

Europaudvalget  
(Alm. del - bilag 252)  
traktatændringer  
(Offentligt)

**Folketingets Europaudvalg**

Christiansborg, den 27. november 2003  
Europaudvalgets sekretariat

Til  
udvalgets medlemmer og stedfortrædere

Til Europaudvalgets orientering vedlægges den danske sprogversion af det italienske formandskabs forslag til ministerkonklave i Napoli (CIG 52/03). Forslaget er tidligere blevet omdelt på engelsk (jf. bilag (03) 246).

Endvidere vedlægges den engelske version af annekserne til forslaget (CIG 52/03 ADD1). Annekserne er tidligere blevet omdelt på fransk (jf. bilag (03) 245).

Med venlig hilsen

Lone Boelt Møller  
udvalgssekretær

(Løbenr. 4797)



**KONFERENCEN  
MELLEM REPRÆSENTANTERNE  
FOR MEDLEMSSTATERNES  
REGERINGER**

**Bruxelles, den 25. november 2003 (26.11)  
(OR. en)**

**CIG 52/03**

**PRESID 10**

**NOTE**

---

af: 25. november 2003  
fra: formandskabet  
til: delegationerne

---

Vedr.: ***RK 2003***

***- Ministerkonklaven i Napoli: Formandskabets forslag***

---

1. I overensstemmelse med konklusionerne fra Det Europæiske Råds møde i Thessaloniki er arbejdet inden for regeringskonferencen foregået på politisk plan. De hidtidige RK-møder har sammen med en række bilaterale kontakter gjort det muligt for formandskabet at indkredse et antal spørgsmål i udkastet til forfatningstraktat, som delegationerne mener bør præciseres eller ændres, og i visse tilfælde at udarbejde forslag til mulige løsninger.

**JURIDISK-TEKNISKE SPØRGSMÅL**

2. Sideløbende med de politiske drøftelser nedsatte formandskabet i forståelse med samtlige delegationer en gruppe af juridiske eksperter, som skulle foretage en juridisk gennemgang af det udkast til traktat om en forfatning, som konventet havde udarbejdet. Gruppen af Juridiske Eksperter holdt møder i oktober og november under forsæde af regeringskonferencens jurist. Resultat af gruppens drøftelser er udsendt i dokument CIG 51/03.

3. De reviderede tekster i dok. CIG 50/03 og ADD 1 omfatter alle de forbedringer af juridisk eller teknisk art, som efter fælles overenskomst foreslås af medlemsstaternes og de tiltrædende staters juridiske eksperter, uden at dette dog foregriber eventuelle ændringer, som delegationerne måtte ønske at forelægge på politisk plan. Formandskabet er af den opfattelse, at teksterne fra Gruppen af Juridiske Eksperter ikke bør tages op igen, og at de skal udgøre et referencepunkt for ministrene og stats- og regeringscheferne under deres drøftelser om de politiske spørgsmål.

#### ANDRE SPØRGSMÅL

4. Som et supplement til denne konsoliderede tekst forelægger formandskabet delegationerne nærværende dokument, som skulle gøre det lettere at opnå fremskridt med hensyn til de politiske spørgsmål og således bane vejen for en samlet aftale i december. **Dette dokument bygger på RK's hidtidige arbejde. Det indeholder en række spørgsmål, som formandskabet har indkredset på grundlag af præciseringer, ændringer og forbedringer, som delegationerne har anmodet om, eller som formandskabet har foreslået. Addendum 1 indeholder tekstforslag.**<sup>1</sup> Med hensyn til visse spørgsmål, hvor det endnu ikke er muligt at drage konklusioner, beskriver formandskabet den nuværende situation og begrænser sig til at opstille en skitse til en mulig løsning.
5. Det er tanken, at nærværende dokument, som udgør grundlaget for drøftelserne i Napoli, skal udvikle sig i lyset af efterfølgende drøftelser. Det kan revideres for at tage hensyn til drøftelserne indtil det tidspunkt, hvor der foreligger en endelig og samlet aftale. Hvis et spørgsmål ikke rejses i dette dokument, er formandskabet af den opfattelse, at teksten til udkastet til forfatningstraktat (som den foreligger i CIG 50/03) udgør grundlaget for det fremtidige arbejde. Dette anfægter ikke delegationernes ret til på et hvilket som helst tidspunkt at anmode om at få yderligere spørgsmål drøftet, hvis de mener, der er behov for præciseringer eller ændringer.
6. Dette dokument er ikke bindende for nogen delegation, og det anfægter heller ikke nogen holdninger, som delegationerne hidtil har indtaget. Det udsendes på det grundlag, at ingen af forslagene i det kan betragtes som endelige, før der er opnået enighed om udkastet til

---

<sup>1</sup> I dette addendum er basisteksten, som ændringerne er tilføjet til, den tekst, som konventet udsendte den 18. juli 2003 (CONV 850/03).

forfatningstraktat som helhed.

## I. PRÆAMBEL / DEFINITION AF UNIONEN OG DENS MÅL

### a) Kristen arv

Formandskabet har noteret sig, at dette er et vigtigt spørgsmål for en række delegationer, men det vil ikke på nuværende tidspunkt fremsætte forslag til ændring af konventets tekst. Der vil senere blive fremsat et forslag herom med henvisning ikke kun til Europas kristne arv, men også til den sekulære karakter af EU-medlemsstaternes institutioner (verdslighedsprincippet).

### b) Unionens værdier

- mindretallenes rettigheder
- ligestilling mellem mænd og kvinder

Formandskabet foreslår at imødekomme anmodningen om en henvisning i traktaten til mindretallenes rettigheder og ligestilling mellem mænd og kvinder ved hjælp af en ændring af den nuværende artikel 2 om Unionens værdier [jf. tekst i bilag 1 til addendum 1].

### c) EU-rettens forrang

Formandskabet foreslår, at spørgsmålet om EU-rettens forrang, som flere delegationer har ønsket at få taget op, løses ved hjælp af en erklæring [jf. tekst i bilag 2 til addendum 1].

## II. CHARTER OM GRUNDLÆGGENDE RETTIGHEDER

Af hensyn til gennemsigtigheden og retssikkerheden foreslår formandskabet, at den sidste bestemmelse i præambelen ændres, således at der også henvises til ajourføringen af de officielle forklaringer til chartret, og at disse forklaringer medtages i en erklæring til regeringskonferencens slutakt, som sammen med de øvrige erklæring vil blive offentliggjort i Den Europæiske Unions Tidende [se tekst i bilag 3 til addendum 1].

### III. INSTITUTIONELLE SPØRGSMÅL

a) Definition af kvalificeret flertal

Formandskabet har noteret sig, at et stort antal delegationer støtter konventets tekstudkast med hensyn til dette spørgsmål. Formandskabet er dog klar over, at nogle få delegationer ikke kan acceptere konventets forslag i dets nuværende affattelse. I betragtning af disse forskellige holdninger og det overordnede mål med fastholdelse af den institutionelle balance, som konventet opstillede, foreslår formandskabet ikke ændringer til konventets forslag vedrørende definitionen af kvalificeret flertal. Det mener imidlertid, at det er nødvendigt fortsat at overveje, hvorledes disse ønsker kan imødekommes, idet man samtidig holder sig det fælles overordnede mål for øje, at beslutningsprocedurerne skal være enkle, effektive og gennemsigtige.

b) Kommissionens sammensætning

I en udvidet Union er det nødvendigt, at Kommissionen fungerer effektivt. Formandskabet mener, at konventets tekst udgør et godt grundlag for at kunne opfylde dette mål. Formandskabet er dog også klar over, at et betydeligt antal delegationer af hensyn til legitimiteten vil foretrække, at Kommissionen består af en statsborger fra hver medlemsstat. Kommissionen har selv givet udtryk for samme mening i sin meddelelse til regeringskonferencen.

Formandskabet foreslår på dette stadium, at delegationernes ønsker imødekommes ved at præcisere bestemmelserne i konventets tekst om den nøjagtige rolle og det nøjagtige ansvar for kommissærer uden stemmeret. Disse præciseringer kan omfatte følgende:

- kommissærer uden stemmeret deltager fuldt ud i Kommissionens arbejde, herunder også i kollegiets møder
- formanden for Kommissionen tildeler kommissærer uden stemmeret substanssager, der indebærer et reelt ansvar.

Formandskabet udelukker ikke muligheden for at drøfte andre aspekter vedrørende Kommissionens sammensætning på mødet i Napoli.

c) Ministerrådet - sammensætninger og formandskab

På baggrund af den brede støtte til dets tidligere forslag vedrørende dette spørgsmål fastholder formandskabet sit oplæg og forelægger et tekstudkast [jf. tekster i bilag 4 og 5 til addendum 1]. Formandskabet har noteret sig, at et stort flertal af medlemsstaterne er imod oprettelsen af et Lovgivende Råd, men gør opmærksom på, at dette kan ske senere på grundlag af en afgørelse truffet af Det Europæiske Råd.

d) Udenrigsministeren

Formandskabet fastholder sine tidligere forslag med henblik på præcisering af bestemmelserne om udenrigsministeren og foreslår yderligere justeringer for at imødekomme nogle ønsker, som visse delegationer har givet udtryk for med hensyn til dette spørgsmål, samtidig med at konceptet med "dobbelthat" opretholdes fuldt ud [jf. tekst i bilag 6 til addendum 1].

e) Det Europæiske Råd - domstolsprøvelse af dets retsakter

Formandskabet foreslår med tilslutning fra et flertal af delegationerne, at de retsakter, der skal have retsvirkning over for tredjemand, og som er vedtaget af Det Europæiske Råd (som formelt bliver en institution), skal være omfattet af Domstolens prøvelse [jf. tekst i bilag 7 til addendum 1].

f) Europa-Parlamentet

Formandskabet har noteret sig, at et stort antal delegationer støtter konventets tekstudkast vedrørende dette spørgsmål, selv om nogle har foreslået, at mindstetærsklen på fire medlemmer for hver medlemsstat hæves.



#### IV. FINANSER / BUDGET / ØKONOMISK OG MONETÆR POLITIK

Formandskabet har taget hensyn til delegationernes forskellige synspunkter med hensyn til alle de spørgsmål, som hører ind under denne overskrift. Det forelægger forslag til præcisering eller ændring for så vidt angår visse af disse punkter, idet det tager hensyn til, hvor stor støtte de har fået, samt til nødvendigheden af ikke at bringe den generelle balance i fare, konventet har opnået, navnlig hvad angår institutionelle spørgsmål.

a) Finansielle overslag

Formandskabet har noteret sig, at visse delegationer har givet udtryk for betænkeligheder med hensyn til procedurene for vedtagelse af de finansielle overslag efter 2013, og foreslår, at konferencen eventuelt drøfter tanken om en rendezvous-klausul som en mulighed for at imødekomme disse betænkeligheder.

b) Budget

Formandskabet har noteret sig, at et meget betydeligt antal delegationer er stærkt imod budgetbestemmelserne i udkastet til forfatningstraktat i deres nuværende affattelse. Formandskabet mener imidlertid, at det på nuværende tidspunkt er hensigtsmæssigt at fastholde bestemmelserne i konventets tekst, eftersom de forskellige alternativer, der hidtil er forelagt, indebærer, at den samlede institutionelle balance i budgetprocedurene bringes i fare.

c) Multilateral overvågning

Formandskabet har noteret sig, at nogle delegationer har foreslået ændringer til konventets tekst, navnlig med hensyn til, hvorledes de nærmere omstændigheder for den multilaterale overvågningsprocedure skal fastlægges. Formandskabet foreslår imidlertid, at der ikke foretages ændringer i teksten for at bevare konventets afbalancerede oplæg.

d) Den Europæiske Centralbank

Formandskabet foreslår

- i) at ændre procedurerne for at tildele ECB specifikke opgaver i forbindelse med politikker vedrørende tilsynsvirksomhed [jf. tekst i bilag 8 til addendum 1]
- ii) at udvide anvendelsesområdet for den eksisterende bestemmelse, der skal bemyndige til ændring af vedtægterne for ECSB/ECB [jf. tekst i bilag 9 til addendum 1]
- iii) at indføre kvalificeret flertal i forbindelse med udnævnelse af medlemmer af ECB [jf. tekst i bilag 10 til addendum 1].

e) Lamfalussy-procedurene

Formandskabet foreslår at imødekomme visse delegationers ønsker med hensyn til dette spørgsmål ved hjælp af en erklæring [jf. tekst i bilag 11 til addendum 1].

f) Bemyndigelsesbestemmelse i forbindelse med EIB

Formandskabet foreslår at ændre procedurerne for ændring af vedtægterne for EIB [jf. tekst i bilag 12 til addendum 1].

g) ØMU - beslutningsprocessen vedrørende euroen

Formandskabet foreslår to ændringer af bestemmelserne om beslutningsprocessen vedrørende euroen [jf. tekst i bilag 13 til addendum 1].

## V. ET OMRÅDE MED FRIHED, SIKKERHED OG RETFÆRDIGHED

Formandskabet har noteret sig, at en række delegationer er betænkelige ved nogle af bestemmelserne i dette kapitel, især bestemmelserne om retligt samarbejde i straffesager. Det foreslår at imødekomme disse delegationer (især på de punkter, der hænger sammen med eksistensen af forskellige retssystemer) på følgende måde:

### a) Straffesager

- i) Formandskabet foreslår på dette punkt ændringer i konventets tekst, der uden at ændre substansen eller afstemningsproceduren bl.a. giver de pågældende delegationer forsikringer om, at de specifikt kan fremsætte deres særlige indvendinger efter passende procedurer, før en retsakt vedtages [jf. teksten i bilag 14 til addendum 1].
- ii) Formandskabet foreslår at gøre det klart, at anklagemyndighedens mandat vedrører bekæmpelse af svig, der skader Unionens finansielle interesser [jf. teksten i bilag 15 til addendum 1].

### b) Civilretlige sager

Formandskabet foreslår at tydeliggøre nogle af aspekterne af bestemmelsen om retligt samarbejde i civilretlige sager [jf. teksten i bilag 16 til addendum 1].

## VI. FORSVAR

Hvad angår struktureret samarbejde forelægger formandskabet - under hensyn til en række delegationers betænkeligheder - forslag, der med henblik på at gøre et sådant samarbejde inklusivt i højere grad bringer bestemmelserne om struktureret samarbejde på linje med de mere almindelige bestemmelser om forstærket samarbejde på FUSP-området med de fornødne ændringer. Hvad angår "gensidigt forsvarssamarbejde" tydeliggør den foreslåede tekst, at bestemmelsen ikke berører bestående forpligtelser inden for rammerne af NATO [jf. teksten i bilag 17 til addendum 1].

## VII. FUSP

Formandskabet foreslår at gøre større brug af kvalificeret flertal på FUSP-området for at opnå et generelt afbalanceret resultat med hensyn til beslutningsprocedurerne og for at sikre en effektiv FUSP [jf. teksten i bilag 18 til addendum 1].

## VIII. ANDRE EU-POLITIKKER

Formandskabet har noteret sig delegationernes forskellige forslag om at ændre eller tydeliggøre en række af bestemmelserne om Unionens politikker i del III i udkastet til forfatningstraktat. På baggrund af delegationernes reaktioner som helhed forelægger formandskabet ændringsforslag til konventets tekst eller erklæringer på følgende punkter:

- a) den sociale bestemmelse [jf. teksten i bilag 19 til addendum 1]
- b) social sikring [jf. teksten i bilag 20 til addendum 1]
- c) beskatning [jf. teksten i bilag 21 til addendum 1]
- d) social- og arbejdsmarkedspolitikken [jf. teksten i bilag 22 til addendum 1]
- e) økonomisk, social og territorial samhørighed [jf. teksten i bilag 23 til addendum 1]
- f) transport [jf. teksten i bilag 24 til addendum 1]
- g) forskning og udvikling [jf. teksten i bilag 25 til addendum 1]
- h) energi [jf. teksten i bilag 26 til addendum 1]
- i) folkesundhed [jf. teksten i bilag 27 til addendum 1]
- j) sport [jf. teksten i bilag 28 til addendum 1]
- k) turisme [jf. teksten i bilag 29 til addendum 1].

## IX. REVISIONSPROCEDURE

På baggrund af drøftelserne om forenklede procedurer for revision af forfatningstraktaten foreslår formandskabet at løse dette spørgsmål på to måder:

- a) hvad angår afgørelsen om at gå fra enstemmighed til kvalificeret flertal eller fra en særlig lovgivningsprocedure til den almindelige lovgivningsprocedure (den generelle passerelle-bestemmelse) foreslås det, at der i teksten tilføjes en bestemmelse om, at en sådan afgørelse ikke får virkning, hvis [X] nationale parlamenter rejser indsigelse [jf. teksten i bilag 30 til addendum 1]
- b) hvad angår beslutningen om at ændre forfatningens bestemmelser om interne politikker (afsnit III i del III (særlig revisionsprocedure)) holder formandskabet fast ved den tilgang, det foreslog ministrene på sidste RK-møde, dvs. ingen udvidet kompetence til Unionen i forfatningen, afgørelse vedtaget af Det Europæiske Råd med kvalificeret flertal og godkendelse i alle medlemsstaterne i overensstemmelse med deres forfatningsmæssige bestemmelser. En sådan tilgang har den fordel, at der ikke længere stilles krav om en regeringskonference [jf. teksten i bilag 31 til addendum 1].

## X. ANDRE SPØRGSMÅL

- a) Regioner i den yderste periferi

Formandskabet foreslår at give mulighed for at ændre listen over regioner i den yderste periferi ved en enklere procedure [jf. teksten i bilag 32 til addendum 1].

- b) Protokol vedrørende Danmark

På baggrund af drøftelserne på ministermødet den 18. november foreslår formandskabet en ændret protokol nr. 5 om Danmarks stilling [jf. teksten i bilag 33 til addendum 1].

- c) Tjenesteydelser af almen interesse

Formandskabet foreslår at ændre konventets tekst for at gøre opmærksom på, at det er medlemsstaterne, der har kompetence til at levere, udlægge og finansiere sådanne tjenesteydelser [jf. teksten i bilag 34 til addendum 1].

d) EU's små nabostater

Formandskabet har noteret sig, at der er blevet fremsat ønske om en specifik omtale af EU's små nabostater, og foreslår at løse dette spørgsmål ved hjælp af en erklæring [jf. teksten i bilag 35 til addendum 1].

e) EU's tiltrædelse af den europæiske menneskerettighedskonvention

På baggrund af drøftelserne om dette spørgsmål forelægger formandskabet en mindre ændring til konventets tekst. Det finder også, at det vil være passende at gøre brug af kvalificeret flertal i Rådet på dette punkt [jf. teksten i bilag 36 til addendum 1].

f) Dyrebeskyttelse og dyrevelfærd

Formandskabet foreslår at udskifte den eksisterende protokol om dyrebeskyttelse og dyrevelfærd med en bestemmelse, der indsættes i begyndelsen af del III i forfatningsudkastet [jf. teksten i bilag 37 til addendum 1].

g) De tiltrædende landes undertegnelse af forfatningstraktaten

De tre kandidatlande (Bulgarien, Rumænien og Tyrkiet) har anmodet om måtte undertegne den tekst, der bliver resultatet af regeringskonferencen. Formandskabet foreslår, at disse lande indbydes til at undertegne slutakten som observatører.

\*  
\*   \*  
\*

## DIVERSE

I et sidste bilag om de spørgsmål, der er blevet drøftet, men ikke løst i Gruppen af Juridiske Ekspertter, og som støttes af et stort flertal af delegationerne, foreslår formandskabet en række ændringer til konventets tekst, enten for at gøre teksten mere juridisk korrekt eller for at løse nogle af disse spørgsmål [jf. teksterne i bilag 38 til addendum 1].

- a) Hvad angår afgrænsningen mellem FUSP-procedurene og procedurene i forbindelse med de øvrige politikker foreslår formandskabet at ændre teksten til den pågældende bestemmelse for at gøre den mere juridisk holdbar.
- b) Hvad angår aktindsigt i Den Europæiske Investeringsbanks dokumenter foreslår formandskabet at bringe behandlingen af disse dokumenter på linje med behandlingen af Den Europæiske Centralbanks dokumenter.
- c) Hvad angår retten til at stemme ved valg til Europa-Parlamentet og den omstændighed, at konventets tekst fratager ca. 1 mio. mennesker deres ret til at stemme ved sådanne valg, foreslår formandskabet at ændre teksten, så dette forhold bringes i orden.
- d) Hvad angår de nationale parlamenters rolle i henhold til protokollen om nærhedsprincippet og protokollen om de nationale parlamenter foreslår formandskabet at gøre ordlyden klarere af hensyn til de særlige kendetegn ved forbundsstrukturer.
- e) Hvad angår de udsvingsmargener, et land skal overholde for at komme med i euroområdet, foreslår formandskabet at omtale det europæiske monetære system i den relevante bestemmelse.
- f) Hvad angår Domstolens kompetence til at pålægge medlemsstaterne bøder foreslår formandskabet at ændre konventets tekst for at tydeliggøre Domstolens kompetence.
- g) Hvad angår retsgrundlaget for vedtagelsen af europæiske love i forbindelse med den fælles handelspolitik foreslår formandskabet at gøre det klart, at der kan vedtages hastende ensidige handelsbeskyttelsesforanstaltninger efter en lettere procedure end lovgivningsproceduren.

- h) Hvad angår forstærket samarbejde foreslår formandskabet at fjerne passerelle-bestemmelsen, og hvad angår de specifikke bestemmelser om forstærket samarbejde på FUSP-området foreslår det at gøre det klarere, at disse følger de normale FUSP-procedurer.
- i) Hvad angår solidaritetsbestemmelsen foreslår formandskabet at ændre teksten for at gøre det klart, at enhver afgørelse med indvirkning på forsvarsområdet skal træffes med enstemmighed, og at forsvarsaspekterne af enhver sådan afgørelse udelukkes fra Domstolens kompetence.
- j) I artikel 5 foreslår formandskabet at ændre "intern sikkerhed" til "national sikkerhed".
- k) Hvad angår spørgsmålet om, hvem der skal forhandle en aftale om en medlemsstats udtræden af Unionen, foreslår formandskabet at ændre teksten og henvise til de relevante aspekter af den almindelige bestemmelse om forhandling af aftaler i del III.



**CONFERENCE  
OF THE REPRESENTATIVES  
OF THE GOVERNMENTS  
OF THE MEMBER STATES**

**Brussels, 25 November 2003 (26.11)  
(OR. en,fr)**

**CIG 52/03  
ADD 1**

**PRESID 10**

**ADDENDUM TO THE PRESIDENCY NOTE**

---

from: Presidency

dated: 25 November 2003

to: Delegations

---

*Subject: IGC 2003*

*– Naples Ministerial Conclave: Presidency proposal*

---

Delegations will find attached the different texts referred to by the Presidency in its note in CIG 52/03.

\*

\*       \*

## INDEX

Annex 1	The Union's values: Rights of persons belonging to minority groups ..... 4 Equality between women and men
Annex 2	Primacy of Union law..... 5
Annex 3	Explanations relating to the Charter of Fundamental Rights ..... 6
Annex 4	The formations of the Council of Ministers ..... 7
Annex 5	Draft decision of the European Council on ..... 8 the exercise of the Presidency of the Council of Ministers
Annex 6	The Minister for Foreign Affairs..... 9
Annex 7	Judicial review of legal acts adopted by the European Council..... 11 which are intended to produce legal effects for third parties
Annex 8	Prudential supervision of credit institutions and other financial ..... 12 institutions by the European Central Bank
Annex 9	Amendment of the Statute of the ESCB and of the ECB ..... 13
Annex 10	Appointment of members of the Executive Board of the European Central Bank .... 14
Annex 11	"Lamfalussy Procedure" ..... 15
Annex 12	Simplified procedure for amending the Statute..... 16 of the European Investment Bank
Annex 13	Provisions specific to Member States whose currency is the euro..... 17
Annex 14	Judicial cooperation in criminal matters ..... 19
Annex 15	European Public Prosecutor's Office..... 21
Annex 16	Judicial cooperation in civil matters..... 22
Annex 17	Common security and defence policy ..... 23
Annex 18	Qualified majority voting in the field of ..... 25 the common foreign and security policy
Annex 19	Social clause ..... 26

Annex 20	Social security .....	27
Annex 21	Taxation.....	28
Annex 22	Social policy.....	29
Annex 23	Economic, social and territorial cohesion .....	30
Annex 24	Transport .....	31
Annex 25	Technological research and development .....	32
Annex 26	Energy .....	33
Annex 27	Public health .....	34
Annex 28	Sport .....	36
Annex 29	Tourism .....	37
Annex 30	Simplified procedure for revising the Constitution: Movement from..... unanimity to a qualified majority and from the special legislative procedure to the ordinary legislative procedure	38
Annex 31	Simplified procedure for revising the Constitution: Amendment to..... internal policies	39
Annex 32	Overseas territories .....	40
Annex 33	Protocol on Denmark.....	41
Annex 34	Services of general interest.....	47
Annex 35	The small neighbouring States of the Union .....	48
Annex 36	Accession of the Union to the European Convention on Human Rights .....	49
Annex 37	Protection and welfare of animals .....	50
Annex 38	Miscellaneous.....	51

\* \* \*

<p>THE UNION'S VALUES</p> <p>RIGHTS OF PERSONS BELONGING TO MINORITY GROUPS</p> <p>EQUALITY BETWEEN WOMEN AND MEN</p>
---

Article I-2

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

\* \* \*

PRIMACY OF UNION LAW

Declaration for incorporation in the Final Act  
re Article I-10(1)

The Conference notes that the provisions of Article I-10(1) reflect existing Court of Justice case law.

\* \* \*

EXPLANATIONS RELATING TO THE CHARTER OF  
FUNDAMENTAL RIGHTS

**5th paragraph of the Preamble**

This Charter reaffirms, with due regard for the powers and tasks of the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Union and by the Council of Europe and the case law of the Court of Justice of the European Union and of the European Court of Human Rights. In this context the Charter will be interpreted by the courts of the Union and the Member States with due regard to the explanations prepared at the instigation of the Praesidium of the Convention which drafted the Charter **and updated under the responsibility of the Praesidium of the European Convention.**

**Declaration for incorporation in the Final Act  
concerning the explanations relating to the Charter of Fundamental Rights**

**The Conference takes note of the explanations relating to the Charter of Fundamental Rights prepared at the instigation of the Praesidium of the Convention which drafted the Charter and updated under the responsibility of the Praesidium of the European Convention, as set out below.**

*(...)[reproduction of the explanations contained in CONV 828/1/03 REV 1  
of 31 July 2003]*

THE FORMATIONS OF THE COUNCIL OF MINISTERS

Article I-23

1. **The Council shall meet in different formations.**
2. **The General Affairs Council shall ensure consistency in the work of the different Council formations. It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.**
3. **The Foreign Affairs Council shall flesh out the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that its action is consistent.**

**The Foreign Affairs Council shall be chaired by the Union Minister for Foreign Affairs.**

4. **The European Council shall adopt by a qualified majority a decision establishing the list of other Council formations.\***
5. **The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.**
6. **The Presidency of Council formations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established unanimously by a decision of the European Council.**

\* \* \*

---

\* Conference declaration providing for this list to be established on the basis of the decision of the Seville European Council.

**DRAFT DECISION OF THE EUROPEAN COUNCIL ON THE EXERCISE OF  
THE PRESIDENCY OF THE COUNCIL OF MINISTERS <sup>1</sup>**

**Article 1**

**The Presidency of Council formations, other than those of General Affairs and Foreign Affairs, shall be held collectively by pre-established groups of three Member States for a continuous period of 12 months. The groups shall be made up on a basis of equal rotation among the Member States, taking into account their diversity and geographical balance within the Union.**

**The Presidency of the different Council formations shall be shared equally among the Member States of the group performing their duty throughout the entire period referred to in the first paragraph.**

**Article 2**

**The Presidency of the General Affairs Council and the chair of the Permanent Representatives Committee shall be held for four months by each of the members of the group in turn.**

**Article 3**

**The chair of the preparatory bodies of the Council formations referred to in Article 1 shall fall to the Member State holding the Presidency. The chair of the Political and Security Committee shall be held by a representative of the Union Minister for Foreign Affairs.**

**Article 4**

**The General Affairs Council shall ensure consistency and continuity in the work of the different Council formations in the framework of multiannual programmes. The Member States holding the Presidency shall take all necessary measures for the organisation and smooth operation of the Council's work, with the assistance of the General Secretariat of the Council.**

**Article 5**

**The European Council shall, by a qualified majority, adopt a European decision establishing the measures for the practical implementation of this decision. <sup>2</sup>**

\* \* \*

---

<sup>1</sup> The draft decision will be adopted on the day the Treaty enters into force.

<sup>2</sup> Conference declaration providing for the European Council to begin preparing the decision under Article 5 as soon as the Constitutional Treaty is signed and to give political approval within six months.



THE MINISTER FOR FOREIGN AFFAIRS

Article I-25

1. [unchanged]
2. [unchanged]
3. [unchanged]
4. In carrying out its responsibilities, the Commission shall be completely independent. In the discharge of their duties, the President, the European Commissioners, the Commissioners and the Union Minister for Foreign Affairs shall neither seek nor take instructions from any government or other body, **except for the Minister for Foreign Affairs when acting as mandated by the Council of Ministers for the common foreign and security policy.**
5. The Commission, as a College, shall be responsible to the European Parliament. The Commission President shall be responsible to the European Parliament for the activities of the Commissioners. Under the procedures set out in Article III-243, the European Parliament may pass a censure motion on the Commission. If such a motion is passed, the European Commissioners and Commissioners must all resign **and the Union Minister for Foreign Affairs must resign from the Commission.** The Commission shall continue to handle everyday business until a new College is appointed.

Article I-26

1. [unchanged]
2. [unchanged]
3. The President of the Commission shall:
  - lay down guidelines within which the Commission is to work;
  - decide its internal organisation, ensuring that it acts consistently, efficiently and on a collegiate basis;
  - appoint Vice-Presidents from among the members of the College.

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

Article I-27

1. [unchanged]
2. [unchanged]
3. The Union Minister for Foreign Affairs shall be one of the Vice-Presidents of the Commission. He or she shall **ensure that the Union's action in external relations is consistent with the common foreign and security policy. He shall be responsible within the Commission for responsibilities falling to it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the Union Minister for Foreign Affairs shall be bound by Commission procedures to the extent that this is consistent with the provisions of the above paragraph 2.**

\* \* \*

JUDICIAL REVIEW OF LEGAL ACTS ADOPTED BY THE  
EUROPEAN COUNCIL WHICH ARE INTENDED TO PRODUCE  
LEGAL EFFECTS FOR THIRD PARTIES

Article III-270(1)

The Court of Justice shall review the legality of European laws and framework laws, of acts of the Council of Ministers, of the Commission and of the European Central Bank, other than recommendations and opinions, and of acts of the European Parliament **and of the European Council** intended to produce legal effects vis-à-vis third parties. It shall also review the legality of acts of bodies or agencies of the Union intended to produce legal effects vis-à-vis third parties.

Article III-272, first paragraph

Should the European Parliament, **the European Council**, the Council of Ministers, the Commission or the European Central Bank, in infringement of the Constitution, fail to act, the Member States and the other Institutions of the Union may bring an action before the Court of Justice to have the infringement established. This provision shall apply, under the same conditions, to bodies and agencies of the Union which fail to act.

\* \* \*

PRUDENTIAL SUPERVISION OF CREDIT INSTITUTIONS AND  
OTHER FINANCIAL INSTITUTIONS BY THE EUROPEAN  
CENTRAL BANK

Article III-77(6)

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

\* \* \*

AMENDMENT OF THE STATUTE OF THE ESCB AND OF  
THE ECB

**Article III-79**  
*(new paragraph 7)*

7. **Article III-84(1) and 2(a) of the Constitution and Articles 10 to 12 and 43 of the Statute of the European System of Central Banks and the European Central Bank may be amended by a law of the Council, acting unanimously, either on a proposal from the Commission and after consultation of the European Parliament and the European Central Bank, or on a recommendation from the European Central Bank and after consultation of the European Parliament and the Commission.**

\* \* \*

APPOINTMENT OF MEMBERS OF THE EXECUTIVE BOARD  
OF THE EUROPEAN CENTRAL BANK

Article III-84

1. [unchanged]
2. (a) The Executive Board shall comprise the President, the Vice-President and four other members.
- (b) The President, the Vice-President and the other members of the Executive Board shall be appointed **by the European Council, acting by a qualified majority**, from among persons of recognised standing and professional experience in monetary or banking matters, on a recommendation from the Council of Ministers, after it has consulted the European Parliament and the Governing Council of the European Central Bank.

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

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

\* \* \*

"LAMFALUSSY PROCEDURE"

**Declaration for incorporation in the Final Act**  
**re Article I-35**

**The Commission declares that, in accordance with its established practice, it intends to consult experts from the Member States in the preparation of delegated regulations in the financial services area.**

**The Conference takes note of this Declaration.**

\* \* \*

SIMPLIFIED PROCEDURE FOR AMENDING THE STATUTE OF  
THE EUROPEAN INVESTMENT BANK

Article III-299

The European Investment Bank shall have legal personality.

The members of the European Investment Bank shall be the Member States.

The Statute of the European Investment Bank is laid down in a Protocol.

**European laws of the Council may amend the Statute of the Bank. The Council shall act unanimously, either at the request of the European Investment Bank and after consultation of the European Parliament and the Commission, or on a proposal from the Commission and after consultation of the European Parliament and the European Investment Bank.**

**By way of derogation from the fourth paragraph, European laws may amend Articles 4, 11 and 12 and Article 18(5) of the Statute of the Bank, either at the request of the European Investment Bank and after consultation of the Commission, or on a proposal from the Commission and after consultation of the European Investment Bank.**

\* \* \*



PROVISIONS SPECIFIC TO MEMBER STATES WHOSE  
CURRENCY IS THE EURO

Article III-88

1. In order to ensure that economic and monetary union works properly, and in accordance with the relevant provisions of the Constitution, **the Council shall, in accordance with the relevant procedure out of those referred to in Articles III-71 and III-76, adopt** measures specific to those Member States which are members of the euro area:
  - (a) to strengthen the coordination of their budgetary discipline and surveillance of it;
  - (b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.
2. [unchanged]

Article III-91(2)

2. The following provisions of the Constitution shall not apply to Member States with a derogation:
  - (a) – (h) [unchanged];
  - (i) **decisions establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences (Article III-90(1));**
  - (j) **measures to ensure unified representation within the international financial institutions and conferences (Article III-90(3));**

In the Articles referred to above, "Member States" shall therefore mean Member States without a derogation.

**Article III-91(4)**

4. The voting rights of members of the Council of Ministers representing Member States with a derogation shall be suspended for the adoption by the Council of Ministers of the measures referred to in the Articles listed in paragraph 2, **and in the following instances:**
- (a) **recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings (Article III-71(4));**
  - (b) **measures relating to excessive deficits concerning those Member States whose currency is the euro (Article III-76(6), (7), (8) and (11)).**

[..... remainder of paragraph unchanged]

\* \* \*

## JUDICIAL COOPERATION IN CRIMINAL MATTERS

Article III-158

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and ~~taking into account~~ the different legal traditions and systems of the Member States.
2. *(unchanged)*
3. *(unchanged)*
4. *(unchanged)*

Article III-171

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article III-172.

European laws or framework laws shall establish measures to:

- (a) establish rules and procedures to ensure the recognition throughout the Union of all forms of judgments and judicial decisions;
  - (b) prevent and settle conflicts of jurisdiction between Member States;
  - (c) encourage the training of the judiciary and judicial staff;
  - (d) facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.
2. **To the extent necessary** to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, European framework laws may establish minimum rules. **Such rules shall take into account the differences between the legal systems of the Member States and in particular between the common-law systems and the others.**

**They shall concern:**

- (a) mutual admissibility of evidence between Member States;

- (b) the rights of individuals in criminal procedure;
- (c) the rights of victims of crime;
- (d) any other specific aspects of criminal procedure which the Council of Ministers has identified in advance by a European decision. The Council of Ministers shall act unanimously after obtaining the consent of the European Parliament.

Adoption of **the minimum rules referred to in this paragraph** shall not prevent Member States from maintaining or introducing a higher level of protection of **individuals**.

**Where a member of the Council considers that a draft European framework law would infringe the fundamental principles of its legal system, it may request that the draft law be referred to the European Council for discussion. In this case, the time limits of three months or six weeks referred to in Article III-302 shall be extended by two months or one month respectively.**

#### Article III-172

1. European framework laws may establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with cross-border dimensions resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

On the basis of developments in crime, the Council of Ministers may adopt a European decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.

2. If the approximation of criminal legislation proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, European framework laws may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned.

Without prejudice to Article III-165, such framework laws shall be adopted by the same procedure as was followed for the adoption of the harmonisation measures referred to in the preceding subparagraph.

3. **Where a member of the Council considers that a draft European framework law referred to in paragraphs 1 or 2 would infringe the fundamental principles of its legal system, it may request that the draft law be referred to the European Council for discussion. If necessary, the time limits of three months or six weeks referred to in Article III-302 shall be extended by two months or one month respectively.**

EUROPEAN PUBLIC PROSECUTOR'S OFFICE

Article III-175 (new)

1. In order to combat ~~serious crime having a cross-border dimension~~, as well as crimes affecting the **financial** interests of the Union, a European law of the Council of Ministers may establish a European Public Prosecutor's Office from Eurojust. The Council of Ministers shall act unanimously after obtaining the consent of the European Parliament.
2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of and accomplices in ~~serious crimes affecting more than one Member State~~ and of offences against the Union's financial interests, as determined by the European law provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.

\* \* \*

## JUDICIAL COOPERATION IN CIVIL MATTERS

Article III-170

1. The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and decisions in extrajudicial cases. Such cooperation may include the adoption of measures for the approximation of the laws and regulations of the Member States.
2. To this end, European laws or framework laws shall lay down measures, **particularly when necessary for the proper functioning of the internal market**, aimed ~~inter alia~~ at ensuring:
  - (a) the mutual recognition and enforcement between Member States of judgments and decisions in extrajudicial cases;
  - (b) the cross-border service of judicial and extrajudicial documents;
  - (c) the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction;
  - (d) cooperation in the taking of evidence;
  - (e) ~~a high level of~~ **effective** access to justice;
  - (f) **the elimination of obstacles** to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;
  - (g) the development of alternative methods of dispute settlement;
  - (h) support for the training of the judiciary and judicial staff.
3. Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be laid down in a European law or framework law of the Council of Ministers. The Council of Ministers shall act unanimously after consulting the European Parliament.

The Council of Ministers, on a proposal from the Commission, may adopt a European decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council of Ministers shall act unanimously after consulting the European Parliament.

\* \* \*

## COMMON SECURITY AND DEFENCE POLICY

**Permanent structured cooperation****Article I-40(6)**

Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish **permanent** structured cooperation within the Union framework. Such cooperation shall be governed by the provisions of Article III-213.

**Article III-213**

1. Those Member States which wish to participate in the permanent structured cooperation defined in Article I-40(6), who fulfil the criteria and have made the commitments on military capabilities set out in the Protocol annexed to this Treaty *[title]* shall notify their intention to the Council, to the Union Minister for Foreign Affairs and to the Commission.
2. The decision establishing permanent structured cooperation, including the list of participants, who may not number fewer than [X], shall be taken within three months following such notification, by the Council acting by a qualified majority after obtaining the opinion of the Union Minister for Foreign Affairs.
3. If, at a later stage, a Member State wishes to participate in the cooperation thus established, it shall inform the Council. The Council, acting by a qualified majority after consultation of the Minister for Foreign Affairs, shall confirm the participation of the Member State in question after checking that the conditions for its participation have been fulfilled.
4. Without forming an obstacle to the preceding paragraphs, the appropriate provisions relating to enhanced cooperation in the CFSP field (Articles III-325(2) and III-326(2)) shall apply to the permanent structured cooperation governed by this Article.

**Closer cooperation on mutual defence**

**Article I-40(7)**

**If a Member State is the victim of armed aggression on its territory, the other Member States shall give it aid and assistance by all the means in their power, military or other, in accordance with Article 51 of the United Nations Charter.**

**Commitments and cooperation in this area shall be consistent with commitments under NATO, which, for those States which are members of it, remains the foundation of their collective defence.**

**Article III-214**  
***(deleted)***

\* \* \*



QUALIFIED MAJORITY VOTING IN THE FIELD  
OF THE COMMON FOREIGN AND SECURITY POLICY

Article III-201

1. *(unchanged)*
2. By way of derogation from paragraph 1, the Council of Ministers shall act by qualified majority:
  - (a) when adopting European decisions on Union actions and positions on the basis of a European decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article III-194(1);
  - (b) when adopting a **European decision on a proposal from the Union Minister for Foreign Affairs;**
  - (c) when adopting any European decision implementing a Union action or position;
  - (d) when adopting a European decision concerning the appointment of a special representative in accordance with Article III-203.

If a member of the Council of Ministers declares that, for vital and stated reasons of national policy, it intends to oppose the adoption of a European decision to be adopted by qualified majority, a vote shall not be taken. The Union Minister for Foreign Affairs will, in close consultation with the Member State involved, search for a solution acceptable to it. If he or she does not succeed, the Council of Ministers may, acting by a qualified majority, request that the matter be referred to the European Council for decision by unanimity.

3. *(unchanged)*
4. *(unchanged)*

\* \* \*

SOCIAL CLAUSE

Article III-2a

**In defining and implementing the policies and actions referred to in this Part, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.**

\* \* \*

SOCIAL SECURITY

Article III-21  
*(new paragraph)*

The adoption of the European law or framework law referred to in the first paragraph shall not have a significant effect on the financial equilibrium of the social security system in any Member State.

Declaration by the Commission for incorporation in the Final Act  
re Article III-21 and Article III-168(2)

When drawing up proposals in the social security field, the Commission will take due account of the impact of proposed changes which concern a single Member State.

\* \* \*

TAXATION

Article III-62(2)

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

\* \* \*

SOCIAL POLICY

Declaration for incorporation in the Final Act re Article III-107

**The Conference confirms that the policies described in Article III-107 fall essentially within the competence of the Member States. Measures to provide encouragement and promote coordination to be taken at Union level in accordance with this Article shall be of a complementary nature. They shall serve to strengthen cooperation between Member States and not to harmonise different systems. The guarantees and practices existing in each Member State as regards the responsibility of the social partners will not be affected.**

\* \* \*

## ECONOMIC, SOCIAL AND TERRITORIAL COHESION

**Article III-116**

In order to promote its overall harmonious development, the Union shall develop and pursue its action leading to the strengthening of its economic, social and territorial cohesion. **In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions. In pursuing this objective, particular attention shall be paid to rural areas and to areas which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density, island and mountain areas.**

**Article III-56**

1. [unchanged]
2. [unchanged]
3. The following may be considered to be compatible with the internal market:
  - (a) [unchanged]
  - (b) [unchanged]
  - (c) aid to facilitate the development of certain economic activities or of certain economic areas, **particularly those which suffer from severe and permanent natural or demographic handicaps**, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
  - (d) [unchanged]
  - (e) [unchanged]

\* \* \*

TRANSPORT

Article III-134  
*(new paragraph)*

**When the European law or framework laws referred to in the second paragraph are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities.**

\* \* \*

## TECHNOLOGICAL RESEARCH AND DEVELOPMENT

Article III-146

1. The Union shall aim to strengthen ~~the~~ **its** scientific and technological bases, **with the aim of achieving a European research area in which researchers, scientific knowledge and technology circulate freely**, and encourage it to become more competitive, **including in its industry**, while promoting all the research activities deemed necessary by virtue of other Chapters of the Constitution.
2. *(unchanged)*
3. *(unchanged)*

Article III-149

1. A multiannual framework programme, setting out all the activities ~~of~~ **financed by** the Union, shall be enacted by European laws. Such laws shall be adopted after consultation of the Economic and Social Committee.
2. *(unchanged)*
3. **A European law shall establish specific programmes to implement the framework programme** within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary. The sum of the amounts deemed necessary, fixed in the specific programmes, may not exceed the overall maximum amount fixed for the framework programme and each activity.
4. **As a complement to the activities planned in the multiannual framework programme, a European law shall establish the measures necessary for the implementation of the European research area.**

\* \* \*



ENERGY

**Declaration for incorporation in the Final Act re Article III-157**

**The Conference believes that Article III-157 does not affect the ability of the Member States to take the necessary measures to ensure their security of energy supply under the conditions provided for in Article III-16.**

\* \* \*

PUBLIC HEALTH

Article III-179

1. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities.

Action by the Union, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover:

- (a) the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education;
- (b) **monitoring, early warning and combating accidental or intentional serious threats to health when they may have a European dimension.**

The Union shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.

2. The Union shall encourage cooperation between the Member States in the areas referred to in this Article and, if necessary, lend support to their action.

Member States shall, in liaison with the Commission, coordinate among themselves their policies and programmes in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

4. **In accordance with Article I-13(2)(k)<sup>2</sup> and by way of derogation from Article I-11(5),** European laws or framework laws shall contribute to the achievement of the objectives referred to in this Article by establishing the following measures in order to meet common safety concerns:
- (a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures;
  - (b) measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health;
  - (c) **measures setting high standards of quality and safety for health products and devices for medical use.**

European laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

5. [unchanged]  
6. [unchanged]  
7. [unchanged]

\* \* \*

---

<sup>2</sup> According to the numbering in CIG 50/03.

## SPORT

Article III-182

1. The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and complementing their action. It shall fully respect the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

The Union shall contribute to the promotion of European sporting issues, **while taking account of its special nature, its structures based on voluntary activity and its social and educational function.**

2. Union action shall be aimed at:
  - (a) developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States;
  - (b) encouraging mobility of students and teachers, inter alia by encouraging the academic recognition of diplomas and periods of study;
  - (c) promoting cooperation between educational establishments;
  - (d) developing exchanges of information and experience on issues common to the education systems of the Member States;
  - (e) encouraging the development of youth exchanges and of exchanges of socio-educational instructors and encouraging the participation of young people in democratic life in Europe;
  - (f) encouraging the development of distance education;
  - (g) developing the European dimension in sport, by promoting fairness **and openness in sporting** competitions and cooperation between bodies **responsible for sports**, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially young sportsmen and sportswomen.
3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education **and sport**, in particular the Council of Europe.
4. *(unchanged)*

\* \* \*

TOURISM

**Article I-16: Areas of supporting, coordinating or complementary action**

1. **The Union may take supporting, coordinating or complementary action.**
2. The areas for supporting, coordinating or complementary action shall be, at European level:
  - industry,
  - protection and improvement of human health,
  - education, vocational training, youth and sport,
  - culture,
  - **tourism,**
  - civil protection.
3. [unchanged]

**Article III-181a**  
(new)

1. **The Union shall complement and support the action of the Member States to promote the competitiveness of Union enterprises in the tourist sector.**
2. **To that end, Union action shall be aimed at:**
  - **encouraging the creation of a favourable environment for the development of enterprises in this sector;**
  - **promoting cooperation between the Member States, particularly by the exchange of good practice;**
  - **encouraging a better exploitation of tourist potential.**
3. **A European law or framework law shall establish specific measures to support actions within the Member States to achieve the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States.**

\* \* \*

**SIMPLIFIED PROCEDURE FOR REVISING THE CONSTITUTION  
MOVEMENT FROM UNANIMITY TO A QUALIFIED MAJORITY  
AND FROM THE SPECIAL LEGISLATIVE PROCEDURE TO THE  
ORDINARY LEGISLATIVE PROCEDURE**

**Article IV-7a**  
**(new)**

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

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

2. Where Part III provides for European laws and framework laws to be adopted by the Council according to a special legislative procedure, the European Council may adopt a European decision allowing for the adoption of such European laws or framework laws according to the ordinary legislative procedure.
3. Any initiative taken by the European Council on the basis of paragraphs 1 or 2 shall be notified to the national Parliaments of the Member States. In the absence of opposition by [X] national Parliaments within six months from the date of such notification, the European Council may adopt the European decision referred to in paragraphs 1 or 2. If the opposition of [X] national Parliaments is notified to the European Council within that deadline, the European decision shall not be adopted.

For the adoption of the European decisions referred to in paragraphs 1 and 2, the European Council shall act by unanimity after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

**Article I-24 – Qualified majority**  
***(paragraph 4 deleted)***

\* \* \*

<p>SIMPLIFIED PROCEDURE FOR REVISING THE CONSTITUTION</p> <p>AMENDMENT TO INTERNAL POLICIES</p>
---

**Article IV-7b**  
*(new)*

- 1. The Government of any Member State, the European Parliament or the Commission, may submit to the European Council proposals for revising the internal policies of the Union (Title III of Part III), which do not have the effect of increasing the Union's competences as defined in this Treaty.**
- 2. Following consultation of the European Parliament and of the Commission, the European Council shall adopt by a qualified majority amendments to Title III of Part III of the Treaty establishing the Constitution.**
- 3. Such amendments shall come into force following approval by the Member States in accordance with their respective constitutional requirements.**

\* \* \*

OVERSEAS TERRITORIES

Article IV-4, new paragraph 7

The European Council may, on the initiative of the Member State concerned, adopt a European decision amending the status, with regard to the Union, of a country or territory referred to in paragraphs 2, 3, 5 and 6 of this Article, Article III-330 and Annex II. The European Council shall act unanimously after consulting the Commission.

\* \* \*



PROTOCOL ON DENMARK

Amended Protocol No. 5 on the position of Denmark

THE HIGH CONTRACTING PARTIES,

RECALLING the decision of the Heads of State or Government, meeting within the European Council at Edinburgh on 12 December 1992, concerning certain problems raised by Denmark on the Treaty on European Union,

HAVING NOTED the position of Denmark with regard to citizenship, economic and monetary union, defence policy, and justice and home affairs as laid down in the Edinburgh decision,

CONSCIOUS of the fact that a continuation under the Constitution of the legal regime originating in the Edinburgh decision will significantly limit Denmark's participation in important areas of cooperation of the Union,

WISHING therefore to establish a legal framework that will provide an option for Denmark to participate in the adoption of measures proposed on the basis of Part III, Title III, Chapter IV of the Constitution and welcoming the intention of Denmark to avail itself of this option when possible in accordance with its constitutional requirements,

NOTING that Denmark will not prevent the other Member States from further developing their cooperation with respect to measures not binding on Denmark,

BEARING IN MIND the *Protocol on the Schengen acquis integrated into the framework of the European Union*,

HAVE AGREED UPON the following provisions, which shall be annexed to the Constitution:

## PART I

### Article 1

Denmark shall not take part in the adoption by the Council of proposed measures pursuant to Part III, Title III, Chapter IV of the Constitution. The unanimity of the members of the Council, with the exception of the representative of the government of Denmark, shall be necessary for the decisions of the Council which must be adopted unanimously. *For the purposes of this Article, a qualified majority shall be defined as a majority of the members of the Council representing the participating Member States, comprising at least three fifths of the population of the participating Member States.*

### Article 2

None of the provisions of Part III, Title III, Chapter IV of the Constitution, no measure adopted pursuant to that Chapter, no provision of any international agreement concluded by the Union pursuant to that Chapter, and no decision of the Court of Justice of the European Union interpreting any such provision or measure shall be binding upon or applicable in Denmark; and no such provision, measure or decision shall in any way affect the competences, rights and obligations of Denmark; and no such provision, measure or decision shall in any way affect the *acquis communautaire* and the *acquis* of the Union nor form part of Union law as they apply to Denmark.

### Article 3

Denmark shall bear no financial consequences of measures referred to in Article 1, other than administrative costs entailed for the institutions.

### Article 4

1. Denmark shall decide within a period of 6 months after the adoption of a measure to build upon the Schengen *acquis* covered by Part I of this Protocol whether it will implement this measure in its national law. If it decides to do so, this measure will create an obligation under international law between Denmark and the other Member States bound by the measure.
2. If Denmark decides not to implement a measure of the Council as referred to in paragraph 1, the Member States taking part in the Schengen cooperation will consider appropriate measures to be taken.
3. Denmark shall maintain the rights and obligations existing before the entry into force of the Constitution with regard to the Schengen *acquis*.

## PART II

### Article 5

With regard to measures adopted by the Council pursuant to Articles I-40, III-196(1) and Articles III-210 to III-215 of the Constitution, Denmark does not participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications. Therefore Denmark shall not participate in their adoption. Denmark will not prevent the other Member States from further developing their cooperation in this area. Denmark shall not be obliged to contribute to the financing of operational expenditure arising from such measures, nor to make military capabilities available to the Union.

## PART III

### Article 6

This Protocol shall also apply to measures remaining in force by virtue of Article IV-3 of the Constitution, which were covered by the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community prior to the entry into force of the Constitution.

### Article 7

Articles 1, 2 and 3 shall not apply to measures determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States, or measures relating to a uniform format for visas.

## PART IV

### Article 8

At any time Denmark may, in accordance with its constitutional requirements, inform the other Member States that it no longer wishes to avail itself of all or part of this Protocol. In that event, Denmark will apply in full all relevant measures then in force taken within the framework of the Union.

### Article 9

1. At any time and without prejudice to Article 8, Denmark may, in accordance with its constitutional requirements, notify the other Member States that with effect from the first day of the month following the notification, Part I of this Protocol shall consist of the provisions in the Annex to this Protocol.
2. Six months after the date on which such notification takes effect all Schengen *acquis* and measures adopted to build upon this *acquis*, which until then have been binding on Denmark as obligations under international law, shall be binding upon Denmark as Union law.

## Annex to the Protocol

### Article 1

Subject to Article 3, Denmark shall not take part in the adoption by the Council of measures proposed pursuant to Part III, Title III, Chapter IV of the Constitution. The unanimity of the members of the Council, with the exception of the representative of the government of Denmark, shall be necessary for the decisions of the Council which must be adopted unanimously. *For the purposes of this Article, a qualified majority shall be defined as a majority of the members of the Council representing the participating Member States, comprising at least three fifths of the population of the participating Member States.*

### Article 2

In consequence of Article 1 and subject to Articles 3, 4 and 7, none of the provisions in Part III, Title III, Chapter IV of the Constitution, no measure adopted pursuant to that Chapter, no provision of any international agreements concluded by the Union pursuant to that Chapter, no decision of the Court of Justice of the European Union interpreting any such provision or measure shall be binding upon or applicable in Denmark; and no such provision, measure or decision shall in any way affect the competences, rights and obligations of Denmark; and no such provision, measure or decision shall in any way affect the *acquis communautaire* and the *acquis* of the Union nor form part of Union law as they may apply to Denmark.

### Article 3

1. Denmark may notify the President of the Council in writing, within three months after a proposal or initiative has been presented to the Council pursuant to Part III, Title III, Chapter IV of the Constitution, that it wishes to take part in the adoption and application of any such proposed measure, whereupon Denmark shall be entitled to do so.
2. *If, within a reasonable period, a measure referred to in paragraph 1 cannot be adopted with the participation of Denmark, the Council may adopt this measure in accordance with Article 1 without the participation of Denmark. In that case, Article 2 shall apply.*

### Article 4

Denmark may at any time after the adoption of a measure pursuant to Part III, Title III, Chapter IV of the Constitution notify its intention to the Council and the Commission that it wishes to accept that measure. In that case, the procedure provided for in Article III-326(1) of the Constitution shall apply *mutatis mutandis*.

### Article 5

1. Notification pursuant to Article 4 shall be submitted no later than 6 months after the final adoption of a measure if this measure is building upon the Schengen *acquis*. If Denmark does not submit a notification in accordance with Articles 3 or 4 regarding measures building upon the Schengen *acquis*, the Member States taking part in the Schengen cooperation will consider appropriate measures to be taken.
2. A notification pursuant to Article 3 or Article 4 with respect to measures building upon the Schengen *acquis* shall be deemed irrevocably to be a notification pursuant to Article 3 with respect to any further proposal or initiative aiming to build upon that measure to the extent that such proposal or initiative is building upon the Schengen *acquis*.

### Article 6

Where, in cases referred to in this Part, Denmark is bound by a measure adopted by the Council pursuant to Part III, Title III, Chapter IV of the Constitution, the relevant provisions of the Constitution shall apply to Denmark in relation to that measure.

### Article 7

Where Denmark is not bound by a measure adopted pursuant to Part III, Title III, Chapter IV of the Constitution, it shall bear no financial consequences of that measure other than administrative costs entailed for the institutions unless the Council acting unanimously after consulting the European Parliament decides otherwise.

\* \* \*

### **Declaration by the Conference in relation to the Protocol on Denmark**

The Conference takes note that with respect to legal acts to be adopted by the Council acting alone or jointly with the European Parliament and containing provisions applicable to Denmark as well as provisions not applicable to Denmark because they have a legal basis to which Part I of the Protocol on Denmark applies, Denmark declares that it will not use its voting right to prevent the adoption of the provisions which are not applicable to Denmark.

Furthermore, the Conference takes note that on the basis of the Declaration by the Conference on Articles I-42 and III-231 of the Constitution, Denmark declares that Danish participation in actions or legal acts pursuant to Articles I-42 and III-231 will take place in compliance with Part I and Part II of the Protocol on the position of Denmark.

## **Declaration by the Conference on Articles I-42 and III-231 of the Constitution**

Without prejudice to the measures adopted by the Union to comply with its solidarity obligation towards a Member State which is the subject of a terrorist attack or the victim of a natural or man-made disaster, none of the provisions of Articles I-42 and III-231 of the Constitution is intended to affect the right of another Member State to choose the more appropriate means to comply with its own solidarity obligation towards that Member State.

\* \* \*

SERVICES OF GENERAL INTEREST

Article III-6

Without prejudice to Articles **I-5**, III-55, III-56 and III-136, and given the place occupied by services of general economic interest as services to which all in the Union attribute value as well as their role in promoting social and territorial cohesion, the Union and the Member States, each within their respective powers and within the scope of application of the Constitution, shall take care that such services operate on the basis of principles and conditions, in particular economic and financial, which enable them to fulfil their missions. European laws shall define these principles and conditions **without prejudice to the competence of Member States, in compliance with the Constitution, to provide, to commission and to fund such services.**

\* \* \*

THE SMALL NEIGHBOURING STATES OF THE UNION

Declaration for incorporation in the Final Act re Article I-56

The Union will take into account the particular situation of small-sized States which maintain specific relations of proximity with it.

\* \* \*



ACCESSION OF THE UNION TO THE EUROPEAN CONVENTION  
ON HUMAN RIGHTS

Article I-7

1. [unchanged]
2. The Union **shall accede** to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Constitution.
3. [unchanged]

Article III-227(9)

9. The Council of Ministers shall act by a qualified majority throughout the procedure.

It shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements ~~and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.~~

\* \* \*

PROTECTION AND WELFARE OF ANIMALS

**Article III-5a**  
*(new text)*

**In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of Member States relating in particular to religious rites, cultural traditions and regional heritage.**

\* \* \*

MISCELLANEOUS

- (A) NON-INTERFERENCE BETWEEN CFSP PROCEDURES AND THOSE OF OTHER AREAS OF THE UNION'S ACTIVITIES

Article III-209

The implementation of the common foreign and security policy shall not affect **the application of the procedures and the extent of the powers of the institutions laid down by the Constitution for the exercise of the Union competences** listed in Articles I-12 to I-14 and I-16. Similarly, the implementation of the policies listed in those Articles shall not affect **the application of the procedures and the extent of the powers of the institutions laid down by the Constitution for the exercise of the Union competences under this Chapter.**

- (B) PUBLIC ACCESS TO DOCUMENTS OF THE EUROPEAN INVESTMENT BANK

Article III-305, first paragraph

The Institutions, bodies, offices and agencies of the Union shall recognise the importance of transparency in their work and shall, in application of Article I-49, lay down in their rules of procedure the specific provisions for public access to documents. The Court of Justice, the European Central Bank **and the European Investment Bank** shall be subject to the provisions of Article I-49(3) **and to the present Article only** when exercising their administrative tasks.

(C) RIGHT TO VOTE IN ELECTIONS TO THE EUROPEAN PARLIAMENT

**Article I-19**

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

Sufficiently in advance of the European Parliamentary elections in 2009, and, as necessary thereafter for further elections, the European Council shall adopt by unanimity, on the basis of a proposal from the European Parliament and with its consent, a decision establishing the composition of the European Parliament, respecting the principles set out above.

- 2a. The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in free and secret ballot.
3. [unchanged]

(D) ROLE OF NATIONAL PARLIAMENTS – PROTOCOLS ON SUBSIDIARITY AND NATIONAL PARLIAMENTS

**Protocol on subsidiarity**

**Article 6**

**Each national Parliament shall have two votes, shared out on the basis of the national Parliamentary system. In the case of a bicameral Parliamentary system, each of the two chambers shall have one vote.**

**Protocol on national Parliaments**

**Article 8**

**Where the national Parliamentary system is not unicameral, Articles 1 to 7 shall apply to the component chambers.**

**Declaration of the Conference for incorporation in the Final Act**  
**re Article 6 of the Protocol on the application of the principles of subsidiarity and**  
**proportionality and re Article 8 of the Protocol on the role of national parliaments**  
**in the European Union**

Member States shall notify the Union's institutions of the addresses of the components of their national Parliaments with which institutions should correspond in accordance with the Protocol on the application of the principles of subsidiarity and proportionality, and the Protocol on the role of national parliaments in the European Union.

(E) CONVERGENCE CRITERIA

**Article III-92, first paragraph**

At least once every two years, or at the request of a Member State with a derogation, the Commission and the European Central Bank shall report to the Council of Ministers on the progress made by the Member States with a derogation in fulfilling their obligations regarding the achievement of economic and monetary union. These reports shall include an examination of the compatibility between each of these Member States' national legislation, including the statutes of its national central bank, and Articles III-80 and III-81 and the Statute of the European System of Central Banks and the European Central Bank. The reports shall also examine whether a high degree of sustainable convergence has been achieved, by analysing how far each of these Member States has fulfilled the following criteria:

- (a) [unchanged]
- (b) [unchanged]
- (c) the observance of the normal fluctuation margins provided for by the exchange-rate mechanism **of the European monetary system** for at least two years, without devaluing against the euro;
- (d) [unchanged]

The four criteria mentioned in this paragraph and the relevant periods over which they are to be respected are developed further in the Protocol on the convergence criteria. The reports of the Commission and the European Central Bank shall also take account of the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

(F) DETERMINATION OF THE PENALTY PAYMENTS IMPOSED BY THE COURT OF JUSTICE

**Article III-267, third paragraph**

When the Commission brings a case before the Court of Justice pursuant to Article III-265 on the grounds that the State concerned has failed to fulfil its obligations to notify measures transposing a European framework law, it may, when it deems appropriate, **specify the amount of a lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.**

If the Court of Justice finds that the Member State concerned has not complied with its judgment, it may impose a lump sum or penalty payment on it not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court of Justice in its judgment.

(G) IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

**Article III-217, second paragraph**

European laws or framework laws shall establish the measures **defining the framework for implementing** the common commercial policy.

(H) ENHANCED COOPERATION – REMOVAL OF THE BRIDGING CLAUSE AND CFSP

**Article III-325, paragraph 2**

2. In the framework of the common foreign and security policy, the request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council of Ministers. It shall be forwarded to the Union Minister for Foreign Affairs, who shall give an opinion on whether the enhanced cooperation contemplated is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information.

Authorisation to proceed with enhanced cooperation shall be granted by a European decision of the Council of Ministers, **acting unanimously.**

**Article III-326, paragraph 2**

2. Any Member State which wishes to participate in enhanced cooperation in the framework of the common foreign and security policy shall notify its intention to the Council of Ministers, the Union Minister for Foreign Affairs and the Commission.

The Council of Ministers shall confirm the participation of the Member State concerned, after consulting the Union Minister for Foreign Affairs and after noting where necessary that any conditions of participation have been fulfilled. The Council of Ministers, on a proposal from the Union Minister for Foreign Affairs, may also adopt any transitional measures deemed necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council of Ministers considers that any conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request for participation.

For the purposes of this paragraph, the Council of Ministers shall act **unanimously and** in accordance with Article I-43(3).

**Article III-328**  
*(deleted)*

- (I) **SOLIDARITY CLAUSE (ARTICLES I-42 AND III-231): DEFENCE ASPECTS**

**Article III-231**

1. Acting on a joint proposal by the Commission and the Union Minister for Foreign Affairs, the Council of Ministers shall adopt a European decision defining the arrangements for the implementation of the solidarity clause referred to in Article I-42. **The Council shall act in accordance with Article III-210(1) where this decision has defence implications.** The European Parliament shall be informed.
2. *(unchanged)*
3. *(unchanged)*
4. *(unchanged)*

(J) NATIONAL SECURITY

**Article I-5(1): Relations between the Union and the Member States**

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

(K) WITHDRAWAL FROM THE UNION - NEGOTIATOR

**Article I-59(2)**

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall ~~negotiate and~~ conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be **negotiated in accordance with Article III-227(3); it shall be concluded on behalf of the** ~~Union~~ by the Council of Ministers, acting by a qualified majority, after obtaining the consent of the European Parliament.

