Union respects the human rights as contained in the Charter of Fundamental Rights solemnly proclaimed at Nice on December 7, 2000.
- (2) The Charter of Fundamental Rights is part of this Constitutional Treaty. It aims to strengthen the standard of human rights' protection for the citizens of the Union both vis-à-vis the institutions and bodies of the Union and the Member States in cases where they implement Union law. It does not interfere with the standard of protection for human rights granted by the constitutional law of the Member States and the European Convention on Human Rights.

Art. 5 [Citizenship of the Union]

- (1) Every person holding the nationality of a Member State shall be a citizen of the Union.
- (2) The citizens of the Union shall enjoy the rights conferred by this Treaty, in particular
 - the right to vote and to stand as a candidate in elections to the European Parliament and at municipal elections of the Member State, in which they reside permanently;
 - the right to move and reside freely within the territory of all the Member States;
 - the right to protection by the diplomatic and consular authorities of any Member State.
- (3) The details shall be regulated by a law requiring qualified majority in the Council according to Article 55 paragraph 2.

Art. 6 [Prohibition of Discrimination]

Within the scope of application of this Constitutional Treaty and the Treaty on the Policies of the Union and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality by the Union and the Member States shall be prohibited.

Art. 7 [Tasks]

- (1) It shall be part of the tasks of the Union
 - to create and maintain a European internal market including a common trade policy, to strengthen economic and social cohesion and to establish an economic and monetary union;
 - to maintain and develop the Union as an area of freedom, security and justice;
 - to safeguard its identity on the international scene, in particular through the implementation of a common foreign and security policy including the progressive framing of a common defence policy.
- (2) These tasks shall be carried out in compliance with the rules on the competencies of the Union.

Art. 8 [Principles governing the Exercise of its Tasks]

In implementing its policies, the Union shall respect the following principles:

- the solidarity between the Member States;
- a harmonious, balanced and sustainable development of economic activities;
- sustainable and non-inflationary growth;
- a high degree of competitiveness and convergence of economic performance;
- a high level of employment and of social protection;
- a high level of protection and improvement of the quality of the environment and the quality of life;
- equality between men and women;
- the fight against discrimination within the meaning of Article 21 of the Charter of Fundamental Rights.

Art. 9 [Competencies of the Union]

- (1) To enable the Union to carry out its tasks, the Member States delegate to the Union the sovereign rights of legislation, administration and jurisdiction as set out in this Treaty.

- (2) The Union and its institutions shall act only in compliance with the competencies expressly assigned to them in this Treaty.
- (3) The principles of subsidiarity and proportionality shall be binding guidelines for the exercise of these competencies.
- (4) The details of the competence order are regulated in the Title on the competencies of the Union.

Art. 10 [Institutions]

- (1) The tasks entrusted to the Union shall be carried out by the following institutions:
 - a) a European Parliament;
 - b) a European Council;
 - c) a Council;
 - d) a Commission;
 - e) a Court of Justice and a Court;
 - f) a European Central Bank;
 - g) a Court of Auditors.
- (2) The Council and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee acting in an advisory capacity.
- (3) For specific tasks listed in this Constitutional Treaty a Competence Committee, a Congress and a Convention shall be convened.
- (4) The principle of loyal cooperation shall apply to the institutions and bodies of the Union.
- (5) The institutions and bodies of the Union shall secure transparent, efficient and inexpensive administrative practices.

Art. 11 [Languages]

- (1) The Union acknowledges the multitude of languages as part of the cultural heritage of the Union.
- (2) Every citizen of the Union and every natural or legal person residing or having its registered office in a Member State may contact the institutions of the Union in any of the languages of this Constitutional Treaty and shall be entitled to a reply in the same language.
- (3) In formal administrative procedures a second language shall be nominated which the affected person agrees on using as procedural language. This second language may either be English, French, German, Italian, Polish or Spanish.
- (4) The institutions reserve the right to establish rules on the internal working languages in their Rules of Procedure. The number of working languages must at least be three.

Art. 12 [Accession to the Union]

- (1) Any European State which respects the principles set out in Article 2 paragraph 1 may apply to become a member of the Union. It shall address its application to the Council in the composition of the Heads of State or Government which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament which shall act by a majority of two thirds of its members.
- (2) The conditions of admission and the adjustments to this Treaty and the Treaty on the Policies of the Union which such admission entails shall be the subject of an agreement between the Member States and the applicant State. This agreement shall

be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.

Art. 13 [Suspension of Membership Rights]

- (1) On a reasoned proposal by a third of the Member States, by the European Parliament or the Commission, the Council in the composition of the Heads of State or Government, acting by a majority of four fifth of its Members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the principles mentioned in Article 2 paragraph 1 and address appropriate recommendations to that Member State. Before making such a determination, the Council in the composition of the Heads of State or Government shall hear the Member State in question and, acting in accordance with the same procedure, may call on independent persons to submit within a reasonable time limit a report on the situation in the Member State in question.
The Council in the composition of the Heads of State or Government shall regularly verify that the grounds on which such a determination was made continue to apply.
- (2) The Council in the composition of the Heads of State or Government and acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of principles mentioned in Article 2 paragraph 1, after giving the government of the respective Member State an opportunity to submit its observations.
- (3) Where a determination under paragraph 2 has been made, the Council in the composition of the Heads of State or Government, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Constitutional Treaty to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.
The obligations of the Member States in question under this Treaty shall in any case continue to be binding on that State.
- (4) The Council in the composition of the Heads of State or Government, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to these measures being imposed.
- (5) For the purposes of this Article, the Council shall act without taking into account the vote of the representative of the government of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2. When determining the qualified majority according to Article 55 paragraph 2, the Member State in question shall not be taken into account.
This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.
- (6) For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two thirds majority of its Members.
- (7) In procedures pursuant to this Article, the Court of Justice may only review whether the procedural rules have been respected.

Art. 14 [Treaty on the Policies of the Union]

- (1) This Constitutional Treaty shall be supplemented by a Treaty on the Policies of the Union which is subject to the requirements of this Constitutional Treaty.
- (2) The Treaty on the Policies of the Union shall merge the existing rules of the Treaty establishing the European Community, the Treaty establishing the European Atomic Energy Community and the Union policies in the fields of common foreign and security policy and police and judicial cooperation in criminal matters.
- (3) The Treaty on the Policies of the Union and this Constitutional Treaty shall simultaneously enter into force.

Section B: The Competencies of the Union

Title 1: General Provisions

Art. 15 [The Principle of Limited Competence]

- (1) The Union shall exercise the competencies conferred upon it in this Constitutional Treaty. The scope of the competencies shall be governed in detail by the Treaty on the Policies of the Union which is attached to this Constitutional Treaty.
- (2) Insofar as the Union acts with legally binding effect, it may only use such measures which are expressly allowed to it in the Treaty on the Policies of the Union.
- (3) The competencies of the Union are divided into exclusive, concurrent and complementary competencies.

Art. 16 [Exclusive Competencies]

- (1) Exclusive competencies shall be exercised by the Union in its sole responsibility.
- (2) In areas where the Union has an exclusive competence, the Member States may only act once they have been expressly authorized by the Union to do so.

Art. 17 [Matters of Exclusive Competence]

The following matters shall be subject to the exclusive competence of the Union in compliance with the Treaty on the Policies of the Union:

- a) the monetary policy in the framework of the economic and monetary union;
- b) trade with third countries including the imposition of external trade tariffs;
- c) agreements with third countries and international organisations establishing an association;
- d) the organisation of the institutions and bodies of the Union and the legal relations of the people in its service;
- e) the features of the citizenship of the Union.

Art. 18 [Concurrent Competencies]

- (1) Concurrent competencies shall be exercised by the Union and its Member States.
- (2) In as much and as long as the Union has not exercised a concurrent competence, the Member States shall have the competence for legislation and may conclude agreements of public international law.

Art. 19 [Matters of Concurrent Competence]

The following matters shall be subject to concurrent competence of the Union and the Member States in compliance with the Treaty on the Policies of the Union:

- a) the creation and promotion of the internal market according to Articles 30 to 32;
- b) coordination of economic policies in the framework of the economic and monetary union;
- c) competition policy including the rules on public undertakings and state aid control;
- d) harmonization of indirect taxes;
- e) agriculture and fishery policies;

- f) transport policy;
- g) coordination of social security systems;
- h) minimum standards for occupational safety and health and the social security of employees;
- i) consumer protection;
- j) defence against transborder dangers in the fields of health and civil protection;
- k) protection of the environment;
- l) energy supplies;
- m) the peaceful use of nuclear energy;
- n) promotion of trans-European networks;
- o) economic and social cohesion in the Union;
- p) asylum and immigration policies including the control of external borders and visa policies;
- q) judicial cooperation in civil matters;
- r) police and judicial cooperation in criminal matters;
- s) cooperation in foreign and security policy pursuant to Articles 97 to 107;
- t) development cooperation and economic, financial and technical cooperation with third countries;
- u) the right to elect the European Parliament.

Art. 20 [Complementary Competencies]

- (1) In the area of complementary competence of the Union, legislation shall rest with the Member States.
- (2) The Union shall support the policies of the Member States in this area and promote the cooperation between them as well as with third countries and international organisations.
- (3) The harmonisation of legal and administrative provisions of the Member States or an interference with existing national law shall be prohibited in the area of complementary competencies.

Art. 21 [Matters of Complementary Competence]

The following matters shall be subject to complementary competence of the European Union:

- a) employment policy;
- b) general and professional education;
- c) culture and sports policy;
- d) the health system;
- e) promotion of the competitiveness of the undertakings in the Union;
- f) promotion of research and technological development in the Union.

Art. 22 [Competence for the Implementation; Creation of Union Agencies]

- (1) The competence to implement Union law shall be vested in the Member States save as otherwise provided by this Constitutional Treaty or the Treaty on the Policies of the Union.

- (2) The European Union may, subject to a unanimous decision in the Council, enact a law which provides for measures aimed at promoting the uniformity of the implementation of Union law by the Member States in specific areas.
- (3) The Union may only create Union agencies with public powers (Agencies) if the Treaty on the Policies of the Union expressly authorizes it to do so.

Art. 23 [Principles of Subsidiarity and Proportionality]

- (1) In areas which do not fall into its exclusive competence, the Union shall take action, in accordance with the principle of subsidiarity, only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States or the Regions and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Union.
- (2) Any action by the Union shall not go beyond what is necessary to achieve the objectives of this Treaty. The benefits of Union action may not be disproportionate to the limitations of the legislative power of the Member States.

Art. 24 [Respect for the Sovereignty of the Member States]

- (1) When exercising the competencies assigned to it by this Treaty, the Union shall respect the sovereignty of the Member States and their regional entities especially in the following areas which are characteristic for their national identity and their fundamental constitutional legal order:
 - a) the organisation of the state and administrative structures including the principle of communal self-governance;
 - b) the public welfare services and the social security systems;
 - c) the media order;
 - d) culture and sports policy and education services;
 - e) the role of the churches and religious communities;
 - f) the fundamentals of regional planning and development;
 - g) the fundamental requirements of public safety, public order and health.
- (2) Under no circumstances, measures by the Union may encroach upon the core area of these sovereign rights.

Art. 25 [Review of the Competencies by National Parliaments]

If a national parliament considers a legislative proposal by the Commission to be in breach of the competence order, in particular the principle of subsidiarity, it may forward a statement to the Commission within the two-month period provided for in Article 82 paragraph 2. In such cases, the Commission shall be obliged to deal with the raised objections in the reasons for its legislative proposal. It may rework its proposal if such a statement has been presented.

Art. 26 [Competence Committee]

- (1) A Competence Committee shall be established to mediate in disputes between the Union and the Member States about the conformity of legislative acts of the Union with the competence order of this Constitutional Treaty and the Treaty on the Policies of the Union.

- (2) It shall consist of one representative of any Member State parliament and the same number of Members of the European Parliament. The members shall be independent of instructions.
- (3) If the Commission fails to amend its proposal despite objections being raised according to Article 25, the parliaments in the Member States in keeping with the requirements of their constitutional competence order and the Committee of the Regions may obtain the opinion of the Competence Committee on the question whether the legislative proposal of the Union is in breach of the competence order as set out in this Constitutional Treaty and the Treaty on the Policies of the Union.
- (4) The Competence Committee shall render the opinion within six weeks. It shall decide by simple majority of the votes. In cases of equal votes cast, an excessive use of competencies shall not be established.
- (5) Should the Competence Committee arrive at the conclusion that the legislative proposal exceeds the competencies of the Union, the Commission shall have to decide anew on the initiative for the legislative proposal. In that case the procedure according to Article 25 and 26 shall not apply again.

Art. 27 [Right of Action]

- (1) In cases where they unsuccessfully sought recourse to the Competence Committee or where the Union legislative failed to respect the opinion of the Competence Committee, the parliaments in the Member States in keeping with the requirements of their constitutional competence order and the Committee of the Regions may bring an action with the European Court of Justice to establish the nullity of the proposal on the grounds of excessive use of the Union's competence according to Article 65 paragraph 4.
- (2) The jurisdiction of the Court of Justice to review the legality of acts of the Union shall otherwise remain unaffected.

Art. 28 [Measures in Unforeseen Cases]

- (1) If action by the Union should prove necessary to attain a common objective within the field of its concurrent competencies according to Article 19 and the Treaty on the Policies of the Union has not provided the necessary powers, the Council may take the appropriate measure in accordance with the procedure in Article 82, acting unanimously.
- (2) The procedure according to Article 25 to 27 shall apply.

Art. 29 [Repeal of Provisions]

- (1) Insofar as the Union has made use of a competence and the need for regulation on the Union level ceases to exist, the Union shall repeal the respective provisions in accordance with the procedure provided for in Article 82. The Council shall decide by simple majority according to Article 55 paragraph 1.
- (2) If they consider the requirements of paragraph 1 to be met, the parliaments in the Member States in keeping with the requirements of their constitutional competence order and the Committee of the Regions may request that the Commission shall present a proposal for the repeal of the respective provisions.

Title 2: The Internal Market

Art. 30 [The Internal Market]

The European Union establishes and safeguards an internal market as an area without internal frontiers. The internal market is based on the fundamental freedoms and a policy that ensures that competition within the internal market is free from distortion.

Art. 31 [Fundamental Freedoms]

- (1) The citizens of the Union shall be entitled to the following fundamental freedoms in the internal market:
 - a) free movement of goods;
 - b) free movement of workers;
 - c) freedom of establishment for self-employed persons and undertakings;
 - d) free movement of services;
 - e) free movement of capital and payments.
- (2) In accordance with the Treaty on the Policies of the Union, the Union shall take the appropriate measures to attain these fundamental freedoms. Mandatory requirements in the general interest may limit the exercise of fundamental freedoms.

Art. 32 [Competence to Harmonize in the Internal Market]

- (1) With a view to the establishing and safeguarding of the internal market, the Union is entrusted with the approximation of the laws. It shall adopt measures for the approximation of the provisions laid down by law, regulation or administrative action of the Member States which have specific and direct relevance for the internal market.
- (2) The prerequisite for action by the Union in this regard shall be that considerable obstacles for economic transfer across borders exist or are imminent or that the different provisions laid down by law, regulation or administrative action cause or may cause grave distortions of competition among Member States.

Title 3: The Economic and Monetary Union

Art. 33 [Establishment of an Economic and Monetary Union]

- (1) The European Union shall establish an economic and monetary union in accordance with the Treaty on the Policies of the Union.
- (2) In the framework of this economic and monetary union, the Member States shall coordinate their national economic policies and the Union shall conduct its own currency policy. This coordination of economic policies shall support the currency policy of the Union.

Art. 34 [Economic Union]

The economic policy of the Member States shall be based on the principles of an open market economy with free competition. It shall promote sustainable growth, low unemployment, price stability and is based on solid budgeting.

Art. 35 [Monetary Union]

- (1) The monetary union shall be joined by all the Member States which fulfill the convergence criteria laid down in the Treaty on the Policies of the Union. The decision whether these criteria are met, shall be taken by the Council in the composition of the Heads of State or Government acting by qualified majority according to Article 55 paragraph 2, with the proviso that the affected Member State shall not be taken into account when determining the majority.
- (2) The primary objective of the currency policy of the Union shall be to maintain price stability. Without prejudice to the objective of price stability, the monetary policy of the Union shall support the general economic policies of the Union.
- (3) The implementation of the monetary policy shall be entrusted to the European System of Central Banks which shall be composed of the European Central Bank and the central banks of those Member States which have joined the monetary union.

Art. 36 [Obligation of Solid Budgeting]

- (1) In their budget policies, the Member States have to take into account the objectives laid down in Article 34. To avoid excessive government deficits and to maintain price stability, the Union shall specify the requirements for solid budgeting by the Member States in the Treaty on the Policies of the Union, in particular with regard to the government deficit and the stock of debt.
- (2) The Commission shall monitor the respect for these rules. In cases of danger of breaches, the Commission shall issue a recommendation to the respective Member States.
- (3) If the Commission has established a breach of these rules, the Council acting by qualified majority according to Article 55 paragraph 2 may impose sanctions against the respective Member States, with the proviso that the affected Member State shall not be taken into account when determining the majority.
- (4) The details of the monitoring procedure shall be regulated in binding form by the Treaty on the Policies of the Union. Deviations from the rules laid down therein shall not be permissible.

Art. 37 [European Central Bank; European System of Central Banks]

- (1) The basic tasks to be carried out through the European System of Central Banks shall be
 - to define and implement the monetary policy of the Union,
 - to conduct foreign exchange operations consistent with the provisions of the Treaty on the Policies of the Union,
 - to hold and manage the official foreign currency reserves of the Member States
 - to promote the smooth operation of payment systems.
- (2) In order to carry out the tasks entrusted to the European System of Central Banks, the European Central Bank shall enact regulations and take decisions as well as issue recommendations and opinions in the framework of the Treaty on the Policies of the Union and the Statute of the ESCB.

The policy of the ESCB shall be determined by the ECB Council. It shall consist of the members of the Executive Board of the ECB and the Governors of the national central banks of those Member States that have joined the monetary union. The Council of the Union in the composition of the Heads of State or Government may unanimously adopt special provisions for the exercise of the voting rights of the Governors of the national central banks in the ECB Council.
- (3) The Executive Board of the ECB shall comprise the President, the Vice-President and four other members. They are elected by the Council in the Composition of the Heads of State or Government from among persons of recognised standing and professional experience in monetary or banking matters by qualified majority according to Article 55 paragraph 2 and after consultation of the ECB Council and by assent of the European Parliament. Their term of office shall be eight years. They may not be reelected.
- (4) When exercising their powers and carrying out their tasks and duties, neither the ECB nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from institutions or bodies of the Union, from any government of a Member State or from any other body. The institutions and bodies of the Union and the governments of the Member States undertake to respect this principle and not seek to influence the members of the decision-making bodies of the ECB or the national central banks.
- (5) The tasks, organisation and procedure of the European System of Central Banks shall be regulated in detail by a Statute enacted by a law requiring qualified majority in the Council according to Article 55 paragraph 2.

Art. 38 [Derogation Clauses]

- (1) The Council in the composition of the Heads of State or Government may determine by qualified majority and by assent of the European Parliament that a Member State may have a derogation to the effect that it does not join the monetary union.
- (2) The provisions on monetary union shall not apply to Member States with a derogation unless the Treaty on the Policies of the Union provides otherwise. Sanctions according to Article 36 paragraph 3 may not be imposed against them.

- (3) The Treaty on the Policies of the Union may provide that Member States with a derogation shall not take part in decisions of the Council in the framework of the economic and monetary policy. They do not take part in the European System of Central Banks. Decisions are adopted by qualified majority according to Article 55 paragraph 2, with the proviso that only the Member States eligible to vote are taken into account for determining the majority.

Title 4: Justice and Home Affairs

Art. 39 [Objectives and Tasks]

- (1) The Union's objective shall be to establish an area of freedom, security and justice and to prevent and combat racism and xenophobia.
- (2) This objective shall be achieved within the framework of the competencies of the Union according to this Treaty and the Treaty on the Policies of the Union through
 - police and judicial cooperation in criminal matters;
 - judicial cooperation in civil matters;
 - a common policy on asylum and immigration including external border control and visa;
 - a progressive approximation, where necessary, of the rules on criminal matters in the Member States in accordance with Article 40 paragraph 1.

Art. 40 [Special Provisions in the Area of Police and Judicial Cooperation in Criminal Matters]

- (1) The objective of the Union's activity in the area of police and judicial cooperation shall be preventing and combatting crime - organised or otherwise - in particular terrorism, trafficking in persons and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud at the expense of the Union budget.
- (2) To this end, the Union introduces
 - closer cooperation between police forces, customs authorities and other competent authorities in the Member States, both directly and through the European Police Office (Europol) as well as
 - closer cooperation between judicial and other competent authorities of the Member States including cooperation through the European Judicial Cooperation Unit (Eurojust).
- (3) In accordance with the provisions of the Treaty on the Policies of the Union, the Union shall be entitled to make use of the measures according to Article 80 in this area.
- (4) Insofar as the Treaty on the Policies of the Union subjects measures to unanimous decision in the Council, it shall also stipulate whether and after which transitional periods such matters are subject to majority decisions.
- (5) In the area of police and judicial cooperation in criminal matters, the European Court of Justice and the European Court shall review the legality of acts by the Union and its institutions in accordance with Article 65 and 67.

Section C: The Institutions and Advisory Bodies of the European Union

Title 1: The European Parliament

Art. 41 [The European Parliament]

- (1) The European Parliament shall consist of representatives of the citizens of the Union.
- (2) It shall fulfill the tasks entrusted to it in this Constitutional Treaty.
In particular, the Parliament together with the Council shall act as legislator and pass the budget of the Union with it. It shall participate in amendments of this Constitutional Treaty and the Treaty on the Policies of the Union, the creation of international agreements and the accession of new Member States. Pursuant to this Constitutional Treaty, it shall have a role in the appointment of members of other institutions and bodies of the Union and exercise the controls entrusted to it.
Furthermore, the European Parliament may voice its opinions on all matters of general political interest.

Art. 42 [Election and Status of the Members]

- (1) The representatives shall be elected for five years by universal, secret, free, equal and direct suffrage. The citizens of the Union shall have the right to vote the European Parliament in the Member State in which they reside permanently.
- (2) The elections shall be held in all Member States within an identical time frame according to a uniform procedure. The details shall be governed by a law requiring qualified majority in the Council according to Article 55 paragraph 2.
- (3) The regulations and general conditions governing the performance of the duties of its Members shall be regulated by a law which requires a qualified majority in the Council according to Article 55 paragraph 2.

Art. 43 [Composition]

- (1) The number of the representatives elected in each Member State shall be as follows:

Austria :	11
Belgium:	13
Bulgaria:	11
Cyprus:	3
Czech Republic:	13
Denmark:	8
Estonia:	6
Finland:	8
France:	62
Germany:	85
Greece:	14
Hungary:	13
Ireland:	7

Italy:	62
Latvia:	6
Lithuania:	7
Luxembourg:	3
Malta:	3
Netherlands:	19
Poland:	42
Portugal:	13
Romania:	26
Slovakia:	8
Slovenia:	6
Spain:	42
Sweden:	12
United Kingdom:	62

- (2) The number of Members of the European Parliament shall not exceed 650.

Art. 44 [Decision-Making; Rules of Procedure]

- (1) Save as otherwise provided in this Treaty or the Treaty on the Policies of the Union, the European Parliament shall decide by the majority of the votes cast.
- (2) The European Parliament shall adopt its Rules of Procedure, acting by a majority of its Members.
- (3) The European Parliament shall elect its President and its officers from among its Members in accordance with the provisions of the Rules of Procedure.
- (4) The Council and Members of the Commission shall be heard at any time in accordance with the Rules of Procedure of the European Parliament.

Art. 45 [Political Parties]

- (1) Political parties at European level are an essential factor of integration in the Union. They contribute to the creation of European awareness and to expressing the political will of the citizens of the Union.
- (2) The statute of the political parties at European level as well as issues regarding their financing shall be governed by law.

Art. 46 [Legislation; Request to the Commission]

- (1) The European Parliament shall participate in the legislation of the Union by exercising its powers under the procedures laid down in Article 82 and by giving its assent or delivering advisory opinions.
- (2) The European Parliament may, acting by a majority of its Members, request the Commission to initiate a legislative procedure according to Article 82 in order to fulfill specific tasks of the Union.

Art. 47 [The Ombudsman]

- (1) After each election of the European Parliament it appoints the Ombudsman for the duration of its term of office. He shall be empowered to receive and deal with complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of

maladministration in the activities of the institutions and bodies of the Union, with the exception of the Court of Justice and the European Court acting in their judicial role.

- (2) Both the complaining party and, in an annual report, the European Parliament shall be informed on the outcome of his inquiries.
- (3) The details governing the performance of the duties of the Ombudsman shall be laid down in a law.

Art. 48 [The Right to Petition]

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

Art. 49 [Committee of Inquiry]

- (1) In the course of its duties, the European Parliament may, at the request of a quarter of its Members, set up a Committee of Inquiry to investigate, without prejudice to the powers conferred by this Treaty on other institutions or bodies, alleged contraventions of the law of the Union or maladministration in its implementation, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.
- (2) The Committee of Inquiry shall cease to exist on the submission of its report.
- (3) The details of the exercise of the right of inquiry shall be regulated by a law.

Art. 50 [Motion of Censure against the Commission]

- (1) If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and only by open vote.
- (2) If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the Members of the European Parliament, the Members of the Commission shall resign as a body. They shall continue to deal with current business until they are replaced in accordance with Article 59. In this case, the term of office of the Members of the Commission appointed to replace them shall expire on the date on which the term of office of the Members of the Commission obliged to resign as a body would have expired.

Title 2: The European Council

Art. 51 [The European Council]

- (1) The European Council shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof.
- (2) The European Council shall bring together the Heads of State or Government of the Member States, the President of the Commission and the President of the European Parliament. They shall be assisted by the Ministers for Foreign Affairs of the Member States and the High Representative of the Union.
- (3) The European Council shall meet at least twice a year at the seat of the Council. The European Council shall elect one Head of State or Government as President of the European Council from among the number of the three Member States presiding over the Council according to Article 54.
- (4) The European Council shall be assisted by the General Secretariat of the Council. The European Council shall adopt its Rules of Procedure. The Rules of Procedure shall regulate in particular the convocation of the European Council.

Title 3: The Council

Art. 52 [The Council]

- (1) The Council fulfills the tasks entrusted to it in this Constitutional Treaty. In particular, it shall act as legislator together with the Parliament and pass the budget of the Union with it. In the area of foreign and security policy, the Council shall exercise the powers entrusted to it. It shall participate in amendments of this Constitutional Treaty and the Treaty on the Policies of the Union, the creation of international agreements and the accession of new Member States. Pursuant to this Constitutional Treaty, it shall have a role in the appointment of members of other institutions and bodies.
- (2) If the Council acts as legislator, its meetings shall be public.

Art. 53 [Composition; Rules of Procedure; General Secretariat; Committee of the Permanent Representatives]

- (1) The Council shall consist of a representative of each Member State at ministerial level, authorised to commit the government of that Member State.
- (2) To the extent provided by this Treaty or the Treaty on the Policies of the Union, the Council shall decide in the composition of the Heads of State or Government.
- (3) The Council shall adopt its Rules of Procedure by a majority of its Members.
- (4) The Council shall meet in ressort-related formations which shall be established in its Rules of Procedure. The overall number of ressort-related formations should not exceed ten.
- (5) The Council shall be assisted by a General Secretariat whose organisation shall be determined by the Council.

- (6) A committee consisting of the Permanent Representatives of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.

Art. 54 [Presidency]

- (1) The presidency in the Council shall be exercised jointly for periods of 24 months by a group of three Member States. The respective groups of Member States and the order of the presidency groups shall be determined unanimously by the Council.
- (2) The presidency shall be responsible for the organisation and the direction of the work in the Council. It shall represent the Council vis-à-vis other institutions of the Union.
- (3) The presidency shall carry out its tasks in a neutral and impartial way. The three presiding Member States may divide the tasks of the presidency amongst each other. In particular they shall jointly agree on which of the three Member States provides the President for the respective ressort-related formations of the Council. Regular coordination between the three presiding Member States has to be guaranteed.
- (4) The President of the European Council shall preside over the Council in the composition of the Heads of State or Government.
- (5) The Council for Foreign Affairs shall be presided over by the High Representative of the Union.

Art. 55 [Decision-making in the Council]

- (1) Save as otherwise provided by this Constitutional Treaty or the Treaty on the Policies of the Union, the decisions of the Council shall come into effect if more than half of the Member States agree and more than 50 % of the citizens of the Union are represented by the agreeing representatives of the Member States.
- (2) Insofar as this Constitutional Treaty or the Treaty on the Policies of the Union provides for qualified majority in the Council, a minimum quorum of votes of two thirds of the Member States and representation of at least two thirds of the citizens of the Union shall be required.

Art. 56 [Right of Request vis-à-vis the Commission]

The Council may request the Commission to initiate the legislative procedure according to Article 82 in order to fulfill specific tasks of the Union.

Title 4: The Commission

Art. 57 [The Commission]

- (1) In order to ensure the proper functioning and the development of the Union, the Commission shall have the following tasks:
 - ensure that the provisions of this Constitutional Treaty and the Treaty on the Policies of the Union and the measures taken by the institutions pursuant thereto are applied;
 - have its own power of decision and participate in the legislation through the exercise of its monopoly of initiative in accordance with this Constitutional Treaty and the Treaty on the Policies of the Union;
 - exercise the powers conferred on it by the legislator for the implementation of the rules laid down by the latter;
 - formulate recommendations and deliver opinions within the framework of the competencies of the Union.
- (2) The Commission shall be at the top of the administration of the Union and all of its administrative entities.
- (3) The Commission shall represent the Union in negotiations with third countries and international organisations, as well as in legal acts regarding the acquisition or disposal of property. The Union shall be represented by the Commission in court in relation to third parties.
- (4) The Commission shall present an annual General Report on the activities of the Union to the Parliament. The European Parliament shall discuss this General Report in a public hearing.

Art. 58 [Composition]

- (1) The Members of the Commission shall be chosen on the grounds of their general competence and their independence is beyond doubt. Only nationals of Member States may be Members of the Commission. The details shall be laid down in a law requiring qualified majority in the Council according to Article 55 paragraph 2.
- (2) The Commission comprises one national of each Member State.
- (3) The number of the Members of the Commission may be modified unanimously by the Council in the composition of the Heads of State or Government for the sake of a workable Commission; this modification requires the assent of the European Parliament.

Art. 59 [Appointment of the Commission]

- (1) The Council, meeting in the composition of the Heads of State or Government and acting by qualified majority according to Article 55 paragraph 2, shall name the person it nominates as the President of the Commission. If the Parliament assents to the nomination by the majority of its Members, the person shall be elected as President of the Commission for a term of office of five years.
The President of the Commission shall be elected in the first session of the European Parliament at the beginning of its term of office.
If the required majority cannot be achieved, a second round of elections shall take place in which the absolute majority of the votes cast shall be sufficient for election.

If such a majority cannot be achieved either, the Council in the composition of the Heads of State or Government must nominate another person.

- (2) The person entrusted with the office of the High Representative of the Union shall also be a Member of the Commission.
- (3) The further Members of the Commission shall be nominated by the President of the Commission on account of their general capabilities. The President shall pay attention to a balanced composition of the College in terms of nationalities.
- (4) The Commission as a College shall be subject to an assenting vote by the European Parliament. Furthermore, it shall require the assent of the Council which decides by qualified majority according to Article 55 paragraph 2.
- (5) The term of office of the Commission shall end with the legislative period of the European Parliament.

Art. 60 [President and Vice-President of the Commission]

- (1) The Commission shall work under the political guidance of its President who shall decide on its internal organisation in order to ensure that it acts consistently, efficiently and on the basis of collegiality.
- (2) The person entrusted with the office of the High Representative of the Union shall hold the office of Vice-President of the Commission and is competent for external relations.
- (3) Without prejudice to the provisions in paragraph 2, the responsibilities incumbent on the Commission shall be structured and allocated among its Members by its President. In the interest of a workable Commission the President may introduce areas of common competence for various Members of the Commission. The President may reorganize the allocation of those responsibilities during the Commission's term of office. The Members of the Commission shall carry out the duties devolved upon them by the President under his authority.
- (4) A Member of the Commission shall resign if the President so requests, after obtaining the approval of the College. In that case, the President of the Commission shall nominate a new member of the Commission which requires an assenting vote by the European Parliament and the Council, deciding by qualified majority according to Article 55 paragraph 2. These provisions do not apply with regard to the Vice-President of the Commission.

Art. 61 [Decision-Making; Rules of Procedure]

- (1) The Commission takes its decisions as a College by majority of its members.
- (2) The Commission shall adopt its Rules of Procedure which also apply to its departments.

Title 5: The Judiciary

Art. 62 [The Courts of the Union]

- (1) Courts of the Union are the European Court of Justice and the European Court. They shall ensure, each within its jurisdiction, that in the interpretation and application of Union law the law is observed.
- (2) The details of the court organisation, the essential procedural principles and the procedure for the appointment of Judges and Advocates-General shall be laid down in a Law on the Courts of the Union according to Article 68.

Art. 63 [Guarantee of Legal Protection]

Within the framework of this Constitutional Treaty, the Courts of the Union together with the courts of the Member States ensure that any natural or legal person who claims that his rights or freedoms guaranteed by Union law have been violated receives efficient and comprehensive legal protection.

Art. 64 [The European Court of Justice]

- (1) The European Court of Justice shall consist of one Judge per Member State. It shall be assisted by at least eight Advocates-General. In accordance with the Law on the Courts of the Union, the Advocates-General shall make, in open court, reasoned submissions on cases brought before the European Court of Justice, acting with complete impartiality and independence. Beyond that, they may be entrusted with duties to ensure the unity and cohesion of the Union law.
- (2) The Judges and Advocates-General shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence. They shall be appointed upon proposal of the governments of the Member States by unanimous decision of the Council for a term of twelve years. They may not be reappointed. Every four years there shall be a partial replacement of the Judges and Advocates-General.
- (3) The Judges shall elect the President of the European Court of Justice from among their number for a term of four years. He may be re-elected.
- (4) The European Court of Justice shall sit in Chambers or in a Great Chamber.
- (5) The European Court of Justice shall appoint its Registrar and establish its Rules of Procedure. The Rules of Procedure shall require the approval of the Council.

Art. 65 [Actions with the European Court of Justice]

- (1) Without prejudice to the proceedings otherwise provided for in this Constitutional Treaty and subject to more detailed regulation of the requirements of admissibility and other procedural provisions in the Law on the Courts of the Union, the Court of Justice shall have jurisdiction in the following court actions. The Law on the Courts of the Union may provide for additional court actions.
- (2) **Failure to Fulfill Obligations under the Treaty**
If the Commission considers that a Member State has failed to fulfill its obligations under this Treaty, it may initiate proceedings before the Court of Justice after giving the State concerned the opportunity to submit its observations. The Court of Justice

finds whether there is an infringement of the Treaty. Member States shall also have the right to bring an action against another Member State for failure to fulfill its Treaty obligations. If the Member State in breach fails to take the necessary measures to comply with the judgment within an appropriate period, the Court may impose the payment of a lump sum or a penalty payment in a second proceeding to be initiated by the Commission.

(3) Preliminary Rulings

The Court of Justice shall have jurisdiction to rule on the interpretation of Union law and the validity of secondary legal acts of the Union upon referral by a court of a Member State. The courts of last instance of the Member States are obliged to refer if there are doubts regarding the interpretation or validity of Union law.

(4) Action for Declaration of Nullity

The Member States and the institutions of the Union may bring an action against acts by the institutions of the Union on the grounds of an infringement of this Treaty, the Treaty on Union Policies or of any rule of law relating to the application of these Treaties. Any natural or legal person may, under the same conditions, demand that decisions and Commission-regulations shall be declared void.

(5) Action for Failure to Act

The Member States and the Union may bring an action to establish that an institution of the Union has infringed this Treaty, the Treaty on Union Policies or any rule relating to the application of these Treaties by failing to adopt a decision. Any natural or legal person may, under the same conditions, bring a complaint that the Union has failed to address a legal act to that person.

(6) Fundamental Rights Complaint

Any natural or legal person may contest a legal act of the Union due to a violation of any of the rights granted to it by the Charter of Fundamental Rights of the Union if no other judicial recourse is available for seeking review of the violation of the fundamental right in question. Specific requirements for the acceptance of a Fundamental Rights Complaint may be provided for.

(7) Action for Damages

The Court of Justice shall have jurisdiction in disputes relating to the non-contractual liability of the Union to pay damages.

Art. 66 [The European Court]

(1) The European Court shall comprise at least one Judge per Member State. It may be supported in its tasks by Advocates-General.

(2) Specialised judicial panels may be attached to the European Court which shall exercise judicial tasks in certain specific areas.

(3) The Judges and Advocates-General of the European Court shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office in their respective Member State. They shall be appointed by unanimous decision of the Council upon a proposal by the governments of the Member States for a term of twelve years. They may not be reappointed.

(4) The Judges shall elect the President of the European Court from among their number for a term of four years. He may be re-elected.

(5) The European Court shall sit in Chambers.

- (6) The European Court shall appoint its Registrar. It shall establish its Rules of Procedure in agreement with the Court of Justice. These Rules of Procedure shall require the approval of the Council.

Art. 67 [Procedures with the European Court]

- (1) The Law on the Courts of the Union shall determine which of the court actions listed in Article 65 shall be decided by the European Court in first instance. In accordance with the Law on the Courts of the Union, decisions of the European Court shall be subject to a right of appeal to the European Court of Justice on points of law only.
- (2) Certain categories of procedures may be allocated to the specialized Chambers in the first instance. In accordance with the Law on the Courts of the Union, the decisions of the Chambers may be contested before the European Court and, in exceptional cases, this further decision may also be subject to appeal to the European Court of Justice on points of law only.

Art. 68 [Law on the Courts of the Union]

The Law on the Courts of the Union shall require a qualified majority in the Council according to Article 55 paragraph 2. The European Court of Justice must be consulted in the course of the legislative procedure. Furthermore, the European Court of Justice may request that the Commission initiates the legislative procedure regarding the enactment or amendment of the Law on the Courts of the Union.

Title 6: The Court of Auditors

Art. 69 [Tasks of the Court of Auditors]

The Court of Auditors shall carry out the audit.

Art. 70 [Composition and Nomination]

- (1) The Court of Auditors shall consist of 15 Members.
- (2) The Members of the Court of Auditors shall be chosen from persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office.
- (3) The Members of the Court of Auditors shall be appointed by the Council, acting by qualified majority, with the assent of the European Parliament for a term of six years. They may be reappointed.
- (4) The Statute of the Members of the Court of Auditors shall be regulated by a law requiring qualified majority in the Council according to Article 55 paragraph 2.

Art. 71 [Competencies]

- (1) The Court of Auditors shall examine the accounts of all revenue and expenditure of the Union. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Union insofar as the relevant constituent instrument does not preclude such examination.
The details of the examination procedure shall be established in the Financial Regulation.
- (2) The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Union and published in the Official Journal of the Union, together with the replies of these institutions.

Title 7: The Advisory Bodies

Chapter 1: The Committee of the Regions

Art. 72 [Tasks and Rights]

- (1) The Committee of the Regions shall advise the legislative institutions of the Union on aspects which are of particular interest for the regional and local territorial authorities of the Member States and shall control that the legislation of the Union respects the principle of subsidiarity.
- (2) In order to fulfill these tasks, the Committee of the Regions shall exercise the right to be consulted, to make requests and to bring court actions as allocated to it by this Constitutional Treaty and the Treaty on the Policies of the Union.

Art. 73 [Composition, Organisation]

- (1) The Member States shall delegate to the Committee of the Regions representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.
- (2) The number of the members of the Committee of the Regions shall be as follows:

Austria:	12
Belgium:	12
Bulgaria:	12
Cyprus:	6
Czech Republic:	12
Denmark:	9
Estonia:	7
Finland:	9
France:	24
Germany:	24
Greece:	12
Hungary:	12
Ireland:	9
Italy:	24
Latvia:	7
Lithuania:	9
Luxembourg:	6
Malta:	5
Netherlands:	12
Poland:	21
Portugal:	12
Romania:	15
Slovakia:	9
Slovenia:	7
Spain:	21

Sweden:	12
United Kingdom:	24

- (3) The members of the Committee and an equal number of alternate members shall be appointed by the Council, acting by qualified majority on proposals from the respective Member States, for a term of four years. The term of office shall be renewable. No member of the Committee shall at the same time be a Member of the European Parliament.
- (4) The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties in the general interest of the Union.
- (5) The Committee of the Regions shall elect its chairman and officers from among its members for a term of two years.
- (6) It shall adopt its Rules of Procedure.

Chapter 2: The Economic and Social Committee

Art. 74 [Tasks and Consultation Rights]

- (1) The Economic and Social Committee advises the legislative institutions of the Union on the effects of the Union's policy for sustainable economic, social and ecological development in the Union.
- (2) To this end, it shall be consulted by the Council, the European Parliament or the Commission in the cases provided for in the Treaty on the Policies of the Union. It may be consulted by these institutions whenever such consultation is considered to be useful. It may issue an opinion on its own initiative in cases where it considers such action appropriate.

Art. 75 [Composition, Organisation]

- (1) The Committee shall consist of representatives of the various groups of economic and social life, in particular representatives of undertakings, employees, professional occupations, farmers, consumers and organisations of general interest.
- (2) The number of the members of the Committee shall be as follows:

Austria:	12
Belgium:	12
Bulgaria:	12
Cyprus:	6
Czech Republic:	12
Denmark:	9
Estonia:	7
Finland:	9
France:	24
Germany:	24
Greece:	12
Hungary:	12

Ireland:	9
Italy:	24
Latvia:	7
Lithuania:	9
Luxembourg:	6
Malta:	5
Netherlands:	12
Poland:	21
Portugal:	12
Romania:	15
Slovakia:	9
Slovenia:	7
Spain:	21
Sweden:	12
United Kingdom:	24

- (3) The representatives proposed by the Member States shall be appointed for four years by the Council, acting by qualified majority. The term of office shall be renewable.
- (4) The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Union.
- (5) The Committee shall elect its chairman and officers from among its members for a term of two years.
- (6) It shall adopt its Rules of Procedure.

Title 8: Common Provisions

Art. 76 [Seat of the Institutions and Bodies of the Union]

The seat of the institutions and bodies of the Union shall be determined by common accord of the governments of the Member States.

Art. 77 [Staff Regulations]

The Staff Regulations of officials of the Union and the Conditions of Employment of other servants including any benefits paid by the Union as remuneration, shall be laid down in a law. The Council shall decide in these cases by qualified majority.

Art. 78 [Right of Access to Documents]

- (1) Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right of access to documents of the European Parliament, the Council and the Commission, subject to the principles and conditions to be defined in accordance with paragraphs 2 and 3.
- (2) The general principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by a law.
- (3) Each institution referred to above shall elaborate in its own Rules of Procedure specific provisions regarding access to its documents.

Art. 79 [Liability of the Union]

- (1) In the case of non-contractual liability, the Union shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.
- (2) The contractual liability of the Union shall be governed by the law applicable to the contract in question.

Section D: Legislation and Administration

Art. 80 [The Acts of the Union]

- (1) There shall be a hierarchical order of priority between the Treaties and the legal acts which are ranked below (Hierarchy of Norms). The Union shall choose the type of act which is sufficient to reach the intended aim.
- (2) In order to carry out its tasks and within the framework of its competencies, the Union shall act through:
 - a) legislative acts (laws and framework laws);
 - b) regulations;
 - c) decisions;
 - d) opinions and recommendations of the institutions of the Union without binding force.
- (3) Any act of the Union shall state the reasons upon which it is based and shall refer to any proposals or opinions which were required to be obtained pursuant to this Constitutional Treaty or the Treaty on the Policies of the Union.

Art. 81 [Legislative Acts]

- (1) Within the reach of its competence, the Union may enact laws. Laws of the Union shall have general application. They shall be binding in their entirety and directly applicable in all Member States.
- (2) Within the reach of its competencies, the Union may enact framework laws. Framework laws shall determine the result to be achieved and the principles of how to achieve this result. Within this framework, the Member States shall be obliged to transform them into applicable law in the period provided for transformation. They shall have a choice regarding the form and methods thereof. Framework laws may only regulate details if there is a special need for it. In particular, this may be the case if the law needs to be harmonised.
- (3) Legislative acts shall be signed by the President of the European Parliament and the presidency of the Council and be published in the Official Journal of the European Union. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

Art. 82 [Legislative Procedure]

- (1) Save as otherwise provided in this Constitutional Treaty or the Treaty on Union Policies, the legislative procedure shall be subject to the following provisions.
- (2) A legislative proposal of the Commission shall be forwarded to the European Parliament and the Council. Prior to the vote being taken by the European Parliament, the national parliaments shall have an opportunity to debate the legislative proposal within a period of, normally, two months. The right to make a statement according to Article 25 remains unaffected. Within that period, the Committee of the Regions and the Economic and Social Committee shall also receive an opportunity to make a statement/the opportunity to submit an opinion. The European Parliament shall decide on the legislative proposal in consideration of the

submitted statements of the national parliaments, the Committee of the Regions and the Economic and Social Committee.

The Council shall decide on the legislative proposal not later than six months after the decision of the European Parliament. If the Council approves the decision of the European Parliament, the act shall be adopted in the proposed form.

Otherwise, the Council shall return the legislative proposal with the suggested amendments to the European Parliament which shall debate the amended proposal again. If the European Parliament approves the amendments proposed by the Council, the act shall be adopted in the proposed form. Otherwise, a conciliation procedure according to Article 83 shall be initiated within six weeks.

During the whole procedure, the Commission shall be entitled to comment on the proposed amendments.

- (3) The European Parliament or the Council may extend the periods referred to in this Article by a maximum of one month.

Art. 83 [Conciliation Procedure]

- (1) The Conciliation Committee consists of the members of the Council or their representatives and an equal number of representatives of the European Parliament. The Commission shall take part in the Conciliation Committee's proceedings and take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.
- (2) The Conciliation Committee shall have the task of reaching agreement on a joint draft text of a legislative proposal. It shall decide by the majority of the members of the Council or their representatives and the majority of the representatives of the European Parliament. The assessment of the majorities shall depend on the respective majority requirements for the legislative act in question according to this Constitutional Treaty or the Treaty on Union Policies.
- (3) If, within six weeks of it being convened, the Conciliation Committee approves a joint draft text, the European Parliament and the Council shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If either of the two institutions fails to adopt the proposed act within that period, it shall be deemed not to have been adopted.
- (4) Where the Conciliation Committee does not approve a joint text, the proposed act shall be deemed not to have been adopted.
- (5) The European Parliament or the Council may extend the periods referred to in this Article by a maximum of two weeks.

Art. 84 [Regulations]

- (1) The Commission may be authorised by legislative acts to adopt regulations. The legislative act must include the content, purpose and scope of this authorisation. In particular, the authorisation may include a clause in favour of the Council and the Parliament as legislators of the Union by which they reserve the right to revoke the authorisation.
- (2) The procedure for the adoption of regulations, in particular the participation of the Council in such a procedure, shall be regulated by a law requiring qualified majority in the Council according to Article 55 paragraph 2.

- (3) Regulations shall be signed by the President of the Commission and published in the Official Journal of the European Union. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

Art. 85 [Administrative Measures]

- (1) The Commission may take decisions in cases provided for by the Treaty on the Policies of the Union or in legislative acts by the Union. Decisions shall be binding in their entirety upon those to whom they are addressed.
- (2) The Commission may make use of specific Union bodies (Agencies) when taking administrative measures, provided that such agencies are introduced by the Treaty on Union Policies or in legislative acts by the Union.

Section E: The Financial Constitution of the Union

Art. 86 [Principles]

All items of revenue and expenditure of the European Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget. The revenue and expenditure shown in the budget shall be in balance.

Art. 87 [Own Resources of the Union]

- (1) Without prejudice to other revenue, the budget shall be financed wholly from a levy which shall be an identical percentage of the nominal (gross) national product for all Member States. This shall be determined by application of uniform criteria.
- (2) The Council in the composition of the Heads of State or Government, acting unanimously on a proposal by the Commission and after consulting the European Parliament, shall lay down provisions relating to the system of own resources of the Union, which it shall recommend to the Member States for adoption in accordance with their respective constitutional provisions.
- (3) The Union takes care that only acts and implementing measures shall be adopted which may be financed within the framework of the own resources.

Art. 88 [Financial Preview]

- (1) The European Parliament by majority of the votes of its Members and the Council by qualified majority jointly agree on a financial preview for several years, by which annual maximum amounts for all categories of expenditure are fixed.
- (2) The agreement may, under specific conditions, allow for the reallocation of the fixed maximum amounts.
- (3) The agreement for the respective financial year may only be amended jointly by the European Parliament and the Council.

Art. 89 [Budget Procedure]

- (1) The financial year shall be the calendar year. The budget shall be determined in accordance with the following procedure.
- (2) Each institution of the Union shall, before June 1, draw up estimates of its expenditure. The Commission shall consolidate these proposals in a preliminary draft budget, taking into account the principles of financial preview.
- (3) The Commission shall place the preliminary draft budget before the Council not later than July 1. The Council, acting by qualified majority, shall establish the draft budget and forward it to the European Parliament not later than September 5.
- (4) The European Parliament may amend the draft budget, acting by the majority of the votes of its Members.
- (5) If, within 45 days of the draft budget being placed before it, the European Parliament has given its approval or not made any amendments thereto, the budget shall stand as finally adopted.
- (6) If the European Parliament has made amendments, the amended draft budget shall be forwarded to the Council.
- (7) The Council may, acting by qualified majority, modify any of the amendments made by the European Parliament. If, within 20 days of the amended draft budget being

placed before it, the Council has approved the amendments or not made any modifications, the budget shall stand as finally adopted. If within this period the Council has made amendments, it shall forward the modified draft to the European Parliament.

- (8) Within 15 days of the amended draft budget being placed before it, the European Parliament may, acting by a majority of two thirds of its Members, modify the amended draft and thus finally establish the budget. If the required majority cannot be achieved, the budget in the version as amended by the Council shall stand as finally adopted.
- (9) When the procedure has been completed, the President of the European Parliament shall declare that the budget has been finally adopted.
- (10) However, the European Parliament, acting by a majority of two thirds of its members, may, if there are important reasons, reject the draft budget and ask for a new draft budget to be submitted to it.
- (11) If the budget has not been adopted at the beginning of a financial year, each month only a sum equivalent to not more than a twelfth of the budget appropriations for each Chapter in the budget of the preceding year may be spent.
- (12) The details of the emergency budget shall be governed by the Financial Regulation.

Art. 90 [Financial Regulations]

- (1) The Financial Regulations of the European Union shall be established in accordance with the procedure in Article 82.
- (2) In particular, the Financial Regulations shall establish rules on:
 - the adoption and implementation of the budget;
 - the competencies of the Court of Auditors;
 - the procedures for presenting and auditing accounts in the institutions and bodies of the Union;
 - the emergency budget;
 - the provisions for internal controls;
 - the discharge of the Commission for the implementation of the budget.

Art. 91 [Countering Fraud at the Expense of the Union]

- (1) In order to counter fraud affecting the financial interests of the Union, the Union shall adopt the necessary measures open to it according to Article 80.
- (2) The European Anti-Fraud Office (OLAF) shall have the tasks entrusted to it by a law requiring qualified majority according to Article 55 paragraph 2; it shall conduct internal investigations in the Union and external investigations in the Member States.

Section F: The External Relations of the Union

Title 1: General Provisions

Art. 92 [The International Relations of the Union]

- (1) The Union has legal personality in terms of public international law. It may conclude agreements of public international law in accordance with this Constitutional Treaty and the Treaty on the Policies of the Union. Within the framework of its competence to conclude agreements of public international law, the Union may also join international organisations.
- (2) It shall be for the Union to ensure the maintenance of all appropriate relations with international organisations, in particular with the United Nations and its specialised agencies and the Council of Europe.
- (3) The Council in the composition of the Heads of State or Government, acting unanimously after consulting the Commission and the European Parliament, may decide that the Union shall establish diplomatic missions with third countries or international organisations which shall co-exist with the diplomatic missions of the Member States.

Art. 93 [Competence to Conclude Agreements of Public International Law]

- (1) The Union has the power to conclude agreements of public international law provided this Treaty or the Treaty on the Policies of the Union contains an expressed authorisation. Otherwise it may conclude agreements of public international law in fields, which are subject to its competence, if it has made use of an internal legislative competence or if regulation can only be achieved by concluding an agreement of public international law.
- (2) If an agreement of public international law is subject to the Union's competence only in parts, the Union and the Member States may conclude this agreement jointly in a coordinated procedure („mixed agreement“). In such cases, the Member States shall coordinate their negotiating positions in the Council.
- (3) When concluding agreements of public international law, the Member States shall consider the interests of the Union and take care not to interfere with future activities of the Union within its competence.

Art. 94 [Procedure for Concluding Agreements of Public International Law]

- (1) The Commission shall make recommendations to the Council for the conclusion of agreements between the Union and one or more states or international organisations. The Council shall authorise the Commission to open the necessary negotiations. The Commission shall conduct these negotiations in consultation with special committees appointed by the Council to assist it in this task and within the framework of such directives as the Council may issue to it.
The Council shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of internal rules, when the agreement has substantial financial consequences for the Union or in the case of association agreements according to Article 95.

- (2) Subject to the powers vested in the Commission in this field, the Council, acting on a proposal by the Commission, shall decide on the signing and conclusion of the agreement in accordance with the rules of paragraph 1 subparagraph 2. The signing may be accompanied by a decision on provisional enforcement before entry into force of the agreement.
- This procedure shall also apply for the decision to suspend the application of an agreement or for the purpose of establishing the positions to be adopted on behalf of the Union in a body set up by an agreement.
- The assent of the European Parliament shall be required for concluding the agreement. The European Parliament shall be informed immediately about any other decisions of the Council under this paragraph.
- (3) When concluding an agreement, the Council may, by way of derogation from paragraph 2 and with the assent of the European Parliament, authorise the Commission to approve modifications where the agreement provides for them to be adopted by a simplified procedure or by a body set up. It may attach specific conditions to such authorisation.
- (4) For agreements on economic and monetary policies, the Treaty on the Policies of the Union may provide for provisions that differ from the paragraphs 1 to 4.
- (5) When the Council and the European Parliament envisage concluding an agreement which calls for amendments to this Constitutional Treaty or the Treaty on the Policies of the Union, the amendments must first be adopted in accordance with the procedure laid down in Article 112 or Article 114 respectively.
- (6) The European Parliament, the Council, the Commission or a Member State may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of this Constitutional Treaty or the Treaty on the Policies of the Union. Where the opinion of the Court of Justice is adverse, the agreement may enter into force only in accordance with Article 112 or Article 114 of this Treaty respectively.
- (7) Agreements concluded in accordance with this Article shall be binding on the institutions of the Union and on the Member States.

Art. 95 [Association with Third Countries and Organisations]

- (1) The Union may conclude with third countries and international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.
- (2) For the neighbouring states of the Union a special status may be established.

Art. 96 [Relation to Existing Agreements of the Member States]

- (1) The rights and obligations arising from agreements concluded by a Member State with third countries before accession to the Union shall not be affected by this Treaty.
- (2) To the extent that such agreements are not compatible with the Treaty, the Member State concerned shall take all appropriate steps to eliminate the incompatibilities established.

Title 2: Special Provisions for the Common Foreign and Security Policy

Art. 97 [Objectives of the Common Foreign and Security Policy]

The Union shall define and implement a common foreign and security policy in a spirit of loyalty and mutual solidarity, the objectives of which shall be:

- to safeguard the common values, fundamental interests, independence and integrity of the Union;
- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms;
- to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter;
- to strengthen security of the Union in all ways;
- to promote international cooperation and free world trade;
- to support economical and social progress of the developing countries;
- to develop international measures for the protection of the environment and the promotion of sustainable management of natural resources.

Art. 98 [Common Defence Policy]

- (1) The common foreign and security policy shall include all questions relating to the security of the Union. This includes the progressive framing of a common defence policy which might lead to a common defence should the Council in the composition of the Heads of State or Government so decide.

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

The progressive framing of a common defence policy will be supported by cooperation in the field of armaments.

- (2) Questions referred to in this Article shall include humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management including peacemaking, as well as tasks for the fight against international terrorism.
- (3) The provisions of this Article shall not prevent the development of closer cooperation between two or more Member States on a bilateral level, in the framework of the Western European Union (WEU) and the NATO, provided such cooperation does not run counter to or impede that provided for in this Title.
- (4) Operational expenditure to which the implementation of the common defence policy gives rise shall be charged to the Member States in accordance with the gross national product scale. The Council may decide unanimously after hearing the European Parliament that such expenditure shall be included in the budget of the Union. Member States which have made a formal declaration under Article 102 paragraph 3 shall not be obliged to contribute to the financing of expenditure under this Article.

Art. 99 [Coordinated Action at International and Diplomatic Level]

- (1) The Member States shall coordinate their action in international organisations and at international conferences with the Union and shall uphold common positions in such fora. If not all Member States are represented, the Member States present shall inform all other Member States on any question of common interest and uphold the positions and interests of the Union.
- (2) The diplomatic and consular missions of the Member States and the diplomatic missions of the Union in third countries or with international organisations shall cooperate in ensuring that the common positions and joint actions adopted by the Council are complied with and implemented.

Art. 100 [High Representative of the Union]

- (1) The competence to implement the decisions taken in the framework of the common foreign and security policy rests with the High Representative of the Union. The High Representative shall be answerable to the Council in this regard.
- (2) The Council, sitting in the composition of the Heads of State or Government and acting by qualified majority, shall name the person which it nominates as High Representative of the Union. The Council shall act in coordination with the designated President of the Commission. If the Parliament approves the nomination by majority of its Members, the person has been elected as High Representative of the Union for five years. The term of office shall begin and end simultaneously with the term of office of the Commission.
- (3) Following a proposal by the High Representative of the Union, the Council may appoint by qualified majority a special representative with a mandate in relation to particular policy issues.

Art. 101 [Measures in the Area of the Common Foreign and Security Policy]

- (1) The Council in the composition of the Heads of State or Government shall define the principles of, the general guidelines for and the common strategies of the common foreign and security policy including for matters with defence implications.
- (2) On the basis thereof, the Council shall take the decisions necessary for defining and implementing the common foreign and security policy by adopting joint actions and common positions.

Art. 102 [Decision-Making in the Council]

- (1) The Member States shall inform and consult one another within the Council on any matter of foreign and security policy of general interest in order to ensure that the Union's influence is exerted as effectively as possible by means of concerted and consistent action. The Council shall ensure unified, coherent and effective action of the Union.
The meetings of Council shall be presided over by the High Representative of the Union.
- (2) The High Representative of the Union, the Commission and any Member State may refer to the Council any question relating to the common foreign and security policy and may submit proposals to it.
- (3) Decisions under this Title shall be taken unanimously save as otherwise provided by this Constitutional Treaty or the Treaty on the Policies of the Union.

Abstentions shall not prevent the adoption of such decisions. When abstaining in a vote, the Member State may qualify its abstention by making a formal declaration. In that case, it shall not be obliged to apply the decision. But it shall accept that the decision commits the Union and shall refrain from any action likely to conflict with or impede the Union action based on the decision.

- (4) By way of derogation from paragraph 3, the Council shall decide by qualified majority when acting on the basis of a common strategy, save for decisions having military or defence policy implications. The Council shall decide procedural questions by simple majority.
- (5) In the field of the common foreign and security policy, the Council shall be supported by a Political and Security Committee.

Art. 103 [Participation of the Commission and the Parliament]

- (1) The Commission shall be fully associated with the work carried out in the common foreign and security policy field.
- (2) The European Parliament shall be kept regularly informed by the High Representative of the Union of the development of the Union's common foreign and security policy. It shall be consulted on the main aspects and basic choices of the common foreign and security policy and may ask questions of the Council or make recommendations to it.

Art. 104 [Agreements in the Framework of the Common Foreign and Security Policy]

- (1) If an agreement with one or more states or an international organisation exclusively or predominantly serves the purpose of implementing this Title, the Council may, by way of derogation from Article 94 paragraph 1, authorize the High Representative of the Union to initiate the necessary negotiations. The Commission shall be involved in the negotiations if the agreement simultaneously affects any other competence of the Union.
- (2) By way of derogation from Article 94 paragraph 2 and 3, agreements, which serve the purpose of implementing the common foreign and security policy, shall be concluded by a decision of the Council that is taken in accordance with the provisions in Article 102 paragraph 3 and 4.
- (3) Agreements concluded in accordance with this Article are binding on the Member States and the institutions of the Union.

Art. 105 [Economic Sanctions]

Where it is provided, in a common position or a joint action adopted according to this Title, to interrupt or to reduce, in part or completely, economic relations with one or more third countries, the Council shall adopt the necessary measures by qualified majority on a proposal by the Commission.

Art. 106 [Enhanced Cooperation in the Framework of the Common Foreign and Security Policy]

In order to implement a joint action or comply with a common position, the Member States may establish enhanced cooperation on the basis of the provisions of this Title pursuant to Title G of this Constitutional Treaty, provided they are authorised by the Council to do so.

Art. 107 [Limited Competence of the Courts of the Union]

With the exception of measures according to Article 105, legal acts which have been enacted in accordance with the provisions of this Title shall only be subject to review by the Courts of the Union in terms of the respect for the procedural provisions.

Section G: Enhanced Cooperation

Art. 108 [General Principles]

- (1) Member States which intend to establish enhanced cooperation between themselves may make use of the institutions, procedures and mechanisms laid down in this Constitutional Treaty, provided that the cooperation
 - a) is aimed at furthering the objectives of the Union, at protecting and serving its interests and at reinforcing the process of integration as a whole;
 - b) respects the single institutional framework of the Union;
 - c) respects the internal market and does not constitute a barrier to or discrimination in trade between the Member States and does not distort competition between them;
 - d) remains within the limits of the competencies of the Union and does not concern areas which fall within the exclusive competence of the Union;
 - e) involves a minimum of eight Member States, is theoretically open to all Member States and respects their rights and duties.
- (2) Enhanced cooperation may be undertaken when it has been established within the Commission that the objectives of such cooperation cannot be attained by all Member States within a reasonable period by applying the relevant provisions of this Constitutional Treaty or the Treaty on the Policies of the Union.

Art. 109 [Establishing Enhanced Cooperation]

- (1) Member States which intend to establish enhanced cooperation between themselves, shall address a request to the Commission, which, having examined the requirements, submits a proposal for the authorisation to the European Parliament and the Council. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.
- (2) The authorisation to establish enhanced cooperation shall be granted jointly by the European Parliament and the Council, acting by qualified majority, after the Commission proposal has been received.
- (3) Any Member State, which wishes to participate in enhanced cooperation, shall notify its intention to the Commission. Within four months, the Commission shall decide on the application and possible specific regulations which it considers necessary.

Art. 110 [Implementation of Enhanced Cooperation]

- (1) For the purposes of the adoption of the acts and decisions necessary for the implementation of enhanced cooperation, the relevant institutional provisions of this Constitutional Treaty and the Treaty on the Policies of the Union shall apply.
- (2) However, while all members of the Council shall be able to take part in the deliberations of the Council, only those representing Member States participating in enhanced cooperation shall take part in the adoption of decisions. Article 55 shall apply *mutatis mutandis* to the adoption of decisions.

- (3) Acts and decisions adopted for the implementation of enhanced cooperation shall be binding only those Member States which participate in such cooperation and, as appropriate, shall be directly applicable only in those States. Such acts and decisions shall not form part of the Union *acquis* applicable to all States.

Art. 111 [Financing]

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless the Council, acting unanimously after consulting the European Parliament, decides that they shall be part of the budget of the Union.

Section H: Final Provisions

Art. 112 [Amendments of the Constitutional Treaty]

- (1) The government and the parliament of any Member State, the European Parliament or the Commission may submit to the Council in the composition of the Heads of State or Government proposals for the amendment of this Constitutional Treaty.
- (2) If the Council in the composition of the Heads of State or Government, after consulting the European Parliament and the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the European Council for the purpose of determining by common accord the amendments to be made.
- (3) The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements and after the European Parliament has assented to them by a majority of two thirds of its Members.

Art. 113 [Convention]

- (1) If amendments affect the fundamental constitutional legal structure of the Union, the President of the European Council shall convene a Convention to prepare the amendment of the Treaty. He is obliged to do so if more than half of the national parliaments demand it.
- (2) The Convention shall consist of one representative of each of the Member State's governments, two representatives of each of the national parliaments, a number of Members of the European Parliament equal to the number of Member States, two representatives of the Commission and the President who shall be determined by the Council in the composition of the Heads of State or Government. The Council may also grant observers without voting rights the right to participate.

Art. 114 [Amendments of the Treaty on the Policies of the Union]

- (1) The government and the parliament of any Member State, the European Parliament or the Commission may submit to the Council in the composition of the Heads of State or Government proposals for the amendment of the Treaty on the Policies of the Union.
- (2) If the Council in the composition of the Heads of State or Government, after consulting the European Parliament and the Commission, delivers an opinion in favour of an amendment of the Treaty, the President of the European Council shall convene a Conference for the amendment of the Treaty.
- (3) The Treaty on the Policies of the Union is amended by unanimous decision of the Council in the composition of the Heads of State or Government and by assent of three quarters of the members of the European Congress.

Art. 115 [European Congress]

- (1) The European Congress consists of 270 members each of the national parliaments and the European Parliament.
- (2) The number of members to be delegated by each national parliament is fixed as follows:

Austria :	6
Belgium:	7
Bulgaria:	6
Cyprus:	2
Czech Republic:	7
Denmark:	4
Estonia:	3
Finland:	4
France:	31
Germany:	43
Greece:	7
Hungary:	7
Ireland:	4
Italy:	31
Latvia:	3
Lithuania:	4
Luxembourg:	2
Malta:	2
Netherlands:	10
Poland:	21
Portugal:	7
Romania:	13
Slovakia:	4
Slovenia:	3
Spain:	21
Sweden:	6
United Kingdom:	31

- (3) The election procedure shall be determined by the parliaments themselves.
- (4) The European Congress shall be presided over by the President of the European Parliament.

Art. 116 [Accession to the ECHR]

The Union shall have the authority to accede to the system of the European Convention on Human Rights established within the framework of the Council of Europe.

Art. 117 [Geographic Scope]

This Constitutional Treaty is applicable in and for all Member States of the Union. Exception clauses must be established in a Protocol which shall be attached to this Constitutional Treaty.

Art. 118 [Continuation of Existing Law]

The existing law enacted on the basis of the Treaty on the European Union, the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community shall remain in force save as otherwise provided by this Constitutional Treaty or the Treaty on the Policies of the Union.

Art. 119 [Ratification, Entry into Force and Duration]

- (1) In order to enter into force, this Constitutional Treaty and the Treaty on the Policies of the Union need to be ratified by all the Member States of the European Union in accordance with their respective constitutional requirements.
- (2) This Constitutional Treaty shall enter into force on [...], provided that all the instruments of ratification have been deposited, or failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory to take that step.
- (3) It shall be concluded for an unlimited time.

Art. 120 [Authentic Text; Depositing]

This Treaty is drawn up in a single original in Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Irish, Latvian, Lithuanian, Maltese, Polish, Portugese, Romanian, Slovakian, Slovenian, Spanish and Swedish language, the texts in each of these languages being equally authentic. It shall be deposited in the archives of the Italian Republic which will transmit a certified copy to each of the governments of the other signatories.