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HALLITUSTENVÄLINEN KONFERENSSI 2007

Kesäkuun 2007 Eurooppa-neuvoston hyväksymä toimeksianto hallitustenväliselle konferenssille

Eurooppa-neuvosto päätti lauantaina 23. kesäkuuta kutsua koolle hallitustenvälisen konferenssin (HVK) neuvottelemaan Euroopan unionin sopimusuudistuksesta. Eurooppa-neuvosto hyväksyi myös HVK:lle yksityiskohtaisen toimeksiannon, joka määrittelee käytännössä sopimusuudistuksen keskeisen sisällön. HVK:n toimeksianto sisällytettiin Eurooppa-neuvoston päätelmien liitteeksi.

Eurooppa-neuvosto päätti, että vuoden 2004 hallitustenvälisessä konferenssissa neuvotellun EU:n perustuslakisopimuksen sisältämät keskeiset uudistukset toteutetaan hyväksymällä uudistussopimus, jolla muutetaan nykyistä unionisopimusta ja EY-sopimusta, jonka uudeksi nimeksi tulee sopimus Euroopan unionin toiminnasta. Unionisopimuksen osalta HVK:n toimeksianto määrittelee ne vuonna 2004 sovitut uudistukset, jotka sisällytetään uudistussopimukseen. EY-sopimuksen osalta taas toteutetaan kaikki ne vuonna 2004 sovitut sisältöuudistukset, joita toimeksiannossa ei nimenomaisesti määrätä poistettaviksi tai muutettaviksi.

HVK:n onnistumisen kannalta oli keskeistä, että Eurooppa-neuvosto pääsi yhteisymmärrykseen selkeästä toimeksiannosta, johon jo kirjattiin sopimuksen sisältöä koskevat poliittiset ratkaisut. Tämä myös auttaa tavoitteessa saada uudistussopimus voimaan ennen kesäkuun 2009 Euroopan parlamentin vaaleja.

Toimeksianto vastaa sisällöltään pääosin Suomen tavoitteita. Vaikka sopimuksen rakenteen osalta tehtiin muutoksia perustuslakisopimukseen nähden ja yhdestä yhtenäisestä perustamissopimuksesta luovuttiin, niin Suomen keskeisimpinä pitämät sisältöuudistukset pitkälti säilytettiin.

Suomen tavoitteiden mukaisesti Eurooppa-neuvosto päätti, että toimielinratkaisua ei avata uudelleen neuvotteluille, vaan perustuslakisopimuksen sisältämät uudistukset säilytetään pääpiirteissään. Ainoat muutokset koskevat neuvoston uuden äänestysjärjestelmän käyttöönoton lykkäämistä ja unionin ulkoministerin nimen muuttamista unionin ulkoasioiden ja turvallisuuspolitiikan korkeaksi edustajaksi.

Suomen tavoitteena oli, että sopimusuudistus parantaa unionin toiminnan johdonmukaisuutta ja päätöksenteon tehokkuutta. Tämän kannalta oli tärkeää, että Eurooppa-neuvosto päätti Euroopan ihmisoikeussopimukseen liittymistä lukuun ottamatta säilyttää kaikki määräenemmistöpäätöksenteon laajentamista koskevat uudistukset, ja että oikeus- ja sisäasiat siirrettiin kokonaisuudessaan EY-sopimukseen. Suomen ensisijaisena tavoitteena oli, että myös unionin yhteistä ulko- ja turvallisuuspolitiikkaa koskevat määräykset olisi sijoitettu samaan perussopimukseen muiden unionin politiikka-alojen kanssa. Eurooppa-neuvosto päätti säilyttää määräykset yhteisestä ulko- ja turvallisuuspolitiikasta jatkossakin unionisopimuksessa, mutta totesi samalla, että unionin toiminta pohjautuu jatkossa kahdelle sopimukselle, joilla on yhtäläinen arvo. Keskeistä on, että unionin yksi yhtenäinen oikeushenkilöllisyys ja ulko- ja turvallisuuspolitiikkaa koskevat sisältöuudistukset toteutettiin.

Perusoikeuksien osalta kesäkuun Eurooppa-neuvosto päätti sisällyttää EU-sopimukseen viittauksen perusoikeuskirjaan. Suomen tavoitteiden mukaisesti perusoikeuskirja määriteltiin oikeudelliselta sitovuudeltaan perussopimukseen verrattavaksi rajaamatta sen sisältöä tai soveltamisalaa vuonna 2004 sovitusta. Jotta tämä ratkaisu oli mahdollinen, Yhdistyneelle kuningaskunnalle annettiin erityisasema koskien perusoikeuskirjan soveltamista kansallisiin viranomaisiin.

Suomen tavoitteita vastaa myös se, että sopimukseen lisätään perustuslakisopimuksen mukainen oikeusperusta, joka mahdollistaa unionin liittymisen Euroopan ihmisoikeussopimukseen. Suomi olisi pitänyt parempana, että liittymisestä olisi voitu päättää neuvostossa määräenemmistöllä. Eurooppa-neuvosto päätyi kuitenkin siihen, että neuvoston on hyväksyttävä liittyminen yksimielisesti ja päätös on hyväksyttävä kansallisten menettelyjen mukaisesti kaikissa jäsenmaissa.

HVK:n aikataulu ja työtavat

Eurooppa-neuvosto päätti kesäkuussa, että HVK kutsutaan koolle heinäkuun 2007 loppuun mennessä ja että se pyritään saamaan päätökseen mahdollisimman pian, viimeistään vuoden loppuun mennessä. Tavoitteena on saada uudistus sopimus voimaan ennen kesäkuun 2009 Euroopan parlamentin vaaleja. HVK:ta johtavat valtion- tai hallitusten päämiehet yleisten asioiden ja ulkosuhteiden neuvoston jäsenten avustamina. Komission edustaja osallistuu HVK:hon. Euroopan parlamentti on kiinteästi mukana työskentelyssä. Tasavallan presidentti asetti Suomen HVK-neuvotteluvaltuuskunnan 29.6.2007.

HVK avattiin virallisesti ministeritason kokouksessa 23.7.2007. Kokouksessa puheenjohtajamaa Portugali totesi, että sen tavoitteena on HVK saaminen päätökseen 18.–19.10. Lissabonissa pidettävän epävirallisen päämiestapaamisen yhteydessä. Muut jäsenmaat, komissio ja Euroopan parlamentti tukivat puheenjohtajamaan aikataulua. HVK:n avajaisistunnon yhteydessä jaettiin puheenjohtajamaan ehdotus uudistus sopimukseksi sekä siihen liitettäväksi pöytäkirjoiksi ja julistuksiksi. Ehdotus on tehty HVK:n toimeksiannon pohjalta. Sopimusehdotus, kuten kaikki muutkin HVK-asiakirjat, ovat julkisia asiakirjoja. Ranskankielinen toisinto on tässä vaiheessa ainoa juristi-lingvistien tarkastama toisinto. Juristilingvistit viimeistelevät kaikki toisinnot lokakuun päämieskokouksen jälkeen. Suomenkielistä toisintoa uudistus sopimuksesta ja sen pöytäkirjoista ei ole vielä saatu.

Pääosa työstä tehdään oikeudellisten asiantuntijoiden ryhmässä, joka käy yksityiskohtaisesti läpi puheenjohtajamaan sopimusehdotuksen neuvoston oikeudellisen yksikön pääjohtajan Jean-Claude Pirisin johdolla. Ryhmän ensimmäinen kokous pidettiin 24.–25.7.2007 ennen kesälomataukoa. Ryhmä tekee työtä hyvin intensiivisesti aikavälillä 29.8.–13.9. Ehdotuksen ensimmäinen lukeminen pyritään saamaan valmiiksi viimeistään 6.9., jonka jälkeen alkaa ehdotuksen toinen lukeminen. Epävirallisessa ulkoministerikokouksessa 7.–8.9. puheenjohtaja antaa yleisen tilannekatsauksen ja asia on mahdollisesti myös esillä 15.10. yleisten asioiden ja ulkosuhteiden neuvoston kokouksen yhteydessä.

Puheenjohtajamaan ajatuksena on, että poliittiset päätökset sisältyivät jo HVK:n toimeksiantoon, jota tulee noudattaa hyvin tarkasti. Neuvottelut pyritään pitämään teknisellä tasolla. Oikeudellisten asiantuntijoiden ryhmän puheenjohtaja totesi ensimmäisessä kokouksessa, että HVK:n toimeksiannosta poiketaan vain, jos kaikki jäsenmaat ovat tästä ehdottoman yksimielisiä. Puheenjohtajamaa ei ole ennakoanut, miten mahdolliset juristiryhmässä auki jäävät tulkintaerimielisyydet ratkaistaan. Virkamiestason yhteyshenkilöiden (*focal points*) ryhmää ei ole perustettu, mutta yhteyshenkilöitä saatetaan tarvittaessa käyttää.

Puheenjohtajamaan sopimusluonnos

Sopimuksen rakenne

Puheenjohtajan luonnoksessa määrätään toimeksiannon mukaisesti, että unionin toiminta pohjautuu kahdelle eri perussopimukselle, joilla on yhtäläinen arvo. EU-sopimuksen osalta sopimuksen rakenne on määritelty sangen yksityiskohtaisesti HVK-toimeksiannossa. EY-sopimuksen osalta rakennetta ei ole kuvattu toimeksiannossa yhtä yksiselitteisesti. Sopimuksen rakennetta koskevassa tarkastelussa ei ole ilmennyt toimeksiannosta selkeästi poikkeavia ratkaisuja tai muita ongelmia, joiden perusteella rakennetta koskevia perusratkaisuja tulisi esittää muutettavaksi.

Artiklojen sijoittaminen sopimukseen on toteutettu mandaatin pohjalta, mutta siinä, mihin kohtaan sopimusta tai artiklaa määräys sijoitetaan, on sopimusluonnosta tehtäessä käytetty jonkin verran harkintaa. Koska eurooppaoikeudessa sovellettavan systemaattisen tulkintametodin kannalta myös määräyksen sijainnilla sopimuksessa on merkitystä sille annettavan tulkinnan kannalta, rakennetta koskevilla uudistuksilla voi olla merkitystä yksittäisten määräysten tulkintaan.

Toimeksianto määrittelee, että nykyisen III pilarin alaiset politiikka-alat, eli poliisiyhteistyö ja oikeudellinen yhteistyö rikosasioissa, siirretään SEY:n IV osastoon niin, että oikeus- ja sisäasioita koskevat määräykset muodostavat yhden kokonaisuuden. Ulkoista toimintaa koskevat määräykset jaetaan toimeksiannon mukaan sen sijaan kahteen eri sopimukseen. Erityisen keskeisenä kysymyksenä voidaan rakenteen kannalta pitää sitä, minkälainen oikeudellinen painoarvo tulisi antaa päätökselle sijoittaa yhteistä ulko- ja turvallisuuspolitiikkaa (YUTP) koskevat määräykset EU-sopimukseen erilleen unionin muista politiikka-aloista.

Unionille luodaan puheenjohtajan ehdotuksessa toimeksiannon mukaisesti yksi yhtenäinen oikeushenkilöllisyys. Tältä osin harkinnanvaraista on kuitenkin se, minkälainen painoarvo tulee antaa kesäkuun Eurooppa-neuvostossa sovituille yhteistä ulko- ja turvallisuuspolitiikkaa ja unionin oikeushenkilöllisyyttä koskeville julistuksille. Suomen lähtökohtana on, ettei julistuksilla ole oikeudellista merkitystä.

Sopimus sisältää myös määräyksiä, joilla pyritään siihen, että samat menettelyt tulevat sovellettaviksi molempien sopimusten kattamille aloille. Ratkaistavaksi tulee, voidaanko EY-sopimukseen sijoitettavien horisontaalisten määräysten (kuten unionin toiminnan avoimuus tai syrjinnän kielto) jatkossakin katsoa kattavan automaattisesti myös EU-sopimukseen sijoitettu YUTP. Suomen lähtökohtana on, että myös YUTP kuuluu horisontaalimääräysten soveltamisalaan.

Merkittävää on, että YUTP:n osalta luonnos sisältää erillisen oikeusperustan tietosuojaan liittyen. EY-sopimuksen tietosuoja koskevassa oikeusperustamääräyksessä on vastaava raja. Erillisestä tietosuoja koskevasta oikeusperustasta määrätään HVK-toimeksiannossa, ja tältä osin kirjausten voidaan katsoa noudattavan toimeksiantoa. Toisenlainen ratkaisu on valittu esimerkiksi unionin toiminnan avoimuutta koskevan määräyksen kohdalla, jossa artiklan soveltumisesta YUTP:n osalta ei ole erillistä mainintaa. Nykyään unionisopimuksessa on selkeä viittaus siihen, että avoimuutta koskeva SEY 255 artikla soveltuu myös YUTP-asioihin sekä rikosoikeudelliseen ja poliisiyhteistyöhön. Perustuslakisopimuksessa vastaavia määräyksiä ei sopimuksen yhtenäisen rakenteen vuoksi tarvittu. Näiden määräysten soveltuminen on varmistettava sopimusta valmisteltaessa.

Puheenjohtajan luonnoksessa on useita kohtia, joiden nojalla voidaan päätellä, että yleisesti sovellettavat mutta EY-sopimukseen sijoitetut määräykset soveltuisivat YUTP:aan, ellei niiden

soveltuvuutta ole erikseen pois suljettu tai annettu YUTP-alaa koskevia erityisiä sisällöllisiä määräyksiä.

Toimeksiannon mukaan uudistussopimuksessa luovutaan perustuslakisopimuksessa omaksutusta säädösnimikkeitä koskevasta uudistuksesta. Muutoksella on vaikutusta siihen, millä tavoin oikeusperustamääräykset kirjoitetaan. Siinä missä perustuslakisopimuksessa pääsääntöisesti määriteltiin, mitä lainsäädäntöinstrumenttia lainsäätäjän on kunkin toimen kohdalla sovellettava, puheenjohtajan luonnoksessa on joissakin kohdin jäänyt määrittelemättä käytettävä säädöstyyppi (asetus, direktiivi, päätös). Ellei toimeksiannosta muuta ilmene, tulisi lähtökohtana olla, että perustuslakisopimuksessa määritelty säädöstyyppi kirjataan myös uudistussopimukseen.

Toimeksiannon mukaan hierarkia lainsäätämisjärjestyksessä hyväksyttävien säädösten ja muiden kuin lainsäätämisjärjestyksessä hyväksyttävien säädösten välillä toteutetaan perustuslakisopimuksen mallin mukaisesti, vaikka säädösten nimissä palataankin nykysopimusten mukaisiin nimiin. Toimeksianto ei määrittele tarkemmin, kuinka hierarkia toteutetaan. Puheenjohtajan ehdotuksessa hierarkia toteutetaan lisäämällä sopimukseen perustuslakisopimuksen mukaiset uudet määräykset säädösvallan siirrosta ja täytäntöönpanosäädöksistä. Päätösten osalta voidaan kuitenkin katsoa, ettei perustuslakisopimuksen mukainen erottelu lainsäädäntö- ja täytäntöönpanoinstrumentteihin täysin toteudu. Siinä missä päätökset voivat nykysopimusten mukaan olla sekä lainsäädäntö- että täytäntöönpanosäädöksiä, perustuslakisopimuksessa ne määriteltiin ei-lainsäädäntöinstrumenteiksi. Ehdotus ei toimeksiannon mukaisesti sisällä tätä erottelua. Suomi katsoo, että erottelu lainsäädäntö- ja täytäntöönpanoinstrumentteihin voidaan toteuttaa toimeksiannon puitteissa.

Puheenjohtaja esittää uudistussopimukseen erillistä johdantoa. Toimeksiannossa ei määrätä erityisestä johdanto-osasta eikä sen sisällöstä, mutta toisaalta johdantotekstin sisältö ei ole ongelmallinen. Uudistussopimus sisältää omat loppumääräykset, jotka koskevat sopimuksen voimassaoloa (toistaiseksi) sekä olemassa olevien pöytäkirjojen ja Euratom-sopimuksen muutoksia, jotka sisällytetään pöytäkirjoihin 11 ja 12. Unionisopimuksen ja EY-sopimuksen artiklojen uudelleennumerointi toteutetaan sisällyttämällä uudistussopimukseen uudelleennumerointia koskeva vastaavuustaulukko. Ratifiointia, voimaantuloa ja todistusvoimaisia kieliä koskevat määräykset ovat samantyyppiset kuin aiemmissa perussopimusten muutoksissa; voimaantulon tavoitepäivämääränä on 1.1.2009, mutta edellytyksenä kaikkien jäsenvaltioiden ratifiointi. Unionisopimus sisältää perustuslakisopimuksen mukaiset määräykset sopimusten tavanomaisesta ja yksinkertaistetusta muuttamismenettelystä. Toimeksiannon mukaisesti sopimuksessa todetaan nimenomaisesti, että unionin toimivaltuuksia voidaan sekä lisätä että vähentää sopimuksen tavanomaisessa muuttamismenettelyssä.

Toimeksianto on unionisopimuksen ja EY-sopimuksen loppumääräyksiin tehtävien muutosten osalta melko avoin. Puheenjohtajan ehdotuksessa esitetty ratkaisumalli ei ole ainoa mahdollinen, mutta se ei sisällä ongelmallisia määräyksiä. Unionisopimukseen sisällytetään uusi alueellista soveltamisalaa koskeva määräys ja todetaan, että alueellista soveltamisalaa koskevat tarkemmat määräykset sisältyvät EY-sopimukseen. EY-sopimuksen mukaan sopimuksia (unionisopimus ja EY-sopimus) sovelletaan Ahvenanmaahan Suomen, Ruotsin ja Itävallan liittymisasiakirjan 2 pöytäkirjan, joka koskee Ahvenanmaata, mukaisesti. Määräykset ovat hyväksyttävissä.

Toimielimet

Kesäkuun Eurooppa-neuvosto päätti sisällyttää perustuslakisopimuksen toimielimiä koskevat uudistukset, kuten neuvoston uudet äänestysäännöt ja puheenjohtajuusjärjestelmä, komission kokoonpanon muuttaminen, uusi Eurooppa-neuvoston pysyvän puheenjohtajan virka ja Euroopan

parlamentin paikkajakoa koskevat periaatteet, pääpiirteissään sellaisenaan uudistus sopimukseen. Ainoat sisältömuutokset koskevat neuvoston äänestysjärjestelmää ja EU:n ulkoministerin nimikkeen muuttamista unionin ulkoasioiden ja turvallisuuspolitiikan korkeaksi edustajaksi. Lisäksi osana rakennetta koskevaa ratkaisua päätettiin, että perustuslakisopimuksen I osassa olleista toimielimiä koskevista määräyksistä vain keskeisimmät sijoitetaan EU-sopimukseen, ja muut toimielinmääräykset sijoitetaan sopimukseen Euroopan unionin toiminnasta.

Puheenjohtajamaan sopimusluonnos vastaa HVK:n toimeksiantoa. EU-sopimukseen on kirjattu kesäkuussa sovitusti, että neuvoston päätöksenteossa siirrytään kaksoisenemmistöjärjestelmään 1.11.2014, eikä perustuslakisopimuksen mukaisesti 1.11.2009. Pöytäkirjaan 10, joka koskee toimielimiin sovellettavia siirtymämääräyksiä, on kirjattu mahdollisuus pyytää Nizzan äänestysääntöjen käyttöä 1.11.2014 ja 31.3.2017 välisenä aikana. Julistukseen 4 sisältyy nk. Ioanninan kompromissi kesäkuussa sovitussa muodossa siten, että 1.4.2017 alkaen menettelyn käynnistämiseen riittää 55 %:ia määrävähemmistöön vaadittavista jäsenmaista tai väestöstä kun perustuslakisopimuksen mukaan siihen vaadittiin 75 %:ia. Ioanninan kompromissin mukaan neuvoston tulee pyrkiä laajempaan yhteisymmärrykseen kohtuullisessa ajassa ja tuottamatta haittaa pakottavien määräaikojen soveltamiselle, mikäli määrävähemmistöön jääneet ilmoittavat vastustavansa päätöksen tekemistä määräenemmistöllä.

Yksi jäsenmaa on esittänyt, että Ioanninan kompromissi siirrettäisiin julistuksesta sopimustekstiin. Mikäli asia nousee vielä esille, Suomen kantana on, ettei kompromissia tulisi siirtää julistuksesta sopimustekstiin. HVK:n toimeksianto (kohta 13) on asian osalta selkeä. On myös huomioitava, että Ioanninan kompromissi on nykyisinkin julistuksen muodossa. Kompromissi on luonteeltaan enemmänkin poliittinen, eikä se sisällä esim. mitään aikarajoja laajemman yhteisymmärryksen etsimiselle neuvostossa. Ioanninan kompromissiin on vedottu vain kerran sen jälkeen kun se otettiin käyttöön vuoden 1995 laajentumisen yhteydessä. Suomen yhtenä keskeisenä tavoitteena on unionin päätöksenteon tehostaminen. Ioanninan kompromissin siirtäminen sopimustekstiin voisi lisätä siihen vetoamista, mikä puolestaan hidastaisi unionin päätöksentekoa.

Toimeksiannon nimenomaisen määräyksen mukaan unionisopimukseen sisällytetään erityinen määräys, jonka mukaan unionin tuomioistuimella ei ole YUTP-määräyksiä koskevaa toimivaltaa siinä mainittuja poikkeuksia lukuun ottamatta. Tuomioistuimen toimivallan rajoittamista YUTP:n alalla koskeva määräys sisältyy myös EY-sopimukseen. Unionisopimukseen sisällytettyä määräystä on mukautettu hieman toimeksiantoon verrattuna. Toimeksiantoon sinänsä perustuva ratkaisu merkitsee päällekkäistä sääntelyä, ja on mahdollista, että mainittujen määräysten toisistaan hieman poikkeavat muotoilut vaikuttaisivat tuomioistuimen toimivallan arvioimiseen esimerkiksi niiltä osin kuin se koskee mahdollisuutta antaa lausuntoja kansainvälisistä sopimuksista. Suomi katsoo, että sopimustekstin tulee tältä osin vastata toimeksiantoa.

Tuomioistuimen toimivaltaa YUTP:n alalla koskevat rajoitukset merkitsevät myös sitä, että tuomiovallan ulkopuolelle jää muun muassa niiden erityissäädösten tulkinta ja laillisuuden varmistaminen, jotka koskevat tietosuojaa YUTP:n alalla. Tätä voidaan pitää puutteena, koska kysymyksessä ovat muista YUTP:n alan toimista poiketen lainsäädäntötoimet.

Alakohtainen tarkastelu

Alakohtaisessa tarkastelussa keskitytään meneillään oleviin HVK-neuvotteluihin. Siten muistiossa on keskitytty siihen, onko perustuslakisopimuksen sisältämät uudistukset toteutettu puheenjohtajamaan sopimusluonnoksessa HVK-toimeksiannossa määritellyllä tavalla.

Politiikka-alakohtaisessa tarkastelussa on havaittu joitakin viittaus- ja muita teknisiä virheitä, joiden oikaisusta huolehditaan oikeudellisten asiantuntijoiden kokouksessa. Tällaisia tarkistustarpeita ei ole käsitelty tässä asiakirjassa tyhjentävästi niiden teknisen luonteen huomioon ottaen. Edellä on todettu, että uusista säädösnimikkeistä luovuttaessa uudistusopimuksessa on jäänyt perustuslakisopimuksesta poiketen avoimeksi käytettävissä oleva säädöstyyppi.

Perusoikeudet

Toimeksiannon mukaan EU-sopimukseen sisällytetään viittaus unionin perusoikeuskirjaan vuoden 2004 HVK:n hyväksymässä muodossa niin, että perusoikeuskirja määritellään oikeudelliselta asemaltaan perussopimukseen verrattavaksi ja se julkaistaan unionin virallisessa lehdessä. Eurooppa-neuvosto sopi yhdestä perusoikeuskirjan soveltamisalaan liittyvästä julistuksesta, Puolan yksipuolisesta julistuksesta sekä pöytäkirjasta, joka mahdollistaa Yhdistyneen kuningaskunnan erityisaseman koskien perusoikeuskirjan soveltamista kansallisiin viranomaisiin. Julistusten ja pöytäkirjojen tekstit sisältyivät toimeksiantoon eikä niistä ole enää tarkoitus neuvotella.

Kesäkuussa päätettiin myös, että sopimukseen lisätään perustuslakisopimuksen mukainen oikeusperusta, joka mahdollistaa unionin liittymisen Euroopan ihmisoikeussopimukseen. Kansainvälisiä sopimuksia koskevaan sopimusmääräykseen lisätään, että neuvosto hyväksyy unionin liittymisen Euroopan ihmisoikeussopimukseen yksimielisesti ja jäsenvaltiot ratifioivat päätöksen.

Puheenjohtajan sopimusluonnoksessa kesäkuussa määritellyt muutokset on toteutettu mandaatin mukaisesti. Neuvoston päätös liittymisestä Euroopan ihmisoikeussopimukseen ei tule voimaan ennen kuin kaikki jäsenvaltiot ovat hyväksyneet päätöksen omien kansallisten menettelyjensä mukaisesti.

Puheenjohtajan ehdotuksessa perusoikeuskirjan teksti ja sen selitykset on sisällytetty perussopimukseen liitettäviin erillisiin julistuksiin. Perustuslakisopimuksessa perusoikeuskirja oli sisällytetty kokonaisuudessaan itse sopimukseen ja perusoikeuskirjan selitykset sisällytettiin erilliseen julistukseen.

Perusoikeuskirjan tekstin kohdalla toimeksianto viittaa vuonna 2004 hyväksyttyyn versioon, joka julkaistaisiin virallisessa lehdessä. Lisäksi toimeksiannossa määrätään, että perustuslakisopimukseen liitetty julistukset siirretään sellaisinaan vuoden 2007 HVK:n päätösasiakirjaan siltä osin kuin ne koskevat vuoden 2007 HVK:ssa käsiteltyjä määräyksiä. Tältä osin perusoikeuskirjan ja sen selitysten sisällyttämisellä julistuksiin on eroa, että selitykset sisältyivät perustuslakisopimuksen kohdalla julistukseen nro 12.

Perusoikeuskirjan tekstin sisällyttämisestä erilliseen julistukseen ei määrätä toimeksiannossa, joka kuitenkin muutoin sisältää lukuisia asiaa koskevia määräyksiä ja julistuksia. Myös tämän ratkaisun voidaan kuitenkin tulkita täyttävän toimeksianto sikäli, että sopimusteknisesti julistukset eivät ole osa sopimusta. Ratkaisua voidaan perustella myös perusoikeuskirjan näkyvyyden korostamisella.

Yhteinen ulko- ja turvallisuuspolitiikka

Toimeksiannon mukaan yhteinen ulko- ja turvallisuuspolitiikka sijoitetaan jatkossakin EU-sopimukseen muista politiikka-aloista erilliseksi kokonaisuudeksi. Edellä käsitellään yhteistä ulko- ja turvallisuuspolitiikkaa koskevia kysymyksiä siltä osin kuin ne liittyvät sopimuksen rakenteeseen ja näiden määräysten sijoitteluun kahteen eri sopimukseen.

Toimeksiannossa sovittiin EU:n ulkoministerin nimikkeen muuttamisesta EU:n ulkoasioiden ja turvallisuuspolitiikan korkeaksi edustajaksi. Sopimusluonnos noudattaa toimeksiantoa. Huomionarvoista on, että uusi nimike ei viittaa ainoastaan YUTP:aan vaan EU:n ulkosuhteisiin yleisemmin, millä voi olla merkitystä tulkittaessa korkean edustajan tehtäväkenttää ja roolia YUTP:ta laajemmin. Korkean edustajan tehtävään kuuluu YUTP:n johtamisen, muotoiluun osallistumisen ja toteuttamisen lisäksi EU:n koko ulkoisen toiminnan johdonmukaisuudesta huolehtiminen.

YUTP-määräyksiin lisätään toimeksiannon mukaisesti nk. koherenssimääräys, jonka mukaan YUTP perustuu erityispiirteistään huolimatta EU:n koko ulkoista toimintaa ohjaaville periaatteille ja sillä pyritään samoihin tavoitteisiin. Vastaava koherenssimääräys lisätään SEY:n ulkosuhdemääräysten alkuun sen varmistamiseksi, että koko EU:n ulkoinen toiminta kuuluu SEU:een sijoitetun yleisen määräyksen alaan. Suomen yleisen kannan mukaisesti koherenssimääräykset ovat kannatettavia.

Toimeksianto sisältää sekä sopimusmääräyksiä koskevia muutoksia unionisopimukseen että julistustekstin, joilla on tarkoitus tuoda esille YUTP:n erityispiirteitä. YUTP:n erityispiirteiden korostamisen ei ole määrä vaikuttaa toimielinten toimivaltuuksiin tai muutoinkaan YUTP-määräysten asiasisältöön vaan tuoda erityispiirteitä paremmin esille. Sopimusluonnoksen määräykset toimivallan luonteesta YUTP:ssa ja muista erityispiirteistä (Eurooppa-neuvoston ja neuvoston rooli sekä yksimielisyysspääsääntö, YUTP:ssä ei hyväksytty lainsäädäntöä, YUTP:n toimeenpano, Euroopan parlamentin ja komission erityinen rooli ja tuomioistuimen toimivalta) vastaavat toimeksiantoa ja ottavat huomioon perustuslakisopimuksen muotoilut.

Unionin laajentuminen

Uusien valtioiden liittymistä unioniin koskevan artiklan tarkistettu sanamuoto sisältyy Eurooppa-neuvoston hyväksymään toimeksiantoon. Artiklan otsikoksi sovittiin Unioniin liittymistä koskevat vaatimukset ja menettely. Otsikko selkeyttää artiklan sisältöä. Artiklassa käytetty ilmaisu "periaatteet" muutetaan "arvoiksi". Artiklassa lisätään sitoumus unionin arvojen edistämiseen edellytykseksi jäsenyyden hakemiselle. Artiklaan lisätään myös velvoite ilmoittaa jäsenyyshakemuksesta unionimaiden kansallisille parlamenteille, millä vahvistetaan kansallisten parlamenttien muodollista asemaa jäsenyyssprosessissa. Lopuksi artiklaan lisätään myös virke, jonka mukaan Eurooppa-neuvoston sopimat unioniin liittymistä koskevat vaatimukset otetaan huomioon. Lisäys vahvistaa laajentumista koskevien Eurooppa-neuvoston päätelmien muodollista asemaa, mutta niiden oikeudellisen asema ei muutu. Päätelmät on nykytilanteessakin otettu huomioon sanotulla tavalla. Unionin laajentumista koskeva artikla vastaa toimeksiantoa ja on Suomen hyväksyttävissä.

Kansalliset parlamentit ja toissijaisuusperiaatteen valvonta

Toimeksiannon mukaisesti kansallisten parlamenttien asemaa vahvistetaan toissijaisuusperiaatteen valvonnassa. Puheenjohtajamaan sopimusluonnokseen liitettyä pöytäkirjaa 1 kansallisten parlamenttien asemasta EU:ssa ja pöytäkirjaa 2 toissijaisuus- ja suhteellisuusperiaatteiden soveltamisesta on mukautettu toimeksiannon mukaisesti. Toissijaisuusperiaatteen ennakkovalvonnassa pidennetään parlamenttien reagointiaikaa kuudesta kahdeksaan viikkoon ja lisätään valvontamenettelyyn uusi vaihe. Uuden menettelyn mukaan neuvosto ja Euroopan parlamentti tarkastelevat toissijaisuusperiaatteen toteutumista ennen tavanomaisen lainsäätämisyjärjestyksen ensimmäisen käsittelyn päättämistä tilanteessa, jos komissio on päättänyt pitää säädösehdotuksensa ennallaan, vaikka parlamentit ääntensä yksinkertaisella enemmistöllä

katsovat sen toissijaisuusperiaatteen vastaiseksi. Jos 55 % jäsenmaista tai Euroopan parlamentin yksinkertainen enemmistö katsoo, ettei ehdotus ole toissijaisuusperiaatteen mukainen, ehdotuksen käsittely päättyy.

Eurooppa-neuvosto päätti myös lisätä unionisopimukseen uuden yleisen kansallisten parlamenttien roolia koskevan artiklan. Tältäkin osin sopimusluonnos vastaa toimeksiantoa.

Sisämarkkinat ja kilpailusäännöt

Sisämarkkinoita koskevan luvun osalta sopimukseen on tehty toimeksiannon mukaisesti perustuslakisopimuksen sisältämät muutokset. Unionin tavoiteartiklaa on muutettu Eurooppa-neuvoston toimeksiannon mukaisesti siten, että sisämarkkinoiden luomisen ei erikseen mainita sisältävän aluetta, jossa kilpailu on vapaata ja vääristymätöntä. Tästä on kuitenkin erillinen julistus, jossa todetaan, että tavoiteartiklan maininta sisämarkkinoista sisältää järjestelmän, jolla taataan vapaa ja vääristymätön kilpailu. Suomi lähtee siitä, että perustuslakisopimukseen tehdyllä muutoksella ei ole käytännön merkitystä, sillä kilpailusääntöjen vahvistamisen todetaan unionin toimivaltaa koskevassa artiklassa kuuluvan unionin yksinomaiseen toimivaltaan.

Maatalous ja kalastus

Sopimusluonnoksessa nostetaan kalastus perustuslakisopimuksen mukaisesti maatalouteen rinnastettavaksi asiakokonaisuudeksi. Siinä missä osaston otsikko on perustuslakisopimuksen mukainen, noudattaa sen sijoittelu nykysopimusta. Sijoittelun osalta ei ole kuitenkaan ilmennyt erityistä syytä vastustaa puheenjohtajan ehdotusta.

Maatalouden osalta siirrytään pääsäännön mukaisesti nykyisin sovellettavasta kuulemismenettelystä perustuslakisopimuksen mukaiseen yhteispäätösmenettelyyn. Tästä säännöstä poikkeuksen muodostavat kuitenkin hintoja, tukia, maksuja ja määrällisiä rajoitteita sekä kalastusmahdollisuuksien rajoittamista koskevat asiat, joista päätöksen tekisi jatkossakin neuvosto määräenemmistöllä komission ehdotuksesta. Puheenjohtajan sopimusluonnoksesta puuttuu kuitenkin määräys nykyisin maatalouden ja kalastuksen aloilla pääsääntöisesti sovellettavan kuulemismenettelyn kumoamisesta. Mikäli kyseistä määräystä ei erikseen kumota, jää kaksi päätöksentekomenettelyä voimaan rinnakkain. Kyseessä lienee luonnokseen jäänyt tekninen virhe.

Yleishyödylliset palvelut

Yleishyödyllisiä palveluita koskeva EY-sopimuksen määräys vastaa perustuslakisopimuksessa sovittuja muotoiluja teknisesti mukautettuna uudistussopimuksesta johtuvista ratkaisuista. Toimeksiannon mukaan yleishyödyllisistä palveluista tehdään myös pöytäkirja, jonka teksti sisältyy kokonaisuudessaan toimeksiantoon. Pöytäkirja täsmentää yleistä taloudellista etua koskevien palvelujen osalta niiden tavoitteita ja jäsenmaiden roolia niiden järjestämisessä. Määräykset ovat Suomen hyväksyttävissä.

Oikeus- ja sisäasiat

Oikeus- ja sisäasioiden osalta toimeksiannossa määrätään perustuslakisopimuksen sisältämien keskeisten muutosten toteuttamisesta ml. pilarijaon poistuminen. Toimeksianto sisälsi kuitenkin joitakin erikseen määriteltäviä poikkeuksia vuoden 2004 HVK:n tulokseen.

Toimeksiannon mukaan oikeudellista yhteistyötä yksityisoikeuden alalla koskeviin määräyksiä muutetaan perustuslakisopimukseen verrattuna siten että kansallisille parlamenteille annetaan rooli perheoikeutta koskevassa siirtymälausekkeessa. Tuomioiden vastavuoroista tunnustamista, rikosten ja seuraamusten määrittelyä koskevia vähimmäissääntöjä, Euroopan syyttäjänvirastoa ja poliisiyhteistyötä koskeviin hätäjarrumääräyksiin lisätään perustuslakisopimukseen verrattuna uusi mekanismi, jonka mukaan jäsenvaltiot voivat edetä alan toimenpiteiden hyväksymisessä sopimuksen tiiviimpää yhteistyötä koskevia määräyksiä noudattaen. Oikeudellisen yhteistyön alalla puheenjohtajan sopimusluonnoksessa ei ole havaittu erityisiä ongelmia.

Sisäasioiden osalta jäsenvaltioiden toimivaltaisten viranomaisten välistä sekä näiden ja komission välistä yhteistyötä koskevaan artiklaan on tehty toimeksiannon mukaisesti tarkennus, jonka mukaan jäsenvaltiot organisoivat keskenään kansallisesta turvallisuudesta vastaavien viranomaisten välisen yhteistyön.

Toimeksiannon mukaisesti puheenjohtaja ehdottaa varojen jäädyttämistä terrorismin torjumiseksi koskevan määräyksen siirtämistä tulliliittoa koskevasta luvusta osaksi oikeus- ja sisäasioita käsittelevää lukua. Tältä osin huomattavaa on, että siirron seurauksena kyseisen artiklan nojalla hyväksyttyihin toimenpiteisiin sovelletaan jatkossa Yhdistyneen kuningaskunnan, Irlannin ja Tanskan opt out – järjestelyjä. Artiklan siirtäminen on kuitenkin määriteltä selkeästi toimeksiannossa. Suomen kannalta tärkeintä on, että artikla toteutetaan sisällöllisesti puheenjohtajan esittämässä muodossa perustuslakisopimuksen mukaisena.

Toimeksiannon mukaan Yhdistynyttä kuningaskuntaa ja Irlantia koskevan pöytäkirjan soveltamisalaa laajennetaan siten, että se kattaa Yhdistyneen kuningaskunnan osalta rikosoikeudellisen ja poliisiyhteistyön. Suomen kannalta laajennus ei ole erityinen ongelma, vaikka yleisesti ottaen se aiheuttaa oikeudellisia tulkintaongelmia.

Liikenne ja Euroopan laajuiset verkot

Toimeksiannossa ei ole erityisiä määräyksiä liikenteestä tai Euroopan laajuisista verkoista. Uudistussopimuksen määräykset vastaavat yleisesti perustuslakisopimuksen määräyksiä.

Immateriaalioikeudet

Uudistussopimuksen määräykset teollisoikeuksia koskevasta eurooppalaisesta suojasta vastaavat perustuslakisopimuksen määräyksiä. Toimeksiannon mukaan määräys tuomioistuimen toimivallan laajentamisesta koskemaan eurooppalaista teollisoikeudellista suojaa koskevia riitoja säilytetään EY-sopimuksen nykyisen määräyksen mukaisena. Uudistussopimusluonnoksessa ehdotettu päätöksentekomenettely ei ole nykysopimusten eikä perustuslakisopimuksen mukainen. Ratkaisulla ei ole ilmeisestikään suurta käytännön merkitystä, mutta kirjaustapa on tarpeen vielä tarkistaa.

Talous- ja rahapolitiikka

Talous- ja rahapolitiikkaa koskevat artikkelit ovat uudistusopimuksessa perustuslakisopimuksen ja toimeksiannon mukaisia, eikä niihin ole Suomella huomautettavaa eräitä teknisiä kysymyksiä lukuun ottamatta.

Energia

Uudistusopimuksen energiaa koskeviin määräyksiin on tehty toimeksiannon mukaiset muutokset eli artikkelin johdantoon on lisätty viittaus jäsenvaltioiden väliseen yhteisvastuunhenkeen sekä uusi energiaverkkojen yhteen liittämistä koskeva alakohta. Määräykseen, joka koskee toimenpiteitä, jos ilmenee suuria vaikeuksia tiettyjen tuotteiden saatavuudessa, lisätään toimeksiannon mukaisesti viittaus jäsenvaltioiden väliseen yhteisvastuunhenkeen ja tiettyjen tuotteiden saatavuusvaikeuksia osalta energian erityistapaukseen.

Sosiaaliturva

Toimeksiannon mukaisesti sosiaaliturvan koordinaatiossa siirrytään määräenemmistöpäätöksiin ja päätöksentekoon lisätään hätäjarrumekanismi. Suomi on ollut jo aiemmin valmis hyväksymään siirtymisen määräenemmistöpäätöksiin.

Uudistusopimuksella ei kumota jäsenvaltioiden liittymissopimuksia, joten Suomen liittymissopimukseen sisältyviin työeläkejärjestelmään (TEL) liittyviin määräyksiin ei tehdä muutoksia nykytilaan verrattuna.

Työllisyys

Uudistusopimuksen työllisyyttä koskevat määräykset vastaavat sisällöllisesti toimeksiantoa ja perustuslakisopimuksessa hyväksytyjä uudistuksia.

Taloudellinen, sosiaalinen ja alueellinen koheesio

Taloudellista, sosiaalista ja alueellista koheesiota koskeviin artikloihin on tehty perustuslakisopimuksen mukaiset muutokset yhtä lukuun ottamatta. Puheenjohtajan ehdotuksesta puuttuu EY-sopimuksen 159 artiklan kohdalla viittaus alueelliseen koheesioon, joka on tarpeen siihen lisätä.

HVK:n toimeksiantoon ei sisälly sopimusrakenteesta johtuvana ratkaisuna viittausta Itävallan, Suomen ja Ruotsin liittymisasiakirjan harvaa asutusta koskevan pöytäkirjan 6 liitteeseen 1. Koheesiota koskevan 158 artiklan 3 kohtaan sisältyy kuitenkin nimenomainen maininta pohjoisimmista alueista, joiden väestötiheys on erittäin alhainen. Tämän maininnan voidaan käytännössä katsoa tarkoittavan liittymisasiakirjan liitteessä tarkoitettuja harvaan asuttuja alueita, jotka ovat sijaintinsa perusteella Euroopan unionin pohjoisimpia alueita. Tulkintaa vahvistaa vielä artikkelin 3 kohdassa mainitut kriteerit, joiden mukaan erityistä huomiota kiinnitetään muun ohella vakavista ja pysyvistä luontoon tai väestöön liittyvistä haitoista kärsiviin alueisiin. Suomen ja Ruotsin mainitut alueet täyttävät selvästi nämä kriteerit.

Tutkimus ja teknologian kehittäminen sekä avaruus

Tutkimusta ja teknologian kehittämistä koskevat määräykset vastaavat muotoilultaan perustuslakisopimuksessa hyväksytyjä määräyksiä vähäisiä teknisiä muutoksia lukuun ottamatta. Myös avaruuspolitiikkaa koskeva määräys perustuu perustuslakisopimuksen muotoiluun, mutta siihen on lisätty toimeksiannon mukaisesti täsmennys, jonka mukaan hyväksytyt toimenpiteet eivät saa johtaa jäsenvaltioiden lakien ja asetusten yhdenmukaistamiseen. Artiklan loppuun on tehty kuitenkin myös uusi viittaus siitä, että kyseinen oikeusperusta on toissijainen suhteessa sopimuksen muihin määräyksiin. Lisäyksen perustelut ja tarve selvitetään.

Ympäristö

Tärkein muutos ympäristöpolitiikkaa koskeviin artikloihin liittyy siihen, että toimeksiannon mukaisesti ilmastomuutoksen torjunta mainitaan puheenjohtajan luonnoksessa nimenomaisesti yhtenä kansainvälisen toiminnan tavoitteista. Lähtökohtaisesti täydennyksen voidaan katsoa olevan poliittinen eli sillä korostetaan ilmastohaasteen merkittävyyttä muuttamatta kuitenkaan toimivallanjakoa. Muutoin alan määräyksiin tehtävät muutokset vastaavat sisällöllisesti perustuslakisopimusta.

Velvollisuus sisällyttää ympäristönsuojelun vaatimukset unionin kaikkiin politiikkoihin sisältyy jatkossakin EY-sopimukseen. EU-sopimukseen sisällytetyn YUTP:n osalta on huomattava lisäksi, että ulkoisen toiminnan tavoitteissa mainitaan nimenomaisesti ympäristönsuojelun edistäminen. Ehdotetut muotoilut ovat Suomen hyväksyttävissä.

Koulutus, ammatillinen koulutus, nuoriso, urheilu ja kulttuuri

Koulutusta, ammatillista koulutusta, nuorisoa, urheilua ja kulttuuria koskevat määräykset vastaavat sisällöllisesti toimeksiantoa ja perustuslakisopimuksessa hyväksytyjä muotoiluja.

Kansanterveys ja terveystalvelut

Toimeksiannon mukaan kansanterveyttä koskeva artikla sisällytetään uudistussopimukseen sellaisena kuin se on perustuslakisopimuksessa. Toimenpiteet, jotka koskevat rajatylittävien vakavien terveysuhkien valvontaa, niistä hälyttämistä ja niiden torjumista siirretään kuitenkin kannustustoimenpiteiden hyväksymistä koskevaan kohtaan. Lisäksi sovittiin siitä, että HVK antaa julistuksen lääkkeiden ja lääkekinnallisten laitteiden laatu- ja turvallisuusvaatimuksia koskevien toimenpiteiden sisämarkkinanäkökohdasta. Julistusteksti on Suomen hyväksyttävissä.

Kansanterveyttä koskevaan sopimusmääräykseen päätettiin perustuslakisopimuksessa lisätä viittaus mielenterveyteen fyysisen terveyden ohella. Lisäys puuttuu puheenjohtajan ehdotuksesta. Koska tavoitteena on ollut perustuslakisopimuksen sisältämien uudistusten toteuttaminen, voidaan katsoa, ettei puheenjohtajan esittämä muotoilu tältä osin ole toimeksiannon mukainen. Suomi pitää tärkeänä, että määräys säilyy näiltä osin samana kuin perustuslakisopimuksessa.

Puheenjohtajan ehdottama terveystalveluita koskeva määräys ei vastaa perustuslakisopimuksen määräystä. Olennainen ero on terveystalveluita koskevan määräyksen ensimmäisessä virkkeessä, jossa nyky sopimuksen mukaisesti rajataan artikla koskemaan kansanterveyden alaa. Vuoden 2004 HVK:ssa Suomi muiden muassa halusi laajentaa kohdan soveltamisalaa ja siksi viittaus kansanterveyden alaan poistettiin tekstistä. Terveysteen ja terveystalveluihin vaikutetaan paljon myös muilla unionin politiikoilla. Sopimusluonnokseen sisältyvälle muutokselle ei löydy perustetta toimeksiannosta ja Suomi katsoo, että tekstistä tulisi poistaa viittaus kansanterveyden alaan.

Tekstiin tulisi palauttaa myös perustuslakisopimukseen sisältynyt viittaus terveystalouden hallintoihin, koska toimeksiannossa ei määrätä sen poistamisesta.

Teollisuus ja matkailu

Teollisuutta ja matkailua koskevat määräykset vastaavat toimeksiantoa ja perustuslakisopimuksen määräyksiä.

Muu ulkoinen toiminta, ml. kauppapolitiikka

Unionin ulkoista toimintaa koskevan osan alkuun SEY:ssä on lisätty mandaatin mukaisesti edellä mainittu määräys, jossa todetaan että unionin toiminta kansainvälisellä tasolla perustuu unionisopimukseen sisältyvien, unionin ulkoista toimintaa koskevien yleisten määräysten mukaisiin periaatteisiin ja tavoitteisiin ja sitä toteutetaan kyseisten määräysten mukaisesti.

Unionin ulkoista toimintaa koskevat SEY:n määräykset kauppapolitiikasta, yhteistyöstä kolmansien maiden kanssa ja humanitaarisesta avusta, taloudellisesta, teknisestä ja rahoitusyhteistyöstä kolmansien maiden kanssa, humanitaarisesta avusta, rajoittavista toimenpiteistä, kansainvälisten sopimusten tekemisestä, unionin suhteista kansainvälisiin järjestöihin ja kolmansien maihin, unionin edustustoista sekä yhteisvastuulausekkeesta perustuvat perustuslakisopimuksessa hyväksyttyihin uudistuksiin ja ovat hyväksyttävissä. Muutoksia koskien unionin liittymistä Euroopan ihmisoikeussopimukseen on käsitelty edellä erikseen.

Euratom

Euratom säilyy itsenäisenä oikeushenkilönä. Euratomia koskevaan pöytäkirjaan on tehty ainoastaan tarvittavia teknisiä mukautuksia.

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

**Brussels, 23 July 2007 (30.07')
(OR. fr)**

CIG 1/07

NOTE

from:	Presidency of the IGC
date:	23 July 2007
to:	Intergovernmental Conference (IGC)
Subject:	IGC 2007 Draft Treaty amending the Treaty on European Union and the Treaty establishing the European Community

DRAFT TREATY AMENDING THE TREATY ON EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

Articles 1 to 7 of the Reform Treaty

N.B.:

This document is only a working document for examination by the IGC. The cross-references between Articles which appear in square brackets will, as usual, be corrected by the Legal/Linguistic experts when they finalise the text of the Reform Treaty before it is signed.

Article 1

The Treaty on European Union shall be amended in accordance with the provisions of this Article.

Preamble

- 1) In the preamble the words "of this Treaty" shall be replaced by "of these Treaties" and the following text shall be inserted as the second recital:

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

General provisions

- 2) Article 1 shall be amended as follows:

(a) the Article heading "Establishment of the Union" shall be inserted;

(b) the following words shall be inserted at the end of the first paragraph:

"... on which the Member States confer competences to attain objectives they have in common.";

(c) the third paragraph shall be replaced by the following:

"The Union shall be founded on the present Treaty and on the Treaty on the Functioning of the European Union. It shall replace and succeed the European Community."

- 3) An Article 2 shall be inserted and the existing Article 2 shall be renumbered Article 3:

"Article 2 The Union's values

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

- 4) Article 2, renumbered 3, shall be replaced by the following:

"Article 3
The Union's objectives

1. The Union's aim is to promote peace, its values and the well-being of its peoples.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment.

It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

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

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

4. The Union shall establish an economic and monetary union whose currency is the euro.
5. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.
6. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties."

- 5) Article 3, renumbered 4, shall be replaced by the following:

"Article 4
Relations between the Union and the Member States

1. In accordance with Article [I-11], competences not conferred upon the Union in the Treaties remain with the Member States.
2. The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.
3. Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties.

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

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

- 6) Article 4, renumbered 5, shall be replaced by the following:

"Article 5
Fundamental principles relating to competences

1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.
2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.
3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

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

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

The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality."

7) Article 5 shall be repealed.

8) Article 6 shall be replaced by the following:

"Article 6
Fundamental rights

1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of 7 December 2000, as adapted on [... 2007], which shall have the same legal value as the Treaties.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions.

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 Treaties.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law."

9) Article 7 shall be amended as follows:

- (a) the Article heading "Suspension of certain rights resulting from Union membership" shall be inserted;
- (b) throughout the Article, the word "assent" shall be replaced by "consent", the reference to breach "of principles mentioned in Article 6(1)" shall be replaced by a reference to breach "of the values referred to in Article [I-2]" and the words "of this Treaty" shall be replaced by "of the Treaties";
- (c) at the end of the first sentence of the first subparagraph of paragraph 1, the words "... and address appropriate recommendations to that State" shall be deleted; at the end of the last sentence, the words "... and, acting in accordance with the same procedure, may call on independent persons to submit within a reasonable time limit a report on the situation in the Member State in question" shall be replaced by "... and may address recommendations to it, acting in accordance with the same procedure.";
- (d) in paragraph 2, the words "the Council, meeting in the composition of the Heads of State or Government and acting by unanimity ..." shall be replaced by "the European Council, acting by unanimity ..." and the words "the government of the Member State in question" shall be replaced by "the Member State in question";
- (e) paragraphs 5 and 6 shall be replaced by the following:

"5. The voting arrangements applying to the European Parliament, the European Council and the Council for the purposes of this Article are laid down in Article [309] of the Treaty on the Functioning of the Union."

10) The following new Article 7a shall be inserted:

"Article 7a
The Union and its neighbours

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

- 11) The provisions of Title II of the EU Treaty shall be incorporated into the Treaty establishing the European Community.

Democratic principles

- 12) Title II and Article 8 shall be replaced by the following new heading and new articles:

"TITLE II PROVISIONS ON DEMOCRATIC PRINCIPLES

Article 8

The principle of democratic equality

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

Article 8a

The principle of representative democracy

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

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

3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.
4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

Article 8b

The principle of participatory democracy

1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.
2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

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

4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.

The procedures and conditions required for such a citizens' initiative shall be determined in accordance with Article [I-47(4)(last sentence)] of the Treaty on the Functioning of the Union.

Article 8c The role of national Parliaments

National Parliaments shall contribute actively to the good functioning of the Union:

- (a) through being informed by the institutions of the Union and having draft European legislative acts forwarded to them in accordance with the Protocol on the role of national Parliaments in the European Union;
- (b) by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;
- (c) by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with Article [III-260] of the Treaty on the Functioning of the Union, and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles [III-276 and III-273] of that Treaty;
- (d) by taking part in the revision procedures of the Treaties, in accordance with Articles [IV-443 and IV-444] of this Treaty;
- (e) by being notified of applications for accession to the Union, in accordance with Article [I-58] of this Treaty;
- (f) by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national Parliaments."

Institutions

- 13) The provisions of Title III of the EU Treaty shall be repealed. Title III shall be replaced by the following heading:

"TITLE III
PROVISIONS ON THE INSTITUTIONS".

- 14) Article 9 shall be replaced by the following:

"Article 9
The Union's institutions

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

The Union's institutions shall be:

- the European Parliament,
- the European Council,
- the Council,
- the European Commission (hereinafter referred to as the "Commission"),
- the Court of Justice of the European Union,
- the European Central Bank,
- the Court of Auditors.

2. Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures and conditions set out in them. The institutions shall practise mutual sincere cooperation.

3. The provisions relating to the European Central Bank and the Court of Auditors are set out in the Treaty on the Functioning of the Union."

- 15) An Article 9a shall be inserted:

"Article 9a
The European Parliament

1. The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the Treaties. It shall elect the President of the Commission.

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

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

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

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

16) An Article 9b shall be inserted:

"Article 9b
The European Council and its President

1. The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.

2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The High Representative of the Union for Foreign Affairs and Security Policy shall take part in its work.

3. The European Council shall meet quarterly, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.

4. Except where the Treaties provide otherwise, decisions of the European Council shall be taken by consensus.

5. The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end his or her term of office in accordance with the same procedure.

6. The President of the European Council:

- (a) shall chair it and drive forward its work;
- (b) shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;
- (c) shall endeavour to facilitate cohesion and consensus within the European Council;
- (d) shall present a report to the European Parliament after each of the meetings of the European Council.

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

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

17) An Article 9c shall be inserted:

"Article 9c

The Council, its Presidency and the definition of a qualified majority

- 1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Treaties.
- 2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.
- 3. The Council shall act by a qualified majority except where the Treaties provide otherwise.
- 4. As from 1 November 2014, a qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union.

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

The other arrangements governing the qualified majority are laid down in Article [I-25(2)] of the Treaty on the Functioning of the Union.

5. The transitional provisions relating to the definition of the qualified majority which shall be applicable until 31 October 2014 and those which shall be applicable from 1 November 2014 to 31 March 2017 are laid down in the Protocol on transitional provisions.

6. The Council shall meet in different configurations, the list of which shall be adopted in accordance with Article [I-24(4) and (7)] of the Treaty on the Functioning of the Union.

The General Affairs Council shall ensure consistency in the work of the different Council configurations. It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.

The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.

7. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.

8. 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.

9. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established in accordance with Article [I-24(4) and (7)] of the Treaty on the Functioning of the Union.

18) An Article 9d shall be inserted:

"Article 9d
The European Commission and its President

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

2. Union legislative acts may be adopted only on the basis of a Commission proposal, except where the Treaties provide otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Treaties so provide.

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

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

In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article [I-28(2)], the members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

4. The Commission appointed between the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and 31 October 2014 shall consist of one national of each Member State, including its President and the High Representative of the Union for Foreign Affairs and Security Policy who shall be one of its Vice-Presidents.

5. As from 1 November 2014, the Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.

The members of the Commission shall be chosen from among the nationals of the Member States on the basis of a system of equal rotation between the Member States. This system shall be established unanimously by the European Council in accordance with Article [I-26(a) and (b)] of the Treaty on the Functioning of the Union.

6. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article [III-340] of the Treaty on the Functioning of the Union, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from the duties that he or she carries out in the Commission.

7. The President of the Commission shall:

- (a) lay down guidelines within which the Commission is to work;
- (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;

- (c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The High Representative of the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article [I-28(1)], if the President so requests.

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

The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in [paragraph 3, second subparagraph, and paragraph 5, second subparagraph].

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

- 19) The following new Article 9e shall be inserted:

"Article 9e
The High Representative of the Union for Foreign Affairs
and Security Policy

1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High Representative of the Union for Foreign Affairs and Security Policy. The European Council may end his or her term of office by the same procedure.
2. The High Representative shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.
3. The High Representative shall preside over the Foreign Affairs Council.

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

20) An Article 9f shall be inserted:

"Article 9f
The Court of Justice of the European Union

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

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

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

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

The judges and the Advocates-General of the Court of Justice and the judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles [III-355 and III-356] of the Treaty on the Functioning of the Union. They shall be appointed by common accord of the governments of the Member States for six years. Retiring judges and Advocates-General may be reappointed.

3. The Court of Justice of the European Union shall in accordance with the Treaties:

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

- 21) The provisions of Title IV of the EU Treaty shall be incorporated into the Treaty establishing the European Atomic Energy Community.

Enhanced cooperation

- 22) Title IV shall take over the heading of Title VII, "PROVISIONS ON ENHANCED COOPERATION", and Articles 27a to 27e, Articles 40 to 40b and Articles 43 to 45 shall be replaced by the following Article 10:

"Article 10
Enhanced cooperation

1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Treaties, subject to the limits and in accordance with the procedures laid down in this Article and in Articles [III-416 to III-423] of the Treaty on the Functioning of the Union.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article [III-418] of the Treaty on the Functioning of the Union.

2. The decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least nine Member States participate in it. The Council shall act in accordance with the procedure laid down in Article [III-419] of the Treaty on the Functioning of the Union.

3. All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. The voting rules are set out in Article [I-44(3)] of the Treaty on the Functioning of the Union.

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

- 23) Title V of the EU Treaty shall be renamed as follows: "GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION AND SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY".

General provisions on the Union's external action

24) The following new chapter shall be inserted:

"CHAPTER 1 GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION

Article 10a

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (a) safeguard its values, fundamental interests, security, independence and integrity;
- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law;
- (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;
- (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;
- (e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;
- (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;

- (g) assist populations, countries and regions confronting natural or man-made disasters; and
- (h) promote an international system based on stronger multilateral cooperation and good global governance.

3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and Part Five of the Treaty on the Functioning of the Union, and of the external aspects of its other policies.

The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.

Article 10b

1. On the basis of the principles and objectives set out in Article [III-292], the European Council shall identify the strategic interests and objectives of the Union.

Decisions of the European Council on the strategic interests and objectives of the Union shall relate to the common foreign and security policy and to other areas of the external action of the Union. Such decisions may concern the relations of the Union with a specific country or region or may be thematic in approach. They shall define their duration, and the means to be made available by the Union and the Member States.

The European Council shall act unanimously on a recommendation from the Council, adopted by the latter under the arrangements laid down for each area. Decisions of the European Council shall be implemented in accordance with the procedures provided for in the Treaties.

2. The High Representative of the Union for Foreign Affairs and Security Policy, for the area of common foreign and security policy, and the Commission, for other areas of external action, may submit joint proposals to the Council."

The common foreign and security policy

25) The following new heading shall be inserted:

"CHAPTER 2 SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY

26) The following new Article 10 C shall be inserted:

"Article 10c

The Union's action on the international scene, pursuant to this Chapter, shall be guided by the principles, shall pursue the objectives of, and be conducted in accordance with, the general provisions laid down in Chapter 1."

27) Article 11 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following two paragraphs:

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

The common foreign and security policy is subject to specific procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. The Court of Justice of the European Union shall not have jurisdiction with respect to the provisions relating to this area, with the exception of its jurisdiction to monitor the compliance with Article [III 308] of this Treaty and to review the legality of certain decisions as provided for by Article [III-376, second paragraph] of the Treaty on the Functioning of the Union.

2. Within the framework of the principles and objectives of its external action, the Union shall conduct, define and implement a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions."

- (b) paragraph 2 shall be renumbered 3 and amended as follows:
 - (i) The following words shall be added at the end of the first subparagraph:

"... and shall comply with the Union's action in this area.";
 - (ii) the third subparagraph shall be replaced by "The Council and the High Representative shall ensure that these principles are complied with."

28) Article 12 shall be replaced by the following:

"The Union shall conduct the common foreign and security policy by:

- (a) defining the general guidelines;
- (b) adopting decisions defining:
 - (i) actions to be undertaken by the Union;
 - (ii) positions to be taken by the Union;
 - (iii) arrangements for the implementation of the decisions referred to in points (i) and (ii);
- (c) strengthening systematic cooperation between Member States in the conduct of policy."

29) Article 13 shall be amended as follows:

- (a) in paragraph 1, the words "... define the principles of and general guidelines for ..." shall be replaced by "... shall identify the Union's strategic interests, determine the objectives of and define general guidelines for ..." and the following sentence shall be added: "It shall adopt the necessary decisions.". The following subparagraph shall be inserted:

"If international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy in the face of such developments.";

- (b) paragraph 2 shall be deleted and paragraph 3 shall be renumbered 2. The first subparagraph shall be replaced by the following: "The Council shall frame the common foreign and security policy and take the decisions necessary for defining and implementing it on the basis of the general guidelines and strategic lines defined by the European Council." The second subparagraph shall be deleted;

(c) the following new paragraph shall be inserted:

"3. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by the Member States, using national and Union resources."

30) The following new Article 13a shall be inserted:

"Article 13a

1. The High Representative of the Union for Foreign Affairs and Security Policy, who shall chair the Foreign Affairs Council, shall contribute through his or her proposals towards the preparation of the common foreign and security policy and shall ensure implementation of the decisions adopted by the European Council and the Council.

2. The High Representative shall represent the Union for matters relating to the common foreign and security policy. He or she shall conduct political dialogue with third parties on the Union's behalf and shall express the Union's position in international organisations and at international conferences.

3. In fulfilling his or her mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission."

31) Article 14 shall be amended as follows:

- (a) in paragraph 1, the first two sentences shall be replaced by the following sentence:
"Where the international situation requires operational action by the Union, the Council shall adopt the necessary decisions.";
- (b) in paragraph 2, first sentence, the words "... to joint action," shall be replaced by "... to such a decision," and the words "that action" shall be replaced by "that decision". The last sentence shall be deleted;
- (c) in paragraph 3, the words "Joint actions ..." shall be replaced by "Decisions referred to in paragraph 1 ...";
- (d) paragraph 4 shall be deleted and the remaining paragraphs shall be renumbered accordingly;

- (e) in the first sentence of paragraph 5, renumbered 4, the words "... pursuant to a joint action, information shall be provided in time to allow," shall be replaced by "pursuant to a decision as referred to in paragraph 1, information shall be provided by the Member State concerned in time to allow, ...";
 - (f) in the first sentence of paragraph 6, renumbered 5, the words "... failing a Council decision," shall be replaced by "... failing a review of the Council decision referred to in paragraph 1," and the words "... of the joint action" shall be replaced by "... of that decision".
 - (g) in the first sentence of paragraph 7, renumbered 6, the words "joint action" shall be replaced by "decision referred to in this Article".
- 32)** At the beginning of Article 15, the words "The Council shall adopt common positions. Common positions shall define ..." shall be replaced by "The Council shall adopt decisions which shall define ..." and at the end of the Article the words "common positions" shall be replaced by "Union positions".
- 33)** The text of Article 16, with the amendments set out in point 35 below, shall become Article 17a. The text of Article 22, with the following amendments, shall become Article 16:
- (a) in paragraph 1, the words "Any Member State or the Commission may refer to the Council any question relating to the common foreign and security policy" shall be replaced by "Any Member State, the High Representative of the Union for Foreign Affairs and Security Policy, or that Minister with the Commission's support, may refer any question relating to the common foreign and security policy to the Council ..." and the words "... submit proposals to the Council" shall be replaced by "... submit to it initiatives or proposals as appropriate";
 - (b) in paragraph 2, the words "the Presidency ..." shall be replaced by "the High Representative of the Union for Foreign Affairs and Security Policy ..." and the words ", or at the request of the Commission or a Member State," shall be replaced by ", or at the request of a Member State,".
- 34)** The text of Article 17 shall become Article 27, with the amendments set out in point 48 below. The text of Article 23, with the following amendments, shall become Article 17:
- (a) in paragraph 1, the first subparagraph shall be replaced by the following: "Decisions under this Chapter shall be taken by the European Council and the Council acting unanimously. The adoption of legislative acts shall be excluded." and the last sentence in the second subparagraph shall be replaced by the following: "If the members of the Council qualifying their abstention in this way represent at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted.";

(b) Paragraph 2 shall be amended as follows:

(i) the first indent shall be replaced by the following two indents:

- "- when adopting a decision defining a Union action or position on the basis of a decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article [III-293(1)],
- when adopting a decision defining a Union action or position, on a proposal which the High Representative of the Union for Foreign Affairs and Security Policy has presented following a specific request to him or her from the European Council, made on its own initiative or that of the High Representative,";

(ii) in the second indent, which shall become the third indent, the words "... a joint action or a common position," shall be replaced by "... a decision defining a Union action or position,";

(iii) in the second subparagraph, first sentence, the word "important" shall be replaced by "vital"; the last sentence shall be replaced by the following: "The High Representative 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 may, acting by a qualified majority, request that the matter be referred to the European Council for a decision by unanimity.";

(iv) the third subparagraph shall be replaced by the following new paragraph 3, the last subparagraph shall become paragraph 4 and paragraph 3 shall be renumbered 5:

"3. The European Council may unanimously adopt a decision stipulating that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2 of this Article.";

(c) in the paragraph now numbered 4, the words "This paragraph shall not apply ..." shall be replaced by "Paragraphs 2 and 3 shall not apply ..." and paragraph 3 shall be renumbered 5.

35) An Article 17a shall be inserted, with the wording of Article 16; it shall be amended as follows:

(a) the words "... inform and ..." shall be deleted, the words "within the Council" shall be replaced by "within the European Council and the Council" and the words "... in order to ensure that the Union's influence is exerted as effectively as possible by means of concerted and convergent action." shall be replaced by "... in order to determine a common approach.";

- (b) the following sentence shall be added after the first sentence: "Before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity.";

- (c) the following two paragraphs shall be inserted:

"When the European Council or the Council has defined a common approach of the Union within the meaning of the first paragraph, the High Representative of the Union for Foreign Affairs and Security Policy and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council.

The diplomatic missions of the Member States and the Union delegations in third countries and at international organisations shall cooperate and shall contribute to formulating and implementing the common approach."

36) Article 18 shall be amended as follows:

- (a) paragraphs 1 to 4 shall be deleted;
- (b) in paragraph 5, which shall not be numbered, the words "..., whenever it deems it necessary, ..." shall be replaced by "..., on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, ..." and the following sentence shall be added at the end: "The special representative shall carry out his or her mandate under the authority of the High Representative."

37) Article 19 shall be amended as follows:

- (a) in paragraph 1, the words "... common positions" shall be replaced by "... Union's positions" and the following sentence shall be added: "The High Representative of the Union for Foreign Affairs and Security Policy shall organise this coordination.";
- (b) Paragraph 2 shall be amended as follows:
 - (i) in the first subparagraph, the words "Without prejudice to paragraph 1 and Article 14(3)," shall be replaced by "In accordance with Article [I-16(2)]," and ", as well as the High Representative," shall be inserted after "... keep the latter";

- (ii) in the second subparagraph, first sentence, the words "and the High Representative" shall be inserted after "... the other Member States"; in the second sentence, the words "... ensure the defence of the positions ..." shall be replaced by "... defend the positions ...";

- (iii) the following new third subparagraph shall be inserted:

"When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the High Representative be asked to present the Union's position."

38) Article 20 shall be amended as follows:

- (a) in the first paragraph, the words "Commission delegations" shall be replaced by "Union delegations" and the words "... the common positions and joint actions adopted by the Council" shall be replaced by "decisions defining Union positions and actions adopted pursuant to this Chapter";
- (b) in the second paragraph, the words "... and contributing to the implementation of the provisions referred to in Article 20 of the Treaty establishing the European Community" shall be deleted and the following paragraph shall be added:

"They shall contribute to the implementation of the right of European citizens to protection in the territory of third countries as referred to in Article [I-10(2)(c)] of the Treaty on the Functioning of the Union and of the measures adopted pursuant to Article [III-127] of that Treaty".

39) Article 21 shall be amended as follows:

- (a) the first paragraph shall be replaced by the following:

"The High Representative of the Union for Foreign Affairs and Security Policy shall regularly consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and the common security and defence policy and inform it of how those policies evolve. He or she shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.";

- (b) in the second paragraph, first sentence, the words "and the High Representative of the Union" shall be inserted at the end; in the second sentence, the words "It shall hold an annual debate" shall be replaced by "Twice a year it shall hold a debate" and the words ", including the common security and defence policy" shall be inserted at the end.

40) The text of Article 22 shall become Article 16; it shall be amended as set out above in point 33.

41) The text of Article 23 shall become Article 17; it shall be amended as set out above in point 34.

42) Article 24, renumbered 22, shall be replaced by the following:

"The Union may conclude agreements with one or more States or international organisations in areas covered by this Chapter."

43) Article 25, renumbered 23, shall be amended as follows:

- (a) in the first paragraph, first sentence, the reference to the Treaty establishing the European Community shall be adjusted in accordance with this Treaty and the words "or of the High Representative of the Union for Foreign Affairs and Security Policy" shall be inserted after "... at the request of the Council"; in the second sentence, the words "... without prejudice to the responsibility of the Presidency and the Commission" shall be replaced by "without prejudice to the powers of the High Representative";
- (b) the text of the second paragraph shall be replaced by the following: "Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council and of the High Representative, the political control and strategic direction of the crisis management operations referred to in Article [III-309].";
- (c) in the third paragraph, the reference to Article 47 shall be deleted.

44) Articles 26 and 27, renumbered 24 and 25, shall be replaced by the following two articles, with Article 25 replacing Article 47:

"Article 24

In accordance with Article [I-51] of the Treaty on the Functioning of the Union and by way of derogation from paragraph 2 thereof, the Council shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by the Member States when carrying out activities which fall within the scope of this Chapter, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

Article 25

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 Treaties for the exercise of the Union competences referred to in Articles [I-13 to I-15 and I-17] of the Treaty on the Functioning of the Union.

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 Treaties for the exercise of the Union competences under this Chapter.

- 45) Articles 27a to 27e, on enhanced cooperation, shall be replaced by Article [I-44] in accordance with point 22 above.
- 46) Article 28, renumbered 26, shall be amended as follows:
- (a) paragraph 1 shall be deleted and the remaining paragraphs shall be renumbered accordingly; throughout the Article the words "budget of the European Communities" shall be replaced by "Union budget";
 - (b) in paragraph 2, renumbered 1, the words "... which the provisions relating to the areas referred to in this title entail" shall be replaced by "... to which the implementation of this Chapter gives rise";
 - (c) in paragraph 3, renumbered 2, the words "... the implementation of those provisions" in the first subparagraph shall be replaced by "... the implementation of this Chapter" and in the second subparagraph the reference to Article 23 shall be replaced by a reference to Article [III-300];
 - (d) the following new paragraph 3 shall be inserted, paragraph 4 having been deleted:

"3. The Council shall adopt a decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article [I-41(1) and Article III-309]. It shall act after consulting the European Parliament.

Preparatory activities for the tasks referred to in Article [I-41(1) and Article III-309] which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

The Council shall adopt by a qualified majority, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, decisions establishing:

- (a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;
- (b) the procedures for administering the start-up fund;
- (c) the financial control procedures.

When the task planned in accordance with [Article I-41(1) and Article III-309] cannot be charged to the Union budget, the Council shall authorise the High Representative to use the fund. The High Representative shall report to the Council on the implementation of this remit."

The common security and defence policy

47) The following new section shall be inserted:

"SECTION RELATING TO THE PROVISIONS ON THE COMMON SECURITY AND DEFENCE POLICY"

48) Article 27 shall take over the wording of Article 17, with the following amendments:

- (a) the following new paragraph 1 shall be inserted and the next paragraph shall be renumbered 2:

"1. The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civil and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.";

- (b) paragraph 1, renumbered 2, shall be amended as follows:

- (i) the first subparagraph shall be replaced by the following:

"The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.";

- (ii) in the second subparagraph, the words "in accordance with this Article" shall be replaced by "in accordance with this Section";
 - (iii) the third subparagraph shall be deleted;
- (c) paragraph 2, renumbered 3, to paragraph 5 shall be replaced by the following paragraphs:
- "3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the common security and defence policy.
- Member States shall undertake progressively to improve their military capabilities. The Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) shall identify operational requirements, shall promote measures to satisfy those requirements, shall contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, shall participate in defining a European capabilities and armaments policy, and shall assist the Council in evaluating the improvement of military capabilities.
4. Decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate.
5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article [III-310].
6. Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article [III-312]. It shall not affect the provisions of Article [III-309].
7. If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.

Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation."

49) The following new Articles 28 to 31 shall be inserted:

"Article 28

1. The tasks referred to in Article [I-41(1)], in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

2. The Council shall adopt decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation. The High Representative of the Union for Foreign Affairs and Security Policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

Article 29

1. Within the framework of the decisions adopted in accordance with Article [III-309], the Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the High Representative of the Union for Foreign Affairs and Security Policy, shall agree among themselves on the management of the task.

2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary decisions.

Article 30

1. The European Defence Agency referred to in Article [I-41(3)], subject to the authority of the Council, shall have as its task to:

- (a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;
- (b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;
- (c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;
- (d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;
- (e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

2. The European Defence Agency shall be open to all Member States wishing to be part of it. The Council, acting by a qualified majority, shall adopt a decision defining the Agency's statute, seat and operational rules. That decision should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.

Article 31

1. Those Member States which wish to participate in the permanent structured cooperation referred to in Article [I-41(6)], which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation, shall notify their intention to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy.

2. Within three months following the notification referred to in paragraph 1 the Council shall adopt a decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by a qualified majority after consulting the High Representative.

3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the High Representative.

The Council shall adopt a decision confirming the participation of the Member State concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation. The Council shall act by a qualified majority after consulting the High Representative. Only members of the Council representing the participating Member States shall take part in the vote.

A qualified majority shall be defined in accordance with Article [205(3)(a)] of the Treaty on the Functioning of the Union.

4. If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation, the Council may adopt a decision suspending the participation of the Member State concerned.

The Council shall act by a qualified majority. Only members of the Council representing the participating Member States, with the exception of the Member State in question, shall take part in the vote.

A qualified majority shall be defined in accordance with Article [205(3)(a)] of the Treaty on the Functioning of the Union.

5. Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate.

6. The decisions and recommendations of the Council within the framework of permanent structured cooperation, other than those provided for in paragraphs 2 to 5, shall be adopted by unanimity. For the purposes of this paragraph, unanimity shall be constituted by the votes of the representatives of the participating Member States only."

- 50) Articles 29 to 39 of Title VI of the EU Treaty, which relate to judicial cooperation in criminal matters and to police cooperation, shall be replaced by Articles [III-257 to III-264 and III-270 to III-277] of the Treaty on the Functioning of the Union; they shall be amended as set out in Article 2, points 61, 64 and 65, of this Treaty. The heading of the Title shall be deleted and its number shall become the number of the Title on final provisions.
- 51) Articles 40 to 40b of Title VI of the EU Treaty and Articles 43 to 45, relating to enhanced cooperation, shall be replaced by Article [I-44] in accordance with point 22 above.
- 52) Articles 41 and 42 of the EU Treaty shall be repealed.

Final provisions

- 53) Title VIII, on final provisions, shall be renumbered VI; this Title and Articles 48, 49, 51, 52 and 53 shall be amended as set out respectively in points 55, 56, 60, 62 and 63 below. Article 47 shall be replaced by Article 25, as indicated above in point 44, and Articles 46 and 50 shall be repealed.

- 54) The following new Article 32 shall be inserted:

"Article 32
Legal personality

The Union shall have legal personality."

- 55) An Article 33 shall be inserted to replace Article 48:

"Article 33
Treaty revision procedures

The Treaties may be amended in accordance with an ordinary revision procedure. They may also be amended in accordance with simplified revision procedures.

Ordinary revision procedure

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of the Treaties. These proposals may serve either to increase or to reduce the competences conferred on the Union in the Treaties. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.

If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in the fourth subparagraph.

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

A conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaties.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

If, two years after the signature of the treaty amending the Treaties, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.

Simplified revision procedures

2. The Government of any Member State, the European Parliament or the Commission may submit to the European Council proposals for revising all or part of the provisions of Part Three of the Treaty on the Functioning of the Union relating to the internal policies and action of the Union.

The European Council may adopt a decision amending all or part of the provisions of Part Three of the Treaty on the Functioning of the Union. The European Council shall act by unanimity after consulting the European Parliament and the Commission, and the European Central Bank in the case of institutional changes in the monetary area. That decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

The decision referred to in the second subparagraph shall not increase the competences conferred on the Union in the Treaties.

3. Where the Treaty on the Functioning of the Union or Title V of this Treaty provides for the Council to act by unanimity in a given area or case, the European Council may adopt a decision authorising the Council to act by a qualified majority in that area or in that case. This subparagraph shall not apply to decisions with military implications or those in the area of defence.

Where the Treaty on the Functioning of the Union provides for legislative acts to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a decision allowing for the adoption of such acts in accordance with the ordinary legislative procedure.

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

For the adoption of the decisions referred to in the first and second subparagraphs, 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."

56) An Article 34 shall be inserted, with the wording of Article 49; it shall be amended as follows:

- (a) the following Article heading shall be inserted: "Conditions of eligibility and procedure for accession to the Union";
- (b) the first paragraph shall be amended as follows:
 - (i) in the first sentence, the words "... which respects the principles set out in Article 6(1) may apply ..." shall be replaced by "... which respects the values referred to in Article 2 and is committed to promoting them may apply ...";
 - (ii) in the second sentence, the words "It shall address its application to the Council, which shall act unanimously ..." shall be replaced by "The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously ..." and the word "assent" shall be replaced by "consent";
 - (iii) the following new third sentence shall be inserted: "The conditions of eligibility agreed upon by the European Council shall be taken into account."

57) The following new Article 35 shall be inserted:

"Article 35
Voluntary withdrawal from the Union

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article [III-325(3)] of the Treaty on the Functioning of the Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

A qualified majority shall be defined in accordance with Article [205(3)(b)] of the Treaty on the Functioning of the Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article [I-58]."

58) An Article 36 shall be inserted:

"Article 36
Protocols and Annexes

The Protocols and Annexes to the Treaties shall form an integral part thereof.

59) An Article 37 shall be inserted:

"Article 37
Territorial scope

1. The Treaties shall apply to the Kingdom of Belgium, Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

2. The territorial scope of the Treaties is specified in Article [IV-440(2) to (7)] of the Treaty on the Functioning of the Union."

60) An Article 38 shall be inserted, with the wording of Article 51; it shall be amended as follows:

- (a) the following Article heading shall be inserted: "Duration";
- (b) The words "This Treaty is concluded ..." shall be replaced by "These Treaties are concluded ...".

61) The following new Article 39 shall be inserted:

"Article 39

Relationship between this Treaty and the Treaty on the Functioning of the European Union

This Treaty and the Treaty on the Functioning of the European Union constitute the Treaties on which the Union is founded. These two Treaties, which have the same legal value, shall be referred to as "the Treaties".

62) An Article 40 shall be inserted, with the wording of Article 52; it shall be amended as follows:

- (a) the following Article heading shall be inserted: "Ratification and entry into force";
- (b) in paragraph 1 the words "This Treaty" shall be replaced by "These Treaties";
- (c) in paragraph 2 the words "This Treaty" shall be replaced by "These Treaties" and the words "... on 1 January 1993, provided that all the Instruments of ratification have been deposited, or, failing that, ..." shall be deleted.

63) An Article 41 shall be inserted, with the wording of Article 53; it shall be amended as follows:

- (a) the following heading shall be inserted: "Authentic texts and translations";
- (b) the first paragraph shall be numbered 1 and the words "this Treaty" shall be replaced by "these Treaties", the languages listed in the second paragraph of Article 53 of the EU Treaty shall be added to the list in this paragraph and the second paragraph shall be deleted;

(c) the following new paragraph 2 shall be inserted:

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

Article 2

- 1) The Treaty establishing the European Community shall be amended in accordance with the provisions of this Article.
- 2) The title of the Treaty shall be replaced by "Treaty on the Functioning of the European Union".

A. HORIZONTAL AMENDMENTS

- 3) Throughout the Treaty:
 - (a) the words "Community" and "European Community" shall be replaced by "Union", the words "European Communities" shall be replaced by "European Union";
 - (b) the words "this Treaty" and "the present Treaty" shall be replaced by "the Treaties" and the verb, where applicable, shall be put in the plural;
 - (c) the words "the Council [shall], acting in accordance with the procedure referred to in Article 251" shall be replaced by "the European Parliament and the Council [shall], acting in accordance with the ordinary legislative procedure", and the words "procedure referred to in Article 251" shall be replaced by "ordinary legislative procedure";
 - (d) the words "acting by a qualified majority" and "by a qualified majority" shall be deleted;
 - (e) the words "Council meeting in the composition of the Heads of State or Government" shall be replaced by "European Council";
 - (f) the words "institutions or bodies" shall be replaced by "institutions, bodies, offices or agencies", except in the first paragraph of Article 193;
 - (g) the words "common market" shall be replaced by "internal market";
 - (h) the word "ecu" shall be replaced by "euro";
 - (i) the words "Member States without a derogation" shall be replaced by "Member States whose currency is the euro";
 - (j) the abbreviation "ECB" shall be replaced by "European Central Bank";

- (k) the words "Statute of the ESCB" shall be replaced by "Statute of the ESCB and of the ECB";
 - (l) The words "Committee provided for in Article 114" and "Committee referred to in Article 114" shall be replaced by "Economic and Financial Committee";
 - (m) the words "Statute of the Court of Justice" shall be replaced by "Statute of the Court of Justice of the European Union";
 - (n) the words " Court of First Instance" shall be replaced by "General Court";
 - (o) the words "judicial panel" and "judicial panels" shall be replaced by "specialised court" and "specialised courts" respectively and any necessary grammatical changes shall be made.
- 4) In the following Articles, the words "on a proposal from the Commission" shall be replaced by "in accordance with a special legislative procedure";
- Article 17a(1)
 - Article 19(1)
 - Article 19(2)
 - Article 22, second paragraph
 - Article 93.
 - Article 95
 - Article 104(14), second subparagraph
 - Article 166(4)
 - Article 175(2), first subparagraph
- 5) In the following Articles, the words ", acting by a simple majority" shall be inserted after "the Council":
- Article 130, first paragraph
 - Article 144, first paragraph
 - Article 208
 - Article 209
 - Article 213, second paragraph, second sentence
 - Article 216
 - Article 284.
- 6) In the following Articles, the words "consulting the European Parliament" shall be replaced by "obtaining the consent of the European Parliament":
- Article 17a(1)
 - Article 22, second paragraph.

- 7) In the following Articles, the word "institution" or "institutions" shall be replaced by "institution, body, office or agency" or "institutions, bodies, offices or agencies", as appropriate, and any grammatical changes necessary shall be made:
- Article 195(1), second subparagraph
 - Article 232, second paragraph
 - Article 233, first paragraph:
 - Article 234, point (b)
 - Article 255(2).
- 8) In the following Articles, the words "Court of Justice" shall be replaced by "Court of Justice of the European Union".
- | | |
|---|--|
| – Article 83(2)(d) | – Article 234, first, second and third paragraphs |
| – Article 88(2), second subparagraph | – Article 235 |
| – Article 94(9) | – Article 236 |
| – Article 195(1) | – Article 237, introductory sentence and point (d) |
| – Article 225a, sixth paragraph | – Article 238 |
| – Article 226, second paragraph | – Article 240 |
| – Article 227, first paragraph | – Article 242 |
| – Article 228(1) | – Article 243 |
| – Article 229 | – Article 244 |
| – Article 229a | – Article 245, first paragraph |
| – Article 230, first, second and third paragraphs | – Article 247(8) |
| – Article 231, first paragraph | – Article 256, second paragraph and fourth paragraph |
| – Article 232, first paragraph | – Article 290. |
| – Article 233, first paragraph | |
- 9) In the following Articles, the reference to another Article of the Treaty shall be replaced by the following reference to an Article of the Treaty on European Union:
- | | |
|---------------------------------|--|
| – Article 21, third paragraph | reference to Article [I-19] (first reference) and Article [IV-448(1)] (second reference) |
| – Article 97b | reference to Article [I-3] |
| – Article 98 | reference to Article [I-3] (first reference) |
| – Article 105(1) | reference to Article [I-3] |
| – Article 125 | reference to Article [I-3] |
| – Article 215, fourth paragraph | reference to Article [I-27(1)]. |

B. SPECIFIC AMENDMENTS

Preamble

- 10) In the second recital, the word "countries" shall be replaced by "States" and in the last recital, the words "HAVE DECIDED to create a EUROPEAN COMMUNITY and to this end have designated ..." shall be replaced by "and to this end HAVE DESIGNATED ..."

Common provisions

- 11) Article 9 shall be replaced by the following:

Article 1

1. This Treaty organises the functioning of the Union and determines the areas, the scope of, and arrangements for exercising its competences.

2. This Treaty and the Treaty on European Union constitute the Treaties on which the Union is founded. These two Treaties, which have the same legal value, shall be referred to as "the Treaties".

- 12) Article 3(1) shall be repealed. Paragraph 2 thereof shall become Article 8; it shall be amended as set out below in point 21.
- 13) The text of Article 4 shall become Article 97b. it shall be amended as set out below in point 82.
- 14) The text of Article 12 shall become Article 17.
- 15) The text of Article 13 shall become Article 17a. It shall be amended as set out below in point 31.
- 16) The text of Article 14 shall become Article 22a. It shall be amended as set out below in point 41.

- 17) The text of Article 15 shall become Article 22b. It shall be amended as set out below in point 42.
- 18) The text of Article 16 shall become Article 14. It shall be amended as set out in point 27.

Categories and areas of competence

- 19) Articles 2 to 6 shall be replaced by the following new Title and new Articles:

"TITLE I CATEGORIES AND AREAS OF UNION COMPETENCE

Article 2

1. When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.
 2. When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised its competence. The Member States shall again exercise their competence to the extent that the Union has decided to cease exercising its competence.
 3. The Member States shall coordinate their economic and employment policies within arrangements as determined by the Treaties, which the Union shall have competence to provide.?
 4. The Union shall have competence, in accordance with the provisions of the Treaty on European Union, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.
 5. In certain areas and under the conditions laid down in the Treaties, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.
- Legally binding acts of the Union adopted on the basis of the provisions of the Treaties relating to these areas shall not entail harmonisation of Member States' laws or regulations.
6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions of the Treaties relating to each area.

Article 3

1. The Union shall have exclusive competence in the following areas:
 - (a) customs union;
 - (b) the establishing of the competition rules necessary for the functioning of the internal market;
 - (c) monetary policy for the Member States whose currency is the euro;
 - (d) the conservation of marine biological resources under the common fisheries policy;
 - (e) common commercial policy.
2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.

Article 4

1. The Union shall share competence with the Member States where the Constitution confers on it a competence which does not relate to the areas referred to in Articles [I-13 and 17].
2. Shared competence between the Union and the Member States applies in the following principal areas:
 - (a) internal market;
 - (b) social policy, for the aspects defined in this Treaty;
 - (c) economic, social and territorial cohesion;
 - (d) agriculture and fisheries, excluding the conservation of marine biological resources;
 - (e) environment;
 - (f) consumer protection;
 - (g) transport;
 - (h) trans-European networks;
 - (i) energy;
 - (j) area of freedom, security and justice;
 - (k) common safety concerns in public health matters, for the aspects defined in this Treaty.

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

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

Article 5

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

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

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

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

Article 6

The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be:

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

Provisions having general application

- 20) Article 7 shall be replaced by the following title and article:

**"TITLE II
PROVISIONS HAVING GENERAL APPLICATION**

Article 7

The Union shall ensure consistency between its policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers."

- 21) Article 8 shall be replaced by the wording of Article 3(2). The words "... the activities referred to in this Article," shall be replaced by "... its activities, ".

- 22) Article 9 shall be replaced by the following:

"In defining and implementing its policies and actions, 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."

- 23) Article 10 shall be replaced by the following:

"In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."

- 24) Article 11 shall be replaced by the wording of Article 6, with the deletion of "referred to in Article 3".

- 25) Article 12 shall be replaced by the wording of Article 153(2).

- 26) Article 13 shall be replaced by the wording of the enacting terms of the Protocol on the protection and welfare of animals; the word "fisheries" shall be inserted after "agriculture", the words "... and research" shall be replaced by "... research and technological development and space", and the words ", since animals are sentient beings," shall be inserted after "Member States shall".

27) Article 14 shall be replaced by the wording of Article 16; it shall be amended as follows:

- (a) a reference to Article [I-5] of the Treaty on European Union shall be inserted in the list of articles at the beginning;
- (b) at the end of the first sentence, the words "... and conditions which enable them to fulfil their missions" shall be replaced by "... and conditions, particularly economic and financial conditions, which enable them to fulfil their missions.";
- (c) the following new sentence shall be added:

"The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Treaties, to provide, to commission and to fund such services. "

28) Article 15 shall be replaced by the following:

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

Non-discrimination and citizenship

29) The heading of Part Two shall be replaced by the following heading:
"NON DISCRIMINATION AND CITIZENSHIP".

30) Article 17 shall be replaced by the wording of Article 12.

31) An Article 17a shall be inserted, with the wording of Article 13; in paragraph 2, the words "... when the Council adopts ..." shall be replaced by "... the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt ..." and the words at the end of the paragraph "... it shall act in accordance with the procedure referred to in Article 251" shall be deleted.

32) An Article 17b shall be inserted, with the wording of Article 17; Article 17(2) shall be replaced by the following:

"2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have:

- (a) the right to move and reside freely within the territory of the Member States;
- (b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;
- (c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
- (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language.

These rights shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder."

33) Article 18 shall be amended as follows:

- (a) in paragraph 2, the words "... the Council may adopt" shall be replaced by "... the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt ..." and the last sentence shall be deleted;
- (b) paragraph 3 shall be replaced by the following:

"3. For the same purposes as those referred to in paragraph 1 and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament."

- 34) In Article 20, the words "... establish the necessary rules among themselves and" shall be deleted. The following new paragraph shall be added:

"The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament, may adopt directives establishing the coordination and cooperation measures necessary to facilitate such protection."

- 35) In Article 21, the following new first paragraph shall be inserted:

"The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the provisions for the procedures and conditions required for a citizens' initiative within the meaning of Article [I-47] of the Treaty on European Union, including the minimum number of Member States from which such citizens must come."

- 36) An Article 21a shall be inserted, with the wording of Article 255; it shall be amended as follows:

- (a) paragraph 1 shall be preceded by the following text, paragraph 1 being renumbered 3 and paragraphs 2 and 3 becoming subparagraphs:

"1. In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible.

2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act."

- (b) in paragraph 1, renumbered 3, first subparagraph, the words "European Parliament, Council and Commission documents" shall be replaced by "documents of the Union institutions, bodies, offices and agencies, whatever their medium" and the reference to paragraphs 2 and 3 shall be replaced by a reference to this paragraph;

- (c) in paragraph 2, which becomes the second subparagraph of paragraph 3, the words "within two years of the entry into force of the Treaty of Amsterdam" shall be deleted;

- (d) in paragraph 3, which becomes the third subparagraph of paragraph 3, the words "... referred to above shall elaborate ..." shall be replaced by "... shall ensure that its proceedings are transparent and shall elaborate", the words "... in accordance with the legislative act referred to in the second subparagraph" shall be inserted at the end of the subparagraph and the following two new subparagraphs shall be added:

"The Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to this paragraph only when exercising their administrative tasks.

The European Parliament and the Council shall ensure publication of the documents relating to the legislative procedures under the terms laid down by the legislative act referred to in the second subparagraph."

- 37) An Article 21b shall be inserted:

"Article 21b

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

The rules adopted on the basis of this Article shall be without prejudice to the specific rules laid down in Article [III-307a]."

- 38) In the second paragraph of Article 22, the following sentence shall be added at the end: "This paragraph shall not apply to the first paragraph of Article 21, to Article 21a or to Article 21b."
- 39) In the heading of Part Three, the words "AND INTERNAL ACTIONS" shall be inserted after "POLICIES".

Internal market

- 40) A Title I, with the heading "THE INTERNAL MARKET" shall be inserted at the beginning of Part Three.
- 41) An Article 22a shall be inserted, with the wording of Article 14. Paragraph 1 shall be replaced by the following:
- "1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Treaties."

- 42) An Article 22b shall be inserted, with the wording of Article 15. In the first paragraph, the words "... during the period of establishment ..." shall be replaced by "... in order to establish ...".
- 43) Title I on the free movement of goods shall become Title Ia.
- 44) A Chapter Ia shall be inserted after Article 27, entitled "CUSTOMS COOPERATION", and an Article 27a shall be inserted with the wording of Article 135, the last sentence of that Article being deleted.

Agriculture and fisheries

- 45) In the heading of Title II, the words "AND FISHERIES" shall be added.
- 46) Article 32(1) shall be amended as follows:
- (a) the word "fisheries" shall be inserted after "agriculture";
 - (b) the following sentence shall be added at the end of the paragraph: "References to the common agricultural policy or to agriculture, and the use of the term "agricultural", shall be understood as also referring to fisheries, having regard to the specific characteristics of this sector."
- 47) Article 36 shall be amended as follows:
- (a) in the first paragraph, the words "the European Parliament and" shall be inserted before "the Council" and the reference to paragraph 3 shall be deleted;
 - (b) in the second paragraph, the introductory sentence shall be replaced by the following: "The Council, on a proposal from the Commission, may authorise the granting of aid:"
- 48) Article 37 shall be amended as follows:
- (a) paragraph 1 shall be deleted;
 - (b) paragraph 2 shall be renumbered 1 and the words "Having taken into account the work of the Conference provided for in paragraph 1, after consulting the Economic and Social Committee and within two years of the entry into force of the Treaty, the Commission shall submit proposals ..." shall be replaced by "The Commission shall submit proposals ...";

- (c) the following paragraphs shall be inserted as new paragraphs 2 and 2a:

"2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the common organisation of agricultural markets provided for in Article [III-228(1)] and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy.

2a The Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities."

- (d) in the first subparagraph of paragraph 3, the words "The Council may, acting by a qualified majority and in accordance with paragraph 2, replace the national market organisations by the common organisation ..." shall be replaced by "In accordance with paragraph 2, the national market organisations may be replaced by the common organisation ..."

Aggregation of insurance periods and export of social security benefits

- 49) Article 42 shall be amended as follows:

- (a) in the first paragraph, the words "... migrant workers and their dependants: " shall be replaced by "employed and self-employed migrant workers and their dependants:"
- (b) the last paragraph shall be replaced by the following:

"Where a member of the Council declares that a draft legislative act referred to in the first subparagraph would affect important aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- (a) refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure, or,
- (b) take no action or request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted."

Freedom of establishment

- 50) In Article 44(2), the words "The European Parliament," shall be added at the beginning of the first subparagraph.
- 51) In Article 45, second paragraph, the words "The Council may, acting by a qualified majority on a proposal from the Commission, ..." shall be replaced by "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may ...".
- 52) Article 47 shall be amended as follows:
- (a) the following phrase shall be added at the end of paragraph 1: "and for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons."
 - (b) paragraph 2 shall be deleted and paragraph 3 shall be renumbered 2.
- 53) An Article 48a shall be inserted, with the wording of Article 294.

Services

- 54) Article 49 shall be amended as follows:
- (a) in the first paragraph, the words "State of the Community" shall be replaced by "Member State";
 - (b) In the second paragraph, the words "The Council may, acting by a qualified majority on a proposal from the Commission, extend ..." shall be replaced by "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may extend ...".

Capital

- 55) In Article 50, third paragraph, the words "the State" shall be replaced by "the Member State".

- 56) In Article 52(1), the words "... the Council shall, on a proposal from the Commission and after consulting the Economic and Social Committee and the European Parliament, issue ..." shall be replaced by "... the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall issue ...".
- 57) In Article 57(2), the words "... the Council may, acting by a qualified majority on a proposal from the Commission, adopt measures ..." shall be replaced by "... the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures ..." and the last sentence of paragraph 2 shall become a paragraph 3, reading as follows:
- "3. Notwithstanding paragraph 2, only the Council, acting in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament, adopt measures which constitute a step backwards in Union law as regards the liberalisation of the movement of capital to or from third countries."
- 58) In Article 58, the following new paragraph 4 shall be added:
- "4. In the absence of measures pursuant to Article [III-157(3)], the Commission or, in the absence of a Commission decision within three months from the request of the Member State concerned, the Council, may adopt a decision stating that restrictive tax measures adopted by a Member State concerning one or more third countries are to be considered compatible with the Treaties insofar as they are justified by one of the objectives of the Union and compatible with the proper functioning of the internal market. The Council shall act unanimously on application by a Member State."
- 59) Article 60 shall become Article [67a]. It shall be amended as set out below in point 61.

Area of freedom, security and justice;

- 60) A Title IV, with the heading "AREA OF FREEDOM, SECURITY AND JUSTICE", shall replace the Title IV on visas, asylum, immigration, and other policies related to free movement of persons. Title IV shall contain the following Chapters:
- | | |
|------------|---|
| Chapter 1: | General provisions |
| Chapter 2: | Policies on border checks, asylum and immigration |
| Chapter 3: | Judicial cooperation in civil matters |
| Chapter 4: | Judicial cooperation in criminal matters |
| Chapter 5: | Police cooperation |

General provisions

61) Article 61 shall be replaced by the following chapter and articles:

"CHAPTER 1 GENERAL PROVISIONS

Article 61

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.
2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.
3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.
4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.

Article 62

The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice.

Article 63

National Parliaments shall ensure that the proposals and legislative initiatives submitted under Chapters 4 and 5 comply with the principle of subsidiarity, in accordance with the arrangements laid down by the Protocol on the application of the principles of subsidiarity and proportionality.

Article 64

Without prejudice to Articles [III-360 to III-362], the Council may, on a proposal from the Commission, adopt measures laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Title by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament and national Parliaments shall be informed of the content and results of the evaluation.

Article 65

A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article [III-344], it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.

Article 66

This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

It shall be open to Member States to organise between themselves and under their responsibility such forms of cooperation and coordination as they deem appropriate between the competent departments of their administrations responsible for safeguarding national security.

Article 67

The Council shall adopt measures to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Title, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article [III-264], and after consulting the European Parliament.

Article 67a

Where necessary to achieve the objectives set out in Article [III-257], as regards preventing and combating terrorism and related activities, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.

The Council, on a proposal from the Commission, shall adopt measures to implement the framework referred to in the first paragraph.

The acts referred to in this Article shall include necessary provisions on legal safeguards.

Article 68

The acts referred to in Chapters 4 and 5, together with the measures referred to in Article [III-263] which ensure administrative cooperation in the areas covered by these Sections, shall be adopted:

- (a) on a proposal from the Commission, or
- (b) on the initiative of a quarter of the Member States."

Border checks, asylum and immigration

62) Articles 62 to 64 shall be replaced by the following chapter and articles:

"CHAPTER 2 POLICIES ON BORDER CHECKS, ASYLUM AND IMMIGRATION

Article 69

1. The Union shall develop a policy with a view to:
 - (a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;
 - (b) carrying out checks on persons and efficient monitoring of the crossing of external borders;
 - (c) the gradual introduction of an integrated management system for external borders.
2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:
 - (a) the common policy on visas and other short-stay residence permits;

- (b) the checks to which persons crossing external borders are subject;
- (c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;
- (d) any measure necessary for the gradual establishment of an integrated management system for external borders;
- (e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.

3. If action by the Union should prove necessary to facilitate the exercise of the right referred to in Article [I-10(2)(a)], and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt provisions concerning passports, identity cards, residence permits or any other such document. The Council shall act unanimously after consulting the European Parliament.

4. This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.

Article 69a

1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:

- (a) a uniform status of asylum for nationals of third countries, valid throughout the Union;
- (b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;
- (c) a common system of temporary protection for displaced persons in the event of a massive inflow;

- (d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
- (e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
- (f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
- (g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.

Article 69b

1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas:

- (a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;
- (b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;
- (c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;
- (d) combating trafficking in persons, in particular women and children.

3. The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States.

4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.

5. This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.

Article 69c

The policies of the Union set out in this Section and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Section shall contain appropriate measures to give effect to this principle."

Judicial cooperation in civil matters

63) Article 65 shall be replaced by the following chapter and article:

"CHAPTER 3 JUDICIAL COOPERATION IN CIVIL MATTERS

Article 69d

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. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures, particularly when necessary for the proper functioning of the internal market, aimed 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) 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 established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament.

4. The Council, on a proposal from the Commission, may adopt a 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 shall act unanimously after consulting the European Parliament.

This proposal shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision shall not be adopted. In the absence of opposition, the Council may adopt the decision."

Judicial cooperation in criminal matters

64) Articles 66 and 67 shall be replaced by the following chapter and articles:

"CHAPTER 4 JUDICIAL COOPERATION IN CRIMINAL MATTERS

Article 69e

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-271].

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures to:

- (a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;
- (b) prevent and settle conflicts of jurisdiction between Member States;
- (c) support 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, the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

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 has identified in advance by a decision; for the adoption of such a decision, the Council 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 for individuals.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles [I-44(2) and III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

Article 69f

1. The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension 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 may adopt a 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 laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such directives shall be adopted by the same ordinary or special legislative procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article [III-264].

3. Where a member of the Council considers that a draft directive as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles [I-44(2) and III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

Article 69g

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States.

Article 69h

1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

In this context, the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Eurojust's structure, operation, field of action and tasks. These tasks may include:

- (a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions, conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;
- (b) the coordination of investigations and prosecutions referred to in point (a);
- (c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

These regulations shall also determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.

2. In the prosecutions referred to in paragraph 1, and without prejudice to Article [III-274], formal acts of judicial procedure shall be carried out by the competent national officials.

Article 69i

1. In order to combat crimes affecting the financial interests of the Union, the Council, by means of a regulation adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.

In the absence of unanimity in the Council, a group of at least nine Member States may request that the draft regulation be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft regulation concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I-44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

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, offences against the Union's financial interests, as determined by the regulation 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.

3. The regulation referred to in paragraph 1 shall determine the general rules applicable to the European Public Prosecutor's Office, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions.

4. The European Council may, at the same time or subsequently, adopt a decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor's Office to include serious crime having a cross-border dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission."

Police cooperation

65) Articles 68 and 69 shall be replaced by the following chapter and articles:

"CHAPTER 5 POLICE COOPERATION

Article 69j

1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.
2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures concerning:
 - a) the collection, storage, processing, analysis and exchange of relevant information;
 - (b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;
 - (c) common investigative techniques in relation to the detection of serious forms of organised crime.
3. The Council, acting in accordance with a special legislative procedure, may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

"In case of the absence of unanimity in the Council, a group of at least nine Member States may request that the draft measures be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft measures concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in [Articles I-44(2)] and [III-419(1)] shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

The specific procedure provided for in the second and third subparagraphs shall not apply to acts which constitute a development of the Schengen *acquis*.

Article 69k

1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.
2. In this context, the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Europol's structure, operation, field of action and tasks. These tasks may include:
 - a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;
 - (b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.

These regulations shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

Article 69l

The Council, acting in accordance with a special legislative procedure, shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles [III-270 and III-275] may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament."

Transports

- 66)** In Article 70, the words "of this Treaty" shall be replaced by "of the Treaties".
- 67)** Article 71(2) shall be replaced by the following:
- "2. When the measures referred to in paragraph 1 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. "
- 68)** At the beginning of Article 72, the words "..., without the unanimous approval of the Council, ..." shall be replaced by "..., unless the Council, acting in accordance with a special legislative procedure, has unanimously adopted a measure granting a derogation, ..."
- 69)** In Article 75(2), the words "the Council" shall be replaced by "the European Parliament and the Council".
- 70)** In Article 78, the following sentence shall be added:
- "Five years after the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, the Council, acting on a proposal from the Commission, may adopt a decision repealing this Article."
- 71)** In Article 79, the phrase "without prejudice to the powers of the Economic and Social Committee" shall be deleted.
- 72)** Article 80(2) shall be replaced by the following:
- "2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport. They shall act after consulting the Committee of the Regions and the Economic and Social Committee."

Rules on competition

73) In Article 85, the following new paragraph 3 shall be added:

"3. The Commission may adopt regulations relating to the categories of agreement in respect of which the Council has adopted a regulation or a directive pursuant to Article [III-163, second paragraph, (b)]."

74) Article 87 shall be amended as follows:

(a) in paragraph 2, the following sentence shall be added at the end of point (c):

"Five years after the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point."

(b) in paragraph 3, the following words shall be added at the end of point (a): "... and of the regions referred to in Article [III-424], in view of their structural, economic and social situation;"

75) In Article 88, the following new paragraph 4 shall be added:

"4. The Commission may adopt regulations relating to the categories of State aid that the Council has, pursuant to Article [III-169], determined may be exempted from the procedure provided for by paragraph 3 of this Article."

Fiscal provisions

76) At the end of Article 93, the words "... within the time limit laid down in Article 14" shall be replaced by "... and to avoid distortion of competition."

Approximation of laws

77) The order of Articles 94 and 95 shall be reversed. Article 94 shall be renumbered 95 and Article 95 shall be renumbered 94.

- 78) Article 95, renumbered 94, shall be amended as follows:
- (a) at the beginning of paragraph 1, the words "By way of derogation from Article 94 and" shall be deleted;
 - (b) at the beginning of paragraph 4, the words "If, after the adoption by the Council or by the Commission of a harmonisation measure, ..." shall be replaced by "If, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, ...";
 - (c) at the beginning of paragraph 5, the words "Moreover, without prejudice to paragraph 4, if, after the adoption by the Council or by the Commission of a harmonisation measure, ..." shall be replaced by "Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, ...";
- 79) In Article 94, renumbered 95, the words "Without prejudice to Article 94, ..." shall be inserted at the beginning.
- 80) In Article 96, second paragraph, first sentence, the words ", the Council shall, on a proposal from the Commission, acting by a qualified majority, issue ..." shall be replaced by ", the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall issue ...". The second sentence shall be replaced by "Any other appropriate measures provided for in the Treaties may be adopted."

Intellectual property

- 81) The following new Article 97a shall be inserted:

"Article 97a

In the context of the establishment and functioning of the internal market, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish measures for the creation of European intellectual property rights to provide uniform intellectual property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements.

The Council, acting unanimously in accordance with a special legislative procedure, shall by means of regulations establish language arrangements for the European intellectual property rights. The Council shall act unanimously after consulting the European Parliament."

Economic and monetary policy

82) An Article 97b shall be inserted, with the wording of Article 4; it shall be amended as follows:

- (a) in paragraph 1, the words "and in accordance with the timetable set out therein" shall be deleted;
- (b) in paragraph 2, the words "Concurrently with the foregoing, and as provided in this Treaty and in accordance with the timetable and the procedures set out therein, these activities shall include the irrevocable fixing of exchange rates leading to the introduction of a single currency, the ecu, ..." shall be replaced by "Concurrently with the foregoing, and as provided in the Treaties and in accordance with the procedures set out therein, these activities shall include a single currency, the euro, ..."

83) Article 99 shall be amended as follows:

- (a) in paragraph 4, the first sentence of the first subparagraph shall be replaced by the following two sentences:

"Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned.";

- (b) the second subparagraph of paragraph 4 shall be renumbered paragraph 5 and paragraph 5 shall be renumbered 6;
- (c) the following three new subparagraphs shall be inserted in paragraph 4:

"Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a)."

- (d) in paragraph 6, the words "The Council, acting in accordance with the procedure referred to in Article 252, may adopt ..." shall be replaced by the following: "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt ...".

Difficulties in the supply of certain products (energy)

84) Article 100(1) shall be replaced by the following:

"1. Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy."

Other provisions - economic and monetary policy

85) Article 102(2) shall be deleted;

86) Article 103(2) shall be replaced by the following:

"The Council, on a proposal from the Commission and after consulting the European Parliament, may, as required, specify definitions for the application of the prohibitions referred to in Articles 101 and 102 and in this Article."

Excessive deficit procedure

87) Article 104 shall be amended as follows:

(a) paragraph 5 shall be replaced by the following:

"5. If the Commission considers that an excessive deficit in a Member State exists or may occur, it shall address an opinion to the Member State concerned and shall inform the Council accordingly.

(b) in paragraph 6, the word "recommendation" shall be replaced by "proposal";

(c) in paragraph 7, the first sentence shall be replaced by "Where the Council decides, in accordance with paragraph 6, that an excessive deficit exists, it shall adopt, without undue delay, on a recommendation from the Commission, recommendations addressed to the Member State concerned with a view to bringing that situation to an end within a given period.";

- (d) in the introductory words of the first subparagraph of paragraph 11, there is a change to the French which does not affect the English version.
- (e) in paragraph 12, at the beginning of the first sentence, the words "its decisions" shall be replaced by "its decisions or recommendations";
- (f) paragraph 13 shall be replaced by the following:

"13. When taking the decisions referred to in paragraphs 8, 9, 11 and 12, the Council shall act on a recommendation from the Commission.

When the Council adopts the measures referred to in paragraphs 6 to 9 and 11 and 12, it shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a)."

- (g) in paragraph 14, third subparagraph, the words ", before 1 January 1994" shall be deleted.

Monetary policy

- 88)** In Article 105, paragraph 6 shall be replaced by the following:

"6. The Council, acting in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament and the European Central Bank, confer specific tasks upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings."

- 89)** Article 106 shall be amended as follows:

- (a) in paragraph 1, first sentence, the word "euro" shall be inserted before "... banknotes ...";
- (b) in paragraph 2, first sentence, the word "euro" shall be inserted before "... coins ..."; at the beginning of the second sentence, the words "The Council may, acting in accordance with the procedure referred to in Article 252 and after consulting the ECB ..." shall be replaced by: "The Council, on a proposal from the Commission and after consulting the European Parliament and the European Central Bank, may ...".

90) Article 107 shall be amended as follows:

(a) paragraphs 1 and 2 shall be deleted and paragraphs 3, 4, 5 and 6 shall be renumbered 1, 2, 3 and 4 respectively;

(b) the paragraph renumbered 1 shall be replaced by the following:

"1. The European System of Central Banks, hereinafter referred to as 'ESCB', shall be governed by the decision-making bodies of the European Central Bank, which shall be the Governing Council and the Executive Board.";

(c) in the paragraph renumbered 2, the words "Statute of the ESCB" shall be replaced by the following: "Statute of the European System of Central Banks and of the European Central Bank, hereinafter referred to as 'Statute of the ESCB and of the ECB' ...";

(d) the paragraph renumbered 3 shall be replaced by the following:

"3. Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the ESCB may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure. They shall act either on a recommendation from the European Central Bank and after consulting the Commission or on a proposal from the Commission and after consulting the European Central Bank.".

91) In Article 109, the words "..., at the latest at the date of the establishment of the ESCB," shall be deleted.

92) In Article 110, the first four subparagraphs of paragraph 2 shall be deleted.

Measures relating to use of the euro

93) In Article 111, paragraphs 1 to 3 and 5 shall become, respectively, paragraphs 1 to 4 of Article 1880; they shall be amended as set out below in point 178.

Article 111 shall be replaced by the following:

"Without prejudice to the powers of the European Central Bank, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the measures necessary for use of the euro as the single currency. Such measures shall be adopted after consultation of the European Central Bank.".

Institutional provisions (EMU)

- 94) Articles 112 and 113 shall become Articles 245b and 245c respectively; they shall be amended as set out below in points 231 and 232.
- 95) Article 114 shall be renumbered 112; it shall be amended as follows:
- (a) in paragraph 1, first subparagraph, the words "Monetary Committee with advisory status" shall be replaced by "Economic and Financial Committee";
 - (b) in paragraph 1, the second and third subparagraphs shall be deleted;
 - (c) in paragraph 2, the first subparagraph shall be deleted.
- 96) Article 115 shall be renumbered 113.

Provisions specific to Member States whose currency is the euro

- 97) The following new Chapter 3a and new Articles 114, 115 and 115a shall be inserted:

"CHAPTER 3a

PROVISIONS SPECIFIC TO MEMBER STATES WHOSE CURRENCY IS THE EURO

Article 114

1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Treaties, the Council shall, in accordance with the relevant procedure from among those referred to in Articles [III-179 and III-184], with the exception of the procedure set out in Article [III-184(13)], adopt measures specific to those Member States whose currency is the euro:

- (a) to strengthen the coordination and surveillance of their budgetary discipline;
- (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. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 205(3)(a).

Article 115

Arrangements for meetings between ministers of those Member States whose currency is the euro are laid down by the Protocol on the Euro Group.

Article 115a

1. In order to secure the euro's place in the international monetary system, the Council, on a proposal from the Commission, shall adopt a decision establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

2. The Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

3. For the measures referred to in paragraphs 1 and 2, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 205(3)(a)."

Transitional provisions relating to Member States with a derogation

98) Article 116 shall be replaced by the following:

"Article 116

1. Member States in respect of which the Council has not decided that they fulfil the necessary conditions for the adoption of the euro shall hereinafter be referred to as "Member States with a derogation".

2. The following provisions of the Treaties shall not apply to Member States with a derogation:

- (a) adoption of the parts of the broad economic policy guidelines which concern the euro area generally [(Article III-179(2))];
- (b) coercive means of remedying excessive deficits [(Article III-184(9) and (10))];
- (c) the objectives and tasks of the European System of Central Banks [(Article III-185(1), (2), (3) and (5))];
- (d) issue of the euro [(Article III-186)];
- (e) acts of the European Central Bank [(Article III-190)];
- (f) measures governing the use of the euro [(Article III-191)];
- (g) monetary agreements and other measures relating to exchange-rate policy [(Article III-326)];
- (h) appointment of members of the Executive Board of the European Central Bank [(Article III-382(2))];
- (i) decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences [(Article III-196(1))];
- (j) measures to ensure unified representation within the international financial institutions and conferences [(Article III-196(2))].

In the Articles referred to in points (a) to (j), "Member States" shall therefore mean Member States whose currency is the euro.

3. Under Chapter IX of the Statute of the European System of Central Banks and of the European Central Bank, Member States with a derogation and their national central banks are excluded from rights and obligations within the European System of Central Banks.

4. The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council 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-179(4))];

- (b) measures relating to excessive deficits concerning those Member States whose currency is the euro [(Article III-184(6), (7), (8) and (11)).

A qualified majority of the other members of the Council shall be defined in accordance with Article 205(3)(a)."

99) Article 117 shall be amended as follows:

- (a) paragraph 1 shall be replaced by Article 121(1), with the following amendments:
 - (i) at the beginning of the paragraph, the following shall be inserted: "At least once every two years, or at the request of a Member State with a derogation, ...";
 - (ii) throughout the paragraph, the words "the EMI" shall be replaced by "the European Central Bank";
 - (iii) in the first subparagraph, first sentence, the words "... the progress made in the fulfilment by the Member States of their obligations ..." shall be replaced by "... the progress made by the Member States with a derogation in fulfilling their obligations ...";
 - (iv) in the first subparagraph, second sentence, the words "... each Member State's national legislation ..." shall be replaced by "the national legislation of each of these Member States ...";
 - (v) in the third indent, the words "against the currency of any other Member State" shall be replaced by "... against the euro;";
 - (vi) in the fourth indent, the words "... the Member State ..." shall be replaced by "... the Member State with a derogation ..." and the words "... of the European Monetary System" shall be deleted;
 - (vii) in the second subparagraph, the words "the development of the ecu" shall be deleted;
- (b) paragraph 2 shall be amended as follows:
 - (i) the first five indents shall become the first five indents of the second paragraph of Article 118(2); they shall be amended as set out below in point [...];

- (ii) Article 117(2) shall be replaced by the second sentence of Article 122(2); the following new second and third subparagraphs shall be added:

"The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.

The qualified majority of the said members, as referred to in the second subparagraph, shall be defined in accordance with Article 205(3)(a).";

- (c) paragraph 3 shall be replaced by Article 123(5); it shall be amended as follows:
 - (i) at the beginning of the paragraph, the words "If it is decided, according to the procedure set out in Article 122(2), to abrogate a derogation, ..." shall be replaced by "If it is decided, in accordance with the procedure set out in paragraph 2, to abrogate a derogation, ...";
 - (ii) the words "adopt the rate ..." shall be replaced by "irrevocably fix the rate ...";
- (d) paragraphs 4 to 9 shall be repealed.

100) Article 118 shall be amended as follows:

- (a) the first paragraph shall be replaced by Article 123(3); the words "of this Treaty" shall be deleted;
- (b) the second paragraph shall be replaced by the first five indents of Article 117(2); the five indents shall be preceded by the following introductory words:

"If and as long as there are Member States with a derogation, the European Central Bank shall, as regards those Member States:"

- (i) in the third indent, the words "European Monetary System" shall be replaced by "exchange-rate mechanism";
- (ii) the fifth indent shall be replaced by the following: "carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute.";

101) An Article 118a shall be inserted, with the wording of Article 124; it shall be amended as follows:

- (a) the words "Until the beginning of the third stage, each Member State shall treat ..." shall be replaced by "Each Member State with a derogation shall treat ...";
- (b) the words "...of the European Monetary System (EMS) and in developing the ecu, and shall respect existing powers in this field" shall be replaced by "... of the exchange-rate mechanism."

102) Article 119 shall be amended as follows:

- (a) in paragraph 1, the words "with a derogation" shall be inserted after "Member State" in the first and second subparagraphs and the word "progressive" in the first subparagraph shall be deleted;
- (b) in paragraph 2(a), the words "with a derogation" shall be inserted after "Member States" and in paragraph 2(b), the words "the State which is in difficulties ..." shall be replaced by "the Member State with a derogation which is in difficulties, ...";
- (c) in paragraph 3, the words "the Commission shall authorise the State which is in difficulties ..." shall be replaced by "the Commission shall authorise the Member State with a derogation, which is in difficulties, ...";
- (d) paragraph 4 shall be deleted.

103) Article 120 shall be amended as follows:

- (a) in paragraph 1, the words "the Member State concerned ..." shall be replaced by "a Member State with a derogation ...";
- (b) in paragraph 3, the words "an opinion" shall be replaced by "a recommendation";
- (c) paragraph 4 shall be deleted.

104) Article 121(1) shall become Article 117(1); it shall be amended as set out above in point 99.

105) In Article 122(2), the second sentence shall become the first subparagraph of Article 117(2); it shall be amended as set out above in point 99. The rest of Article 122 shall be repealed.

106) Article 123(3) shall become Article 118(1) and Article 123(5) shall become Article 117(3); they shall be amended as set out above in points 100 and 99 respectively. The rest of Article 123 shall be repealed.

107) Article 124(1) shall become the new Article 118a. it shall be amended as set out above in point 101. The rest of Article 124 shall be repealed.

Titles being moved

108) Title IX, "COMMON COMMERCIAL POLICY", shall become Title II in Part Five on the Union's external action and Articles 131 and 133 shall become Articles 188b and 188c respectively. Article 131 shall be amended as set out below in point 160 and Article 133 shall be replaced by Article 188c.

Articles 132 and 134 shall be repealed.

109) Title X, "CUSTOMS COOPERATION", shall become Chapter 1a in Title Ia, "Free movement of goods" and Article 135 shall become Article 27a, as set out above in point 44.

Social policy

110) The heading of Title XI, "SOCIAL POLICY, EDUCATION, VOCATIONAL TRAINING AND YOUTH", shall be repealed.

111) The heading of Chapter I, "Social provisions", shall be replaced by the following: "TITLE IX SOCIAL POLICY".

112) The following new Article 136a shall be inserted:

"Article 136a

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

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

113) Article 137 shall be amended as follows:

- (a) in paragraph 2, in the introductory phrase of the first subparagraph, the words "the Council:" shall be replaced by "the European Parliament and the Council:" and the first sentence of the second subparagraph shall be split into two subparagraphs which shall read as follows:

"The European Parliament and the Council shall act in accordance with the ordinary legislative procedure after consulting the Economic and Social Committee and the Committee of the Regions.

In the fields referred to in paragraph 1(c), (d), (f) and (g) of this Article, the Council shall act unanimously, in accordance with a special legislative procedure, after consulting the European Parliament and the said Committees."

The second sentence of the second subparagraph shall become the last subparagraph.

- (b) in paragraph 3, at the end of the first subparagraph, the following words shall be added "... or, where appropriate, with the implementation of a Council decision adopted in accordance with Article [III-212]."; in the second subparagraph, the words "... a directive must be transposed in accordance with Article 249" shall be replaced by "... a directive or a decision must be transposed or implemented," and the words "... or that decision" shall be added at the end of the subparagraph.

114) In Article 138(4), first sentence, the words "On the occasion of such consultation, ..." shall be replaced by "On the occasion of the consultation referred to in paragraphs 2 and 3, ..." and, in the second sentence, the words "the procedure" shall be replaced by "this process".

115) Article 139(2) shall be amended as follows:

- (a) at the end of the first subparagraph, the following sentence shall be added: "The European Parliament shall be informed.";
- (b) in the second subparagraph, at the beginning of the first sentence "The Council shall act by qualified majority, except where the agreement ..." shall be replaced by "The Council shall act unanimously where the agreement ..." and the second sentence shall be deleted.

116) In Article 140, the following words shall be added at the end of the second subparagraph: "..., 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."

European Social Fund

117) Chapter 2 shall be renumbered TITLE X.

Titles and chapters being moved

118) Chapter 3, "EDUCATION, VOCATIONAL TRAINING AND YOUTH" shall become Chapter 1 of Title XVII, "AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION" and Articles 149 and 150 shall become Articles 176b and 176c respectively. They shall be amended as set out below in points 141 to 143 respectively.

119) Title XII, "CULTURE" shall become Chapter 2 of Title XVII, "AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION" and Article 151 shall become Article 176d. That Article shall be amended as set out below in point 145.

120) Title XIII, "PUBLIC HEALTH" shall become Chapter 2 of Title XVII, "AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION" and Article 152 shall become Article 176e. That Article shall be amended as set out below in point 147.

Consumer protection

121) Title XIV shall be renumbered XI.

122) Article 153(2) shall become Article 12; paragraph 2 shall be deleted and paragraphs 3, 4 and 5 shall be renumbered 2, 3 and 4 respectively.

Titles being renumbered or moved

123) Title XV shall be renumbered XII.

124) Title XVI, "INDUSTRY" shall become Chapter 4 of Title XVII, "AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION" and Article 157 shall become Article 176f. That Article shall be amended as set out below in point 149.

Economic, social and territorial cohesion

125) Title XVII shall be renumbered XIII. The heading shall be replaced by: "ECONOMIC, SOCIAL AND TERRITORIAL COHESION".

126) Article 158 shall be amended as follows:

- (a) in the first paragraph, the words "economic and social cohesion" shall be replaced by "economic, social and territorial cohesion";
- (b) in the second paragraph, the words "or islands, including rural areas" shall be deleted;
- (c) the following new paragraph shall be added: "Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions."

127) Article 161 shall be amended as follows:

- (a) at the beginning of the first paragraph, first sentence, the words "Without prejudice to Article 162, the Council, acting unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament ..." shall be replaced by "Without prejudice to Article 162, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure ..." and in the second sentence the words "The Council, acting by the same procedure, shall also define" shall be deleted at the beginning and the words "shall also be defined by the same procedure" added at the end;
- (b) in the second paragraph the words "by the Council " shall be deleted;
- (c) the third paragraph shall be deleted.

Research and technological development

- 128)** Title XVIII shall be renumbered XIV. The words "AND SPACE" shall be added to the heading.
- 129)** Article 163 shall be amended as follows:
- (a) paragraph 1 shall be replaced by the following:

"1. The Union shall have the objective of strengthening its scientific and technological bases by 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 Treaties.";
 - (b) in paragraph 2, the words "... enabling undertakings to exploit the internal market potential to the full, ..." shall be replaced by "... permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential, ...".
- 130)** The following words shall be added at the end of Article 165(2): "..., 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."
- 131)** In Article 166, the following new paragraph 5 shall be added:
- "5. As a complement to the activities planned in the multiannual framework programme, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the measures necessary for the implementation of the European research area."
- 132)** In Article 167, the words "the Council" shall be replaced by "the Union".
- 133)** In Article 168, second paragraph, the words "the Council" shall be replaced by "the Union".
- 134)** In Article 170, the last clause "..., which shall be negotiated and concluded in accordance with Article 300" shall be deleted.

Space

135) The following new Article 172a shall be inserted:

"Article 172a

1. To promote scientific and technical progress, industrial competitiveness and the implementation of its policies, the Union shall draw up a European space policy. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space.
2. To contribute to attaining the objectives referred to in paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures, which may take the form of a European space programme, excluding any harmonisation of the laws and regulations of the Member States.
3. The Union shall establish any appropriate relations with the European Space Agency.
4. This Article shall be without prejudice to the other provisions of this Title."

Environment (climate change)

136) Title XIX shall be renumbered XV.

137) Article 174 shall be amended as follows:

- (a) in paragraph 1, the fourth indent shall be replaced by the following:

"— promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change."
- (b) in paragraph 4, first subparagraph, the last clause "...., which shall be negotiated and concluded in accordance with Article 300" shall be deleted.

138) Article 175 shall be amended as follows:

- (a) in paragraph 2, the second subparagraph shall be replaced by the following:

"The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, may make the ordinary legislative procedure applicable to the matters referred to in the first subparagraph.";

- (b) in paragraph 3, the second subparagraph shall be replaced by the following:

"The measures necessary for the implementation of these programmes shall be adopted under the terms of paragraph 1 or 2, as the case may be.";

- (c) in paragraph 5, the words "the Council shall, in the act adopting that measure, lay down ... provisions" shall be replaced by "such measure shall provide ...".

Energy

139) Title XX shall be replaced by the following new Title and new Article 176a:

"TITLE XVI ENERGY

Article 176a

1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to:

- (a) ensure the functioning of the energy market;
- (b) ensure security of energy supply in the Union, and
- (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy;
- (d) promote the interconnection of energy networks.

2. Without prejudice to the application of other provisions of the Treaties, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to achieve the objectives in paragraph 1. Such measures shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article [III-234(2)(c)].

3. By way of derogation from paragraph 2, the Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament, establish the measures referred to therein when they are primarily of a fiscal nature.

Areas where the Union may take supporting, coordinating or complementary action

140) A new Title XVII "AREAS WHERE THE UNION MAY TAKE SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION" shall be inserted.

Sport

141) In the heading of Chapter 1, taken from Chapter 3 of Title XI, the words "... AND YOUTH" shall be replaced by "..., YOUTH and SPORT."

142) An Article 176b shall be inserted, with the wording of Article 149; it shall be amended as follows:

(a) in paragraph 1, the following subparagraph shall be inserted:

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

(b) in paragraph 2, the following indent shall be added at the end:

"– 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.";

- (c) in paragraph 3, the words "and sport" shall be added after "in the field of education";
- (d) in paragraph 4, the words "the Council" shall be deleted and the first indent shall begin with the words "the European Parliament and the Council, acting..."; the second indent shall begin with the words "The Council, on a proposal ...".

143) An Article 176c shall be inserted, with the wording of Article 150; in paragraph 4, the following clause shall be added at the end: "and the Council, on a proposal from the Commission, shall adopt recommendations."

Culture

144) A Chapter 2 "CULTURE" shall be inserted, taking over the heading of Title XII.

145) An Article 176d shall be inserted, with the wording of Article 151; paragraph 5 shall be amended as follows:

- (a) in the introductory phrase, the words "the Council" shall be deleted;
- (b) the first sentence of the first indent shall begin with the words "the European Parliament and the Council, acting ...", and the second sentence of the first indent shall be deleted;
- (c) in the second indent, the words "acting unanimously" shall be deleted and the indent shall begin with the words "the Council, on a proposal ...".

Public Health

146) A Chapter 3 "PUBLIC HEALTH" shall be inserted, taking over the heading of Title XII.

147) An Article 176e shall be inserted, with the wording of Article 152; it shall be amended as follows:

- (a) in paragraph 1, at the end of the second subparagraph, the following shall be added: ", and monitoring, early warning of and combating serious cross-border threats to health";

- (b) in paragraph 2, at the end of the first subparagraph, the following sentence shall be added: "It shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.";
- (c) In paragraph 2, the following shall be added at the end of the second subparagraph: "..., 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.";
- (d) paragraph 4 shall be amended as follows:
 - (i) in the introductory subparagraph, the following words shall be inserted at the beginning: "By way of derogation from Article [I-12(5)] and Article [I-17(a)] and in accordance with Article [I-14(2) (k)] ..." and the following at the end: "... in order to meet common safety concerns.";
 - (ii) in point (b), the words "by way of derogation from Article 37, ..." shall be deleted;
 - (iii) the following new point (c) shall be inserted:

"(c) measures setting high standards of quality and safety for medicinal products and devices for medical use.";
 - (iv) the current point (c) shall be renumbered paragraph 5 and replaced by the following:

"5. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Committee of the Regions and the Economic and Social Committee, may also adopt incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, measures concerning monitoring, early warning of and combating serious cross-border threats to health, and measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States.";
- (e) the last subparagraph of the current paragraph 4 shall become paragraph 6 and paragraph 5, renumbered 7, shall be replaced by the following:

"7. Union action in the field of public health shall fully respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care and the allocation of the resources assigned to them. The measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood."

Industry

148) A Chapter 4 "INDUSTRY" shall be inserted, taking over the heading of Title XVI.

149) An Article 176f shall be inserted, with the wording of Article 157; it shall be amended as follows:

- (a) at the end of paragraph 2, the following words shall be added: "..., 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.";
- (b) in paragraph 3, first subparagraph, the following phrase shall be added at the end of the second sentence: "..., excluding any harmonisation of the laws and regulations of the Member States."

Tourism

150) The following new Chapter 5 and new Article 176g shall be inserted:

"CHAPTER 5 TOURISM

Article 176g

1. The Union shall complement the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector.

To that end, Union action shall be aimed at:

- (a) encouraging the creation of a favourable environment for the development of undertakings in this sector;
- (b) promoting cooperation between the Member States, particularly by the exchange of good practice.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish specific measures to complement 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."

Civil protection

151) The following new Chapter 6 and new Article 176h shall be inserted:

"CHAPTER 6 CIVIL PROTECTION

Article 176h

1. The Union shall encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters.

Union action shall aim to:

- (a) support and complement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or man-made disasters within the Union;
- (b) promote swift, effective operational cooperation within the Union between national civil-protection services;
- (c) promote consistency in international civil-protection work.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to help achieve the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States."

Administrative cooperation

152) The following new Chapter 7 and new Article 176i shall be inserted:

"CHAPTER 7 ADMINISTRATIVE COOPERATION

Article 176i

1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.

2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.

3. This Article shall be without prejudice to the obligations of the Member States to implement Union law or to the prerogatives and duties of the Commission. It shall also be without prejudice to other provisions of the Treaties providing for administrative cooperation among the Member States and between them and the Union."

Titles which have been moved

153) Title XX "DEVELOPMENT COOPERATION" shall become Chapter I of Title III of Part Five on the Union's external action, and Articles 177 and 179 to 181 shall become Articles 188d to 188g respectively; those articles shall be amended as set out below in points 165 to 168. Article 178 shall be repealed.

154) Title XXI "ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES" shall become Chapter 2 of Title III of Part Five on the Union's external action and Article 181a shall become the new Article 188h; that Article shall be amended as set out below in point 170.

Association of overseas countries and territories

155) At the end of Article 182, first paragraph, the words "to this Treaty" shall be deleted.

156) At the end of Article 186, the words "... shall be governed by agreements to be concluded subsequently with the unanimous approval of Member States." shall be replaced by "... shall be regulated by acts adopted in accordance with Article 187."

157) In Article 187, the words "acting unanimously" shall be replaced by "acting unanimously on a proposal from the Commission" and the following sentence shall be added at the end of the Article: "Where the provisions in question take the form of a legislative act, they shall be adopted after consultation of the European Parliament."

External action of the Union (other than the CFSP)

158) A new Part Five shall be inserted.

Its heading shall be "EXTERNAL ACTION BY THE UNION IN AREAS OTHER THAN THE COMMON FOREIGN AND SECURITY POLICY" and it shall contain the following Titles and Chapters:

Title I: General provisions on the Union's external action

Title II: Common commercial policy

Title III: Cooperation with third countries and humanitarian aid

Chapter 1: Development cooperation

Chapter 2: Economic, financial and technical cooperation with third countries

Chapter 3: Humanitarian aid

Title IV: Restrictive measures

Title V: International agreements

Title VI: The Union's relations with international organisations and third countries and Union delegations

Title VII: Solidarity clause

General provisions

159) The following new Title I and new Article 188a shall be inserted:

"TITLE I GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION

Article 188a

The Union's action on the international scene, pursuant to this Part, shall be guided by the principles, pursue the objectives and be conducted in accordance with the general provisions laid down in Chapter 1 of Title V of the Treaty on European Union.

Common commercial policy

160) A Title II with the heading "COMMON COMMERCIAL POLICY" shall be inserted, taking over the heading of Title IX of Part 3.

161) An Article 188b shall be inserted, with the wording of Article 131; it shall be amended as follows:

(a) the first paragraph shall be replaced by the following:

"By establishing a customs union in accordance with Articles 23 to 27, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.";

(b) the second paragraph shall be deleted.

162) An Article 188c shall be inserted, replacing Article 133:

"Article 188c

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures defining the framework for implementing the common commercial policy.

3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article [III-325] shall apply, subject to the special provisions of this Article.

The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by a qualified majority.

For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

The Council shall also act unanimously for the negotiation and conclusion of agreements:

- (a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity;
- (b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to [Section 7 of Chapter III of Title III and to Article III-325].

6. The exercise of the competences conferred by this Article in the field of the common commercial policy shall not affect the delimitation of competences between the Union and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of the Member States insofar as the Constitution excludes such harmonisation."

Development cooperation

163) A Title III with the heading "COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID" shall be inserted.

164) A Chapter 1 "DEVELOPMENT COOPERATION" shall be inserted, taking over the heading of Title XX of Part 3.

165) An Article 188d shall be inserted, with the wording of Article 177; it shall be amended as follows:

(a) paragraphs 1 and 2 shall be replaced by the following:

1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States shall complement and reinforce each other.

Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries."

(b) Paragraph 3 shall be renumbered "2".

166) An Article 188e shall be inserted, with the wording of Article 179; it shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

"1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.";

(b) the following new paragraph 2 shall be inserted:

"2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Articles [III-292 and III-316].

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.";

(c) the current paragraph 2 shall be renumbered "3" and the current paragraph 3 shall be deleted.

167) An Article 188f shall be inserted, with the wording of Article 180; it shall be amended as follows:

At the beginning of paragraph 1, the following words shall be inserted: "In order to promote the complementarity and efficiency of their action, the Union".

- 168) An Article 188g shall be inserted, with the wording of Article 181; the second sentence of the first paragraph and the second paragraph shall be deleted.

Economic, financial and technical cooperation with third countries

- 169) A Chapter 2 "ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES" shall be inserted, taking over the heading of Title XXI of Part 3.

- 170) An Article 188h shall be inserted, with the wording of Article 181a; it shall be amended as follows:

- (a) paragraph 1 shall be replaced by the following:

"1. Without prejudice to the other provisions of the Treaties, and in particular [Articles 188d to 188g], the Union shall carry out economic, financial and technical cooperation measures, including assistance, in particular financial assistance, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The Union's operations and those of the Member States shall complement and reinforce each other.";

- (b) paragraph 2 shall be replaced by the following:

"The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of paragraph 1."

- (c) at the end of the second sentence of the first subparagraph of paragraph 3, the words "..., which shall be negotiated and concluded in accordance with Article 300" shall be deleted.

- 171) The following new Article 188i shall be inserted:

"Article 188i

When the situation in a third country requires urgent financial assistance from the Union, the Council shall adopt the necessary decisions on a proposal from the Commission."

Humanitarian aid

172) The following new Chapter 3 and new Article 188j shall be inserted:

"CHAPTER 3 HUMANITARIAN AID

Article 188j

1. The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union. Such operations shall be intended to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations. The Union's operations and those of the Member States shall complement and reinforce each other.

2. Humanitarian aid operations shall be conducted in compliance with the principles of international law and with the principles of impartiality, neutrality and non-discrimination.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures defining the framework within which the Union's humanitarian aid operations shall be implemented.

4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in paragraph 1 and in Article [III-292] of the Treaty on European Union.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.

5. In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall determine the rules and procedures for the operation of the Corps.

6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures.

7. The Union shall ensure that its humanitarian aid operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations system."

Restrictive measures

173) The following Title IV and Article 188k shall be inserted, replacing Article 301:

"TITLE IV RESTRICTIVE MEASURES

Article 188k

1. Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European Parliament thereof.
2. Where a decision adopted in accordance with Chapter 2 of Title V of the Treaty on European Union so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.
3. The acts referred to in this Article shall include necessary provisions on legal safeguards."

International agreements

174) A Title V "INTERNATIONAL AGREEMENTS" shall be inserted.

175) The following Article 188l shall be inserted:

"Article 188l

1. The Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.
2. Agreements concluded by the Union are binding on the institutions of the Union and on its Member States.

176) An Article 188m shall be inserted, with the wording of Article 310. The word "States" shall be replaced by "third countries".

177) An Article 188n shall be inserted, replacing Article 300:

"Article 188n

1. Without prejudice to the specific provisions laid down in Article [III-315], agreements between the Union and third countries or international organisations shall be negotiated and concluded in accordance with the following procedure.

2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.

3. The Commission, or the High Representative of the Union for Foreign Affairs and Security Policy where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall submit recommendations to the Council, which shall adopt a decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or head of the Union's negotiating team.

4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

5. The Council, on a proposal by the negotiator, shall adopt a decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force.

6. The Council, on a proposal by the negotiator, shall adopt a decision concluding the agreement.

Except where agreements relate exclusively to the common foreign and security policy, the Council shall adopt the decision concluding the agreement:

(a) after obtaining the consent of the European Parliament in the following cases:

(i) association agreements;

(ii) agreement on Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;

(iii) agreements establishing a specific institutional framework by organising cooperation procedures;

(iv) agreements with important budgetary implications for the Union;

- (v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required.

The European Parliament and the Council may, in an urgent situation, agree upon a time-limit for consent.

- (b) after consulting the European Parliament in other cases. The European Parliament shall deliver its opinion within a time-limit which the Council may set depending on the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

7. When concluding an agreement, the Council may, by way of derogation from paragraphs 5, 6 and 9, authorise the negotiator to approve on the Union's behalf modifications to the agreement where it provides for them to be adopted by a simplified procedure or by a body set up by the agreement. The Council may attach specific conditions to such authorisation.

8. The Council shall act by a qualified majority throughout the procedure.

However, 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 the agreements referred to in Article [III-319] with the States which are candidates for accession. The Council shall also act unanimously for the agreement on accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms; the decision concluding this agreement shall not come into force until it has been approved by the Member States in accordance with their respective constitutional requirements.

9. The Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a decision suspending application of an agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.

10. The European Parliament shall be immediately and fully informed at all stages of the procedure.

11. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the Treaties. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless it is amended or the Treaties are revised."

178) An Article 188o shall be inserted, with the wording of paragraphs 1 to 3 and 5 of Article 111; it shall be amended as follows:

- (a) in paragraph 1 of paragraph 1 and paragraph 2, the words "non-Community currencies" shall be replaced by "currencies of third States";
- (b) in the first sentence of the first subparagraph of paragraph 3, the word "States" shall be replaced by "third States" and the second subparagraph shall be deleted;
- (c) paragraph 5 shall be renumbered "4".

The Union's relations with international organisations and third countries and Union delegations

179) The following Title VI and Articles 188p and 188q shall be inserted, with Article 188p replacing Articles 302 to 304:

"TITLE VI THE UNION'S RELATIONS WITH INTERNATIONAL ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS

Article 188p

1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.

The Union shall also maintain such relations as are appropriate with other international organisations.

2. The High Representative of the Union for Foreign Affairs and Security Policy and the Commission shall be instructed to implement this Article.

Article 188q

1. Union delegations in third countries and at international organisations shall represent the Union.

2. Union delegations shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy. They shall act in close cooperation with Member States' diplomatic and consular missions.

Solidarity clause

180) The following new Title VII and new Article 188r shall be inserted:

"TITLE VIII SOLIDARITY CLAUSE

Article 188r

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

- (a) – prevent the terrorist threat in the territory of the Member States;
 - protect democratic institutions and the civilian population from any terrorist attack;
 - assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;
- (b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.

2. Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

3. The arrangements for the implementation by the Union of the solidarity clause shall be defined by a decision adopted by the Council acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy. The Council shall act in accordance with Article [III-300(1)] where this decision has defence implications. The European Parliament shall be informed.

For the purposes of this paragraph and without prejudice to Article [III-344], the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article [III-261]; the two committees shall, if necessary, submit joint opinions.

4. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action."

Functioning of the Union

181) Part Five shall be renumbered "Part Six" and its heading shall be replaced by "THE FUNCTIONING OF THE UNION".

European Parliament

182) Article 189 shall be repealed.

183) Article 190 shall be amended as follows:

- (a) paragraphs 1, 2 and 3 shall be deleted and paragraphs 4 and 5 shall be renumbered 1 and 2 respectively;
- (b) in the first subparagraph of paragraph 4, renumbered as 1, the words "of its Members" shall be inserted after "election"; in the second subparagraph, the words "in accordance with a special legislative procedure" shall be inserted after "acting";
- (c) in paragraph 5, renumbered as 2, the words "acting on its own initiative in accordance with a special legislative procedure" shall be inserted after "The European Parliament".

184) In Article 191, the first paragraph shall be deleted; in the second paragraph, the words "referred to in Article [I-46(4)] of the Treaty on European Union" shall be inserted after "at European level".

185) In Article 192, the first paragraph shall be deleted; in the second paragraph, the words "of its Members" shall be replaced by "by a majority of its component members" and the following sentence shall be added at the end of the paragraph: "If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons".

186) Article 193 shall be amended as follows:

- (a) in the first paragraph, the words "of its Members" shall be replaced by "of its component Members";
- (b) the second paragraph shall be replaced by the following:

"The detailed provisions governing the exercise of the right of inquiry shall be determined by the European Parliament, acting on its own initiative in accordance with a special legislative procedure, after obtaining the consent of the Council and the Commission."

187) Article 195 shall be amended as follows:

- (a) in the first subparagraph of paragraph 1, the words at the beginning "The European Parliament shall appoint an Ombudsman empowered to receive complaints ..." shall be replaced by "A European Ombudsman elected by the European Parliament shall be empowered to receive complaints ..."; in the last part of the sentence, the words "and the Court of First Instance" shall be deleted and the following final sentence shall be added: "He or she shall examine such complaints and report on them".
- (b) in the first subparagraph of paragraph 2, the word "appointed" shall be replaced by "elected";
- (c) in paragraph 3, the words "from any body" shall be replaced by "from any institution, body, office or agency";
- (d) in paragraph 4, the words "acting on its own initiative in accordance with a special legislative procedure" shall be inserted after "The European Parliament ...".

188) In the second paragraph of Article 196, the words "in extraordinary session" shall be replaced by "in extraordinary part-session" and the words "of its Members" shall be replaced by "of its component members".

189) Article 197 shall be amended as follows:

- (a) the first paragraph shall be deleted;
- (b) the second paragraph shall be replaced by the following: "The Commission may attend all the meetings and shall, at its request, be heard.";
- (c) the fourth paragraph shall be replaced by the following: "The European Council and the Council shall be heard by the European Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council and those of the Council."

190) In the first paragraph of Article 198, the word "absolute" shall be deleted.

191) In the second paragraph of Article 199, the words "... manner laid down in its Rules of Procedure" shall be replaced by "manner laid down in the Treaties and in its Rules of Procedure".

192) In Article 201, the second paragraph shall be replaced by the following:

"If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the component members of the European Parliament, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from duties that he or she carries out in the Commission. They shall remain in office and continue to deal with current business until they are replaced in accordance with Articles [I-26 and I-27] of the Treaty on European Union. In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired."

European Council

193) The following new Section 1a and new Articles 201a and 201b shall be inserted:

"SECTION 1a THE EUROPEAN COUNCIL

Article 201a

1. Where a vote is taken, any member of the European Council may also act on behalf of not more than one other member.

Paragraph [1 of Article I-25] of the Treaty on European Union and paragraph [2] of Article [205] of this Treaty shall apply to the European Council when it is acting by a qualified majority. Where the European Council decides by vote, its President and the President of the Commission shall not take part in the vote.

Abstentions by members present in person or represented shall not prevent the adoption by the European Council of acts which require unanimity.

2. The President of the European Parliament may be invited to be heard by the European Council.

3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.

4. The European Council shall be assisted by the General Secretariat of the Council.

Article 201b

The European Council shall adopt by a qualified majority:

- (a) a decision establishing the list of Council configurations other than those referred to in Article [I-24(2) and (3)] of the Treaty on European Union;
- (b) a decision on the Presidency of Council configurations, other than that of Foreign Affairs, in accordance with Article [I-24(7)] of the Treaty on European Union.

Council

194) Articles 202 and 203 shall be repealed.

195) Article 205 shall be amended as follows:

- (a) paragraphs 1 and 2 shall be replaced by the following:

"1. Where it is required to act by a simple majority, the Council shall act by a majority of its component members.

2. By way of derogation from paragraph 1 of Article [I-25] of the Treaty on European Union, as from 1 November 2014 and subject to the transitional provisions referred to in Article [9 C(5)] of the Treaty on European Union, where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council, representing Member States comprising at least 65 % of the population of the Union.

3. As from 1 November 2014 and subject to the transitional provisions referred to in Article [9 C(5)] of the Treaty on European Union, in cases where not all the members of the Council participate in voting, a qualified majority shall be defined as follows:

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

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

- (b) By way of derogation from point (a), where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States."

(b) paragraph 4 shall be deleted and paragraph 3 shall be renumbered "4".

196) Article 207 shall be replaced by the following:

"Article 207

1. A committee consisting of the Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the latter. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.
2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council.

The Council shall decide on the organisation of the General Secretariat by a simple majority.

3. The Council shall act by a simple majority regarding procedural matters and for the adoption of its Rules of Procedure.

197) In Article 208, the following sentence shall be added at the end of the Article: "If the Commission does not submit a proposal, it shall inform the Council of the reasons."

198) In Article 209, the words "receiving an opinion from" shall be replaced by "consulting".

199) Article 210 shall be replaced by the following:

"The Council shall determine the salaries, allowances and pensions of the President of the European Council, the President of the Commission, the High Representative of the Union for Foreign Affairs and Security Policy, the members of the Commission, the Presidents, members and Registrars of the Court of Justice of the European Union, and the Secretary-General of the Council. It shall also determine any payment to be made instead of remuneration."

Commission

200) Article 211 shall be replaced by the following:

"In accordance with Article [I-26(6)] of the Treaty on European Union, the members of the Commission shall be chosen on the basis of a system of rotation established unanimously by the European Council and on the basis of the following principles:

- (a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;
- (b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States."

201) Article 212 shall become a new paragraph 2 of Article 218.

202) In Article 213, paragraph 1 shall be deleted and paragraph 2 shall not be numbered; its first two paragraphs shall be merged and shall read as follows:

"The Members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks."

203) Article 214 shall be repealed.

204) Article 215 shall be amended as follows:

- (a) the second paragraph shall be replaced by the following two paragraphs:

A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the member's term of office by a new member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in Article [I-26(4)] of the Treaty on European Union.

The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not be filled, in particular when the remainder of the member's term of office is short.

(b) the following new fifth paragraph shall be inserted:

"In the event of resignation, compulsory retirement or death, the High Representative of the Union for Foreign Affairs and Security Policy shall be replaced, for the remainder of his or her term of office, in accordance with Article [I-28(1)] of the Treaty on European Union";

(c) the last paragraph shall be replaced by the following:

"In the case of the resignation of all the members of the Commission, they shall remain in office and continue to deal with current business until they have been replaced, in accordance with Articles [I-26] and [I-27] of the Treaty on European Union".

- 205)** In Article 217, paragraphs 1, 3 and 4 shall be deleted and paragraph 2 shall not be numbered. Its first sentence shall be replaced by the following: "Without prejudice to Article [I-28(4)] of the Treaty on European Union, the responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President, in accordance with Article [I-27(3)] of that Treaty".
- 206)** In Article 218, paragraph 1 shall be deleted; paragraph 2 shall be renumbered "1" and the words "in accordance with the provisions of this Treaty" shall be deleted. A paragraph 2 shall be inserted, with the wording of Article 212.
- 207)** In Article 219, first paragraph, the words "of the number of Members provided for in Article 213" shall be replaced by "of its members" and the second paragraph shall be replaced by "Its Rules of Procedure shall determine the quorum."

Court of Justice

- 208)** In the heading of Section 4, the words "OF THE EUROPEAN UNION" shall be added.
- 209)** Article 220 shall be repealed.
- 210)** In Article 221, the first paragraph shall be deleted.
- 211)** In Article 223, the words "..., after consultation of the panel provided for in Article [III-357]" shall be added at the end of the first paragraph. The fifth paragraph shall be deleted.
- 212)** In Article 224, first paragraph, the first sentence shall be deleted and the words "of the Court" shall be inserted after "The number of Judges ...". In the second paragraph, the words "..., after consultation of the panel provided for in Article [III-357]" shall be inserted at the end of the second sentence. The fourth paragraph shall be deleted.
- 213)** The following new Article 224a shall be inserted:
- "Article 224a
- A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles [III-355 and III-356].
- The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament. The Council shall adopt a decision establishing the panel's operating rules and a decision appointing its members. It shall act on the initiative of the President of the Court of Justice."
- 214)** In Article 225, paragraph 1, first subparagraph, first sentence, the words "set up under Article [III-359]" shall be inserted after "a specialised court" and in paragraph 2, first subparagraph, the words "set up under Article 225a" shall be deleted.

215) Article 225a shall be amended as follows:

- (a) the first paragraph shall be replaced by the following text: "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish specialised courts attached to the General Court to hear and determine at first instance certain classes of action or proceeding brought in specific areas. The European Parliament and the Council shall act either on a proposal from the Commission after consultation of the Court of Justice or at the request of the Court of Justice after consultation of the Commission.";
- (b) in the second paragraph, the words "the panel" shall be replaced by "the court";
- (c) in the sixth paragraph, the following sentence shall be added at the end: "Title I of the Statute and Article 64 thereof shall in any case apply to the specialised courts.".

216) Article 228 shall be amended as follows:

- (a) in paragraph 2, the first and second subparagraphs shall be replaced by the following wording, which becomes the first subparagraph:

"If the Commission considers that the Member State concerned has not taken the necessary measures to comply with judgment of the Court, it may bring the case before the Court of Justice of the European Union after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances."

In the second subparagraph, which has become the third, the words "of Justice" shall be deleted after "Court".

- (b) the following new paragraph 3 shall be added:

"3. When the Commission brings a case before the Court of Justice of the European Union pursuant to Article [III-360] on the grounds that the Member State concerned has failed to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure, it may, when it deems appropriate, specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that there is an infringement it may impose a lump sum or penalty payment on the Member State concerned not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment."

217) In Article 229a, the words "... the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, ..." shall be replaced by "... the Council, acting in accordance with a special legislative procedure and after consulting the European Parliament, ..." and the words "Community industrial property rights" shall be replaced by "European intellectual property rights".

218) Article 230 shall be amended as follows:

(a) in the first paragraph, the words "acts adopted jointly by the European Parliament and the Council, ..." shall be replaced by "... legislative acts, ..." the words "and of the European Council" shall be inserted after "European Parliament" and the following sentence shall be added at the end: "It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects vis-à-vis third parties.";

(b) in the third paragraph, the words "and by the Committee of the Regions" shall be inserted after "ECB";

(c) the fourth paragraph shall be replaced by the following:

"Any natural or legal person may, under the same conditions, institute proceedings against an act addressed to that person or which is of direct and individual concern to him or her, and against a regulatory act which is of direct concern to him or her and does not entail implementing measures.";

(d) the following new fifth paragraph shall be inserted:

"Acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them."

219) In Article 231, the second paragraph shall be replaced by the following: "However, the Court shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive.".

220) Article 232 shall be amended as follows:

(a) in the first paragraph, the words "the European Council," shall be inserted after "European Parliament", the words "or the European Central Bank" shall be inserted after "Commission", the word "or" before "the Commission" shall be deleted and the following sentence shall be added at the end of the paragraph: "This Article shall apply, under the same conditions, to bodies, offices and agencies of the Union which fail to act.";

- (b) in the third paragraph, the words "... , body, office or agency" shall be inserted after "... an institution";
- (c) the fourth paragraph shall be deleted.

221) In Article 233, first paragraph, the words "or institutions" shall be deleted and the third paragraph shall be deleted.

222) In Article 234, first paragraph, point (b), the words "and of the ECB" shall be deleted and point (c) shall be deleted. The following paragraph shall be added at the end of the Article: "If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court of Justice of the European Union shall act with the minimum of delay.".

223) The following new Article 235a shall be inserted:

"Article 235a

The Court of Justice shall have jurisdiction to decide on the legality of an act adopted by the European Council or by the Council pursuant to Article [I-59] solely at the request of the Member State concerned by a determination of the European Council or of the Council and in respect solely of the procedural stipulations contained in that Article.

Such a request must be made within one month from the date of such determination. The Court shall rule within one month from the date of the request."

224) In Article 236, the words "... in the Staff Regulations or the Conditions of employment" shall be replaced by "... in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union".

225) In Article 237, point (d), at the beginning of the second sentence, the word "Governing" shall be inserted before "Council" and the words "of Justice" shall be deleted at the end, after the word "Court".

226) The following two new Articles 240a and 240b shall be inserted:

"Article 240a

The Court of Justice of the European Union shall not have jurisdiction with respect to Articles [I-40 and I-41] of the Treaty on European Union and the provisions of Chapter II of Title V of that Treaty concerning the common foreign and security policy and Article [III-293] of that Treaty insofar as it concerns the common foreign and security policy.

However, the Court shall have jurisdiction to monitor compliance with Article [III-308] of the Treaty on European Union and to rule on proceedings, brought in accordance with the conditions laid down in Article [III-365(4)] of this Treaty, reviewing the legality of European decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter II of Title V of the Treaty on European Union.

Article 240b

In exercising its powers regarding the provisions of [Sections 4 and 5 of Chapter IV of Title III] relating to the area of freedom, security and justice, the Court of Justice of the European Union shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security."

227) Article 241 shall be replaced by the following:

"Article 241

Notwithstanding the expiry of the period laid down in Article [230, fifth paragraph,] any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the Union is at issue, plead the grounds specified in Article [230, second paragraph,] in order to invoke before the Court of Justice of the European Union the inapplicability of that act."

228) In Article 242, second sentence, the words "of Justice" after "Court" shall be deleted.

229) In Article 245, the second paragraph shall be replaced by the following:

"The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may amend the provisions of the Statute, with the exception of Title I and Article 64. The European Parliament and the Council shall act either at the request of the Court of Justice and after consultation of the Commission, or on a proposal from the Commission and after consultation of the Court of Justice."

European Central Bank

230) The following Section 4a and Article 245a shall be inserted:

"SECTION 4a THE EUROPEAN CENTRAL BANK

Article 245a

1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks. The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.
2. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives.
3. The European Central Bank shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.
4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles [III-185 to III-191 and Article III-196], and with the conditions laid down in the Statute of the ESCB and of the ECB. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.
5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion."

231) An Article 245b shall be inserted, with the wording of Article 112; it shall be amended as follows:

- (a) in paragraph 1, the words "of the Member States without a derogation as referred to in Article [III-197]" shall be inserted at the end after "... national central banks";

- (b) in paragraph 2, second subparagraph, the words "from among persons of recognised standing and professional experience in monetary or banking matters by common accord of the governments of the Member States at the level of Heads of State or Government," shall be replaced by "by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters,".

232) An Article 245c shall be inserted, with the wording of Article 113.

Court of Auditors

233) In Article 246, the word "Union's" shall be inserted before "audit" and the following two paragraphs shall be added:

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

It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest."

234) Article 247 shall be amended as follows:

- (a) paragraph 1 and the first subparagraph of paragraph 4 shall be deleted. Paragraphs 2 to 9 shall be renumbered 1 to 8 respectively;
- (b) in paragraph 2, renumbered 1, the word "countries" shall be replaced by "States";
- (c) in paragraph 4, the word "they" shall be replaced by "the Members of the Court of Auditors".

235) In Article 248, the word "bodies" shall be replaced by "bodies, offices or agencies".

Legal acts of the Union

236) The heading of Chapter 2 shall be replaced by the following "LEGAL ACTS OF THE UNION, ADOPTION PROCEDURES AND OTHER PROVISIONS".

237) A Section 1 shall be inserted above Article 249:

"SECTION 1
THE LEGAL ACTS OF THE UNION"

238) Article 249 shall be amended as follows:

(a) the first paragraph shall be replaced by the following:

"To exercise the Union's competences, the institutions shall adopt regulations, directives, recommendations and opinions."

(b) the fourth paragraph shall be replaced by the following:

"A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them."

239) The following new Articles 249a to 249d shall be inserted:

"Article 249a

1. The ordinary legislative procedure shall consist in the joint adoption by the European Parliament and the Council of a regulation, directive or decision on a proposal from the Commission. This procedure is defined in Article [III-396].
2. A special legislative procedure shall consist in the adoption of a regulation, directive or decision by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament.
3. Legal acts adopted by legislative procedure shall constitute legislative acts.

Article 249b

1. A legislative act may delegate to the Commission the power to adopt non-legislative acts to supplement or amend certain non-essential elements of the legislative act. The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts. The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power.
2. Legislative acts shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:
 - (a) the European Parliament or the Council may decide to revoke the delegation;
 - (b) the delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act.

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

3. The adjective "delegated" shall be inserted in the title of delegated acts.

Article 249c

1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.
2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Article [I-40], on the Council.
3. For the purposes of paragraph 2, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.
4. The word "implementing" shall be inserted in the title of implementing acts.

Article 249d

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

Procedures for the adoption of acts and other provisions

240) A Section 2 "PROCEDURES FOR THE ADOPTION OF ACTS AND OTHER PROVISIONS" shall be inserted before Article 250:

241) In Article 250, paragraph 1 shall be replaced by the following:

"1. Where, pursuant to the Treaties, the Council acts on a proposal from the Commission, the Council may amend that proposal only by acting unanimously, except in the cases referred to in Articles [I-55, I-56, III-396(10) and (13), III-404 and III-405(2)].

Procedures for the adoption of acts and other provisions

242) Article 251 shall be amended as follows:

- (a) in paragraph 1 the words "to this Article ..." shall be replaced by "to the ordinary legislative procedure";
- (b) as from the second subparagraph of paragraph 2, the wording of the Article shall be replaced by the following:

"First reading"

- 3. The European Parliament shall adopt its position at first reading and communicate it to the Council.
- 4. If the Council approves the European Parliament's position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.
- 5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.
- 6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

Second reading

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

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

- (a) approves all those amendments, the act in question shall be deemed to have been adopted;

- (b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

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

Conciliation

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

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

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

Third reading

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

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

Special provisions

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

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

243) Article 252 shall be replaced by the following:

"The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature."

244) Article 253 shall be replaced by the following:

"Where the Treaties do not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality.

Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Treaties.

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

245) Article 254 shall be replaced by the following:

"1. Legislative acts adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

Legislative acts adopted under a special legislative procedure shall be signed by the President of the institution which adopted them.

Legislative acts shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

2. Non-legislative acts adopted in the form of regulations, directives or decisions, when the latter do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

Regulations and directives which are addressed to all Member States, as well as decisions which do not specify to whom they are addressed, shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

Other directives, and decisions which specify to whom they are addressed, shall be notified to those to whom they are addressed and shall take effect upon such notification."

246) The following new Article 254a shall be inserted:

"Article 254a

1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.
2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of [Article III-427], the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish provisions to that end."

247) Article 255 shall become Article 21a; it shall be amended as set out above in point 36.

248) In Article 256, first paragraph, the word "decisions" shall be replaced by "acts" and the words "or of the European Central Bank" shall be inserted after "Commission".

Advisory bodies

249) The following new Chapter 3 and Article shall be inserted; Chapters 3 and 4 shall become Section 1 and Section 2 respectively and Chapter 5 shall be renumbered 4:

"CHAPTER 3
THE UNION'S ADVISORY BODIES

Article 256a

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

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

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

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

5. Rules governing the composition of these Committees, the designation of their members, their powers and their operations are set out in Articles [III-386 to III-392].

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

250) Articles 257 and 261 shall be repealed.

251) In Article 258, the second and third paragraphs shall be replaced by the following paragraph:

"The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition."

252) Article 259 shall be amended as follows:

(a) in paragraph 1, the first sentence shall be replaced by the following sentence:
"The members of the Committee shall be appointed for five years.";

(b) paragraph 2 shall be replaced by the following:

2. The Council shall act after consulting the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors and of civil society to which the Union's activities are of concern."

253) In Article 260, in the first paragraph, the words "two years" shall be replaced by "two and a half years" and in the third paragraph, the words "of the European Parliament," shall be inserted before "of the Council".

254) Article 262 shall be amended as follows:

- (a) a reference to the European Parliament shall be inserted before the reference to the Council in the first, second and third paragraphs;
- (b) in the first paragraph, the word "must" shall be replaced by "shall";
- (c) in the third paragraph, the words "and that of the specialised section" shall be deleted;
- (d) the fourth paragraph shall be deleted.

255) Article 263 shall be amended as follows:

- (a) the first paragraph shall be deleted;
- (b) the third paragraph shall be replaced by the following:

"The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition.";
- (c) in the fourth paragraph, first sentence, the words "on proposals from the respective Member States" shall be deleted and the figure "four" shall be replaced by "five"; in the third sentence, the reference to "the first paragraph" shall be replaced by a reference to "Article [I-32](2),]";
- (d) the last paragraph shall be deleted.

Committee of the Regions

256) In Article 264, first paragraph, the words "two years" shall be replaced by "two and a half years" and in the third paragraph, the words "of the European Parliament," shall be inserted before "of the Council".

257) Article 265 shall be amended as follows:

- (a) the fourth paragraph shall be deleted.
- (b) a reference to the European Parliament shall be inserted before the reference to the Council in the first, second, third and last paragraphs;

European Investment Bank

258) In Article 266, third paragraph, the words "at the request of the Commission" shall be replaced by "on a proposal from the Commission" and the words "in accordance with a special legislative procedure" shall be inserted after "unanimously" and the reference to Articles 4, 11, and 12 and Article 18(5) of the Statute of the Bank shall be deleted.

259) In Article 267(b), the word "progressive" shall be deleted and the words "or functioning" shall be inserted after "establishment".

Financial provisions

260) Article 268 shall be amended as follows:

- (a) in the first paragraph, the words "..., including those relating to the European Social Fund, ..." shall be deleted and the paragraph shall become paragraph 1;
- (b) the second paragraph shall be replaced by the following:

"The Union's annual budget shall be established by the European Parliament and the Council in accordance with Article [III-404].";

- (c) the following new paragraphs shall be inserted:

"2. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the regulation referred to in Article [III-412].

3. The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the regulation referred to in Article [III-412], except in cases for which that law provides.

4. With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union's own resources and in compliance with the multiannual financial framework referred to in Article [I-55].

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

6. The Union and the Member States, in accordance with Article [III-415], shall counter fraud and any other illegal activities affecting the financial interests of the Union."

The Union's own resources

261) A Chapter 1, "THE UNION'S OWN RESOURCES", shall be inserted before Article 269.

262) Article 269 shall be amended as follows:

(a) the following new first paragraph shall be inserted:

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

(b) the last paragraph shall be replaced by the following two paragraphs:

"The Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament adopt a regulation laying down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. That regulation shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

The Council, acting in accordance with a special legislative procedure, shall lay down implementing measures of the Union's own resources system insofar as this is provided for in the regulation adopted on the basis of the first paragraph. The Council shall act after obtaining the consent of the European Parliament."

263) Article 270 shall be repealed.

Multiannual financial framework

264) The following new Chapter 2 and new Article 270a shall be inserted:

"CHAPTER 2 THE MULTIANNUAL FINANCIAL FRAMEWORK

Article 270a

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources. It shall determine the amounts of the annual ceilings of appropriations for commitments by category of expenditure.

It shall be established for a period of at least five years.

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

2. The Council, acting in accordance with a special legislative procedure, shall adopt a regulation laying down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

The European Council may, unanimously, adopt a decision authorising the Council to act by a qualified majority when adopting the regulation referred to in the first paragraph.

3. The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity.

The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly.

4. Where no Council act determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that act is adopted.

5. Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate the successful completion of the procedure."

The Union's annual budget

265) A Chapter 3, "THE UNION'S ANNUAL BUDGET", shall be inserted after Article 270a.

266) An Article 270b shall be inserted, with the wording of Article 272(1).

267) Article 271 shall become the new Article 273a; it shall be amended as set out below in point 270.

268) Article 272(1) shall become Article 270b and paragraphs 2 to 10 shall be replaced by the following:

"The European Parliament and the Council, acting in accordance with a special legislative procedure, shall establish the Union's annual budget in accordance with the following provisions.

1. Each institution shall, before 1 July, draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget which may contain different estimates.

The draft budget shall contain an estimate of revenue and an estimate of expenditure.

2. The Commission shall submit a proposal containing the draft budget to the European Parliament and to the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Commission may amend the draft budget during the procedure until such time as the Conciliation Committee, referred to in paragraph 5, is convened.

3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1 October of the year preceding that in which the budget is to be implemented. The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.

4. If, within forty-two days of such communication, the European Parliament:

(a) approves the position of the Council, the budget shall be adopted;

(b) has not taken a decision, the budget shall be deemed to have been adopted;

- (c) adopts amendments by a majority of its component members, the amended draft shall be forwarded to the Council and to the Commission. The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the draft being forwarded the Council informs the European Parliament that it has approved all its amendments, the Conciliation Committee shall not meet.

5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council.

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

6. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.

7. If, within the period of fourteen days referred to in paragraph 6:

- (a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the budget shall be deemed to be definitively adopted in accordance with the joint text, or
- (b) the European Parliament, acting by a majority of its component members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission, or
- (c) the European Parliament, acting by a majority of its component members, rejects the joint text while the Council approves it, a new draft budget shall be submitted by the Commission, or

- (d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation committee on the budget heading which is the subject of the amendment shall be retained. The budget shall be deemed to be definitively adopted on this basis.
8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.
9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the budget has been definitively adopted.
10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Treaties and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure.

269) Article 273 shall be amended as follows:

- (a) in the first paragraph, the word "voted" shall be replaced by "definitively adopted", the words "or other subdivision" shall be deleted and, at the end of the sentence, the words "... this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one twelfth of those provided for in the draft budget in course of preparation" shall be replaced by "... that sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget.";
- (b) in the second paragraph, the words "on a proposal from the Commission," shall be inserted after "The Council" and the following shall be added at the end: "... in accordance with the Regulations made pursuant to Article 279. The Council shall forward the decision immediately to the European Parliament.";
- (c) the third paragraph shall be deleted;

- (d) the last paragraph shall be replaced by the following:

"The decision referred to in the second paragraph shall lay down the necessary measures relating to resources to ensure application of this Article, in accordance with the acts referred to in Article [269].

It shall enter into force thirty days following its adoption if the European Parliament, acting by a majority of its component members, has not decided to reduce this expenditure within that time-limit."

- 270)** An Article 273a shall be inserted, with the wording of Article 271; it shall be amended as follows:

- (a) the first paragraph shall be deleted;
- (b) In the third paragraph, which has become the second, the words "as far as may be necessary" shall be deleted;
- (c) in the last paragraph, the words "the Council, the Commission and the Court of Justice" shall be replaced by "the European Council, the Council, the Commission and the Court of Justice of the European Union".

Implementation of the budget and discharge

- 271)** A Chapter 4, "IMPLEMENTATION OF THE BUDGET AND DISCHARGE", shall be inserted before Article 274, which shall be amended as follows:

- (a) in the first paragraph, the words at the beginning "The Commission shall implement the budget" shall be replaced by "The Commission shall implement the budget in cooperation with the Member States";
- (b) the second paragraph shall be replaced by the following: "The regulations shall lay down the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities. They shall also lay down the responsibilities and detailed rules for each institution concerning its part in effecting its own expenditure."

- 272)** In Article 275, the order of the Council and the European Parliament shall be reversed.

- 273)** In Article 276(1), the words "the accounts and the financial statement referred to in Article [275]", shall be replaced by "the accounts, the financial statement and the evaluation report referred to in Article [275],".

Common financial provisions

274) A Chapter 5, "COMMON PROVISIONS", shall be inserted before Article 277.

275) Article 277 shall be replaced by the following: "The multiannual financial framework and the annual budget shall be drawn up in euro."

276) Article 279 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

"1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Court of Auditors shall:

- (a) adopt financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers, and concerning appropriate arrangements for inspection."

(b) in paragraph 2, "unanimously" and the word "opinion" shall be deleted.

277) The following new Articles 279a and 279b shall be inserted:

"Article 279a

The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.

Article 279b

Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened, on the initiative of the Commission, under the budgetary procedures referred to in this Chapter. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the institutions over which they preside in order to facilitate the implementation of this Title."

Combating fraud

278) A Chapter 6, "COMBATING FRAUD", shall be inserted before Article 280.

279) In Article 280, the following words shall be added at the end of paragraph 1: "..., and in all the Union's institutions, bodies, offices and agencies." and the last sentence in paragraph 4 shall be deleted.

Enhanced cooperation

280) A Title III, "ENHANCED COOPERATION", shall be inserted after Article 280.

281) The following new Articles 280a to 280i shall be inserted:

"Article 280a

Any enhanced cooperation shall comply with the Treaties and the law of the Union.

Such cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.

Article 280b

Any enhanced cooperation shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.

Article 280c

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the authorising decision. It shall also be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to any such conditions.

The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.

2. The Commission and, where appropriate, the High Representative of the Union for Foreign Affairs and Security Policy shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.

Article 280d

1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Treaties, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

Authorisation to proceed with the enhanced cooperation referred to in paragraph 1 shall be granted by the Council, on a proposal from the Commission and after obtaining the consent of the European Parliament.

2. 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. It shall be forwarded to the High Representative of the Union for Foreign Affairs and Security Policy, who shall give an opinion on whether the enhanced cooperation proposed 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 decision of the Council acting unanimously.

Article 280e

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

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

A qualified majority shall be defined in accordance with Article 205(3).

Article 280f

1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article [III-419(1)] shall notify its intention to the Council and the Commission. The Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. It shall note where necessary that the conditions of participation have been fulfilled and shall adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that the 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. On the expiry of that deadline, it shall re-examine the request, in accordance with the procedure set out in the second subparagraph. If the Commission considers that the conditions of participation have still not been met, the Member State concerned may refer the matter to the Council, which shall decide on the request. The Council shall act in accordance with Article [I-44](3). It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

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

The Council shall confirm the participation of the Member State concerned, after consulting the High Representative of the Union for Foreign Affairs and Security Policy and after noting, where necessary, that the conditions of participation have been fulfilled. The Council, on a proposal from the High Representative, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the 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 shall act unanimously and in accordance with Article [I-44](3).

Article 280g

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.

Article 280h

1. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article [I-44](3), may adopt a decision stipulating that it will act by a qualified majority.
2. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt acts under a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article [I-44](3), may adopt a decision stipulating that it will act under the ordinary legislative procedure. The Council shall act after consulting the European Parliament.
3. Paragraphs 1 and 2 shall not apply to decisions having military or defence implications.

Article 280i

The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end."

General and final provisions

282) Part Six shall be renumbered "Part Seven".

283) Articles 281, 286, 293, 305 and 310 to 312 shall be repealed.

284) In Article 282, the following sentence shall be added at the end: "However, the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation."

285) At the beginning of Article 283, the words "The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting ..." shall be replaced by "The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure on a proposal from the Commission and after consulting ...".

286) In Article 288, the third paragraph shall be replaced by the following:

"Notwithstanding the second paragraph, the European Central Bank shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties."

287) In Article 291, the words ", the European Monetary Institute " shall be deleted.

288) Article 294 shall become Article 48a.

289) Article 299 shall be amended as follows:

- (a) paragraph 1 shall be deleted. The first subparagraph of paragraph 2 and paragraphs 3 to 6 shall become Article 313; they shall be amended as set out below in point 295.

Paragraph 2 shall not be numbered;

- (b) at the beginning of the first paragraph, the word "However," shall be deleted and the words "the French overseas departments" shall be replaced by "Guadeloupe, French Guiana, Martinique, Réunion"; the following sentence shall be added at the end of the paragraph: "Such acts shall take the form of legislative acts where the legal basis for the adoption of Union measures in the area concerned provides for the adoption of legislative acts.";
- (c) at the beginning of the second paragraph, the words "The Council shall, when adopting the relevant measures referred to in the second subparagraph, take into account areas such as" shall be replaced by "The acts referred to in the first paragraph concern in particular areas such as ...".

290) Articles 300 and 301 shall be replaced by Articles 188n and 188k respectively and Articles 302 to 304 shall be replaced by Article 188p.

291) Article 308 shall be replaced by the following:

"Article 308

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

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

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

4. This Article cannot serve as a basis for attaining objectives pertaining to the common foreign and security policy and shall respect the limits set out in Article [III-308, second paragraph]."

292) The following new Article 308a shall be inserted:

"Article 308a

Article [IV-444] of the Treaty on European Union shall not apply to the following Articles:

- 201b, point (a),
- 201b, point (b),
- 211,
- 256a(3) second subparagraph,
- 269, third and fourth paragraphs,
- 270a(2),
- 308,
- 309, and
- 313(6)."

293) Article 309 shall be replaced by the following:

"Article 309

For the purposes of Article [I-59] of the Treaty on European Union on the suspension of certain rights resulting from Union membership, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2 of that Article. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2 of that Article.

For the adoption of the decisions referred to in paragraphs 3 and 4 of that Article, a qualified majority shall be defined in accordance with Article 205(3)(b).

Where, following a decision to suspend voting rights adopted pursuant to paragraph 3 of that Article, the Council acts by a qualified majority on the basis of a provision of the Treaties, that qualified majority shall be defined as in the second paragraph, or, where the Council acts on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, in accordance with Article 205(3)(a).

For the purposes of Article [I-59], the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component members."

294) Article 310 shall become Article 188m;

295) Article 313 shall be replaced by a text combining Article 299(2), first subparagraph, and Article 299(3) to (6); the text shall be amended as follows:

- (a) the first subparagraph of paragraph 2 and paragraphs 3 to 6 shall be renumbered 1 to 5 and the following new introductory wording shall be inserted at the beginning of the Article:

"In addition to the provisions of Article [IV-440] of the Treaty on European Union relating to the territorial scope of the Treaties, the following provisions shall apply:";

- (b) at the beginning of the first subparagraph of paragraph 2, renumbered 1, the words "the French overseas departments, ..." shall be replaced by "Guadeloupe, French Guiana, Martinique, Réunion, ..." and the words "in accordance with Article [III-424]" shall be added at the end;
- (c) in paragraph 3, renumbered 2, the words "of this Treaty" shall be deleted.
- (d) in paragraph 6, renumbered 5, the introductory words "Notwithstanding the preceding paragraphs:" shall be replaced by "Notwithstanding Article [IV-440] of the Treaty on European Union and paragraphs 1 to 4:";
- (e) the following new paragraph shall be inserted at the end of the Article:

"6. The European Council may, on the initiative of the Member State concerned, adopt a decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 1 and 2. The European Council shall act unanimously after consulting the Commission."

296) Article 314 shall be replaced by the following:

"The final provisions of the Treaty on European Union shall apply to this Treaty."

FINAL PROVISIONS

Article 3

This Treaty is concluded for an unlimited period.

Article 4

1. Protocol [No 11] annexed to this Treaty contains the amendments to the Protocols annexed to the Treaty on European Union, to the Treaty establishing the European Community and/or to the Treaty establishing the European Atomic Energy Community.
2. Protocol [No 12] annexed to this Treaty contains the amendments to the Treaty establishing the European Atomic Energy Community.

Article 5

1. The articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the Union, as amended by this Treaty, shall be renumbered in accordance with the tables of equivalences set out in the Annex to this Treaty.
2. The cross references to the articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the Union, as well as between them, shall be adapted accordingly. The same shall apply as regards references to the articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the Union contained in the other treaties and acts of primary legislation on which the Union is founded.
3. The references to the articles, parts, titles, chapters and sections of the Treaty on European Union and of the Treaty on the Functioning of the Union contained in other instruments or acts shall be understood as referring to the articles, parts, titles, chapters and sections of those Treaties as renumbered pursuant to paragraph 1 and, respectively, to the paragraphs of the said articles, as renumbered by certain provisions of this Treaty.

Article 6

1. This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
2. This Treaty shall enter into force on 1 January 2009, provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the second month following the deposit of the instrument of ratification by the last signatory State to take this step.

Article 7

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

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

Done at, ...

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

**Brussels, 23 July 2007 (31.07)
(OR. fr)**

CIG 2/07

NOTE

from:	Presidency of the IGC
dated:	23 July 2007
to:	Intergovernmental Conference (IGC)
Subject:	IGC 2007 Draft Treaty amending the Treaty on European Union and the Treaty establishing the European Community – Protocols

**DRAFT
TREATY AMENDING
THE TREATY ON EUROPEAN UNION AND
THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY**

PROTOCOLS

- Protocols 1 to 10 to be annexed to the Treaty on European Union and/or to the Treaty on the Functioning of the Union
- Protocols 11 and 12 to be annexed to the Treaty amending the Treaty on European Union and the Treaty establishing the European Community

N.B.:

This document is only a working document for examination by the IGC. The cross-references between Articles which appear in square brackets will, as usual, be corrected by the Legal/Linguistic experts when they finalise the text of the Reform Treaty before it is signed.

A. PROTOCOLS TO BE ANNEXED TO THE TREATY ON EUROPEAN UNION AND/OR TO THE TREATY ON THE FUNCTIONING OF THE UNION

PROTOCOL (No 1)

**ON THE ROLE OF NATIONAL PARLIAMENTS
IN THE EUROPEAN UNION**

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which national Parliaments scrutinise their governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State;

DESIRING to encourage greater involvement of national Parliaments in the activities of the European Union and to enhance their ability to express their views on draft European legislative acts as well as on other matters which may be of particular interest to them,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, to the Treaty on the Functioning of the Union and to the Treaty establishing the European Atomic Energy Community:

TITLE I

INFORMATION FOR NATIONAL PARLIAMENTS

Article 1

Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to national Parliaments upon publication. The Commission shall also forward the annual legislative programme as well as any other instrument of legislative planning or policy to national Parliaments, at the same time as to the European Parliament and the Council.

Article 2

Draft legislative acts sent to the European Parliament and to the Council shall be forwarded to national Parliaments.

For the purposes of this Protocol, "draft legislative acts" shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

Draft legislative acts originating from the Commission shall be forwarded to national Parliaments directly by the Commission, at the same time as to the European Parliament and the Council.

Draft legislative acts originating from the European Parliament shall be forwarded to national Parliaments directly by the European Parliament.

Draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank shall be forwarded to national Parliaments by the Council.

Article 3

National Parliaments may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion on whether a draft legislative act complies with the principle of subsidiarity, in accordance with the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the reasoned opinion or opinions to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the reasoned opinion or opinions to the institution or body concerned.

Article 4

An eight-week period shall elapse between a draft legislative act being made available to national Parliaments in the official languages of the Union and the date when it is placed on a provisional agenda for the Council for its adoption or for adoption of a position under a legislative procedure. Exceptions shall be possible in cases of urgency, the reasons for which shall be stated in the act or position of the Council. Save in urgent cases for which due reasons have been given, no agreement may be reached on a draft legislative act during those eight weeks. Save in urgent cases for which due reasons have been given, a ten-day period shall elapse between the placing of a draft legislative act on the provisional agenda for the Council and the adoption of a position.

Article 5

The agendas for and the outcome of meetings of the Council, including the minutes of meetings where the Council is deliberating on draft legislative acts, shall be forwarded directly to national Parliaments, at the same time as to Member States' governments.

Article 6

When the European Council intends to make use of Article [IV-444](1) or (2) of the Treaty on European Union, national Parliaments shall be informed of the initiative of the European Council at least six months before any decision is adopted.

Article 7

The Court of Auditors shall forward its annual report to national Parliaments, for information, at the same time as to the European Parliament and to the Council.

Article 8

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

TITLE II

INTERPARLIAMENTARY COOPERATION

Article 9

The European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular interparliamentary cooperation within the Union.

Article 10

A conference of Parliamentary Committees for Union Affairs may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the conference shall not bind national Parliaments and shall not prejudice their positions.

PROTOCOL (No 2)
ON THE APPLICATION OF THE PRINCIPLES
OF SUBSIDIARITY AND PROPORTIONALITY

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the Union;

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as laid down in Article [I-11] of the Treaty on European Union, and to establish a system for monitoring the application of those principles,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Article 1

Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article [I-11] of the Treaty on European Union.

Article 2

Before proposing legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for its decision in its proposal.

Article 3

For the purposes of this Protocol, "draft legislative acts" shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

Article 4

The Commission shall forward its draft legislative acts and its amended drafts to national Parliaments at the same time as to the Union legislator.

The European Parliament shall forward its draft legislative acts and its amended drafts to national Parliaments.

The Council shall forward draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank and amended drafts to national Parliaments.

Upon adoption, legislative resolutions of the European Parliament and positions of the Council shall be forwarded by them to national Parliaments.

Article 5

Draft legislative acts shall be justified with regard to the principles of subsidiarity and proportionality. Any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level shall be substantiated by qualitative and, wherever possible, quantitative indicators. Draft legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

Article 6

Any national Parliament or any chamber of a national Parliament may, within eight weeks from the date of transmission of a draft legislative act, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the opinion to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the opinion to the institution or body concerned.

Article 7

1. The European Parliament, the Council and the Commission, and, where appropriate, the group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, shall take account of the reasoned opinions issued by national Parliaments or by a chamber of a national Parliament.

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.

2. Where reasoned opinions on a draft legislative act's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the draft must be reviewed. This threshold shall be a quarter in the case of a draft legislative act submitted on the basis of Article [III-264] of the Treaty on the Functioning of the Union on the area of freedom, security and justice.

After such review, the Commission or, where appropriate, the group of Member States, the European Parliament, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, may decide to maintain, amend or withdraw the draft. Reasons must be given for this decision.

3. Furthermore, under the ordinary legislative procedure, where reasoned opinions on the non-compliance of a proposal for a legislative act with the principle of subsidiarity represent at least a simple majority of the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the proposal must be reviewed. After such review, the Commission may decide to maintain, amend or withdraw the proposal.

If it chooses to maintain the proposal, the Commission will have, in a reasoned opinion, to justify why it considers that the proposal complies with the principle of subsidiarity. This reasoned opinion, as well as the reasoned opinions of the national Parliaments, will have to be submitted to the Union legislator, for consideration in the procedure:

- (a) before concluding the first reading, the legislator (Council and European Parliament) shall consider whether the legislative proposal is compatible with the principle of subsidiarity, taking particular account of the reasons expressed and shared by the majority of national Parliaments as well as the reasoned opinion of the Commission;
- (b) if, by a majority of 55 % of the members of the Council or a majority of the votes cast in the European Parliament, the legislator is of the opinion that the proposal is not compatible with the principle of subsidiarity, the legislative proposal shall not be given further consideration.

Article 8

The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act, brought in accordance with the rules laid down in Article [III-365] of the Treaty on the Functioning of the Union by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber of it.

In accordance with the rules laid down in the said Article, the Committee of the Regions may also bring such actions against legislative acts for the adoption of which the Treaty on the Functioning of the Union provides that it be consulted.

Article 9

The Commission shall submit each year to the European Council, the European Parliament, the Council and national Parliaments a report on the application of Article [I-11] of the Treaty on European Union. This annual report shall also be forwarded to the Committee of the Regions and to the Economic and Social Committee.

PROTOCOL (No 3)
ON THE EURO GROUP

THE HIGH CONTRACTING PARTIES,

DESIRING to promote conditions for stronger economic growth in the European Union and, to that end, to develop ever-closer coordination of economic policies within the euro area,

CONSCIOUS of the need to lay down special provisions for enhanced dialogue between the Member States whose currency is the euro, pending the euro becoming the currency of all Member States of the Union,

HAVE AGREED UPON the following provisions, which are annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Article 1

The Ministers of the Member States whose currency is the euro shall meet informally. Such meetings shall take place, when necessary, to discuss questions related to the specific responsibilities they share with regard to the single currency. The Commission shall take part in the meetings. The European Central Bank shall be invited to take part in such meetings, which shall be prepared by the representatives of the Ministers with responsibility for finance of the Member States whose currency is the euro and of the Commission.

Article 2

The Ministers of the Member States whose currency is the euro shall elect a president for two and a half years, by a majority of those Member States.

PROTOCOL (No 4)
ON PERMANENT STRUCTURED COOPERATION
ESTABLISHED BY ARTICLE [I-41] OF THE TREATY ON EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

HAVING REGARD TO Article [I-41(6)] and Article [III-312] of the Treaty on European Union,

RECALLING that the Union is pursuing a common foreign and security policy based on the achievement of growing convergence of action by Member States;

RECALLING that the common security and defence policy is an integral part of the common foreign and security policy; that it provides the Union with operational capacity drawing on civil and military assets; that the Union may use such assets in the tasks referred to in Article [III-309] of the Treaty on European Union outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter; that the performance of these tasks is to be undertaken using capabilities provided by the Member States in accordance with the principle of a single set of forces;

RECALLING that the common security and defence policy of the Union does not prejudice the specific character of the security and defence policy of certain Member States;

RECALLING that the common security and defence policy of the Union respects the obligations under the North Atlantic Treaty of those Member States which see their common defence realised in the North Atlantic Treaty Organisation, which remains the foundation of the collective defence of its members, and is compatible with the common security and defence policy established within that framework;

CONVINCED that a more assertive Union role in security and defence matters will contribute to the vitality of a renewed Atlantic Alliance, in accordance with the Berlin Plus arrangements;

DETERMINED to ensure that the Union is capable of fully assuming its responsibilities within the international community;

RECOGNISING that the United Nations Organisation may request the Union's assistance for the urgent implementation of missions undertaken under Chapters VI and VII of the United Nations Charter;

RECOGNISING that the strengthening of the security and defence policy will require efforts by Member States in the area of capabilities;

CONSCIOUS that embarking on a new stage in the development of the European security and defence policy involves a determined effort by the Member States concerned;

RECALLING the importance of the High Representative of the Union for Foreign Affairs and Security Policy being fully involved in proceedings relating to permanent structured cooperation,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Article 1

The permanent structured cooperation referred to in Article [I-41(6)] of the Treaty on European Union shall be open to any Member State which undertakes, from the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, to:

- (a) proceed more intensively to develop its defence capacities through the development of its national contributions and participation, where appropriate, in multinational forces, in the main European equipment programmes, and in the activity of the Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency), and
- (b) have the capacity to supply by 2010 at the latest, either at national level or as a component of multinational force groups, targeted combat units for the missions planned, structured at a tactical level as a battle group, with support elements including transport and logistics, capable of carrying out the tasks referred to in Article [III-309] of the Treaty on European Union, within a period of 5 to 30 days, in particular in response to requests from the United Nations Organisation, and which can be sustained for an initial period of 30 days and be extended up to at least 120 days.

Article 2

To achieve the objectives laid down in Article 1, Member States participating in permanent structured cooperation shall undertake to:

- (a) cooperate, as from the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community, with a view to achieving approved objectives concerning the level of investment expenditure on defence equipment, and regularly review these objectives, in the light of the security environment and of the Union's international responsibilities;

- (b) bring their defence apparatus into line with each other as far as possible, particularly by harmonising the identification of their military needs, by pooling and, where appropriate, specialising their defence means and capabilities, and by encouraging cooperation in the fields of training and logistics;
- (c) take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces, in particular by identifying common objectives regarding the commitment of forces, including possibly reviewing their national decision-making procedures;
- (d) work together to ensure that they take the necessary measures to make good, including through multinational approaches, and without prejudice to undertakings in this regard within the North Atlantic Treaty Organisation, the shortfalls perceived in the framework of the "Capability Development Mechanism";
- (e) take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency.

Article 3

The European Defence Agency shall contribute to the regular assessment of participating Member States' contributions with regard to capabilities, in particular contributions made in accordance with the criteria to be established, *inter alia*, on the basis of Article 2, and shall report thereon at least once a year. The assessment may serve as a basis for Council recommendations and decisions adopted in accordance with Article [III-312] of the Treaty on European Union.

PROTOCOL (No 5)
RELATING TO ARTICLE [I-9(2)]
OF THE TREATY ON EUROPEAN UNION
ON THE ACCESSION OF THE UNION TO THE EUROPEAN CONVENTION
ON THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

THE HIGH CONTRACTING PARTIES

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Article 1

The agreement relating to the accession of the Union to the European Convention on the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the "European Convention") provided for in Article [I-9(2)] of the Treaty on European Union shall make provision for preserving the specific characteristics of the Union and Union law, in particular with regard to:

- (a) the specific arrangements for the Union's possible participation in the control bodies of the European Convention;
- (b) the mechanisms necessary to ensure that proceedings by non-Member States and individual applications are correctly addressed to Member States and/or the Union as appropriate.

Article 2

The agreement referred to in Article 1 shall ensure that accession of the Union shall not affect the competences of the Union or the powers of its institutions. It shall ensure that nothing therein affects the situation of Member States in relation to the European Convention, in particular in relation to the Protocols thereto, measures taken by Member States derogating from the European Convention in accordance with Article 15 thereof and reservations to the European Convention made by Member States in accordance with Article 57 thereof.

Article 3

Nothing in the agreement referred to in Article 1 shall affect Article [III-375(2)] of the Treaty on the Functioning of the Union.

PROTOCOL (No 6)
ON THE INTERNAL MARKET AND COMPETITION

THE HIGH CONTRACTING PARTIES,

CONSIDERING that the internal market as set out in Article [I-3] of the Treaty on European Union includes a system ensuring that competition is not distorted,

HAVE AGREED UPON the following provision, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Sole Article

For the purposes of the first recital, the Union shall, if necessary, take action under the provisions of the Treaties, including under Article [308] of the Treaty on the Functioning of the Union.

PROTOCOL (No 7)
ON THE APPLICATION OF THE CHARTER OF FUNDAMENTAL RIGHTS
TO THE UNITED KINGDOM

THE HIGH CONTRACTING PARTIES,

WHEREAS in Article [I-9] of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights;

WHEREAS the Charter is to be applied in strict accordance with the provisions of the aforementioned Article [I-9] and Title VII of the Charter itself;

Whereas the aforementioned Article [I-9] requires the Charter to be applied and interpreted by the courts of the United Kingdom strictly in accordance with the explanations referred to in that Article;

WHEREAS the Charter contains both rights and principles;

WHEREAS the Charter contains both provisions which are civil and political in character and those which are economic and social in character;

WHEREAS the Charter reaffirms the rights, freedoms and principles recognised in the Union and makes those rights more visible, but does not create new rights or principles;

RECALLING the United Kingdom's obligations under the Treaty on European Union, the Treaty on the Functioning of the Union, and Union law generally;

NOTING the wish of the United Kingdom to clarify certain aspects of the application of the Charter;

DESIROUS therefore of clarifying the application of the Charter in relation to the laws and administrative action of the United Kingdom and of its justiciability within the United Kingdom;

REAFFIRMING that references in this Protocol to the operation of specific provisions of the Charter are strictly without prejudice to the operation of other provisions of the Charter;

REAFFIRMING that this Protocol is without prejudice to the application of the Charter to other Member States;

REAFFIRMING that this Protocol is without prejudice to other obligations of the United Kingdom under the Treaty on European Union, the Treaty on the Functioning of the Union, and Union law generally,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union:

Article 1

1. The Charter does not extend the ability of the Court of Justice, or any court or tribunal of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms.
2. In particular, and for the avoidance of doubt, nothing in Title IV of the Charter creates justiciable rights applicable to the United Kingdom except in so far as the United Kingdom has provided for such rights in its national law.

Article 2

To the extent that a provision of the Charter refers to national laws and practices, it shall only apply to the United Kingdom to the extent that the rights or principles that it contains are recognised in the law or practices of the United Kingdom.

PROTOCOL (No 8)
ON THE EXERCISE OF SHARED COMPETENCE

THE HIGH CONTRACTING PARTIES

HAVE AGREED UPON the following provision, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Sole Article

With reference to Article [I-12(2)] of the Treaty on the Functioning of the Union on shared competence, when the Union has taken action in a certain area, the scope of this exercise of competence only covers those elements governed by the Union act in question and therefore does not cover the whole area.

PROTOCOL (No 9)
ON SERVICES OF GENERAL INTEREST

THE HIGH CONTRACTING PARTIES,

WISHING to emphasise the importance of services of general interest,

HAVE AGREED UPON the following interpretative provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union:

Article 1

The shared values of the Union in respect of services of general economic interest within the meaning of Article [III-122] of the Treaty on the Functioning of the Union include in particular:

- the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users;
- the diversity between various services of general economic interest and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations;
- a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights.

Article 2

The provisions of the Treaties do not affect in any way the competence of Member States to provide, commission and organise non-economic services of general interest.

PROTOCOL (No 10)
ON TRANSITIONAL PROVISIONS

THE HIGH CONTRACTING PARTIES,

WHEREAS, in order to organise the transition from the institutional provisions of the Treaties applicable prior to the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community to the provisions contained in that Treaty, it is necessary to lay down transitional provisions,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, to the Treaty on the Functioning of the Union and to the Treaty establishing the European Atomic Energy Community:

In this Protocol, the words "the Treaties" shall mean the Treaty on European Union, the Treaty on the Functioning of the Union and the Treaty establishing the European Atomic Energy Community.

TITLE I
PROVISIONS CONCERNING THE EUROPEAN PARLIAMENT

Article 1

In accordance with [the second subparagraph of Article I-20(2)] of the Treaty on European Union, the European Council shall adopt a decision determining the composition of the European Parliament in good time before the 2009 European Parliament elections.

TITLE II
PROVISIONS CONCERNING THE QUALIFIED MAJORITY

Article 2

1. In accordance with Article [I-25(1)], the provisions of Article [I-25(1), (2) and (3)] of the Treaty on European Union on the definition of a qualified majority in the European Council and the Council shall take effect on 1 November 2014.

2. Between 1 November 2014 and 31 March 2017, when an act is to be adopted by qualified majority, a member of the Council may request that it be adopted in accordance with the qualified majority as defined in paragraph 3. In that case, paragraph 3 shall apply.

3. Until 31 October 2014, the following provisions shall remain in force:

For acts of the European Council and of the Council requiring a qualified majority, members' votes shall be weighted as follows:

Belgium	12
Bulgaria	10
Czech Republic	12
Denmark	7
Germany	29
Estonia	4
Greece	12
Spain	27
France	29
Ireland	7
Italy	29
Cyprus	4
Latvia	4
Lithuania	7
Luxembourg	4
Hungary	12
Malta	3
Netherlands	13
Austria	10
Poland	27
Portugal	12
Romania	14
Slovenia	4
Slovakia	7
Finland	7
Sweden	10
United Kingdom	29

Acts shall be adopted if there are at least 255 votes in favour representing a majority of the members where, under the Treaties, they must be adopted on a proposal from the Commission. In other cases decisions shall be adopted if there are at least 255 votes in favour representing at least two thirds of the members.

A member of the European Council or the Council may request that, where an act is adopted by the European Council or the Council by a qualified majority, a check is made to ensure that the Member States comprising the qualified majority represent at least 62 % of the total population of the Union. If that proves not to be the case, the act shall not be adopted.

4. Until 31 October 2014, the qualified majority shall, in cases where not all the members of the Council participate in voting, namely in the cases where reference is made to the qualified majority as defined in Article 250(3) of the Treaty on the Functioning of the Union, be defined as the same proportion of the weighted votes and the same proportion of the number of the Council members and, if appropriate, the same percentage of the population of the Member States concerned as laid down in paragraph 3.

TITLE III PROVISIONS CONCERNING THE CONFIGURATIONS OF THE COUNCIL

Article 3

Until the entry into force of the decision referred to in Article [I-24(4)] of the Treaty on European Union, the Council may meet in the configurations laid down in Article [I-24(2) and (3)] and in the other configurations on the list established by a decision of the General Affairs Council, acting by a simple majority.

TITLE IV PROVISIONS CONCERNING THE COMMISSION, INCLUDING THE HIGH REPRESENTATIVE OF THE UNION FOR FOREIGN AFFAIRS AND SECURITY POLICY

Article 4

The members of the Commission in office on the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community shall remain in office until the end of their term of office. However, on the day of the appointment of the High Representative of the Union for Foreign Affairs and Security Policy, the term of office of the member having the same nationality as the High Representative shall end.

TITLE IV
PROVISIONS CONCERNING THE SECRETARY-GENERAL OF THE COUNCIL, HIGH
REPRESENTATIVE FOR THE COMMON FOREIGN AND SECURITY POLICY, AND
THE DEPUTY SECRETARY-GENERAL OF THE COUNCIL

Article 5

The terms of office of the Secretary-General of the Council, High Representative for the common foreign and security policy, and the Deputy Secretary-General of the Council shall end on the date of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community. The Council shall appoint a Secretary-General in conformity with Article [III-344(2)] of the Treaty on the Functioning of the Union.

TITLE V
PROVISIONS CONCERNING ADVISORY BODIES

Article 6

Until entry into force of the decision referred to in Article [III-386] of the Treaty on the Functioning of the Union, the allocation of members of the Committee of the Regions shall be as follows:

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

Article 7

Until entry into force of the decision referred to in Article [III-389] of the Treaty on the Functioning of the Union, the allocation of members of the Economic and Social Committee shall be as follows:

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

TITLE VI

TRANSITIONAL PROVISIONS CONCERNING ACTS ADOPTED ON THE BASIS OF
TITLES V AND VI OF THE TREATY ON EUROPEAN UNION
PRIOR TO THE ENTRY INTO FORCE OF THE TREATY AMENDING THE TREATY ON
EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

Article 8

The legal effects of the acts of the institutions, bodies, offices and agencies of the Union adopted on the basis of Titles V and VI of the Treaty on European Union prior to the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community shall be preserved until those acts are repealed, annulled or amended in implementation of the Treaties. The same shall apply to agreements concluded between Member States on the basis of those Titles.

**B. PROTOCOLS TO BE ANNEXED TO THE TREATY AMENDING THE
TREATY ON EUROPEAN UNION AND THE TREATY
ESTABLISHING THE EUROPEAN COMMUNITY**

PROTOCOL (No 11)

**AMENDING THE PROTOCOLS ANNEXED TO THE TREATY ON EUROPEAN UNION,
TO THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY
AND/OR TO THE TREATY ESTABLISHING
THE EUROPEAN ATOMIC ENERGY COMMUNITY**

THE HIGH CONTRACTING PARTIES,

DESIRING to amend the Protocols annexed to the Treaty on European Union, to the Treaty establishing the European Community and/or to the Treaty establishing the European Atomic Energy Community, in order to adapt them to the new rules laid down by the Treaty amending the Treaty on European Union and the Treaty establishing the European Community,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty establishing the European Community:

Sole Article

1) The protocols in force on the date of entry into force of this Treaty and annexed to the Treaty on European Union and/or to the Treaty establishing the European Community and/or to the Treaty establishing the European Atomic Energy Community shall be amended in accordance with the provisions of this Article.

2) No later than six months after the signing of this Treaty, the Council, acting unanimously and after consulting the Commission, shall make the necessary adjustments in the Protocols to the references in them to Articles of the Treaty on European Union and of the Treaty on the Functioning of the Union. The Council shall consult the Court of Justice and the European Central Bank on the respective protocols concerning them. These adjustments shall enter into force on the date of the entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community.

A. HORIZONTAL AMENDMENTS

- 3) The horizontal amendments laid down in Article 2(3) of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community shall apply to the Protocols referred to in this Article, with the exception of points (d), (e), (j) and (k).

- 4) In the Protocols referred to in point 1 of this Article:

- (a) the last recital of their respective preambles, referring to the Treaty or Treaties to which the Protocol in question is annexed, shall be replaced by "HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the Union".

The Protocol on the Statute of the Court of Justice of the European Union, the Protocol on Article 40.3.3 of the Constitution of Ireland and the Protocol on the privileges and immunities of the European Union shall also be annexed to the Treaty establishing the European Atomic Energy Community;

- (b) the word "Communities" shall be replaced by "Union" and grammatical changes shall be made, where necessary.

- 5) In the following Protocols, the words "the Treaty" and "this Treaty" shall be replaced by "the Treaties" and "these Treaties" respectively, and references to the Treaty on European Union and/or to the Treaty establishing the European Community shall be replaced by a reference to the Treaties:

- (a) Protocol on the Statute of the Court of Justice of the European Union:

- Article 1

- (b) Protocol on the Statute of the European System of Central Banks and of the European Central Bank:

- Article 1.1, new second subparagraph;
- Article 12.1, first subparagraph;
- Article 14.1;
- Article 14.2, second subparagraph;
- Article 34.1, second indent;
- Article 35.1;

- (c) Protocol on the excessive deficit procedure:

- Article 3, second sentence;

- (d) Protocol on certain provisions relating to Denmark:

- point 2, renumbered 1, second sentence;

- (e) Protocol on the Schengen *acquis*:
 - sixth recital;
 - Article 1;
 - (f) Protocol on asylum for nationals of Member States of the European Union:
 - seventh recital;
 - (g) Protocol on the acquisition of property in Denmark:
 - sole provision;
 - (h) Protocol on the system of public broadcasting in the Member States:
 - throughout the text;
 - (i) Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel:
 - Article 3.
- 6) In the following Protocols, the words "acting by a simple majority" shall be inserted after "the Council":
- (a) Protocol on the Statute of the Court of Justice:
 - Article 4, second paragraph;
 - Article 13, second paragraph;
 - (b) Protocol on the privileges and immunities of the European Union:
 - Article 7, renumbered 6, first paragraph, first sentence.
- 7) In the following Protocols, the words "Court of Justice of the European Communities", "Court of Justice" or "Court" shall be replaced by "Court of Justice of the European Union".
- (a) Protocol on the Statute of the Court of Justice of the European Union:

- preamble, first recital - title of the Protocol - Article 1 - Article 3, fourth paragraph	- Article 1 of the Annex - Article 5, first paragraph, of the Annex - Article 7(1) of the Annex;
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 - (b) Protocol on the Statute of the European System of Central Banks and of the European Central Bank:
 - Article 35.1, 35.2, 35.4, 35.5 and 35.6;
 - Article 36.2;

- (c) Protocol on the location of the seats of the institutions and of certain bodies, offices, agencies and departments of the European Union:
 - Sole Article, point (d);
- (d) Protocol on the privileges and immunities of the European Union:
 - Article 12, renumbered 11, point (a);
 - Article 21, renumbered 20;
- (e) Protocol on the position of Denmark:
 - Article 2, first sentence;
- (f) Protocol on asylum for nationals of Member States of the European Union:
 - third recital.

B. SPECIFIC AMENDMENTS

Protocols repealed

8) The following Protocols shall be repealed:

- (a) Protocol on Italy (1957);
- (b) Protocol on goods originating in and coming from certain countries and enjoying special treatment when imported into a Member State (1957);
- (c) Protocol on the Statute of the European Monetary Institute (1992);
- (d) Protocol on the transition to the third stage of economic and monetary union (1992);
- (e) Protocol on Portugal (1992);
- (f) Protocol on the role of national parliaments in the European Union (1997), which shall be replaced by a new Protocol with the same title;
- (g) Protocol on the application of the principles of subsidiarity and proportionality (1997), which shall be replaced by a new Protocol with the same title;
- (h) Protocol on protection and welfare of animals (1997), the text of which shall become Article [III-121] of the Treaty on the Functioning of the Union;
- (i) Protocol on the enlargement of the European Union (2001);
- (j) Protocol on Article 67 of the Treaty establishing the European Community (2001).

Statute of the Court of Justice of the European Union

9) The Protocol on the Statute of the Court of Justice shall be amended as follows:

- (a) in the title, the words "of the European Union" shall be added;

- (b) in the following Articles, the word "Court", where it refers specifically to the Court of Justice, shall be replaced by "Court of Justice":
- Article 3, second paragraph, beginning of the sentence;
 - Article 4, fourth paragraph
 - Article 5, second paragraph;
 - Article 6, first paragraph;
 - Article 10 to 15;
 - Article 16, first paragraph;
 - Article 17, first paragraph;
 - Article 18, third paragraph;
 - Article 19, first paragraph;
 - Article 20, first paragraph;
 - Article 21, first paragraph;
 - Article 22, first paragraph;
 - Article 23, first paragraph, first sentence;
 - Article 24, first paragraph, beginning of the sentence;
 - Article 25 and 27;
 - Article 29, first paragraph;
 - Articles 30 to 32, 35, 38 to 41 and 43;
 - Article 44, first paragraph;
 - Article 46, first paragraph; *
- (c) in Article 2, the words "in open court" shall be replaced by "before the Court of Justice sitting in open court";
- (d) in Article 3, second paragraph, and Article 4, fourth paragraph, the following sentence shall be added: "If the decision concerns a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.";
- (e) in Article 6, first paragraph, the following sentence shall be added: "If the person concerned is a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.";
- (f) in the heading of Title II, the words "of the Court of Justice" shall be added;
- (g) in Article 13, first paragraph, first sentence, the words "On a proposal from" shall be replaced by "At the request of", and the words "the Council may, acting unanimously, provide for" shall be replaced by "the European Parliament and the Council may, acting in accordance with the ordinary legislative procedure, provide for";
- (h) in the heading of Title III, the words "before the Court of Justice" shall be added;

* Translator's note: the remaining Articles listed in the French version already refer to the "Court of Justice" in English.

- (i) Article 23 shall be amended as follows:
 - (i) in the first paragraph, second sentence, the words "and also to the Council or to the European Central Bank if the act the validity or interpretation of which is in dispute originates from one of them, and to the European Parliament and the Council if the act the validity or interpretation of which is in dispute was adopted jointly by those two institutions" shall be replaced by "and to the institution, body, office or agency of the Union which adopted the act the validity or interpretation of which is in dispute";
 - (ii) in the second paragraph, the words "and, where appropriate, the European Parliament, the Council and the European Central Bank, shall be entitled" shall be replaced by "and, where appropriate, the institution, body, office or agency which adopted the act the validity or interpretation of which is in dispute, shall be entitled";
- (j) in Article 24, second paragraph, the words ", bodies, offices and agencies" shall be inserted after "institutions";
- (k) in Article 40, second paragraph, the words "The same right shall be open to any other person establishing an interest" shall be replaced by "The same right shall be open to the bodies, offices and agencies of the Union and to any other person which can establish an interest";
- (l) in Article 46, the following new paragraph shall be added: "This Article shall also apply to proceedings against the European Central Bank regarding non-contractual liability.";
- (m) the heading of Title IV shall be replaced by "GENERAL COURT";
- (n) in Article 47, the first paragraph shall be replaced by "The first paragraph of Article 9, Articles 14 and 15, the first, second, fourth and fifth paragraphs of Article 17 and Article 18 shall apply to the General Court and its members" and, in the second paragraph, the words "The fourth paragraph of Article 3 and" shall be deleted;
- (o) in Article 51, second paragraph, the words "or by the European Central Bank" shall be deleted;
- (p) Article 64 shall be amended as follows:
 - (i) the following new first paragraph shall be inserted:

"The rules governing the language arrangements applicable at the Court of Justice of the European Union shall be laid down by a regulation of the Council acting unanimously. This regulation shall be adopted either at the request of the Court of Justice and after consultation of the Commission and the European Parliament, or on a proposal from the Commission and after consultation of the Court of Justice and of the European Parliament."

- (ii) in the second paragraph, first sentence, the words "Until the rules governing the language arrangements applicable at the Court of Justice and the Court of First Instance have been adopted in this Statute" shall be replaced by "Until those rules have been adopted"; the second sentence shall be replaced by the following: "By way of derogation from Articles [III-335 and III-356], those provisions may only be amended or repealed with the unanimous consent of the Council.";
- (q) in Annex I to the Protocol, Article 3(1), second sentence, the words "Civil Service" shall be inserted before "Tribunal".

Statute of the ESCB and of the ECB

10) The Protocol on the Statute of the European System of Central Banks and of the European Central Bank shall be amended as follows:

- (a) Article 1.1 shall be split at the semi-colon into two unnumbered paragraphs. The first paragraph shall be replaced by the following: "In accordance with Article [I-30] of the Treaty on European Union, the European Central Bank (ECB) and the national central banks shall constitute the European System of Central Banks (ESCB). The ECB and the national central banks of those Member States whose currency is the euro shall constitute the Eurosystem."; at the beginning of the second paragraph, the words "they shall perform" shall be replaced by "The ESCB and the ECB shall perform";
- (b) Article 1.2 shall be deleted;
- (c) in Article 4, point (b), the word "appropriate" shall be deleted;
- (d) Article 10 shall be amended as follows:
 - (i) in Article 10.1, the words "without a derogation as referred to in Article [III-197] of the Treaty" shall be inserted at the end;
 - (ii) in Article 10.2, first indent, at the end of the first sentence, the words "Member States which have adopted the euro" shall be replaced by "Member States whose currency is the euro";
 - (iii) Article 10.6 shall be deleted;
- (e) in Article 11.2, first subparagraph, the words "shall be appointed from among persons of recognised standing and professional experience in monetary or banking matters by common accord of the governments of the Member States at the level of Heads of State or Government" shall be replaced by "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";
- (f) in Article 14.1, the words ", at the latest at the date of the establishment of the ESCB," shall be deleted;

- (g) in Article 18.1, first indent, at the end of the first sentence, the words "whether in Community or non-Community currencies" shall be replaced by "whether in euro or other currencies";
- (h) in Article 28.1, the words ", which shall become operational upon its establishment," shall be deleted;
- (i) in Article 29.1, the introductory wording shall be replaced by the following: "The key for subscription of the ECB's capital, fixed for the first time in 1998 when the ESCB was established, shall be determined by assigning to each national central bank a weighting in this key equal to the sum of:"; the second subparagraph shall be replaced by the following: "The percentages shall be rounded up or down to the nearest multiple of 0,0001 percentage points.";
- (j) in Article 32.2, the words "Subject to Article 32.3," shall be deleted;
- (k) in Article 34.2, the first four subparagraphs shall be deleted.
- (l) in Article 35.6, first sentence, the words "the Treaties and" shall be inserted before "this Statute";
- (m) Article 37 shall be repealed and the remaining Articles shall be renumbered accordingly;
- (n) Article 41, renumbered 40, shall be amended as follows:
 - (i) in Article 41.1, renumbered 40.1, the words "may be amended by the Council, acting either" shall be replaced by "may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure either" and the last sentence shall be deleted;
 - (ii) the following new Article 40.2 shall be inserted: "40.2. Article 10(2) may be amended by a decision of the European Council, acting unanimously, either on a recommendation from the European Central Bank and after consulting the European Parliament and the Commission, or on a recommendation from the Commission and after consulting the European Parliament and the European Central Bank. These amendments shall not enter into force until they are approved by the Member States in accordance with their respective constitutional requirements.";
- (o) in Article 42, renumbered 41, the words "immediately after the decision on the date for the beginning of the third stage," shall be deleted;
- (p) in Article 44, renumbered 43, at the end of the first paragraph, the words "in the third stage" shall be replaced by "after the introduction of the euro";

- (q) in Article 47.3, renumbered 46.3, the words "against the currencies, or the single currency, of the Member States without a derogation," shall be replaced by "against the euro";
- (r) Article 50 shall be repealed and the remaining Articles shall be renumbered accordingly;
- (s) in Article 52, renumbered 50, the words "in accordance with Article [III-198(3)] of the Treaty on the Functioning of the Union" shall be inserted after the words "Following the irrevocable fixing of exchange rates".

Statute of the EIB

11) The Protocol on the Statute of the European Investment Bank shall be amended as follows:

- (a) throughout the Protocol, references to an Article of "the Treaty" shall be replaced by references to an Article of "the Treaty on the Functioning of the Union";
- (b) at the end of the preamble, the words "to this Treaty" shall be replaced by "to the Treaty on European Union and to the Treaty on the Functioning of the Union";
- (c) in Article 1, the second paragraph shall be deleted;
- (d) in Article 3, the introductory phrase shall be replaced by "In accordance with Article [266] of the Treaty on the Functioning of the Union, the Bank's members shall be the Member States" and the list of States shall be deleted;
- (e) in Article 4(1), the second subparagraph shall be deleted;
- (f) Article 5 shall be amended as follows:
 - (i) in paragraph 2, the following new sentence shall be added: "Cash payments shall be made exclusively in euro.";
 - (ii) in paragraph 3, first subparagraph, the words "towards those who have made loans to it" shall be deleted, and in the second subparagraph the words "in the currencies required by the Bank to meet these obligations" shall be deleted;
- (g) Articles 6 and 7 shall be repealed and the remaining Articles shall be renumbered accordingly;

(h) Article 9, renumbered 7, shall be amended as follows:

- (i) in paragraph 2, the words "with particular reference to the objectives to be pursued as progress is made in the attainment of the common market" shall be replaced by "in accordance with the Union's objectives";
- (ii) in paragraph 3, the text of point (b) shall be replaced by "for the purposes of Article [9(1)], determine the principles applicable to financing operations undertaken within the framework of the Bank's task;"; the text of point (d) shall be replaced by "take decisions in respect of the granting of finance for investment operations to be carried out, in whole or in part, outside the territories of the Member States in accordance with Article [16(1)];" and, in point (g), the words "provided in Articles 4, 7, 14, 17, 26 and 27" shall be replaced by "conferred by this Statute";

(i) Article 10, renumbered 8, shall be amended as follows:

- (i) the third sentence shall be deleted;
- (ii) the following two new paragraphs shall be inserted:

"A qualified majority shall require eighteen votes in favour and 68 % of the subscribed capital.

Abstentions by members present in person or represented shall not prevent the adoption of decisions requiring unanimity."

(j) Article 11, renumbered 9, shall be amended as follows:

- (i) paragraph 1, first subparagraph, shall be replaced by the following:

"1. The Board of Directors shall take decisions in respect of granting finance, in particular in the form of loans and guarantees, and raising loans; it shall fix the interest rates on loans granted and the commission and other charges. It may, on the basis of a decision taken by a qualified majority, delegate some of its functions to the Management Committee. It shall determine the terms and conditions for such delegation and shall supervise its execution.

The Board of Directors shall see that the Bank is properly run; it shall ensure that the Bank is managed in accordance with the provisions of the Treaty and of this Statute and with the general directives laid down by the Board of Governors.";

- (ii) in paragraph 2, the sixth subparagraph shall be replaced by the following:

"The Rules of Procedure shall lay down the arrangements for participating in the meetings of the Board of Directors and the provisions applicable to alternates and co-opted experts."

- (iii) in paragraph 5, second sentence, the words ", acting unanimously," shall be deleted.
- (k) Article 13, renumbered 11, shall be amended as follows:
 - (i) in paragraph 3, second subparagraph, the words "the granting of loans" shall be replaced by "the granting of finance, in particular in the form of loans";
 - (ii) in paragraph 4, the words "on proposals for raising loans or granting loans and guarantees" shall be replaced by "on proposals for raising loans or granting finance, in particular in the form of loans and guarantees";
 - (iii) in paragraph 7, first sentence, the words "officials and other employees" shall be replaced by "staff". The following sentence shall be added at the end: "The Rules of Procedure shall determine which organ is competent to adopt the provisions applicable to staff.";
- (l) Article 14, renumbered 12, shall be amended as follows:
 - (i) in paragraph 1, the words "shall annually verify that the operations of the Bank have been conducted and its books kept in a proper manner" shall be replaced by "shall verify that the activities of the Bank conform to best banking practice and shall be responsible for the auditing of its accounts.";
 - (ii) paragraph 2 shall be replaced by the following three new paragraphs:

"2. The Committee referred to in paragraph 1 shall annually ascertain that the operations of the Bank have been conducted and its books kept in a proper manner. To this end, it shall verify that the Bank's operations have been carried out in compliance with the formalities and procedures laid down by this Statute and the Rules of Procedure.

3. The Committee referred to in paragraph 1 shall confirm that the financial statements, as well as any other financial information contained in the annual accounts drawn up by the Board of Directors, give a true and fair view of the financial position of the Bank in respect of its assets and liabilities, and of the results of its operations and its cash flows for the financial year under review.

4. The Rules of Procedure shall specify the qualifications required of the members of the Committee and lay down the terms and conditions for the Committee's activity."
- (m) in Article 15, renumbered 13, the words "the bank of issue" shall be replaced by "the national central bank";

(n) Article 18, renumbered 16, shall be amended as follows:

- (i) in the first subparagraph of paragraph 1, the words "shall grant loans" shall be replaced by "shall grant finance, in particular in the form of loans and guarantees"; in the second subparagraph, the words "by way of derogation authorised by the Board of Governors, acting unanimously" shall be replaced by "by decision of the Board of Governors, acting by a qualified majority", and the words "loans for investment projects" shall be replaced by "financing for investment";
- (ii) at the end of paragraph 3, the following shall be added: ", or on the financial strength of the debtor" and the following new second subparagraph shall be inserted:

"Furthermore, in accordance with the principles established by the Board of Governors pursuant to Article [7(3)(b)], and where the implementation of projects provided for in Article [III-394] of the Treaty on the Functioning of the Union so requires, the Board of Directors shall, acting by a qualified majority, lay down the terms and conditions of any financing operation presenting a specific risk profile and thus considered to be a special activity."

- (iii) paragraph 5 shall be replaced by the following:

"5. The aggregate amount outstanding at any time of loans and guarantees granted by the Bank shall not exceed 250 % of its subscribed capital, reserves, non-allocated provisions and profit and loss account surplus. The latter aggregate amount shall be reduced by an amount equal to the amount subscribed (whether or not paid in) for any equity participation of the Bank.

The amount of the Bank's disbursed equity participations shall not exceed at any time an amount corresponding to the total of its paid-in subscribed capital, reserves, non-allocated provisions and profit and loss account surplus.

By way of exception, the special activities of the Bank, as decided by the Board of Governors and the Board of Directors in accordance with paragraph 3, will have a specific allocation of reserve.

This paragraph shall also apply to the consolidated accounts of the Bank."

- (o) in paragraph 1 of Article 19, renumbered 17 the words "commission on guarantees" shall be replaced by "commission and other charges" and the words "and risks" shall be inserted after "to cover its expenses";

(p) Article 20, renumbered 18, shall be amended as follows:

- (i) in paragraph 1, point (a), the words "projects carried out by" shall be replaced by "investments by", the words "in which the project is carried out" shall be replaced by "in which the investment is made" and the words "in other cases" shall be replaced by "in the case of other investments"; in point (b), the words "of the project" shall be replaced by "of the investment";
- (ii) in paragraph 2, the following new second subparagraph shall be inserted:

"However, in accordance with the principles determined by the Board of Governors pursuant to Article [7(3)(b)], and where the implementation of operations provided for in Article [III-394] of the Treaty on the Functioning of the Union so requires, the Board of Directors shall, acting by a qualified majority, lay down the terms and conditions for taking an equity participation in a commercial undertaking, normally as a complement to a loan or a guarantee, insofar as this is required to finance an investment or programme."

- (iii) the following new paragraph 7 shall be added:

"7. As a complement to its lending activity, the Bank may provide technical assistance services in accordance with the terms and conditions laid down by the Board of Governors, acting by a qualified majority, and in compliance with this Statute."

(q) Article 21, renumbered 19, shall be amended as follows:

- (i) paragraph 1 shall be replaced by the following:

"1. Any undertaking or public or private entity may apply directly to the Bank for financing. Applications to the Bank may also be made either through the Commission or through the Member State on whose territory the investment will be carried out."

- (ii) in paragraph 3 and in the first sentence of paragraph 4, the words "applications for loans or guarantees" shall be replaced by "financing operations";
- (iii) in paragraph 4, second sentence, the words "granting the loan or guarantee" shall be replaced by "the financing operation" and the words "draft contract" shall be replaced by "corresponding proposal"; in the last sentence, the words "loan or guarantee" shall be replaced by "finance";
- (iv) in paragraphs 5, 6 and 7, the words "loan or guarantee" shall be replaced by "finance";

(v) the following new paragraph 8 shall be added:

"8. In the event that a financing operation relating to an approved investment has to be restructured in order to safeguard the Bank's rights and interests, the Management Committee shall take without delay the emergency measures which it deems necessary, subject to immediate reporting thereon to the Board of Directors."

(r) in Article 22, renumbered 20, paragraph 2 shall be replaced by the following:

"2. The Bank may borrow on the capital markets of the Member States in accordance with the legal provisions applying to those markets.

The competent authorities of a Member State with a derogation within the meaning of Article [III-197(1)] of the Treaty on the Functioning of the Union may oppose this only if there is reason to fear serious disturbances on the capital market of that State.";

(s) in paragraph 1(b) of Article 23, renumbered 21, the words "issued by itself or by those who have borrowed from it" shall be deleted and in paragraph 3, the words "the bank of issue" shall be replaced by "the national central bank";

(t) in Article 25, renumbered 23, the words "a Member State whose currency is not the euro" shall be inserted to replace "one Member State" in paragraph 1, first sentence and "a Member State" in paragraph 2; in paragraph 1, first sentence, the words "into the currency of another Member State" shall be deleted and in paragraph 4 the word "projects" shall be replaced by "investment";

(u) in Article 26, renumbered 24, the words ", to grant its special loans" shall be deleted;

(v) in paragraph 2 of Article 27, renumbered 25, the following sentence shall be added at the end: "It shall ensure that the rights of the members of staff are safeguarded.";

(w) in the first paragraph of Article 29, renumbered 27, the words "of the European Union" shall be added at the end and in the second paragraph, the words "or provide for arbitration" shall be deleted;

(x) Article 30, renumbered 28, shall be replaced by the following:

"1. The Board of Governors may, acting unanimously, decide to establish subsidiaries or other entities, which shall have legal personality and financial autonomy.

2. The Board of Governors, acting unanimously, shall establish the Statutes of the bodies referred to in paragraph 1. The Statutes shall define, in particular, their objectives, structure, capital, membership, the location of their seat, their financial resources, means of intervention and auditing arrangements, as well as their relationship with the organs of the Bank.

3. The Bank shall be entitled to participate in the management of these bodies and contribute to their subscribed capital up to the amount determined by the Board of Governors, acting unanimously.

4. The Protocol on the privileges and immunities of the European Union shall apply to the bodies referred to in paragraph 1 insofar as they are incorporated under Union law, to the members of their organs in the performance of their duties as such and to their staff, under the same terms and conditions as those applicable to the Bank.

Those dividends, capital gains or other forms of revenue stemming from such bodies to which the members, other than the European Union and the Bank, are entitled, shall however remain subject to the fiscal provisions of the applicable legislation.

5. The Court of Justice of the European Union shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning measures adopted by organs of a body incorporated under Union law. Proceedings against such measures may be instituted by any member of such a body in its capacity as such or by Member States under the conditions laid down in Article [230] of the Treaty on the Functioning of the Union.

6. The Board of Governors may, acting unanimously, decide to admit the staff of bodies incorporated under Union law to joint schemes with the Bank, in compliance with the respective internal procedures."

Protocol on the location of seats

12) The Protocol on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol shall be amended as follows:

- (a) in the title of the Protocol, the words ", offices, agencies" shall be inserted before "and departments" and the words "and of Europol" shall be deleted;
- (b) in the citation in the preamble, the reference to the Treaty establishing the European Community shall be replaced by a reference to the Treaty on the Functioning of the Union and the reference to Article 77 of the Treaty establishing the European Coal and Steel Community shall be deleted;

- (c) in point (d), the reference to the Court of First Instance shall be deleted and the words "their seat" shall be replaced by "its seat";
- (d) in point (i), the reference to the European Monetary Institute shall be deleted and the words "their seat" shall be replaced by "its seat";

Protocol on the privileges and immunities of the Union

13) The Protocol on the privileges and immunities of the European Union shall be amended as follows:

- (a) in the first recital in the preamble, the reference to Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities shall be replaced by a reference to Article [III-434] of the Treaty on the Functioning of the Union and to Article 191 of the Treaty establishing the European Atomic Energy Community, abbreviated as the EAEC, and the words "these Communities and the European Investment Bank" shall be replaced by "the European Union and the EAEC";
- (b) Article 5 shall be repealed and the remaining Articles shall be renumbered accordingly;
- (c) in Article 13, renumbered 12, the words "in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission" shall be replaced by "in accordance with the conditions and procedure laid down by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consultation of the institutions concerned";
- (d) in Article 15, renumbered 14, the opening phrase "The Council shall, acting unanimously on a proposal from the Commission, lay down" shall be replaced by "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consultation of the institutions concerned, shall lay down";
- (e) in Article 16, renumbered 15, the opening phrase "The Council shall, acting on a proposal from the Commission" shall be replaced by "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall";
- (f) in Article 21, renumbered 20, the words "and to the Members and Registrar of the Court of First Instance" shall be deleted;
- (g) in Article 23, renumbered 22, the last paragraph shall be deleted;
- (h) the closing formula, "IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol", the date and the list of signatories shall be deleted.

Protocol on the convergence criteria

- 14) The Protocol on the convergence criteria referred to in Article 121 of the Treaty establishing the European Community shall be amended as follows:
- (a) in the title of the Protocol, the words "referred to in Article 121 of the Treaty establishing the European Community" shall be deleted;
 - (b) in the first recital, the words "in taking decisions on the passage to the third stage of economic and monetary union" shall be replaced by "in taking decisions to end the derogations of those Member States with a derogation";
 - (c) in Article 3, second sentence, the words "against another Member State's currency" shall be replaced by "against the euro";

Protocol on certain provisions relating to the United Kingdom

- 15) The Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland shall be amended as follows:
- (a) throughout the Protocol, the words "to move to the third stage of economic and monetary union" and "to move to the third stage" shall be replaced by "to adopt the euro"; the words "moves to the third stage" shall be replaced by "adopts the euro"; the words "in the third stage" shall be replaced by "after the introduction of the euro";
 - (b) in the preamble, the following new second recital shall be inserted:

GIVEN that on 16 October 1996 and 30 October 1997 the United Kingdom government notified the Council of its intention not to participate in the third stage of economic and monetary union,";
 - (c) in paragraph 1, the first and third subparagraphs shall be deleted;
 - (d) paragraph 2 shall be replaced by the following:

"2. In view of the notice given to the Council by the United Kingdom government on 16 October 1996 and 30 October 1997, paragraphs 3 to 9 shall apply to the United Kingdom."

- (e) paragraph 3 shall be deleted and the remaining paragraphs shall be renumbered accordingly;
- (f) paragraph 5, renumbered 4, shall be amended as follows:
 - (i) in the first sentence, the list of Articles shall be replaced by "Articles I-30(2), with the exception of the first and last sentences thereof, I-30(5), III-177, second paragraph, III-184(1), (9) and (10), III-185(1) to (5), III-186, III-188, III-189, III-190, III-191, III-196, III-198(3), III-326 and III-382";
 - (ii) The following new second sentence shall be inserted: "The same applies to Article [III-179(2)] of this Treaty as regards the adoption of the parts of the broad economic policy guidelines which concern the euro area generally.";
- (g) in paragraph 6, renumbered 5, the following new first subparagraph shall be inserted: "The United Kingdom shall endeavour to avoid an excessive government deficit.";
- (h) paragraph 7, renumbered 6, shall be replaced by the following: "6. The voting rights of the United Kingdom shall be suspended in respect of acts of the Council referred to in the Articles listed in paragraph 4 and in the instances referred to in [the first subparagraph of Article III-197(4)] of the Treaty. For this purpose [the second and third subparagraphs of Article III-197(4)] of the Treaty shall apply.";
- (i) in point (a) of paragraph 9, renumbered 8, the words "move to that stage" shall be replaced by "adopt the euro";
- (j) in paragraph 10, renumbered 9, the introductory subparagraph shall be replaced by "The United Kingdom may notify the Council at any time of its intention to adopt the euro. In that event:";
- (k) at the end of paragraph 11, renumbered 10, the words "does not move to the third stage" shall be replaced by "does not adopt the euro".

Protocol on certain provisions relating to Denmark

16) The Protocol on certain provisions relating to Denmark shall be amended as follows:

- (a) in the preamble, the first recital shall be deleted, in the second recital the words "Danish participation in the third stage of economic and monetary union" shall be replaced by "Denmark renouncing its exemption", and the following new third recital shall be inserted: "GIVEN THAT, on 3 November 1993, the Danish Government notified the Council of its intention not to participate in the third stage of economic and monetary union,";
- (b) points 1 and 3 shall be deleted and the remaining points shall be renumbered accordingly;
- (c) in point 2, renumbered 1, the first sentence shall be replaced by "In view of the notice given to the Council by the Danish Government on 3 November 1993, Denmark shall have an exemption."

Schengen Protocol

17) The Protocol integrating the Schengen *acquis* into the framework of the European Union shall be amended as follows:

- (a) in the title of the Protocol, the words "integrating the Schengen *acquis* into" shall be replaced by "on the Schengen *acquis* integrated into";
- (b) the preamble shall be amended as follows:
 - (i) at the end of the first recital, the words "are aimed at enhancing European integration and, in particular, at enabling the European Union to develop more rapidly into an area of freedom, security and justice" shall be replaced by "have been integrated into the framework of the European Union by the Treaty of Amsterdam of 2 October 1997;"
 - (ii) the second recital shall be replaced by the following:

"DESIRING to preserve the Schengen *acquis*, as developed since the entry into force of the Treaty of Amsterdam, and to develop this *acquis* in order to contribute towards achieving the objective of offering citizens of the Union an area of freedom, security and justice without internal borders";

- (iii) the third recital shall be deleted;
 - (iv) in the fifth recital, now the fourth recital, the words "are not parties to and have not signed the aforementioned agreements" shall be replaced by "do not participate in all the provisions of the Schengen *acquis*" and, at the end, the words "to accept some or all of the provisions thereof" shall be replaced by "to accept other provisions of this *acquis* in full or in part";
 - (v) at the end of the sixth recital, now the fifth recital, the words "and that those provisions should only be used as a last resort" shall be deleted;
 - (vi) at the end of the seventh recital, now the sixth recital, the words "both States having confirmed their intention to become bound by the provisions mentioned above, on the basis of the Agreement signed in Luxembourg on 19 December 1996" shall be replaced by "both States being bound by the provisions of the Nordic passport union, together with the Nordic States which are members of the European Union";
- (c) in Article 1, the first sentence shall be replaced by the following:
- "The Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden shall be authorised to establish closer cooperation among themselves in areas covered by provisions defined by the Council which constitute the Schengen *acquis*."
- (d) Article 2 shall be replaced by the following:
- "The Schengen *acquis* shall apply to the Member States referred to in Article 1, without prejudice to Article 3 of the Act of Accession of 16 April 2003 or to Article 4 of the Act of Accession of 25 April 2005. The Council will substitute itself for the Executive Committee established by the Schengen agreements."
- (e) Article 3 shall be replaced by the following:
- "The participation of Denmark in the adoption of measures constituting a development of the Schengen *acquis*, as well as the implementation of these measures and their application to Denmark, shall be governed by the relevant provisions of the Protocol on the position of Denmark."

- (f) in Article 4, first paragraph, the words "which are not bound by the Schengen *acquis*," shall be deleted;
- (g) at the end of the first subparagraph of Article 5(1), the words "of the Treaties" shall be added; in the second subparagraph, the reference to two articles in the Treaties shall be replaced by a reference to Article [III-419] of the Treaty on the Functioning of the Union; paragraph 2 shall be deleted and paragraph 1 shall not be numbered;
- (h) at the end of the first sentence of the first paragraph of Article 6, the words "on the basis of the Agreement signed in Luxembourg on 19 December 1996" shall be deleted;
- (i) Article 7 shall be repealed and Article 8 shall be renumbered 7;
- (j) the Annex shall be repealed.

Protocol on the application of Article [III-130] to the United Kingdom and to Ireland

- 18) The Protocol on the application of certain aspects of Article 14 of the Treaty establishing the European Community to the United Kingdom and to Ireland shall be amended as follows:
- (a) in the title of the Protocol, the reference to Article 14 shall be replaced by a reference to Article [III-130] of the Treaty on the Functioning of the Union;
 - (b) in Article 1, first paragraph, point (a), the words "States which are Contracting Parties to the Agreement on the European Economic Area" shall be replaced by "Member States";
 - (c) in Article 1, first and second paragraphs, Article 2 and Article 3, second paragraph, the reference to Article 14 shall be replaced by a reference to Articles [III-130 and III-265] of the Treaty on the Functioning of the Union.

Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice

- 19) The Protocol on the position of the United Kingdom and Ireland shall be amended as follows:
- (a) at the end of the title of the Protocol, the words "in respect of the area of freedom, security and justice" shall be added;
 - (b) in the second recital of the preamble, the reference to Article 14 shall be replaced by a reference to Article [III-130] of the Treaty on the Functioning of the Union;

- (c) in Article 1, first sentence, the words "pursuant to Title IV of the Treaty establishing the European Community" shall be replaced by "pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union"; the second sentence shall be deleted and the following paragraph shall be added:

"For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the Union.";

- (d) at the beginning of Article 2 the words "provisions of Title IV of the Treaty establishing the European Community" shall be replaced by "provisions of Title IV of Part Three of the Treaty on the Functioning of the Union"; at the end of the Article, the words "*acquis communautaire*" shall be replaced by "Community or Union *acquis*";

- (e) Article 3(1) shall be amended as follows:

- (i) in the first sentence of the first subparagraph, the words "pursuant to Title IV of the Treaty establishing the European Community" shall be replaced by "pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union" and the second sentence shall be deleted;

- (ii) the following new subparagraphs shall be added after the second subparagraph:

"Measures adopted pursuant to Article [III-260] of the Treaty on the Functioning of the Union shall lay down the conditions for the participation of the United Kingdom and Ireland in the evaluations concerning the areas covered by Title IV of Part Three of that Treaty.

For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the Union."

- (f) in Articles 4, 5 and 6, the words "pursuant to Title IV" shall be replaced by "pursuant to Title IV of Part Three";
- (g) in the second sentence of Article 4, the reference to Article 11(3) shall be replaced by a reference to Article [III-240(1)] of the Treaty on the Functioning of the Union;
- (h) at the end of Article 5, the following shall be added: ", unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise";
- (i) In Article 6, the words "the relevant provisions of that Treaty, including Article 68," shall be replaced by "the relevant provisions of the Treaties";

- (j) in Article 7, the words "Protocol integrating the Schengen *acquis* into" shall be replaced by "Protocol on the Schengen *acquis* integrated into".

Protocol on the position of Denmark

20) The Protocol on the position of Denmark shall be amended as follows:

(a) the preamble shall be amended as follows:

(i) the following three new recitals shall be inserted after the second recital:

"CONSCIOUS of the fact that a continuation under the Treaties of the legal regime originating in the Edinburgh decision will significantly limit Denmark's participation in important areas of cooperation of the Union, and that it would be in the best interest of the Union to ensure the integrity of the *acquis* in the area of freedom, security and justice;

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 Title IV of Part Three of the Treaty on the Functioning of the Union 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;"

(ii) in the penultimate recital, the words "Protocol integrating the Schengen *acquis* into" shall be replaced by "Protocol on the Schengen *acquis* integrated into";

(b) the heading "PART I" shall be inserted before Article 1;

(c) in Article 1, first sentence, and Article 2, first sentence, the words "Title IV of the Treaty establishing the European Community" shall be replaced by "Title IV of Part Three of the Treaty on the Functioning of the Union";

(c) in Article 1, the second sentence of the first paragraph shall be deleted and the following new paragraph shall be added:

"For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the Union."

- (d) at the end of Article 2, the words "*acquis communautaire*" shall be replaced by "Community or Union *acquis*";
- (e) the following new Article 2a shall be inserted:

"Article 2a

Article 2 of this Protocol shall also apply in respect of those rules laid down on the basis of Article [I-51] of the Treaty on the Functioning of the Union which relate to the processing of personal data by the Member States when carrying out activities which fall within the scope of Chapter 4 or Chapter 5 of Title IV of Part Three of that Treaty."

- (f) Article 4 shall become Article 6;
- (g) Article 5, renumbered 4, shall be amended as follows:
 - (i) throughout the Article, the word "decision" shall be replaced by "measure";
 - (ii) in paragraph 1, the words "under the provisions of Title IV of the Treaty establishing the European Community" shall be replaced by "covered by this Part" and the words "Member States referred to in Article 1 of the Protocol integrating the Schengen *acquis* into the framework of the European Union as well as Ireland or the United Kingdom if those Member States take part in the areas of cooperation in question" shall be replaced by "Member States bound by the measure";
 - (iii) in paragraph 2, the word "decision" shall be replaced by "measure" and the words "the Member States referred to in Article 1 of the Protocol integrating the Schengen *acquis* into the framework of the European Union will consider" shall be replaced by "the Member States bound by that measure and Denmark will consider";
- (h) the heading "PART II" shall be inserted before Article 6, renumbered 5;
- (i) Article 6, renumbered 5, shall be amended as follows:
 - (i) in the first sentence, the words "in the field of Articles 13(1) and 17 of the Treaty on European Union" shall be replaced by "pursuant to Article [I-41], Article [III-295] and Articles [III-309 to III-313] of the Treaty on the Functioning of the Union" and the last phrase ", but will not prevent the development of closer cooperation between Member States in this area" shall be deleted;

- (ii) the following new second sentence shall be inserted: "Denmark will not prevent the other Member States from further developing their cooperation in this area.";
- (iii) at the end of the third sentence, the following shall be added: ", nor to make military capabilities available to the Union";
- (iv) the following two new paragraphs shall be added:

"The unanimity of the members of the Council, with the exception of the representative of the government of Denmark, shall be necessary for the acts of the Council which must be adopted unanimously.

For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the Union."

- (j) the heading "PART III" shall be inserted after Article 6, renumbered 5;
- (k) an Article 6 shall be inserted, with the wording of Article 4;
- (l) the heading "PART IV" shall be inserted before Article 7;
- (m) the following new Article 8 shall be inserted:

"Article 8

1. At any time and without prejudice to Article 7, 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 shall consist of the provisions in the Annex. In that case Articles 5 to 8 shall be renumbered in consequence.

2. Six months after the date on which the notification referred to in paragraph 1 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."

(n) the following new Annex shall be added to the Protocol:

"ANNEX

Article 1

Subject to Article 3, Denmark shall not take part in the adoption by the Council of measures proposed pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union. The unanimity of the members of the Council, with the exception of the representative of the government of Denmark, shall be necessary for the acts of the Council which must be adopted unanimously.

For the purposes of this Article, a qualified majority shall be defined in accordance with Article 205(3) of the Treaty on the Functioning of the Union.

Article 2

Pursuant to Article 1 and subject to Articles 3, 4 and 6, none of the provisions in Title IV of Part Three of the Treaty on the Functioning of the Union, no measure adopted pursuant to that Title, no provision of any international agreements concluded by the Union pursuant to that Title, 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 Community or Union *acquis* nor form part of Union law as they 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 Title IV of Part Three of the Treaty on the Functioning of the Union, 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 after a reasonable period of time a measure referred to in paragraph 1 cannot be adopted with Denmark taking part, the Council may adopt that measure referred to in paragraph 1 in accordance with Article 1 without the participation of Denmark. In that case Article 2 applies.

Article 4

Denmark may at any time after the adoption of a measure pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union 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-420(1)] of that Treaty shall apply *mutatis mutandis*.

Article 5

1. Notification pursuant to Article 4 shall be submitted no later than six months after the final adoption of a measure if this measure builds upon the Schengen *acquis*.

If Denmark does not submit a notification in accordance with Articles 3 or 4 regarding a measure building upon the Schengen *acquis*, the Member States bound by that measure and Denmark will consider appropriate measures to be taken.

2. A notification pursuant to Article 3 with respect to a measure 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 builds upon the Schengen *acquis*.

Article 5a

Denmark shall be bound by the rules laid down on the basis of Article [I-51] of the Treaty on the Functioning of the Union which relate to the processing of personal data by the Member States when carrying out activities which fall within the scope of Chapter 4 or Chapter 5 of Title IV of Part Three of that Treaty only to the extent that it is bound by the rules governing the forms of judicial cooperation in criminal matters or police cooperation which require compliance with the provisions laid down on the basis of Article [I-51].

Article 6

Where, in cases referred to in this Part, Denmark is bound by a measure adopted by the Council pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union, the relevant provisions of that Treaty shall apply to Denmark in relation to that measure.

Article 7

Where Denmark is not bound by a measure adopted pursuant to Title IV of Part Three of the Treaty on the Functioning of the Union, 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."

Protocol on asylum for nationals of the Union

21) The Protocol on asylum for nationals of Member States of the European Union shall be amended as follows:

(a) the preamble shall be amended as follows:

(i) the first recital shall be replaced by the following:

"WHEREAS, in accordance with Article [I-9(1)] of the Treaty on European Union, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights;"

(ii) the following new second recital shall be inserted:

"WHEREAS pursuant to Article [I-9(3)] of the Treaty on European Union, fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, constitute part of the Union's law as general principles;"

(iii) in the third and fourth recitals, now the fourth and fifth recitals, the word "principles" shall be replaced by "values";

(iv) the seventh recital, now the eighth recital, shall be deleted;

(b) in point (b) of the Sole Article, the words ", or, where appropriate, the European Council," shall be inserted after "the Council" and the words "with regard to the Member State of which the applicant is a national" shall be added at the end;

(c) point (c) shall be replaced by the following:

"(c) if the Council has adopted a decision in accordance with Article [I-59(1)] of the Treaty on European Union in respect of the Member State of which the applicant is a national or if the European Council has adopted a decision in accordance with Article [I-59(2)] of that Treaty in respect of the Member State of which the applicant is a national;"

Protocol on economic, social and territorial cohesion

22) The Protocol on economic and social cohesion shall be amended as follows:

- (a) throughout the Protocol, the words "economic and social cohesion" shall be replaced by "economic, social and territorial cohesion";
- (b) the preamble shall be amended as follows:
 - (i) the first two recitals shall be replaced by following new first recital:

"RECALLING that [Article I-3] of the Treaty on European Union includes the objective of promoting economic, social and territorial cohesion and solidarity between Member States and that the said cohesion figures among the areas of shared competence of the Union listed in Article [I-14(2)(c)] of that Treaty;"
 - (ii) the fourth recital, now the third recital, shall be replaced by the following:

"RECALLING that the provisions of Article [III-223] of the Treaty on the Functioning of the Union envisage setting up a Cohesion Fund;"
 - (iii) the fifth, sixth and fourteenth recitals shall be deleted;
 - (iv) at the end of the eleventh recital, now the eighth recital, the words ", and underline the importance of the inclusion of economic and social cohesion in Articles 2 and 3 of this Treaty" shall be deleted;
 - (v) in the fifteenth recital, now the new eleventh recital, the words "to be set up before 31 December 1993" shall be deleted.

Other Protocols

23) In the Protocol on France, the words "in its overseas territories" shall be replaced by "in New Caledonia, French Polynesia and Wallis and Futuna".

- 24)** The Protocol on Article 17 of the Treaty on European Union shall be amended as follows:
- (a) in the title of the Protocol, the reference to Article 17 shall be replaced by a reference to Article [I-41(2)];
 - (b) in the enacting terms, the final clause ", within a year from the entry into force of the Treaty of Amsterdam" shall be deleted.
- 25)** In the second sentence of Article 3(3) of the Protocol concerning imports into the European Union of petroleum products refined in the Netherlands Antilles, the words "by a decision taken by a qualified majority" shall be deleted.
- 26)** Article 2 of the Protocol on special arrangements for Greenland shall be deleted.
- 27)** The Protocol annexed to the Treaty on European Union and to the Treaties establishing the European Communities shall be amended as follows:
- (a) the title of the Protocol shall be replaced by "Protocol on Article 40.3.3 of the Constitution of Ireland";
 - (b) the words "Nothing in the Treaty on European Union, or in the Treaties establishing the European Communities" shall be replaced by "Nothing in the Treaties, or in the Treaty establishing the European Atomic Energy Community".
- 28)** The Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel shall be amended as follows:
- (a) in the preamble, the first two recitals shall be replaced by following new first recital:

"RECALLING that all assets and liabilities of the European Coal and Steel Community, as they existed on 23 July 2002, were transferred to the European Community on 24 July 2002;"
 - (b) Article 1(1) shall be deleted and the two remaining paragraphs shall be renumbered accordingly;

- (c) Article 2 shall be split into two paragraphs, the first of which shall end with the words "including essential principles.". Furthermore, this Article shall be amended as follows:
 - (i) in the first paragraph, the words "acting unanimously on a proposal from the Commission" shall be replaced by "acting in accordance with a special legislative procedure" and the word "consulting" shall be replaced by "obtaining the consent of";
 - (ii) in the second paragraph, the words "and proper decision-making procedures, in particular for the adoption of" shall be replaced by "The Council shall adopt, on a proposal from the Commission and after consulting the European Parliament, measures establishing";
- (d) Article 4 shall be repealed.

PROTOCOL (No 12)
AMENDING THE TREATY ESTABLISHING
THE EUROPEAN ATOMIC ENERGY COMMUNITY

THE HIGH CONTRACTING PARTIES,

RECALLING the necessity that the provisions of the Treaty establishing the European Atomic Energy Community should continue to have full legal effect;

DESIRING to adapt that Treaty to the new rules laid down by the Treaty on European Union and by the Treaty on the Functioning of the Union, in particular in the institutional and financial fields,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and which amend the Treaty establishing the European Atomic Energy Community as follows:

Article 1

This Protocol shall amend the Treaty establishing the European Atomic Energy Community (hereinafter referred to as the "EAEC Treaty") in its version in force at the time of entry into force of the Treaty amending the Treaty on European Union and the Treaty establishing the European Community.

Article 2

The heading of Title III of the EAEC Treaty "Institutional provisions" shall be replaced by the heading: "Institutional and financial provisions".

Article 3

The following chapter shall be inserted at the beginning of Title III of the EAEC Treaty:

"CHAPTER I

APPLICATION OF CERTAIN PROVISIONS OF THE TREATY ON EUROPEAN UNION AND OF THE TREATY ON THE FUNCTIONING OF THE UNION

Article 106a

1. Articles [I-19 to I-29] of the Treaty on European Union, Articles [I-31 to I-39], Articles [I-49 and I-50] and Articles [I-53 to I-56] of the Treaty on the Functioning of the Union, Articles [I-58 to I-60] of the Treaty on European Union, Articles [III-330 to III-372, Articles III-374 and III-375, Articles III-378 to III-381, Articles III-384 and III-385, Articles III-389 to III-392, Articles III-395 to III-410, Articles III-412 to III-415 and Articles III-427 and III-433] of the Treaty on the Functioning of the Union and Article [IV-443] of the Treaty on European Union and the Protocol on transitional provisions shall apply to this Treaty.
2. Within the framework of this Treaty, the references to the Union, to the "Treaty on European Union", to the "Treaty on the Functioning of the Union" or to the "Treaties" in the provisions referred to in paragraph 1 and those in the protocols annexed both to those Treaties and to this Treaty shall be taken, respectively, as references to the European Atomic Energy Community and to this Treaty.
3. The provisions of the Treaties of the European Union shall not derogate from the provisions of this Treaty."

Article 4

Chapters I, II and III of Title III of the EAEC Treaty shall be renumbered II, III and IV.

Article 5

Article 3, Articles 107 to 132, Articles 136 to 143, Articles 146 to 156, Articles 158 to 163, Articles 165 to 170, Articles 173 and 173A, Article 175, Articles 177 to 179a, and Articles 180b, 181, 183, 183A, 190 and 204 of the EAEC Treaty shall be repealed.

Article 6

The heading of Title IV of the EAEC Treaty "Financial provisions" shall be replaced by the heading: "Specific financial provisions".

Article 7

1. In the third paragraph of Article 38 and the third paragraph of Article 82 of the EAEC Treaty the references to Articles 141 and 142 shall be replaced by references to Articles [III-360 and III-361] respectively of the Treaty on the Functioning of the Union.
2. In Article 171(2) and Article 176(3) of the EAEC Treaty the references to Article 183 shall be replaced by references to Article [III-412] of the Treaty on the Functioning of the Union.
3. In Article 172(4) of the EAEC Treaty the reference to Article 177(5) shall be replaced by a reference to Article [III-404] of the Treaty on the Functioning of the Union.
4. In the EAEC Treaty the words "Court of Justice" shall be replaced by "Court of Justice of the European Union".

Article 8

Article 191 of the EAEC Treaty shall be replaced by the following:

"Article 191

The Community shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union."

Article 9

Article 198 of the EAEC Treaty shall be replaced by the following:

"Article 198

Save as otherwise provided, the provisions of this Treaty shall apply to the European territories of the Member States and to the non-European territories under their jurisdiction.

They shall also apply to the European territories for whose external relations a Member State is responsible.

The provisions of this Treaty shall apply to the Åland Islands with the derogations which were originally set out in the Treaty referred to in Article IV-437(2)(d) of the Treaty establishing a Constitution for Europe and which have been incorporated in the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

Notwithstanding the first, second and third paragraphs:

- (a) this Treaty shall not apply to the Faroe Islands or to Greenland;
- (b) this Treaty shall not apply to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;
- (c) this Treaty shall not apply to the overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not mentioned in the list in Annex II to the Treaty establishing a Constitution for Europe;
- (d) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands originally set out in the Treaty referred to in Article IV-437(2)(a) of the Treaty establishing a Constitution for Europe and which have been incorporated in the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden."

Article 10

Article 206 of the EAEC Treaty shall be replaced by the following:

"Article 206

The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.

These agreements shall be concluded by the Council, acting unanimously after consulting the European Parliament.

Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article [IV-443] of the Treaty on European Union."

Article 11

In Article 225 of the EAEC Treaty, the second paragraph shall be replaced by the following:

"The Bulgarian, Czech, Danish, English, Estonian, Finnish, Greek, Hungarian, Irish, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish versions of the Treaty shall also be authentic."

Article 12

The revenue and expenditure of the European Atomic Energy Community, except for those of the Supply Agency and Joint Undertakings, shall be shown in the budget of the Union.

**JÄSENVALTIOIDEN
HALLITUSTEN EDUSTAJIEN
KONFERENSSI**

**Bryssel, 23. heinäkuuta 2007
(OR. fr)**

CIG 3/07

ILMOITUS

Lähettiläjä:	HVK:n puheenjohtajisto
Päivämäärä:	23. heinäkuuta 2007
Vastaanottaja:	Hallitustenvälinen konferenssi (HVK)
Asia:	HVK 2007 Ehdotus julistuksiksi

EHDOTUS JULISTUKSIKSI

HUOM.

Tämä asiakirja on HVK:n käsiteltäväksi tarkoitettu valmisteluasiakirja. Hakasuluissa olevat artiklaviittaukset korjataan tavanomaiseen tapaan lingvistijuristien viimeistellesä tekstin ennen sopimuksen allekirjoittamista.

A. PERUSSOPIMUSTEN MÄÄRÄYKSIÄ KOSKEVAT JULISTUKSET

1. Julistus Euroopan unionista tehdyn sopimuksen [I-9 artiklan 2 kohdasta]

Konferenssi on yhtä mieltä siitä, että unionin liittymisen ihmisoikeuksien ja perusvapauksien suojaamiseksi tehtyyn yleissopimukseen olisi tapahduttava sellaisin menettelyin, että unionin oikeuden erityispiirteet säilytetään. Konferenssi panee tässä yhteydessä merkille Euroopan unionin tuomioistuimen ja Euroopan ihmisoikeustuomioistuimen välillä säännöllisesti käytävän vuoropuhelun, jota voidaan vahvistaa, kun unioni liittyy mainittuun yleissopimukseen.

2. Julistus Euroopan unionista tehdyn sopimuksen [I-22, I-27 ja I-28 artiklasta]

Eurooppa-neuvoston puheenjohtajan, komission puheenjohtajan ja unionin ulkoasiainministerin tehtäviin nimitettävien henkilöiden valinnassa on otettava asianmukaisesti huomioon tarve kunnioittaa unionin ja sen jäsenvaltioiden maantieteellistä ja väestöllistä moninaisuutta.

3. Julistus Euroopan unionista tehdyn sopimuksen [I-24 artiklan 7 kohdasta] siltä osin kuin on kyse neuvoston puheenjohtajuuden hoitamista koskevasta Eurooppa-neuvoston päätöksestä

Konferenssi julistaa, että Eurooppa-neuvoston olisi aloitettava neuvoston puheenjohtajuuden hoitamista koskevan päätöksen täytäntöönpanomenettelyjä koskevan päätöksen valmistelu välittömästi Euroopan unionista tehdyn sopimuksen ja Euroopan yhteisön perustamissopimuksen muuttamisesta tehdyn sopimuksen allekirjoittamisen jälkeen ja että sen olisi annettava tälle päätökselle poliittinen hyväksyntänsä kuuden kuukauden kuluessa. Päätösehdotus on seuraava:

Ehdotus Eurooppa-neuvoston päätökseksi neuvoston puheenjohtajuuden hoitamisesta

1 artikla

1. Etukäteen määritetyt kolmen jäsenvaltion ryhmät hoitavat 18 kuukauden ajan neuvoston puheenjohtajuutta ulkoasiain kokoonpanoa lukuun ottamatta. Nämä ryhmät muodostetaan jäsenvaltioiden tasaisen vuorottelun perusteella, ja tällöin otetaan huomioon jäsenvaltioiden keskinäinen erilaisuus sekä maantieteellinen tasapaino unionissa.

2. Kukin ryhmän jäsen toimii vuorollaan kuuden kuukauden ajan kaikkien neuvoston kokoonpanojen puheenjohtajana ulkoasiain kokoonpanoa lukuun ottamatta. Muut ryhmän jäsenet avustavat puheenjohtajaa tämän kaikissa tehtävissä yhteisen ohjelman mukaisesti. Ryhmän jäsenet voivat keskenään sopia vaihtoehtoisista järjestelyistä.

2 artikla

Yleisten asioiden neuvoston puheenjohtajana toimivan jäsenvaltion edustaja on jäsenvaltioiden hallitusten pysyvien edustajien komitean puheenjohtaja.

Unionin ulkoasiainministerin edustaja on poliittisten ja turvallisuusasioiden komitean puheenjohtaja.

Jollei 4 artiklan mukaisesti ole toisin päätetty, kyseessä olevan neuvoston kokoonpanon, ulkoasiain kokoonpanoa lukuun ottamatta, puheenjohtajana kulloinkin toimivan ryhmän jäsen on 1 artiklassa tarkoitettujen neuvoston kokoonpanojen eri valmisteluelinten puheenjohtaja.

3 artikla

Yleisten asioiden neuvosto huolehtii yhteistyössä komission kanssa neuvoston eri kokoonpanojen työskentelyn johdonmukaisuudesta ja jatkuvuudesta monivuotisten ohjelmien mukaisesti. Puheenjohtajina toimivat jäsenvaltiot toteuttavat neuvoston pääsihteeristön avustuksella kaikki tarpeelliset toimenpiteet neuvoston työskentelyn järjestämiseksi ja sen sujuvuuden varmistamiseksi.

4 artikla

Neuvosto tekee päätöksen, jolla säädetään toimenpiteistä tämän päätöksen soveltamiseksi.

4. Julistus Euroopan unionista tehdyn sopimuksen [I-25 artiklasta]

Konferenssi julistaa, että neuvosto tekee päätöksen [I-25 artiklan] täytäntöönpanosta kuuden kuukauden kuluessa Euroopan unionista tehdyn sopimuksen muuttamisesta tehdyn sopimuksen allekirjoittamisesta ja että päätös tulee voimaan samana päivänä, jona kyseinen sopimus tulee voimaan. Päätösehdotus on seuraava:

Ehdotus neuvoston päätökseksi [I-25 artiklan] täytäntöönpanosta
1 päivän marraskuuta 2014 ja 31 päivän maaliskuuta 2017 välisenä aikana
sekä 1 päivästä huhtikuuta 2017 alkaen

EUROOPAN UNIONIN NEUVOSTO, joka

katsoo seuraavaa:

- (1) On aiheellista antaa määräyksiä, joiden avulla voidaan siirtyä sujuvasti siirtymämääräyksistä tehdyn pöytäkirjan 2 artiklan 3 kohdassa määritellystä neuvoston määräenemmistöllä tapahtuvaa päätöksentekoa koskevasta järjestelmästä, jota sovelletaan 31 päivään lokakuuta 2014, Euroopan unionista tehdyn sopimuksen [I-25 artiklan] mukaiseen äänestysjärjestelmään, jota sovelletaan 1 päivästä marraskuuta 2014, saman pöytäkirjan 2 artiklan 2 kohdassa tarkoitetut erityismääräykset, joita sovelletaan 31 päivään maaliskuuta 2017 ulottuvan siirtymäkauden aikana, mukaan luettuina.

- (2) Palautetaan mieleen, että neuvosto aikoo kaikin voimin ponnistella määräenemmistöllä tehtyjen päätösten demokraattisen legitiimiyden vahvistamiseksi.
- (3) Katsotaan aiheelliseksi pitää tämä päätös voimassa niin kauan kuin se on tarpeen, jotta voidaan varmistaa sujuva siirtyminen perussopimuksissa määrättyyn uuteen äänestysjärjestelmään,

ON PÄÄTTÄNYT SEURAAVAA:

1 jakso

Määräykset, joita sovelletaan 1 päivän marraskuuta 2014
ja 31 päivän maaliskuuta 2017 välisenä aikana

1 artikla

1 päivän marraskuuta 2014 ja 31 päivän maaliskuuta 2017 välisenä aikana, jos neuvoston jäsenet, jotka edustavat

- a) vähintään kolmea neljäsosaa siitä väestöstä, tai
- b) vähintään kolmea neljäsosaa siitä jäsenvaltioiden määrästä,

jota edellytetään määrävähemmistön muodostamiseen [I-25 artiklan 1 kohdan ensimmäistä alakohtaa tai 2 kohtaa] sovellettaessa, vastustavat sitä, että neuvosto antaa säädöksen määräenemmistöllä, neuvosto käy asiasta keskustelun.

2 artikla

Käydessään tätä keskustelua neuvosto tekee kaiken voitavansa päästäkseen kohtuullisessa ajassa ja tuottamatta haittaa unionin oikeudessa asetettujen pakottavien määräaikojen soveltamiselle tyydyttävään ratkaisuun 1 artiklassa tarkoitettujen neuvoston jäsenten esiin ottamien huolenaiheiden osalta.

3 artikla

Neuvoston puheenjohtaja tekee tätä varten komission avustamana ja neuvoston työjärjestystä noudattaen tarvittavat aloitteet, joilla helpotetaan laajemman yhteisymmärryksen saavuttamista neuvostossa. Neuvoston jäsenet avustavat puheenjohtajaa.

2 jakso
Määräykset, joita sovelletaan 1 päivästä huhtikuuta 2017

4 artikla

1 päivästä huhtikuuta 2017 alkaen, jos neuvoston jäsenet, jotka edustavat

- c) vähintään 55 prosenttia siitä väestöstä, tai
- d) vähintään 55 prosenttia siitä jäsenvaltioiden määrästä,

jota edellytetään määrävähemmistön muodostamiseen [I-25 artiklan 1 kohdan ensimmäistä alakohtaa tai 2 kohtaa] sovellettaessa, vastustavat sitä, että neuvosto antaa säädöksen määräenemmistöllä, neuvosto käy asiasta keskustelun.

5 artikla

Käydessään tätä keskustelua neuvosto tekee kaiken voitavansa päästäkseen kohtuullisessa ajassa ja tuottamatta haittaa unionin oikeudessa asetettujen pakottavien määräaikojen soveltamiselle tyydyttävään ratkaisuun 4 artiklassa tarkoitettujen neuvoston jäsenten esiin ottamien huolenaiheiden osalta.

6 artikla

Neuvoston puheenjohtaja tekee tätä varten komission avustamana ja neuvoston työjärjestyttä noudattaen tarvittavat aloitteet, joilla helpotetaan laajemman yhteisymmärryksen saavuttamista neuvostossa. Neuvoston jäsenet avustavat puheenjohtajaa.

3 jakso
Päätöksen voimaantulo

7 artikla

Tämä päätös tulee voimaan 1 päivänä marraskuuta 2014.

5. Julistus Euroopan unionista tehdyn sopimuksen [I-26 artiklasta]

Konferenssi katsoo, että kun komissiossa ei enää ole kansalaisia kaikista jäsenvaltioista, tämän olisi kiinnitettävä erityistä huomiota siihen, että varmistetaan täysi avoimuus suhteessa kaikkiin jäsenvaltioihin. Komission olisi sitä varten oltava tiiviissä yhteydessä kaikkiin jäsenvaltioihin riippumatta siitä, onko niiden kansalainen komission jäsenenä, ja kiinnitettävä tässä yhteydessä erityistä huomiota tarpeeseen vaihtaa tietoja kaikkien jäsenvaltioiden kanssa ja kuulla niitä.

Konferenssi katsoo lisäksi, että komission olisi toteutettava kaikki aiheelliset toimenpiteet varmistaakseen, että kaikkien jäsenvaltioiden, myös niiden, joiden kansalaista ei ole komission jäsenenä, poliittiset, yhteiskunnalliset ja taloudelliset olosuhteet otetaan täysimääräisesti huomioon. Näillä toimenpiteillä olisi muun muassa varmistettava se, että näiden jäsenvaltioiden asema otetaan huomioon asianmukaisissa organisatorisissa järjestelyissä.

6. Julistus Euroopan unionista tehdyn sopimuksen [I-27 artiklasta]

Konferenssi katsoo, että Euroopan parlamentti ja Eurooppa-neuvosto vastaavat perussopimusten määräysten mukaisesti yhdessä Euroopan komission puheenjohtajan valintaan johtavan menettelyn moitteettomasta toteuttamisesta. Tätä varten Euroopan parlamentin ja Eurooppa-neuvoston edustajat järjestävät ennen Eurooppa-neuvoston päätöksen tekemistä tarpeelliset kuulemiset tarkoituksenmukaisimmaksi katsotulla tavalla. Kuulemisissa keskitytään komission puheenjohtajaksi ehdolla olevien taustaan, ja niissä otetaan [I-27 artiklan 1 kohdan] mukaisesti huomioon Euroopan parlamentin vaalit. Kuulemisia koskevia yksityiskohtaisia sääntöjä voidaan aikanaan täsmentää Euroopan parlamentin ja Eurooppa-neuvoston yhteisellä sopimuksella.

7. Julistus Euroopan unionin toiminnasta tehdyn sopimuksen [I-36 artiklasta]

Konferenssi panee merkille, että komissio aikoo vakiintuneen käytäntönsä mukaisesti jatkaa jäsenvaltioiden nimeämien asiantuntijoiden kuulemista valmistellessaan sellaisia rahoituspalvelualaa koskevia säädöksiä, jotka annetaan säädösvallan siirron nojalla.

8. Julistus Euroopan unionin toiminnasta tehdyn sopimuksen [I-43 ja III-329 artiklasta]

Mitä [I-43 ja III-329 artiklassa] määrätään, ei vaikuta jäsenvaltion oikeuteen valita tarkoituksenmukaisimmat keinot täyttääkseen yhteisvastuuta koskevan velvoitteensa sellaista jäsenvaltiota kohtaan, joka on joutunut terrori-iskun taikka luonnonmullistuksen tai ihmisen aiheuttaman suuronnettomuuden kohteeksi, sanotun kuitenkin rajoittamatta niiden toimenpiteiden toteuttamista, jotka unioni on hyväksynyt täyttääkseen yhteisvastuuta koskevan velvoitteensa tätä jäsenvaltiota kohtaan.

9. Julistus Euroopan unionin toiminnasta tehdyn sopimuksen [I-51 artiklasta]

Konferenssi julistaa, että aina kun [I-51 artiklan] nojalla annettavat henkilötietojen suojaa koskevat säännöt voivat vaikuttaa suoraan kansalliseen turvallisuuteen, tämä seikka on otettava asianmukaisesti huomioon. Se muistuttaa, että tällä hetkellä sovellettavassa lainsäädännössä (katso erityisesti direktiivi 95/46/EY) on asiaa koskevia erityisiä poikkeuksia.

10. Julistus Euroopan unionista tehdyn sopimuksen [I-57 artiklasta]

Unioni ottaa huomioon sen kanssa läheisyytensä vuoksi erityissuhteissa olevien kooltaan pienten maiden erityistilanteen.

11. Julistus perusoikeuskirjaa koskevasta
Euroopan parlamentin, neuvoston ja komission ilmoituksesta

Konferenssi julistaa, että Euroopan parlamentti, neuvosto ja komissio antavat juhlallisen ilmoituksen Euroopan unionin perusoikeuskirjasta Euroopan unionista tehdyn sopimuksen ja Euroopan yhteisön perustamissopimuksen muuttamisesta tehdyn sopimuksen allekirjoittamispäivänä. Teksti kuuluu seuraavasti:

"Euroopan parlamentti, neuvosto ja komissio juhlallisesti julistavat jäljempänä esitetyn tekstin Euroopan unionin perusoikeuskirjaksi:

EUROOPAN UNIONIN PERUSOIKEUSKIRJA

Johdanto-osa

Euroopan kansat ovat luomalla välilleen yhä läheisemmän liiton päättäneet jakaa keskenään rauhanomaisen, yhteisiin arvoihin perustuvan tulevaisuuden.

Unioni perustuu ihmisarvon, vapauden, yhdenvertaisuuden ja yhteisvastuun jakamattomiin ja yleismaailmallisiin arvoihin, ja se on tietoinen henkisestä ja eettisestä perinnöstään. Se rakentuu kansanvallan ja oikeusvaltion periaatteille. Se asettaa ihmisen toimintansa keskipisteeksi ottamalla käyttöön unionin kansalaisuuden ja luomalla vapauden, turvallisuuden ja oikeuden alueen.

Unioni edistää osaltaan näiden yhteisten arvojen vaalimista ja kehittämistä kunnioittaen Euroopan kansojen kulttuurien ja perinteiden monimuotoisuutta sekä jäsenvaltioiden kansallista identiteettiä ja niiden tapaa järjestää hallintonsa kansallisella, alueellisella ja paikallisella tasolla. Unioni pyrkii edistämään tasapainoista ja kestävää kehitystä sekä varmistaa henkilöiden, palvelujen, tavaroiden ja pääomien vapaan liikkuvuuden sekä sijoittautumisvapauden.

Tämän vuoksi on välttämätöntä yhteiskunnan muutoksen, sosiaalisen edistyksen sekä tieteen ja tekniikan kehityksen mukaisesti vahvistaa näiden perusoikeuksien suojaa ja tuoda ne paremmin näkyviin perusoikeuskirjana.

Tässä perusoikeuskirjassa vahvistetaan unionin toimivallan ja tehtävien sekä toissijaisuusperiaatteen mukaisesti oikeudet, jotka perustuvat erityisesti jäsenvaltioille yhteisiin valtiosääntöperinteisiin ja kansainvälisiin velvoitteisiin, ihmisoikeuksien ja perusvapauksien suojaamiseksi tehtyyn yleissopimukseen, unionin ja Euroopan neuvoston hyväksymiin sosiaalisiin peruskirjoihin sekä Euroopan unionin tuomioistuimen ja Euroopan ihmisoikeustuomioistuimen oikeuskäytäntöön. Unionin ja jäsenvaltioiden tuomioistuimet tulkitsevat tätä perusoikeuskirjaa tämän mukaisesti ottaen asianmukaisesti huomioon perusoikeuskirjan laatineen valmistelukunnan puheenjohtajiston alaisuudessa laaditut ja Eurooppa-valmistelukunnan puheenjohtajiston johdolla ajan tasalle saatetut selitykset.

Nämä oikeudet tuovat mukanaan vastuuta ja velvollisuuksia sekä muita ihmisiä että koko ihmiskuntaa ja tulevia sukupolvia kohtaan.

Tämän vuoksi unioni tunnustaa jäljempänä esitetyt oikeudet, vapaudet ja periaatteet.

I OSASTO IHMISARVO

[II-61 artikla] *Ihmisarvo*

Ihmisarvo on loukkaamaton. Sitä on kunnioitettava ja suojeltava.

[II-62 artikla] *Oikeus elämään*

1. Jokaisella on oikeus elämään.
2. Ketään ei saa tuomita kuolemaan eikä teloittaa.

*[II-63 artikla]
Oikeus henkilökohtaiseen koskemattomuuteen*

1. Jokaisella on oikeus ruumiilliseen ja henkiseen koskemattomuuteen.
2. Lääketieteen ja biologian alalla on noudatettava erityisesti seuraavia vaatimuksia ja kieltoja:
 - a) asianomaisen henkilön vapaaehtoinen ja asiaan vaikuttavista seikoista tietoisena annettu suostumus, joka on hankittu laissa säädettyjä menettelytapoja noudattaen;
 - b) ihmisten geneettiseen jalostamiseen tähtäävien käytäntöjen kieltä, erityisesti sellaisten, joiden tavoitteena on ihmisten valikointi;
 - c) kieltä hankkia taloudellista hyötyä ihmisruumiista ja sen osista sellaisinaan;
 - d) ihmisten jäljentämistarkoituksessa tapahtuvan kloonauksen kieltä.

*[II-64 artikla]
Kidutuksen sekä epäinhimillisen tai halventavan rangaistuksen ja kohtelun kieltä*

Ketään ei saa kiduttaa eikä kohdella tai rangaista epäinhimillisellä tai halventavalla tavalla.

*[II-65 artikla]
Orjuuden ja pakkotyön kieltä*

1. Ketään ei saa pitää orjana tai maaorjana.
2. Ketään ei saa vaatia tekemään pakkotyötä tai muuta pakollista työtä.
3. Ihmiskauppa kielletään.

**II OSASTO
VAPAUDET**

*[II-66 artikla]
Oikeus vapauteen ja turvallisuuteen*

Jokaisella on oikeus vapauteen ja henkilökohtaiseen turvallisuuteen.

*[II-67 artikla]
Yksityis- ja perhe-elämän kunnioittaminen*

Jokaisella on oikeus siihen, että hänen yksityis- ja perhe-elämäänsä, kotiaan sekä viestejään kunnioitetaan.

[II-68 artikla]
Henkilötietojen suoja

1. Jokaisella on oikeus henkilötietojensa suojaan.
2. Tällaisten tietojen käsittelyn on oltava asianmukaista ja sen on tapahduttava tiettyä tarkoitusta varten ja asianomaisen henkilön suostumuksella tai muun laissa säädetyn oikeuttavan perusteen nojalla. Jokaisella on oikeus tutustua niihin tietoihin, joita hänestä on kerätty, ja saada ne oikaistuksi.
3. Riippumaton viranomainen valvoo näiden sääntöjen noudattamista.

[II-69 artikla]
Oikeus solmia avioliitto ja oikeus perustaa perhe

Oikeus solmia avioliitto ja oikeus perustaa perhe taataan tämän oikeuden käyttöä sääntelevien kansallisten lainsäädäntöjen mukaisesti.

[II-70 artikla]
Ajatuksen, omantunnon ja uskonnon vapaus

1. Jokaisella on oikeus ajatuksen, omantunnon ja uskonnon vapauteen. Tämä oikeus sisältää vapauden vaihtaa uskontoa tai vakaumusta ja vapauden tunnustaa uskontoa tai vakaumusta joko yksin tai yhdessä muiden kanssa julkisesti tai yksityisesti jumalanpalveluksissa, opettamalla, hartaudenharjoituksissa ja uskonnollisin menoin.
2. Oikeus kieltäytyä asepalveluksesta omantunnon syistä tunnustetaan tämän oikeuden käyttöä sääntelevien kansallisten lainsäädäntöjen mukaisesti.

[II-71 artikla]
Sananvapaus ja tiedonvälityksen vapaus

1. Jokaisella on oikeus sananvapauteen. Tämä oikeus sisältää mielipiteenvapauden sekä vapauden vastaanottaa ja levittää tietoja tai ajatuksia viranomaisten siihen puuttumatta ja alueellisista rajoista riippumatta.
2. Tiedotusvälineiden vapautta ja moniarvoisuutta kunnioitetaan.

[II-72 artikla]
Kokoontumis- ja yhdistymisvapaus

1. Jokaisella on oikeus rauhanomaiseen kokoontumisvapauteen ja yhdistymisvapauteen kaikilla tasoilla erityisesti poliittisessa, ammattiyhdistys- ja yhteiskunnallisessa toiminnassa, mihin sisältyy, että jokaisella on oikeus perustaa yhdessä muiden kanssa ammattiyhdistyksiä ja liittyä niihin etujensa puolustamiseksi.
2. Unionin tason poliittiset puolueet myötävaikuttavat unionin kansalaisten poliittisen tahdon ilmaisemiseen.

[II-73 artikla]
Taiteen ja tutkimuksen vapaus

Taiteen ja tieteellisen tutkimuksen vapaus turvataan. Akateemista vapautta kunnioitetaan.

[II-74 artikla]
Oikeus koulutukseen

1. Jokaisella on oikeus koulutukseen ja oikeus saada ammatillista koulutusta sekä jatko- ja täydennyskoulutusta.
2. Tähän oikeuteen kuuluu mahdollisuus saada maksutta oppivelvollisuuteen perustuvaa opetusta.
3. Vapautta perustaa oppilaitoksia demokratian periaatteita kunnioittaen sekä vanhempien oikeutta varmistaa lapsilleen omien uskonnollisten, aatteellisten ja kasvatuksellisten vakaumustensa mukainen kasvatus ja opetus kunnioitetaan kyseisen vapauden ja kyseisen oikeuden käyttöä sääntelevien kansallisten lainsäädäntöjen mukaisesti.

[II-75 artikla]
Ammatillinen vapaus ja oikeus tehdä työtä

1. Jokaisella on oikeus tehdä työtä ja harjoittaa vapaasti valitsemaansa tai hyväksymäänsä ammattia.
2. Jokaisella unionin kansalaisella on vapaus hakea työtä, tehdä työtä, sijoittautua tai tarjota palveluja missä tahansa jäsenvaltiossa.
3. Kolmansien maiden kansalaisilla, joilla on lupa tehdä työtä jäsenvaltioiden alueella, on oikeus samantapaisiin työehtoihin kuin unionin kansalaisilla.

[II-76 artikla]
Elinkeinovapaus

Elinkeinovapaus tunnustetaan unionin oikeuden sekä kansallisten lainsäädäntöjen ja käytäntöjen mukaisesti.

[II-77 artikla]
Omistusoikeus

1. Jokaisella on oikeus nauttia laillisesti hankkimastaan omaisuudesta sekä käyttää, luovuttaa ja testamentata sitä. Keneltäkään ei saa riistää hänen omaisuuttaan muutoin kuin yleisen edun sitä vaatiessa laissa säädetyissä tapauksissa ja laissa säädettyjen ehtojen mukaisesti ja siten, että hänelle suoritetaan kohtuullisessa ajassa oikeudenmukainen korvaus omaisuuden menetyksestä. Omaisuuden käyttöä voidaan säännellä lailla siinä määrin kuin se on yleisen edun mukaan välttämätöntä.

2. Teollis- ja tekijänoikeudet turvataan.

[II-78 artikla]
Oikeus turvapaikkaan

Oikeus turvapaikkaan taataan pakolaisten oikeusasemaa koskevan 28 päivänä heinäkuuta 1951 tehdyn Geneven yleissopimuksen ja pakolaisten oikeusasemaa koskevan 31 päivänä tammikuuta 1967 tehdyn pöytäkirjan määräysten sekä perussopimusten mukaisesti.

[II-79 artikla]
Suoja palauttamis-, karkottamis- ja luovuttamistapauksissa

1. Joukkokarkotukset kielletään.

2. Ketään ei saa palauttaa, karkottaa tai luovuttaa sellaiseen maahan, jossa häntä vakavasti uhkaa kuolemanrangaistus, kidutus tai muu epäinhimillinen tai halventava rangaistus tai kohtelu.

III OSASTO
TASA-ARVO

[II-80 artikla]
Yhdenvertaisuus lain edessä

Kaikki ihmiset ovat yhdenvertaisia lain edessä.

*[II-81 artikla]
Syrjintäkielto*

1. Kielletään kaikenlainen syrjintä, joka perustuu sukupuoleen, rotuun, ihonväriin tai etniseen taikka yhteiskunnalliseen alkuperään, geneettisiin ominaisuuksiin, kieleen, uskontoon tai vakaumukseen, poliittisiin tai muihin mielipiteisiin, kansalliseen vähemmistöön kuulumiseen, varallisuuteen, syntyperään, vammaisuuteen, ikään tai sukupuoliseen suuntautumiseen tai muuhun sellaiseen seikkaan.
2. Kielletään kaikenlainen kansalaisuuteen perustuva syrjintä perussopimusten soveltamisalalla, sanotun kuitenkin rajoittamatta niiden erityismääräysten soveltamista.

*[II-82 artikla]
Kulttuurinen, uskonnollinen ja kielellinen monimuotoisuus*

Unioni kunnioittaa kulttuurista, uskonnollista ja kielellistä monimuotoisuutta.

*[II-83 artikla]
Naisten ja miesten välinen tasa-arvo*

Naisten ja miesten välinen tasa-arvo on varmistettava kaikilla aloilla työelämä ja palkkaus mukaan lukien.

Tasa-arvon periaate ei estä pitämästä voimassa tai toteuttamasta toimenpiteitä, jotka tarjoavat erityisetuja aliedustettuna olevalle sukupuolelle.

*[II-84 artikla]
Lapsen oikeudet*

1. Lapsella on oikeus hänen hyvinvoinnilleen välttämättömään suojeluun ja huolenpitoon. Lapsen on saatava ilmaista vapaasti mielipiteensä. Lapsen mielipide on hänen ikänsä ja kehitystasonsa mukaisesti otettava huomioon häntä koskevissa asioissa.
2. Kaikissa lasta koskevissa viranomaisten tai yksityisten laitosten toimissa on ensisijaisesti otettava huomioon lapsen etu.
3. Jokaisella lapsella on oikeus ylläpitää henkilökohtaisia suhteita ja suoria yhteyksiä kumpaankin vanhempaansa säännöllisesti, jollei se ole lapsen edun vastaista.

*[II-85 artikla]
Ikääntyneiden henkilöiden oikeudet*

Unioni tunnustaa ikääntyneiden henkilöiden oikeuden ihmisarvoiseen ja itsenäiseen elämään sekä oikeuden osallistua yhteiskunnalliseen elämään ja kulttuurielämään, ja kunnioittaa näitä oikeuksia.

[II-86 artikla]
Vammaisten sopeutuminen yhteiskuntaan

Unioni tunnustaa vammaisten oikeuden päästä osallisiksi toimenpiteistä, joilla edistetään heidän itsenäistä elämäänsä, yhteiskunnallista ja ammatillista sopeutumistaan sekä osallistumistaan yhteiskuntaelämään, ja kunnioittaa tätä oikeutta.

IV OSASTO
YHTEISVASTUU

[II-87 artikla]
Työntekijöiden oikeus saada tietoja ja tulla kuulluksi yrityksessä

Työntekijöille tai heidän edustajilleen on asianmukaisilla tasoilla taattava mahdollisuus saada riittävän ajoissa tietoa ja tulla kuulluksi unionin oikeuden sekä kansallisten lainsäädäntöjen ja käytäntöjen mukaisissa tapauksissa ja niissä määrätyin edellytyksin.

[II-88 artikla]
Neuvotteluoikeus ja oikeus työtaistelutoimiin

Työntekijöillä ja työnantajilla tai näiden järjestöillä on unionin oikeuden sekä kansallisten lainsäädäntöjen ja käytäntöjen mukaisesti oikeus asianmukaisilla tasoilla neuvotella ja tehdä työ- ja virkaehtosopimuksia sekä oikeus ryhtyä eturistiriitatilanteissa etujensa puolustamiseksi työtaistelutoimiin, lakko mukaan lukien.

[II-89 artikla]
Oikeus työnvälityspalveluihin

Jokaisella on oikeus maksuttomiin työnvälityspalveluihin.

[II-90 artikla]
Suoja perusteettoman irtisanomisen yhteydessä

Jokaisella työntekijällä on oikeus suojaan perusteettomalta irtisanomiselta unionin oikeuden sekä kansallisten lainsäädäntöjen ja käytäntöjen mukaisesti.

[II-91 artikla]
Oikeudenmukaiset ja kohtuulliset työolot ja työehdot

1. Jokaisella työntekijällä on oikeus terveellisiin, turvallisiin ja ihmisarvoisiin työoloihin ja työehtoihin.
2. Jokaisella työntekijällä on oikeus enimmäistyöajan rajoitukseen sekä päivittäisiin ja viikoittaisiin lepoaikoihin ja palkalliseen vuosilomaan.

*[II-92 artikla]
Lapsityövoiman käytön kieltö ja nuorten suojeļu työssä*

Lapsityövoiman käyttö on kielletty. Työhön pääsemiseksi vaadittava vähimmäisikä ei saa olla alempi kuin ikä, jolloin oppivelvollisuus päättyy, sanotun kuitenkaan rajoittamatta nuorille suotuisampien sääntöjen soveltamista ja rajoitettuja poikkeuksia.

Työhön otetuille nuorille on annettava heidän ikänsä mukaiset työolot ja -ehdot ja heitä on suojeltava taloudelliselta hyväksikäytöltä ja työltä, joka saattaa vahingoittaa heidän turvallisuuttaan, terveyttään tai fyysistä, henkistä, moraalista tai sosiaalista kehitystään tai haitata heidän koulutustaan.

*[II-93 artikla]
Perhe- ja työelämä*

1. Perheen oikeudellinen, taloudellinen ja yhteiskunnallinen suoja varmistetaan.
2. Voidakseen sovittaa yhteen perhe- ja työelämänsä jokaisella on oikeus suojaan irtisanomiselta äitiyteen liittyvän syyn vuoksi sekä oikeus vanhempainlomaan ja palkalliseen äitiyslomaan lapsen syntymän tai lapseksiottamisen johdosta.

*[II-94 artikla]
Sosiaalityrva ja toimeentulotuki*

1. Unioni tunnustaa oikeuden sosiaalityrvaetuuksiin ja sosiaalityrveluihin, joilla taataan suoja muun muassa raskauden ja synnytyksen aikana ja sairauden, työtaturman, hoidon tarpeen ja vanhuuden varalta sekä työpaikan menetyksen yhteydessä unionin oikeuden sekä kansallisten lainsäädäntöjen ja käytäntöjen mukaisesti, ja se kunnioittaa tätä oikeutta.
2. Jokaisella unionissa laillisesti asuvalla ja siellä laillisesti liikkuvalla on oikeus sosiaalityrvaetuuksiin ja sosiaalityriin etuihin unionin oikeuden sekä kansallisten lainsäädäntöjen ja käytäntöjen mukaisesti.
3. Yhteiskunnallisen syrjäytymisen ja köyhyyden torjumiseksi unioni tunnustaa oikeuden toimeentulotukeen ja asumisen tukeen tarkoituksena turvata ihmisarvoinen elämä jokaiselle, jolla ei ole riittävästi varoja, unionin oikeuden sekä kansallisten lainsäädäntöjen ja käytäntöjen mukaisesti, ja se kunnioittaa tätä oikeutta.

[II-95 artikla]
Terveysten suojele

Jokaisella on oikeus saada ehkäisevää terveydenhoitoa ja sairaanhoitoa kansallisten lainsäädäntöjen ja käytäntöjen mukaisin edellytyksin. Ihmisten terveyden korkeatasoinen suojele varmistetaan kaikkien unionin politiikkojen ja toimintojen määrittelyssä ja toteuttamisessa.

[II-96 artikla]
Mahdollisuus käyttää yleistä taloudellista etua koskevia palveluja

Edistääkseen unionin sosiaalista ja alueellista yhteenkuuluvuutta unioni tunnustaa mahdollisuuden käyttää kansallisten lainsäädäntöjen ja käytäntöjen mukaisia yleistä taloudellista etua koskevia palveluja perussopimusten mukaisesti, ja se kunnioittaa tätä oikeutta.

[II-97 artikla]
Ympäristönsuojele

Ympäristönsuojelun korkea taso ja ympäristön laadun parantaminen on sisällytettävä unionin politiikkoihin ja varmistettava kestävä kehityksen periaatteen mukaisesti.

[II-98 artikla]
Kuluttajansuoja

Unionin politiikoissa varmistetaan korkeatasoinen kuluttajansuoja.

V OSASTO
KANSALAISTEN OIKEUDET

[II-99 artikla]
Äänioikeus ja vaalikelpoisuus Euroopan parlamentin vaaleissa

1. Jokaisella unionin kansalaisella on äänioikeus ja vaalikelpoisuus Euroopan parlamentin vaaleissa siinä jäsenvaltiossa, jossa hän asuu, samoin edellytyksin kuin kyseisen jäsenvaltion omilla kansalaisilla.
2. Euroopan parlamentin jäsenet valitaan yleisillä, välittömällä, vapailla ja salaisilla vaaleilla.

[II-100 artikla]
Äänioikeus ja vaalikelpoisuus kunnallisvaaleissa

Jokaisella unionin kansalaisella on äänioikeus ja vaalikelpoisuus kunnallisvaaleissa siinä jäsenvaltiossa, jossa hän asuu, samoin edellytyksin kuin kyseisen jäsenvaltion omilla kansalaisilla.

[II-101 artikla]
Oikeus hyvään hallintoon

1. Jokaisella on oikeus siihen, että unionin toimielimet, elimet ja laitokset käsittelevät hänen asiansa puolueettomasti, oikeudenmukaisesti ja kohtuullisessa ajassa.
2. Tähän oikeuteen sisältyy erityisesti:
 - a) jokaisen oikeus tulla kuulluksi ennen kuin häntä vastaan ryhdytään yksittäiseen toimenpiteeseen, joka vaikuttaa häneen epäedullisesti;
 - b) jokaisen oikeus tutustua häntä koskeviin asiakirjoihin ottaen huomioon oikeutetun luottamuksellisuuden, salassapitovelvollisuuden ja liikesalaisuuden vaatimukset;
 - c) hallintoelinten velvollisuus perustella päätöksensä.
3. Jokaisella on oikeus saada unionilta korvaus niistä vahingoista, joita unionin toimielimet tai sen henkilökuntaan kuuluvat ovat aiheuttaneet tehtäviään suorittaessaan, jäsenvaltioiden lainsäädännön yhteisten yleisten periaatteiden mukaisesti.
4. Jokainen voi ottaa yhteyttä unionin toimielimiin jollakin perussopimusten kielistä, ja hänen on saatava vastaus samalla kielellä.

[II-102 artikla]
Oikeus tutustua asiakirjoihin

Jokaisella unionin kansalaisella sekä jokaisella luonnollisella henkilöllä tai oikeushenkilöllä, jonka asuinpaikka tai sääntömääräinen kotipaikka on jäsenvaltiossa, on oikeus tutustua Euroopan unionin toimielinten, elinten ja laitosten asiakirjoihin niiden tallennemuodosta riippumatta.

[II-103 artikla]
Euroopan oikeusasiamies

Jokaisella unionin kansalaisella sekä jokaisella luonnollisella henkilöllä ja oikeushenkilöllä, jonka asuinpaikka tai sääntömääräinen kotipaikka on jäsenvaltiossa, on oikeus tehdä Euroopan oikeusasiamiehelle kantelu, joka koskee unionin toimielinten, elinten tai laitosten toiminnassa ilmenneitä epäkohtia, lukuun ottamatta Euroopan unionin tuomioistuimen toimintaa lainkäyttöelimenä.

[II-104 artikla]
Oikeus esittää vetoamus

Jokaisella unionin kansalaisella sekä jokaisella luonnollisella henkilöllä ja oikeushenkilöllä, jonka asuinpaikka tai sääntömääräinen kotipaikka on jäsenvaltiossa, on oikeus vedota Euroopan parlamenttiin.

[II-105 artikla]
Liikkumis- ja oleskeluvapaus

1. Jokaisella unionin kansalaisella on oikeus vapaasti liikkua ja oleskella jäsenvaltioiden alueella.
2. Liikkumis- ja oleskeluvapaus voidaan perussopimusten mukaisesti myöntää jäsenvaltion alueella laillisesti asuville kolmansien maiden kansalaisille.

[II-106 artikla]
Diplomaatti- ja konsuliviranomaisten antama suojelu

Jokainen unionin kansalainen saa kolmannen maan alueella, jossa jäsenvaltiolla, jonka kansalainen hän on, ei ole edustusta, suojelua minkä tahansa jäsenvaltion diplomaatti- ja konsuliviranomaisilta samoin edellytyksin kuin kyseisen jäsenvaltion omat kansalaiset.

VI OSASTO
LAINKÄYTTÖ

[II-107 artikla]
Oikeus tehokkaihin oikeussuojakeinoihin ja puolueettomaan tuomioistuimeen

Jokaisella, jonka unionin oikeudessa taattuja oikeuksia ja vapauksia on loukattu, on oltava tässä artiklassa määrättyjen edellytysten mukaisesti käytettävissään tehokkaat oikeussuojakeinot tuomioistuimessa.

Jokaisella on oikeus kohtuullisen ajan kuluessa oikeudenmukaiseen ja julkiseen oikeudenkäyntiin riippumattomassa ja puolueettomassa tuomioistuimessa, joka on etukäteen laillisesti perustettu. Jokaisella on oltava mahdollisuus saada neuvoja ja antaa toisen henkilön puolustaa ja edustaa itseään.

Maksutonta oikeusapua annetaan vähävaraisille, jos tällainen apu on tarpeen, jotta asianomainen voisi tehokkaasti käyttää oikeutta saattaa asiansa tuomioistuimen käsiteltäväksi.

[II-108 artikla]
Syyttömyysolettama ja oikeus puolustukseen

1. Jokaista syytettyä on pidettävä syyttömänä, kunnes hänen syyllisyytensä on laillisesti näytetty toteen.
2. Jokaiselle syytetylle taataan oikeus puolustukseen.

[II-109 artikla]

Laillisuusperiaate ja rikoksista määrättävien rangaistusten oikeasuhteisuuden periaate

1. Ketään ei saa pitää syyllisenä rikokseen sellaisen teon tai laiminlyönnin perusteella, joka ei ollut tekohetkellä rikos kansallisen lainsäädännön tai kansainvälisen oikeuden mukaan. Rikoksesta ei saa määrätä sen tekohetkellä sovellettavissa ollutta rangaistusta ankarampaa rangaistusta. Jos rikoksen teon jälkeen laissa säädetään lievemmästä rangaistuksesta, sitä on sovellettava.
2. Tämän artiklan määräykset eivät estä panemasta vireille oikeudenkäyntiä henkilöä vastaan ja tuomitsemasta häntä rangaistukseen teosta tai laiminlyönnistä, joka kansakuntien yhteisesti tunnustamien yleisten periaatteiden mukaan oli tekohetkellä rikos.
3. Rangaistus ei saa olla epäsuhteessa rikoksen vakavuuteen.

[II-110 artikla]

Kielto syyttää ja rangaista oikeudenkäynnissä kahdesti samasta rikoksesta

Ketään ei saa panna syytteeseen tai rangaista rikoksesta, josta hänet on jo unionissa lopullisesti vapautettu tai tuomittu syylliseksi lain mukaisesti.

VII OSASTO
PERUSOIKEUSKIRJAN TULKINTAA JA SOVELTAMISTA
KOSKEVAT YLEISET MÄÄRÄYKSET

[II-111 artikla]

Soveltamisala

1. Tämän perusoikeuskirjan määräykset koskevat unionin toimielimiä, elimiä ja laitoksia toissijaisuusperiaatteen mukaisesti sekä jäsenvaltioita ainoastaan silloin, kun viimeksi mainitut soveltavat unionin oikeutta. Tämän vuoksi ne kunnioittavat tämän perusoikeuskirjan mukaisia oikeuksia, noudattavat sen sisältämiä periaatteita ja edistävät niiden soveltamista kukin toimivaltansa mukaisesti ja unionille perussopimuksissa annetun toimivallan rajoja noudattaen.
2. Tällä perusoikeuskirjalla ei uloteta unionin oikeuden soveltamisalaa unionin toimivaltaa laajemmaksi eikä luoda unionille uutta toimivaltaa tai uusia tehtäviä eikä muuteta perussopimuksissa määriteltyjä toimivaltuuksia ja tehtäviä.

*[II-112 artikla]
Oikeuksien ja periaatteiden ulottuvuus ja tulkinta*

1. Tässä perusoikeuskirjassa tunnustettujen oikeuksien ja vapauksien käyttämistä voidaan rajoittaa ainoastaan lailla sekä kyseisten oikeuksien ja vapauksien keskeistä sisältöä kunnioittaen. Suhteellisuusperiaatteen mukaisesti rajoituksia voidaan säätää ainoastaan, jos ne ovat välttämättömiä ja vastaavat tosiasiallisesti unionin tunnustamia yleisen edun mukaisia tavoitteita tai tarvetta suojella muiden henkilöiden oikeuksia ja vapauksia.
2. Tässä perusoikeuskirjassa tunnustettuja oikeuksia, joista on määräyksiä perussopimuksissa, sovelletaan niissä määriteltujen edellytysten ja rajoitusten mukaisesti.
3. Siltä osin kuin tämän perusoikeuskirjan oikeudet vastaavat ihmisoikeuksien ja perusvapauksien suojaamiseksi tehdyssä yleissopimuksessa taattuja oikeuksia, niiden merkitys ja ulottuvuus ovat samat kuin mainitussa yleissopimuksessa. Tämä määräys ei estä unionia myöntämästä tätä laajempaa suojaa.
4. Siltä osin kuin tässä perusoikeuskirjassa tunnustetaan perusoikeudet sellaisina kuin ne ilmenevät jäsenvaltioiden yhteisestä valtiosääntöperinteestä, näitä perusoikeuksia on tulkittava mainitun perinteen mukaisesti.
5. Tämän perusoikeuskirjan periaatteita sisältävät määräykset voidaan panna täytäntöön unionin toimielinten, elinten tai laitosten oman toimivaltansa puitteissa hyväksymillä lainsäätämisyjärjestyksessä hyväksyttävillä säädöksillä, täytäntöönpanosäädöksillä sekä säädöksillä, joita jäsenvaltiot antavat unionin lainsäädännön täytäntöönpanemiseksi. Ne voidaan saattaa tuomioistuimen ratkaistaviksi vain sikäli kuin on kyse tällaisten säädösten tulkinnasta tai niiden laillisuuden valvonnasta.
6. Kansalliset lainsäädännöt ja käytännöt on otettava täysin huomioon siten kuin tässä perusoikeuskirjassa määrätään.
7. Unionin ja jäsenvaltioiden tuomioistuimet ottavat asianmukaisesti huomioon perusoikeuskirjan tulkitsemisen ohjaamiseksi laaditut selitykset.

*[II-113 artikla]
Suojan taso*

Tämän perusoikeuskirjan määräyksiä ei saa tulkita siten, että ne rajoittaisivat tai loukkaisivat niitä ihmisoikeuksia ja perusvapauksia, jotka asianomaisella soveltamisalalla tunnustetaan unionin oikeudessa, kansainvälisessä oikeudessa ja niissä kansainvälisissä yleissopimuksissa, joiden osapuolina unioni tai kaikki jäsenvaltiot ovat, ja erityisesti ihmisoikeuksien ja perusvapauksien suojaamiseksi tehdyssä yleissopimuksessa, sekä jäsenvaltioiden valtiosäännöissä.

*[II-114 artikla]
Oikeuksien väärinkäytön kieltä*

Tämän perusoikeuskirjan määräysten ei saa tulkita antavan oikeutta ryhtyä sellaiseen toimintaan tai tehdä sellaista tekoa, jonka tarkoituksena on tehdä tyhjäksi jokin tässä perusoikeuskirjassa tunnustettu oikeus tai vapaus tai rajoittaa sitä laajemmalti kuin tässä perusoikeuskirjassa on sallittu."

12. Julistus perusoikeuskirjan selityksistä

Konferenssi panee merkille jäljempänä esitetyt perusoikeuskirjan selitykset, jotka on laadittu perusoikeuskirjan laatineen valmistelukunnan puheenjohtajiston alaisuudessa ja päivitetty Eurooppa-valmistelukunnan puheenjohtajiston johdolla.

EUROOPAN UNIONIN PERUSOIKEUSKIRJAN
SELITYKSET

Nämä selitykset on alun perin laatinut Euroopan unionin perusoikeuskirjan valmistelukunnan puheenjohtajisto. Eurooppa-valmistelukunnan puheenjohtajisto on saattanut ne ajan tasalle tämän valmistelukunnan perusoikeuskirjaan tekemien tekstimuutosten (erityisesti [II-111 artikla] ja [II-112 artikla]) ja unionin oikeuden myöhemmän kehittymisen perusteella. Vaikka niillä ei sellaisenaan ole oikeudellista merkitystä, ne ovat arvokas tulkinnan väline, jonka tarkoituksena on selventää perusoikeuskirjan määräyksiä.

I OSASTO – IHMISARVO

Selitys [II-61 artiklaan] – Ihmisarvo

Ihmisarvo ei ole ainoastaan yksi perusoikeuksista vaan myös kaikkien perusoikeuksien perusta. Ihmisarvo on sisällytetty vuonna 1948 annetun ihmisoikeuksien yleismaailmallisen julistuksen johdanto-osaan: "Kun ihmiskunnan kaikkien jäsenten luonnollisen arvon ja heidän yhtäläisten ja luovuttamattomien oikeuksiensa tunnustaminen on vapauden, oikeudenmukaisuuden ja rauhan perustana maailmassa...". Yhteisöjen tuomioistuimien vahvasti asiassa C-377/98, Alankomaat v. Euroopan parlamentti ja neuvosto, 9.10.2001 antamansa tuomion, Kok. 2001, s. I-7079, perusteluissa nro 70–77, että ihmisarvo on unionin oikeuteen kuuluva perusoikeus.

Tästä seuraa muun muassa, ettei mitään tässä perusoikeuskirjassa vahvistetuista oikeuksista voi käyttää toisen ihmisen arvon loukkaamiseen ja että ihmisarvo kuuluu tässä perusoikeuskirjassa vahvistettuihin olennaisiin oikeuksiin. Näin ollen sitä ei saa loukata myöskään silloin, kun jotain oikeutta rajoitetaan.

1. Artiklan 1 kohta perustuu Euroopan ihmisoikeussopimuksen 2 artiklan 1 kohdan ensimmäiseen virkkeeseen, joka kuuluu seuraavasti:

"1. Jokaisen oikeus elämään on suojattava laissa."
2. Tämän määräyksen toinen virke, joka koskee kuolemanrangaistusta, on korvattu voimaan tulleella Euroopan ihmisoikeussopimuksen kuudennella lisäpöytäkirjalla, jonka 1 artiklassa todetaan:

"Kuolemanrangaistus on poistettava. Ketään ei saa tuomita tällaiseen rangaistukseen, eikä tällaista rangaistusta saa panna täytäntöön."

Perusoikeuskirjan 2 artiklan 2 kohta perustuu tähän määräykseen.¹

3. Perusoikeuskirjan [2 artiklan]¹ määräykset vastaavat edellä mainittujen Euroopan ihmisoikeussopimuksen ja sen lisäpöytäkirjan artiklojen määräyksiä. Perusoikeuskirjan [52 artiklan 3 kohdan]² mukaisesti niillä on sama merkitys ja kattavuus. Näin ollen yleissopimuksessa olevien "negatiivisten" määritelmien on katsottava sisältyvän myös perusoikeuskirjaan:

- a) Euroopan ihmisoikeussopimuksen 2 artiklan 2 kohta:

"Elämän riistämistä ei voida katsoa tämän artiklan vastaiseksi teoksi silloin, kun se seuraa voimankäytöstä, joka on ehdottoman välttämätöntä:

- a) kenen hyvänsä puolustamiseksi laittomalta väkivallalta;
- b) laillisen pidätyksen suorittamiseksi tai laillisen vapaudenriiston kohteeksi joutuneen henkilön paon estämiseksi;
- c) mellakan tai kapinan kukistamiseksi laillisin toimin."

- b) Euroopan ihmisoikeussopimuksen kuudennen lisäpöytäkirjan 2 artikla:

"Valtio voi lainsäädännössään määrätä kuolemanrangaistuksen sodan tai sen välittömän uhan aikana tehdyistä teoista. Tällaista rangaistusta käytetään ainoastaan laissa määrätyissä tilanteissa ja sen määräysten mukaisesti."

¹ [II-62 artiklan 2 kohta].

² [II-112 artiklan 3 kohta].

Selitys [II-63 artiklaan] – Oikeus henkilökohtaiseen koskemattomuuteen

1. Yhteisöjen tuomioistuimien vahvasti asiassa C-377/98, Alankomaat v. Euroopan parlamentti ja neuvosto, 9.10.2001 antamansa tuomion, Kok. 2001, s. I-7079, perusteluissa nro 70 ja 78–80, että ihmisarvo on unionin oikeuteen kuuluva perusoikeus, mikä lääketieteen ja biologian alalla edellyttää luovuttajan ja vastaanottajan vapaaehtoista ja asiaan vaikuttavista seikoista tietoisena annettua suostumusta.
2. Perusoikeuskirjan [3 artiklan]³ periaatteet on esitetty Euroopan neuvoston puitteissa tehdyssä ihmisoikeuksia ja biolääketiedettä koskevassa yleissopimuksessa (ETS 164 ja lisäpöytäkirja ETS 168). Tässä perusoikeuskirjassa ei ole tarkoitus poiketa näistä määräyksistä, ja näin ollen siinä kielletään ainoastaan lisääntymistarkoituksessa tapahtuva kloonauksen kloonauksen muotoja ei sallita eikä kiellätä. Perusoikeuskirjassa ei siis mitenkään estetä lainsäätäjää kieltämästä muita kloonauksen muotoja.
3. Viittaus ihmisten geneettiseen jalostamiseen tähtääviin käytäntöihin, erityisesti sellaisiin, joiden tavoitteena on ihmisten valikointi, kohdistuu mahdollisuuteen järjestää ja toteuttaa valintaohjelmia, joihin sisältyy esimerkiksi sterilisointikampanjoita tai kampanjoita, joissa pakotetaan raskauteen tai etniseen avioliittoon. Kaikki nämä teot ovat kansainvälisiä rikoksia Roomassa 17 päivänä heinäkuuta 1998 hyväksytyn kansainvälisen rikostuomioistuimen perussäännön mukaan (katso 7 artiklan 1 kohdan g alakohta).

Selitys [II-64 artiklaan] – Kidutuksen sekä epäinhimillisen tai halventavan rangaistuksen ja kohtelun kieltäminen

Tässä [4 artiklassa] tarkoitettu oikeus vastaa Euroopan ihmisoikeussopimuksen 3 artiklassa turvattua oikeutta, ja kyseisten artiklojen sanamuoto on samanlainen. Ihmisoikeussopimuksen artikla kuuluu näin: "Ketään ei saa kiduttaa eikä kohdella tai rangaista epäinhimillisellä tai halventavalla tavalla". Oikeudella on perusoikeuskirjan [52 artiklan 3 kohdan]⁴ mukaisesti sama merkitys ja kattavuus kuin mainitulla ihmisoikeussopimuksen artiklalla.

Selitys [II-65 artiklaan] – Orjuuden ja pakotyön kieltäminen

1. Tässä [5 artiklan] 1 ja 2 kohdassa⁵ tarkoitettu oikeus vastaa Euroopan ihmisoikeussopimuksen samansisältöisen 4 artiklan 1 ja 2 kohtaa. Näin ollen sillä on perusoikeuskirjan [52 artiklan 3 kohdan]⁶ mukaisesti sama merkitys ja kattavuus kuin mainitulla ihmisoikeussopimuksen artiklalla. Tästä seuraa, että
 - mikään rajoitus ei voi laillisella tavalla vaikuttaa 1 kohdassa turvattuun oikeuteen,

³ [II-63 artikla].

⁴ [II-112 artiklan 3 kohta].

⁵ [II-65 artikla].

⁶ [II-112 artiklan 3 kohta].

- artiklan 2 kohdassa olevat käsitteet "pakkotyö tai muu pakollinen työ" on ymmärrettävä siten, että otetaan huomioon Euroopan ihmisoikeussopimuksen 4 artiklan 3 kohtaan sisältyvät "negatiiviset" määritelmät:

"Pakkotyöllä tai muulla pakollisella työllä ei tässä artiklassa tarkoiteta:

- a) tämän yleissopimuksen 5 artiklan määräysten mukaisesti määrätyn vapaudenriiston aikana tai ehdonalaisessa vapaudessa tavanomaisesti määrättyä työtä;
- b) aseellisen palveluksen luonteista palvelusta tai sellaista palvelusta, joka vaaditaan sen sijasta maissa, jotka hyväksyvät aseellisesta palveluksesta kieltäytymisen omantunnon syistä;
- c) sellaista palvelusta, jota vaaditaan silloin, kun vaara tai onnettomuus uhkaa yhteiskunnan olemassaoloa tai hyvinvointia;
- d) sellaista työtä tai palvelusta, joka kuuluu yleisiin kansalaisvelvollisuuksiin."

2. Artiklan 3 kohta on suoraan seurausta ihmisarvosta, ja siinä otetaan huomioon järjestäytyneen rikollisuuden uudet kehityssuunnat, kuten laittoman maahanmuuton kanavien tai seksuaalisen hyväksikäytön verkostojen järjestäminen hyötymistarkoituksessa. Europol-yleissopimuksen liitteessä on seuraava määritelmä, joka koskee ihmiskauppaa seksuaalisessa hyväksikäyttötarkoituksessa: "ihmiskauppa: henkilön saattaminen toisen henkilön tosiasiallisen ja laittoman vallan alaiseksi väkivaltaa, uhkausta tai vilppiä käyttäen tai auktoriteettiasemaa väärinkäyttäen tarkoituksena erityisesti prostituutiosta hyötyminen, alaikäisten seksuaalinen hyväksikäyttö tai heihin kohdistuva väkivalta tai hylätyjen lasten kauppa". Unionin säännöstöön liitetyn Schengenin sopimuksen soveltamisesta tehdyn yleissopimuksen VI luvussa, johon Yhdistynyt kuningaskunta ja Irlanti osallistuvat, ja erityisesti sen 27 artiklan 1 kohdassa käsitellään järjestettyä laitonta maahanmuuttoa seuraavasti: "Sopimuspuolet sitoutuvat ottamaan käyttöön soveltuvia seuraamuksia kaikkia niitä kohtaan, jotka hyötyä tavoitellakseen auttavat tai yrittävät auttaa ulkomaalaisia pääsemään jonkin sopimuspuolen alueelle tai oleskelemaan siellä kyseisen sopimuspuolen ulkomaalaisten maahantulon ja oleskelun koskevan lainsäädännön vastaisesti." Neuvosto on 19 päivänä heinäkuuta 2002 tehnyt puitepäätöksen (2002/629/405) ihmiskaupan torjunnasta (EYVL L 203, 1.8.2002, s. 1), jonka 1 artiklassa määritellään yksityiskohtaisesti työvoiman hyväksikäyttötarkoituksessa tai seksuaalisessa hyväksikäyttötarkoituksessa tapahtuvaan ihmiskauppaan liittyvät rikokset, jotka jäsenvaltion on säädettävä rangaistaviksi kyseisen puitepäätöksen mukaisesti.

II OSASTO – VAPAUDET

Selitys [II-66 artiklaan] – Oikeus vapauteen ja turvallisuuteen

Tässä [6 artiklassa] tarkoitetut oikeudet vastaavat Euroopan ihmisoikeussopimuksen 5 artiklassa turvattuja oikeuksia, joten niillä on peruskirjan [52 artiklan 3 kohdan]⁷ mukaisesti sama merkitys ja kattavuus. Tästä johtuen rajoitukset, jotka niihin laillisesti voidaan tehdä, eivät voi ylittää Euroopan ihmisoikeussopimuksen 5 artiklassa sallittuja rajoituksia. Kyseisen artiklan sanamuoto kuuluu seuraavasti:

- "1. Jokaisella on oikeus vapauteen ja henkilökohtaiseen turvallisuuteen. Keneltäkään ei saa riistää hänen vapauttaan, paitsi seuraavissa tapauksissa ja lain määräämässä järjestyksessä:
 - a) henkilö vangitaan lain nojalla sen jälkeen, kun hänet on tuomittu toimivaltaisessa tuomioistuimessa;
 - b) henkilö pidätetään tai vangitaan lain nojalla, koska hän ei ole noudattanut tuomioistuimen laillista määräystä, tai jonkin lakimääräisen velvoitteen täyttämisen turvaamiseksi;
 - c) henkilö pidätetään tai hänen vapautensa riistetään lain nojalla hänen saattamisekseen toimivaltaisen oikeusviranomaisen tutkittavaksi, milloin on perusteltua syytä epäillä hänen syyllistyneen rikokseen tai jos katsotaan välttämättömäksi estää häntä tekemästä rikosta tai pakenemasta teon jälkeen;
 - d) alaikäiseltä riistetään vapaus lain nojalla hänen kasvatuksensa valvomiseksi tai hänet pidätetään lain nojalla hänen saattamisekseen toimivaltaisen viranomaisen tutkittavaksi;
 - e) henkilöltä riistetään vapaus lain nojalla tartuntataudin leviämisen estämiseksi tai hänen heikon mielenterveytensä, alkoholisminsa, huumeidenkäyttönsä tai irtolaisuutensa vuoksi;
 - f) henkilö pidätetään tai häneltä riistetään vapaus lain nojalla, jotta estettäisiin hänen laitton maahantulonsa, tai jos on ryhdytty toimiin hänen karkottamisekseen tai luovuttamisekseen.
2. Vapaudenriiston kohteeksi joutuneelle on viipymättä ilmoitettava hänen ymmärtämällään kielellä vapaudenriiston perusteet ja häneen mahdollisesti kohdistetut syytteet.
3. Tämän artiklan 1 kappaleen c kohdan määräysten nojalla pidätetty tai vapaudenriiston kohteeksi joutunut on viipymättä tuotava tuomarin tai lain nojalla tuomiovaltaa käyttävän muun viranomaisen tutkittavaksi, ja hänellä on oikeus oikeudenkäyntiin kohtuullisen ajan kuluessa tai oikeus tulla vapautetuksi oikeusjutun ollessa vireillä. Vapaaksi laskemisen ehdoksi voidaan asettaa takeet siitä, että asianomainen saapuu oikeudenkäyntiin.
4. Jokaisella, jolta on riistetty hänen vapautensa pidättämällä tai muuten, on oikeus vaatia tuomioistuimessa, että hänen vapaudenriistonsa laillisuus tutkitaan viipymättä ja että hänet vapautetaan, mikäli toimenpide ei ole laillinen.

⁷ [II-112 artiklan 3 kohta].

5. Jokaisella, joka on pidätetty tai jonka vapaus on muuten riistetty tämän artiklan määräysten vastaisesti, on täytäntöönpanokelpoinen oikeus vahingonkorvaukseen."

Tämän [6 artiklan]⁸ mukaisia oikeuksia on kunnioitettava erityisesti silloin, kun Euroopan parlamentti ja neuvosto antavat säädöksiä rikosasioita koskevan oikeudellisen yhteistyön alalla Euroopan unionin toiminnasta tehdyn sopimuksen [III-270, III-271 ja III-273 artiklan] nojalla eritoten määritelläkseen rikosten ja rangaistusten luokittelua koskevia vähimmäissäännöksiä ja tiettyjä prosessioikeuden näkökohtia.

Selitys [II-67 artiklaan] – Yksityis- ja perhe-elämän kunnioittaminen

Tässä 7 artiklassa turvatut oikeudet vastaavat Euroopan ihmisoikeussopimuksen 8 artiklassa turvattuja oikeuksia. Tekniikan kehityksen huomioon ottamiseksi sana "kirjeenvaihtonsa" on korvattu sanalla "viestiensä".

Perusoikeuskirjan [52 artiklan 3 kohdan]⁹ mukaisesti tällä oikeudella on sama merkitys ja kattavuus kuin yleissopimuksen vastaavalla artiklalla. Tämän vuoksi tähän oikeuteen voidaan laillisesti tehdä ainoastaan ne rajoitukset, jotka on sallittu kyseisessä 8 artiklassa, joka kuuluu seuraavasti:

- "1. Jokaisella on oikeus nauttia yksityis- ja perhe-elämäänsä, kotiinsa ja kirjeenvaihtonsa kohdistuvaa kunnioitusta.
2. Viranomaiset eivät saa puuttua tämän oikeuden käyttämiseen, paitsi silloin kun laki sen sallii ja se on demokraattisessa yhteiskunnassa välttämätöntä kansallisen ja yleisen turvallisuuden tai maan taloudellisen hyvinvoinnin vuoksi, tai epäjärjestyksen ja rikollisuuden estämiseksi, terveyden tai moraalien suojaamiseksi, tai muiden henkilöiden oikeuksien ja vapauksien turvaamiseksi."

Selitys [II-68 artiklaan] – Henkilötietojen suoja

Artikla perustuu Euroopan yhteisön perustamissopimuksen 286 artiklaan ja yksilöiden suojelusta henkilötietojen käsittelyssä ja näiden tietojen vapaasta liikkuvuudesta annettuun Euroopan parlamentin ja neuvoston direktiiviin 95/46/EY (EYVL L 281, 23.11.1995, s. 31) sekä Euroopan ihmisoikeussopimuksen 8 artiklaan ja yksilöiden suojelusta henkilötietojen automaattisessa tietojenkäsittelyssä 28 päivänä tammikuuta 1981 tehtyyn Euroopan neuvoston yleissopimukseen, jonka kaikki jäsenvaltiot ovat ratifioineet. Euroopan yhteisön perustamissopimuksen 286 artikla on nyt korvattu Euroopan unionin toiminnasta tehdyn sopimuksen [I-51 artiklalla] ja Euroopan unionista tehdyn sopimuksen [24 artiklalla]. Olisi myös pantava merkille asetus (EY) N:o 45/2001 yksilöiden suojelusta yhteisöjen toimielinten ja elinten suorittamassa henkilötietojen käsittelyssä ja näiden tietojen vapaasta liikkuvuudesta (EYVL L 8, 12.1.2001, s. 1). Edellä mainittu direktiivi ja asetus sisältävät henkilötietojen suoja koskevan oikeuden käyttöön liittyviä edellytyksiä ja rajoituksia.

⁸ [II-66 artikla].

⁹ [II-112 artiklan 3 kohta].

Selitys [II-69 artiklaan] – Oikeus solmia avioliitto ja oikeus perustaa perhe

Tämä artikla perustuu Euroopan ihmisoikeussopimuksen 12 artiklaan, joka kuuluu seuraavasti: "Avioliittoiässä olevilla miehillä ja naisilla on oikeus mennä avioliittoon ja perustaa perhe tämän oikeuden käyttöä säätelevien kansallisten lakien mukaisesti." Oikeuden esittävää sanamuotoa on uudistettu, jotta se kattaa tapaukset, joissa kansalliset lainsäädännöt tunnustavat muita perheen perustamisen muotoja kuin avioliiton. Avioliittoaseman myöntämistä samaa sukupuolta olevien henkilöiden välisille liitoille ei kielletä eikä määrätä tässä artiklassa. Tämä oikeus on siten verrattavissa Euroopan ihmisoikeussopimuksessa turvattuun oikeuteen, mutta sen ulottuvuus voi olla laajempi, kun kansallisessa lainsäädännössä niin säädetään.

Selitys [II-70 artiklaan] – Ajatuksen, omantunnon ja uskonnon vapaus

Edellä 1 kohdassa turvattu oikeus vastaa Euroopan ihmisoikeussopimuksen 9 artiklassa turvattua oikeutta, ja [52 artiklan 3 kohdan]¹⁰ mukaisesti kyseisten artiklojen merkitys ja kattavuus ovat samat. Rajoitusten on näin ollen noudatettava 9 artiklan 2 kohtaa, joka kuuluu seuraavasti: "Henkilön vapaudelle tunnustaa uskontoaan tai uskoaan voidaan asettaa vain sellaisia rajoituksia, joista on säädetty laissa ja jotka ovat välttämättömiä demokraattisessa yhteiskunnassa yleisen turvallisuuden vuoksi, yleisen järjestyksen, terveyden tai moraalin suojaamiseksi, tai muiden henkilöiden oikeuksien ja vapauksien turvaamiseksi."

Edellä 2 kohdassa turvattu oikeus vastaa kansallisia valtiosääntöperinteitä ja asiaa koskevien kansallisten lakien kehitystä.

Selitys [II-71 artiklaan] – Sananvapaus ja tiedonvälityksen vapaus

1. Tämä [11 artikla]¹¹ vastaa Euroopan ihmisoikeussopimuksen 10 artiklaa, joka kuuluu seuraavasti:

- "1. Jokaisella on sananvapaus. Tämä oikeus sisältää vapauden pitää mielipiteitä sekä vastaanottaa ja levittää tietoja ja ajatuksia alueellisista rajoista riippumatta ja viranomaisten siihen puuttumatta. Tämä artikla ei estä valtioita tekemästä radio-, televisio- ja elokuvayhtiöitä luvanvaraisiksi.
2. Koska näiden vapauksien käyttöön liittyy velvollisuuksia ja vastuuta, se voidaan asettaa sellaisten muodollisuuksien, ehtojen, rajoitusten ja rangaistusten alaiseksi, joista on säädetty laissa ja jotka ovat välttämättömiä demokraattisessa yhteiskunnassa kansallisen turvallisuuden, alueellisen koskemattomuuden tai yleisen turvallisuuden vuoksi, epäjärjestyksen tai rikollisuuden estämiseksi, terveyden tai moraalin suojaamiseksi, muiden henkilöiden maineen tai oikeuksien turvaamiseksi, luottamuksellisten tietojen paljastumisen estämiseksi, tai tuomioistuinten arvovallan ja puolueettomuuden varmistamiseksi."

¹⁰ [II-112 artiklan 3 kohta].

¹¹ [II-71 artikla].

Perusoikeuskirjan [52 artiklan 3 kohdan]¹² mukaisesti tällä oikeudella on sama merkitys ja kattavuus kuin Euroopan ihmisoikeussopimuksessa turvatulla oikeudella. Tähän oikeuteen tehtävät rajoitukset eivät näin ollen voi ylittää 10 artiklan 2 kohdassa määriteltyjä rajoituksia, sanotun kuitenkaan rajoittamatta unionin kilpailulainsäädännössä määriteltyjä rajoituksia jäsenvaltioiden oikeudelle ottaa käyttöön Euroopan ihmisoikeussopimuksen 10 artiklan 1 kohdan kolmannessa virkkeessä tarkoitettuja lupamenettelyjä.

2. Artiklan 2 kohdassa selvennetään 1 kohdan seuraukset tiedotusvälineiden vapauden osalta. Tämä kohta pohjautuu yhteisöjen tuomioistuimen oikeuskäytäntöön televisiotoiminnan alalla muun muassa asiassa C-288/89 (tuomio 25.7.1991, Stichting Collectieve Antennevoorziening Gouda ym. Kok. 1991, s. I-4007) ja Euroopan yhteisön perustamissopimukseen ja nyt perussopimukseen liitettyyn jäsenvaltioiden julkisen palvelun yleisradiotoimintaa koskevaan pöytäkirjaan sekä televisiotoimintaa koskevien jäsenvaltioiden lakien, asetusten ja hallinnollisten määräysten yhteensovittamisesta annetun direktiiviin 89/552/EY (ks. erityisesti sen johdanto-osan 17 kappale).

Selitys [II-72 artiklaan] – Kokoontumis- ja yhdistymisvapaus

1. Artiklan 1 kohdan määräykset vastaavat Euroopan ihmisoikeussopimuksen 11 artiklan määräyksiä. Kyseinen 11 artikla kuuluu seuraavasti:
 - "1. Jokaisella on oikeus rauhanomaiseen kokoontumis- ja yhdistymisvapauteen, mikä käsittää myös oikeuden perustaa ammattiyhdistyksiä ja liittyä niihin etujensa turvaamiseksi.
 2. Näiden oikeuksien käyttämiselle ei saa asettaa muita kuin sellaisia rajoituksia, joista on säädetty laissa ja jotka ovat välttämättömiä demokraattisessa yhteiskunnassa kansallisen ja yleisen turvallisuuden vuoksi, epäjärjestyksen tai rikollisuuden estämiseksi, terveyden tai moraalien suojaamiseksi, tai muiden henkilöiden oikeuksien ja vapauksien turvaamiseksi. Tämä artikla ei estä laillisten rajoitusten asettamista asevoimiin, poliisiin tai valtionhallintoon kuuluviin nähden heidän käyttäessään näitä oikeuksia."

Tämän [12 artiklan] 1 kohdan¹³ määräyksillä on sama merkitys kuin Euroopan ihmisoikeussopimuksen määräyksillä, mutta niiden kattavuus on laajempi, sillä niitä voidaan soveltaa kaikilla tasoilla, siis myös Euroopan tasolla. Tätä oikeutta koskevat rajoitukset eivät perusoikeuskirjan [52 artiklan 3 kohdan]¹⁴ mukaisesti voi ylittää ihmisoikeussopimuksen 11 artiklan 2 kohdan perusteella laillisina pidettäviä rajoituksia.

2. Tämä oikeus perustuu myös työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 11 artiklaan.

¹² [II-112 artiklan 3 kohta].

¹³ [II-72 artikla].

¹⁴ [II-112 artiklan 3 kohta].

3. Artiklan 2 kohta vastaa Euroopan unionista tehdyn sopimuksen [I-46 artiklan 4 kohtaa].

Selitys [III-7 artiklaan] – Taiteen ja tutkimuksen vapaus

Tämä oikeus johtuu ensi sijassa ajatuksen- ja sananvapaudesta. Sitä käytetään [1 artiklaa]¹⁵ noudattaen ja siihen voidaan tehdä Euroopan ihmisoikeussopimuksen 10 artiklassa sallittuja rajoituksia.

Selitys [II-74 artiklaan] – Oikeus koulutukseen

1. Artikla on saanut vaikutteita sekä jäsenvaltioille yhteisistä valtiosääntöperinteistä että Euroopan ihmisoikeussopimuksen ensimmäisen lisäpöytäkirjan 2 artiklasta, joka kuuluu seuraavasti:

"Keneltäkään ei saa kieltää oikeutta koulutukseen. Hoitaessaan kasvatuksen ja opetuksen alalla omaksumiaan tehtäviä valtion tulee kunnioittaa vanhempien oikeutta varmistaa lapsilleen heidän omien uskonnollisten ja aatteellisten vakaumustensa mukainen kasvatusta ja opetus."

Tämä artikla on katsottu tarpeelliseksi ulottaa koskemaan pääsyä ammatilliseen ja jatko- ja täydennyskoulutukseen (ks. työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 15 kohta ja sosiaalisen peruskirjan 10 artikla) sekä lisätä periaate oppivelvollisuuteen perustuvan opetuksen maksuttomuudesta. Jälkimmäisen periaatteen sanamuoto tarkoittaa ainoastaan, että oppivelvollisuuteen perustuvan opetuksen osalta jokaisella lapsella on mahdollisuus päästä oppilaitokseen, jossa opetus on maksutonta. Se ei tarkoita, että kaikki koulutusta, ammatillista koulutusta tai jatko- ja täydennyskoulutusta antavat oppilaitokset, muun muassa yksityiset oppilaitokset, olisivat maksuttomia. Siinä ei myöskään kielletä eräiden erityisten koulutusmuotojen maksullisuutta, mikäli valtio toteuttaa toimenpiteitä taloudellisen korvauksen myöntämiseksi. Siltä osin kuin perusoikeuskirjaa sovelletaan unioniin, tämä tarkoittaa, että unionin on koulutusta koskevien politiikkojensa puitteissa kunnioitettava oppivelvollisuuteen perustuvan opetuksen maksuttomuutta, mutta tällä ei luonnollisestikaan luoda uusia toimivaltuuksia. Vanhemmille kuuluvaa oikeutta on tulkittava yhdessä [24 artiklan]¹⁶ määräysten kanssa.

2. Vapaus perustaa yleisiä tai yksityisiä oppilaitoksia on turvattu yhtenä elinkeinovapauden muotona, mutta sitä rajoittaa velvollisuus kunnioittaa demokraattisia periaatteita, ja sitä käytetään kansallisissa lainsäädännöissä määriteltyjen sääntöjen mukaisesti.

¹⁵ [II-61 artikla].

¹⁶ [II-84 artikla].

Selitys [II-75 artiklaan] – Ammatillinen vapaus ja oikeus tehdä työtä

Perusoikeuskirjan 15 artiklan 1 kohdassa vahvistettu ammatillinen vapaus tunnustetaan yhteisöjen tuomioistuimen oikeuskäytännössä (ks. mm. tuomio 14.5.1974, asiassa 4/73, Nold, Kok. 1974, 491, n:o 12 – 14; tuomio 13.12.1979, asiassa 44/79, Hauer, Kok. 1979, s. 3727; tuomio 8.10.1986, asiassa 234/85, Keller, Kok. 1986, 2897, n:o 8).

Kohta pohjautuu myös 18 päivänä lokakuuta 1961 allekirjoitetun ja kaikkien jäsenvaltioiden ratifioiman Euroopan sosiaalisen peruskirjan 1 artiklan 2 kohtaan sekä 9 päivänä joulukuuta 1989 tehtyyn yhteisön peruskirjaan työntekijöiden sosiaalisista perusoikeuksista. Ilmaus "työehdot" on käsitettävä Euroopan unionin toiminnasta tehdyn sopimuksen [III-213 artiklan] mukaisesti.

Artiklan 2 kohdassa käsitellään Euroopan unionin toiminnasta tehdyn sopimuksen [I-4, III-133, III-137 ja III-144 artiklassa] turvatut kolme vapautta eli työntekijöiden vapaa liikkuvuus, sijoittautumisvapaus ja palvelujen tarjoamisen vapaus.

Artiklan 3 kohta perustuu Euroopan unionin toiminnasta tehdyn sopimuksen [137 artiklan 1 kohdan g alakohtaan] sekä 18 päivänä lokakuuta 1961 allekirjoitetun ja kaikkien jäsenvaltioiden ratifioiman Euroopan sosiaalisen peruskirjan 19 artiklan 4 kohtaan. Sovelletaan siis perusoikeuskirjan [52 artiklan 2 kohtaa]¹⁷. Kolmansien valtioiden kansallisuuden omaavien merimiesten palvelukseen ottamista unionin jäsenvaltion lipun alla purjehtivien alusten miehistöihin säädellään unionin oikeudella ja kansallisilla lainsäädännöillä ja käytännöillä.

Selitys [II-76 artiklaan] – Elinkeinovapaus

Artikla perustuu yhteisöjen tuomioistuimen oikeuskäytäntöön. Tuomioistuin on tunnustanut vapauden harjoittaa taloudellista tai kaupallista toimintaa (ks. tuomio 14.5.1974, asiassa 4/73, Nold, Kok. 1974, 491, n:o 14 ja tuomio 27.9.1979, asiassa 230-78, SP A Eridania ja muut, Kok. 1979, 2749, n:o 20 ja 31) sekä sopimusvapauden (ks. mm. tuomio "Sukkerfabriken Nykøbing", asiassa 151/78, Kok. 1979, 1, n:o 19; tuomio 5.10.1999, Espanja vs. komissio, C-240/97, Kok. [1999], s. I-6571, perusteluissa nro 99). Lisäksi artikla perustuu Euroopan unionin toiminnasta tehdyn sopimuksen [97 c artiklan 1 ja 3 kohtaan], jossa tunnustetaan vapaan kilpailun periaate. Tätä oikeutta käytetään luonnollisesti unionin oikeutta ja kansallisia lainsäädäntöjä noudattaen. Sitä voivat koskea perusoikeuskirjan [52 artiklan 1 kohdassa]¹⁸ määritetyt rajoitukset.

¹⁷ [II-112 artiklan 2 kohta].

¹⁸ [II-112 artiklan 1 kohta].

Selitys [II-77 artiklaan] – Omistusoikeus

Artikla vastaa Euroopan ihmisoikeussopimuksen ensimmäisen lisäpöytäkirjan 1 artiklaa:

"Jokaisella luonnollisella tai oikeushenkilöllä on oikeus nauttia rauhassa omaisuudestaan. Keneltäkään ei saa riistää hänen omaisuuttaan paitsi julkisen edun nimissä ja laissa määrättyjen ehtojen sekä kansainvälisen oikeuden yleisten periaatteiden mukaisesti.

Edellä olevat määräykset eivät kuitenkaan saa millään tavoin heikentää valtioiden oikeutta saattaa voimaan lakeja, jotka ne katsovat välttämättömiksi omaisuuden käytön valvomiseksi yleisen edun nimissä tai taatakseen verojen tai muiden maksujen tai sakkojen maksamisen."

Kyseessä on kaikille kansallisille perustuslaeille yhteinen perusperiaate. Yhteisöjen tuomioistuin on monet kerrat vahvistanut sen, erityisesti Hauer-tuomiossa (13.12.1979, Kok. 1979, s. 3727). Sanamuotoa on nykyaikaistettu, mutta [52 artiklan 3 kohdan]¹⁹ mukaisesti tällä oikeudella on sama merkitys ja kattavuus kuin Euroopan ihmisoikeussopimuksessa turvatulla oikeudella eikä ihmisoikeussopimuksessa määriteltyjä rajoituksia saa ylittää.

Omistusoikeuteen liittyvä teollis- ja tekijänoikeuksien suoja mainitaan 2 kohdassa erikseen sen kasvaneen merkityksen ja unionin johdetun oikeuden perusteella. Teollis- ja tekijänoikeudet koskevat kirjallisten ja taiteellisten teosten lisäksi muun muassa patenteja ja tavaramerkkejä sekä lähioikeuksia. Artiklan 1 kohdassa määriteltyjä takuita sovelletaan asianmukaisella tavalla teollis- ja tekijänoikeuksiin.

Selitys [II-78 artiklaan] – Oikeus turvapaikkaan

Artiklan teksti perustuu Euroopan yhteisön perustamissopimuksen 63 artiklaan, joka on nyt korvattu Euroopan unionin toiminnasta tehdyn sopimuksen [III-266 artiklalla], joka velvoittaa unionin noudattamaan pakolaisten oikeusasemaa koskevaa Geneven yleissopimusta. On syytä viitata perussopimukseen liitettyjen Yhdistynyttä kuningaskuntaa ja Irlantia sekä Tanskaa koskevien pöytäkirjojen määräyksiin, jotta voidaan määritellä, missä määrin nämä valtiot toteuttavat unionin oikeutta tällä alalla, ja miltä osin tätä artiklaa sovelletaan niihin. Artiklassa noudatetaan perussopimukseen liitettyä turvapaikkaa koskevaa pöytäkirjaa.

Selitys [II-79 artiklaan] – Suoja palauttamis-, karkottamis- ja luovuttamistapauksissa

Artiklan 1 kohdalla on sama merkitys ja kattavuus kuin Euroopan ihmisoikeussopimuksen neljännen lisäpöytäkirjan joukkokarkotusta koskevalla 4 artiklalla. Sillä on tarkoitus taata, että jokainen päätös tutkitaan erikseen ja että kaikkien tietyn valtion kansalaisten karkotuksesta ei voida päättää yhdellä toimenpiteellä (ks. myös kansalaisoikeuksia ja poliittisia oikeuksia koskevan yleissopimuksen 13 artikla).

¹⁹ [II-112 artiklan 3 kohta].

Artiklan 2 kohdassa otetaan huomioon Euroopan ihmisoikeussopimuksen 3 artiklaa koskeva Euroopan ihmisoikeustuomioistuimen oikeuskäytäntö (ks. Ahmed vs. Itävalta, tuomio 17.12.1996, Kok. 1996, VI-2206 ja Soering, tuomio 7.7.1989).

III OSASTO – TASA-ARVO

Selitys [II-80 artiklaan] – Yhdenvertaisuus lain edessä

Artikla vastaa yleistä oikeusperiaatetta, joka on otettu mukaan kaikkiin eurooppalaisiin perustuslakeihin ja jonka myös yhteisöjen tuomioistuin on tunnustanut yhteisön oikeuden perusperiaatteeksi (tuomio 13.11.1984, Racke, asiassa 283/83, Kok. 1984, s. 3791; tuomio 17.4.1997, asiassa C-15/95, EARL, Kok. 1997, I-1961 ja tuomio 13.4.2000, asiassa C-292/97, Karlsson, Kok. 2000, s. 2737).

Selitys [II-81 artiklaan] – Syrjintäkielto

Artiklan 1 kohta perustuu Euroopan yhteisön perustamissopimuksen 13 artiklaan, joka on nyt korvattu Euroopan unionin toiminnasta tehdyn sopimuksen [III-124 artiklalla], ja Euroopan ihmisoikeussopimuksen 14 artiklaan sekä geeniperimän osalta ihmisoikeuksista ja biolääketieteestä tehdyn yleissopimuksen 11 artiklaan. Sitä sovelletaan Euroopan ihmisoikeussopimuksen 14 artiklan mukaisesti niiltä osin kuin se on yhteneväinen kyseisen artiklan kanssa.

Artiklan 1 kohdan ja Euroopan unionin toiminnasta tehdyn sopimuksen [III-124 artiklan] välillä ei ole ristiriitaa tai yhteensopimattomuutta. Viimeksi mainitulla artiklalla on toinen soveltamisala ja tarkoitus: siinä annetaan unionille valta hyväksyä säädöksiä, myös sellaisia, joilla yhdenmukaistetaan jäsenvaltioiden lakeja ja asetuksia, tiettyjen, kyseisessä artiklassa tyhjentävästi luetteloitujen syrjinnän muotojen torjumiseksi. Tämä lainsäädäntö voi kattaa jäsenvaltioiden viranomaisten toiminnan (sekä yksityisten ihmisten väliset suhteet) millä tahansa unionin toimivaltaan kuuluvalla alalla. Sen sijaan [21 artiklan]²⁰ 1 kohdassa jäljempänä ei anneta minkäänlaisia valtuuksia hyväksyä syrjintää kieltäviä lakeja jäsenvaltioiden tai yksityisen toiminnan näillä aloilla eikä siinä kielletä syrjintää kertakaikkisesti mainituilla aloilla. Siinä käsitellään vain itse unionin toimielinten ja elinten harjoittamaa syrjintää niiden käyttäessä perussopimusten mukaista toimivaltaansa ja jäsenvaltioiden harjoittamaa syrjintää ainoastaan silloin, kun ne panevat täytäntöön unionin lainsäädäntöä. Näin ollen 1 kohta ei muuta [III-124 artiklan] nojalla myönnetyn toimivallan laajuutta eikä mainitun artiklan tulkintaa.

Artiklan 2 kohta vastaa Euroopan unionin toiminnasta tehdyn sopimuksen [I-4 artiklan 2 kohtaa], ja sitä on sovellettava kyseisen artiklan mukaisesti.

²⁰ [II-81 artikla].

Selitys [II-82 artiklaan] – Kulttuurinen, uskonnollinen ja kielellinen monimuotoisuus

Artikla perustuu Euroopan unionista tehdyn sopimuksen 6 artiklaan ja Euroopan yhteisön perustamissopimuksen 151 artiklan 1 ja 4 kohtaan, jotka koskevat kulttuuria ja jotka on nyt korvattu Euroopan unionin toiminnasta tehdyn sopimuksen [III-280 artiklan 1 ja 4 kohdalla]. Kulttuurien ja kielten monimuotoisuuden kunnioittamisesta määrätään nyt myös Euroopan unionista tehdyn sopimuksen [I-3 artiklan 3 kohdassa]. Artiklaan on vaikuttanut myös Amsterdamin sopimuksen päätösasiakirjaan liitetty kirkkojen ja ei-tunnustuksellisten järjestöjen asemaa koskeva julistus N:o 11, joka on nyt sisällytetty Euroopan unionin toiminnasta tehdyn sopimuksen [I-52 artiklaan].

Selitys [II-83 artiklaan] – Naisten ja miesten välinen tasa-arvo

Artiklan ensimmäinen kohta perustuu Euroopan yhteisön perustamissopimuksen 2 artiklaan ja 3 artiklan 2 kohtaan, joissa unionin päämääräksi määritellään miesten ja naisten välisen tasa-arvon edistäminen ja jotka on nyt korvattu Euroopan unionista tehdyn sopimuksen [I-3 artiklalla] ja Euroopan unionin toiminnasta tehdyn sopimuksen [III-116 artiklalla], sekä Euroopan unionin toiminnasta tehdyn sopimuksen [141 artiklan 1 kohtaan]. Se on saanut vaikutteita 3 päivänä toukokuuta 1996 tehdyn tarkistetun Euroopan sosiaalisen peruskirjan 20 artiklasta sekä työtekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 16 kohdasta.

Se perustuu myös Euroopan unionin toiminnasta tehdyn sopimuksen [141 artiklan 3 kohtaan] sekä miesten ja naisten tasa-arvoisen kohtelun periaatteen toteuttamisesta mahdollisuuksissa työhön, ammatilliseen koulutukseen ja uralla etenemiseen sekä työoloissa annetun neuvoston direktiivin 76/207/ETY 2 artiklan 4 kohtaan.

Artiklan toiseen kohtaan on otettu lyhyemmässä muodossa Euroopan unionin toiminnasta tehdyn sopimuksen [III-214 artiklan 4 kohta], jonka mukaan yhdenvertaisen kohtelun periaate ei estä pitämästä voimassa tai toteuttamasta sellaisia erityisetuja tarjoavia toimenpiteitä, joiden tarkoituksena on helpottaa aliedustettuna olevan sukupuolen ammatillisen toiminnan harjoittamista taikka ehkäistä tai hyvittää ammattiuraan liittyviä haittoja. Perusoikeuskirjan [52 artiklan 2 kohdan]²¹ mukaisesti tällä kohdalla ei muuteta [III-214 artiklan 4 kohtaa].

Selitys [II-84 artiklaan] – Lapsen oikeudet

Artikla perustuu lapsen oikeuksista New Yorkissa 20 päivänä marraskuuta 1989 allekirjoitettuun yleissopimukseen, jonka kaikki jäsenvaltiot ovat ratifioineet, ja erityisesti sen 3, 9, 12 ja 13 artiklaan.

²¹ [II-112 artiklan 2 kohta].

Tässä 3 kohdassa otetaan huomioon, että vapauden, turvallisuuden ja oikeuden alueen toteuttamisen osana oleva unionin lainsäädäntö sellaisissa yksityisoikeudellisissa asioissa, joilla on rajatylittäviä vaikutuksia ja joita varten Euroopan unionin toiminnasta tehdyn sopimuksen [III-269 artiklassa] annetaan tarpeellinen toimivalta, voi sisältää nimenomaan tapaamisoikeuden, jolla varmistetaan, että lapsi voi säännöllisesti ylläpitää henkilökohtaisia suhteita ja suoria yhteyksiä kumpaankin vanhempansa.

Selitys [II-85 artiklaan] – Ikääntyneiden henkilöiden oikeudet

Artikla pohjautuu tarkistetun Euroopan sosiaalisen peruskirjan 23 artiklaan sekä työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 24 ja 25 kohtaan. Oikeuteen osallistua yhteiskunnalliseen elämään ja kulttuurielämään sisältyy luonnollisesti oikeus osallistua poliittiseen elämään.

Selitys [II-86 artiklaan] – Vammaisten sopeutuminen yhteiskuntaan

Artiklaan sisältyvä periaate perustuu Euroopan sosiaalisen peruskirjan 15 artiklaan ja se on myöskin saanut vaikutteita työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 26 kohdasta.

IV OSASTO – YHTEISVASTUU

Selitys [III-87 artiklaan] – Työntekijöiden oikeus saada tietoja ja tulla kuulluksi yrityksessä

Artikla on tarkistetussa Euroopan sosiaalisessa peruskirjassa (21 artikla) sekä työntekijöiden sosiaalisia perusoikeuksia koskevassa yhteisön peruskirjassa (17 ja 18 kohta). Sitä sovelletaan unionin oikeudessa ja kansallisissa lainsäädännöissä määrättyjen edellytysten mukaisesti. Viittauksella asianmukaisiin tasoihin tarkoitetaan unionin oikeudessa tai kansallisissa lainsäädännöissä ja käytännöissä määriteltäviä tasoja, joihin voi sisältyä Euroopan taso, kun unionin lainsäädännössä niin säädetään. Unionin säännöstöä on tällä alalla huomattavasti: Euroopan unionin toiminnasta tehdyn sopimuksen [III-211 ja III-212 artikla] sekä direktiivit 2002/14/EY (työntekijöille tiedottamista ja heidän kuulemistaan koskevat yleiset puitteet Euroopan yhteisössä), 98/59/EY (joukkovähentäminen), 2001/23/EY (yrityksen luovutus) ja 94/45/EY (eurooppalainen yritysneuvosto).

Selitys [II-88 artiklaan] – Neuvottelu-oikeus ja oikeus työtaistelutoimiin

Artikla perustuu Euroopan sosiaalisen peruskirjan 6 artiklaan sekä työntekijöiden sosiaalisia perusoikeuksia koskevaan yhteisön peruskirjaan (12–14 kohta). Euroopan ihmisoikeustuomioistuin on tunnustanut lakko-oikeuden yhdeksi Euroopan ihmisoikeussopimuksen 11 artiklassa esitetyn ammatillisen järjestäytymisoikeuden osaksi. Niiden asianmukaisten tasojen osalta, joilla voidaan käydä työehtosopimusneuvotteluja, viitataan edellisen artiklan selitykseen. Yhteistoimien, kuten lakon, toteuttamista koskevien menettelyjen ja rajoitusten osalta noudatetaan kansallisia lainsäädäntöjä ja käytäntöjä. Tähän kuuluu myös kysymys siitä, voidaanko niitä toteuttaa samanaikaisesti useassa jäsenvaltiossa.

Selitys [II-89 artiklaan] – Oikeus työnvälityspalveluihin

Artikla perustuu Euroopan sosiaalisen peruskirjan 1 artiklan 3 kohtaan sekä työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 6 kohtaan.

Selitys [II-90 artiklaan] – Suoja perusteettoman irtisanomisen yhteydessä

Artikla pohjautuu tarkistetun sosiaalisen peruskirjan 24 artiklaan. Katso myös direktiivit 80/987/ETY työntekijöiden suojasta työnantajan maksukyvyttömyystilanteessa ja 2001/23/EY työntekijöiden oikeuksien turvaamisesta yrityksen luovuttamisen yhteydessä.

Selitys [II-91 artiklaan] – Oikeudenmukaiset ja kohtuulliset työolot ja työehdot

1. Tämän artiklan 1 kohta perustuu toimenpiteistä työntekijöiden turvallisuuden ja terveyden parantamisen edistämiseksi työssä annettuun direktiiviin 89/391/ETY. Sen pohjana on myös sosiaalisen peruskirjan 3 artikla ja työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 19 kohta sekä siltä osin kuin on kyse oikeudesta nauttia arvostusta työssä, tarkistetun sosiaalisen peruskirjan 26 artikla. Ilmaus "työehdot" on käsitettävä Euroopan unionin toiminnasta tehdyn sopimuksen [III-213 artiklan] mukaisesti.
2. Artiklan 2 kohta perustuu tietyistä työajan järjestämistä koskevista seikoista annettuun direktiiviin 93/104/EY sekä Euroopan sosiaalisen peruskirjan 2 artiklaan sekä työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 8 kohtaan.

Selitys [II-92 artiklaan] – Lapsityövoiman käytön kieltäminen ja nuorten suojeleminen työssä

Artikla perustuu nuorten työntekijöiden suojelesta annettuun direktiiviin 94/33/EY sekä Euroopan sosiaalisen peruskirjan 7 artiklaan ja työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 20–23 kohtaan.

Selitys [II-93 artiklaan] – Perhe- ja työelämä

Perusoikeuskirjan [33 artiklan]²² 1 kohta perustuu Euroopan sosiaalisen peruskirjan 16 artiklaan. Artiklan 2 kohta pohjautuu neuvoston direktiiviin 92/85/ETY toimenpiteistä raskaana olevien ja äskettäin synnyttäneiden tai imettävien työntekijöiden turvallisuuden ja terveyden parantamisen kannustamiseksi työssä sekä direktiiviin 96/34/EY UNICE:n, CEEP:n ja EAY:n tekemästä vanhempainlomaa koskevasta puitesopimuksesta. Se perustuu myös Euroopan sosiaalisen peruskirjan 8 artiklaan (äitiyssuojeleminen) ja on saanut vaikutteita tarkistetun sosiaalisen peruskirjan 27 artiklasta (perheellisten työntekijöiden oikeus tasavertaisuuteen mahdollisuuksiin ja tasavertaiseen kohteluun). Äitiyteen sisältyy ajanjakso hedelmöittymisestä imettämiseen.

Selitys [II-94 artiklaan] – Sosiaaliturva ja toimeentulotuki

Perusoikeuskirjan [34 artiklan]²³ 1 kohdassa esitetty periaate perustuu Euroopan unionin toiminnasta tehdyn sopimuksen 137 ja 140 artiklaan sekä Euroopan sosiaalisen peruskirjan 12 artiklaan ja työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 10 kohtaan. Unionin on noudatettava tätä periaatetta, kun se toteuttaa Euroopan unionin toiminnasta tehdyn sopimuksen [III-210 ja III-213 artiklassa] sille annettua toimivaltaa. Viittaus sosiaalipalveluihin koskee tapauksia, joissa tällaisia palveluja on otettu käyttöön tiettyjen etuuksien varmistamiseksi, mutta se ei tarkoita, että tällaiset palvelut olisi otettava käyttöön, jos niitä ei ole olemassa. Ilmaisuu "äitiys" on käsitettävä samalla tavoin kuin edellisessä artiklassa.

Artiklan 2 kohta perustuu Euroopan sosiaalisen peruskirjan 12 artiklan 4 kohtaan ja 13 artiklan 4 kohtaan sekä työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 2 kohtaan ja siinä esitetään säännöt, jotka johtuvat asetuksesta N:o 1408/71 ja asetuksesta N:o 1612/68.

Artiklan 3 kohtaan ovat vaikuttaneet Euroopan sosiaalisen peruskirjan 13 artikla ja tarkistetun Euroopan sosiaalisen peruskirjan 30 ja 31 artikla sekä työntekijöiden sosiaalisia perusoikeuksia koskevan yhteisön peruskirjan 10 kohta. Unionin on noudatettava sitä politiikoissa, jotka perustuvat Euroopan unionin toiminnasta tehdyn sopimuksen [III-210 artiklaan].

²² [II-93 artikla].

²³ [II-94 artikla].

Selitys [II-95 artiklaan] – Terveysten suojele

Tämän artiklan periaatteet perustuvat Euroopan yhteisön perustamissopimuksen 152 artiklaan, joka on nyt korvattu Euroopan unionin toiminnasta tehdyn sopimuksen [III-278 artiklalla], sekä Euroopan sosiaalisen peruskirjan 11 ja 13 artiklaan. Artiklan toisessa virkkeessä toistetaan unionin perustuslain III-278 artiklan 1 kohta.

Selitys [II-96 artiklaan] – Mahdollisuus käyttää yleistä taloudellista etua koskevia palveluja

Artikla noudattaa täysin Euroopan unionin toiminnasta tehdyn sopimuksen [III-122 artiklaa] eikä siinä luoda uutta oikeutta. Siinä vain vahvistetaan periaate, jonka mukaan unioni kunnioittaa kansallisessa lainsäädännössä säädettyä mahdollisuutta käyttää yleistä taloudellista etua koskevia palveluja, mikäli säännökset ovat sopusoinnussa unionin oikeuden kanssa.

Selitys [II-97 artiklaan] – Ympäristönsuojele

Artiklan periaate perustuu Euroopan yhteisön perustamissopimuksen 2, 6 ja 174 artiklaan, jotka on nyt korvattu Euroopan unionista tehdyn sopimuksen [I-3 artiklan 3 kohdalla] sekä Euroopan unionin toiminnasta tehdyn sopimuksen [III-119 ja III-233 artiklalla].

Artikla on myös saanut vaikutteita tietyistä kansallisista perustuslaeista.

Selitys [II-98 artiklaan] – Kuluttajansuojele

Artiklan periaate perustuu Euroopan unionin toiminnasta tehdyn sopimuksen [153 artiklaan].

V OSASTO – KANSALAISTEN OIKEUDET

Selitys [II-99 artiklaan] – Äänioikeus ja vaalikelpoisuus Euroopan parlamentin vaaleissa

Perusoikeuskirjan [39 artiklaa]²⁴ sovelletaan perussopimuksissa määrättyin edellytyksin perusoikeuskirjan 52 artiklan 2 kohdan²⁵ mukaisesti. Itse asiassa 39 artiklan 1 kohta vastaa Euroopan unionin toiminnasta tehdyn sopimuksen [I-10 artiklan 2 kohdassa] turvattua oikeutta (ks. myös Euroopan unionin toiminnasta tehdyn sopimuksen [III-126 artiklassa] oleva oikeusperusta kyseisen oikeuden käyttämisestä koskevien yksityiskohtaisten järjestelyjen hyväksymiseksi) ja tämän artiklan 2 kohta vastaa Euroopan unionista tehdyn sopimuksen [I-20 artiklan 2 kohtaa]. Artiklan 2 kohdassa toistetaan demokraattisen valtion vaalijärjestelmän perusperiaatteet.

²⁴ [II-99 artikla].

²⁵ [II-112 artiklan 2 kohta].

Selitys [II-100 artiklaan] – Äänioikeus ja vaalikelpoisuus kunnallisvaaleissa

Artikla vastaa Euroopan unionin toiminnasta tehdyn sopimuksen [I-10 artiklan 2 kohdassa] turvattua oikeutta (ks. myös Euroopan unionin toiminnasta tehdyn sopimuksen [III-126 artiklassa] oleva oikeusperusta kyseisen oikeuden käyttämistä koskevien yksityiskohtaisten järjestelyjen hyväksymiseksi). Sitä sovelletaan perusoikeuskirjan 52 artiklan 2 kohdan mukaisesti näissä perussopimusten artikloissa määrätyn edellytyksin.

Selitys [II-101 artiklaan] – Oikeus hyvään hallintoon

Perusoikeuskirjan [41 artiklan]²⁶ perustana on, että unioni on oikeusyhteisö, jonka ominaispiirteet ovat kehittyneet oikeuskäytännössä, jolla on vakiinnutettu hyvä hallinto yleisenä oikeusperiaatteena (ks. mm. yhteisöjen tuomioistuimen tuomiota 31.3.1992 asiassa C-255/90 P, Burban, Kok. 1992, I-2253 sekä ensimmäisen oikeusasteen tuomioistuimen tuomiota 18.9.1995 asiassa T-167/94, Nölle, Kok. 1995, II-2589 ja tuomiota 9.7.1999 asiassa T-231/97, New Europe Consulting ja muut, Kok. II-2403). Oikeuden esitystapa kahdessa ensimmäisessä kohdassa johtuu oikeuskäytännöstä (yhteisöjen tuomioistuimen tuomio 15.10.1987 asiassa 222/86, Heylens, Kok. 1987, 4097 n:o 15; tuomio 18.10.1989 asiassa 374/87, Orkem, Kok. 1989, 3283; tuomio 21.11.1991 asiassa C-269/90, TU München, Kok. 1991, I-5469 sekä ensimmäisen oikeusasteen tuomioistuimen tuomio 6.12.1994 asiassa T-450/93, Lisrestal, Kok. 1994, II-1177 ja tuomio 18.9.1995 asiassa T-167/94, Nölle, Kok. 1995, II-258) ja perusteluvoltteen osalta Euroopan unionin toiminnasta tehdyn sopimuksen [253 artiklasta], (ks. myös Euroopan unionin toiminnasta tehdyn sopimuksen [III-398 artiklan] oikeusperusta, jonka nojalla voidaan antaa avointa, tehokasta ja riippumatonta eurooppalaista hallintoa tukevaa lainsäädäntöä).

Artiklan 3 kohdassa toistetaan nyt Euroopan unionin toiminnasta tehdyn sopimuksen [III-431 artiklassa] turvattu oikeus. Artiklan 4 kohdassa toistetaan nyt Euroopan unionin toiminnasta tehdyn sopimuksen [I-10 artiklan 2 kohdan d alakohdassa] ja [III-129 artiklassa] turvattu oikeus. Näitä oikeuksia sovelletaan [52 artiklan 2 kohdan]²⁷ mukaisesti perussopimuksissa määriteltujen edellytysten ja rajoitusten mukaisesti.

Tähän kysymykseen liittyy tärkeänä näkökohtana perusoikeuskirjan [47 artiklassa]²⁸ turvattu oikeus tehokkaisiin oikeussuojakeinoihin.

²⁶ [II-101 artikla].

²⁷ [II-112 artiklan 2 kohta].

²⁸ [II-107 artikla].

Selitys [II-102 artiklaan] – Oikeus tutustua asiakirjoihin

Artiklassa turvattu oikeus on peräisin Euroopan yhteisön perustamissopimuksen 255 artiklasta, jonka nojalla on annettu asetus 1049/2001. Eurooppa-valmistelukunta on ulottanut tämän asiakirjoihin tutustumista koskevan oikeuden toimielinten, muiden elinten ja erillisvirastojen asiakirjoihin yleensä, asiakirjan muodosta riippumatta (ks. Euroopan unionin toiminnasta tehdyn sopimuksen [I-50 artiklan 3 kohta]). Perusoikeuskirjan [52 artiklan 2 kohdan]²⁹ mukaisesti sitä sovelletaan Euroopan unionin toiminnasta tehdyn sopimuksen [I-50 artiklan 3 kohdassa ja III-399 artiklassa] määrätyin edellytyksin ja rajoituksin.

Selitys [II-103 artiklaan] – Euroopan oikeusasiamies

Tässä artiklassa turvattu oikeus on turvattu Euroopan unionin toiminnasta tehdyn sopimuksen [I-10 ja III-335 artiklassa]. Sitä sovelletaan perusoikeuskirjan [52 artiklan 2 kohdan]³⁰ mukaisesti näissä kahdessa artiklassa määrätyin edellytyksin.

Selitys [II-104 artiklaan] – Oikeus esittää vetoamus

Tässä artiklassa turvattu oikeus on turvattu Euroopan unionin toiminnasta tehdyn sopimuksen [I-10 ja III-334 artiklassa]. Sitä sovelletaan 52 artiklan 2 kohdan mukaisesti näissä kahdessa artiklassa määrätyin edellytyksin.

Selitys [II-105 artiklaan] – Liikkumis- ja oleskeluvapaus

Artiklan 1 kohdassa turvataan Euroopan unionin toiminnasta tehdyn sopimuksen [I-10 artiklan 2 kohdan a alakohdassa] tarkoitettu oikeus (ks. myös III-125 artiklassa oleva oikeusperusta ja yhteisöjen tuomioistuimen tuomio 17.9.2002, asia C-413/99, Baumbast, Kok. 2002, s. 709). Sitä sovelletaan [52 artiklan 2 kohdan]³¹ mukaisesti perussopimuksissa määrätyin edellytyksin ja rajoituksin.

Artiklan 2 kohdassa muistutetaan Euroopan unionin toiminnasta tehdyn sopimuksen [III-265 – III-267 artiklassa] unionille annetusta toimivallasta. Tämän vuoksi kyseisen oikeuden myöntäminen riippuu siitä, käyttävätkö toimielimet tätä toimivaltaa.

Selitys [II-106 artiklaan] – Diplomaatti- ja konsuliviranomaisten antama suojelu

Artiklassa on turvattu Euroopan unionin toiminnasta tehdyn sopimuksen [I-10 artiklassa] tarkoitettu oikeus (ks. myös III-127 artiklassa oleva oikeusperusta). Sitä sovelletaan [52 artiklan 2 kohdan]³² mukaisesti näissä artikloissa määrätyin edellytyksin.

²⁹ [II-112 artiklan 2 kohta].

³⁰ [II-112 artiklan 2 kohta].

³¹ [II-112 artiklan 2 kohta].

³² [II-112 artiklan 2 kohta].

Selitys [III-107 artiklaan] – Oikeus tehokkaasiin oikeussuojakeinoihin ja puolueettomaan tuomioistuimeen

Artiklan ensimmäinen kohta perustuu Euroopan ihmisoikeussopimuksen 13 artiklaan:

"Jokaisella, jonka tässä yleissopimuksessa tunnustettuja oikeuksia ja vapauksia on loukattu, on oltava käytettävissään tehokas oikeussuojakeino kansallisen viranomaisen edessä siinäkin tapauksessa, että oikeuksien ja vapauksien loukkauksen ovat tehneet virantoimituksessa olevat henkilöt."

Suoja on unionin oikeudessa kuitenkin laajempi, sillä siinä turvataan oikeus tehokkaasiin oikeussuojakeinoihin tuomarin edessä. Yhteisöjen tuomioistuin vakiinnutti kyseisen oikeuden unionin oikeuden yleiseksi periaatteeksi tuomiossaan 15.5.1986, Johnston, asia 222/84, Kok. 1986, s. 1651; ks. myös 15.10.1987 annettua tuomiota asiassa 222/86, Heylens, Kok. 1987, 4097 ja 3.12.1992 annettua tuomiota asiassa C-97/91, Borelli, Kok. 1992, I-6313. Tuomioistuimen mukaan kyseistä unionin oikeuden yleistä periaatetta sovelletaan myös jäsenvaltioihin silloin, kun ne soveltavat unionin oikeutta. Tämän oikeuskäytännön kirjaamisella perusoikeuskirjaan ei pyritty muuttamaan perussopimusten mukaista tuomioistuinvalvontaa koskevaa järjestelmää eikä varsinkaan tutkittavaksi ottamista koskevia sääntöjä suoraan Euroopan unionin tuomioistuimen käsiteltäväksi saatettavien kanteiden osalta. Eurooppa-valmistelukunta on tarkastellut tuomioistuinvalvontaa koskevaa järjestelmää, myös tutkittavaksi ottamista koskevia sääntöjä, vahvistanut ne ja muuttanut niiden tiettyjä näkökohtia, mikä käy ilmi Euroopan unionin toiminnasta tehdyn sopimuksen [III-353 – III-381 artiklasta] ja erityisesti sen III-365 artiklan 4 kohdasta. Tätä [47 artiklaa]³³ sovelletaan kaikkien unionin oikeuden takaamien oikeuksien osalta unionin toimielimiin ja jäsenvaltioihin niiden pannessa täytäntöön yhteisön oikeutta.

Artiklan toinen kohta perustuu Euroopan ihmisoikeussopimuksen 6 artiklan 1 kohtaan, joka kuuluu seuraavasti:

"Jokaisella on oikeus kohtuullisen ajan kuluessa oikeudenmukaiseen ja julkiseen oikeudenkäyntiin laillisesti perustetussa riippumattomassa ja puolueettomassa tuomioistuimessa silloin, kun päätetään hänen oikeuksistaan ja velvollisuuksistaan tai häntä vastaan nostetusta rikossyytteestä. Päätös on annettava julkisesti, mutta lehdistöltä ja yleisöltä voidaan kieltää pääsy koko oikeudenkäyntiin tai osaan siitä demokraattisen yhteiskunnan moraalin, yleisen järjestyksen tai kansallisen turvallisuuden vuoksi nuorten henkilöiden etujen tai osapuolten yksityiselämän suojaamisen niin vaatiessa, tai siinä määrin kuin tuomioistuin harkitsee ehdottoman välttämättömäksi erityisolosuhteissa, joissa julkisuus loukkaisi oikeudenmukaisuutta."

Oikeutta saada asia käsiteltäväksi tuomioistuimessa ei sovelleta unionin oikeudessa ainoastaan oikeuksia ja velvollisuuksia koskeviin riita-asioihin. Tämä johtuu siitä, että unioni on oikeusyhteisö, kuten yhteisöjen tuomioistuin totesi asiassa 194/83, Vihreät vastaan Euroopan parlamentti (tuomio 23.4.1986, Kok. 1988, s. 1339). Euroopan ihmisoikeussopimuksessa annettuja takuita sovelletaan unionissa kuitenkin samalla tavalla niiden soveltamisalaa lukuun ottamatta.

³³ [II-107 artikla].

Artiklan kolmannen kohdan osalta on aiheellista todeta, että Euroopan ihmisoikeustuomioistuimen oikeuskäytännön mukaisesti oikeusapua on annettava tapauksissa, joissa oikeusavun puuttuminen tekisi tehottomaksi tehokkaan oikeussuojan takuun (Euroopan ihmisoikeustuomioistuimen asiassa Airey 9.10.1979 antama tuomio, sarja A, Kok. 32, 11). Myös Euroopan unionin tuomioistuimella on oikeusapujärjestelmä.

Selitys [II-108 artiklaan] – Syyttömyysolettama ja oikeus puolustukseen

Tämä 48 artikla vastaa Euroopan ihmisoikeussopimuksen 6 artiklan 2 ja 3 kohtaa, jotka kuuluvat seuraavasti:

- "2. Jokaista rikoksesta syytettyä on pidettävä syyttömänä, kunnes hänen syyllisyytensä on laillisesti näytetty toteen.
3. Jokaisella rikoksesta syytetyllä on seuraavat vähimmäisoikeudet:
 - a) oikeus saada viipymättä yksityiskohtainen tieto häneen kohdistettujen syytteiden sisällöstä ja perusteista hänen ymmärtämällään kielellä;
 - b) oikeus saada riittävästi aikaa ja edellytykset valmistella puolustustaan;
 - c) oikeus puolustautua henkilökohtaisesti tai itse valitsemansa oikeudenkäyntiavustajan välityksellä, ja jos hän ei pysty itse maksamaan saamastaan oikeusavusta, hänen on saatava se korvauksetta oikeudenmukaisuuden niin vaatiessa;
 - d) oikeus kuulustella tai kuulustuttaa todistajia, jotka kutsutaan todistamaan häntä vastaan, ja saada hänen puolestaan esiintyvät todistajat kutsutuiksi ja kuulustelluiksi samoissa olosuhteissa kuin häntä vastaan todistamaan kutsutut todistajat;
 - e) oikeus saada maksutta tulkin apua, jos hän ei ymmärrä tai puhu tuomioistuimessa käytettyä kieltä."

Tällä oikeudella on 52 artiklan 3 kohdan³⁴ mukaisesti sama merkitys ja kattavuus kuin Euroopan ihmisoikeussopimuksessa turvatulla oikeudella.

Selitys [II-109 artiklaan] – Laillisuusperiaate ja rikoksista määrättävien rangaistusten oikeasuhteisuuden periaate

Artiklassa esitetään klassinen sääntö, jonka mukaan rikosoikeudessa ei sovelleta lakeja eikä rangaistuksia taannehtivasti. Siihen on lisätty lievemmän rangaistuksen taannehtiva soveltaminen, joka on käytössä monissa valtioissa ja on esitetty kansalaisoikeuksia ja poliittisia oikeuksia koskevan yleissopimuksen 15 artiklassa.

³⁴ [II-112 artiklan 2 kohta].

Euroopan ihmisoikeussopimuksen 7 artikla kuuluu seuraavasti:

- "1. Ketään ei ole pidettävä syypäänä rikokseen sellaisen teon tai laiminlyönnin perusteella, joka ei ollut tekohetkellä kansallisen lainsäädännön tai kansainvälisen oikeuden mukaan rikos. Rikoksen tekohetkellä sovellettavissa ollutta rangaistusta ankarampaa rangaistusta ei saa määrätä.
2. Mikään tässä artiklassa ei estä ryhtymästä oikeudenkäyntiin henkilöä vastaan ja tuomitsemasta häntä rangaistukseen teosta tai laiminlyönnistä, joka sivistyskansojen hyväksymien yleisten oikeusperiaatteiden mukaisesti oli tekohetkellä rikollinen teko."

Ainoastaan 2 kohdan ilmaisu "sivistyskansojen" on poistettu. Tämä ei kuitenkaan muuta sisällön osalta kohtaa, joka koskee erityisesti rikoksia ihmiskuntaa vastaan. Oikeudella, joka turvataan, on siis 52 artiklan 3 kohdan³⁵ mukaisesti sama merkitys ja kattavuus kuin Euroopan ihmisoikeussopimuksessa turvatulla oikeudella.

Artiklan 3 kohdassa toistetaan rikoksista määrättävien rangaistusten oikeasuhteisuuden yleinen periaate, joka on vakiintunut jäsenvaltioiden yhteisissä valtiosääntöperinteissä ja yhteisöjen tuomioistuimen oikeuskäytännössä.

Selitys [II-110 artiklaan] – Kielto syyttää ja rangaista oikeudenkäynnissä kahdesti samasta rikoksesta

Euroopan ihmisoikeussopimuksen seitsemännen lisäpöytäkirjan 4 artikla kuuluu seuraavasti:

- "1. Ketään ei saa saman valtion tuomiovallan nojalla tutkia uudelleen tai rangaista oikeudenkäynnissä rikoksesta, josta hänet on jo lopullisesti vapautettu tai tuomittu syylliseksi kyseisen valtion lakien ja oikeudenkäyntimenettelyn mukaisesti.
2. Edellisen kappaleen määräykset eivät estä ottamasta juttua uudelleen tutkittavaksi asianomaisen valtion lakien ja oikeudenkäyntimenettelyn mukaisesti, jos on näyttöä uusista tai vasta esiin tulleista tosiseikoista tai jos aiemmassa prosessissa on tapahtunut sellainen perustavaa laatua oleva virhe, joka voisi vaikuttaa lopputulokseen.
3. Tästä artiklasta ei saa poiketa yleissopimuksen 15 artiklan perusteella."

"Non bis in idem" -sääntöä sovelletaan unionin oikeudessa (lukuisista oikeustapauksista ks. 5.5.1966 annettua tuomiota asiassa Gutmann vastaan komissio, asia 18/65 ja asia 35/65, Kok. 1966, s. 150 ja äskettäin ratkaistun asian osalta ensimmäisen oikeusasteen tuomioistuimen tuomio 20.4.1999, yhdistetyt asiat T-305/94 ja muut, Limburgse Vinyl Maatschappij NV vastaan komissio, Kok. II-931). Täsmennetään, että kumulaation kieltävä sääntö koskee kahden samankaltaisen rangaistuksen yhdistämistä, tässä tapauksessa rikosprosessissa.

³⁵ [II-112 artiklan 2 kohta].

"Non bis in idem" -sääntöä ei [50 artiklan]³⁶ mukaisesti sovelleta ainoastaan saman valtion tuomioistuimissa, vaan myös useiden jäsenvaltioiden tuomioistuinten välillä. Tämä vastaa unionin säännöstöä; ks. Schengenin sopimuksen soveltamisesta tehdyn yleissopimuksen 54–58 artikla ja yhteisöjen tuomioistuimen tuomio, 11.2.2003, asia C-187/01, Gözütok, yhteisöjen taloudellisten etujen suojaamisesta tehdyn yleissopimuksen 7 artikla ja lahjonnan torjuntaa koskevan yleissopimuksen 10 artikla. Muutamat poikkeukset, jotka näissä yleissopimuksissa mahdollistavat jäsenvaltioille "non bis in idem" -säännöstä poikkeamisen, kuuluvat 52 artiklan 1 kohdan³⁷ rajoituksia koskevan horisontaalisen lausekkeen piiriin. Seitsemännen lisäpöytäkirjan 4 artiklassa tarkoitetuissa tilanteissa, eli kun periaatetta sovelletaan yhdessä jäsenvaltiossa, on tällä turvatulla oikeudella sama merkitys ja kattavuus kuin Euroopan ihmisoikeussopimuksen vastaavalla oikeudella.

VII OSASTO – PERUSOIKEUSKIRJAN TULKINTAA JA SOVELTAMISTA KOSKEVAT YLEISET MÄÄRÄYKSET

Selitys [II-111 artiklaan] – Soveltamisala

Tämän [51 artiklan]³⁸ tarkoituksena on määritellä perusoikeuskirjan soveltamisala. Sen tarkoituksena on määrittää selvästi, että perusoikeuskirjaa sovelletaan ensisijaisesti unionin toimielimiin ja elimiin toissijaisuusperiaatetta noudattaen. Tämä määräys laadittiin noudattaen Euroopan unionista tehdyn sopimuksen [6 artiklan 2 kohtaa], jonka mukaisesti unionin on kunnioitettava perusoikeuksia, ja se on myös Kölnin Eurooppa-neuvoston antaman valtuutuksen mukainen. Käsite "toimielimet" vahvistetaan perussopimuksissa. Käsitettä "elimet ja laitokset" käytetään perussopimuksissa yleisesti tarkoittamaan kaikkia perussopimuksilla tai johdetun oikeuden säädöksillä perustettuja elimiä (ks. esim. Euroopan unionin toiminnasta tehdyn sopimuksen [I-50 tai I-51 artikla]).

Jäsenvaltioiden osalta yhteisöjen tuomioistuimen oikeuskäytännöstä johtuu selvästi, että velvollisuus noudattaa unionin puitteissa määriteltyjä perusoikeuksia koskee jäsenvaltioita vain silloin, kun ne toimivat unionin oikeuden alalla (tuomio 13.7.1989, Wachauf, asiassa 5/88, Kok. 1989, s. 2609; tuomio 18.6.1991, ERT, Kok. 1991, I-2925); tuomio, 18.12.1997, asia C-309/96 Annibaldi, Kok. 1997, I-7493. Yhteisöjen tuomioistuin on hiljattain vahvistanut tämän oikeuskäytännön seuraavin sanoin: "Lisäksi on huomattava, että yhteisön oikeusjärjestyksen perusoikeuksien turvaamista koskevat vaatimukset sitovat myös jäsenvaltioita niiden pannessa yhteisön oikeudensäännöksiä täytäntöön..." (tuomio 13.4.2000, asiassa C-292/97, Kok. 2000 2737, peruste 37). Tätä sääntöä sellaisena kuin se on vakiinnutettu tässä perusoikeuskirjassa sovelletaan tietysti sekä keskusviranomaisiin että alueellisiin tai paikallisiin elimiin ja julkisyhteisöihin silloin, kun ne panevat täytäntöön unionin oikeutta.

³⁶ [II-110 artikla].

³⁷ [II-112 artiklan 2 kohta].

³⁸ [II-111 artikla].

Artiklan 2 kohdassa yhdessä 1 kohdan toisen virkkeen kanssa vahvistetaan, ettei peruskirjalla voida laajentaa unionille perussopimuksissa annettuja toimivaltuuksia ja tehtäviä. Tässä on nimenomaisesti mainittu se, mikä loogisesti aiheutuu toissijaisuusperiaatteesta ja siitä, että unionilla on vain sille annettua toimivaltaa. Perusoikeuksilla sellaisina kuin ne ovat unionissa turvattuina on vaikutuksia vain perussopimuksissa määriteltyjen toimivaltuuksien puitteissa. Näin ollen unionin toimielinten 1 kohdan toisen virkkeen mukainen velvollisuus edistää perusoikeuskirjassa mainittuja periaatteita voi syntyä vain näiden samojen toimivaltuuksien rajoissa.

Artiklan 2 kohdassa vahvistetaan myös, että perusoikeuskirjalla ei saa ulottaa unionin oikeuden soveltamisalaa perussopimuksissa annettua toimivaltaa laajemmalle. Yhteisöjen tuomioistuin on jo vahvistanut tämän säännön unionin oikeudeksi tunnustettujen perusoikeuksien osalta (tuomio 17.2.1998, asia C-249/96, Grant, Kok. 1998, I-621, 45 kohta perusteista). Tämän säännön mukaisesti on selvää, ettei Euroopan unionista tehdyn sopimuksen [1–9 artiklassa] olevan perusoikeuskirjaa koskevan viittauksen voida katsoa sinällään laajentavan "unionin oikeuden täytäntöönpanoksi" katsottavaa jäsenvaltioiden toiminta-alaa (jota tarkoitetaan 1 kohdassa ja edellä mainitussa oikeuskäytännössä).

Selitys [II-112 artiklaan] – Oikeuksien ja periaatteiden ulottuvuus ja tulkinta

Tällä [52 artiklalla]³⁹ pyritään vahvistamaan perusoikeuskirjan oikeuksien ja periaatteiden kattavuus sekä niiden tulkintaa koskevat säännöt. Artiklan 1 kohdassa käsitellään rajoitussäännöstöä.

Käytettyyn sanamuotoon on vaikuttanut yhteisöjen tuomioistuimen oikeuskäytäntö:

"... vakiintuneen oikeuskäytännön mukaan näiden oikeuksien käyttöä voidaan kuitenkin rajoittaa muun muassa yhteisen markkinajärjestelyn yhteydessä, kunhan rajoitukset tosiasiallisesti palvelevat yleisen edun mukaisia yhteisön tavoitteita eikä niillä puututa näihin oikeuksiin tavoitellun päämäärän kannalta suhteettomasti ja tavalla, jota ei voida hyväksyä ja jolla loukattaisiin näiden oikeuksien keskeistä sisältöä" (tuomio 13.4.2000, asiassa C-292/97, kohta 45). Viittaus unionin tunnustamiin yleisiin etuihin kattaa sekä Euroopan unionista tehdyn sopimuksen [I-2 artiklassa] mainitut tavoitteet että muut perussopimusten erityismääräyksillä, kuten Euroopan unionista tehdyn sopimuksen [I-5 artiklan 1 kohdalla] ja Euroopan unionin toiminnasta tehdyn sopimuksen III-133 artiklan 3 kohdalla sekä saman sopimuksen III-154 ja III-436 artiklalla, suojatut edut.

Artiklan 2 kohdassa viitataan Euroopan yhteisön perustamissopimuksessa jo nimenomaisesti taattuihin oikeuksiin, jotka on tunnustettu uudelleen perusoikeuskirjassa ja jotka nyt mainitaan perussopimuksissa (erityisesti unionin kansalaisuudesta johtuvat oikeudet). Kohdassa selvitetään, että kyseisiä oikeuksia koskevat edelleen niiden perustana olevaan unionin lainsäädäntöön sovellettavat edellytykset ja rajoitukset, joista määrätään perussopimuksissa. Perusoikeuskirjalla ei muuteta Euroopan yhteisön perustamissopimuksessa annettujen oikeuksien järjestelmää, josta määrätään perussopimuksissa.

³⁹ [II-112 artikla].

Artiklan 3 kohdan tarkoituksena on varmistaa tarvittava johdonmukaisuus perusoikeuskirjan ja Euroopan ihmisoikeussopimuksen välillä määräämällä säännöstä, jonka mukaan siltä osin kuin perusoikeuskirjan oikeudet vastaavat myös Euroopan ihmisoikeussopimuksessa turvattuja oikeuksia, niillä on sama merkitys ja kattavuus, sallitut rajoitukset mukaan luettuina, kuin Euroopan ihmisoikeussopimuksessa määrätyillä oikeuksilla. Tästä johtuu erityisesti, että lainsäätäjän on näitä oikeuksia rajoittaessaan noudatettava samoja vaatimuksia, joista määrätään Euroopan ihmisoikeussopimuksen yksityiskohtaisissa rajoituksia koskevissa määräyksissä, joita siten voidaan soveltaa tähän kohtaan kuuluviin oikeuksiin, sanotun kuitenkin vaikuttamatta unionin oikeuden ja Euroopan unionin tuomioistuimen riippumattomuuteen.

Viittauksella Euroopan ihmisoikeussopimukseen tarkoitetaan sekä yleissopimusta että sen lisäpöytäkirjoja. Turvattujen oikeuksien merkitys ja kattavuus määritellään näiden asiakirjojen lisäksi Euroopan ihmisoikeustuomioistuimen ja Euroopan unionin tuomioistuimen oikeuskäytännössä. Kohdan viimeisen virkkeen tarkoituksena on antaa unionille mahdollisuus turvata tätä laajempi suoja. Joka tapauksessa perusoikeuskirjassa myönnetty suojan taso ei koskaan saa olla ihmisoikeussopimuksessa taattua alhaisempi.

Perusoikeuskirja ei vaikuta jäsenvaltioiden mahdollisuuksiin soveltaa Euroopan ihmisoikeussopimuksen 15 artiklaa, jonka mukaan voidaan poiketa ihmisoikeussopimuksen mukaisista oikeuksista sodan tai muun yleisen hätätilan aikana, joka uhkaa kansakunnan elämää, toimien toteuttamiseksi kansallisen puolustuksen alalla sodan puhjettua tai lain ja järjestyksen ylläpitämiseksi niiden Euroopan unionista tehdyn sopimuksen [II-5 artiklan 1 kohdassa] sekä Euroopan unionin toiminnasta tehdyn sopimuksen III-131 artiklassa ja III-262 artiklassa tunnustettujen velvollisuuksien mukaisesti.

Seuraavassa on luettelo oikeuksista, joiden tällä hetkellä, ja sulkematta pois oikeuden, lainsäädännön ja perussopimusten kehitystä, voidaan katsoa vastaavan tässä kohdassa tarkoitettuja Euroopan ihmisoikeussopimuksen oikeuksia. Luettelossa ei ole Euroopan ihmisoikeussopimukseen nähden uusia oikeuksia.

1. Peruskirjan artikkelit, joilla on sama merkitys ja kattavuus kuin Euroopan ihmisoikeussopimuksen (ECHR) vastaavilla artikloilla:
 - [2 artikla]⁴⁰ vastaa ECHR:n 2 artiklaa
 - [4 artikla]⁴¹ vastaa ECHR:n 3 artiklaa
 - [5 artiklan] 1 ja 2 kohta⁴² vastaavat ECHR:n 4 artiklaa

⁴⁰ [II-62 artikla].

⁴¹ [II-64 artikla].

⁴² [II-65 artikla].

- [6 artikla]⁴³ vastaa ECHR:n 5 artiklaa
- [7 artikla]⁴⁴ vastaa ECHR:n 8 artiklaa
- [10 artiklan]⁴⁵ 1 kohta vastaa ECHR:n 9 artiklaa
- [11 artikla]⁴⁶ vastaa ECHR:n 10 artiklaa, sanotun kuitenkin rajoittamatta unionin oikeudessa määrättyjä rajoituksia jäsenvaltioiden oikeudelle ottaa käyttöön ECHR:n 10 artiklan 1 kohdan kolmannessa virkkeessä tarkoitettuja lupamenettelyjä
- [17 artikla]⁴⁷ vastaa ECHR:n lisäpöytäkirjan 1 artiklaa
- [19 artiklan]⁴⁸ 1 kohta vastaa ECHR:n neljännen lisäpöytäkirjan 4 artiklaa
- [19 artiklan] 2 kohta vastaa ECHR:n 3 artiklaa sellaisena kuin Euroopan ihmisoikeustuomioistuin sen tulkitsee
- [48 artikla]⁴⁹ vastaa ECHR:n 6 artiklan 2 ja 3 kohtaa
- [49 artiklan]⁵⁰ 1 kohta (lukuun ottamatta viimeistä virkettä) ja 2 kohta vastaavat ECHR:n 7 artiklaa.

2. Artiklat, joilla on sama merkitys kuin Euroopan ihmisoikeussopimuksen vastaavilla artikloilla, mutta joiden kattavuus on laajempi:

- [9 artikla]⁵¹ kattaa ECHR:n 12 artiklan soveltamisalan, mutta se voidaan ulottaa koskemaan muun tyyppisiä avioliittoja, kun kansallisessa lainsäädännössä niin säädetään
- [12 artiklan]⁵² 1 kohta vastaa ECHR:n 11 artiklaa, mutta sen soveltamisala ulottuu Euroopan unionin tasoon

⁴³ [II-66 artikla].

⁴⁴ [II-67 artikla].

⁴⁵ [II-70 artikla].

⁴⁶ [II-71 artikla].

⁴⁷ [II-77 artikla].

⁴⁸ [II-79 artikla].

⁴⁹ [II-108 artikla].

⁵⁰ [II-109 artikla].

⁵¹ [II-69 artikla].

⁵² [II-72 artikla].

- [14 artiklan]⁵³ 1 kohta vastaa ECHR:n lisäpöytäkirjan 2 artiklaa, mutta sen soveltamisala ulotetaan ammatilliseen koulutukseen ja jatko- ja täydennyskoulutukseen pääsyyn
- [14 artiklan] 3 kohta vastaa ECHR:n lisäpöytäkirjan 2 artiklaa vanhempien oikeuden osalta
- [47 artiklan]⁵⁴ 2 ja 3 kohta vastaa ECHR:n 6 artiklan 1 kohtaa, jonka soveltamisala on rajoitettu oikeuksia ja velvollisuuksia koskeviin riita-asioihin tai rikossyytteisiin; rajoituksella ei ole merkitystä unionin oikeuden ja sen täytäntöönpanon kannalta
- [50 artikla]⁵⁵ vastaa ECHR:n seitsemännen lisäpöytäkirjan 4 artiklaa, mutta sen kattavuus laajennetaan Euroopan unionin tasoon jäsenvaltioiden tuomioistuinten välillä
- lisäksi Euroopan unionin kansalaisia ei unionin oikeuden soveltamisalalla voida pitää ulkomaalaisina, koska kaikki kansallisuuteen perustuva syrjintä on kiellettyä. ECHR:n 16 artiklan ulkomaalaisten oikeuksia koskevia rajoituksia ei siis sovelleta heihin tässä yhteydessä.

Artiklan 4 kohdassa oleva tulkintasääntö perustuu Euroopan unionista tehdyn sopimuksen [6 artiklan 2] kohdan sanamuotoon, ja siinä otetaan asianmukaisesti huomioon se lähestymistapa yhteisiin valtiosääntöperinteisiin, jota yhteisöjen tuomioistuin on noudattanut (esim. tuomio 13.12.1979, asia 44/79, Hauer, Kok. 1979, s. 3727; tuomio 18.5.1982, asia 155/79, AM & S, Kok. 1982, s. 1575). Tämän säännön mukaan perusoikeuskirjan oikeuksia ei niinkään pitäisi tulkita joustamattomasti "pienimmän mahdollisen nimittäjän" lähestymistavan mukaan, vaan se olisi nähtävä keinona tarjota korkeatasoinen suoja, joka on sopusoinnussa unionin oikeuden kanssa ja yhdenmukainen yhteisten valtiosääntöperinteiden kanssa.

⁵³ [II-74 artikla].

⁵⁴ [II-107 artikla].

⁵⁵ [II-110 artikla].

Artiklan 5 kohdassa selkiytetään perusoikeuskirjaan kirjattujen "oikeuksien" ja "periaatteiden" välistä eroa. Tämän eron perusteella subjektiivisia oikeuksia on kunnioitettava, kun taas periaatteita on noudatettava (51 artiklan 1 kohta⁵⁶). Periaatteita voidaan panna täytäntöön lainsäätämisyjärjestyksestä hyväksyttävien säädösten tai täytäntöönpanosäädösten avulla (joita unioni hyväksyy toimivaltansa mukaisesti ja jäsenvaltiot ainoastaan silloin, kun ne panevat täytäntöön unionin lainsäädäntöä); näin ollen periaatteista tulee tuomioistuinten kannalta merkittäviä ainoastaan silloin kun kyseisiä säädöksiä tulkitaan tai tarkistetaan. Niiden perusteella ei voida kuitenkaan vaatia positiivista toimintaa unionin toimielimiltä tai jäsenvaltioiden viranomaisilta. Tämä on johdonmukaista sekä yhteisöjen tuomioistuimen oikeuskäytännön (ks. erityisesti Euroopan unionin toiminnasta tehdyn sopimuksen [174 artiklan 2 kohdassa] olevaa ennalta varautumisen periaatetta koskeva oikeuskäytäntö: (ensimmäisen oikeusasteen tuomioistuimen tuomio, 11.9.2002, asia T-13/99, Pfizer vs. neuvosto, jossa on lukuisia viittauksia aikaisempaan oikeuskäytäntöön, sekä maatalouslainsäädännön periaatteita koskevaa Euroopan yhteisön perustamissopimuksen 33 artiklaa (ent. 39 artikla) koskevia tuomioiden sarjaa, esim. yhteisöjen tuomioistuimen tuomio, asia C-265/85, Van den Berg, Kok. 1987, s. 1155: markkinoiden tasapainottamisen ja kohtuullisten odotusten periaatteen tarkastelu) ja jäsenvaltioiden perustuslaillisten järjestelmien lähestymistapa "periaatteisiin" erityisesti sosiaalilainsäädännön alalla. Havainnollisuuden vuoksi voidaan viitata esimerkkeinä perusoikeuskirjassa tunnustetuista periaatteista muun muassa 25, 26 ja 37 artiklaan⁵⁷. Joissakin tapauksissa perusoikeuskirjan artiklalla saattaa olla merkitystä sekä oikeuden että periaatteen ilmentäjinä, ks. esim. 23, 33 ja 34 artikla⁵⁸.

Artiklan 6 kohdassa viitataan erinäisiin perusoikeuskirjan artikloihin, joissa toissijaisuusperiaatteen mukaisesti viitataan kansallisiin lainsäädäntöihin ja käytäntöihin.

Selitys [II-113 artiklaan] - Suojan taso

Määräyksen tavoitteena on säilyttää unionin oikeudessa, jäsenvaltioiden lainsäädännössä ja kansainvälisessä oikeudessa kunkin soveltamisalalla tällä hetkellä annetun suojan taso. Euroopan ihmisoikeussopimus mainitaan tässä huomattavan merkityksensä vuoksi.

Selitys [II-114 artiklaan] - Oikeuksien väärinkäytön kielto

Tämä artikla vastaa Euroopan ihmisoikeussopimuksen 17 artiklaa:

"Minkään tässä yleissopimuksessa ei saa tulkita suovan millekään valtiolle, ryhmälle tai henkilölle oikeutta ryhtyä sellaiseen toimintaan tai tehdä sellaista tekoa, jonka tarkoituksena on tehdä tyhjäksi jokin tässä yleissopimuksessa tunnustettu oikeus tai vapaus tai rajoittaa niitä enemmän kuin tässä yleissopimuksessa on sallittu".

⁵⁶ [II-111 artikla].

⁵⁷ [II-85, II-86 ja II-97 artikla].

⁵⁸ [II-83, II-93 ja II-94 artikla].

13. Julistus [III-116 artiklasta]

Konferenssi on yhtä mieltä siitä, että osana yleistä pyrkimystään poistaa eriarvoisuutta naisten ja miesten väliltä unioni pitää tavoitteenaan eri politiikoissaan torjua kaikenlaista perheväkivaltaa. Jäsenvaltioiden olisi toteutettava kaikki tarvittavat toimenpiteet tällaisten rikosten estämiseksi ja niistä rankaisemiseksi sekä niiden uhrien tukemiseksi ja suojelemiseksi.

14. Julistus [III-136 ja III-267 artiklasta]

Konferenssi katsoo, että jos ehdotus [III-267 artiklan 2 kohtaan] perustuvaksi säädökseksi vaikuttaisi jäsenvaltion sosiaaliturvajärjestelmän perusteisiin, sen soveltamisala, kustannukset tai rahoitusrakenne mukaan luettuina, taikka vaikuttaisi [III-136 artiklan 2 kohdassa] mainitulla tavoin järjestelmän rahoituksen tasapainoon, tämän jäsenvaltion edut otetaan asianmukaisesti huomioon.

15. Julistus [III-160 ja III-322 artiklasta]

Konferenssi muistuttaa, että perusoikeuksien ja -vapauksien kunnioittaminen edellyttää erityisesti asianmukaisen huomion kiinnittämistä siihen, että kyseisten henkilöiden tai yhteisöjen oikeutta lailla säädettyihin oikeusturvan takeisiin suojellaan ja kunnioitetaan. Tätä varten ja jotta taataan rajoittavien toimenpiteiden soveltamisesta henkilöön tai yhteisöön tehtyjen päätösten tiukka tuomioistuINVALVONTA, näillä päätöksillä on oltava selkeät ja ilmeiset perusteet. Näiden perusteiden olisi vastattava kunkin rajoittavan toimenpiteen erityispiirteitä.

16. Julistus [III-167 artiklan 2 kohdan c alakohdasta]

Konferenssi toteaa, että [III-167 artiklan 2 kohdan c alakohtaa] on tulkittava Euroopan yhteisöjen tuomioistuimen ja ensimmäisen oikeusasteen tuomioistuimen olemassa olevan oikeuskäytännön mukaisesti siltä osin kuin on kyse näiden määräysten sovellettavuudesta niille tietyille Saksan liittotasavallan alueille myönnettyihin tukiin, joihin Saksan aikaisempi jako on vaikuttanut.

17. Julistus [III-184 artiklasta]

Konferenssi vahvistaa [III-184 artiklan] osalta, että unionin ja jäsenvaltioiden talous- ja finanssipolitiikan on perustuttava kasvupotentiaalin parantamiseen ja julkisen talouden terveen rahoitusaseman varmistamiseen. Vakaus- ja kasvusopimus on näiden tavoitteiden saavuttamisen kannalta tärkeä väline.

Konferenssi vahvistaa pitävänsä kiinni vakaus- ja kasvusopimukseen liittyvistä määräyksistä, joita se pitää kehyksenä, jonka puitteissa jäsenvaltioiden finanssipolitiikkoja on sovittava yhteen.

Konferenssi vahvistaa, että sääntöihin perustuva järjestelmä on paras tae siitä, että sitoumuksia noudatetaan ja että kaikkia jäsenvaltioita kohdellaan tasavertaisesti.

Näissä puitteissa konferenssi vahvistaa myös sitoutumisensa Lissabonin strategian tavoitteisiin: työpaikkojen luomiseen, rakenneuudistuksiin ja sosiaaliseen yhteenkuuluvuuteen.

Unioni pyrkii saavuttamaan tasapainoisen talouskasvun ja hintavakauden. Talous- ja finanssipolitiikoille on tämän vuoksi asetettava oikeat painopisteet, joiden tavoitteina ovat talousuudistukset, innovaatiot, kilpailukyky sekä yksityisten investointien ja kulutuksen lisääminen heikon talouskasvun aikana. Tämän olisi ilmentävä kansallisella ja unionin tasolla tehtävissä talousarviopäätöksissä erityisesti perussopimusten ja vakaus- ja kasvusopimuksen mukaista kurinalaista budjettipolitiikkaa noudattaen tehtävinä julkisen talouden tulojen ja menojen rakenteen uudistuksina.

Jäsenvaltioilla on edessään talousarvioon ja talouteen liittyviä haasteita, joissa korostuu terveen finanssipolitiikan merkitys koko suhdannekierron ajan.

Konferenssi on yhtä mieltä siitä, että jäsenvaltioiden olisi aktiivisesti käytettävä taloudellisen elpymisen kausia vahvistaakseen julkista talouttaan ja parantaakseen rahoitusasemaansa. Tavoitteena on hyvän suhdanteen aikana saavuttaa asteittain talouden ylijäämä, mikä antaa tarpeellista liikkumavaraa sopeutua talouden laskusuhdanteisiin ja myötävaikuttaisi siten julkisen talouden kestävyyyteen pitkällä aikavälillä.

Jäsenvaltiot odottavat kiinnostuneina komission mahdollisia ehdotuksia ja jäsenvaltioiden uusia esityksiä vakaus- ja kasvusopimuksen täytäntöönpanon tehostamiseksi ja selkeyttämiseksi. Jäsenvaltiot toteuttavat kaikki tarpeelliset toimenpiteet talouksiensa kasvupotentiaalin parantamiseksi. Tätä tavoitetta voitaisiin tukea talouspolitiikan aiempaa paremmalla yhteensovittamisella. Tämä julistus ei rajoita vakaus- ja kasvusopimuksesta tulevaisuudessa käytävää keskustelua.

18. Julistus [III-213 artiklasta]

Konferenssi vahvistaa, että [III-213 artiklassa] mainitut politiikat kuuluvat keskeisiltä osiltaan jäsenvaltioiden toimivaltaan. Unionin tasolla tämän artiklan mukaisesti toteutettavat edistämisen- ja yhteensovittamistoimenpiteet ovat luonteeltaan täydentäviä. Niiden tarkoituksena on jäsenvaltioiden välisen yhteistyön tehostaminen eikä kansallisten järjestelmien yhdenmukaistaminen. Ne eivät vaikuta kussakin jäsenvaltiossa työmarkkinaosapuolten vastuun osalta olemassa oleviin takeisiin ja käytäntöihin.

Tämä julistus ei rajoita unionille toimivallan antavien perussopimusten määräysten, myös sosiaalialaa koskevien, soveltamista.

19. Julistus [III-220 artiklasta]

Konferenssi katsoo, että [III-220 artiklassa] tarkoitetuilla saaristoalueilla voidaan tarkoittaa myös kokonaisia saarivaltioita edellyttäen, että tarvittavat edellytykset täyttyvät.

20. Julistus [III-243 artiklasta]

Konferenssi toteaa, että [III-243 artiklan] määräyksiä on sovellettava nykyisen käytännön mukaisesti. Ilmaisua "toimenpiteet Saksan jaosta aiheutuneen taloudellisen haitan korvaamiseksi, jos toimenpiteet ovat tarpeen tietyille Saksan liittotasavallan alueille, joihin jako on vaikuttanut" on tulkittava Euroopan yhteisöjen tuomioistuimen ja ensimmäisen oikeusasteen tuomioistuimen olemassa olevan oikeuskäytännön mukaisesti.

21. Julistus [III-248 artiklasta]

Konferenssi on yhtä mieltä siitä, että unionin toiminnassa tutkimuksen ja teknologian kehittämisen alalla otetaan asianmukaisesti huomioon jäsenvaltioiden tutkimuspolitiikkojen peruslinjat ja -valinnat.

22. Julistus [III-256 artiklasta]

Konferenssi katsoo, että [III-256 artikla] ei vaikuta jäsenvaltioiden oikeuteen toteuttaa tarvittavat toimenpiteet varmistukseksi energiahuoltonsa [III-131 artiklassa] määrätyin edellytyksin.

23. Julistus Euroopan unionin toiminnasta tehdyn sopimuksen
[I-273 artiklan 1 kohdan toisesta alakohdasta]

Konferenssi katsoo, että Euroopan unionin toiminnasta tehdyn sopimuksen [III-273 artiklan 1 kohdan toisessa alakohdassa] tarkoitettussa asetuksessa olisi otettava huomioon rikostutkinnan aloittamista koskevat kansalliset säännöt ja käytännöt.

24. Julistus [III-296 artiklasta]

Konferenssi toteaa, että yhteisen ulko- ja turvallisuuspolitiikan korkeana edustajana toimivan neuvoston pääsihteerin, komission ja jäsenvaltioiden olisi aloitettava Euroopan ulkosuhdehallinnon perustamista koskevat valmistelut heti, kun Euroopan unionista tehdyn sopimuksen ja Euroopan yhteisön perustamisesta tehdyn sopimuksen muuttamisesta tehty sopimus on allekirjoitettu.

25. Julistus [III-325 artiklasta] siltä osin kuin on kyse vapauden, turvallisuuden ja oikeuden aluetta koskevien kansainvälisten sopimusten neuvottelemisesta ja tekemisestä jäsenvaltioiden toimesta

Konferenssi vahvistaa, että jäsenvaltioilla on oikeus neuvotella ja tehdä III osan IV osaston 3, 4 ja 5 luvun piiriin kuuluvia aloja koskevia sopimuksia kolmansien maiden tai kansainvälisten järjestöjen kanssa, sikäli kuin nämä sopimukset ovat unionin oikeuden mukaisia.

26. Julistus [III-419 artiklasta]

Konferenssi toteaa, että jäsenvaltioiden esittäessä komissiolle tiiviimmän yhteistyön aloittamista koskevan pyynnön ne voivat ilmoittaa, aikovatko ne jo siinä vaiheessa soveltaa [III-422 artiklaa], jossa määrätään määräenemmistöpäätöksenteon laajentamista tai tavanomaisen lainsäätämisyjärjestyksen käytöstä.

27. Julistus [IV-440 artiklan 7 kohdasta]

Korkeat sopimuspuolet sopivat, että Eurooppa-neuvosto tekee [IV-440 artiklan 7 kohdan] soveltamiseksi päätöksen, joka johtaa Mayotten aseman muuttamiseen Euroopan unioniin nähden siten, että tästä alueesta tulee [IV-440 artiklan 2 kohdassa] ja [III-424 artiklassa] tarkoitettuihin syrjäisimpiin alueisiin kuuluva, kun Ranskan viranomaiset ilmoittavat Eurooppa-neuvostolle ja komissiolle, että saaren sisäisen aseman meneillään oleva kehittäminen tämän sallii.

28. Julistus [IV-448 artiklan 2 kohdasta]

Konferenssi katsoo, että mahdollisuus kääntää perussopimukset [IV-448 artiklan 2 kohdassa] tarkoitetuille kielille edistää [I-3 artiklan 3 kohdan neljännessä alakohdassa] tarkoitettua tavoitetta kunnioittaa unionin kulttuurien ja kielten rikkautta ja monimuotoisuutta. Konferenssi vahvistaa tässä yhteydessä, että unioni pitää arvossa Euroopan kulttuurien monimuotoisuutta ja kiinnittää edelleen erityistä huomiota niihin ja muihin kieliin.

Konferenssi suosittelee, että ne jäsenvaltiot, jotka haluavat käyttää [IV-448 artiklan 2 kohdassa] tarkoitettua mahdollisuutta, ilmoittavat neuvostolle kuuden kuukauden kuluessa Euroopan unionista tehdyn sopimuksen ja Euroopan yhteisön perustamisesta tehdyn sopimuksen muuttamisesta tehdyn sopimuksen allekirjoittamisesta sen yhden tai useamman kielen, jolle tämä sopimus käännetään.

29. Julistus unionin oikeuden ensisijaisuudesta

Konferenssi muistuttaa, että EU:n tuomioistuimen vakiintuneen oikeuskäytännön mukaan perussopimukset ja unionin niiden nojalla antama lainsäädäntö ovat ensisijaisia jäsenvaltioiden oikeuteen nähden mainitussa oikeuskäytännössä asetettujen edellytysten mukaisesti.

Lisäksi konferenssi on päättänyt liittää tähän päätösasiakirjaan neuvoston oikeudellisen yksikön asiaa koskevan lausunnon sellaisena kuin se on asiakirjassa 11197/07 (JUR 260):

*"Neuvoston oikeudellisen yksikön lausunto
22. kesäkuuta 2007*

Euroopan yhteisöjen tuomioistuimen oikeuskäytännöstä seuraa, että yhteisön oikeuden ensisijaisuus on yhteisön oikeuden keskeinen periaate. Tuomioistuimen mukaan tämä periaate kuuluu luonnostaan Euroopan yhteisön erityisluonteeseen. Tämän vakiintuneen oikeuskäytännön ensimmäistä tuomiota (Costa vastaan ENEL, 15.7.1964, asia 6/64¹) annettaessa perustamissopimuksessa ei ollut mainintaa ensisijaisuudesta. Näin on yhä edelleen. Se seikka, että ensisijaisuuden periaatetta ei sisällytetä tulevaan sopimukseen, ei millään tavoin muuta sitä, että periaate on olemassa, eikä vaikuta Euroopan yhteisöjen tuomioistuimen olemassa olevaan oikeuskäytäntöön."

30. Julistus toimivallanjaosta

Konferenssi korostaa, että Euroopan unionista tehdyssä sopimuksessa ja Euroopan unionin toiminnasta tehdyssä sopimuksessa määrätyn unionin ja sen jäsenvaltioiden välisen toimivallanjaon mukaisesti toimivalta, jota perussopimuksissa ei ole annettu unionille, kuuluu jäsenvaltioille.

Kun perussopimuksissa annetaan unionille jäsenvaltioiden kanssa jaettu toimivalta tietyllä alalla, jäsenvaltiot käyttävät toimivaltaansa siltä osin kuin unioni ei käytä omaansa tai on päättänyt lakata käyttämästä sitä. Viimeksi mainittu tilanne syntyy, kun EU:n toimielimet päättävät kumota lainsäätämismääräyksessä hyväksytyn säädöksen, erityisesti parantaakseen toissijaisuus- ja suhteellisuusperiaatteen jatkuvaa noudattamista. Neuvosto voi pyytää yhden tai useamman jäsenenä (jäsenvaltion edustajan) aloitteesta ja Euroopan unionin toiminnasta tehdyn sopimuksen 208 artiklan mukaisesti komissiota esittämään ehdotuksen lainsäätämismääräyksessä hyväksytyn säädöksen kumoamiseksi.

¹ "Tästä (...) seuraa, että perussopimukseen, joka on itsenäinen oikeuslähde, perustuvaa oikeutta vastaan ei voida sen erityisen ja alkuperäisen luonteen vuoksi vedota tuomioistuimessa minkään kansallisen oikeuden sääntöjen perusteella, koska muutoin perussopimuksen nojalla annettu lainsäädäntö menettäisi yhteisöä koskevan luonteensa ja itse yhteisön oikeudellinen perusta saatetaan kyseenalaiseksi."

Samoin hallitustenvälisessä konferenssissa kokoontuvat jäsenvaltioiden hallitusten edustajat voivat Euroopan unionista tehdyn sopimuksen [IV-443 artiklassa] määrätyn tavanomaisen tarkistusmenettelyn mukaisesti päättää muuttaa perussopimuksia, ja joko lisätä tai vähentää mainituissa perussopimuksissa unionille annettua toimivaltaa.

31. Julistus perusoikeuskirjasta

Perusoikeuskirjassa, joka on oikeudellisesti sitova, vahvistetaan ihmisoikeuksien ja perusvapauksien suojaamiseksi tehdystä eurooppalaisesta yleissopimuksessa taatut jäsenvaltioiden yhteisestä valtiosääntöperinteestä johtuvat perusoikeudet.

Perusoikeuskirjalla ei laajenneta unionin oikeuden soveltamisalaa aloihin, joilla unionilla ei ole toimivaltaa, eikä anneta sille uutta toimivaltaa tai uusia tehtäviä, eikä muuteta perussopimuksissa määritellyjä unionin toimivaltaa ja tehtäviä.

32. Julistus yhteisestä ulko- ja turvallisuuspolitiikasta

Konferenssi korostaa, että Euroopan unionista tehdyn sopimuksen yhteistä ulko- ja turvallisuuspolitiikkaa koskevat määräykset, mukaan lukien unionin ulko- ja turvallisuuspolitiikan korkean edustajan toimen ja Euroopan ulkosuhdehallinnon perustaminen, eivät vaikuta jäsenvaltioiden nykyiseen vastuuseen muotoilla ja harjoittaa omaa ulkopoliittikaansa eikä niiden kansalliseen edustukseen kolmansissa maissa ja kansainvälisissä järjestöissä.

Konferenssi palauttaa myös mieleen, että yhteistä turvallisuus- ja puolustuspolitiikkaa koskevat määräykset eivät vaikuta jäsenvaltioiden turvallisuus- ja puolustuspolitiikan erityisluonteeseen.

Se painottaa, että EU:ta ja sen jäsenvaltioita sitovat edelleen Yhdistyneiden Kansakuntien peruskirjan määräykset sekä erityisesti turvallisuusneuvoston ja sen jäsenvaltioiden ensisijainen vastuu kansainvälisen rauhan ja turvallisuuden ylläpitämisestä.

33. Julistus yhteisestä ulko- ja turvallisuuspolitiikasta

Euroopan unionista tehdyn sopimuksen [11 artiklan 1 kohdassa] tarkoitettujen erityismenettelyjen lisäksi konferenssi korostaa, että yhteistä ulko- ja turvallisuuspolitiikkaa koskevat määräykset, mukaan lukien unionin ulko- ja turvallisuuspolitiikan korkeaa edustajaa ja ulkosuhdehallintoa koskevat määräykset, eivät vaikuta minkään jäsenvaltion nykyiseen oikeusperustaan, vastuuseen tai toimivaltaan, joka liittyy sen ulkopoliitiikan muotoiluun ja harjoittamiseen, sen kansalliseen ulkosuhdehallintoon, suhteisiin kolmansiin maihin tai jäsenyyteen kansainvälisissä järjestöissä, mukaan lukien jäsenvaltion jäsenyys Yhdistyneiden Kansakuntien turvallisuusneuvostossa.

Konferenssi toteaa myös, että yhteistä ulko- ja turvallisuuspolitiikkaa koskevilla määräyksillä ei anneta komissiolle uutta toimivaltaa tehdä aloitteita päätöksiksi tai laajenneta Euroopan parlamentin roolia.

Konferenssi muistuttaa myös, että yhteistä eurooppalaista turvallisuus- ja puolustuspolitiikkaa koskevat määräykset eivät vaikuta jäsenvaltioiden turvallisuus- ja puolustuspolitiikan erityisluonteeseen.

34. Julistus Euroopan unionin oikeushenkilöllisyydestä

Konferenssi vahvistaa, että Euroopan unionin oikeushenkilöllisyys ei millään tavoin anna unionille oikeutta antaa lainsäädäntöä eikä toimia jäsenvaltioiden perussopimuksissa sille antaman toimivallan ulkopuolella.

35. Julistus Euroopan unionin toiminnasta tehdyn sopimuksen 42 artiklan toisesta kohdasta

Konferenssi muistuttaa, että siinä tapauksessa Eurooppa-neuvosto tekee ratkaisunsa yhteisymmärryksessä [I-21 artiklan] 4 kohdan mukaisesti.

36. Julistus henkilötietojen suojasta poliisiyhteistyön ja rikosasioissa tehtävän oikeudellisen yhteistyön alalla

Konferenssi tunnustaa, että henkilötietojen suojaa ja näiden tietojen vapaata liikkuvuutta rikosasioissa tehtävän oikeudellisen yhteistyön ja poliisiyhteistyön aloilla koskevat erityissäännöt saattavat osoittautua tarpeellisiksi näiden alojen erityisluonteen vuoksi.

37. Julistus Euroopan unionin toiminnasta tehdyn sopimuksen [152 artiklan 1 kohdan c alakohdasta]

Konferenssi toteaa, että [III-278 artiklan 4 kohdan c alakohdan] soveltamiseksi toteutettavissa toimenpiteissä on otettava huomioon yhteiset turvallisuuskysymykset ja että niiden tavoitteena on oltava korkeiden laatuvaatimusten asettaminen silloin kun sisämarkkinoihin vaikuttavat kansalliset vaatimukset muuten estäisivät ihmisten terveyden korkeatasoisen suojelun.

38. Julistus Euroopan unionin toiminnasta tehdyn sopimuksen [I-18 artiklasta]

Konferenssi toteaa, että Euroopan unionin toiminnasta tehdyn sopimuksen [I-18 artiklassa] olevalla viittauksella unionin tavoitteisiin tarkoitetaan Euroopan unionista tehdyn sopimuksen [I-3 artiklan 2 ja 3 kohdassa] sekä [I-3 artiklan 4 kohdassa] esitettyjä tavoitteita mainitun sopimuksen III osassa olevassa V osastossa tarkoitetun ulkoisen toiminnan osalta. On siis poissuljettu, että Euroopan unionin toiminnasta tehdyn sopimuksen 308 artiklaan perustuvalla toiminnalla voitaisiin pyrkiä ainoastaan Euroopan unionista tehdyn sopimuksen [I-3 artiklan 1 kohdassa] esitettyihin tavoitteisiin. Tässä yhteydessä konferenssi panee merkille, että Euroopan unionista tehdyn sopimuksen [I-40 artiklan 6 kohdan] mukaisesti yhteisen ulko- ja turvallisuuspolitiikan alalla ei voida antaa lainsäätäjäjärjestyksessä hyväksyttäviä säädöksiä.

39. Julistus Euroopan unionin toiminnasta tehdyn sopimuksen [I-18 artiklasta]

Konferenssi korostaa, että Euroopan unionin tuomioistuimen vakiintuneen oikeuskäytännön mukaisesti Euroopan unionin toiminnasta tehdyn sopimuksen [I-18 artiklaa], joka on annetun toimivallan periaatteelle perustuvan institutionaalisen järjestelmän oleellinen osa, ei voida käyttää oikeudellisena perustana unionin valtuuksien laajentamiseksi ulottumaan sopimuksen kaikista määräyksistä ja erityisesti unionin tehtäviä ja toimintaa säätelevistä määräyksistä ilmenevien yleisten puitteiden ulkopuolelle. Tätä artiklaa ei missään tapauksessa voida käyttää oikeudellisena perustana sellaisten määräysten hyväksymiselle, joiden vaikutuksena olisi sopimusten muuttaminen noudattamatta menettelyä, josta niissä määrätään tätä tarkoitusta varten.

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B. PERUSSOPIMUKSIIN LIITETTYJÄ PÖYTÄKIRJOJA
KOSKEVAT JULISTUKSET

40. Julistus Tanskan asemaa koskevasta pöytäkirjasta

Konferenssi panee merkille, että kun kyseessä on lainsäädäntöjärjestyksessä annettava säädös, jonka neuvosto antaa yksin tai yhdessä Euroopan parlamentin kanssa ja joka sisältää säännöksiä, joita sovelletaan Tanskaan, sekä sellaisia säännöksiä, joita ei sovelleta Tanskaan, koska niiden oikeusperustaan sovelletaan Tanskan asemasta tehdyn pöytäkirjan I osaa, Tanska julistaa, ettei se käytä äänioikeuttaan estääkseen sellaisten säännösten hyväksymisen, joita ei sovelleta Tanskaan.

Konferenssi panee lisäksi merkille, että Tanska ilmoittaa konferenssin [I-43 ja III-329 artiklasta] antamansa julistuksen perusteella, että sen osallistumisessa [I-43 ja III-329 artiklan] nojalla hyväksyttyyn toimintaan tai lainsäätämisyjärjestyksessä annettavaan säädökseen noudatetaan Tanskan asemasta tehdyn pöytäkirjan I ja II osaa.

41. Julistus Italiasta

Konferenssi panee merkille, että Euroopan talousyhteisön perustamissopimukseen, sellaisena kuin se on Euroopan unionista tehdyllä sopimuksella muutettuna, vuonna 1957 liitetystä pöytäkirjassa Italiasta todettiin, että:

"KORKEAT SOPIMUSPUOLET,

JOTKA HALUAVAT ratkaista eräät Italiaa koskevat erityisongelmat;

OVAT SOPINEET seuraavista määräyksistä, jotka liitetään tähän sopimukseen:

YHTEISÖN JÄSENVALTIOT,

KIINNITTÄVÄT HUOMIOTA siihen, että Italian hallitus on sitoutunut toteuttamaan talouskasvua koskevan kymmenvuotishjelman, jonka tarkoituksena on Italian talouselämän rakenteellisen epätasapainon korjaaminen erityisesti kehittämällä maan heikoimmin kehittyneiden eteläisten alueiden ja saaristoalueiden perusrakennetta sekä luomalla uusia työpaikkoja työttömyyden poistamiseksi,

PALAUTTAVAT MIELEEN, että kansainväliset yhteistyöjärjestöt, joiden jäseniä jäsenvaltiotkin ovat, ovat ottaneet huomioon Italian hallituksen ohjelman periaatteet ja tavoitteet ja hyväksyneet ne,

TUNNUSTAVAT, että Italian hallituksen ohjelman tavoitteiden toteutuminen on niiden yhteisen edun mukaista,

SOPIVAT Italian hallituksen auttamiseksi tämän tehtävän toteuttamisessa suosittlevansa yhteisön toimielimille, että ne ottavat käyttöön kaikki tässä sopimuksessa määrättyt keinot ja menettelyt varsinkin käyttämällä aiheellisella tavalla Euroopan investointipankin ja Euroopan sosiaalirahaston varoja,

OVAT SITÄ MIELTÄ, että yhteisön toimielinten on tätä sopimusta soveltaessaan otettava huomioon Italian hallituksen lähivuosina jatkuvat ponnistelut sekä tarve välttää sellaisten vaarallisten jännitteiden syntymistä erityisesti maksutaseessa tai työllisyystilanteessa, jotka saattaisivat vaarantaa tämän sopimuksen soveltamisen Italiassa,

TUNNUSTAVAT erityisesti, että 109 H ja 109 I artiklaa sovellettaessa on huolehdittava siitä, että Italian hallitukselta pyydetyt toimenpiteet turvaavat sen talouskasvua ja väestön elintason nostamista edistävän ohjelman toteuttamisen."

C. JÄSENVALTIOIDEN JULISTUKSET

Lisäksi konferenssi on ottanut huomioon jäljempänä luetellut, tähän päätösasiakirjaan liitetyt julistukset:

42. Alankomaiden kuningaskunnan julistus Euroopan unionin toiminnasta tehdyn sopimuksen [I-55 artiklasta]

Alankomaiden kuningaskunta hyväksyy Euroopan unionin toiminnasta tehdyn sopimuksen [I-55 artiklan 4 kohdassa] tarkoitetun päätöksen sen jälkeen, kun mainitun sopimuksen [I-54 artiklan 3 kohdassa] tarkoitetun asetuksen tarkistus on antanut Alankomaille tyydyttävän ratkaisun sen liialliseen negatiiviseen nettomaksuasemaan unionin talousarvioon nähden.

43. Alankomaiden kuningaskunnan julistus [IV-440 artiklasta]

Alankomaiden kuningaskunta ilmoittaa, että [IV-440 artiklan 7 kohdassa] tarkoitettu aloite sellaisen päätöksen tekemiseksi, jolla muutetaan Alankomaiden Antillien ja/tai Aruban asemaa unioniin nähden, tehdään ainoastaan Alankomaiden kuningaskunnan valtiosäännön mukaisesti tehdyn päätöksen perusteella.

44. Saksan liittotasavallan, Irlannin ja Itävallan tasavallan julistus

Saksa, Irlanti ja Itävalta toteavat, että Euroopan atomienergiayhteisön perustamissopimuksen keskeisiä määräyksiä ei ole merkittävästi muutettu mainitun perustamissopimuksen tultua voimaan ja että ne on saatettava ajan tasalle. Ne kannattavat näin ollen ajatusta jäsenvaltioiden hallitusten edustajien konferenssista, joka olisi kutsuttava koolle mahdollisimman pian.

45. Espanjan kuningaskunnan sekä Ison-Britannian ja Pohjois-Irlannin yhdistyneen kuningaskunnan julistus

Perussopimuksia sovelletaan Gibraltariin Euroopassa sijaitsevana alueena, jonka suhteista ulkovaltoihin huolehtii jäsenvaltio. Tämä ei aiheuta muutoksia asianomaisten jäsenvaltioiden asemaan.

46. Ison-Britannian ja Pohjois-Irlannin yhdistyneen kuningaskunnan julistus kansalaisten määritelmästä

Perussopimusten ja Euroopan atomienergiayhteisön perustamissopimuksen sekä näistä sopimuksista johdettujen säädösten tai säädösten, jotka pysyvät näiden sopimusten mukaisesti voimassa, osalta Yhdistynyt kuningaskunta antaa uudelleen 31 päivänä joulukuuta 1982 antamansa julistuksen kansalaisten määritelmästä kuitenkin niin, että maininta 'British Dependent Territories Citizens' korvataan maininnalla 'British overseas territories citizens'.

47. Espanjan kuningaskunnan julistus kansalaisten määritelmästä

Espanja toteaa, että Euroopan unionin toiminnasta tehdyn sopimuksen [I-10 artiklan] mukaisesti jokainen jäsenvaltion kansalainen on unionin kansalainen. Espanja panee niin ikään merkille, että Euroopan unionista tehdyn sopimuksen ja Euroopan yhteisön perustamissopimuksen muuttamisesta tehdyn sopimuksen heijastamassa Euroopan integraation nykytilanteessa ainoastaan jäsenvaltioiden kansalaisilla on unionin kansalaisuuteen kuuluvat erityiset oikeudet, jollei unionin oikeudessa nimenomaisesti toisin säädetä. Tässä yhteydessä Espanja huomauttaa lopuksi, että Euroopan unionista tehdyn sopimuksen [I-20 ja I-46 artiklan] mukaisesti Euroopan parlamentti edustaa tällä hetkellä unionin kansalaisia.

48. Ison-Britannian ja Pohjois-Irlannin yhdistyneen kuningaskunnan julistus äänioikeudesta Euroopan parlamentin vaaleissa

Yhdistynyt kuningaskunta panee merkille, ettei [I-20 artiklan] eikä perussopimusten muiden määräysten tarkoituksena ole muuttaa äänioikeuden perustaa Euroopan parlamentin vaaleissa.

49. Belgian kuningaskunnan julistus kansallisista parlamenteista

Belgia toteaa, että Belgian perustuslain nojalla sekä edustajainhuone (Chambre des Représentants) ja liittovaltion parlamentin ylähuone (Sénat du Parlement fédéral) että kieliyhteisöjen ja alueiden parlamentaariset edustajakokoukset toimivat unionin kulloinkin käyttämän toimivallan mukaisesti joko kansallisen parlamenttijärjestelmän osina tai kansallisen parlamentin kamareina.

50. Latvian tasavallan ja Unkarin tasavallan julistus yhteisen rahan nimen kirjoitusasuusta perussopimuksissa

Vaikuttamatta perussopimuksissa tarkoitetun, seteleissä ja metallirahoissa käytettävän Euroopan unionin yhteisen rahan yhdenmukaiseen kirjoitusasuun Latvia ja Unkari ilmoittavat, että yhteisen rahan nimen kirjoitusasu, perussopimusten latvian- ja unkarinkielisessä tekstissä käytetyt johdokset mukaan lukien, ei vaikuta latvian ja unkarin kielten voimassa oleviin nykyisiin sääntöihin.

51. Puolan julistus perusoikeuskirjasta

Perusoikeuskirja ei vaikuta millään tavoin jäsenvaltioiden oikeuteen antaa lainsäädäntöä julkisen moraalin, perheoikeuden taikka ihmisarvon suojaamisen ja henkilöiden fyysisen ja moraalisen koskemattomuuden kunnioittamisen alalla.
