

**COVER NOTE**

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from : Praesidium

to : Convention

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Subject : **New or revised provisions of Part III**

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Members of the Convention will find attached some new provisions and some revised articles of Part III of the Constitution, drafted by the Praesidium on a number of issues which were the subject of discussions at the last plenary. These cover the following subjects :

- horizontal provisions (annex I);
- economic governance (annex II);
- voting in CFSP (annex III).

They will also find attached the articles of Part III on Institutions, adapted to match the provisions of Part I (annex IV).

These drafts are intended as a response to points raised during the plenary in order to make progress on Part III, in particular in those areas which are directly related to Part I.

They do not prejudge further changes which might be introduced in the light of written amendments to Part III which some members of the Convention have submitted, or may wish to submit by Monday 23 June at 12.00. Should the European Council in Thessaloniki decide to grant the Convention a few additional weeks in order to finalise Part III, the Praesidium would circulate a revised version with a view to reaching final consensus on this Part of the Constitution at an extraordinary session which could be held on 9-11 July.

It is recalled that amendments on Part III should not aim at modifying existing provisions on policies, with the exception of course of those areas, such as foreign policy, economic governance, freedom, security and justice, which have been subject to examination within the Convention at working group and at plenary session level.

**HORIZONTAL CLAUSES**

**TITLE I**

**CLAUSES OF GENERAL APPLICATION**

Article III-0 (new)

The Union shall ensure consistency between the different policies and activities referred to in this Part of the Constitution taking into account the full range of the Union's objectives.

Article III-1 (ex Article 3(2))

In all the activities referred to in this Part, the Union shall aim to eliminate inequalities, and to promote equality, between men and women.

Article III-1a (new)

In defining and implementing the policies and activities referred to in this Part of the Constitution, the Union shall aim to combat discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation.

Article III-2 (ex Article 6)

Environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities referred to in this Part, in particular with a view to promoting sustainable development.

Article III-2a (ex Article 153(2))

Consumer protection requirements shall be taken into account in defining and implementing other Community policies and activities.

Article III-3 (ex Article 16)

Without prejudice to [Articles III-52, III-53 and III-131 (ex Articles 73, 86 and 87)], and given the place occupied by services of general economic interest as services to which all in the Union attribute value as well as their role in promoting social and territorial cohesion, the Union and the Member States, each within their respective powers and within the scope of application of the Constitution, shall take care that such services operate on the basis of principles and conditions which enable them to fulfil their missions<sup>1</sup>.

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<sup>1</sup> The formulation of this article is provisional.

**ECONOMIC GOVERNANCE**

SECTION 3 BIS

**PROVISIONS SPECIFIC TO MEMBERS OF THE EUROZONE**

Article 1 (taken from article III-86)

1. In order to ensure that economic and monetary union works properly, and in accordance with the relevant provisions of the Constitution, supplementary measures specific to those Member States which are members of the Eurozone may be adopted, to strengthen the coordination of their economic policies and budgetary discipline. These measures shall concern economic policy guidelines and surveillance of them [Article III-68, paragraphs 2 and 4] and excessive deficits [Article III-3, paragraphs 6, 7, 8 and 11].

2. For those measures set out in paragraph 1, only Member States which are part of the Eurozone shall vote. A qualified majority shall be defined as the majority of the votes of the representatives of the Member States which are part of the Eurozone, representing at least three-fifths of their population. Unanimity of those Member States shall be required for an act requiring unanimity.

Article 2

Provisions on arrangements for meetings between ministers of those Member States which are members of the Eurozone are set out in a protocol attached to the Constitution.

Article 3 (article III-81)

1. In order to secure the euro's place in the international monetary system, Member States which are members of the Eurozone shall coordinate their action among themselves and with the Commission with a view to adopting common positions within the competent international financial institutions and conferences. They shall defend and promote those common positions.

Where appropriate, the European Central Bank, without prejudice to its independence, shall be fully associated with that coordination.

2. On the basis of that coordination, the Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences.

3. For the measures referred to in this article, only Member States which are part of the Eurozone shall vote. A qualified majority shall be defined as the majority of the votes of the representatives of the Member States which are part of the Eurozone, representing at least three-fifths of their population. Unanimity of those Member States shall be required for an act requiring unanimity.

## SECTION 4

### TRANSITIONAL PROVISIONS

#### Article III-86 (ex article 122)

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

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

- (a) adoption of the parts of the broad economic-policy guidelines which concern the euro area generally (ex Article 99(2));
- (b) coercive means of remedying excessive deficits (ex Article 104(9) and (11));
- (c) the objectives and tasks of the European System of Central Banks (ex Article 105(1), (2), (3) and (5));
- (d) issue of the euro (ex Article 106);
- (e) acts of the European Central Bank (ex Article 110);
- (f) measures governing the use of the euro (ex Article 123(4));
- (g) monetary agreements (ex Article 111);
- (h) external representation of the euro (new Article);
- (i) appointment of members of the Executive Board of the European Central Bank (ex Article 112(2)(b)).

In the Articles referred to above, "Member States" shall therefore mean Member States without a derogation.

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

4. The voting rights of Member States with a derogation shall be suspended for the adoption by the Council of the Council measures referred to in the Articles listed in paragraph 2. A qualified majority shall be defined as a majority of the votes of the representatives of the Member States without a derogation, representing at least three fifths of their population. Unanimity of those Member States shall be required for any act requiring unanimity.

**VOTING IN CFSP**

point b) of article III-196, par. 2 shall read as follows :

- "b) when it adopts a decision on a Union action or position, on a proposal which the Minister puts forward to it following a specific request to him from the European Council made at its own initiative or that of the Minister."

INSTITUTIONS

CHAPTER 1: THE INSTITUTIONS

**Section 1 THE EUROPEAN PARLIAMENT**

Article III-227 (ex Article 190)

1. The European Parliament shall draw up a proposal for a European law for the election of its Members by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

The Council shall, acting unanimously after obtaining the approval of the European Parliament, which shall act by a majority of its component members, adopt the law referred to in the preceding subparagraph, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.

2. A European law of the European Parliament, adopted on its own initiative, shall lay down the regulations and general conditions governing the performance of the duties of its Members. The European Parliament shall act after seeking an opinion from the Commission and with the approval of the Council. All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council.

**3. Throughout the 2004-2009 Parliament, the composition of the European Parliament shall be as set out in the Protocol on the Representation of Citizens in the European Parliament.**

### **Section 3 THE COUNCIL**

Article III-240 (ex Articles 203 and 204)

1. The Council shall meet when convened by its President on his own initiative or at the request of one of its members or of the Commission.
2. **The European Council shall adopt, on its own initiative and by unanimity, a decision establishing the rules governing the rotation of the Presidency of Council formations.**

### **Section 4 THE COMMISSION**

Article III-245 (ex Article 213(1) and ex Article 214)

**European Commissioners and non-voting Commissioners shall be appointed for a period of five years, subject, if need be, to Article III-238. Only nationals of Member States may be European Commissioners and Commissioners.**

Article III-246 (ex Article 213(2))

**European Commissioners and Commissioners shall refrain from any action incompatible with their duties. Each Member State undertakes to respect this principle and not to seek to influence European Commissioners and Commissioners in the performance of their tasks.**

**European Commissioners and Commissioners** may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council acting by a simple majority or by the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article III-248 or deprived of his right to a pension or other benefits in its stead.

Article III-247 (ex Article 215)

1. Apart from normal replacement, or death, the duties of a **European Commissioner or Commissioner** shall end when he resigns or is compulsorily retired. A **European Commissioner or Commissioner** shall resign if the President so requests.
2. A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the **European Commissioner or Commissioner's** term of office by a new **European Commissioner or Commissioner** appointed by the President of the Commission according to the same procedures.
3. In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his term of office. The procedure laid down in Article I-26(1) shall be applicable for the replacement of the President.
4. In the case of the resignation of all **European Commissioners and Commissioners**, they shall remain in office until they have been replaced, for the remainder of their term of office, in accordance with the procedures laid down in **Articles I-25 and I-26**.

Article III-248 (ex Article 216)

If any **European Commissioner or Commissioner** no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council acting by a simple majority or by the **College**, compulsorily retire him.

Article III-249 (ex Article 217)

The responsibilities incumbent upon the Commission shall be structured and allocated among its Members by its President, subject to Article I-26(3). The President may reshuffle the allocation of those responsibilities during the Commission's term of office. **European Commissioners and Commissioners** shall carry out the duties devolved upon them by the President under his authority.

[Article III-250]

Article III-251 (ex Article 218)

The **College** shall adopt its Rules of Procedure so as to ensure both its own operation and that of its departments. It shall ensure that these rules are published.

Article III-252 (ex Article 219)

The **College** shall act by a majority of its Members. The Rules of Procedure shall determine the quorum.

Article III-253 (ex Article 212)

The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Union

## **CHAPTER 2: THE UNION'S ADVISORY BODIES**

### **Section 1 THE COMMITTEE OF THE REGIONS**

Article III-288 (ex Article 263)

**The number of members of the Committee of the Regions shall not exceed 350. A European law of the Council, adopted unanimously, shall determine the Committee's composition.**

The members of the Committee and an equal number of alternate members shall .....

### **Section 2 THE ECONOMIC AND SOCIAL COMMITTEE**

Article III-291(ex Article 258)

**The number of members of the Economic and Social Committee shall not exceed 350. A European law of the Council, adopted unanimously, shall determine the Committee's composition.**

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