



**A BASIC “CONSTITUTIONAL” TREATY
FOR THE EUROPEAN UNION**

8 June 2003



Article 1. What the European Union Stands For.

The European Union aims to constitute and secure an area of freedom, peace, cooperation and the rule of law for its people.

Article 2. Membership.

(i) Any European State that respects the principles set out below in paragraphs (ii) and (iii) may apply to become a member of the Union.

(ii) The applicant state must give evidence of its respect for fundamental human rights, respect the principles of a free and open market in the organisation of its economy and observe democratic principles in the organisation of its political life.

(iii) Evidence of respect for fundamental human rights will be provided by the applicant being a member in good standing of the Council of Europe and a signatory of its Convention for the Protection of Human Rights and Fundamental Freedoms.

(iv) Detailed arrangements for membership shall be based on the terms and conditions accepted by existing members, subject to periods of adjustment needed on both sides and any special conditions or exceptions that may be justified by the circumstances of the applicant.

(v) Any member state may leave the Union at any time according to its own constitutional procedures. In this case, the Union and the seceding state shall maintain in force the free exchange of goods, services, capital and free movement of people unless the seceding state introduces a different policy in regard to the four freedoms with third countries.

(vi) A member state may have its membership suspended if the European Court of Human Rights determines that it is in material and persistent breach of the European Convention on Human Rights.

Article 3. The Protection of Rights.

(i) The responsibility for protecting the rights that reside with their peoples rests, in the first instance, with the Member States and their constitutions. In addition, if domestic remedies have been exhausted, their peoples may call upon the protections offered by the European Convention of Human Rights of the Council of Europe to which their states are signatories.

(ii) The European Union and its institutions hereby accede to the European Convention of Human Rights and its procedures.

(iii) If a Union law or measure is found to be incompatible with the European Convention of Human Rights by the Court of Human Rights the law or measure shall be suspended.



Article 4. The Internal Tasks of the Union.

The Union and its Member States undertake the following tasks within the Union:

(i) To ensure the free movement of persons, goods, services and capital without regard to nationality, the freedom of where to establish a business and the freedom for people to choose where to live in the Union.

(ii) To permit the free use and full convertibility of currencies within the Union while supporting the duties of the European Central Bank to maintain price stability in the area where Member States have adopted the Euro as their currency.

(iii) To submit their economic policies to mutual examination, to avoid excessive government deficits, to prohibit borrowing from the European Central Bank by official bodies, and to conduct economic policies favourable to an efficient allocation of resources so as to achieve sustainable and non-inflationary growth.

(iv) To secure free competition by implementing effective rules against restrictive practices and by protecting it against distorting action of state institutions.

(v) To secure the quality of the environment.

Article 5. The External Tasks of the Union.

(i) The Member States undertake to treat their external policies as a matter of mutual concern.

(ii) The external policies embraced by this undertaking include foreign and security policy including measures against international terrorism, defence policy, aid policies, measures against international crime, global environmental policy and immigration policies.

(iii) In carrying out these policies the Union is to work within the rules established by the United Nations, the World Trade Organisation and other relevant international organisations and will contribute to the building of international rules of good behaviour and the rule of law.

(iv) Individual Member States may maintain their own membership in such international organisations and are free to join with non members of the Union in other international alliances that contribute to the external tasks of the Union.

(v) In its common trade policy the Union shall always strive for the free movement of goods, services and capital. The policy will be mandated by the Member States under the qualified majority procedure set out in Art. 9 below.

Article 6. The Scope and Form of Legislation.

(i) In carrying out its tasks, the Union will not legislate in cases where the public policy concerned can be carried out by Member States acting individually or in small groupings or where methods of



coordination can be used that do not require the passage of Union laws.

(ii) The laws of the Union shall provide general legislative frameworks, leaving to the Member States the choice and form of methods for achieving results with comparable effect (directives). The Union will also be able to enact measures that are directly applicable in all Member States (regulations).

(iii) The laws of the Union will apply only to cross border transactions between members, will give priority to mutual recognition of laws in the Member States and shall not pre-empt Member State legislation in the same field other than on matters agreed in respect of external trade policy.

(iv) The Union will have no powers to interfere with the freedom of contract unless such contracts restrain competition.

(v) Matters concerning the tax systems of Member States or the rates and levels at which taxes are levied are to be decided within each Member State and not by the Union or its institutions.

(vi) In cases where Union laws are envisaged they shall be prepared and implemented according to the following procedures:

Any proposed law with a significant economic effect (including those envisaged as part of an international treaty or commitment) must be supported by an assessment of its impact and a justification of why Union law rather than other methods of achieving comparable results including market remedies has to be chosen .

The assessments must be made publicly available in time for independent peer review as well as democratic scrutiny.

The assumptions on which the assessments have been carried out must also be made public so that the assessments can be reproduced in the scrutiny process.

Article 7. Institutions.

(i) The European Council.

The European Council composed of the heads of government or of state of the Member States is the highest body in the Union. It will set the direction of the internal and external policies in the Union, define the general political guidelines for the future development of the Union and supervise the Commission. It has the exclusive right to propose legislation at the request of a chamber of parliament and may veto laws passed by the Parliament.

The European Council may appoint a President for a period of office not to exceed four years and may also appoint High Representatives to assist it in carrying out its tasks.

(ii) The Council of Ministers.

The Council of Ministers shall ensure that the objectives set out by the European Council are attained.



Its members shall work with the Commission in helping to prepare draft legislation.

It shall meet in different formations depending on the subject and each formation will consist of one minister or senior civil servant from each member state authorised to commit the government of that member state.

The mutual review of the general economic policies of the Member States shall be ensured by the Ministers of Finance or of Economics.

A General Affairs Council shall ensure together with the Commission that legislative preparation follows the procedures set out in Art. 6 above.

(iii) The Commission.

The Commission shall be fully associated with all activities of the Council in carrying out the general directions for the Union established by the European Council. More specifically it shall perform the following functions:

It will help coordinate the departments and agencies of the governments of Member States in carrying out the internal tasks of the Union.

It may be charged by the Council to act for the Union in carrying out selected external policy functions, such as negotiating international trade or environmental agreements. In such cases it will have a duty to act impartially on behalf of all Member States in carrying out its mandate.

It will have a duty to ensure that the procedures for the making of Union laws (Art. 6) are followed, and shall ensure that systems are in place to monitor the effects of Union laws and to measure their results.

In respect of the expenditures of the Union it shall have a duty to work with the Member States to ensure that expenditures go to the purposes intended. If it cannot be so assured it has a duty to suspend those expenditures.

Each member state shall have the right to nominate a Commissioner for either a senior or junior post in the College of Commissioners. Special consideration is to be given to the representation of the nominees of smaller Member States in the senior posts. Member States may combine in order to make a joint nomination. No Commissioner shall be appointed for longer than two four year terms. In the event of incompetence or malfeasance the European Council may dismiss a Commissioner. The College shall agree on its own head from among its senior members.

(iv) Parliament

The European Parliament comprises two chambers, the directly elected Assembly (First Chamber), and the Chamber of Parliamentarians (Second Chamber). The Second Chamber is a body composed of representatives of national parliaments determined by lot.

The First and Second Chambers shall each have the right of taking the legislative initiative by requesting the Council to submit a proposal.



The two chambers together shall have the right to summon Commissioners and heads of Union agencies, including the President of the ECB in order to hold hearings or inquiries into their actions.

The Second Chamber shall ensure that national parliaments receive all proposals for Union legislation in sufficient time to hold their governments to account for their role in decisions to be taken in the Council and to ensure that the law making procedures set out in Art.6 above of the Union have been observed.

The Second Chamber shall also help oversee the financial procedures set out in Art. 8 below and may suspend expenditures on particular items in the event of adverse audit findings by a national authority or Union institution.

The Second Chamber shall have the power to block legislation.

Following Council acceptance of the request and the proposal of a bill, the First Chamber may approve, amend within the scope of the legislation, or block the proposed law. Any amendments shall have been assessed under the procedures set out in Art. 6 above.

The First Chamber shall not block laws proposed by the Council that simplify or annul previous Union laws.

The membership of the First Chamber shall not exceed 500 and constituencies shall be approximately of equal size except that each member state shall have at least two members. Elections shall take place every four years. A Union-wide method of election may be proposed by both Chambers jointly subject to approval by the Member States according to their own constitutional procedures.

(v) The European Central Bank.

The primary objective of the European Central Bank shall be to maintain price stability in the eurozone (and more specifically to keep the harmonised index of consumer prices published by the European Statistical Office between zero and two percent per annum). In carrying out this task it shall not seek or take instructions from any other institution or person. In particular it shall not take instructions with regard to the exchange rate.

The members of the Governing Board shall have tenure up to the statutory retirement age. They are accountable for achieving the constitutional objective of price stability. If the inflation rate of the Euro exceeds 3 per cent per annum over a period of four years, the Governing Council may be dismissed by the two chambers of Parliament acting jointly. .

(vi) Courts.

The European Court of Justice supported by the Court of First Instance shall interpret the laws of the Union with the exception of those involving the interpretation of human rights or the distribution of competencies between the Union and the Member States. Justices shall serve one eight year term without reappointment so as to guarantee their independence.

The European Court of Human Rights shall hear all cases involving human rights aspects of EU laws and institutions in line with Article3 above.



A European Court of Review shall hear all cases potentially involving the distribution of competencies between the Union and the Member States. It shall be composed of justices designated by the highest courts of the Member States for a maximum period of 6 years. No person shall be a judge unless he or she is at the same time a judge of a supreme court of a member state. Any citizen, member state or institution of the Union may raise a case in the Court or request a preliminary ruling in advance of an actual case. The Court shall decide whether or not to accept a case or a request for a preliminary ruling.

An Independent Competition Authority shall enforce the law against restrictive practices provided for in Article 4(iv).

A Court of Auditors shall ensure that the processes of the institutions of the Union and of the Member States provide for the auditing of the expenditures and laws of the Union. These processes shall ensure that expenditures are for the purposes intended and provide value for money as well as measure whether the laws of the Union achieve the purposes intended within the costs intended. The Court shall carry out its own audits as a check on procedures.

Article 8. The Financing of the Union.

(i) The annual expenditures of the Union shall be decided within the limits established by a five year annual framework. The limit on the total shall be expressed as a proportion of the total GDP of the Union.

(ii) The Union shall have no power to tax. Funding shall be provided by Member States in accordance with their relative capacity to pay as measured by the size of their gross public expenditures.

(iii) The annual budget shall be in balance. Its composition shall be decided by the Council subject to the approval of the European Parliament.

(iv) Funding levels for the five year frameworks shall be decided by the Member States, subject to the approval of appropriations by their parliaments.

Article 9. Taking Decisions in the Union.

In carrying out the tasks and duties contained in this treaty the following voting procedures shall apply:

(i) The European Council and Council of Ministers will act by a qualified majority of two thirds of the Member States accounting for two thirds of the population of the Union with the following exceptions: the financing of the Union where Art.8 above will apply; external policies, other than trade, where decisions shall be taken by consensus.

(ii) As a further exception to these general rules, any member state may claim in all respects other than trade that a decision is against its vital national interests. In this case it may opt out from the decision if such action is supported by a majority of its voters in a referendum.



(iii) Each chamber of the European Parliament shall take decisions by a simple majority of their membership.

(iv) Nothing in the rules and procedures set out above shall prevent the Union associating non-Member States with particular areas of policy. In addition, nothing shall prevent Member States forming more closely cooperating non-exclusive partnerships of varying sizes for different purposes. Union institutions may not be involved in such arrangements. However the European Council and the Commission must be kept fully informed.

Article 10. Final Provisions.

(i) Any citizens of the Member States of the Union may make a complaint of mal-administration by a Union institution to an Ombudsman appointed by the European Parliament.

(ii) A qualified minority of the national parliaments (one third) or of the population of the European Union (one quarter of one percent) may petition for a referendum on any law or act of the Union that in their opinion violates the procedural, institutional or substantive limits established by this treaty and may also petition for the repatriation of any powers granted under this treaty. The result of a referendum shall be binding when supported by a two thirds majority of voters in a majority of Member States.

(iii) Any increases to the limits of the financial framework of the Union (expressed as a proportion of the GDP of the Union, Art.8 above) shall require the support of a simple majority of voters in each of the net contributing Member States.

(iv) If, in two thirds of the national parliaments of the Member States there is a vote in favour of amending a provision of this treaty, an inter-parliamentary conference of national parliaments shall be called to draft amendments. The amendments shall enter into force after being ratified in each member state in accordance with their constitutional requirements.

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