

THE LISBON TREATY – A SHORT INTRODUCTION¹

1. With the Treaty of Lisbon almost all innovations resulting from the 2004 IGC (the Constitutional Treaty), including the protocols and declarations, will be integrated into or annexed to the *Treaty on European Union* (TEU) or the (renamed) *Treaty on the Functioning of the European Union* (TFEU).

2. The following exceptions should be mentioned:

- The word “Constitution” will not be used;
- The “Union Foreign Affairs Minister” will be called the “High Representative of the Union for Foreign Affairs and Security Policy”;
- The initially proposed terms “laws” and “framework laws” will be abandoned;
- No article will explicitly mention the symbols of the Union, such as the flag, anthem and currency (although these symbols will continue to be used);
- The article clearly stating the primacy of EU law (I-6 of the Constitution) is abandoned in favour of a Declaration referring to the existing case law of the Court of Justice, which established the principle of primacy.

3. Furthermore,

- the changes in the EU’s legal order as proposed by the rejected Constitution have been inserted into the *Treaty on European Union* (TEU) and into the *Treaty Establishing the European Community* (TEC) by the Treaty of Lisbon.
- the *Lisbon Treaty* amends the *Treaty on European Union* (TEU) and the *Treaty Establishing the European Community* (TEC);
- the TEU will keep its present title, but the TEC will be renamed the “*Treaty on the Functioning of the European Union*” (TFEU),
- the word “Community” is replaced by the word “Union” throughout the treaties, the former and the latter both having a single legal personality,

4. The entire (new) “Union” will take over legal personality from the Community. The (1st, 2nd and 3rd) pillar structure of the present treaties will be abolished and all Union policies will either actually or potentially be brought within the ambit of the communitarian legal order because:

¹ The here mentioned Article numbers of the TEU and TFEU (as amended by the Lisbon Treaty) are those of the Consolidated Versions, according to the renumbering proposed by the Lisbon Treaty in the EU Official Journal as of 17 December 2007

- A new Article 47 (TEU) is inserted, stating that “*the Union shall have legal personality*”;
- Article 1, third paragraph, of the *Treaty on European Union* (TEU) states that “*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*”;
- The word “Community” is replaced by the word “Union” throughout the treaties, the latter also referring to the “European Union”;
- The two Treaties will have the same legal value, Article 1(3) TEU. (Up to now, Article 47 TEU has determined that the TEU is subsidiary to the TEC; henceforth Article 47 TEU will be replaced by Article 40 TEU, which only stipulates the subsidiarity of the Common Foreign and Security Policy (CFSP) as against the other competences laid down by the treaties);
- The new Title III on the institutions of the Union is inserted into the TEU and not into the TFEU (present TEC).

Throughout the text, (*) reads: *The Protocol integrating the Schengen Acquis into the framework of the EU, the Protocol on the application of certain aspects of Article 14 (internal market) of the Treaty establishing the European Community to the United Kingdom and to Ireland, the Protocol on the position of the United Kingdom and Ireland and the Protocol on the position of Denmark are amended but remain in force*

Number of Qualified Majority Voting (QMV) articles introduced, or of unanimity articles moved to QMV, by the different European treaties

SUMMARY OF QUALIFIED MAJORITY VOTING IN SUCCESSIVE EUROPEAN TREATIES²	
Treaty	Number of - QMV articles introduced or - unanimity articles moved to QMV
Treaty of Rome (plus extensions)	38
Single European Act	12
Maastricht (Treaty on European Union)	30
Treaty of Amsterdam	24
Treaty of Nice	46
EU Constitution	68³
Treaty of Lisbon	68⁴

² Source:

- The Bruges Group, <http://www.brugesgroup.com/mediacentre/comment.live?article=4056#footnote2>

- The Extension of Qualified Majority Voting from the Treaty of Rome to the European Constitution, House of Commons Library Research Paper 04/54, 7 July 2004

³ Source: Klaus Heeger, Comparison of the 2007 Lisbon Treaty with the earlier EU Constitution, EUWatch issue 8, October 2007

⁴ Source: Klaus Heeger, Comparison of the 2007 Lisbon Treaty with the earlier EU Constitution, EUWatch issue 8, October 2007

COMPARISON OF THE 2007 LISBON TREATY⁵ WITH THE REJECTED EU CONSTITUTION

NEW COMPETENCES OF THE UNION ACCORDING TO THE REJECTED “*TREATY ESTABLISHING A CONSTITUTION FOR EUROPE*” AND THE “*LISBON TREATY*” AS OF 17 DECEMBER 2007

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⁵ The Lisbon Treaty in its version dated 17 December 2007 is compared with the changes already proposed by the Treaty Establishing a Constitution for Europe

EXPLANATORY NOTES

The provisions in **BLACK** are the provisions proposed by the rejected EU Constitution which will be **MAINTAINED by the Lisbon Treaty**.

The provisions in **BLUE** are the provisions proposed by the rejected EU Constitution which will be **SCRAPPED/AMENDED by the Lisbon Treaty**.

The provisions in **RED** are the provisions proposed by the rejected EU Constitution to which further competences/provisions are **ADDED by the Lisbon Treaty**.

A. Tables of comparison

NEW UNION COMPETENCES

CONSTITUTION

LISBON TREATY

<i>Legislative competences (B.I)</i>	<i>Other competences (B.II-B.IV)</i>	<i>Total: (B.I-IV)</i>	<i>Legislative competences (B.I)</i>	<i>Other competences (B.II-IV)</i>	<i>Total: (B.I-IV)</i>
33	73	<u>106</u>	34 ⁶	72 ⁷	<u>106</u>

⁶ Compared to the Constitution, the new competence of “combating climate change” in the area of environment is added by the Lisbon Treaty (B.I.11)

⁷ Compared to the Constitution, the symbols (B.III.2a) and the flexibility clause applicable to CFSP (B.III.3a) are deleted in the Lisbon Treaty, whereas energy in the field of economic policy (B.III.16) is added by it

NEW DECISION-MAKING BY QUALIFIED MAJORITY (QMV)

CONSTITUTION

LISBON TREATY

<i>Existing legal bases - from unanimity to QMV (B.V.1)</i>	<i>New legal bases - from no legal base to QMV (B.V.2)</i>	<i>Total: (B.V)</i>	<i>Existing legal bases - from unanimity to QMV (B.V.1)</i>	<i>New legal bases - from no legal base to QMV (B.V.2)</i>	<i>Total: (B.V)</i>
20	48	<u>68</u>	19⁸	49⁹	<u>68</u>

⁸ Regarding the European Court’s competence in intellectual property rights protection, the Council shall continue to act by unanimity according to the 2007 Lisbon Treaty (B.V.1.16a). Furthermore, compared to the provisions of the Constitution, the Lisbon Treaty gives Member States a stronger “emergency brake” regarding the use of QMV in the field of social security of migrant workers (see B.V.1.3)

⁹ Whereas the Constitution foresaw QMV for the EU’s accession to the ECHR, unanimity is needed according to the Lisbon Treaty (see B.V.2.0). The new QMV legal bases in the Lisbon Treaty are “energy” in the field of economic policy (B.V.2.13) and “combating climate change” in the area of environment (B.V.2.16)

NEW “PASSERELLES”

CONSTITUTION

LISBON TREATY

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8 (-I¹⁰)

¹⁰ Judicial cooperation in civil matters relating to family law (a passerelle exists already now through current Articles 65, 67 TEC): The 2007 Lisbon Treaty proposes that the use of this passerelle can be vetoed by a national parliament (B.VI.2a)

B. Comparison between the rejected Constitution and the 2007 Lisbon Treaty

B.I) New or extended legal bases for adoption of legislative acts (~~laws regulations or framework-laws directives~~)

	Legal basis in the Constitution	Subject	Remarks	Decision-making	Changes or insertions of articles, chapters, titles in the new amended and consolidated TEU/TFEU
1	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	QMV	Article 11(4) TEU
2	Article I-51	Protection of personal data	Legislative acts lay down rules relating to the protection of individuals with regard to the processing of personal data Note: Although new 16 TFEU corresponds to current 286 TEC, its scope of application will be widened since it will also apply to those areas of JHA which will be effectively moved from the 3rd to the 1st pillar (cooperation in criminal matters).	QMV	Article 16 TFEU (current 286 TEC)
3	Article I-55(2)	Multiannual financial framework	Legislative act shall lay down the multiannual financial framework	Unanimity Note: Passerelle gives possibility of moving to QMV	Article 312(2) TFEU

4	Article III-122	Services of general economic interest	<p>Legislative acts establish principles and conditions under which services of general economic interest shall operate</p> <p>Note: New Protocol on Service of General Interests highlights “the essential role and the wide discretion of national, regional and local authorities in providing services of general economic interest as closely as possible to the needs of the users.”</p>	QMV	Article 14 TFEU (current 16 TEC)
5	Article III-125(2)	Free movement of EU citizens	<p>Legislative acts for the free movement of citizens concerning passports, identity cards, residence permits, social security or protection</p> <p>Note: Current Article 18(3) TEC excludes decision-making on passports, identity cards, residence permits or to social security or social protection</p>	Unanimity	Article 21 TFEU (current 18 TEC)
6	Article III-127	Diplomatic and consular protection	Legislative act may establish measures necessary to facilitate such protection	QMV	Article 23(last par.) TFEU (current 20 TEC)
7	Article III-152	Customs cooperation	<p>Legislative acts shall establish measures to strengthen customs cooperation between Member States and between them and the Commission</p> <p>Note: The scope of application has been widened because current 135 TEC does not concern national criminal law or the national administration of justice. This exclusion will be deleted</p>	QMV	Article 33 TFEU (current 135 TEC)
8	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	QMV	Article 75 TFEU (current 60 TEC)

9	Article III-176	Intellectual property	Legislative acts to create European intellectual property rights to provide uniform intellectual property rights protection Legislative act to establish language arrangements	QMV Unanimity	Article 118 TFEU
10	Article III-191 (1-3,5)	Use of the Euro	Legislative acts open the general possibility of laying down measures for the <i>use</i> of the Euro Note: Current Article 123(4) TEC (which will be repealed) only refers to legislative acts “necessary for the rapid <i>introduction</i> of the ECU”	QMV	Article 133 TFEU
11	Article III-233(1d)	Environment Climate change	New competence proposed by the 2007 Lisbon Treaty in the area of environment : Replacement of current 174(1d) TEC by adding “...., and in particular combating <u>climate change</u> .”	QMV Note: Unanimity for measures affecting choice between different energy sources and energy supply - but passerelle gives possibility of moving to QMV	Article 191 (1, 4 th indent) TFEU (current 174 TEC)
12	Article III-251(4)	European research area	Legislative acts shall establish measures for the implementation of the European research area Note: Although current articles 163, 166 TEC already foresee QMV decision making in the area of research, an entire European research <i>area</i> is now proposed under new 182 TFEU	QMV	Article 182 (5) TFEU (current 163, 166 TEC)
13	Article III-254(2)	European space policy	Legislative acts shall establish a European space policy	QMV	Article 189(2) TFEU
14	Article III-256(2-3)	Energy policy	Legislative acts to ensure an energy market and energy supply; to promote efficiency, saving and new and renewable forms of energy	QMV Note: Unanimity when measures are of fiscal nature	Article 194 (2) TFEU

			Note: Such measures shall not affect Member States' rights to determine the conditions for exploiting energy resources, their choice between different energy sources and the general structure of their energy supply		
15	Article III-265(1d)	Border controls	Legislative acts to establish a general integrated management system for external borders	QMV	Article 77(2d) TFEU (current 62 TEC)*
16	Article III-267(4)	Immigration: Integration of immigrants	Legislative acts to promote the integration of third country nationals (no harmonisation of laws)	QMV	Article 79(4) TFEU (current 63 TEC)*
17	Article III-269(1-2)	Judicial co-operation in civil matters	<p>- Legislative acts for general <i>approximation</i> of procedural and substantive laws of the Member States (paragraph 1 (and 2))</p> <p>- Legislative acts for specific measures, such as those for access to justice, alternative methods for dispute settlement, training of the judiciary and judicial staff (paragraph 2)</p> <p>Note: Current articles 65, 67(5) TEC already foresee QMV, but new 81(1-2) TFEU widens Union competence by explicitly mentioning the approximation of laws (paragraph 1) and by enlarging the list of paragraph 2</p>	QMV Note: Unanimity when legislative acts concern family law- but a passerelle gives the possibility of moving to QMV	Article 81 (1-2) TFEU(current 65 TEC)*
18	Article III-270(2)	Judicial co-operation in criminal matters	<p>Harmonisation of <i>procedural</i> criminal law</p> <p>Note: Article 31(1e) TEU already allows approximation of <i>substantive</i> criminal law and penalties in certain criminal fields; but Article 82(2a-d) TFEU explicitly mentions <i>procedural</i> criminal law</p>	QMV Note: But emergency brake gives Member States possibility of veto Note: Passerelle in paragraph 2d can add further aspects of procedural criminal law to the list	Article 82(2) TFEU* (current 31 TEU)

19	Article III-271(1)	Judicial co-operation in criminal matters	<p>Definition of <i>crimes and sentences</i>: Legislative acts to lay down minimum rules concerning the definition of criminal offences and the therefore foreseen sanctions</p> <p>Note: The scope of current Article 31(1e) TEU is herewith enlarged: New 83 TFEU will allow other areas of crime to be harmonised (par. 1.3 – “passerelle”) and general approximation of criminal law under certain circumstances (par. 2 – flexibility clause)</p>	QMV Note: But emergency brake in paragraph 3 gives Member States possibility of veto	Article 83(1) TFEU (current 31 TEU)*
20	Article III-272	Judicial co-operation in criminal matters	<p>Crime <i>prevention</i>: Legislative acts to support crime prevention (no harmonisation of laws)</p>	QMV	Article 84 TFEU*
21	Article III-273(1, last subpar.)	Judicial co-operation in criminal matters	<p>Eurojust: Legislative acts to determine also arrangements for evaluation of Eurojust’s activities</p>	QMV	Article 85 (1, last subpar.) TFEU (current 31 TEU)*
22	Article III-274(1)	Judicial co-operation in criminal matters	<p>European Public Prosecutor: Legislative act to establish a European Public Prosecutor’s Office responsible for investigating, prosecuting and bringing to judgment criminals</p> <p>Note: Passerelle in new Article 86(4) TFEU can extend the Prosecutor’s powers</p>	Unanimity	Article 86(1) TFEU*

23	Article III-276(2)	Police cooperation in criminal matters	Europol: Legislative acts determine arrangements for scrutiny of Europol's activities	QMV	Article 88(2, last subpar.) TFEU (current 30 TEC)*
24	Article III-278(5)	Health (human health)	Legislative acts shall establish (without harmonisation of laws) - <i>incentive</i> measures to protect and improve human health and to combat serious cross-border health scourges (new 168(5) TFEU)	QMV	Article 168 (5) TFEU (current 152 TEC)
25	Article III-278(4c, 4d, 5)	Health (public health)	Legislative acts shall establish - <i>measures</i> to protect public health regarding tobacco and alcohol abuse (new 168(5) TFEU; no harmonisation of laws); - <i>measures</i> concerning monitoring, early-warning of and combating cross border threats to health (new 168(5) TFEU; no harmonisation of laws); - <i>measures</i> setting high standards of quality and safety for <i>medicinal</i> products and devices for medical use (new 168(4c) TFEU)	QMV	Article 168 (4c and 5) TFEU (current 152 TEC)
26	Article III-281(2)	Tourism	Legislative acts to complement Member States' actions to promote competitiveness of Union tourism undertakings (no harmonisation of laws)	QMV	Article 195(2) TFEU
27	Article III-282(1-2, 3a)	Sport	Legislative acts to establish incentive measures for the promotion of sports (no harmonisation of laws)	QMV	Article 165 (1-3, 4) TFEU (current 149 TEC)

28	Article 284(2)	Civil protection	Legislative acts to encourage cooperation to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters (no harmonisation of laws)	QMV	Article 196(2) TFEU
29	Article III-285(2)	Administrative cooperation	Legislative acts to support the efforts of Member States to improve their administrative capacity to implement Union law (no harmonisation of laws)	QMV	Article 197(2) TFEU
30	Article III-315(2)	Common commercial policy	Legislative acts to define the framework for implementing the common commercial policy	QMV	Article 207(2) TFEU (current 133 TEC)
31	Article III-321(3)	Humanitarian aid	Legislative acts to define the framework within which the Union's humanitarian aid operations shall be implemented	QMV	Article 214(3) TFEU
32	Article III-321(5)	Humanitarian aid: European Volunteer Corps	Legislative acts to define the rules and procedures for the operation of the Volunteer Corps (for its establishment, see below B.II.8)	QMV	Article 214(5) TFEU
33	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. New 298 TFEU goes beyond this and constitutes a legal base for adopting legislative acts	QMV	Article 298(2) TFEU (current 283 TEC)
34	Article III-415	Combating financial fraud	Legislative acts shall lay down the necessary measures in the fields of prevention of and fight against fraud affecting the Union's financial interests	QMV	Article 325(4) TFEU (current 280 TEC)

			Note: The scope of application has been widened because current 280 TEC does not concern national criminal law or national administration of justice. This exclusion will be deleted		
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B.II) New institutions, bodies, offices, agencies and corps of the Union

	Legal basis in the Constitution	Subject	Remarks	Decision-making	Changes or insertions of articles, chapters, titles in the new amended and <u>consolidated</u> TEU/TFEU
1	Articles I-19, I-21	European Council - now officially an EU institution	<p>The European Council shall define the general political directions and priorities and shall not exercise legislative functions</p> <p>Note: The summit meetings have already been called the European Council since 1974. It was first mentioned in primary law in the TEU (Maastricht). From now on, it will be an official EU institution. Its acts or its “failing to act” will therefore be subject to review by the Court of Justice (new Articles 263 ff. TFEU)</p>		Article 13(1) TEU
2	Article I-22	European Council President	European Council elects its President for a term of two and a half years, renewable once	QMV	Article 15(5) TEU
3	Article I-28	Foreign Affairs Minister (FAM) To be renamed: High Representative of the Union for Foreign Affairs and Security Policy (HR)	European Council, with the agreement of the President of the Commission, appoints the Union Minister for FAM/HR	QMV	Article 18 TEU

4	Article I-30(3)	European Central Bank – now formally an institution	<p>The ECB becomes formally an institution of the Union</p> <p>Note: That clarification is missing in current Articles 7, 8 and 107 TEC and in I-19 of the EU Constitution (although it is clearly mentioned in I-30(3), so that the new version of Art.13(1) TEU is only a clarification as compared to the provisions of the Constitution)</p> <p>Note: Although the Court of Auditors is also mentioned in new Art.13(1) TEU and not in I-19 of the Constitution, Art. I-31 and current Art.7 TEC clearly state that it is an institution</p>		Article 13 (1) TEU
5	Article III-274(1)	European Public Prosecutor	<p>Legislative act establishes a European Public Prosecutor's Office in order to combat crimes affecting the financial interests of the Union</p> <p>The European Council may decide to extend the powers of the European Public Prosecutor's Office</p>	<p>Unanimity</p> <p>Unanimity</p>	Article 86(1) TFEU
6	Article I-41(3), III-311	European Defence Agency	<p>The Council decides on the Agency's statute, seat and operational rules</p> <p>Note: A European Defence Agency has already been established by Council decision on 16.06.2004</p>	QMV	Article 42(3) TEU
7	Article III-296(3)	European Foreign Service (European External Action Service)	Council decides on establishment of EFS, organisation and functioning	QMV	Article 27(3) TEU
8	Article III-321(5)	European Volunteer Corps (for	In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary	QMV	Article 214(5) TFEU

		humanitarian aid)	Humanitarian Aid Corps shall be set up (for new legislative basis, see above B.I.32)		
9	Article III-357	Judicial appointment panels to give opinion on judges	Council establishes the panel's operating rules and appoints its members	QMV	Article 255 TFEU
10	Protocol No. 12	President of the Eurozone countries	The Ministers of the Member States whose currency is the euro shall elect a president for two and a half years Note: Luxemburg Prime Minister Jean-Claude Juncker has already been appointed Eurozone-Council President	Simple majority of the Eurozone Member States	Article 137 TFEU and Article 2 of the Protocol on the Euro-Group
11	Article III-328	Delegations of the Union	Delegations of the Union in third countries and at international organisations shall represent the Union They shall be placed under the authority of the FAM/High Representative Note: Now officially mentioned in the Constitution - so far only a reference to <i>Commission</i> delegations in current Article 20 TEU)		Article 221 TFEU

B.III) Other new competences of the Union

	Legal basis in the Constitution	Subject	Remarks	Decision-making	Changes or insertions of articles, chapters, titles in the new amended and consolidated TEU/TFEU
1	Article I-3	Many new objectives of the Union	Adding objectives means adding competence, even without an explicit legal basis in the treaties (e.g. with the help of the flexibility clause – I-18 of the Constitution or Art.352 TFEU)		Article 3 TEU (current 2 TEU)
2	Article I-7	General legal personality of the Union	So far, only the Community (Art.281 TEC), not the European Union, has legal personality. The new Article 47 TEU will state that the entire “Union” shall have legal personality		Article 47 TEU (current 281 TEC)
2a	Article I-8	Symbols of the Union	Deleted		
3	Article I-9 (III-325(6))	Accession to the ECHR	By acceding to the ECHR, the Union is expected to gain more legislative and judicial responsibilities and thus competences	QMV in the Constitution (according to III-325(6)) Unanimity in the Lisbon Treaty (according to Article 218(8) TFEU)	Article 6(2) TEU
3a	Article I-18	Flexibility clause also applicable to	Deleted		New Article 352(4) TFEU (current 308 TEC) will state that it is not

		CFSP			applicable in CFSP
4	Article I-32(5)	Committee of the Regions Economic and Social Committee	New clause: Regular revision of CoR and ECOSOC rules by Council decision	QMV	Article 300(5) TFEU
5	Article I-36	Delegated acts as a new category of legal act	A new category of legal acts: the Commission can be empowered by a legislative act to adopt delegated European regulations to supplement or to amend certain non-essential elements of a law or framework law Note: It is not defined what has to be considered as “essential” elements (which are reserved for the legislative acts)	QMV	Article 290 TFEU
6	Article I-40(7), III-300(3)	Passerelle for 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 military or defence implications (Article 31(4) TEU)	Unanimity	Article 31(3) TEU (current 23 TEU)
7	Article I-41(3)	CSDP: Capabilities of the Member States	Member States shall make capabilities available to the Union		Article 42 (3) TEU (current 17 TEU)
8	Article I-41(7)	CSDP: Mutual assistance	In cases of armed aggression against a Member State, the other Member States have an obligation of aid and assistance		Article 42 (7) TEU

		clause			
9	Article I-43	Solidarity clause	In cases of terrorist attacks or natural or man-made disasters, the Union and Member States act jointly in a spirit of solidarity. The Union shall mobilise all instruments at its disposal, including the military resources made available by the Member States (Art.222(1) TFEU)		Article 222 TFEU
10	Article I-52(3)	Dialogue with Churches	New commitment which will create new competences		Article 17(3) TFEU
11	Article I-54(4)	Own resources system	Implementing measures of the Union's own resources system	QMV	Article 311 (last paragraph) TFEU (current 269 TEC)
12	Article I-57	Dialogue with neighbouring states	New commitment which will create new competences		Article 8 TEU
13	Article I-60(2)	Agreement on withdrawal from the Union of a Member State	The Union shall negotiate and conclude an agreement with a Member States that wishes to withdraw	QMV (among the remaining states)	Article 50 (2) TEU
14	Entire PART II	Charter of Fundamental Rights	By creating binding fundamental rights and freedoms, the Union will gain more legislative and judicial responsibilities and thus competences (to guarantee their protection and to meet respective entitlements) which will have a profound impact on national legislatures and judiciaries		The statement that the Charter shall be legally binding will be inserted into Article 6(1) TEU By means of a Protocol on the Application of the

					Charter, the latter shall not be entirely binding for Poland and the UK
15	Article III-167(1c)	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	QMV	Article 107(2c) TFEU (current 87 TEC)
16	Article III-180	Economic policy: Energy	New competence proposed by the 2007 Lisbon 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 solidarity between Member States and to the particular case of energy will be inserted (Council decision)	QMV	Article 122(1) TFEU (current 100 TEC)
17	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	QMV	Article 98 TFEU (current 78 TEC)
18	Article III-194(1a-b)	Eurozone members: 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	Article 136 (1a-b) TFEU
19	Article III-196(1-2)	Eurozone members: Common positions and representation in	Council adopts - 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; - measures to ensure unified representation	QMV Note: Euro members will have no veto, non-Euro members no vote	Article 138 (1-2) TFEU (current 111(4) TEC)

		international organisations			
20	Article III-260	JHA: Evaluation of policies	Council may adopt regulations or decisions to conduct the evaluation of the implementation of policies relating to the area of freedom, security and justice, and in particular to the principle of mutual recognition	QMV	Article 70 TFEU*
21	Article III-267(3)	Immigration: Readmission agreements	Council may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals	QMV (according to future 218(8) TFEU)	Article 79(3) TFEU (current 63 TEC)*
22	Article III-268	Asylum, and immigration: Solidarity	Union takes appropriate measures to give effect to the principles of solidarity and fair sharing of responsibility regarding asylum and immigration	QMV (according to articles 77-79 TFEU)	Article 80 TFEU*
23	Article III-270 (1)	Judicial cooperation in criminal matters: Mutual recognition of judgements	Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgements and judicial decisions, which require enhanced approximation of laws Note: Although this principle was already mooted by the Tampere Summit in 1999, it is now explicitly mentioned in the Constitution/Lisbon Treaty and will give further impetus to the approximation of both substantive and procedural criminal laws		Article 82(1) TFEU*
24	Article III-300(2b)	CFSP: Initiatives of the FAM /HR	The Council can act by QMV in the field of CFSP on a proposal from the Union Minister for Foreign Affairs/High Representative (following a specific request to him/her from the European Council)	QMV	Article 31(2, 2 nd indent) TEU (current 23 TEU)

25	Article III-305(2)	CFSP: Coherent actions in international organisations	EU Member States of the UN Security Council shall request that the FAM/HR presents the Union position		Article 34(2, 3 rd subpar.) TEU (current 19 TEU)
26	Article III-309	CSDP: Additional tasks	Additional tasks of the Union in CSDP: -joint disarmament operations - military advice and assistance -conflict prevention - post-conflict stabilisation -fight against terrorism	Unanimity (Decision of the Council to define objectives and scope for implementation of these tasks)	Article 43(1) TEU
27	Article III-310	CSDP: Implementation by a group of Member States	The Council may decide to entrust the implementation of a task to a group of Member States that are willing and have the necessary capability Note: In addition to the implementation of CSDP, a group of Member States may basically also conduct an own CSDP through structured (B.III.29) or enhanced (B.III.34) cooperation	Unanimity	Article 44 TEU
28	Article III-311(2)	CSDP: European Defence Agency (statute, seat and operational rules)	Council decides on the Agency's statute, seat and operational rules Note: For its creation see B.II.6	QMV	Article 45(2) TEU
29	Article III-312 (2-4)	CSDP: Permanent structured	Council decides to establish permanent structured cooperation and determine the list of participating Member States	QMV/Unanimity Note: QMV for	Article 46(2-4, 6) TEU

		cooperation	Note: The Constitution/Lisbon Treaty also allow enhanced cooperation in CSDP (B-III-34). Whereas structured cooperation can be established by QMV, enhanced cooperation in the fields of CFSP (and thus CSDP) requires unanimity (Art.329(2) TFEU)	establishment, participation, suspension of participation – Art.46(2-4) TEU Unanimity for decision <i>within</i> the frame of structured cooperation: unanimity among the participating states – Art.46(6) TEU	
30	Article III-313(3)	CSDP: Start-up fund	Council decides on establishment, administration and financial control of fund (on a proposal from the FAM/High Representative)	QMV	Article 41 (3) TEU (current 28 TEU)
31	Article III-315(1)	Common Commercial Policy: Agreements on foreign direct investment	The scope of the Common Commercial Policy has been enlarged: By decision(s) of the Council, international agreements on foreign direct investment can be concluded Note: Although new Article 207(1) TFEU also mentions agreements on “intellectual property”, the Treaty of Nice had already added intellectual property rights to the scope of Article 133 TEC	Unanimity (where agreements include provisions for which unanimity is required for the adoption of internal rules)	Article 207(1) TFEU (current 133 TEC)
32	Article III-320	Urgent financial aid for third countries	Council decides on urgent financial aid, when the situation in a third country requires urgent financial assistance from the Union	QMV	Article 213 TFEU
33	Article III-322(2)	Economic sanctions against persons or non-state	Council decides on restrictive measures against natural or legal persons and groups or non-State entities Note: Current Article 301 TEC only foresees sanctions against states	QMV Note: Hitherto, measures were taken on the basis of current Article 301, with the help of Art. 308 TEC- the flexibility clause used	Article 215(2) TFEU (current 301 TEC)

		groups		by unanimity	
34	Article III-419(2)	CSDP: Enhanced cooperation in Defence	<p>Council decides on the establishment of enhanced cooperation among members within the framework of the common foreign and security policy</p> <p>Note: Because...</p> <ul style="list-style-type: none"> - CFSP covers CSDP (Art.24(1) TEU), - Article 333(1) TFEU explicitly refers to that case, - the exclusion of current Art.27b TEU has been dropped, <p>... enhanced cooperation is also possible in CSDP</p> <p>Note: Furthermore, structured cooperation is possible in CSDP (see B.III.29). Whereas structured cooperation can be established by QMV, enhanced cooperation in the fields of CFSP (and thus CSDP) requires unanimity (Art.329(2) TFEU). Furthermore, according to Art.333(1) TFEU, decision-making within enhanced cooperation can be moved to QMV in the field of CFSP; this does not apply to decisions having defence and military implications (Art.333(3) TFEU)</p>	Unanimity	Article 20 TEU (current 27a-e TEU)
35	Article III-422(1)	Enhanced cooperation: Use of the passerelle	<ul style="list-style-type: none"> - The Council can decide to act by QMV instead of unanimity in the frame of enhanced cooperation (Art.333(1) TFEU) <p>Note: This applies also to enhanced cooperation in CFSP (but not to decisions having military or defence implications (Art.333(3) TFEU))</p> <ul style="list-style-type: none"> - The Council can decide that the ordinary legislative procedure shall apply (instead of a special procedure) (Art.333(2) TFEU) <p>Note: This does not apply to CFSP and CSDP, because legislative acts cannot be adopted in these areas (Art. 24(1) TEU)</p>	Unanimity	Article 333(1-2) TFEU (TEC)

36	Article IV-444	Simplified Treaty Revision - General passerelle	<p>- The European Council can authorise the Council to decide by QMV instead of unanimity Note: This applies also to CFSP (Art. 31(3) TEU), but not to CSDP (Art.31(4) TEU)</p> <p>- 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 (Art.24(1) TEU)</p>	<p>Unanimity</p> <p>Notes: - No IGC or Convention needed - No ratification by the Member States needed - EP must approve - National parliaments have a right of veto - Applies to all areas defined by the TEU and TFEU</p>	Article 48(7) TEU
37	Article IV-445	Simplified Treaty Revision	<p>European Council may decide to amend the Treaty</p> <p>Notes: - No IGC or Convention needed - EP consulted - Ratification by the Member States - Applies only to internal policies of TFEU</p>	Unanimity	Article 48(6) TEU

B.IV) New (formal) competences of institutions

	Legal basis in the Constitution	Subject	Remarks	Decision-making	Changes or insertions of articles, chapters, titles in the new amended and consolidated TEU/TFEU
1	Article I-20(2.2)	Composition of the European Parliament	New competence for the European Council Note: At present, decisions on the composition of the EP require Treaty amendments, e.g. through protocols, accessions acts or through the ordinary revision procedure (on the basis of current Article 48 TEU)	Unanimity	Article 14(2.2) TEU
2	Article I-24(4)	Establishment of list of Council configurations	New competence for the European Council Note: At present, the list of Council configurations is drawn up by the General Affairs Council acting by simple majority according to current Article 205(1) TEC	QMV	Articles 16(9) TEU and 236(a) TFEU
3	Article I-26(1)	Promotion of the "general interest of the Union"/ Right of legislative initiative	Strengthening the role of the Commission Note: So far, Article 211 TEC defines the role of the Commission as "the guardian of the treaties" and as the Union's executive – in addition to its right of legislative initiative (e.g. Art. 251.2 TEC). Note also that the Commission's (exclusive) right of initiative is "fundamentalised" through Article 17's new paragraph 2 TEU		Articles 17(1-2) TEU (current 211, 251.2 etc TEC)
4	Article I-26(6)	Composition of the Commission: Altering the number of Commissioners	New competence for the European Council The first Commission appointed under provisions of Constitution/Lisbon Treaty shall consist of one national per Member State. After that (i.e. from 2014 on), the Commission shall consist of members from two-thirds	Unanimity	Article 17(5) TEU

			<p>of the Member States, <i>unless the European Council decides otherwise</i></p> <p>Note: According to present Art 213 TEC., as amended by the Act on Romania's and Bulgaria's accession to the EU, the number of Members of the Commission may be altered by the <i>Council</i> (not the <i>European Council</i>), acting unanimously</p>		
5	Article I-27 (1-2)	Election of Commission and Commission President	<p>Strengthening the role of the European Parliament</p> <p>European Council proposes to the EP a candidate for President of the Commission. This candidate is <i>elected</i> by the European Parliament by a majority of its component members.</p> <p>The Commission as a body must be <i>approved</i> (vote of consent) by the European Parliament</p> <p>Note: The difference lies basically only in the terminology (so far "approval" of EP for both the President and the College – current Art. 214.2 TEC), since the EP can only decide on candidates proposed by the European Council or the Council</p> <p>Note: Under the Lisbon Treaty individual Commissioners are decided on the basis of "suggestions" made by Member State governments (Art.17.7 TEU), as compared with "proposals" by those governments at present(Art.214.2 TEC)</p>	<p>Absolute majority in the EP</p> <p>Simple majority in the EP</p>	Article 17(7) TEU (current 214 TEC)
6	Article I-27(3)	Commission President: Appointment of vice-presidents and dismissal of members	<p>A member of the Commission shall resign if the President so requests</p> <p>The President appoints the vice-presidents of the Commission</p> <p>Note: Up to now the President needs the approval of the college of Commissioners for appointment of VP or dismissal of individual members– current Art. 217(3-4) TEC</p>		Article 17(6) TEU (current 217 TEC)

7	Articles I-28(2), III-300(2b)	Foreign Affairs Minister/High Representative of the Union for Foreign Affairs and Security Policy: Right of initiative	<p>The FAM/HR conducts the CFSP and makes proposals for its development</p> <p>Note: Hitherto, the initiative in the field of CFSP lies with the European Council (Art.13(1) TEU), the Council (Art.13(3) TEU), the Commission (Art.22(1) TEU) and the Member States (Art.22(1) TEU). According to the Lisbon Treaty, the Commission's right is basically replaced by that of the FAM/HR (see wording of new Article 30(1) TEU). However, because of the FAM/HR's "double-hat" function, the Commission's role in CFSP will be strengthened (see below B.IV.8)</p> <p>Note: The Council can act by QMV in the field of CFSP on a proposal from the Union Minister for Foreign Affairs/High Representative (following a specific request to him or her from the European Council)</p>		Article 30(1) TEU (current 22 TEU)
8	Article I-28(3-4)	Foreign Affairs Minister/High Representative of the Union for Foreign Affairs and Security Policy: Double-Hat function	<p>The FAM/HR shall be one of the Vice-Presidents of the Commission and preside over the Foreign Affairs Council</p> <p>Note: The FAM/High Representative will become one of the key figures of the Union. This will have considerable impact on the development of CFSP. Due to his right of proposal and his double-hat function, the Commission will indirectly be given the right of initiative in this area too</p>		Article 18(3-4) TEU
9	Article I-32(1)	CoR and ECOSOC	<p>In addition to the Council and the Commission, the European Parliament is now specially mentioned as being assisted by the CoR and the ECOSOC</p> <p>Note: Current Article 7(2) TEC only mentions the Council and Commission as those institutions being assisted by the CoR and ECOSOC</p>		Article 300(1) TFEU (TEC) (current 7 TEC)

10	Article I-35(1)	European Council: Adoption of decisions	As a new (official) EU institution, the European Council may adopt legally binding and justiciable decisions in the cases provided for in the Constitution Note: Current Articles 4 TEU and 249 TEC do not foresee that possibility. Decisions of the European Council will thus also become <i>legally</i> (not only politically) binding. The European Council's acts (or its "failing to act") will be subject to review by the European Court of Justice (Articles 263 ff. TFEU). However, the European Council does not have legislative functions (see e.g. new Art.15(1) TEU)		Among other places: Article 288 TFEU (current 249 TEC)
11	Article III-165(3)	Commission: Competition; Rules applying to undertakings: Power to adopt regulations	Commission may adopt its own regulations on the basis of regulations of the Council (relating to agreements/concerted practices between undertakings which are compatible with the internal market) Note : Not foreseen in current Article 85 TEC	Majority of Commission members	Article 105(3) TFEU (current 85 TEC)
12	Article III-168(4)	Commission: State aid; power to adopt regulations	Commission may adopt own regulations relating to the categories of state aid which the Council has previously declared as being compatible with the internal market Note : Not foreseen in current Article 88 TEC	Majority of Commission members	Article 108(4) TFEU (current 88 TEC)
13	Article III-179(4)	Commission: Economic policies: Warning to the Member States	Commission may address a <i>warning</i> to a Member State when the latter's economic policies are not in line with the Union's guidelines Note: So far, it is only the Council which can make recommendations to the Member State concerned (current Art. 99(4) TEC)		Article 121(4) TFEU (current 99 TEC)

14	Article III-184(5-6)	Commission: Excessive deficit procedure	<p>(Paragraph 5) Commission may address an opinion <i>directly</i> to the Member State concerned Note: Current Article 104(5) TEC only foresees an opinion to the <i>Council</i></p> <p>(Paragraph 6) Council decides upon <i>proposal</i> of the Commission Note: According to current Article 104(6) TEC, Council decides on a <i>recommendation</i> from the Commission. Proposals of the Commission require unanimity in the Council for their amendment (current 250 TEC; new 293 TFEU)</p>	Majority of Commission members	<p>Article 126(5) TFEU (current 104 TEC)</p> <p>Article 126(6) TFEU (current 104 TEC)</p>
15	Article III-194, III-195, III-196, Protocol No. 12	Euro-Council	<p>The role of the Euro-Council (of the Member States of the Eurozone) is strengthened</p> <p>Note: The (informal) Euro-Council is now officially mentioned in the TFEU</p>		Article 136, 137, 138 TFEU and Protocol on the Euro Group
16	Article III-198(2.2)	Euro-Council Member States	<p>Recommendation of the Eurozone members to the Council to accept new Member States in the Eurozone</p> <p>Note: So far, current Art.122.2 TEC only foresees a decision of the Council on a proposal from the Commission, after consultation of the EP and after discussion in the Council</p>	QMV (among Eurozone members)	Article 140(2) TFEU (current 122 TEC)
17	Article III-213	Social policy: Guidelines, indicators, best practice	<p>Commission establishes guidelines, indicators and exchange of best practice, and prepares the necessary elements for periodic monitoring and evaluation</p> <p>Note: Strengthened role of the Commission; so far, current Article 140 TEC does not explicitly foresee these measures</p>	Majority of Commission members	Article 156 (2 nd subpar.) TFEU (current 140 TEC)

18	Articles I-29(1), III-257-277; III-377	Court of Justice: Unrestricted competence in the area of JHA	<p>Since all areas of JHA will be moved to the 1st pillar (i.e. also cooperation in criminal matters) and since legislative acts can be henceforth adopted in all the fields relating to the Area of Freedom, Security and Justice, the competences of the Court of Justice will embrace the entire area of JHA</p> <p>Note: A declaration of a Member State to accept the ECJ's jurisdiction to give preliminary rulings (current Art.35(2) TEU) will not be needed anymore. The restrictions of current Article 68 TEC are repealed</p>		Articles 19 TEU, 251-281 TFEU (current 35 TEU, 68 TEC, 220-245 TEC)*
19	Article III-362(3)	Commission: Specifying a lump sum as penalty when bringing a case before the Court of Justice	<p>When the Commission brings a case before the Court of Justice, it may already then specify the amount of the lump sum or penalty payment to be paid</p> <p>Note: Current Article 228 TEC only foresees that competence when a Member State has not complied with a previous judgment</p>	Majority of Commission members	Article 260(3) TFEU (current 228 TEC)*
20	Article III-376	Court of Justice	<p>Explicit extension of the Court's jurisdiction to restrictive CFSP measures against individuals</p> <p>Note: Measures against individuals taken on the basis of the current (communitarian) Articles 60, 301 and 308 TEC are also subject to the Court's review (through Article 230 TEC). Herewith it is clarified that -although if the Court has no jurisdiction in CFSP- individuals can bring a case to the Court even if a restrictive measure was solely taken on the basis of the CFSP provisions of the TEU</p>		Articles 24(1) TEU and 275 TFEU
21	Articles III-386 and III-390	ECOSOC and CoR	Prolongation of the Members' mandate from 4 to 5 years		Articles 302(1) and 305 TFEU (current 259 and 263)

					TEC)
22	Article III-404	EP: Full budgetary powers	<p>EP obtains full rights for the adoption of the annual budget</p> <p>Note: The current distinction of Art.272 TEC between non-obligatory (EP has the last word) and obligatory expenditures (Council has the final say) will be given up. This would be an important strengthening of the EP's powers</p>		Article 314 TFEU (current 272 TEC)
23	Article III-404(5)	Conciliation Committee in budget procedure	If the EP amends the Council's position on the draft budget, a conciliation committee is convened		Article 314(5) TFEU (current 272 TEC)
24	Parts I, III, IV	EP Powers	The European Parliament would be attributed more participative powers in about 36 cases (in addition to the new legal bases providing for the ordinary legislative procedure) - See Annex CI		To be inserted into TFEU and TEU

B.V) Areas which are moved from unanimity to Qualified Majority (QMV) decision-making in the European Council and the Council of Ministers

B.V.1) Changes from unanimity or decision by common accord to Qualified Majority (QMV) decision-making in existing legal bases

	Legal bases in the Constitution and the present TEU/TEC	Subject	Remarks	Decision by European Council or Council	Changes or insertions of articles, chapters, titles in the new amended and <u>consolidated</u> TEU/TFEU
1	Article I-24(7) Article 203 TEC	Presidency of Council configurations	Presidency of Council configurations shall be held on the basis of equal rotation, in accordance with the conditions established by a European decision of the European Council Note: Currently, the order of Presidency is decided by the Council acting unanimously according to Article 203 TEC	European Council	Article 16(9) TEU and 236(b) TFEU
2	Article I-37(3) Article 202 TEC	Implementing acts: Rules for control mechanisms	Legislative acts lay down in advance the rules and general principles governing mechanisms for control of the Commission's implementing powers	Council	Article 291(3) TFEU
3	Article III-136 Article 42 TEC	Social security of migrant workers	In the field of social security, legislative acts shall establish measures necessary for the free movement of workers relating to secure insurance periods and social security benefits for employed and self-employed migrant workers and their dependants	Council	Article 48 TFEU

			In the Lisbon Treaty, an addition is made stressing that the legislative act is not adopted if the European Council does not take any action within 4 months		Article 48(last subpar.) TFEU
4	Article III-141 Article 47(2)TEC	Freedom of establishment of the self-employed	Legislative acts shall facilitate activities as self-employed persons through the mutual recognition of their qualifications and the coordination of State provisions concerning the taking-up and pursuit of these Note: For legislative acts which require amendment of the existing principles on the training for and the conditions of access to certain professions in at least one of the Member States, current Article 47(2) TEC requires unanimity. That exception will be dropped	Council	Article 53(2) TFEU
5	Article III-187(3) Article 107(5) TEC	Modification of the Statute of the European System of Central Banks	Legislative acts can amend some of the provisions of the Statute of the European System of Central Banks and of the European Central Bank	Council	Article 129(3) TFEU
6	Article III-236(3) Article 71(2) TEC	Derogations in the area of transport	Legislative acts to implement a common transport policy Note: Current Article 71(2) TEC requires unanimity when legislation might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities. The present proposals only state that “account shall be taken” of these	Council	Article 91(2) TFEU
7	Article III-267(2) Articles 63(3a,4) TEC	Legal immigration	Legislative acts determine conditions of entry and residence, rules for long-term visas and residence permits, and the rights of third-country nationals residing legally in a Member State Note: Since 1.1.2005, current Articles 63(3a) and 63(4) TEC are the	Council	Article 79(2a-b) TFEU

			only ones which have not yet been moved to QMV (with the help of the passerelle of current Article 67 TEC)		
8	Article III-270(1-2) Article 31(1a-d) TEU	Judicial and police cooperation in criminal matters	Legislative acts shall establish measures to safeguard the principle of mutual recognition of judgments and judicial decisions and shall include the (<i>general</i>) approximation of the laws Note: Emergency brake foreseen in paragraph 3 Note: For the widened scope of application of new Article 82 TFEU compared to current Art.31 TEU, see below B.V.2.27	Council	Article 82(1-2) TFEU*
9	Article III-271(1) Article 31(1e) TEU	Judicial co-operation in criminal matters	Definition of crimes and sentences: Legislative acts to lay down minimum rules concerning the definition of <i>criminal offences and sanctions</i> Note: An emergency brake in paragraph 3 gives Member States the possibility of veto Note: For the enlarged scope of new Article 83 TFEU compared to current Art.31(1e) TEU, see below B.V.2.28	Council	Article 83(1) TFEU*
10	Article III-273(1, 1 st subpar.) Article 31(2) TEU	Eurojust	European laws shall determine Eurojust's structure, operation, field of action and tasks Note: For the enlarged scope of new Article 85 TFEU compared to Art.31(2) TEU (arrangements for evaluation of Eurojust activities), see below B.V.2.30	Council	Article 85(1, 1 st subpar.) TFEU*
11	Article III-275(2) Article 30(1) TEU	Police cooperation (non-operational)	Legislative acts establish measures for <i>non-operational</i> police cooperation Note: For <i>operational</i> police cooperation, unanimity is required (Art.87(3) TFEU)	Council	Article 87(2) TFEU*

12	Article III-276(2) Article 30(2) TEU	Europol	European laws shall determine Europol's structure, operation, field of action and tasks Note: For the enlarged scope of Art.88 TFEU (scrutiny of Europol's activities), see below B.V.2.31	Council	Article 88(2) TFEU*
13	Article III-280(5) Article 151(5, 2 nd indent) TEC	Culture	Legislative acts shall establish incentive measures, excluding any harmonisation of laws	Council	Article 167(5) TFEU
14	Article III-315(4) Article 133(5-6) TEC	Commercial agreements on cultural and audiovisual services	For the negotiation and conclusion of agreements the Council shall act by a qualified majority (currently unanimity) Note: Unanimity remains only for agreements in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity	Council	Article 207(4a) TFEU
15	Article III-315(4) Article 133(5-6) TEC	Commercial agreements on educational services and social and human health services	For the negotiation and conclusion of agreements the Council shall act by a qualified majority Note: Unanimity remains only for agreements 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	Council	Article 207(4b) TFEU
16	Article III-359(1) Article 225a TEC	Specialised courts	Legislative acts may establish specialised courts	Council	Article 257(1 st subpar.) TFEU

16a	Article III-364 Article 229a TEC	Intellectual property: Giving the Court jurisdiction	Legislative acts may confer on the Court of Justice jurisdiction in disputes relating to acts which create European intellectual property rights	Council	According to the new proposed 262 TFEU, the Council shall continue to act by unanimity Article III-364 of the Constitution foresaw QMV
17	Article III-381 Article 245 TEC	Statute of the Court of Justice: Modification	Legislative act may modify the Statute of the European Court of Justice	Council	Article 281(2 nd par.) TFEU
18	Article III-382(2) Article 112 TEC	ECB- Appointment of the Directory	Nomination of the members of the ECB directory	European Council Note: Hitherto, the nomination occurred by common accord among the Heads of State or Government	Article 283(2) TFEU
19	Article III-412(2) Article 279(2) TEC	Financial rules: Establishment, methods and procedures	European Regulation laying down the methods and procedure whereby the budget revenue shall be made available to the Commission	Council	Article 322(2) TFEU

B.V.2) Decisions by qualified majority voting (QMV) in new or extended legal bases

	Legal basis in the Constitution	Subject	Remarks	Decision by European Council or Council	Changes or insertions of articles, chapters, titles in the new amended treaties
0	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	<p>According to the Constitution (III-325(6)), the Council could have acted by QMV</p> <p>According to the Lisbon Treaty (Article 218(8) TFEU), the Council shall act unanimously</p>
1	Article I-22	European Council President (see B.II.1 for the European Council becoming an official institution and B.II.2 for the European Council's President as a new post)	European Council elects its President for a term of two and a half years, renewable once	European Council	Article 15(5) TEU
2	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	Article 300(5) TFEU

3	Article I-41(3), III-311	European Defence Agency	<p>Establishment: The Council decides on the Agency's statute, seat and operational rules</p> <p>Note: A European Defence Agency has already been established by Council decision on 16.06.2004</p>	Council	Article 45(2) TEU
4	Article I-47(4)	Citizens' initiative	<p>At least one million citizens may "invite" the Commission to submit proposals for a legal act.</p> <p>Legislative acts lay down detailed rules</p>	Council	Article 11(4) TEU
5	Article I-54(4)	Own resources system	<p>Legislative act shall lay down implementing measures for the Union's own resources system</p>	Council	Article 311(last par.) TFEU
6	Article I-60(2)	Withdrawal from the Union of a Member State	<p>Agreement to withdraw to be negotiated and concluded by Council decision</p>	Council	Article 50(2) TEU
7	Article III-122	Services of general economic interest	<p>Legislative acts establish principles and conditions under which services of general economic interest shall operate</p> <p>Note: New Protocol on Service of General Interests highlights "the essential role and the wide discretion of national, regional and local authorities in providing services of general economic interest as closely as possible to the needs of the users."</p>	Council	Article 14 TFEU (current 16 TEC)
8	Article III-127	Diplomatic and consular protection	<p>Legislative act may establish measures necessary to facilitate such protection</p>	Council	Article 23(last par.) TFEU (current 20 TEC)

9	Article III-152	Customs cooperation	Legislative acts shall establish measures to strengthen customs cooperation between Member States and between them and the Commission Note: The scope of application has been widened because current 135 TEC does not concern national criminal law or the national administration of justice. This exclusion will be deleted	Council	Article 33 TFEU (current 135 TEC)
10	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	Article 75 TFEU (current 60 TEC)
11	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	Article 107(2c) TFEU (current 87 TEC)
12	Article III-176(par.1)	Intellectual property	Legislative acts to create European intellectual property rights to provide uniform intellectual property rights protection	Council Note: For language arrangements unanimity still required (par.2)	Article 118 TFEU
13	Article III-180	Economic policy: Energy	New competence proposed by the 2007 Lisbon 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 solidarity between Member States and to the particular case of energy will be inserted	Council	Article 122(1) TFEU (current 100 TEC)
14	Article III-194(1a-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	Council Note: Euro members will have no veto, non-Euro members no vote	Article 136 (1a-b) TFEU

15	Article III-196(1-2)	Eurozone members: Common positions and representation in international organisations	Council adopts - 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; - measures to ensure unified representation	Council Note: Euro members will have no veto, non-Euro members no vote	Article 138 (1-2) TFEU (current 111(4) TEC)
16	Articles III-233(1d), III-234	Environment Climate change	New competence proposed by the 2007 Lisbon Treaty in the area of environment : Replacement of current 174(1d) TEC by adding “....., and in particular combating <u>climate change</u> .”	QMV Note: Unanimity for measures affecting choice between different energy sources and energy supply - but passerelle gives possibility of moving to QMV	Article 191 (1, 4 th indent) TFEU (current 174 TEC)
17	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	Article 98 TFEU (current 78 TEC)
18	Article III-251(4)	European Research Area	Legislative acts shall establish measures for the implementation of the European research area Note: Although current Articles 163, 166 TEC already foresee QMV decision making in the area of research, an entire European research <i>area</i> is now proposed under new Art.182 TFEU	Council	Article 182 (5) TFEU (current 163, 166 TEC)
19	Article III-254(2)	European Space Policy	Legislative acts shall establish a European space policy	Council	Article 189(2) TFEU

20	Article III-256(2-3)	Energy policy	<p>Legislative acts to ensure an energy market and energy supply; to promote efficiency, saving and new and renewable forms of energy</p> <p>Note: Such measures shall not affect Member States' rights to determine the conditions for exploiting energy resources, their choice between different energy sources and the general structure of their energy supply</p>	Council Note: Unanimity remains when measures are of fiscal nature	Article 194 (2) TFEU
21	Article III-260	JHA: Evaluation of policies	Council may adopt regulations or decisions to conduct the evaluation of the implementation of policies relating to the area of freedom, security and justice, and in particular to the principle of mutual recognition	Council	Article 70 TFEU *
22	Article III-263 Article 66 TEC	Administrative cooperation in the area of criminal matters	<p>Council regulations to ensure administrative cooperation in the entire area of freedom, security and justice</p> <p>Note: Based on current Article 67 TEC, decision-making within the ambit of Article 66 TEC has moved from unanimity to QMV. However, cooperation in criminal matters has not been subject to the relevant TEC provisions but only to the 3rd intergovernmental pillar, for which unanimity is required and to which Art. 67 TEC does not apply</p>	Council	A consequence of the insertion of the area of cooperation in criminal matters into the TFEU
23	Article III-265(1d)	Border controls	Legislative acts establish a general integrated management system for external EU borders	Council	Article 77(2d) TFEU (current 62 TEC)*
24	Article III-267(3)	Immigration: Readmission agreements	Council may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals	Council QMV (according to future Art.218(8) TFEU)	Article 79(3) TFEU (current 63 TEC)*

25	Article III-267(4)	Immigration: Integration of immigrants	Legislative acts to promote the integration of third country nationals (no harmonisation of laws)	Council	Article 79(4) TFEU (current 63 TEC)*
26	Article III-269(1-2)	Judicial co-operation in civil matters	<p>- Legislative acts for general <i>approximation</i> of procedural and substantive laws of the Member States (paragraph 1 (and 2))</p> <p>- Legislative acts for specific measures, such as those for access to justice, alternative methods for dispute settlement, training of the judiciary and judicial staff (paragraph 2)</p> <p>Note: Current Articles 65, 67(5) TEC already foresee QMV, but Art.81 TFEU widens Union competence by explicitly mentioning the approximation of laws (paragraph 1) and by enlarging the list of paragraph 2</p>	<p>Council</p> <p>Note: Unanimity remains when legislative acts concern family law – but a passerelle gives the possibility of moving to QMV</p>	Article 81 (1-2) TFEU(current 65 TEC)*
27	Article III-270(2)	Judicial cooperation in criminal matters	<p>Harmonisation of <i>procedural</i> criminal law</p> <p>Note: Current Article 31(1e) TEU already allows approximation of <i>substantive</i> criminal law and penalties in certain criminal fields; but new Article 82 (2a-d) TFEU explicitly mentions <i>procedural</i> criminal law</p>	<p>Council</p> <p>Note: Passerelle in paragraph 2d can add further aspects of criminal procedure to the list</p> <p>QMV, but emergency brake in paragraph 3 gives Member States the possibility of veto</p>	Article 82(2) TFEU* (current 31 TEU)
28	Article III-271(1)	Judicial cooperation in criminal matters	<p>Definition of <i>crimes and sentences</i>: Legislative acts to lay down minimum rules concerning the definition of criminal offences and the therefore foreseen sanctions.</p> <p>Note: The scope of current Article 31(1e) TEU is herewith enlarged: New Art. 83 TFEU will allow other areas of crime to be harmonised (par. 1.3 – “passerelle”) and general approximation of criminal law under certain circumstances (par. 2 – flexibility clause)</p>	<p>Council</p> <p>QMV, but emergency brake in paragraph 3 gives Member States possibility of veto</p>	Article 83(1) TFEU (current 31 TEU)*

29	Article III-272	Judicial cooperation in criminal matters	Legislative acts to support crime prevention (no harmonisation of laws)	Council	Article 84 TFEU*
30	Article III-273(1)	Judicial cooperation in criminal matters	Eurojust: Legislative acts to determine arrangements for evaluation of Eurojust's activities	Council	Article 85 (1, last subpar.) TFEU (current 31 TEU)*
31	Article III-276(2)	Police cooperation in criminal matters	Europol: Legislative acts determine arrangements for scrutiny of Europol's activities	Council	Article 88(2, last subpar.) TFEU (current 30 TEC)*
32	Article III-278(4c,d)	Health (human health)	Legislative acts shall establish (without harmonisation of laws) - <i>incentive</i> measures to protect and improve human health and to combat serious cross-border health scourges (new Art.168(5) TFEU)	Council	Article 168 (5) TFEU (current 152 TEC)
33	Article III-278(5)	Health (public health)	Legislative acts shall establish - <i>measures</i> to protect public health regarding tobacco and alcohol abuse (new Art.168(5) TFEU; no harmonisation of laws); - <i>measures</i> concerning monitoring, early-warning of and combating cross border threats to health (new Art.168(5) TFEU; no harmonisation of laws); - <i>measures</i> setting high standards of quality and safety for <i>medicinal</i> products and devices for medical use (new Art.168(4c) TFEU)	Council	Article 168 (4c and 5) TFEU (current 152 TEC)

34	Article III-281(2)	Tourism	Legislative acts to complement Member State actions to promote competitiveness of Union tourism undertakings (no harmonisation of laws)	Council	Article 195(2) TFEU
35	Article III-282(1-2, 3a)	Sport	Legislative acts shall establish incentive measures for the promotion of sports (no harmonisation of laws)	Council	Article 165 (1-3, 4) TFEU (current 149 TEC)
36	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	Article 196(2) TFEU
37	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	Article 197(2) TFEU
38	Article III-296(3)	European Foreign Service (European External Action Service)	Council decides on establishment of EFS, organisation and functioning	Council	Article 27(3) TEU
39	Article III-300(2b)	CFSP: QMV following proposals from the FAM/HR	The Council can act by QMV in the field of CFSP on a proposal from the Union Minister for Foreign Affairs /High Representative (following a specific request to him or her from the European Council)	Council	Article 31(2, 2 nd indent) TEU (current 23 TEU)
40	Article III-312 (2-4)	CSDP: Permanent structured cooperation	Council decides to establish permanent structured cooperation and determines the list of participating Member States Note: The Constitution/Lisbon Treaty also allow enhanced cooperation in CSDP (B-III-34). Whereas structured cooperation can be established by QMV, enhanced cooperation in the fields of CFSP	Council Note: QMV for establishment, participation, suspension of participation – Art.46(2-4) TEU)	Article 46(2-4, 6) TEU

			(and thus CSDP) requires unanimity (Art.329(2) TFEU)	Unanimity for decision <i>within</i> the frame of structured cooperation: unanimity among the participating states – Art.46(6) TEU	
41	Article III-315(2)	Common commercial policy	Legislative acts to define the framework for implementing the common commercial policy	Council	Article 207(2) TFEU (current 133 TEC)
42	Article III-320	Urgent financial aid for third countries	Council decides on urgent financial aid when the situation in a third country requires urgent financial assistance from the Union	Council	Article 213 TFEU
43	Article III-321(3)	Humanitarian aid	Legislative acts to define the framework within which the Union's humanitarian aid operations shall be implemented	Council	Article 214(3) TFEU
44	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	Article 214(5) TFEU
45	Article III-322(2)	Economic sanctions against persons or non-state groups	Council decides on restrictive measures against natural or legal persons and groups or non-State entities Note: Current Article 301 TEC only foresees sanctions against states	QMV Note: Hitherto, measures were taken on the basis of current Article 301 TEC, with the help of Art. 308 TEC- the flexibility clause used by unanimity.	Article 215(2) TFEU (current 301 TEC)

46	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/High Representative	Council Note: Unanimity where decisions have defence implications	Article 222(3) TFEU
47	Article III-357	Judicial appointment panels to give opinion on judges	Council establishes the panel's operating rules and appoints its members	Council	Article 255 TFEU
48	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. New Art. 298 TFEU goes beyond this and constitutes a legal base for adopting legislative acts	Council	Article 298(2) TFEU (current 283 TEC)
49	Article III-415	Combating financial fraud	Legislative acts shall lay down the necessary measures in the fields of the prevention of and fight against fraud affecting the Union's financial interests Note: The scope of application has been widened because current Art. 280 TEC does not concern national criminal law or national administration of justice. This exclusion will be deleted	Council	Article 325(4) TFEU (current 280 TEC)

B.VI) Passerelle clauses

New “Passerelle” clauses¹¹ 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

	Legal 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-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 military or defence implications (Article 31(4) TEU))	Unanimity in the European Council	Article 31(3) TEU (current 23 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	Article 312(2.2) TFEU
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 Lisbon Treaty: Use of this passerelle can be vetoed by a national parliament	Unanimity in the European Council	Article 81 (3) TFEU*

¹¹ The passerelle 81(3)TFEU (number 2a) is not new – v. current Treaty Articles 65, 67 TEC

3	Article III-270(2d)	Judicial co-operation in criminal matters	<p>Harmonisation of <i>procedural</i> 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	Article 82(2d) TFEU*
4	Article III-271(1.3)	Judicial co-operation in criminal matters	<p>Harmonisation of <i>substantive</i> 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	Article 83(1, last subpar.) TFEU*
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.19)</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	Article 83(2) TFEU*

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	Article 86(4) TFEU*
7	Article III-422(1)	Enhanced cooperation	<p>- The Council can decide to act by QMV instead of unanimity in the frame of enhanced cooperation Art. 333(1) TFEU</p> <p>Note: This applies also to enhanced cooperation in CFSP (but not to decisions having military or defence implications, Art.333(3) TFEU)</p> <p>- The Council can decide that the ordinary legislative procedure shall apply (instead of a special procedure), Art. 333(2) TFEU</p> <p>Note: This does not apply to CFSP and CSDP, because legislative acts cannot be adopted in these areas, Art.24(1) TEU)</p>	Unanimity in the Council	Article 333(1-2) TFEU (TEC)
8	Article IV-444 (1-2)	Simplified Treaty Revision - General passerelle	<p>- The European Council can authorise the Council to decide by QMV instead of unanimity</p> <p>Note: This applies also to CFSP, Art.31(3) TEU), but not to CSDP, Art.31(4) TEU)</p> <p>- The European Council may decide that the ordinary legislative procedure applies (instead of a special procedure)</p> <p>Note: This does not apply to CFSP and CSDP, because legislative acts cannot be adopted in these areas, Art.24(1) TEU)</p>	<p>Unanimity in the European Council</p> <p>Unanimity</p> <p>Notes:</p> <ul style="list-style-type: none"> - No IGC or Convention needed - No ratification by the Member States needed - EP must approve - National parliaments have a right of veto - Applies to all areas defined by the TEU and TFEU 	Article 48(7) TEU

C.) ANNEX - AREAS IN WHICH THE EUROPEAN PARLIAMENT'S PARTICIPATION IN DECISION-MAKING WILL CHANGE

C.I) Changes to co-decision, where the European Parliament can veto a law or propose amendments to it

C.I.1) Areas in which the European Parliament is currently consulted

1. Article I-37(3) Implementing powers of the Commission – 291(3) TFEU (currently 202 TEC)
2. Article III-147 Service sectors: Liberalisation of specific sectors – 59(1st subpar.) TFEU (currently 52 TEC)
3. Article III-176 Intellectual property: Protection of property rights (except for language arrangements) – 118 (1st subpar.) TFEU (currently 308 TEC)
4. Article III-231(2-3) Agriculture and Fisheries – 43(2) TFEU (currently 37(2) TEC)
5. Article III-236(3) Transport: Measures which affect living standard and employment - 91(2) TFEU (currently 71 TEC)
6. Article III-256(2) Energy (except fiscal measures) – 194(2) TFEU (currently 308 TEC)
7. Article III-265(2) Border controls – 77(2) TFEU (currently 62, 67 TEC)
8. Article III-266(2) Asylum – 78(2) TFEU (currently 63, 67 TEC)
9. Article III-267(2) Immigration – 79(2) TFEU (currently 63, 67 TEC)
10. Article III-270(1) Judicial co-operation in criminal matters – Principle of mutual recognition and approximation of laws - 82(1) TFEU (currently 31(1) TEU)
11. Article III-270(2) Judicial co-operation in criminal matters – Harmonisation of procedural criminal law – 82(2) TFEU (with emergency brake) - (currently 31 TEU)
12. Article III-271(1) Judicial co-operation in criminal matters: Serious crimes: Definition of criminal offences and sanctions – 83(1) TFEU (with emergency brake) – (currently 31(1c.e) TEU)
13. Article III-273(1) Judicial co-operation in criminal matters: Eurojust (structure, operation, field of action, tasks) – 85(1, 2nd subpar.) TFEU (currently 31(2) TEU)
14. Article III-275(2) Police co-operation in criminal matters (non-operational) – 87(2) TFEU (currently 30(1) TEU)
15. Article III-276(2) Police co-operation in criminal matters: Europol (structure, operation, field of action, tasks) – 88(2) TFEU (currently 30(2) TEU)
16. Article III-319(2) Economic, financial and technical co-operation with third countries – 212(2) TFEU (currently 181a TEC)
17. Article III-359(1) Establishment of specialised courts – 257 (1st subpar.) TFEU (currently 225a TEC)
- 17a. Article III-364 [European Court of Justice: Establishment of competence for disputes relating to intellectual property rights –III-364 of the Constitution foresaw co-decision; newly proposed 262 TFEU still foresees consultation \(currently 229a TEC\)](#)

- 18. Article III-381 European Court of Justice: Modification of statutes – 281(2) TFEU (currently 245(2) TEC)
- 19. Article III-412(1) Financial rules (e.g. Financial Regulation) – 322(1) TFEU (currently 279(1) TEC)
- 20. Article III-427 Staff regulations – 336 TFEU (currently 283 TEC)

C.I.2) Areas in which the European Parliament has currently no say

- 21. Article III-139 Freedom of establishment: Exclusion of certain activities – 51(2) TFEU (currently 45(2) TEC)
- 21a. Article III-144 [Extension of the freedom to provide services to third country nationals – III-144 of the Constitution foresaw co-decision; 56 TFEU \(49 TEC\) remains unchanged](#)
- 22. Article III-157(2) Movement of capital to or from third countries - 64(2) TFEU (currently 57(2) TEC)
- 23. Article III-160 Preventing/combating terrorism and related activities: Framework for administrative measures with regard to the capital movements and payments – 75 TFEU (currently 60 TEC)
- 24. Article III-174 Internal market: Elimination of competition distortions – 116(2) TFEU (currently 96(2) TEC)
- 25. Article III-191 Use of the Euro – 133 TFEU (currently 123(4) TEC)
- 26. Article III-315(2) Common commercial policy – 207(2) TFEU (currently 133(2) TEC)

C.I.3) Areas currently requiring the European Parliament's assent

- 27. Article III-187(3) Modification of the Statute of the European Central Bank and the European System of Central Banks (certain aspects) - 129(3) TFEU (currently 107(5) TEC)
- 28. Article III-223(1.1) Structural Funds – 177(1.1) TFEU (currently 161(1.1) TEC)
- 29. Article III-223(1.2) Cohesion Fund - 177 (1.1 and 2) TFEU (currently 161(1.1 and 2) TEC)

C.I.4) Areas which are currently subject to the co-operation procedure

- 30. Article III-179(6) Multilateral surveillance in the area of the common economic policy – 121(6) TFEU (currently 99(6) TEC)

C.II) Changes to assent, where the European Parliament must approve a text but cannot propose amendments

- 31. Article I-18(1) Use of the flexibility clause – 352(1) TFEU (currently 308 TEC)
- 32. Article III-129(2) Citizenship of the Union - Creation of additional rights – 25(2) TFEU (currently 22 TEC)

C.III) Changes to consultation, where the European Parliament is formally heard

- 33. Article III-125(2) Free movement of EU citizens: Measures concerning passports, identity cards and residence permits (from no participation at all) – 21(3) TFEU (currently 18(3) TEC)
- 34. Article III-157(3) Liberalisation of capital movement to third countries: Steps backwards (from no participation at all) - 64(3) TFEU (currently 57(2) TEC)
- 35. Article III-185(6) Tasks of the ECB: Prudential supervision (from assent) - 127(6) TFEU (currently 105(6) TEC)
- 36. Article III-291 Association with OTCs: Detailed rules and procedures adopted as legislative acts according to a (special) legislative procedure (from no participation at all) – 203(last sentence) TFEU (currently 187 TEC)

C.IV) Changes to information, where the European Parliament is only informed

- 37. Article III-322 Restrictive measures (from no participation at all) – 215(1) TFEU (currently 301 TEC)
- 38. Article III-212(2) Collective agreements: Restrictive measures (from no participation at all)- 155(2) TFEU (currently 139 (2) TEC)
- 39. Article III-278(2) Public Health (from no participation at all) – 168(2) TFEU (currently 152(2) TEC)

C.V) Changes from participation to no participation

- 40. Article III-231(3) CAP: Fixing prices, levies, aid and quantitative limitations (from consultation) – Art.43(3) TFEU (currently Art. 37(2) TEC)

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