

Draft Treaty establishing the European Union

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DRAFT TREATY ESTABLISHING THE EUROPEAN UNION

Preamble

With a view to continuing and reviving the democratic unification of Europe, of which the European Communities, the European Monetary System and European Political Cooperation represent the first achievements, and convinced that it is increasingly important for Europe to assert its identity;

Welcoming the positive results achieved so far, but aware of the present need to redefine the objectives of European integration, and to confer on more efficient and more democratic institutions the means of attaining them;

Basing their actions on their commitment to the principles of pluralist democracy, respect for human rights and the rule of law;

Reaffirming their desire to contribute to the construction of an international society based on cooperation between peoples and between States, the peaceful settlement of disputes, security and the strengthening of international organizations;

Resolved to strengthen and preserve peace and liberty by an ever closer union, and calling on the other peoples of Europe who share their ideal to join in their efforts;

Determined to increase solidarity between the peoples of Europe, while respecting their historical identity, their dignity and their freedom within the framework of freely accepted common institutions;

Convinced of the need to enable local and regional authorities to participate by appropriate methods in the unification of Europe;

Desirous of attaining their common objectives progressively, accepting the requisite transitional periods and submitting all further development for the approval of their peoples and States;

Intending to entrust common institutions, in accordance with the principle of subsidiarity, only with those powers required to complete successfully the tasks they may carry out more satisfactorily than the States acting independently;

The High Contracting Parties, Member States of the European Communities, have decided to create a European Union.

PART ONE THE UNION

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Article 1 Creation of the Union

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By this Treaty, the High Contracting Parties establish among themselves a European Union.

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Article 2 Accession of new members

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Any democratic European State may apply to become a member of the Union. The procedures for accession, together with any adjustments which accession entails, shall be the subject of a treaty between the Union and the applicant State. That treaty shall be concluded in accordance with the procedure laid down in Article 65 of this Treaty.

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An accession treaty which entails revision of this Treaty may not be concluded until the revision procedure laid down in Article 84 of this Treaty has been completed.

18

Article 3 Citizenship of the Union

19

The citizens of the Member States shall ipso facto be citizens of the Union. Citizenship of the Union shall be dependent upon citizenship of a Member State; it may not be independently acquired or forfeited. Citizens of the Union shall take part in the political life of the Union in the forms laid down by this Treaty, enjoy the rights granted to them by the legal system of the Union and be subject to its laws.

20

Article 4 Fundamental rights

21

1. The Union shall protect the dignity of the individual and grant every person coming within its jurisdiction the fundamental rights and freedoms derived in particular from the common principles of the Constitutions of the Member States and from the European Convention for the Protection of Human Rights and Fundamental Freedoms.

22

2. The Union undertakes to maintain and develop, within the limits of its competences, the economic, social and cultural rights derived from the Constitutions of the Member States and from the European Social Charter.

23

3. Within a period of five years, the Union shall take a decision on its accession to the international instruments referred to above and to the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. Within the same period, the Union shall adopt its own declaration on fundamental rights in accordance with the procedure for revision laid down in Article 84 of this Treaty.

24

4. In the event of serious and persistent violation of democratic principles or fundamental rights by a Member State, penalties may be imposed in accordance with the provisions of Article 44 of this Treaty.

25

Article 5 Territory of the Union

26

The territory of the Union shall consist of all the territories of the Member States as specified by the Treaty establishing the European Economic Community and by the treaties of accession, account being taken of obligations arising out of international law.

27

Article 6 Legal personality of the Union

28

The Union shall have legal personality. In each of the Member States, the Union shall enjoy the most extensive legal capacity accorded to legal persons under national legislation. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. In international relations, the Union shall enjoy the legal capacity it requires to perform its functions and attain its objectives.

29

Article 7 The Community patrimony

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1. The Union shall take over the Community patrimony.

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2. The provisions of the treaties establishing the European Communities and of the conventions and protocols relating thereto which concern their objectives and scope and which are not explicitly or implicitly amended by this Treaty, shall constitute part of the law of the Union. They may only be amended in accordance with the procedure for revision laid down in Article 84 of this Treaty.

32

3. The other provisions of the treaties, conventions and protocols referred to above shall also constitute part of the law of the Union, in so far as they are not incompatible with this Treaty. They may only be amended by the procedure for organic laws laid down in Article 38 of this Treaty.

33

4. The acts of the European Communities, together with the measures adopted within the context of the European Monetary System and European Political Cooperation, shall continue to be effective, in so far as they are not incompatible with this Treaty, until such time as they have been replaced by acts or measures adopted by the institutions of the Union in accordance with their respective competences.

34

5. The Union shall respect all the commitments of the European Communities, in particular the agreements or conventions concluded with one or more non-member States or with an international organization.

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Article 8 Institutions of the Union

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The fulfilment of the tasks conferred on the Union shall be the responsibility of its institutions and its organs. The institutions of the Union shall be:

37

the European Parliament,

38

the Council of the Union,

39

the Commission,

40

the Court of Justice,
the European Council.

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PART TWO THE OBJECTIVES, METHODS OF ACTION AND COMPETENCES OF THE UNION

Article 9 Objectives

The objectives of the Union shall be:

the attainment of a humane and harmonious development of society based principally on endeavours to attain full employment, the progressive elimination of the existing imbalances between its regions, protection and improvement in the quality of the environment, scientific progress and the cultural development of its peoples,

the economic development of its peoples with a free internal market and stable currency, equilibrium in external trade and constant economic growth, without discrimination between nationals or undertakings of the Members States by strengthening the capacity of the States, their citizens and their undertakings to act together to adjust their organization and activities to economic changes,

the promotion in international relations of security, peace, cooperation, disarmament and the free movement of persons and ideas, together with the improvement of international commercial and monetary relations,

the harmonious and equitable development of all the peoples of the world to enable them to escape from under-development and hunger and exercise their full political, economic and social rights.

Article 10 Methods of action

1. To attain these objectives, the Union shall act either by common action or by cooperation between the Member States; the fields within which each method applies shall be determined by this Treaty.

2. Common action means all normative, administrative, financial and judicial acts, internal or international, and the programmes and recommendations, issued by the Union itself, originating in its institutions and addressed to those institutions, or to States, or to individuals.

3. Cooperation means all the commitments which the Member States undertake within the European Council.

The measures resulting from cooperation shall be implemented by the Member States or by the institutions of the Union in accordance with the procedures laid down by the European Council.

Article 11 Transfer from cooperation to common action

1. In the instances laid down in Article 54(1) and 68(2) of this Treaty, a matter subject to the method of cooperation between Member States may become the subject of common action. On a proposal from the Commission, or the Council of the Union, or the Parliament, or one or more Member States, the European Council may decide, after consulting the Commission and

with the agreement of the Parliament, to bring those matters within the exclusive or concurrent competence of the Union.

2. In the fields subject to common action, common action may not be replaced by cooperation.

Article 12 Competences

1. Where this Treaty confers exclusive competence on the Union, the institutions of the Union shall have sole power to act; national authorities may only legislate to the extent laid down by the law of the Union. Until the Union has legislated, national legislation shall remain in force.

2. Where this Treaty confers concurrent competence on the Union, the Member States shall continue to act so long as the Union has not legislated. The Union shall only act to carry out those tasks which may be undertaken more effectively in common than by the Member States acting separately, in particular those whose execution requires action by the Union because their dimension or effects extend beyond national frontiers. A law which initiates or extends common action in a field where action has not been taken hitherto by the Union or by the Communities must be adopted in accordance with the procedure for organic laws.

Article 13 Implementation of the law of the Union

The Union and the Member States shall cooperate in good faith in the implementation of the law of the Union. Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Union. They shall facilitate the achievement of the Union's tasks. They shall abstain from any measure which could jeopardize the attainment of the objectives of the Union.

PART THREE INSTITUTIONAL PROVISIONS 63

TITLE I The institutions of the Union 64

Article 14 The European Parliament 65

The European Parliament shall be elected by direct universal suffrage in a free and secret vote by the citizens of the Union. The term of each Parliament shall be five years. 66

An organic law shall lay down a uniform electoral procedure; until such a law comes into force, the procedure applicable shall be that for the election of the Parliament of the European Communities. 67

Article 15 Members of Parliament 68

The members of the Parliament shall act and vote in an individual and personal capacity. They may not be bound by any instruction nor receive a binding mandate. 69

Article 16 Functions of the Parliament 70

The Parliament shall: 71

participate, in accordance with this Treaty, in the legislative and budgetary procedures and in the conclusion of international agreements, 72

enable the Commission to take office by approving its political programme, 73

exercise political supervision over the Commission, 74

have power to adopt by a qualified majority a motion of censure requiring the members of the Commission to resign as a body, 75

have the power to conduct inquiries and receive petitions addressed to it by citizens of the Union, 76

exercise the other powers attributed to it by this Treaty. 77

Article 17 Majorities in the Parliament 78

1. The Parliament shall vote by a simple majority, i.e. a majority of votes cast, abstentions not counted. 79

2. Where expressly specified by this Treaty, the Parliament shall vote: 80

(a) either by an absolute majority, i.e. a mmajority of its members; 81

(b) or by a qualified majority, i.e. a majority of its members and of two-thirds of votes cast, abstentions not counted. On the second reading of the budget, the qualified majority required shall be a majority of the members of Parliament and three-fifths of votes cast, abstentions not counted. 82

Article 18 Power to conduct inquiries and right of petition 83

The procedures for the exercise of the power of the Parliament to conduct inquiries and of the right of citizens to address petitions to the Parliament shall be laid down by organic laws. 84

Article 19 Rules of procedure of the Parliament 85

The Parliament shall adopt its rules of procedure by an absolute majority. 86

Article 20 The Council of the Union 87

The Council of the Union shall consist of representations of the Members States appointed by their respective governments; each representation shall be led by a minister who is permanently and specifically responsible for Union affairs. 88

Article 21 Functions of the Council of the Union 89

The Council shall: 90

participate, in accordance with this Treaty, in the legislative and budgetary procedures and in the conclusion of international agreements, 91

exercise the powers attributed to it in the field of international relations, and answer written and oral questions tabled by members of the Parliament in this field, 92

exercise the other powers attributed to it by this Treaty. 93

Article 22 Weighting of votes in the Council of the Union 94

The votes of the representations shall be weighted in accordance with the provisions of Article 148(2) of the Treaty establishing the European Economic Community. 95

In the event of the accession of new Member States, the weighting of their votes shall be laid down in the treaty of accession. 96

Article 23 Majorities in the Council of the Union 97

1. The Council shall vote by a simple majority, i.e. a majority of the weighted votes cast, abstentions not counted. 98

2. Where expressly specified by this Treaty, the Council shall vote: 99

(a) either by an absolute majority, i.e. by a majority of the weighted votes cast, abstentions not counted, comprising at least half of the representations; 100

(b) or by a qualified majority, i.e. by a majority of two-thirds of the weighted votes cast, abstentions not counted, comprising a majority of the representations. On the second reading 101

of the budget, the qualified majority required shall be a majority of three-fifths of the weighted votes cast, abstentions not counted, comprising a majority of the representations;

(c) or by unanimity of representations, abstentions not counted. 102

3. During a transitional period of 10 years, where a representation invokes a vital national interest which is jeopardized by the decision to be taken and recognized as such by the Commission, the vote shall be postponed so that the matter may be re-examined. The grounds for requesting a postponement shall be published. 103

Article 24 Rules of procedure of the Council of the Union 104

The Council shall adopt its rules of procedure by an absolute majority. These rules shall lay down that meetings in which the Council is acting as a legislative or budgetary authority shall be open to the public. 105

Article 25 The Commission 106

The Commission shall take office within a period of six months following the election of the Parliament. 107

At the beginning of each parliamentary term, the European Council shall designate the President of the Commission. The President shall constitute the Commission after consulting the European Council. 108

The Commission shall submit its programme to the Parliament. It shall take office after its investiture by the Parliament. It shall remain in office until the investiture of a new Commission. 109

Article 26 Membership of the Commission 110

The structure and operation of the Commission and the Statute of its members shall be determined by an organic law. Until such a law comes into force, the rules governing the structure and operation of the Commission of the European Communities and the Statute of its members shall apply to the Commission of the Union. 111

Article 27 Rules of procedure of the Commission 112

The Commission shall adopt its rules of procedure. 113

Article 28 Functions of the Commission 114

The Commission shall: 115

define the guidelines for action by the Union in the programme which it submits to the Parliament for its approval, 116

introduce the measures required to initiate that action, 117
have the right to propose draft laws and participate in the legislative procedure, 118
issue the regulations needed to implement the laws and take the requisite implementing 119
decisions,
submit the draft budget, implement the budget, 120
represent the Union in external relations in the instances laid down by this Treaty, 121
ensure that this Treaty and the laws of the Union are applied, and 122
exercise the other powers attributed to it by this Treaty. 123

Article 29 Responsibility of the Commission to the Parliament 124

1. The Commission shall be responsible to the Parliament. 125
2. It shall answer written and oral questions tabled by members of the Parliament. 126
3. The members of the Commission shall resign as a body in the event of Parliament's adopting a motion of censure by a qualified majority. The vote on a motion of censure shall be by public ballot and not be held until at least three days after the motion has been tabled. 127
4. On the adoption of a motion of censure a new Commission shall be constituted in accordance with the procedure laid down in Article 25 of this Treaty. Pending the investiture of the new Commission, the Commission which has been censured shall be responsible for day-to-day business. 128

Article 30 The Court of Justice 129

1. The Court of Justice shall ensure that in the interpretation and application of this Treaty, and of any act adopted pursuant thereto, the law is observed. 130
2. Half the members of the Court shall be appointed by the Parliament and half by the Council of the Union. Where there is an odd number of members, the Parliament shall appoint one more than the Council. 131
3. The organization of the Court, the number and Statute of its members and the duration of their term of office shall be governed by an organic law which shall also lay down the procedure and majorities required for their appointment. Until such a law comes into force, the relevant provisions laid down in the Community Treaties and their implementing measures shall apply to the Court of Justice of the Union. 132
4. The Court shall adopt its rules of procedure. 133

Article 31 The European Council 134

The European Council shall consist of the Heads of State or Government of the Member States of the Union and the President of the Commission who shall participate in the work of the European Council except for the debate on the designation of his successor and the drafting of communications and recommendations to the Commission. 135

Article 32 Functions of the European Council 136

1. The European Council shall: 137
 - formulate recommendations and undertake commitments in the field of cooperation, 138
 - take decisions in the cases laid down by this Treaty and in accordance with the provisions of Article 11 thereof on the extension of the competences of the Union, 139
 - designate the President of the Commission, 140
 - address communications to the other institutions of the Union, 141
 - periodically inform the Parliament of the activities of the Union in the fields in which it is competent to act, 142
 - answer written and oral questions tabled by the members of the Parliament, 143
 - exercise the other powers attributed to it by this Treaty. 144
2. The European Council shall determine its own decision-making procedures. 145

Article 33 Organs of the Union 146

1. The Union shall have the following organs: 147
 - the Court of Auditors, 148
 - the Economic and Social Committee, 149
 - the European Investment Bank, 150
 - the European Monetary Fund. 151

Organic laws shall lay down the rules governing the competences and powers of these organs, their organization and their membership. 152
 2. Half the members of the Court of Auditors shall be appointed by the Parliament and half by the Council of the Union. 153
 3. The Economic and Social Committee shall be an organ which advises the Commission, the Parliament, the Council of the Union and the European Council; it may address to them opinions drawn up on its own initiative. The Committee shall be consulted on every proposal which has a determining influence on the drawing up and implementation of economic policy and policy for society. The Committee shall adopt its rules of procedure. The membership of the Committee shall ensure adequate representation of the various categories of economic and social activity. 154
 4. The European Monetary Fund shall have the autonomy required to guarantee monetary stability. 155
 5. Each of the organs referred to above shall be governed by the provisions applicable to the corresponding Community organs at the moment when this Treaty enters into force. 156
- The Union may create other organs necessary for its operation by means of an organic law. 157

TITLE II Acts of the Union 158

Article 34 Definition of laws 159

1. Laws shall lay down the rules governing common action. As far as possible, they shall restrict themselves to determining the fundamental principles governing common action and entrust the responsible authorities in the Union or the Member States with setting out in detail the procedures for their implementation. 160

2. The organization and operation of the institutions and other matters expressly provided for in this Treaty shall be governed by organic laws adopted in accordance with the specific procedures laid down in Article 38 of this Treaty. 161

3. Budgetary laws shall be adopted pursuant to the provisions of Article 76 of this Treaty. 162

Article 35 Differentiated application of laws 163

A law may subject to time-limits, or link to transitional measures which may vary according to the addressee, the implementation of its provisions where uniform application thereof would encounter specific difficulties caused by the particular situation of some of its addressees. However, such time-limits and measures must be designed to facilitate the subsequent application of all the provisions of the law to all its addressees. 164

Article 36 Legislative authority 165

The Parliament and the Council of the Union shall jointly exercise legislative authority with the active participation of the Commission. 166

Article 37 Right to propose draft laws and amendments thereto 167

1. The Commission shall have the right to propose draft laws. It may withdraw a draft law it has submitted at any time until the Parliament or the Council of the Union have expressly adopted it on first reading. 168

2. On a reasoned request from the Parliament or the Council, the Commission shall submit a draft law conforming to such request. If the Commission declines to do so, the Parliament or the Council may, in accordance with procedures laid down in their rules of procedure, introduce a draft law conforming to their original request. The Commission must express its opinion on the draft. 169

3. Under the conditions laid down in Article 38 of this Treaty: 170

the Commission may put forward amendments to any draft law. Such amendments must be put to the vote as a matter of priority, 171

members of the Parliament and national representations within the Council may similarly put forward amendments during the debates within their respective institutions. 172

Article 38 Voting procedure for draft laws

173

1. All draft laws shall be submitted to the Parliament. Within a period of six months, it may approve the draft with or without amendment. In the case of draft organic laws the Parliament may amend them by an absolute majority; their approval shall require a qualified majority.

Where the majority required for approval of the draft is not secured, the Commission shall have the right to amend it and to submit it to the Parliament again.

2. The draft law, approved by the Parliament with or without amendment, shall be forwarded to the Council of the Union. Within a period of one month following approval by the Parliament, the Commission may deliver an opinion which shall also be forwarded to the Council.

3. The Council shall take a decision within a period of six months. Where it approves the draft by an absolute majority without amending it, or where it rejects it unanimously, the legislative procedure is terminated.

Where the Commission has expressly delivered an unfavourable opinion on the draft, or in the case of a draft organic law, the Council shall by a qualified majority approve the draft without amending it or reject it, in which cases the legislative procedure is terminated.

Where the draft has been put to the vote but has not secured the majorities referred to above, or where the draft has been amended by a simple majority or, in the case of organic laws, by an absolute majority, the conciliation procedure laid down in paragraph 4 below shall be opened.

4. In the cases provided for in the final subparagraph of paragraph 3 above, the Conciliation Committee shall be convened. The Committee shall consist of a delegation from the Council of the Union and a delegation from the Parliament. The Commission shall participate in the work of the Committee.

Where, within a period of three months, the Committee reaches agreement on a joint text, that text shall be submitted for approval to the Parliament and the Council; they shall take a decision by an absolute majority or, in the case of organic laws, by a qualified majority within a period of three months. No amendments shall be admissible.

Where, within the period referred to above the Committee fails to reach agreement, the text forwarded by the Council shall be submitted for approval to the Parliament which shall, within a period of three months, take a decision by an absolute majority or, in the case of organic laws, by a qualified majority. Only amendments tabled by the Commission shall be admissible. Within a period of three months, the Council may reject by a qualified majority the text adopted by the Parliament. No amendments shall then be admissible.

5. Without prejudice to Article 23(3) of this Treaty, where the Parliament or the Council fails to submit the draft to a vote within the time-limits laid down, the draft shall be deemed to have been adopted by the institution which has not taken a decision. However, a law may not be regarded as having been adopted unless it has been expressly approved either by the Parliament or by the Council.

6. Where a particular situation so requires, the Parliament and the Council may, by common accord, extend the time-limits laid down in this Article.

Article 39 Publication of laws

185

Without prejudice to Article 76(4) of this Treaty, the President of the arm of the legislative authority which has taken the last express decision shall establish that the legislative procedure has been completed and shall cause laws to be published without delay in the Official Journal of the Union.

186

Article 40 Power to issue regulations

187

The Commission shall determine the regulations and decisions required for the implementation of laws in accordance with the procedures laid down by those laws. Regulations shall be published in the Official Journal of the Union; decisions shall be notified to the addressees. The Parliament and the Council of the Union shall be immediately informed thereof.

188

Article 41 Hearing of persons affected

189

Before adopting any measure, the institutions of the Union shall, wherever possible and useful, hear the persons thereby affected. Laws of the Union shall lay down the procedures for such hearings.

190

Article 42 The law of the Union

191

The law of the Union shall be directly applicable in the Member States. It shall take precedence over national law. Without prejudice to the powers conferred on the Commission, the implementation of the law shall be the responsibility of the authorities of the Member States. An organic law shall lay down the procedures in accordance with which the Commission shall ensure the implementation of the law. National courts shall apply the law of the Union.

192

Article 43 Judicial review

193

The Community rules governing judicial review shall apply to the Union. They shall be supplemented by an organic law on the basis of the following principles:

194

extension of the right of action of individuals against acts of the Union adversely affecting them,

195

equal right of appeal and equal treatment for all the institutions before the Court of Justice,

196

jurisdiction of the Court for the protection of fundamental rights vis-a-vis the Union,

197

jurisdiction of the Court to annul an act of the Union within the context of an application for a preliminary ruling or of a plea of illegality,

198

creation of a right of appeal to the Court against the decisions of national courts of last instance where reference to the Court for a preliminary ruling is refused or where a preliminary ruling of the Court has been disregarded,

199

jurisdiction of the Court to impose sanctions on a Member State failing to fulfil its obligation under the law of the Union, 200

compulsory jurisdiction of the Court to rule on any dispute between Member States in connection with the objectives of the Union. 201

Article 44 Sanctions 202

In the case provided for in Article 4(4) of this Treaty, and in every other case of serious and persistent violation by a Member State of the provisions of the Treaty, established by the Court of Justice at the request of the Parliament or the Commission, the European Council may, after hearing the Member State concerned and with the approval of the Parliament, take measures: 203

suspending the rights deriving from the application of part or the whole of the Treaty provisions to the State in question and its nationals without prejudice to the rights acquired by the latter, 204

which may go as far as suspending participation by the State in question in the European Council, the Council of the Union and any other organ in which that State is represented as such. 205

The State in question shall not participate in the vote on the sanctions. 206

PART FOUR THE POLICIES OF THE UNION

207

Article 45 General provisions

208

1. Starting from the Community patrimony, the Union shall continue the actions already undertaken and undertake new actions in compliance with this Treaty and, in particular, with Article 9 thereof.

209

2. The structural and conjunctural policies of the Union shall be drawn up and implemented so as to promote, together with balanced expansion throughout the Union, the progressive elimination of the existing imbalances between its various areas and regions.

210

Article 46 Homogeneous judicial area

211

In addition to the fields subject to common action, the coordination of national law with a view to constituting a homogeneous judicial area shall be carried out in accordance with the method of cooperation. This shall be done in particular:

212

to take measures designed to reinforce the feeling of individual citizens that they are citizens of the Union,

213

to fight international forms of crime, including terrorism.

214

The Commission and the Parliament may submit appropriate recommendations to the European Council.

215

TITLE I Economic policy

216

Article 47 Internal market and freedom of movement

217

1. The Union shall have exclusive competence to complete, safeguard and develop the free movement of persons, services, goods and capital within its territory; it shall have exclusive competence for trade between Member States.

218

2. This liberalization process shall take place on the basis of detailed and binding programmes and timetables laid down by the legislative authority in accordance with the procedures for adopting laws. The Commission shall adopt the implementing procedures for those programmes.

219

3. Through those programmes, the Union must attain:

220

within a period of two years following the entry into force of this Treaty, the free movement of persons and goods; this implies in particular the abolition of personal checks at internal frontiers,

221

within a period of five years following the entry into force of this Treaty, the free movement of services, including banking and all forms of insurance,

222

within a period of 10 years following the entry into force of this Treaty, the free movement of capital.

223

Article 48 Competition

224

The Union shall have exclusive competence to complete and develop competition policy at the level of the Union, bearing in mind:

the need to establish a system for the authorization of concentrations of undertakings based on the criteria laid down by Article 66 of the Treaty establishing the European Coal and Steel Community,

the need to restructure and strengthen the industry of the Union in the light of the profound disturbances which may be caused by international competition,

the need to prohibit any form of discrimination between private and public undertakings.

Article 49 Approximation of the laws relating to undertakings and taxation

229

The Union shall take measures designed to approximate the laws, regulations and administrative provisions relating to undertakings, and in particular to companies, in so far as such provisions have a direct effect on a common action of the Union. A law shall lay down a Statute for European Undertakings.

In so far as necessary for economic integration within the Union, a law shall effect the approximation of the laws relating to taxation.

Article 50 Conjunctural policy

232

1. The Union shall have concurrent competence in respect of conjunctural policy, with a particular view to facilitating the coordination of economic policies within the Union.

2. The Commission shall define the guidelines and objectives to which the action of the Member States shall be subject on the basis of the principles and within the limits laid down by laws.

3. Laws shall lay down the conditions under which the Commission shall ensure that the measures taken by the Member States conform with the objectives it has defined. Laws shall authorize the Commission to make the monetary, budgetary or financial aid of the Union conditional on compliance with the measures taken under paragraph 2 above.

4. Laws shall lay down the conditions under which the Commission, in conjunction with the Member States, shall utilize the budgetary or financial mechanisms of the Union for conjunctural ends.

Article 51 Credit policy

237

The Union shall exercise concurrent competence as regards European monetary and credit policies, with the particular objective of coordinating the use of capital market resources by the creation of a European capital market committee and the establishment of a European bank supervisory authority.

Article 52 European Monetary System

239

1. All the Member States shall participate in the European Monetary System, subject to the principle set out in Article 35 of this Treaty.

240

2. The Union shall have concurrent competence for the progressive achievement of full monetary union.

241

3. An organic law shall lay down rules governing:

242

the Statute and the operation of the European Monetary Fund in accordance with Article 33 of this Treaty,

243

the conditions for the effective transfer to the European Monetary Fund of part of the reserves of the Member States,

244

the conditions for the progressive conversion of the ECU into a reserve currency and a means of payment, and its wider use,

245

the procedures and the stages for attaining monetary union,

246

the duties and obligations of the central banks in the determination of their objectives regarding money supply.

247

4. During the five years following the entry into force of this Treaty, by derogation from Articles 36, 38 and 39 thereof, the European Council may suspend the entry into force of the organic laws referred to above within a period of one month following their adoption and refer them back to the Parliament and the Council of the Union for fresh consideration.

248

Article 53 Sectoral policies

249

In order to meet the particular needs for the organization, development or coordination of specific sectors of economic activity, the Union shall have concurrent competence with the Member States to pursue sectoral policies at the level of the Union. In the fields referred to below, such policies shall, by the establishment of reliable framework conditions, in particular pursue the aim of facilitating the decisions which undertakings subject to competition must take concerning investment and innovation.

250

The sectors concerned are in particular:

251

agriculture and fisheries,

252

transport,

253

telecommunications,

254

research and development,

255

industry,

256

energy.

257

(a) In the fields of agriculture and fisheries, the Union shall pursue a policy designed to attain the objectives laid down in Article 39 of the Treaty establishing the European Economic Community. 258

(b) In the field of transport, the Union shall pursue a policy designed to contribute to the economic integration of the Member States. It shall, in particular, undertake common actions to put an end to all forms of discrimination, harmonize the basic terms of competition between the various modes of transport, eliminate obstacles to transfrontier traffic and develop the capacity of transport routes so as to create a transport network commensurate with European needs. 259

(c) In the field of telecommunications, the Union shall take common action to establish a telecommunications network with common standards and harmonize tariffs; it shall exercise competence in particular with regard to the high technology sectors, research and development activities and public procurement policy. 260

(d) In the field of research and development, the Union may draw up common strategies with a view to coordinating and guiding national activities and encouraging cooperation between the Member States and between research institutes. It may provide financial support for joint research, may take responsibility for some of the risks involved and may undertake research in its own establishments. 261

(e) In the field of industry, the Union may draw up development strategies with a view to guiding and coordinating the policies of the Member States in those industrial branches which are of particular significance to the economic and political security of the Union. The Commission shall be responsible for taking the requisite implementing measures. It shall submit to the Parliament and the Council of the Union a periodic report on industrial policy problems. 262

(f) In the field of energy, action by the Union shall be designed to ensure security of supplies, stability on the market of the Union and, to the extent that prices are regulated, a harmonized pricing policy compatible with fair competitive practices. It shall also be designed to encourage the development of alternative and renewable energy sources, to introduce common technical standards for efficiency, safety, the protection of the environment and of the population, and to encourage the exploitation of European sources of energy. 263

Article 54 Other forms of cooperation 264

1. Where Member States have taken the initiative to establish industrial cooperation structures outside the scope of this Treaty, the European Council may, if the common interest justifies it, decide to convert those forms of cooperation into a common action of the Union. 265

2. In specific sectors subject to common action, laws may establish specialized European agencies and define those forms of supervision applicable thereto. 266

TITLE II Policy for society 267

Article 55 General provisions 268

The Union shall have concurrent competence in the field of social, health, consumer protection, regional, environmental, education and research, cultural and information policies. 269

Article 56 Social and health policy

270

The Union may take action in the field of social and health policy, in particular in matters relating to:

271

employment, and in particular the establishment of general comparable conditions for the maintenance and creation of jobs,

272

the law on labour and working conditions, equality between men and women, vocational training and further training, social security and welfare,

273

protection against occupational accidents and diseases,

274

work hygiene,

275

trade union rights and collective negotiations between employers and employees, in particular with a view to the conclusion of Union-wide collective agreement,

276

forms of worker participation in decisions affecting their working life and the organization of undertakings,

277

the determination of the extent to which citizens of non-member States may benefit from equal treatment,

278

the approximation of the rules governing research into and the manufacture, properties and marketing of pharmaceutical products,

279

the prevention of addiction,

280

the coordination of mutual aid in the event of epidemics or disasters.

281

Article 57 Consumer policy

282

The Union may lay down rules designed to protect the health and safety of consumers and their economic interests, particularly in the event of damage. The Union may encourage action to promote consumer education, information and consultation.

283

Article 58 Regional policy

284

The regional policy of the Union shall aim at reducing regional disparities and, in particular, the under-development of the least-favoured regions, by injecting new life into those regions so as to ensure their subsequent development and by helping to create the conditions likely to put an end to the excessive concentration of migration towards certain industrial centres.

285

The regional policy of the Union shall, in addition, encourage transfrontier regional cooperation.

286

The regional policy of the Union shall comprise:

287

the development of a European framework for the regional planning policies pursued by the competent authorities in each Member State,

288

the promotion of investment and infrastructure projects which bring national programmes into the framework of an overall concept, 289

the implementation of integrated programmes of the Union on behalf of certain regions, drawn up in collaboration with the representatives of the people concerned, and, where possible, the direct allocation of the requisite funds to the regions concerned. 290

Article 59 Environmental policy 291

In the field of the environment, the Union shall aim at preventing or, taking account as far as possible of the ‘polluter pays’ principle, at redressing any damage which is beyond the capabilities of the individual Member States or which requires a collective solution. It shall encourage a policy of the rational utilization of natural resources, of exploiting renewable raw materials and of recycling waste which takes account of environmental protection requirements. 292

The Union shall take measures designed to provide for animal protection. 293

Article 60 Education and research policy 294

In order to create a context which will help inculcate in the public an awareness of the Union’s own identity and to ensure a minimum standard of training creating the opportunity for free choice of career, job or training establishment anywhere in the Union, the Union shall take measures concerning: 295

the definition of objectives for common or comparable training programmes, 296

the Union-wide validity and equivalence of diplomas and school, study and training periods, 297

the promotion of scientific research. 298

Article 61 Cultural policy 299

1. The Union may take measures to: 300

promote cultural and linguistic understanding between the citizens of the Union, 301

publicize the cultural life of the Union both at home and abroad, 302

establish youth exchange programmes. 303

2. The European University Institute and the European Foundation shall become establishments of the Union. 304

3. Laws shall lay down rules governing the approximation of the law of copyright and the free movement of cultural works. 305

Article 62 Information policy

306

The Union shall encourage the exchange of information and access to information for its citizens. To this end, it shall eliminate obstacles to the free movement of information, whilst ensuring the broadest possible competition and diversity of types of organization in this field. It shall encourage cooperation between radio and television companies for the purpose of producing Union-wide programmes.

307

TITLE III International relations of the Union

308

Article 63 Principles and methods of action

309

1. The Union shall direct its efforts in international relations towards the achievement of peace through the peaceful settlement of conflicts and towards security, the deterrence of aggression, détente, the mutual balanced and verifiable reduction of military forces and armaments, respect for human rights, the raising of living standards in the Third World, the expansion and improvement of international economic and monetary relations in general and trade in particular and the strengthening of international organization.

310

2. In the international sphere, the Union shall endeavour to attain the objectives set out in Article 9 of this Treaty. It shall act either by common action or by cooperation.

311

Article 64 Common action

312

1. In its international relations, the Union shall act by common action in the fields referred to in this Treaty where it has exclusive or concurrent competence.

313

2. In the field of commercial policy, the Union shall have exclusive competence.

314

3. The Union shall pursue a development aid policy. During a transitional period of 10 years, this policy as a whole shall progressively become the subject of common action by the Union. In so far as the Member States continue to pursue independent programmes, the Union shall define the framework within which it will ensure the coordination of such programmes with its own policy, whilst observing current international commitments.

315

4. Where certain external policies fall within the exclusive competence of the European Communities pursuant to the Treaties establishing them, but where that competence has not been fully exercised, a law shall lay down the procedures required for it to be fully exercised within a period which may not exceed five years.

316

Article 65 Conduct of common action

317

1. In the exercise of its competences, the Union shall be represented by the Commission in its relations with non-member States and international organizations. In particular, the Commission shall negotiate international agreements on behalf of the Union. It shall be responsible for liaison with all international organizations and shall cooperate with the Council of Europe, in particular in the cultural sector.

318

2. The Council of the Union may issue the Commission with guidelines for the conduct of international action; it must issue such guidelines, after approving them by an absolute majority, where the Commission is involved in drafting acts and negotiating agreements which will create international obligations for the Union. 319

3. The Parliament shall be informed, in good time and in accordance with appropriate procedures, of every action of the institutions competent in the field of international policy. 320

4. The Parliament and the Council of the Union, both acting by an absolute majority, shall approve international agreements and instruct the President of the Commission to deposit the instruments of ratification. 321

Article 66 Cooperation 322

The Union shall conduct its international relations by the method of cooperation where Article 64 of this Treaty is not applicable and where they involve: 323

matters directly concerning the interests of several Member States of the Union, 324

or fields in which the Member States acting individually cannot act as efficiently as the Union, 325

or fields where a policy of the Union appears necessary to supplement the foreign policies pursued on the responsibility of the Member States, 326

or matters relating to the political and economic aspects of security. 327

Article 67 Conduct of cooperation 328

In the fields referred to in Article 66 of this Treaty: 329

1. The European Council shall be responsible for cooperation; the Council of the Union shall be responsible for its conduct; the Commission may propose policies and actions which shall be implemented, at the request of the European Council or the Council of the Union, either by the Commission or by the Member States. 330

2. The Union shall ensure that the international policy guidelines of the Member States are consistent. 331

3. The Union shall coordinate the positions of the Member States during the negotiation of international agreements and within the framework of international organizations. 332

4. In an emergency, where immediate action is necessary, a Member State particularly concerned may act individually after informing the European Council and the Commission. 333

5. The European Council may call on its President, on the President of the Council of the Union or on the Commission to act as spokesman of the Union. 334

Article 68 Extension of the field of cooperation and transfer from cooperation to common action 335

1. The European Council may extend the field of cooperation, in particular as regards armaments, sales of arms to non-member States, defence policy and disarmament. 336

2. Under the conditions laid down in Article 11 of this Treaty, the European Council may decide to transfer a particular field of cooperation to common action in external policy. In that event the provisions laid down in Article 223(3) of this Treaty shall apply without any time-limit. Bearing in mind the principle laid down in Article 35 of this Treaty, the Council of the Union, acting unanimously, may exceptionally authorize one or more Member States to derogate from some of the measures taken within the context of common action. 337

3. By way of derogation from Article 11(2) of this Treaty, the European Council may decide to restore the fields transferred to common action in accordance with paragraph 2 above, either to cooperation or to the competence of the Member States. 338

4. Under the conditions laid down in paragraph 2 above, the European Council may decide to transfer a specific problem to common action for the period required for its solution. In that event, paragraph 3 above shall not apply. 339

Article 69 Right of representation abroad 340

1. The Commission may, with the approval of the Council of the Union, establish representations in non-member States and international organizations. 341

2. Such representations shall be responsible for representing the Union in all matters subject to common action. They may also, in collaboration with the diplomatic agent of the Member States holding the presidency of the European Council, coordinate the diplomatic activity of the Member States in the fields subject to cooperation. 342

3. In non-member States and international organizations where there is no representation of the Union, it shall be represented by the diplomatic agent of the Member State currently holding the presidency of the European Council or else by the diplomatic agent of another Member State. 343

PART FIVE THE FINANCES OF THE UNION

344

Article 70 General provisions

345

1. The Union shall have its own finances, administered by its institutions, on the basis of the budget adopted by the budgetary authority which shall consist of the European Parliament and the Council of the Union.

346

2. The revenue of the Union shall be utilized to guarantee the implementation of common actions undertaken by the Union

347

Any implementation by the Union of a new action assumes that the allocation to the Union of the financial means required shall be subject to the procedure laid down in Article 71(2) of this Treaty.

348

Article 71 Revenue

349

1. When this Treaty enters into force, the revenue of the Union shall be of the same kind as that of the European Communities. However, the Union shall receive a fixed percentage of the basis for assessing value added tax established by the budget within the framework of the programme set out in Article 74 of this Treaty.

350

2. The Union may, by an organic law, amend the nature or the basis of assessment of existing sources of revenue or create new ones. It may by a law authorize the Commission to issue loans, without prejudice to Article 75(2) of this Treaty.

351

3. In principle, the authorities of the Member States shall collect the revenue of the Union. Such revenue shall be paid to the Union as soon as it has been collected. A law shall lay down the implementing procedures for this paragraph and may set up the Union's own revenue-collecting authorities.

352

Article 72 Expenditure

353

1. The expenditure of the Union shall be determined annually on the basis of an assessment of the cost of each common action within the framework of the financial programme set out in Article 74 of this Treaty.

354

2. At least once a year, the Commission shall submit a report to the budgetary authority on the effectiveness of the actions undertaken, account being taken of their cost.

355

3. All expenditure by the Union shall be subject to the same budgetary procedure.

356

Article 73 Financial equalization

357

A system of financial equalization shall be introduced in order to alleviate excessive economic imbalances between the regions. An organic law shall lay down the procedures for the application of this system.

358

Article 74 Financial programmes

359

1. At the beginning of each parliamentary term, the Commission, after receiving its investiture, shall submit to the European Parliament and the Council of the Union a report on the division between the Union and the Member States of the responsibilities for implementing common actions and the financial burdens resulting therefrom. 360

2. On a proposal from the Commission, a multiannual financial programme, adopted according to the procedure for adopting laws, shall lay down the projected development in the revenue and expenditure of the Union. These forecasts shall be revised annually and be used as the basis for the preparation of the budget. 361

Article 75 Budget

362

1. The budget shall lay down and authorize all the revenue and expenditure of the Union in respect of each calendar year. The adopted budget must be in balance. Supplementary and amending budgets shall be adopted under the same conditions as the general budget. The revenue of the Union shall not be earmarked for specific purposes. 363

2. The budget shall lay down the maximum amounts for borrowing and lending during the financial year. Save in exceptional cases expressly laid down in the budget, borrowed funds may only be used to finance investment. 364

3. Appropriations shall be entered in specific chapters grouping expenditure according to its nature or destination and subdivided in compliance with the provisions of the Financial Regulation. The expenditure of the institutions other than the Commission shall be the subject of separate sections of the budget; they shall be drawn up and managed by those institutions and may only include operating expenditure. 365

4. The Financial Regulation of the Union shall be established by an organic law. 366

Article 76 Budgetary procedure

367

1. The Commission shall prepare the draft budget and forward it to the budgetary authority. 368

2. Within the time-limits laid down by the Financial Regulation: 369

(a) On first reading, the Council of the Union may approve amendments by a simple majority. The draft budget, with or without amendment, shall be forwarded to the Parliament; 370

(b) on first reading, the Parliament may amend by an absolute majority the amendments of the Council and approve other amendments by a simple majority; 371

(c) if, within a period of fifteen days, the Commission opposes the amendments approved by the Council or by the Parliament on first reading, the relevant arm of the budgetary authority must take a fresh decision by a qualified majority on second reading; 372

(d) if the budget has not been amended, or if the amendments adopted by the Parliament and the 373

Council are identical, and if the Commission has not exercised its right to oppose the amendments, the budget shall be deemed to have been finally adopted;

(e) on second reading, the Council may amend by a qualified majority the amendments approved by the Parliament. It may by a qualified majority refer the whole draft budget as amended by the Parliament back to the Commission and request it to submit a new draft; where not so referred back, the draft budget shall at all events be forwarded to the Parliament;

(f) on second reading, the Parliament may reject amendments adopted by the Council only by a qualified majority. It shall adopt the budget by an absolute majority.

3. Where one of the arms of the budgetary authority has not taken a decision within the time-limit laid down by the Financial Regulation, it shall be deemed to have adopted the draft referred to it.

4. When the procedure laid down in this Article has been completed, the President of the Parliament shall declare that the budget stands adopted and shall cause it to be published without delay in the Official Journal of the Union.

Article 77 Provisional twelfths

Where the budget has not been adopted by the beginning of the financial year, expenditure may be effected on a monthly basis, under the conditions laid down in the Financial Regulation, up to a maximum of one-twelfth of the appropriations entered in the budget of the preceding financial year, account being taken of any supplementary and amending budgets.

At the end of the sixth month following the beginning of the financial year, the Commission may only effect expenditure to enable the Union to comply with its existing obligations.

Article 78 Implementation of the budget

The budget shall be implemented by the Commission on its own responsibility under the conditions laid down by the Financial Regulation.

Article 79 Audit of the accounts

The Court of Auditors shall verify the implementation of the budget. It shall fulfil its task independently and, to this end, enjoy powers of investigation with regard to the institutions and organs of the Union and to the national authorities concerned.

Article 80 Revenue and expenditure account

At the end of the financial year, the Commission shall submit to the budgetary authority, in the form laid down by the Financial Regulation, the revenue and expenditure account which shall set out all the operations of the financial year and be accompanied by the report of the Court of Auditors.

Article 81 Discharge

387

81. The Parliament shall decide to grant, postpone or refuse a discharge; the decision on the discharge may be accompanied by observations which the Commission shall be obliged to take into account. 388

PART SIX GENERAL AND FINAL PROVISIONS 389

Article 82 Entry into force 390

This Treaty shall be open for ratification by all the Member States of the European Communities. 391

Once this Treaty has been ratified by a majority of the Member States of the Communities whose population represents two-thirds of the total population of the Communities, the governments of the Member States which have ratified shall meet at once to decide by common accord on the procedures by and the date on which this Treaty shall enter into force. 392

Article 83 Deposit of the instruments of ratification 393

The instruments of ratification shall be deposited with the government of the first State to have completed the ratification procedure. 394

Article 84 Revision of the Treaty 395

One representation within the Council of the Union, or one-third of the members of the Parliament, or the Commission may submit to the legislative authority a reasoned draft law amending one or more provisions of this Treaty. The draft shall be submitted for approval to the two arms of the legislative authority which shall act in accordance with the procedure applicable to organic laws. 396

The draft, thus approved, shall be submitted for ratification by the Member States and shall enter into force when they have all ratified it. 397

Article 85 The seat 398

The European Council shall determine the seat of the institutions. Should the European Council not have taken a decision on the seat within two years of the entry into force of this Treaty, the legislative authority shall take a final decision in accordance with the procedure applicable to organic laws. 399

Article 86 Reservations 400

The provisions of this Treaty may not be subject to any reservations. This Article does not preclude the Member States from maintaining, in relation to the Union, the declarations they have made with regard to the Treaties and conventions which form part of the Community patrimony. 401

Article 87 Duration 402

This Treaty is concluded for an unlimited period. 403

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