

THE MAASTRICHT TREATY

PROVISIONS AMENDING

**THE TREATY ESTABLISHING
THE EUROPEAN COAL AND STEEL COMMUNITY**

AND

**THE TREATY ESTABLISHING
THE EUROPEAN ATOMIC ENERGY COMMUNITY**

MAASTRICHT

7 FEBRUARY 1992

TITLE III

**PROVISIONS AMENDING THE TREATY
ESTABLISHING
THE EUROPEAN COAL AND STEEL COMMUNITY**

ARTICLE H

The Treaty establishing the European Coal and Steel Community shall be amended in accordance with the provisions of this Article.

(1) Article 7 shall be replaced by the following:

'ARTICLE 7

The institutions of the Community shall be:

- *a HIGH AUTHORITY (hereinafter referred to as 'the Commission');*
- *a COMMON ASSEMBLY (hereinafter referred to as 'the European Parliament');*
- *a SPECIAL COUNCIL OF MINISTERS (hereinafter referred to as 'the Council');*
- *a COURT OF JUSTICE;*
- *a COURT OF AUDITORS.*

The Commission shall be assisted by a Consultative Committee.'

(2) The following Articles shall be inserted:

'ARTICLE 9

1. The Commission shall consist of seventeen members, who shall be chosen on the grounds of their general competence and whose independence is beyond doubt.

The number of members of the Commission may be altered by the Council, acting unanimously.

Only nationals of the Member States may be members of the Commission.

The Commission must include at least one national of each of the Member States, but may not include more than two members having the nationality of the same State.

2. The members of the Commission shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties. Each Member State undertakes to respect this principle and not to seek to influence the members of the Commission in the performance of their tasks.

The members of the Commission 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 Council of Justice may, on application by the Council or the Commission, rule that the member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 12a or deprived of his right to a pension or other benefits in its stead.

ARTICLE 10

1. The members of the Commission shall be appointed, in accordance with the procedure referred to in paragraph 2, for a period of five years, subject, if need be, to Article 24.

Their term of office shall be renewable.

2. The governments of the Member States shall nominate by common accord, after consulting the European Parliament, the person they intend to appoint as President of the Commission.

The governments of the Member States shall, in consultation with the nominee for President, nominate the other persons whom they intend to appoint as members of the Commission.

The President and the other members of the Commission thus nominated shall be subject as a body to a vote of approval by the European Parliament. After approval by the European Parliament, the President and the other members of the Commission shall be appointed by common accord of the governments of the Member States.

3. Paragraphs 1 and 2 shall be applied for the first time to the President and the other members of the Commission whose term of office begins on 7 January 1995.

The President and the other members of the Commission whose term of office begins on 7 January 1993 shall be appointed by common accord of the governments of the Member States. Their term of office shall expire on 6 January 1995.

ARTICLE 11

The Commission may appoint a Vice-President or two Vice-Presidents from among its members.

ARTICLE 12

Apart from normal replacement, or death, the duties of a member of the Commission shall end when he resigns or is compulsorily retired.

The vacancy thus caused shall be filled for the remainder of the member's term of office by a new member appointed by common accord of the governments of the Member States. The Council may, acting unanimously, decide that such a vacancy need not be filled.

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 10(2) shall be applicable for the replacement of the President.

Save in the case of compulsory retirement under Article 12a, members of the Commission shall remain in office until they have been replaced.

ARTICLE 12a

If any member of the Commission 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 or the Commission, compulsorily retire him.

ARTICLE 13

The Commission shall act by a majority of the number of members provided for in Article 9.

A meeting of the Commission shall be valid only if the number of members laid down in its rules of procedure is present.'

(3) Article 16 shall be replaced by the following:

'ARTICLE 16

The Commission shall make all appropriate administrative arrangements for the operation of its departments.

It may set up study committees, including an economic study committee.

The Council and the Commission shall consult each other and shall settle by common accord their methods of co-operation.

The Commission shall adopt its rules of procedure so as to ensure that both it and its departments operate in accordance with the provisions of this Treaty. It shall ensure that these rules are published.'

(4) The following Article shall be inserted:

'ARTICLE 17

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 Community.'

(5) The following sub-paragraph shall be added to Article 18:

'The Council shall, acting by a qualified majority, determine any payment to be made instead of remuneration.'

(6) The following Articles shall be inserted:

'ARTICLE 20a

The European Parliament may, acting by a majority of its members, request the Commission to submit any appropriate proposal on matters on which it considers that a Community act is required for the purposes of implementing this Treaty.

ARTICLE 20b

In the course of its duties, the European Parliament may, at the request of a quarter of its members, set up a temporary Committee of inquiry to investigate, without prejudice to the powers conferred by this Treaty on other institutions or bodies, alleged contraventions or mal-administration in the implementation of Community law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.

The temporary Committee of inquiry shall cease to exist on the submission of its report.

The detailed provisions governing the exercise of the right of inquiry shall be determined by common accord of the European Parliament, the Council and the Commission.

ARTICLE 20c

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Community's fields of activity and which affects him, her or it directly.

ARTICLE 20d

1. The European Parliament shall appoint an Ombudsman empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of mal-administration in the activities of the Community institutions or bodies, with the exception of the Court of justice and the Court of First Instance acting in their judicial role.

In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of mal-administration, he shall refer the matter to the institution concerned, which shall have a period of three months in which to inform him of its views. The Ombudsman shall then forward a report to the European Parliament and the institution concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his inquiries.

2. The Ombudsman shall be appointed after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment.

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he no longer fulfils the conditions required for the performance of his duties or if he is guilty of serious mis-conduct.

3. The Ombudsman shall be completely independent in the performance of his duties. In the performance of those duties he shall neither seek nor take instructions from any body. The Ombudsman may not, during his term of office, engage in any other occupation, whether gainful or not.

4. The European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, lay down the regulations and general conditions governing the performance of the Ombudsman's duties.'

(7) Paragraph 3 of Article 21 shall be replaced by the following:

'3. The European Parliament shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States. The Council shall, acting unanimously after obtaining the assent of the European Parliament, which shall act by a majority of its component members, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.'

(8) Article 24 shall be replaced by the following:

'ARTICLE 24

The European Parliament shall discuss in open session the general report submitted to it by the Commission.

If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and only by open vote.

If a motion of censure is called by a two-thirds majority of the votes cast, representing a majority of the members of the European Parliament, the members of the Commission shall resign as a body. They shall continue to deal with current business until they are replaced in accordance with Article 10. In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired.'

(9) The following Articles shall be inserted:

'ARTICLE 27

The Council shall consist of a representative of each Member State at ministerial level, authorised to commit the government of that Member State.

The office of President shall be held in turn by each Member State in the Council for a term of six months, in the following order of Member States:

- *for a first cycle of six years: Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Portugal, United Kingdom;*
- *for the following cycle of six years: Denmark, Belgium, Greece, Germany, France, Spain, Italy, Ireland, Netherlands, Luxembourg, United Kingdom, Portugal.*

ARTICLE 27a

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.'

(10) The following Articles shall be inserted:

'ARTICLE 29

The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President and members of the Commission, and of the President, Judges, Advocates-General and Registrar of the Court of Justice. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.

ARTICLE 30

1. *A committee consisting of the Permanent Representatives of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council.*
2. *The Council shall be assisted by a General Secretariat, under the direction of a Secretary-General. The Secretary-General shall be appointed by the Council acting unanimously.
The Council shall decide on the organisation of the General Secretariat.*
3. *The Council shall adopt its rules of procedure.'*

(11) Article 32 shall be replaced by the following:

'ARTICLE 32

The Court of Justice shall consist of thirteen Judges.

The Court of Justice shall sit in plenary session. It may, however, form Chambers, each consisting of three or five Judges, either to undertake certain preparatory inquiries or to adjudicate on particular categories of cases in accordance with the rules laid down for these purposes.

The Council of Justice shall sit in plenary session when a Member State or a Community institution that is a party to the proceedings so requests.

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Judges and make the necessary adjustments to the second and third paragraphs of this Article and to the second paragraph of Article 32b.'

(12) Article 32d shall be replaced by the following:

'ARTICLE 32d

1. *A Court of First Instance shall be attached to the Court of Justice with jurisdiction to hear and determine at first instance, subject to a right of appeal to the Court of Justice on points of law only and in accordance with the conditions laid down by the Statute, certain classes of action or proceeding defined in accordance with the conditions laid down in paragraph 2. The Court of First Instance shall not be competent to hear and determine questions referred for a preliminary ruling under Article 41.*

2. *At the request of the Court of Justice and after consulting the European Parliament and the Commission, the Council, acting unanimously, shall determine the classes of action or proceeding referred to in paragraph 1, and the composition of the Court of First Instance and shall adopt the necessary adjustments and additional provisions to the Statute of the Court of Justice. Unless the Council decides otherwise, the provisions of this Treaty relating to the Court of Justice, in particular the provisions of the Protocol on the Statute of the Court of Justice, shall apply to the Court of First Instance.*

3. *The members of the Court of First Instance shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office; they shall be appointed by common accord of the governments of the Member States for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.*

4. *The Court of First Instance shall establish its rules of procedure in agreement with the Court of Justice. Those rules shall require the unanimous approval of the Council.'*

(13) Article 33 shall be replaced by the following:

'ARTICLE 33

The Court of Justice shall have jurisdiction in actions brought by a Member State or by the Council to have decisions or recommendations of the Commission declared void on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers. The Court of Justice may not, however, examine the evaluation of the situation, resulting from economic facts or circumstances, in the light of which the Commission took its decisions or made its recommendations, save where the Commission is alleged to have misused its powers or to have manifestly failed to observe the provisions of this Treaty or any rule of law relating to its application.

Undertakings or associations referred to in Article 48 may, under the same conditions, institute proceedings against decisions or recommendations concerning them which are individual in character or against general decisions or recommendations which they consider to involve a misuse of powers affecting them.

The proceedings provided for in the first two paragraphs of this Article shall be instituted within one month of the notification or publication, as the case may be, of the decision or recommendation.

The Court of Justice shall have jurisdiction under the same conditions in actions brought by the European Parliament for the purpose of protecting its prerogatives.'

(14) The following chapter shall be inserted:

'CHAPTER V

THE COURT OF AUDITORS

ARTICLE 45a

The Court of Auditors shall carry out the audit.

ARTICLE 45b

1. *The Court of Auditors shall consist of twelve members.*

2. *The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.*

3. *The members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the European Parliament.*

However, when the first appointments are made, four members of the Court of Auditors, chosen by lot, shall be appointed for a term of office of four years only.

The members of the Court of Auditors shall be eligible for reappointment.

They elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.

4. *The members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.*

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.

5. *The members of the Court of Auditors 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.*

6. *Apart from normal replacement, or death, the duties of a member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 7.*

The vacancy thus caused shall be filled for the remainder of the member's term of office.

Save in the case of compulsory retirement, members of the Court of Auditors shall remain in office until they have been replaced.

7. *A member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.*

8. *The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.*

9. *The provisions of the Protocol on the Privileges and Immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the members of the Court of Auditors.*

ARTICLE 45c

1. *The Court of Auditors shall examine the accounts of all revenue and expenditure of the Community. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community in so far as the relevant constituent instrument does not preclude such examination.*

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

2. *The Court of Auditors shall examine whether all revenue referred to in paragraph 1 has been received and all expenditure referred to in that paragraph has been incurred in a lawful and regular manner and whether the financial management has been sound.*

The audit of revenue shall be carried out on the basis of the amounts established as due and the amounts actually paid to the Community.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made. These audits may be carried out before the closure of accounts for the financial year in question.

3. *The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Community and in the Member States. In the Member States the audit shall be carried out in liaison with the national audit bodies or, if these do not have the necessary powers, with the competent national departments. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.*

The other institutions of the Community and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

4. *The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the 'Official Journal of the European Communities'.*

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Community.

It shall adopt its annual reports, special reports or opinions by a majority of its members.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

5. *The Court of Auditors shall also draw up a separate annual report stating whether the accounting other than that for the expenditure and revenue referred to in paragraph 1 and the financial management by the Commission relating thereto have been effected in a regular manner. It shall draw up this report within six months of the end of the financial year to which the accounts refer and shall submit it to the Commission and the Council. The Commission shall forward it to the European Parliament.'*

(15) Article 78c shall be replaced by the following:

'ARTICLE 78c

The Commission shall implement the administrative budget, in accordance with the provisions of the regulations made pursuant to Article 78h, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management.

The regulations shall lay down detailed rules for each institution concerning its part in effecting its own expenditure.

Within the administrative budget, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 78h, transfer appropriations from one chapter to another or from one sub-division to another.'

(16) Articles 78e and 78f shall be repealed.

(17) Article 78g shall be replaced by the following:

‘ARTICLE 78g

1. The European Parliament, acting on a recommendation from the Council, which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the administrative budget. To this end, the Council and the European Parliament in turn shall examine the accounts and the financial statement referred to in Article 78d, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, and any relevant special reports by the Court of Auditors.

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the administrative budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter’s request.

3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.

At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the administrative budget. These reports shall also be forwarded to the Court of Auditors.’

(18) Article 78h shall be replaced by the following:

‘ARTICLE 78h

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall:

- (a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the administrative budget and for presenting and auditing accounts;*
- (b) determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Communities’ own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements;*
- (c) lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers, and concerning appropriate arrangements for inspection.’*

(19) The following Article shall be inserted:

'ARTICLE 78i

Member States shall take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests.

Without prejudice to other provisions of this Treaty, Member States shall co-ordinate their action aimed at protecting the financial interests of the Community against fraud. To this end they shall organise, with the help of the Commission, close and regular co-operation between the competent departments of their administrations.'

(20) Article 79(a) shall be replaced by the following:

'(a) This Treaty shall not apply to the Faeroe Islands.'

(21) Articles 96 and 98 shall be repealed.

TITLE IV

**PROVISIONS AMENDING THE TREATY
ESTABLISHING
THE EUROPEAN ATOMIC ENERGY COMMUNITY**

ARTICLE I

The Treaty establishing the European Atomic Energy Community shall be amended in accordance with the provisions of this Article.

(1) Article 3 shall be replaced by the following:

'ARTICLE 3

1. The tasks entrusted to the Community shall be carried out by the following institutions:

- a EUROPEAN PARLIAMENT,*
- a COUNCIL,*
- a COMMISSION,*
- a COURT OF JUSTICE,*
- a COURT OF AUDITORS.*

Each institution shall act within the limits of the powers conferred upon it by this Treaty.

2. The Council and Commission shall be assisted by an Economic and Social Committee acting in an advisory capacity.'

(2) The following Articles shall be inserted:

'ARTICLE 107a

The European Parliament may, acting by a majority of its members, request the Commission to submit any appropriate proposal on matters on which it considers that a Community act is required for the purpose of implementing this Treaty.

ARTICLE 107b

In the course of its duties, the European Parliament may, at the request of a quarter of its members, set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by this Treaty on other institutions or bodies, alleged contraventions or mal-administration in the implementation of Community law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.

The temporary Committee of Inquiry shall cease to exist on the submission of its report.

The detailed provisions governing the exercise of the right of inquiry shall be determined by common accord of the European Parliament, the Council and Commission.

ARTICLE 107c

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Community's fields of activity and which affects him, her or it directly.

ARTICLE 107d

1. The European Parliament shall appoint an Ombudsman empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of mal-administration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role.

In accordance with his duties, the Ombudsman shall conduct his inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of mal-administration, he shall refer the matter to the institution concerned, which shall have a period of three months in which to inform him of its views.

The Ombudsman shall then forward a report to the European Parliament and the institution concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his inquiries.

2. The Ombudsman shall be appointed after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment.

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he no longer fulfils the conditions required for the performance of his duties or if he is guilty of serious misconduct.

3. The Ombudsman shall be completely independent in the performance of his duties. In the performance of those duties he shall neither seek nor take instructions from any body. The Ombudsman may not, during his term of office, engage in any other occupation, whether gainful or not.

4. The European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, lay down the regulations and general conditions governing the performance of the Ombudsman's duties.'

(3) Paragraph 3 of Article 108 shall be replaced by the following:

'3. The European Parliament shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States. The Council shall, acting unanimously after obtaining the assent of the European Parliament, which shall act by a majority of its component members, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.'

(4) The second sub-paragraph of Article 114 shall be supplemented by the following sentence:

'In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired.'

(5) The following Articles shall be inserted:

'ARTICLE 116

The Council shall consist of a representative of each Member State at ministerial level, authorised to commit the government of that Member State.

The office of President shall be held in turn by each Member State in the Council for a term of six months, in the following order of Member States:

- *for a first cycle of six years: Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Portugal, United Kingdom;*
- *for the following cycle of six years: Denmark, Belgium, Greece, Germany, France, Spain, Italy, Ireland, Netherlands, Luxembourg, United Kingdom, Portugal.*

ARTICLE 117

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.'

(6) The following Article shall be inserted:

'ARTICLE 121

1. A committee consisting of the Permanent Representatives of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council.

2. The Council shall be assisted by a General Secretariat, under the direction of a Secretary-General. The Secretary-General shall be appointed by the Council acting unanimously.

The Council shall decide on the organisation of the General Secretariat.

3. The Council shall adopt its rules of procedure.'

(7) The following Article shall be inserted:

'ARTICLE 123

The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President and members of the Commission, and of the President,

Judges, Advocates-General and Registrar of the Court of Justice. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.'

(8) The following Articles shall be inserted:

'ARTICLE 125

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 Community.

ARTICLE 126

1. The Commission shall consist of seventeen members, who shall be chosen on the grounds of their general competence and whose independence is beyond doubt.

The number of members of the Commission may be altered by the Council, acting unanimously. Only nationals of the Member States may be members of the Commission.

The Commission must include at least one national of each of the Member States, but may not include more than two members having the nationality of the same State.

2. The members of the Commission shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties. Each Member State undertakes to respect this principle and not to seek to influence the members of the Commission in the performance of their tasks.

The members of the Commission 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 or the Commission, rule that the member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 129 or deprived of his right to a pension or other benefits in its stead.

ARTICLE 127

1. The members of the Commission shall be appointed, in accordance with the procedure referred to in paragraph 2, for a period of five years, subject, if need be, to Article 114.

Their term of office shall be renewable.

2. The government of the Member States shall nominate by common accord, after consulting the European Parliament, the person they intend to appoint as President of the Commission.

The governments of the Member States shall, in consultation with the nominee for President, nominate the other persons whom they intend to appoint as members of the Commission.

The President and the other members of the Commission thus nominated shall be subject as a body to a vote of approval by the European Parliament. After approval by

the European Parliament, the President and the other members of the Commission shall be appointed by common accord of the governments of the Member States.

3. Paragraphs 1 and 2 shall be applied for the first time to the President and the other members of the Commission whose term of office begins on 7 January 1995. The President and the other members of the Commission whose term of office begins on 7 January 1993 shall be appointed by common accord of the governments of the Member States. Their term of office shall expire on 6 January 1995.

ARTICLE 128

Apart from normal replacement, or death, the duties of a member of the Commission shall end when he resigns or is compulsorily retired.

The vacancy thus caused shall be filled for the remainder of the member's term of office by a new member appointed by common accord of the governments of the Member States. The Council may, acting unanimously, decide that such a vacancy need not be filled.

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 127(2) shall be applicable for the replacement of the President.

Save in the case of compulsory retirement under Article 129, members of the Commission shall remain in office until they have been replaced.

ARTICLE 129

If any member of the Commission 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 or the Commission, compulsorily retire him.

ARTICLE 130

The Commission may appoint a Vice-President or two Vice-Presidents from among its members.

ARTICLE 131

The Council and the Commission shall consult each other and shall settle by common accord their methods of co-operation.

The Commission shall adopt its rules of procedure so as to ensure that both it and its departments operate in accordance with the provisions of this Treaty. It shall ensure that these rules are published.

ARTICLE 132

The Commission shall act by a majority of the number of members provided for in Article 126.

A meeting of the Commission shall be valid only if the number of members laid down in its rules of procedure is present.'

(9) Article 133 shall be repealed.

(10) Article 137 shall be replaced by the following:

'ARTICLE 137

The Court of Justice shall consist of thirteen Judges.

The Court of Justice shall sit in plenary session. It may, however, form Chambers, each consisting of three or five Judges, either to undertake certain preparatory inquiries or to adjudicate on particular categories of cases in accordance with the rules laid down for these purposes.

The Court of Justice shall sit in plenary session when a Member State or a Community institution that is a party to the proceedings so requests.

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Judges and make the necessary adjustments to the second and third paragraphs of this Article and to the second paragraph of Article 139.'

(11) Article 140a shall be replaced by the following:

'ARTICLE 140a

1. A Court of First Instance shall be attached to the Court of Justice with jurisdiction to hear and determine at first instance, subject to a right of appeal to the Court of Justice on points of law only and in accordance with the conditions laid down by the Statute, certain classes of action or proceeding defined in accordance with the conditions laid down in paragraph 2. The Court of First Instance shall not be competent to hear and determine questions referred for a preliminary ruling under Article 150.

2. At the request of the Court of Justice and after consulting the European Parliament and the Commission, the Council, acting unanimously, shall determine the classes of action or proceeding referred to in paragraph 1 and the composition of the Court of First Instance and shall adopt the necessary adjustments and additional provisions to the Statute of the Court of Justice. Unless the Council decides otherwise, the provisions of this Treaty relating to the Court of Justice, in particular the provisions of the Protocol on the Statute of the Court of Justice, shall apply to the Court of First Instance.

3. The members of the Court of First Instance shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office; they shall be appointed by common accord of the governments of the Member States for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for re-appointment.

4. The Court of First Instance shall establish its rules of procedure in agreement with the Court of Justice.

Those rules shall require the unanimous approval of the Council.'

(12) Article 143 shall be replaced by the following:

'ARTICLE 143

1. If the Court of Justice finds that a Member State has failed to fulfil an obligation under this Treaty, the State shall be required to take the necessary measures to comply with the judgement of the Court of Justice.

2. If the Commission considers that the Member State concerned has not taken such measures it shall, after giving that State the opportunity to submit its

observations, issue a reasoned opinion specifying the points on which the Member State concerned has not complied with the judgement of the Court of Justice.

If the Member State concerned fails to take the necessary measures to comply with the Court's judgement within the time-limit laid down by the Commission, the latter may bring the case before the Court of Justice. In so doing it shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court of Justice finds that the Member State concerned has not complied with its judgement it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article 142.'

(13) Article 146 shall be replaced by the following:

'ARTICLE 146

The Court of Justice shall review the legality of acts of the Council and of the Commission, other than recommendations and opinions, and of acts of the European Parliament intended to produce legal effects vis-à-vis third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

The Court shall have jurisdiction under the same conditions in actions brought by the European Parliament for the purpose of protecting its prerogatives.

Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof of the day on which it came to the knowledge of the latter, as the case may be.'

(14) The following Section shall be inserted:

'SECTION V

THE COURT OF AUDITORS

ARTICLE 160a

The audit shall be carried out by the Court of Auditors.

ARTICLE 160b

1. The Court of Auditors shall consist of twelve members.

2. The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

3. The members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the European Parliament.

However, when the first appointments are made, four members of the Court of Auditors, chosen by lot, shall be appointed for a term of office of four years only.

The members of the Court of Auditors shall be eligible for reappointment.

They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.

4. The members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.

5. The members of the Court of Auditors 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.

6. Apart from normal replacement or death, the duties of a member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 7.

The vacancy thus caused shall be filled for the remainder of the member's term of office.

Save in the case of compulsory retirement, members of the Court of Auditors shall remain in office until they have been replaced.

7. A member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

8. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

9. The provisions of the Protocol on the Privileges and Immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the members of the Court of Auditors.

ARTICLE 160c

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Community. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community in so far as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound.

The audit of revenue shall be carried out on the basis of the amounts established as due and the amounts actually paid to the Community.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. *The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Community and in the Member States. In the Member States the audit shall be carried out in liaison with the national audit bodies or, if these do not have the necessary powers, with the competent national departments. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.*

The other institutions of the Community and the national audit bodies or, if these do not have the necessary powers, the competent national department, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

4. *The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the 'Official Journal of the European Communities'.*

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Community.

It shall adopt its annual reports, special reports or opinions by a majority of its members.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.'

(15) Article 166 shall be replaced by the following:

'ARTICLE 166

The number of members of the Economic and Social Committee shall be as follows:

Belgium: 12; Denmark: 9; Germany: 24; Greece: 12; Spain: 21; France: 24; Ireland: 9; Italy: 24; Luxembourg: 6, Netherlands: 12; Portugal: 12; United Kingdom: 24.

The members of the Committee shall be appointed by the Council, acting unanimously, for four years. Their appointments shall be renewable.

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.

The Council, acting by a qualified majority, shall determine the allowances of members of the Committee.'

(16) Article 168 shall be replaced by the following:

‘ARTICLE 168

The Committee shall elect its chairman and officers from among its members for a term of two years.

It shall adopt its rules of procedure.

The Committee shall be convened by its chairman at the request of the Council or of the Commission. It may also meet on its own initiative.’

(17) Article 170 shall be replaced by the following:

‘ARTICLE 170

The Committee must be consulted by the Council or by the Commission where this Treaty so provides. The Committee may be consulted by these institutions in all cases in which they consider it appropriate. It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

The Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee and that of the specialized section, together with a record of the proceedings, shall be forwarded to the Council and to the Commission.’

(18) Paragraphs 1 to 3 of Article 172 shall be repealed.

(19) Article 173 shall be replaced by the following:

‘ARTICLE 173

Without prejudice to other revenue, the budget shall be financed wholly from own resources.

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall lay down provisions relating to the system of own resources of the Community, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.’

(20) The following Article shall be inserted:

‘ARTICLE 173a

With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Community act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Community’s own resources arising under-provisions laid down by the Council pursuant to Article 173.’

(21) Article 179 shall be replaced by the following:

‘ARTICLE 179

The Commission shall implement the budgets, in accordance with the provisions of the regulations made pursuant to Article 183, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management.

The regulations shall lay down detailed rules for each institution concerning its part in effecting its own expenditure.

Within the budgets, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 183, transfer appropriations from one chapter to another or from one sub-division to another.'

(22) Articles 180 and 180a shall be repealed.

(23) Article 180b shall be replaced by the following:

'ARTICLE 180b

1. The European Parliament, acting on a recommendation from the Council, which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts and the financial statement referred to in Article 179a, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, and any relevant special reports by the Court of Auditors.

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.

3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.

At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budgets. These reports shall also be forwarded to the Court of Auditors.'

(24) Article 183 shall be replaced by the following:

'ARTICLE 183

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall:

(a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;

(b) determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Community's own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements;

(c) *lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers, and concerning appropriate arrangements for inspection.*'

(25) The following Article shall be inserted:

'ARTICLE 183a

Member States shall take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests.

Without prejudice to other provisions of this Treaty, Member States shall co-ordinate their actions aimed at protecting the financial interests of the Community against fraud. To this end they shall organise, with the help of the Commission, close and regular co-operation between the competent departments of their administrations.'

(26) Article 198(a) shall be replaced by the following:

'(a) This Treaty shall not apply to the Faeroe Islands.'

(27) Article 201 shall be replaced by the following:

'ARTICLE 201

The Community shall establish close co-operation with the Organisation for Economic Co-operation and Development, the details of which shall be determined by common accord.'

(28) Articles 204 and 205 shall be repealed.

(29) Article 206 shall be replaced by the following:

'ARTICLE 206

The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.

These agreements shall be concluded by the Council, acting unanimously after consulting the European Parliament.

Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article N of the Treaty on European Union.'

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