

## Passerelle clauses

New ‘passerelle’ clauses<sup>1</sup> allow, at a later date,

- for decision-making in the Council to be altered from unanimity to qualified majority, or
- for the legislative procedure to be altered from a special one to the ordinary one with qualified majority voting and co-decision, or
- for the submission of additional policy “areas” to QMV voting or to the ordinary legislative procedure

	<b>New basis in the Constitution</b>	<b>Subject</b>	<b>Remarks</b>	<b>Decision by European Council or Council</b>	<b>Changes or insertions of articles, chapters, titles in the new amended treaties</b>
1	Article I-40(7), III-300(3)	CFSP	Decision of the European Council authorising the Council to act by a qualified majority in the area of CFSP  Note: This does not apply to decisions having defence or defence implications	Unanimity in the European Council	To be inserted into Article 17(3) TEU
2	Article I-55(4)	Multiannual financial framework	Legislative act shall lay down the multiannual financial framework  European Council may authorise the Council to act by qualified majority	Unanimity in the European Council	To be inserted into Article 270bis(2.2) TFU (TEC)
2a	Article III-269(3)	Judicial cooperation in civil matters relating to family law	Council acts unanimously to establish measures concerning family law with cross-border implications. But it may decide to submit certain aspects of family law with cross-border implications to the ordinary legislative procedure  NEW in the 2007 Treaty: Use of this passerelle can be vetoed by a national parliament	Unanimity in the European Council	To be inserted into Article 69D (4, 2nd subpar.) TFU (TEC) *

<sup>1</sup> The passerelle III-269(3) (number 2a) is not new – v. current Treaty Articles 65, 67 TEC

\* The protocols on the position of the United Kingdom and Ireland and on the position of Denmark are amended but remain in force

3	Article III-270(2d)	Judicial co-operation in criminal matters	<p>Harmonisation of procedural criminal law</p> <p>Council can add further aspects of criminal procedural laws to the list of those laws which can/should be harmonised</p>	Unanimity in the Council	To be inserted into Article 69E(2d) TFU (TEC) *
4	Article III-271(1.3)	Judicial co-operation in criminal matters	<p>Harmonisation of substantive criminal laws (definition of crimes and sanctions)</p> <p>Council may identify other areas of serious crimes with cross-border dimension which should be harmonised</p>	Unanimity in the Council	To be inserted into Article 69F(1, last subpar.) TFU (TEC) *
5	Article III-271(2)	Judicial co-operation in criminal matters	<p>Harmonisation of substantive criminal laws (definition of crimes and sanctions)</p> <p>To ensure the effective implementation of other Union policies, legislative acts may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned</p> <p>Note: This can also be considered as a general “flexibility” clause (see note at B.I.18)</p> <p>Note: This paragraph also reflects the new jurisdiction of the ECJ regarding Community competence in criminal matters</p>	QMV or unanimity in the Council	To be inserted into Article 69F(2) TFU (TEC) *
6	Article III-274(4)	Judicial co-operation in criminal matters	<p>Competences of the European Public Prosecutor</p> <p>The European Council may decide to extend the powers of the European Public Prosecutor's Office</p>	Unanimity in the European Council	To be inserted into Article 69I(4) TFU (TEC) *
7	Article III-422(1)	Enhanced cooperation	- The Council can decide to act by QMV instead of unanimity in the frame	Unanimity in the Council	To be inserted into Article

		See also B.III-38	of enhanced cooperation  - The Council can decide that the ordinary legislative procedure shall apply (instead of a special procedure)  Note: This applies also to enhanced cooperation in CFSP (but not to decisions having military or defence implications)		280H(1-2) TFU (TEC) *
8	Article IV-444 (1-2)	Simplified Treaty Revision - General passerelle	- The European Council can authorise the Council to decide by QMV instead of unanimity  Note: This applies also to CFSP (see also I-40(7)), but not to CSDP  - The European Council may decide that the ordinary legislative procedure applies (instead of a special procedure)  Note: This does not apply to CFSP and CSDP, because legislative acts cannot be adopted in these areas (I-40(6))	Unanimity in the European Council Note: veto right of national parliaments	To be inserted into Article 33(3) TEU

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