

Decisions by qualified majority voting in new or extended legal bases

‘They decided that the document should be unreadable. If it is unreadable, it is not constitutional, that was the sort of perception. Where they got this perception from is a mystery to me. In order to make our citizens happy, to produce a document that they will never understand! But, there is some truth [in it]. Because if this is the kind of document that the IGC will produce, any Prime Minister – imagine the UK Prime Minister – can go to the Commons and say “Look, you see, it's absolutely unreadable, it's the typical Brussels treaty, nothing new, no need for a referendum”. Should you succeed in understanding it at first sight there might be some reason for a referendum, because it would mean that there is something new.’

Giuliano Amato

(former Italian prime minister and vice-chairman of the Convention which drew up the EU Constitution)
recorded by Open Europe, London Centre for European Reform, 12 July 2007

	New basis in the Constitution	Subject	Remarks	Decision by European Council or Council	Changes or insertions of articles, chapters, titles in the new amended treaties
1	Article I-9 (III-325(6,8))	Accession to the ECHR	Decision of the Council to conclude an agreement for the Union’s accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms	Council	To be inserted into Article 6(2) TEU
2	Article I-24(4)	Establishment of list of Council configurations	Decision establishing the list of Council configurations, other than those of the General and Foreign Affairs Councils	European Council	To be inserted into Articles 9C(6) TEU and 201ter TFU (TEC)
3	Article I-32(5)	Committee of the Regions Economic and Social Committee	The rules governing the nature of their composition shall be reviewed at regular intervals by to take account of economic, social and demographic developments - Decision of the Council	Council	To be inserted into Article 256bis(1) TFU (TEC)
4	Article I-47(4)	Citizens' initiative	At least one million citizens may ‘invite’ the Commission to submit proposals for a legal act. Legislative acts lay down detailed rules	Council	To be inserted into Article 8B(4) TEU

5	Article I-54(4)	Own resources system	Legislative act shall lay down implementing measures for the Union's own resources system	Council	To be inserted into Article 269(last subpar.) TFU (TEC)
6	Article I-60(2)	Withdrawal from the Union of a Member State	Agreement to withdraw to be negotiated and concluded in accordance with Article III-325(3-6) by Council decision	Council	To be inserted into Article 35(2) TEU
7	Article III-122	Services of general economic interest	Legislative acts establish principles and conditions under which services of general economic interest shall operate	Council	To be inserted into Article 14 TFU (TEC) and into a special protocol
8	Article III-127	Diplomatic and consular protection	Legislative act may establish measures necessary to facilitate such protection	Council	To be inserted into Article 17(ter) TFU (TEC)
9	Article III-160	Fight against terrorism (by financial means)	Legislative acts define administrative measures for capital movements and payments, such as the freezing of funds, financial assets or economic gains of natural or legal persons, groups or non-State entities	Council	To be inserted into Article 67bis TFU (TEC)
10	Article III-167	State aid: Repeal of East German exemptions	Five years after the entry into force of the Constitution, the Council may decide to repeal the provision according to which state aid granted to East Germany is compatible with the internal market	Council	To be inserted into Article 87(2c) TFU(TEC)
11	Article III-176(par.1)	Intellectual property	Legislative acts to create European intellectual property rights to provide uniform intellectual property rights protection	Council Note: Language arrangements remain under unanimity (par.2)	To be inserted into Article 97b TFU (TEC)
12	Article III-180	Economic policy: Energy	New competence proposed by the 2007 Treaty in the area of economic policy : Measures in case of severe difficulties in the supply of certain products: A reference to the spirit of	Council	To be inserted into Article 100(1) TFU (TEC)

			solidarity between Member States and to the particular case of energy will be inserted – decision of the Council		
13	Article III-194(1 a-b)	Eurozone : Strengthened budgetary and economic coordination	Council decides measures for Eurozone Member States to strengthen the coordination and surveillance of their budgetary discipline and to set out economic policy guidelines for them	QMV Note: Euro members will have no veto, non-Euro members no vote	To be inserted into Article 114(1 a-b) TFU (TEC)
14	Article III-196(1-2)	Eurozone members: Common representation in international organisations	Council decides on common positions on matters of particular interest for economic and monetary union within international financial institutions such as the IMF, World Bank, etc. and at international conferences.	Council Note: Euro members will have no veto, non-Euro members no vote	To be inserted into Article 115bis(1-2) TFU (TEC)
15	Articles III-233(1d), III-234	Environment Climate change	New competence proposed by the 2007 Treaty in the area of environment : Replacement of III-233(1d) by adding ‘....., and in particular combating climate change.’	Council Note: Unanimity remains for measures affecting the choice between different energy sources and energy supply – but a passerelle gives the possibility of moving to qmv	To be inserted into Article 174, TFU (TEC)
16	Article III-243	Transport: Repeal of East German exemptions	Five years after the entry into force of the Constitution, the Council may decide to repeal the provision allowing measures compensating for the economic disadvantages caused by the division of Germany	Council	To be inserted into Article 78 TFU (TEC)
17	Article III-254(2)	European Space Policy	Legislative acts shall establish a European space programme	Council	To be inserted into Article 172b(2) TFU (TEC)

18	Article III-256(2-3)	Energy policy	Legislative acts shall ensure energy market, energy supply, promote efficiency, energy saving and new and renewable forms of energy	Council Note: Unanimity remains when measures are of fiscal nature	To be inserted into Article 176A(2) TFU (TEC)
19	Article III-263 Articles 66 TEC	Administrative cooperation in the area of criminal matters	Council regulations to ensure administrative cooperation in the entire area of freedom, security and justice Note: Based on Article 67 TEC, decision-making has moved from unanimity to QMV. However, cooperation in criminal matters has not been subject to the relevant TEC provisions but only to the 3 rd , intergovernmental, pillar, for which unanimity is required	Council	A consequence of the insertion of the area of cooperation in criminal matters into the TFU(TEC)
20	Article III-265(1d)	Border controls	Legislative acts establish a general integrated management system for external EU borders	Council	To be inserted into Article 69(2d) TFU (TEC)*
21	Article III-267(4)	Immigration: Integration of immigrants	Legislative acts to promote the integration of third country nationals (no harmonisation of laws)	Council	To be inserted into Article 69B(4) TFU (TEC)*
22	Article III-269(1-2)	Judicial co-operation in civil matters	Legislative acts for <i>general approximation</i> of procedural and substantive civil laws of the Member States (1) Legislative acts for access to justice, alternative methods of dispute settlement, training of the judiciary and judicial staff (2) Note: Articles 65, 67(5) TEC foresee QMV, but III-269 widens Union	Council Note: Unanimity remains when legislative acts concern family law – but a passerelle gives the possibility	To be inserted into Article 69D(1-2) TFU (TEC) *

			competence by explicitly mentioning the approximation of laws (1) and by widening the list in paragraph 2	of moving to qmv	
23	Article III-270(2)	Judicial cooperation in criminal matters	Harmonisation of <i>procedural</i> criminal law Note: Article 31(1e) TEU allows approximation of <i>substantive</i> criminal law and penalties; Article III-270(2) also refers to <i>procedural</i> criminal law	Council Note: Passerelle in paragraph 2d can add further aspects of criminal procedure to the list QMV, but emergency brake in paragraph 3 gives Member States the possibility of veto	To be inserted into Article 69E(2) TFU (TEC) *
24	Article III-271(1)	Judicial cooperation in criminal matters	Definition of crimes and sentences: Legislative acts to lay down minimum rules concerning the definition of criminal offences and sanctions Note: The scope of Article 31(1e) TEU is herewith enlarged. Furthermore, III-272(2) (flexibility clause) allows general approximation if needed	Council QMV, but emergency brake in paragraph 3 gives Member States possibility of veto	To be inserted into Article 69F(1) TFU (TEC) *
25	Article III-272	Judicial cooperation in criminal matters	Legislative acts to support crime prevention (no harmonisation of laws)	Council	To be inserted into Article 69G TFU (TEC)*

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

26	Article III-273(1)	Judicial cooperation in criminal matters	Eurojust: Legislative acts to determine arrangements for evaluation of Eurojust's activities	Council	To be inserted into Article 69H(1) TFU (TEC) *
27	Article III-274(1)	Judicial cooperation in criminal matters	European Public Prosecutor: Legislative act establishes a European Public Prosecutor's Office responsible for investigating, prosecuting and bringing to judgment criminals	Council Note: The Passerelle in paragraph 4 can extend the Prosecutor's powers	To be inserted into Article 69I(1) TFU (TEC) *
28	Article III-276(2)	Judicial cooperation in criminal matters	Europol: Legislative acts determine arrangements for scrutiny of Europol's activities	Council	To be inserted into Article 69J(2) TFU (TEC) *
29	Article III-278(4c,d)	Health	Legislative acts shall set high standards for medical products and measures for monitoring, early warning and combating of serious cross-border threats to health	Council	To be inserted into Article 176E(4) TFU (TEC) *
30	Article III-278(5)	Health	Legislative acts establish incentive measures to protect human health, to combat major health scourges, and to protect public health regarding tobacco and alcohol abuse	Council	To be inserted into Article 176E(5) TFU (TEC) *
31	Article III-281(2)	Tourism	Legislative acts to complement Member State actions to promote competitiveness of Union tourism undertakings (no harmonisation of laws)	Council	To be inserted into Article 176G(2) TFU (TEC) *
32	Article III-282(3a)	Sport	Legislative acts shall establish incentive measures for the promotion of sports (no harmonisation of laws)	Council	To be inserted into Article 176B(1-2,4) TFU (TEC) *
33	Article 284(2)	Civil protection	Legislative acts shall encourage cooperation to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters (no harmonisation of laws)	Council	To be inserted into Article 176H(2) TFU (TEC) *

34	Article III-285(2)	Administrative cooperation	Legislative acts shall support the efforts of Member States to improve their administrative capacity to implement Union law (no harmonisation of laws)	Council	To be inserted into Article 176I(2) TFEU (TEC) *
35	Article III-300(2b)	CFSP: QMV following proposals from the FAM/High Representative	The Council can act by QMV in the field of CFSP on a proposal from the Union Minister for Foreign Affairs (following a specific request to him or her from the European Council)	Council	To be inserted into Article 17(2, 2 nd indent) TEU
36	Article I-41(3), III-311	European Defence Agency	Council decides on the Agency's statute, seat and operational rules Note: The European Defence Agency has already been established by Council decision on 16.06.2004	Council	To be inserted into Article 27(3) TEU
37	Article III-312 (2-4)	CSDP: Permanent structured cooperation	Council decides to establish permanent structured cooperation and determine the list of participating Member States Note: The Constitution also allows enhanced cooperation in CSDP (B-III-37)	Council Note: For decision <i>within</i> the frame of structured cooperation: QMV or unanimity among the participating states	To be inserted into Article 31(2-4) TEU
38	Article III-315(2)	Common commercial policy	Legislative acts to define the framework for implementing the common commercial policy	Council	To be inserted into Article 188 C(2) TFEU (TEC)
39	Article III-320	CFSP: Urgent financial aid	Council decides on urgent financial aid when the situation in a third country requires urgent financial assistance from the Union	Council	To be inserted into Article 188I TFEU (TEC)

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40	Article III-321(3)	Humanitarian aid	Legislative acts to define the framework within which the Union's humanitarian aid operations shall be implemented	Council	To be inserted into Article 188J(3) TFEU (TEC)
41	Article III-321(5)	Humanitarian aid: European Volunteer Corps	Legislative acts to define the rules and procedures for the operation of the Volunteer Corps	Council	To be inserted into Article 188J(5) TFEU (TEC)
42	Article III-329(2)	Solidarity clause	Arrangements for implementation of the solidarity clause shall be decided by the Council acting on a joint proposal by the Commission and the Union Minister for Foreign Affairs	Council Note: Unanimity where decisions have defence implications	To be inserted into Article 188R TFEU (TEC)
43	Article III-398	European Union Administration	Legislative acts to establish provisions for an open, efficient and independent European administration Note: Hitherto staff regulations are laid down by Council regulation on the basis of Article 283 TEC (III-427). Article III-398 goes beyond this and constitutes a legal base for adopting legislative acts	Council	To be inserted into Article 254bis(2) TFEU (TEC)