

### Kapitel 3

Wenn möglich wurde jeweils das gesamte Dokument aufgenommen. In einigen Fällen mussten jedoch von den sehr umfangreichen Dokumenten Auszüge dargestellt werden, diese sind dann vermerkt.

*Verfassungsentwürfe zur Gründung einer Europäischen Union*

*Herausragende Dokumente von 1923 bis 2004*

Herausgegeben von Anton Schäfer

Copyright © by BSA Verlag und

EDITION EUROPA Verlag

1. Buchausgabe 2001 (Entwürfe 1930-2000)

1. elektronische und erweiterte Auflage 2005

Umschlaggestaltung Anton Schäfer

Gedruckt in Österreich

ISBN 3-9500616-7-3 (Buchausgabe)

ISBN 3-901924-22-1 (CD-ROM)

Verlag:

Edition Europa

Forachstraße 74

<http://Edition.eu.com>

A - 6850 Dornbirn

**Europäische Union**

Ausgewählte Dokumente zu den  
Verfassungsentwürfen von 2001 - 2004

**EDITION  
EUROPA**



### **III.6 Entwurf des European Policy Centers**

Dieser Entwurf wurde vom European Policy Center am 17. September 2002 veröffentlicht.

## **The Europe We Need** *Constitution of the European Union*

### **Preamble**

The states and peoples of the Union, determined  
to uphold democracy and fundamental rights,  
to promote sustainable economic and social progress,  
to live together in freedom, justice and peace,  
to advance our common interests in the world,  
and resolved to continue the process of creating an ever closer Union among the peoples of Europe,  
whilst respecting the diverse cultures of Europe, ordain and establish this Constitution of the European Union.

### **Title I** **PRINCIPLES OF THE EUROPEAN UNION**

#### **Section 1** **Founding values**

#### **Article 1** **Democratic nature**

- (1) The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law.
- (2) In the case of a serious and persistent breach or threat of breach by a Member States of these principles, the rights of the Member State in question deriving from the Treaties, including voting rights, may be suspended, in accordance with the implementation provisions laid down in the annexed treaty.
- (3) The Union shall respect the national identities of its Member States and the diverse cultures of Europe.
- (4) The Union shall respect fundamental rights, as guaranteed by the European Convention for the protection of Human Rights and Fundamental Freedoms, the European Social Charter of Turin and the constitutional traditions common to the Member States.

#### **Article 2** **European model of society**

The Union sets itself the following objectives:

- to promote social and economic progress
- to enhance the environment of Europe and the world
- to establish an area of freedom, security and justice
- to contribute to the development of peace and international cooperation.

#### **Section 2** **Fundamental rights**

#### **Article 3** **Freedoms**

- (1) Everyone has the right to liberty and security of person.
- (2) Everyone has the right to respect for his or her private and family life, home and communications.

- (3) Everyone has the right to the protection of personal data concerning him or her. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. Compliance with these rules shall be subject to control by an independent authority.
- (4) The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.
- (5) Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others, and in public or in private, to manifest religion or belief in worship, teaching, practice and observance. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.
- (6) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The freedom and pluralism of the media shall be respected.
- (7) Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests. Political parties at Union level contribute to expressing the political will of the citizens of the Union.
- (8) The arts and scientific research shall be free of constraint. Academic freedom shall be respected.
- (9) Everyone has the right to education and to have access to vocational and continuing training. This right includes the right to receive free compulsory education. The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.
- (10) Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.
- (11) The freedom to conduct a business in accordance with Union law and national laws and practices is recognised.
- (12) Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law in so far as is necessary for the general interest. Intellectual property shall be protected.
- (13) The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees.
- (14) Collective expulsions are prohibited. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

#### Article 4 Equality rights

- (1) Everyone is equal before the law.
- (2) Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. Within the scope of the present Constitution and the annexed treaty, any discrimination on grounds of nationality shall be prohibited.
- (3) The Union shall respect cultural, religious and linguistic diversity.
- (4) Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.
- (5) Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child shall have the right to maintain a personal relationship and direct contact with both his or her parents on a regular basis, unless that is contrary to his or her interests.
- (6) The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.
- (7) The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

#### Article 5 Dignity rights

- (1) Human dignity is inviolable. It must be respected and protected.
- (2) Everyone has the right to life. No one shall be condemned to the death penalty or executed.
- (3) Everyone has the right to respect for his or her physical and mental integrity. In the fields of medicine and biology, the following must be respected in particular:
  - the free and informed consent of the person concerned, according to the procedures laid down by law,
  - the prohibition of eugenic practices, in particular those aiming at the selection of persons,
  - the prohibition on making the human body and its parts as such a source of financial gain,
  - the prohibition of the reproductive cloning of human beings.
- (4) No one shall be subjected to torture or to inhuman or degrading treatment or punishment.
- (5) No one shall be held in slavery or servitude. No one shall be required to perform forced or compulsory labour. Trafficking in human beings is prohibited.

#### Article 6 Solidarity rights

- (1) Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices.
- (2) Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.
- (3) Everyone has the right of access to a free placement service.
- (4) Every worker has the right to protection against unjustified dismissal, in accordance with Union law and national laws and practices.
- (5) Every worker has the right to working conditions which respect his or her health, safety and dignity. Every worker has the right to the limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.
- (6) The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations. Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.
- (7) The family shall enjoy legal, economic and social protection. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.
- (8) The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices.
- (9) Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.
- (10) The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with Union law, in order to promote the social and territorial cohesion of the Union.
- (11) A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.
- (12) Union policies shall ensure a high level of consumer protection.

#### Article 7 Justice rights

- (1) Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.
- (2) Everyone who has been charged shall be presumed innocent until proven guilty according to law. Respect for the rights of the defence of anyone who has been charged shall be guaranteed.
- (3) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than that which was applicable at the time the criminal offence was committed. If, subsequent to the perpetration

of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations. The severity of penalties must not be disproportionate to the criminal offence.

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

#### Article 8

##### Right to good administration

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

#### Article 9

##### Implementation of fundamental rights

- (1) The fundamental rights must be respected by the institutions and the bodies established by the present Constitution and the annexed Treaty, and by the Member States. They do not give the Union institutions other competences than those attributed by the present Constitution.
- (2) The main responsibility for the implementation of the fundamental rights belongs to the Member States. They will realise a yearly report about their action in that field. The Commission will present its own synthesis about the situation in the whole European Union. These documents will be examined by the Congress of Parliaments.

#### Article 10

##### Level of protection

- (1) Insofar as this Constitution contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection.
- (2) Nothing in this Constitution shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by Union law and international law and by international agreements to which the Union or all the Member States are party and by the Member States' constitutions.

#### Section 3

##### Citizenship

#### Article 11

##### Citizenship of the European Union

Every person holding the nationality of a Member State shall also be a citizen of the Union, with the corresponding rights and duties.

#### Article 12

##### Freedom of movement and residence

Every citizen of the Union and national of a third country legally resident in the territory of a Member State shall have the right to move and reside freely within the territory of the Member States.

#### Article 13

##### Electoral rights

Every citizen of the Union residing in a Member State in which he is not a national shall have the right to vote and stand as a

candidate at municipal elections, as well as at European Parliament elections.

Article 14  
Diplomatic protection

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

Article 15  
Right of access to documents

Any citizen of the Union, and any natural or legal person residing or having their registered office in a Member State, has a right of access to European Parliament, Council and Commission documents, with the exception of restricted documents for security reasons.

Article 16  
Ombudsman

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

Article 17  
Right to petition

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

Title II  
MISSIONS OF THE EUROPEAN UNION

Section 1  
Powers of the Union

Article 18  
Principle of attribution

- (1) The Union only has those competences and powers which are conferred upon it by the present Constitution and the annexed Treaty. The Union shall act within the limits conferred upon it by these texts and of the objectives assigned to it therein.
- (2) Those powers that are not assigned to the European Union shall belong to the Member States.

Article 19  
Types of competences

- (1) The Union's competences are either exclusive or are shared with the Member States.
- (2) The exclusive competences of the Union are those powers which, by their very nature, are reserved for the Union and therefore only the institutions of the Union are empowered to act. The Member States can only intervene by virtue of a legal act of the Union.
- (3) The competences which the Union shares with the Member States are either concurrent or complementary. Concurrent competences of the Union are those conferred upon the Union which the Member States may exercise as long as and provided that the Union has not yet done so. Complementary competences of the Union are those conferred upon the Union to complement or support action taken by the Member States with a view to achieving a common objective.
- (4) The type of competence does not predetermine the type of instrument to be used.

Article 20  
Subsidiarity

- (1) In areas which do not fall within its exclusive competence, the Union shall take action only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Union.
- (2) The compliance with the principle of subsidiarity shall be subject to the scrutiny of the national Parliaments. Any law or

directive may be annulled by a two-third majority of the national Parliaments representing two-thirds of the population of the Union, on the grounds of non-compliance with the said principle in a period of one month after the adoption of the measure in question and before the entering into force of the measure in question.

Article 21  
Proportionality

Any action by the Union shall not go beyond what is necessary to achieve the objectives of the Treaty.

Article 22  
Sincere cooperation

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

Article 23  
Enabling clause

- (1) If action by the Union should prove necessary to attain one of the objectives of the Union and neither this Constitution nor the annexed treaty have provided the necessary powers, the Council shall, acting on a proposal from the Commission in codecision with the European Parliament, take the appropriate measures.
- (2) The use of this clause shall be subject to the scrutiny of the national Parliaments, which may annul its use acting by a two-third majority representing two-thirds of the population of the Union in a period of one month after the adoption of the measure and before the entering into force of the measure.

Article 24  
Closer cooperation

Member States may establish closer cooperation between themselves and make use of the institutions, procedures and mechanisms of the Constitution, provided that this closer cooperation meets the conditions laid down by the annexed Treaty.

Section 2  
Internal missions of the European Union

Article 25  
Internal objectives of the European Union

The Union shall have as its internal objectives:

- (1) to promote a balanced and sustainable development of economic activities,
- (2) to achieve a high level of employment and of social protection, as well as a high degree of competitiveness and convergence of economic performance,
- (3) to guarantee the quality of the environment,
- (4) to raise the standard of living and the quality of life,
- (5) to foster economic and social cohesion and solidarity among Member States,
- (6) to provide citizens with a high level of safety within an area of freedom, security and justice.

Article 26  
Internal activities of the European Union

In order to fulfil its internal objectives, the European Union shall undertake the following activities:

- (1) an internal market characterised by the abolition of obstacles to the free movement of goods, persons, services and capital, as well as by the absence of competition distortions;
- (2) an economic policy based on the close coordination of Member States' economic policies;
- (3) the definition and conduct of a single monetary policy, the primary objective of which shall be to maintain price stability, and, without prejudice to this objective, to support the general economic policies in the European Union;
- (4) a common policy in the sphere of agriculture and fisheries;
- (5) a common policy in the sphere of transport;
- (6) the development of a co-ordinated strategy for employment, promoting the co-ordination between employment policies of the Member States with a view to enhancing their effectiveness;
- (7) a social policy comprising a European Social Fund;
- (8) the strengthening of economic and social cohesion;
- (9) a non discrimination policy;



- (10) an environmental policy;
- (11) the strengthening of the competitiveness of the Union enterprises;
- (12) the promotion of research and technological development;
- (13) the encouragement of trans- European networks;
- (14) a contribution to the attainment of a high level of health protection;
- (15) a contribution to education and training of quality and to the flowering of the cultures of the Member States;
- (16) a consumer protection policy;
- (17) measures in the spheres of energy, civil protection and tourism;
- (18) assuring that services of general economic interest operate on the basis of principles and conditions that enable them to fulfil their missions;
- (19) a common policy in the field of visa, asylum and immigration, and other matters related to the free movement of persons in an area of freedom, security and justice;
- (20) a policy of fighting crime.

### Section 3

#### External missions of the European Union

### Article 27

#### External objectives of the European Union

The Union shall have as its external objectives:

- (1) to safeguard the common values, fundamental interests, independence and integrity of the Union;
- (2) to strengthen the security of the Union;
- (3) to preserve peace and strengthen international security;
- (4) to promote international co-operation;
- (5) to support sustainable development;
- (6) to develop and consolidate democracy and the rule of law and respect for human rights and fundamental freedoms.

### Article 28

#### External activities of the European Union

In order to fulfil its external activities, the European shall undertake the following activities:

- (1) a common foreign policy, including all questions relating to the security and defence of the Union. These questions shall include humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking ;
- (2) a common commercial policy;
- (3) a development policy.

## Title III INSTITUTIONS

### Section 1

#### General provisions on Union institutions

### Article 29

#### Union institutions

- (1) The tasks entrusted to the Union shall be carried out by the following institutions:
  - EUROPEAN COUNCIL,
  - EUROPEAN PARLIAMENT,
  - COUNCIL,
  - COMMISSION,
  - COURT OF JUSTICE,
  - COURT OF AUDITORS.
  - CONGRESS OF PARLIAMENTS
  - EUROPEAN SYSTEM OF CENTRAL BANKS
- (2) Each institution shall exercise its powers under the conditions and for the purposes provided for by this Constitution and the annexed Treaty.
- (3) The Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity, according to the different procedures as laid down in the Constitution and the annexed Treaty.

Section 2  
The European Council

Article 30  
Composition of the European Council

The European Council shall consist of the Heads of State or Government of the Member States, the President of the Commission and the President of the European Parliament.

Article 31  
Presidency of the European Council

The European Council will be chaired by the Head of State or Government of one of the Member States. The office of President of the European Council shall be held in turn by each Member State for a term of six months.

Article 32  
Functions of 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 approve the revision of this Constitution or the annexed Treaty according to the procedures defined by Article 70.

Section 3  
The European Parliament

Article 33  
Composition of the European Parliament

- (1) The European Parliament is composed of representatives of the peoples of the States brought together in the Union.
- (2) The number of representatives elected in each Member State shall be as follows :

All Member States will have at least 3 representatives.  
 Member States with a population between 1.000.000 and 2.500.000 will have 4.  
 Member States with a population between 2.500.000 and 5.000.000 will have 6.  
 Member States with a population between 5.000.000 and 7.500.000 will have 8.  
 Member States with a population between 7.500.000 and 10.000.000 will have 10.  
 Member States with a population between 10.000.000 and 12.500.000 will have 12.  
 Member States with a population between 12.500.000 and 15.000.000 will have 14.  
 Member States with a population between 15.000.000 and 25.000.000 will have 18.  
 Member States with a population between 25.000.000 and 35.000.000 will have 22.  
 Member States with a population between 35.000.000 and 50.000.000 will have 27.  
 Member States with a population between 50.000.000 and 70.000.000 will have 32.  
 Member States with a population between 70.000.000 and 90.000.000 will have 37.  
 Member States with a population between 90.000.000 and 120.000.000 will have 42.

Article 34  
Election of the European Parliament

- (1) The representatives shall be elected by direct universal suffrage for a term of five years. The number of representatives elected in each Member State must ensure appropriate representation of the peoples of the states brought together in the European Union. This number shall not exceed five hundred. There will be at least three members of the European Parliament per Member State.
- (2) Each Member State shall establish regional constituencies without generally violating the proportional character of the system. This provision shall apply with effect from the elections to the European Parliament scheduled for 2009. Member States whose population does not exceed 10 million inhabitants are not required to establish such constituencies.
- (3) 20 % of the total number of seats within the European Parliament shall be filled by means of list-based proportional representation relating to a single constituency comprising the territory of the Member States with effect from the European elections to be held in 2009. The implementing provisions shall be adopted by 1 January 2008 according to the codecision procedure.

Article 35  
Legislative and financial functions of the European Parliament

- (1) The European Parliament shall participate in the adoption of Union legislative and financial instruments. According to the respective decision procedures laid down by the annexed Treaty, it shall exercise its powers under the codecision procedure, request an initiative from the Commission or deliver advisory opinions.
- (2) The European Parliament shall approve all international agreements of major importance.
- (3) The European Parliament will also be informed and consulted on decisions relating to the foreign policy activities of the Union.
- (4) Save as otherwise provided by the Treaty, the European Parliament shall act by an absolute majority of the votes cast.

Article 36  
Control functions of the European Parliament

- (1) The European Parliament controls the activities of the Executive Council and the Commission.
- (2) The European Parliament may approve, by a two-third majority of the votes cast representing a majority of the Members, a motion of censure on the activities of the Commission. As a result, the Commission shall resign as a body.
- (3) The European Parliament may approve, by a 60 % majority of the votes cast representing a majority of the Members, a motion of censure on the activities of one Commission Member. The president of the Commission will decide after such a motion whether the Commission member in question shall resign.
- (4) The European Parliament can ask written and oral questions to the Commission and may set up Committees of Inquiry. It will also appoint an Ombudsman.
- (5) The European Parliament may receive from the national and regional Parliaments complaint letters regarding the implementation of Union policies and funds by national and regional governments. The complaint will be examined by the responsible European Parliament Committee.

Section 4  
The Council

Article 37  
Composition of the Council

- (1) The Council shall be composed of a Legislative Council and an Executive Council.
- (2) The Legislative Council shall consist of Ministers of European Affairs, authorised to commit the government of their Member State. The Member States are allowed to include members from their parliaments and from their regional governments in their ministerial delegations. Its meetings are public.  
The Legislative Council will be assisted by a number of Legislative Committees, as laid down in the annexed Treaty. The Legislative Committees shall consist of ministerial delegations, authorised to commit the government of their Member State. The Member States are allowed to include members from their parliaments and from their regional governments in their ministerial delegations.
- (3) The Executive Council shall consist of a representative of each Member State at ministerial level, authorised to commit the government of that Member State. The publicity of the meetings will be restricted according to the concerned topics.

Article 38  
Presidency of the Council

- (1) The Legislative Council shall be chaired by the Member States on a rotation basis of 6 months. The president of the Legislative Council will follow the agenda drafted by the Commission.  
The Legislative Committees will be chaired by the Commission members with the corresponding portfolios.
- (2) The Executive Council shall, according to the subject matter, be chaired by the Vice-President of the Commission in charge of external relations, or the Vice-President in charge of economic and social coordination, or the Commissioner in charge of the fight against crime.

During a transitory period of ten years, the Executive Council regarding foreign policy shall be chaired by the High Representative, who shall be elected by the European Council. During this period, the Commission shall be fully associated with the work carried out in the framework of the foreign policy.

Article 39  
Functions of the Legislative Council

- (1) In order to fulfil the objectives of the European Union, the Legislative Council shall:
  - give final approval to legislative and financial instruments adopted by the Legislative Committees, provided they do not present incoherences with other texts;
  - have powers to adopt legislative and financial instruments when the Legislative Committees are not able to reach a decision;
  - approve external agreements ;
  - give additional powers to the Commission for the implementation of the rules which it has laid down;
  - promote the coordination of national policies through the use of the open coordination method;
  - request the Commission to undertake studies in view of the attainment of common objectives and to submit to it any appropriate proposals.
- (2) In order to fulfil the objectives of the European Union, the Legislative Committees will vote on the propositions of the Commission. They may request the Commission to undertake studies in view of the attainment of common objectives and to submit to it any appropriate proposals. In case no agreement can be found within the Committee, the proposal and the positions within the Committee shall be definitively forwarded for decision to the Legislative Council.
- (3) The final vote and the explanation of the vote during the meetings of the Legislative Committees shall be open to the public. The meetings of the Legislative Council shall be open to the public.

#### Article 40 Functions of the Executive Council

The functions of the Executive Council are limited to the following topics.

- (1) With regard to foreign policy, the Executive Council shall:
  - adopt common strategies;
  - implement the common strategies through common positions and common actions;
  - decide and organise common military actions
  - request the Commission to undertake studies in view of the attainment of common objectives and to submit to it any appropriate proposals.
- (2) With regard to the fight against crime, the Executive Council shall:
- (3) With regard to economic and monetary policy, the Executive Council shall:
- (4) With regard to nominations, the Executive Council will exercise the powers granted by the Constitution and the annexed Treaty to the Council.
  - define and control the activities of Europol;
  - organise common police actions;
  - request the Commission to undertake studies in view of the attainment of common objectives and to submit to it any appropriate proposals.
  - decide upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products;
  - grant financial assistance in case of severe difficulties caused by exceptional occurrences;
  - be in charge of implementing the excessive deficit provisions, as annexed to this Constitution;
  - adopt Broad Economic and Employment Policy Guidelines ;
  - Formulate general orientations for exchange-rate policy;

#### Article 41 Voting within the Council

- (1) Save as otherwise provided, the Council shall act by a double majority of both Member States and the population.
- (2) Abstentions shall not prevent the adoption by the Council of acts requiring unanimity.

#### Section 5 The Commission

#### Article 42 Composition of the Commission

The Commission shall consist of nationals from the Member States. The number of Commissioners will be 20, following a principle of rotation. The Member States without a Commissioner have a priority in the appointment of the presidents of EU agencies.

#### Article 43 Appointment of the Commission

- (1) The Members of the Commission shall be appointed for a renewable term of five years.

- (2) The President of the Commission shall be elected by the European citizens on the same day as the European Parliament elections through a separate ballot.  
During a transitory phase of ten years after the entry into force of the present Constitution, the president will be elected by the Congress of Parliaments. The European Council can, acting by a two-third majority, reject the President elect.
- (3) The president of the Commission shall nominate the other persons (s)he intends to appoint as Members of the Commission. The composition of the Commission will take into account the rotation principle. It will also reflect the composition of the European Parliament. The Commission thus nominated shall be subject to a vote of collective approval by the European Parliament.
- (4) The Vice-President in charge of external relations is chosen by the president of the Commission on a list of three candidates presented by the European Council. The control of his individual responsibility will be exercised by the European Council.

#### Article 44 Functions of the Commission

- (1) In its legislative role, the Commission shall:
  - have the exclusive right of initiative for all legislative and financial instruments;
  - have the exclusive right of initiative for all international agreements, and executive foreign policy instruments, without prejudice to the transitory period foreseen for the foreign policy by article 45;
  - ensure that the provisions of this Constitution, the annexed Treaty and the measures taken by the institutions pursuant thereto are applied;
  - formulate recommendations or deliver opinions on matters dealt with in this Constitution and the annexed Treaty, if they expressly so provide or if the Commission considers it necessary;
 Where the Council acts on a proposal from the Commission, unanimity shall be required for an amendment to that proposal. As long as the Council has not acted, the Commission may alter its proposal at any time.
- (2) In the framework of coordination instruments, the Commission shall have the exclusive right of initiative.  
Where the Council acts on a proposal from the Commission, unanimity shall be required for an amendment to that proposal. As long as the Council has not acted, the Commission may alter its proposal at any time.
- (3) In its implementation role, the Commission shall faithfully execute laws and directives adopted by the European Parliament and the Legislative Council or the Legislative Committees, according to the control procedures that these acts can define if necessary.
- (4) In its control role, the Commission shall supervise the works of the different agencies established by the annexed Treaty.
- (5) At the start of its legislature, the Commission shall prepare a five year action program laying down the main objectives for the coming years. This program will be presented to the European Council and the Congress of Parliaments. On the basis of this program, the Commission shall prepare an annual program, which it shall present to the European Council and the Congress of Parliaments.

#### Article 45 External representation

- (1) The Vice President of the Commission in charge of external relations shall represent the Union in matters coming within the external activities, negotiate external agreements and be responsible for the implementation of decisions taken within this framework.
- (2) This function will be exercised for the foreign policy by the High Representative during a transitory period of ten years after the entry into force of this Constitution. During this period, the Commission shall be fully associated with the work carried out in the framework of this policy. The High Representative shall take part in the Commission's deliberations on external matters as a non-voting member.

#### Article 46 Working and voting procedures of the Commission

- (1) The Members of the Commission shall be completely independent in the performance of their duties. They shall neither seek nor take instructions from any government or from any other body.
- (2) The Commission shall act by an absolute majority of the number of its members. In case votes are equally divided, the vote of the President will be decisive.
- (3) The Commission shall work under the political guidance of its President. The Members of the Commission shall carry out the duties devolved upon them by the President under his authority.
- (4) The responsibilities incumbent upon the Commission shall be structured and allocated among its Members by its President. The President may reshuffle the allocation of those responsibilities during the Commission's term of office, except for the Vice-President for external relations.
- (5) The President has the power to dismiss any Commissioner, save the Vice-President for external relations.

Section 6  
The Court of Justice

Article 47  
Composition of the Court of Justice

- (1) The Court of Justice shall consist of judges and be assisted by 6 Advocates-General.
- (2) A Court of First Instance shall be attached to the Court of Justice, with jurisdiction to hear and determine at first instance, subject to a right of appeal to the Court of Justice, under certain conditions.
- (3) The total number of judges in the Court of justice and the Court of First Instance will be equal to the number of Member States.

Article 48  
Appointment procedure

Judges, Advocates-General and members of the Court of First Instance, shall be chosen from persons whose independence is beyond doubt and who possess the required qualifications. They shall be appointed by the Council on a double list of three candidates presented by the European Parliament and the European Court of Justice for a renewable term of six years.

Article 49  
Functions of the Court of Justice

- (1) The Court of Justice shall assure that in the interpretation and application of the Treaty, the law is observed.
- (2) The European Court of Justice can hear actions brought against Member States by the Commission or a Member State to ensure that they comply with their obligations under the Treaty and under Union legislation. The Member State concerned shall be required to take the necessary measures to comply with the judgement of the European Court of Justice, which may impose penalties on the Member State concerned.
- (3) The Court of Justice shall review the legality of all legal instruments adopted individually or jointly by the European Parliament, the Council, the Commission, the European Central Bank.
- (4) Should an institution established by the present Constitution, in infringement of this Constitution and the annexed Treaty, fail to act, the Member States and the other institutions of the Union may bring an action before the Court to have the infringement established. The action shall be admissible only if the institution concerned has first been called upon to act.  
Any natural or legal person may complain to the Court of Justice that an institution of the Union has failed to address to that person any act other than a recommendation or an opinion.
- (5) The Court of Justice shall have jurisdiction to give preliminary rulings concerning:
  - the interpretation of this Treaty;
  - the validity and interpretation of acts of the institutions of the Union and of the EUROPEAN CENTRAL BANK;
  - the interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide.
- (6) If any member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council or the Commission, compulsory retire him.
- (7) The Court of Justice shall have jurisdiction in disputes relating to compensation for damage caused by its institutions.
- (8) The Court of Justice shall have jurisdiction in any dispute between the Union and its servants.

Section 7  
The Court of Auditors

Article 50  
Composition of the Court of Auditors

The Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. The Members of the Court of Auditors shall be completely independent in the performance of their duties.

Article 51  
The appointment of the Court of Auditors

The Members of the Court of Auditors shall be appointed for a renewable term of six years by the Council.

Article 52  
Functions of the Court of Auditors

- (1) The Court shall carry out the audit.
- (2) The Court shall examine the accounts of all revenue and expenditure of the Community, their reliability as well as the regularity of the underlying transactions.

Section 8  
The Congress of Parliaments

Article 53  
Composition of the Congress of Parliaments

The Conference of Parliaments shall consist of two representatives chosen by the Parliament(s) of each Member State, and of the same number of representatives of the European Parliament. It will meet once a year and will use the secretariat of the European Parliament.

Article 54  
Functions of the Congress of Parliaments

- (1) The Congress of Parliaments will prepare the modification of the present Constitution and the annexed Treaty.
- (2) The Congress of Parliaments will examine the implementation of fundamental rights in the European Union.
- (3) The Congress of Parliaments will examine the action programs of the Commission.
- (4) The Congress of Parliaments will examine the implementation of the open method of coordination in the European Union.
- (5) During a transitory phase of ten years after the entry into force of the present Constitution, the Congress of Parliaments will elect the Commission president.

Section 9  
European System of Central Banks and European Central Bank

Article 55  
Composition

- (1) The ESCB shall be composed of the European Central Bank and the national central banks.
- (2) The ESCB shall be governed by the decision-making bodies of the European Central Bank, which shall be the governing council and the executive board.
- (3) The governing council of the European Central Bank shall comprise the members of the Executive Board of the European Central Bank and 12 governors of the national central banks on a rotating principle. The central banks of Member States with more than 30.000.000 inhabitants will always be represented.
- (4) The executive board shall comprise the president of the European Central Bank, the vice-president and four other members, who shall be appointed according to the provisions laid down in the annexed Treaty.

Article 56  
Objectives

The primary objective of the ESCB shall be to maintain price stability. Without prejudice to the objective of price stability, it shall support the general economic policies in the Union.

Article 57  
Functions

- (1) The functions of the ESCB shall be:
  - to define and implement the monetary policy of the European Union
  - to conduct foreign exchange operations
  - to hold and manage the official reserves of the Member States
  - to promote the smooth operation of payment systems.
- (2) The function of the European Central Bank shall be to exercise the exclusive right to authorise the issue of banknotes within the Union.

Article 58  
Independence

When exercising their powers and carrying out their functions and duties, neither the EUROPEAN CENTRAL BANK, nor a

national central bank, nor any member of their decision-making structures shall seek or take instructions from Union institutions or bodies, from any government of a Member State or from any other body.

Section 10  
Consultative Committees

Article 59  
The Economic and Social Committee

- (1) The Economic and Social Committee shall consist of representatives of the various categories of economic and social activity, in particular, representatives of producers, farmers, carriers, workers, traders, craftsmen, professional occupations and representatives of the general public.
- (2) The Members of the Committee shall be appointed by the Council for four years. Their appointments shall be renewable.
- (3) The Members of the Committee shall be completely independent in the performance of their duty.
- (4) The Committee shall have an advisory status. It may issue an opinion on its own initiative in cases in which it considers such actions appropriate.

Article 60  
The Committee of Regions

- (1) The Committee of Regions shall consist of representatives of regional and local bodies.
- (2) The Members of the Committee shall be appointed by the Council for four years. Their appointments shall be renewable. An equal number of alternates shall be appointed.
- (3) The Members of the Committee shall be completely independent in the performance of their duty.
- (4) The Committee shall have an advisory status. It may issue an opinion on its own initiative in cases in which it considers such actions appropriate.

Title IV  
INSTRUMENTS

Section 1  
Legal instruments

Article 61  
Legislative instruments

In order to carry out their legislative tasks and in accordance with the provisions of this Constitution, the European Parliament acting jointly with the Legislative Council shall make laws, issue directives, or take decisions. A law shall have general application. It shall be binding in its entirety and directly applicable in all Member States. A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods. A decision shall be binding in its entirety upon those to whom it is addressed.

Article 62  
Financial instruments

- (1) Decisions on revenue and expenditure shall take the form of a law.
- (2) The revenue and expenditure shown in the budget shall be in balance.
- (3) The Union shall establish its own budget within expenditure limits expressed as a defined percentage of the Union's gross domestic product.
- (4) The budget shall be financed wholly from own resources. The Union shall establish the percentages of the Union VAT, custom duties, and environmental taxes which are to be transferred to the Union budget.
- (5) All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget.

Article 63  
International agreements

International agreements will be binding in their entirety and may be directly applicable in all Member States.

Article 64



## Advisory instruments

Recommendations, resolutions and opinions made by the European Council, the European Parliament, the Council, the Commission, the Economic and Social Committee and the Committee of the Regions in order to carry out their functions under this Constitution, shall have no binding force.

## Article 65

## Implementation instruments

Within the framework of its executive role, the Commission shall issue implementation decrees. A decree shall have binding effect. It will be subordinated to the laws and directives it implements.

## Article 66

## Executive instruments of the foreign policy

Within the framework of its executive tasks, the Executive Council shall decide on common strategies and adopt joint actions and common positions.

A common strategy shall set out, in areas where the Member States have important interests in common, the objectives, duration and the means to be made available by the Union and the Member States. A joint action shall set out, for specific situations where operational action by the Union is deemed to be required, the objectives, duration and means to be made available to the Union. A common position shall define the approach of the Union to a particular matter of geographical or thematic nature. Member States shall ensure that their national policies conform to the common position.

## Section 2

## Coordination instruments

## Article 67

## Open Method of Coordination

- (1) In the fields referred to in the annexed Treaty, the Legislative Council shall, on a proposal from the Commission, adopt a set of commonly agreed objectives and indicators.
- (2) Relying on the common indicators, the Commission shall issue a recommendation to the Legislative Council on the implementation of this coordination process. On the basis of this recommendation, the Legislative Council may adopt reports, and if appropriate, draw up guidelines which the Member States shall take into account in their policy.
- (3) The Vice-President of the Commission in charge of economic and social coordination shall keep the Congress of Parliaments informed of the results of the coordination efforts. The Congress of Parliaments shall, on the basis of the reports submitted by the Commission, monitor developments in each Member State and their consistency with the guidelines.

## Article 68

## Broad Economic and Employment Policy Guidelines

- (1) After consulting the Social and Employment Legislative Committee and the Economic and Financial Legislative Committee, the Commission shall propose a draft for the Broad Economic and Employment Policy Guidelines to the Executive Council.
- (2) On the basis of this proposal, the Executive Council shall adopt a recommendation setting out these broad guidelines. Incentive measures can be adopted by the European Parliament and the Council to promote the implementation of the Broad Economic and Employment Policy Guidelines by the Member States.

## Title V

## FINAL PROVISIONS

## Article 69

## Legal personality

- (1) The Union shall have legal personality.
- (2) In each of the Member States, the Union shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be party to legal proceedings. To this end, the Union shall be represented by the Commission.
- (3) In international relations, the Union shall enjoy legal capacity to the extent necessary for the exercise of its functions and the fulfilment of its purposes.

## Article 70

## Revision procedure

- (1) The government of any Member State, the European Parliament or the Commission may submit to the European Council proposals for the amendment of this Constitution or the annexed Treaty.
- (2) If the European Council, after consulting, where appropriate, the European Parliament and the Commission, delivers an opinion in favour of a revision of this Constitution, the proposals will be transmitted to the Congress of Parliaments. It shall, on a proposal from the Commission, prepare the amendments to be made to this Constitution.  
This preparatory work shall be examined by the European Council, which shall decide on the amendments of this Constitution by a majority of 75% of its Member States, representing 75% of the population. The amendments shall enter into force after being ratified by 75 % of the Member States representing 75% of the population, according to their own constitutional rules.
- (3) If the European Council, after consulting, where appropriate, the European Parliament and the Commission, delivers an opinion in favour of a revision of the annexed Treaty, the Congress of Parliaments shall be convened.  
The Congress of Parliaments shall, on a proposal from the Commission, prepare the amendments to be made to the annexed Treaty. This preparatory work shall be taken duly into account by the European Council, which shall decide on the amendments of the annexed Treaty by a majority of 75% of its Member States, representing 75% of the population. After the decision of the European Council, the amendments shall enter directly into force.

## Article 71

## Accession to the Union

- (1) Any European State which respects the principles set out in Article 1(1) may apply to become a member of the Union. It shall address its application to the Council, which shall act after consulting the Commission and in codecision with the European Parliament, which shall act by an absolute majority of its component members.
- (2) The conditions of admission and the adjustments to the Treaties on which the Union is founded 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.

## Article 72

## Secession from the Union

- (1) Any Member State may leave the Union at any time. Any national decision of denunciation will be first submitted by the national authorities to a referendum procedure, explaining the objectives and the impact of the decision, and indicating the reforms required by the withdrawal.
- (2) The Member State in question shall cease to be a Member of the Union one year after its written notice of denunciation has been presented to the President of the European Council, which will inform the governments of the other Member States of the deposit of notice of denunciation.
- (3) After its presentation, the withdrawal of the denunciation will require unanimity in the European Council.

## Article 73

## Association

The Union may conclude with one or more states or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.

## Article 74

## Primacy of the Constitution

This Constitution shall enjoy primacy over all other texts of the European Union.

## Article 75

## Primacy of EU legal instruments

Legal instruments of the EU will have primacy over the law of the Member States.

## Article 76

## Entry into force of the Constitution

- (1) This Constitution shall enter into force once it has been submitted for ratification by the European Council and if supported thereafter by three quarters of the Member States of the Union representing 75% of the population according to their own constitutional requirements.
- (2) Any existing Member State of the Union deciding not to adopt this Constitution may seek associate membership.

(3) This Constitution shall enter into force at the start of the second month after the fulfillment of paragraph (1).

Article 77  
Transitory provision

The Treaty on the EU, the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community are herewith repealed. They are replaced by this Constitution and by the annexed Consolidated Treaty of the European Union.

