


The Treaty of Nice

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Provision had already been made in a Protocol annexed to the Treaty of Amsterdam for the convening of a new Intergovernmental Conference (IGC). The Helsinki European Council of December 1999 specified the subjects which were to be dealt with by the IGC: the size and composition of the Commission, the weighting of votes in the Council, the extension of qualified majority voting, and any other amendment to be made to the Treaties as regards the European institutions, in correlation with the questions listed above and in connection with the implementation of the Treaty of Amsterdam. Following this, in June 2000, the Feira European Council also included enhanced cooperation on the agenda for the discussions.

The IGC opened on 14 February 2000 and completed its work in December of the same year. On 11 December 2000, the Nice European Council reached agreement on the text, which was officially signed in Nice on 26 February 2001 and came into force on 1 February 2003. On 16 April 2003, the Treaty on the accession of the 10 new Member States of the European Union (EU) was signed in Athens and incorporated the amendments to the founding Treaties as amended in the Treaty of Nice, in order to adjust the institutional framework to the constraints of enlargement.

The Treaty of Nice consists of 13 articles, four Protocols annexed to the Treaty on European Union and the Treaties establishing the European Communities, to the Treaty on European Union and the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community, or to the Treaty establishing the European Community, and 27 declarations.

The structure of the Treaty

Part One — Substantive Amendments

Part Two — Transitional Provisions

Protocol annexed to the Treaty on European Union and to the Treaties establishing the European Communities

Protocol annexed to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community

Protocols annexed to the Treaty establishing the European Community

Final Act

The European Union

The institutional framework

The European Union is based on a three-pillar structure. The first pillar represents the European Communities, the second the common foreign and security policy (CFSP), and the third police and judicial cooperation in criminal matters (PJCC).

The conditions required to establish **enhanced cooperation** are set out in a single provision.

The minimum number of Member States required to establish enhanced cooperation is set at eight. In the Community pillar and in the third pillar a veto on the establishment of enhanced cooperation is no longer possible. With regard to the CFSP, enhanced cooperation for the launching of a common action or the adoption of a common position is possible under certain conditions.

Acts

The Official Journal of the European Communities becomes the **Official Journal of the European Union**.

In order to prevent a serious and persistent breach of fundamental rights in a Member State, on a reasoned proposal by one third of the Member States, the Council, acting by a majority of four fifths and after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach of fundamental rights by a Member State and address appropriate recommendations to that State.

The first pillar

The Treaty of Nice provided for the amendment of the ECSC Treaty, particularly its institutional framework; however, the ECSC Treaty expired on 23 July 2002, before the Treaty of Nice came into force. As a result, the three Communities which had formed the first pillar were reduced to two. The Treaty of Nice settles matters regarding the financial consequences of the expiry of the ECSC Treaty.

The institutional framework

With effect from the European elections held in June 2004, the maximum number of **Members of the European Parliament** is set at 732. The distribution of seats, laid down for a European Union of 27 Member States, is adjusted to take account of the fact that only some of the States which had applied for accession actually acceded to the EU before the elections. The regulations and general conditions governing the exercise of the duties of Members of the European Parliament have to be approved by qualified majority in the Council. Regulations governing political parties at European level may be adopted in accordance with the codecision procedure.

Parliament no longer needs to demonstrate special interest in order to bring proceedings to have acts issued by the institutions declared void, and it is also authorised to seek a preliminary ruling on the compatibility of an international agreement with the Treaty.

The powers of Parliament are extended. The codecision procedure is applicable to a larger number of matters, the assent of Parliament is necessary to establish enhanced cooperation in an area subject to codecision. When the Council proposes to determine that there is a clear risk of a serious breach of fundamental rights, Parliament is required to deliver its opinion.

The Treaty provides for a new distribution of votes in the **Council**, taking account of the effects of the fifth enlargement. Accordingly, from 1 January 2005, a qualified majority is established if the decision secures at least a given number of votes and if the decision is supported by a majority of the Member States. Any Member of the Council may, in addition, request verification to determine whether the qualified majority represents at least 62 % of the total population of the Union. If this condition is not met, the decision is not adopted. However, according to the Accession Treaty signed in Athens, the provisions on qualified majority voting are applicable from 1 November 2004.

The number of votes assigned to the Member States has been increased. The increase is greater for the Member States with the largest populations. The threshold for a qualified majority, which has to be adjusted as new Member States accede, has been amended, and different thresholds apply up to the accession of the 27th Member State.

The Treaty provides for gradual changes in the composition of the **Commission**. From 2005, the Commission will consist of one national per Member State. After the accession of the 27th State, the number of Commissioners will be less than the number of Member States, and the Commissioners will be chosen in accordance with a rotation system based on the principle of equality. However, no agreement has been concluded on the number of Commissioners and the procedure for rotation based on equality, but the Treaty provides that the Council must settle any matters outstanding after the accession of the 27th Member State.

The judicial system of the Union has been extensively readjusted. **Judicial panels** may be created to hear and determine at first instance certain classes of action or proceeding. The Statute of the **Court of Justice** may now be amended by the Council at the request of the Court or of the Commission, and the Rules of Procedure of the Court of Justice and of the Court of First Instance will, in future, be adopted by qualified majority. The Treaty also amends the allocation of powers between the Court of Justice and the Court of First Instance.

The **Court of Auditors**, under the terms of the Treaty, consists of one national from each Member State. It may also establish internal chambers to be responsible for the adoption of certain categories of reports or opinions.

The rules on decision-making by the Board of Governors of the **European Central Bank** may be amended more simply, but such amendment still requires a unanimous decision of the European Council, ratified by the Member States.

The Council, acting unanimously, may amend the composition of the Board of Governors of the **European Investment Bank** and its rules governing decision-making.

The total number of Members of the **Committee of the Regions** may not exceed 350. In addition, the Members must hold a regional or local authority electoral mandate or be politically accountable to an elected assembly.

The **Economic and Social Committee (ESC)** consists of ‘representatives of the various economic and social components of organised civil society’. The total number of Members of the Economic and Social Committee may not exceed 350.

The number of fields in which decisions are taken by qualified majority in the Council continues to increase. Certain aspects of the fight against discrimination, measures on freedom of movement for Union citizens, judicial cooperation in civil matters, certain international agreements on services and intellectual property, industrial policy, economic, financial and technical cooperation with third countries, the regulations and general conditions governing the exercise of their duties by Members of the European Parliament, the Rules of Procedure of the Court of Justice and the Court of First Instance, the appointment of Members of the Commission, and the Court of Auditors, the Economic and Social Committee, the Committee of the Regions, the Secretary-General and Deputy Secretary-General of the Council and special representatives under the CFSP all become subject to qualified majority decisions as from the entry into force of the Treaty of Nice. Qualified majority voting was deferred until 2007 with regard to the structural funds and the cohesion funds and the adoption of the financial regulations. On visas, asylum and immigration, provision is made for a deferred and partial transition to qualified majority voting.

The codecision procedure is applicable to most of the provisions for which the rule has changed from unanimity to qualified majority.

The common foreign and security policy

The institutional framework

The Political Committee for which the Treaty of Maastricht made provision becomes the **Political and Security Committee** and may be authorised by the Council, for the purpose and for the duration of a crisis management operation, to take the relevant decisions under the second pillar in order to take on the political control and strategic direction of the operation.

Policies

Since the European Union has decided to develop an independent European security and defence policy, the provisions concerning relations between the European Union and Western European Union (WEU) are repealed. Indeed, as most of the powers of WEU have been transferred to the EU, WEU retains responsibility solely for mutual assistance between States in the event of aggression, on the assumption that the North Atlantic Treaty Organisation might refuse to intervene in the event of a threat to the territorial integrity of Member States.

Police and judicial cooperation in criminal matters

The Treaty provides a legal basis for the establishment of **Eurojust**, a body whose role is to facilitate proper coordination between Member States' national prosecuting authorities.

Other provisions

The Declaration on the future of the Union calls for a deeper and wider debate on the future of the EU. Among the subjects to be covered are a more precise demarcation of powers between the European Union and the Member States, the status of the Charter of Fundamental Rights of the European Union, simplification of the Treaties, and the role of national parliaments in the European architecture. After preparatory work has been undertaken, a new Intergovernmental Conference will be convened in 2004.