Bill for an amendment to the Irish Constitution (2008)

Caption: On 26 February 2008, the Irish Government approves the 28th amendment to the Constitution. This amendment, published on 6 March 2008, is essential to enable Ireland to ratify the Treaty of Lisbon, in reference to the 1987 decision by the Supreme Court in the Crotty v. An Taoiseach case.

Source: House of the Oireachtas – Documents –Text of the Twenty-eight Amendment of the Constitution – Bill 2008. [ON-LINE]. [Dublin]: Office of the Houses of the Oireachtas, [01.10.2013]. Number 14 of 2008, 9 p. http://www.oireachtas.ie/documents/bills28/bills/2008/1408/b1408d.pdf.

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URL: http://www.cvce.eu/obj/bill_for_an_amendment_to_the_irish_constitution_2008-en-3e1147e1-4014-4d27-8e7f-2d14083df0fa.html

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Explanatory Memorandum

TWENTY-EIGHTH AMENDMENT OF THE CONSTITUTION BILL 2008

As initiated

ARRANGEMENT OF SECTIONS

Section
1. Amendment of Article 29 of the Constitution.
2. Citation.

SCHEDULE

PART 1

PART 2

[No. 14 of 2008]

AN BILLE UM AN OCHTÚ LEASÚ IS FICHE AR AN mBUNREACHT 2008

Mar a tionscnaíodh

RIAR NA nALT

Alt

1. Airteagal 29 den Bhunreacht a leasú.
2. Lua.

AN SCEIDEAL

Cuid 1

Cuid 2

[Uimh. 14 de 2008]

TWENTY-EIGHTH AMENDMENT OF THE CONSTITUTION BILL 2008

BILL

entitled

AN ACT TO AMEND THE CONSTITUTION.

WHEREAS by virtue of Article 46 of the Constitution any provision of the Constitution may be amended in the manner provided by that Article:

AND WHEREAS it is proposed to amend Article 29 of the Constitution:

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

Amendment of Article 29 of the Constitution.

1.—Article 29 of the Constitution is hereby amended as follows:

(*a*) subsections 9° and 11° of section 4 of both the Irish text and the English text shall be repealed;

(*b*) the subsections, the texts of which are set out in *Part 1* of the *Schedule*, shall be inserted after subsection 10° of section 4 of the Irish text;

(*c*) the subsections, the texts of which are set out in *Part 2* of the *Schedule*, shall be inserted after subsection 10° of section 4 of the English text; and

(*d*) subsection 10° of section 4 of both texts shall be numbered subsection 9°.

Citation.

2.—(1) The amendment of the Constitution effected by this Act shall be called the Twenty-Eighth Amendment of the Constitution.

(2) This Act may be cited as the Twenty-Eighth Amendment of the Constitution Act 2008.

AN BILLE UM AN OCHTÚ LEASÚ IS FICHE AR AN mBUNREACHT 2008

BILLE

dá ngairtear

ACHT CHUN AN BUNREACHT A LEASÚ.

DE BHRÍ gur cead, de bhua Airteagal 46 den Bhunreacht, foráil ar bith den Bhunreacht a leasú ar an modh a shocraítear leis an Airteagal sin:

AGUS DE BHRÍ go bhfuil beartaithe Airteagal 29 den Bhunreacht a leasú:

ACHTAÍTEAR AG AN OIREACHTAS AR AN ÁBHAR SIN MAR A LEANAS:

Airteagal 29 den Bhunreacht a leasú.

1.—Leasaítear leis seo mar a leanas Airteagal 29 den Bhunreacht:

(*a*) déanfar fo-ailt 9° agus 11° d'alt 4 den téacs Gaeilge agus den téacs Sacs-Bhéarla araon a aisghairm;

(*b*) déanfar na fo-ailt, a bhfuil na téacsanna díobh leagtha amach i *gCuid 1* den *Sceideal*, a chur isteach i ndiaidh fho-alt 10° d'alt 4 den téacs Gaeilge;

(*c*) déanfar na fo-ailt, a bhfuil na téacsanna díobh leagtha amach i *gCuid 2* den *Sceideal*, a chur isteach i ndiaidh fho-alt 10° d'alt 4 den téacs Sacs-Bhéarla; agus

(*d*) déanfar fo-alt 10° d'alt 4 den dá théacs a uimhriú mar fho-alt 9°.

Lua.

2.—(1) An tOchtú Leasú is Fiche ar an mBunreacht a thabharfar ar an leasú a dhéantar ar an mBunreacht leis an Acht seo.

(2) Féadfar an tAcht um an Ochtú Leasú is Fiche ar an mBunreacht 2008 a ghairm den Acht seo.

SCHEDULE

PART 1

10° Tig leis an Stát Conradh Liospóin ag leasú an Chonartha ar an Aontas Eorpach agus an Chonartha ag bunú an Chomhphobail Eorpaigh, arna shíniú i Liospóin an 13ú lá de Nollaig 2007, a dhaingniú agus tig leis a bheith ina chomhalta den Aontas Eorpach a bhunaítear de bhua an Chonartha sin.

11° Ní dhéanann aon fhoráil atá sa Bhunreacht seo dlíthe a d'achtaigh, gníomhartha a rinne nó bearta a ghlac an Stát, de bhíthin riachtanais na n-oibleagáidí mar chomhalta den Aontas Eorpach dá dtagraítear i bhfo-alt 10° den alt seo, a chur ó bhail dlí ná cosc a chur le dlíthe a d'achtaigh, gníomhartha a rinne nó bearta a ghlac an tAontas Eorpach sin nó institiúidí de, nó comhlachtaí atá inniúil faoi na conarthaí dá dtagraítear san alt seo, ó fheidhm dlí a bheith acu sa Stát.

12° Tig leis an Stát na roghnuithe nó na roghanna a fheidhmiú a shocraítear le hAirteagail 1.22, 2.64, 2.65, 2.66, 2.67, 2.68 agus 2.278 den Chonradh dá dtagraítear i bhfo-alt 10° den alt seo agus le hAirteagail 1.18 agus 1.20 de Phrótacal Uimh. 1 atá i gceangal leis an gConradh sin, nó a shocraítear faoi na hAirteagail sin, ach beidh aon fheidhmiú den sórt sin faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais.

13° Tig leis an Stát an roghnú a fheidhmiú chun a áirithiú, i ndáil leis an bPrótacal maidir le seasamh na Ríochta Aontaithe agus na hÉireann i dtaca leis an limistéar saoirse, slándála agus ceartais atá i gceangal leis an gConradh ar an Aontas Eorpach agus leis an gConradh ar Fheidhmiú an Aontais Eorpaigh (ar a dtugtaí an Conradh ag bunú an Chomhphobail Eorpaigh tráth), go scoirfidh sé, go hiomlán nó go páirteach, d'fheidhm a bheith aige maidir leis an Stát, ach beidh aon fheidhmiú den sórt sin faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais.

14° Tig leis an Stát aontú leis na cinntí, leis na rialacháin nó leis na gníomhartha eile arna ndéanamh—

i faoi Airteagal 1.34(b)(iv),

ii faoi Airteagal 1.56 (a mhéid a bhaineann sé le hAirteagal 48.7 den Chonradh dá dtagraítear i bhfo-alt 4° den alt seo),

iii faoi Airteagal 2.66 (a mhéid a bhaineann sé leis an dara fomhír d'Airteagal 65.3 den Chonradh ar Fheidhmiú an Aontais Eorpaigh),

iv faoi Airteagal 2.67 (a mhéid a bhaineann sé le fomhír (d) d'Airteagal 69A.2, leis an tríú fomhír d'Airteagal 69B.1 agus le míreanna 1 agus 4 d'Airteagal 69E den Chonradh ar Fheidhmiú an Aontais Eorpaigh),

v faoi Airteagal 2.144(a),

vi faoi Airteagal 2.261 (a mhéid a bhaineann sé leis an dara fomhír d'Airteagal 270a.2 den Chonradh ar Fheidhmiú an Aontais Eorpaigh), agus

vii faoi Airteagal 2.278 (a mhéid a bhaineann sé le hAirteagal 280H den Chonradh ar Fheidhmiú an Aontais Eorpaigh),

AN SCEIDEAL

Cuid 1

10° Tig leis an Stát Conradh Liospóin ag leasú an Chonartha ar an Aontas Eorpach agus an Chonartha ag bunú an Chomhphobail Eorpaigh, arna shíniú i Liospóin an 13ú lá de Nollaig 2007, a dhaingniú agus tig leis a bheith ina chomhalta den Aontas Eorpach a bhunaítear de bhua an Chonartha sin.

11° Ní dhéanann aon fhoráil atá sa Bhunreacht seo dlíthe a d'achtaigh, gníomhartha a rinne nó bearta a ghlac an Stát, de bhíthin riachtanais na n-oibleagáidí mar chomhalta den Aontas Eorpach dá dtagraítear i bhfo-alt 10° den alt seo, a chur ó bhail dlí ná cosc a chur le dlíthe a d'achtaigh, gníomhartha a rinne nó bearta a ghlac an tAontas Eorpach sin nó institiúidí de, nó comhlachtaí atá inniúil faoi na conarthaí dá dtagraítear san alt seo, ó fheidhm dlí a bheith acu sa Stát.

12° Tig leis an Stát na roghnuithe nó na roghanna a fheidhmiú a shocraítear le hAirteagail 1.22, 2.64, 2.65, 2.66, 2.67, 2.68 agus 2.278 den Chonradh dá dtagraítear i bhfo-alt 10° den alt seo agus le hAirteagail 1.18 agus 1.20 de Phrótacal Uimh. 1 atá i gceangal leis an gConradh sin, nó a shocraítear faoi na hAirteagail sin, ach beidh aon fheidhmiú den sórt sin faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais.

13° Tig leis an Stát an roghnú a fheidhmiú chun a áirithiú, i ndáil leis an bPrótacal maidir le seasamh na Ríochta Aontaithe agus na hÉireann i dtaca leis an limistéar saoirse, slándála agus ceartais atá i gceangal leis an gConradh ar an Aontas Eorpach agus leis an gConradh ar Fheidhmiú an Aontais Eorpaigh (ar a dtugtaí an Conradh ag bunú an Chomhphobail Eorpaigh tráth), go scoirfidh sé, go hiomlán nó go páirteach, d'fheidhm a bheith aige maidir leis an Stát, ach beidh aon fheidhmiú den sórt sin faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais.

14° Tig leis an Stát aontú leis na cinntí, leis na rialacháin nó leis na gníomhartha eile arna ndéanamh—

i faoi Airteagal 1.34(b)(iv),

ii faoi Airteagal 1.56 (a mhéid a bhaineann sé le hAirteagal 48.7 den Chonradh dá dtagraítear i bhfo-alt 4° den alt seo),

iii faoi Airteagal 2.66 (a mhéid a bhaineann sé leis an dara fomhír d'Airteagal 65.3 den Chonradh ar Fheidhmiú an Aontais Eorpaigh),

iv faoi Airteagal 2.67 (a mhéid a bhaineann sé le fomhír (d) d'Airteagal 69A.2, leis an tríú fomhír d'Airteagal 69B.1 agus le míreanna 1 agus 4 d'Airteagal 69E den Chonradh ar Fheidhmiú an Aontais Eorpaigh),

v faoi Airteagal 2.144(a),

vi faoi Airteagal 2.261 (a mhéid a bhaineann sé leis an dara fomhír d'Airteagal 270a.2 den Chonradh ar Fheidhmiú an Aontais Eorpaigh), agus

vii faoi Airteagal 2.278 (a mhéid a bhaineann sé le hAirteagal 280H den Chonradh ar Fheidhmiú an Aontais Eorpaigh),

den Chonradh dá dtagraítear i bhfo-alt 10° den alt seo, agus tig leis freisin aontú leis an gcinneadh faoin dara habairt den dara fomhír d'Airteagal 137.2 den Chonradh ar Fheidhmiú an Aontais Eorpaigh (arna leasú le hAirteagal 2.116(a) den Chonradh dá dtagraítear san fho-alt 10° sin), ach beidh aontú le haon chinneadh, rialachán nó gníomh den sórt sin faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais.

15° Ní ghlacfaidh an Stát cinneadh arna dhéanamh ag an gComhairle Eorpach chun comhchosaint a bhunú—

i de bhun Airteagal 1.2 den Chonradh dá dtagraítear i bhfo-alt 7° den alt seo, ná

ii de bhun Airteagal 1.49 den Chonradh dá dtagraítear i bhfo-alt 10° den alt seo,

i gcás ina mbeadh an Stát san áireamh sa chomhchosaint sin.

PART 2

10° The State may ratify the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon on the 13th day of December 2007, and may be a member of the European Union established by virtue of that Treaty.

11° No provision of this Constitution invalidates laws enacted, acts done or measures adopted by the State that are necessitated by the obligations of membership of the European Union referred to in subsection 10° of this section, or prevents laws enacted, acts done or measures adopted by the said European Union or by institutions thereof, or by bodies competent under the treaties referred to in this section, from having the force of law in the State.

12° The State may exercise the options or discretions provided by or under Articles 1.22, 2.64, 2.65, 2.66, 2.67, 2.68 and 2.278 of the Treaty referred to in subsection 10° of this section and Articles 1.18 and 1.20 of Protocol No. 1 annexed to that Treaty, but any such exercise shall be subject to the prior approval of both Houses of the Oireachtas.

13° The State may exercise the option to secure that the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on the European Union and the Treaty on the Functioning of the European Union (formerly known as the Treaty establishing the European Community) shall, in whole or in part, cease to apply to the State, but any such exercise shall be subject to the prior approval of both Houses of the Oireachtas.

14° The State may agree to the decisions, regulations or other acts under—

i Article 1.34(b)(iv),

ii Article 1.56 (in so far as it relates to Article 48.7 of the Treaty referred to in subsection 4° of this section),

iii Article 2.66 (in so far as it relates to the second subparagraph of Article 65.3 of the Treaty on the Functioning of the European Union),

den Chonradh dá dtagraítear i bhfo-alt 10° den alt seo, agus tig leis freisin aontú leis an gcinneadh faoin dara habairt den dara fomhír d'Airteagal 137.2 den Chonradh ar Fheidhmiú an Aontais Eorpaigh (arna leasú le hAirteagal 2.116(a) den Chonradh dá dtagraítear san fho-alt 10° sin), ach beidh aontú le haon chinneadh, rialachán nó gníomh den sórt sin faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais.

15° Ní ghlacfaidh an Stát cinneadh arna dhéanamh ag an gComhairle Eorpach chun comhchosaint a bhunú—

i de bhun Airteagal 1.2 den Chonradh dá dtagraítear i bhfo-alt 7° den alt seo, ná

ii de bhun Airteagal 1.49 den Chonradh dá dtagraítear i bhfo-alt 10° den alt seo,

i gcás ina mbeadh an Stát san áireamh sa chomhchosaint sin.

Cuid 2

10° The State may ratify the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon on the 13th day of December 2007, and may be a member of the European Union established by virtue of that Treaty.

11° No provision of this Constitution invalidates laws enacted, acts done or measures adopted by the State that are necessitated by the obligations of membership of the European Union referred to in subsection 10° of this section, or prevents laws enacted, acts done or measures adopted by the said European Union or by institutions thereof, or by bodies competent under the treaties referred to in this section, from having the force of law in the State.

12° The State may exercise the options or discretions provided by or under Articles 1.22, 2.64, 2.65, 2.66, 2.67, 2.68 and 2.278 of the Treaty referred to in subsection 10° of this section and Articles 1.18 and 1.20 of Protocol No. 1 annexed to that Treaty, but any such exercise shall be subject to the prior approval of both Houses of the Oireachtas.

13° The State may exercise the option to secure that the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on the European Union and the Treaty on the Functioning of the European Union (formerly known as the Treaty establishing the European Community) shall, in whole or in part, cease to apply to the State, but any such exercise shall be subject to the prior approval of both Houses of the Oireachtas.

14° The State may agree to the decisions, regulations or other acts under—

i Article 1.34(b)(iv),

ii Article 1.56 (in so far as it relates to Article 48.7 of the Treaty referred to in subsection 4° of this section),

iii Article 2.66 (in so far as it relates to the second subparagraph of Article 65.3 of the Treaty on the Functioning of the European Union),

iv Article 2.67 (in so far as it relates to subparagraph (d) of Article 69A.2, the third subparagraph of Article 69B.1 and paragraphs 1 and 4 of Article 69E of the Treaty on the Functioning of the European Union),

v Article 2.144(a),

vi Article 2.261 (in so far as it relates to the second subparagraph of Article 270a.2 of the Treaty on the Functioning of the European Union), and

vii Article 2.278 (in so far as it relates to Article 280H of the Treaty on the Functioning of the European Union),

of the Treaty referred to in subsection 10° of this section, and may also agree to the decision under the second sentence of the second subparagraph of Article 137.2 of the Treaty on the Functioning of the European Union (as amended by Article 2.116(a) of the Treaty referred to in the said subsection 10°), but the agreement to any such decision, regulation or act shall be subject to the prior approval of both Houses of the Oireachtas.

15° The State shall not adopt a decision taken by the European Council to establish a common defence pursuant to—

i Article 1.2 of the Treaty referred to in subsection 7° of this section, or

ii Article 1.49 of the Treaty referred to in subsection 10° of this section,

where that common defence would include the State.

iv Article 2.67 (in so far as it relates to subparagraph (d) of Article 69A.2, the third subparagraph of Article 69B.1 and paragraphs 1 and 4 of Article 69E of the Treaty on the Functioning of the European Union),

v Article 2.144(a),

vi Article 2.261 (in so far as it relates to the second subparagraph of Article 270a.2 of the Treaty on the Functioning of the European Union), and

vii Article 2.278 (in so far as it relates to Article 280H of the Treaty on the Functioning of the European Union),

of the Treaty referred to in subsection 10° of this section, and may also agree to the decision under the second sentence of the second subparagraph of Article 137.2 of the Treaty on the Functioning of the European Union (as amended by Article 2.116(a) of the Treaty referred to in the said subsection 10°), but the agreement to any such decision, regulation or act shall be subject to the prior approval of both Houses of the Oireachtas.

15° The State shall not adopt a decision taken by the European Council to establish a common defence pursuant to—

i Article 1.2 of the Treaty referred to in subsection 7° of this section, or

ii Article 1.49 of the Treaty referred to in subsection 10° of this section,

where that common defence would include the State.

Click here for Bill

TWENTY-EIGHTH AMENDMENT OF THE CONSTITUTION BILL 2008

EXPLANATORY MEMORANDUM

Purpose of Bill

The Twenty-eighth Amendment of the Constitution Bill 2008 is necessary to enable the State to ratify the Treaty amending the Treaty on European Union and the Treaty establishing the European Community (which will be renamed the Treaty on the Functioning of the European Union or TFEU). This Treaty is commonly known as the Reform Treaty or the Lisbon Treaty.

The Reform Treaty aims to provide for the more effective functioning of a European Union which has grown from six to twenty-seven Member States. The Treaty has its origins in the Declaration by European Union Heads of State or Government in Laeken in December 2001 which stressed the need for the Union to become closer to its citizens and more responsive to their needs and expectations. The Declaration established the European Convention. The Convention was a major innovation in the Union's approach to Treaty reform. It was a more broadly based body than an Intergovernmental Conference, with representatives from the Governments of each Member State being joined by representatives from national parliaments and from the European Parliament and the European Commission.

The work of the Convention from February 2002 to July 2003 led to agreement in June 2004 on the Constitutional Treaty. With the referendum results in France and the Netherlands in May and June 2005, it became clear that this Treaty could not be ratified in its original form.

Member States agreed in June 2005 to undertake a period of reflection in order to agree a way forward for the Union. This marked the beginning of a two year process during which Member States, the European Parliament and the European Commission, as well as civil society, played a role in considering how best the Union's reform process could be advanced. In December 2007, the twenty-seven Member States signed the Reform Treaty. The Reform Treaty preserves most of the practical improvements to the Union's decision-making structures which had been agreed in June 2004.

Ireland is expected to be the only Member State to hold a referendum in order to be able to ratify the Treaty. The other Member States have either ratified or are expected to do so by parliamentary procedure.

AN BILLE UM AN OCHTÚ LEASÚ IS FICHE AR AN mBUNREACHT 2008

MEABHRÁN MÍNIÚCHÁIN

Cuspóir an Bhille

Tá gá leis an mBille um an Ochtú Leasú is Fiche ar an mBunreacht 2008 chun a chumasú don Stát daingniú a dhéanamh ar an gConradh ag leasú an Chonartha ar an Aontas Eorpach agus an Chonartha ag bunú an Chomhphobail Eorpaigh (ar conradh é a athainmneofar mar an Conradh ar Fheidhmiú an Aontais Eorpaigh nó CFAE). De ghnáth, tugtar an Conradh um Athchóiriú nó Conradh Liospóin ar an gConradh seo.

Is é is aidhm don Chonradh um Athchóiriú ná foráil a dhéanamh maidir le feidhmiú níos éifeachtaí an Aontais Eorpaigh atá tar éis méadú ó shé Bhallstát go seacht mBallstát is fiche. Is é is bunús leis an gConradh ná an Dearbhú ó Cheannairí Stáit nó Rialtais de chuid an Aontais Eorpaigh in Laeken i mí na Nollag 2001 ar dearbhú é inar leagadh béim ar an ngá go mbeadh an tAontas níos cóngaraí dá shaoránaigh agus go ndéanfadh sé freastal níos fearr ar riachtanais agus ar mhianta na saoránach. Bunaíodh an Coinbhinsiún Eorpach leis an Dearbhú sin. Ba bheart mór nuálach é bunú an Choinbhinsiúin i dtaca le cur chuige an Aontais i leith athchóiriú na gConarthaí. Bhí bonn níos leithne leis ná mar a bheadh ann i gcás Comhdhála Idir-rialtasaí mar go raibh ionadaithe ó Rialtais na mBallstát go léir ann mar aon le hionadaithe ó pharlaimintí náisiúnta agus ó Pharlaimint na hEorpa agus ón gCoimisiún Eorpach.

De thoradh obair an Choinbhinsiúin, ó mhí Feabhra 2002 go dtí mí Iúil 2003, thángthas ar chomhaontú ar an gConradh Bunreachta i Meitheamh 2004. Mar gheall ar thorthaí na reifreann sa Fhrainc agus san Ísiltír, i mBealtaine 2005 agus i Meitheamh 2005, ba léir nach bhféadfaí an Conradh sin a dhaingniú ina riocht bunaidh.

D'aontaigh na Ballstáit i Meitheamh 2005 tréimhse machnaimh a chaitheamh chun teacht ar bhealach chun cinn don Aontas. Ba é sin an tús le próiseas a mhair ar feadh thréimhse dhá bhliain ar lena linn a bhí ról ag na Ballstáit, ag Parlaimint na hEorpa agus ag an gCoimisiún Eorpach, agus ag an tsochaí shibhialta freisin, i ndáil le breithniú a dhéanamh i dtaobh cén tslí ab fhearr ina bhféadfaí clár athchóirithe an Aontais a chur ar aghaidh. I mí na Nollag 2007, shínigh na seacht mBallstát is fiche an Conradh um Athchóiriú. Leis an gConradh um Athchóiriú, caomhnaítear an chuid is mó de na feabhsuithe praiticiúla ar struchtúir chinnteoireachta an Aontais a aontaíodh i Meitheamh 2004.

Meastar gurb í Éire an t-aon Bhallstát amháin ina seolfar reifreann chun gur féidir léi an Conradh a dhaingniú. Maidir leis na Ballstáit eile, tá an Conradh daingnithe acu nó ceaptar go ndaingneoidh siad é trí nós imeachta parlaiminte.

Among the main features of the Treaty are:

- — the enhanced role for national parliaments;
- — the enhanced role for the European Parliament through increasing the areas in which it will share the task of law-making with the Council of Ministers;
- — the equal right for all Member States to nominate Commissioners;
- — the citizens' initiative whereby citizens of the Union will have a more direct say on European Union matters;
- — the Charter of Fundamental Rights is made legally-binding on the Union's institutions and on the Member States when they are implementing European Union law;
- — the provision, for the first time, of a legal base for combating climate change;
- — the double majority voting system in the Council of Ministers;
- — the retention of unanimous voting in the Council of Ministers in policy areas such as taxation and defence;
- — the appointment of a High Representative for Foreign Affairs and Security Policy, whose responsibility will be to give the Union a clearer voice in international affairs.

To date, there have been five amendments to the Constitution relating to Ireland's membership of the European Communities and the European Union.

Content of Bill

The Bill provides for the deletion of the current subsections 9° and 11° of Article 29.4, the re-numbering of current subsection 10° to 9°, and the insertion of new subsections 10°, 11°, 12°, 13°, 14° and 15°.

The prohibition on Irish participation in an EU common defence is carried forward from subsection 9° to new subsection 15°, following the modification by the Reform Treaty of the existing EU Treaty provision, introduced by the Treaty of Nice, on the possibility of the development of an EU common defence.

The current subsection 11° relates to the Luxembourg Patents Convention, which was agreed in 1989 but which did not enter into force. This subsection is repealed and replaced with new subsection 11° which is explained below.

The new subsection 10° would allow the State to ratify the Treaty amending the Treaty on European Union and the Treaty establishing the European Community and to become a member of the European Union as established by it.

Áirítear na nithe seo a leanas i measc phríomhghnéithe an Chonartha:

— an ról feabhsaithe do pharlaimintí náisiúnta;

— an ról feabhsaithe do Pharlaimint na hEorpa trí mhéadú a dhéanamh ar na réimsí ina bpáirteoidh sí obair dhéanta dlíthe leis an gComhairle Airí;

— ceart comhionann gach Ballstáit maidir le Coimisinéirí a ainmniú;

— tionscnamh na saoránach ar tríd a bheidh ról níos dírí ag saoránaigh i ndáil le hábhair a bhaineann leis an Aontas Eorpach;

— an Chairt um Chearta Bunúsacha a bheith ceangailteach, ó thaobh an dlí, ar institiúidí an Aontais, agus ar na Ballstáit, le linn dóibh dlí an Aontais Eorpaigh a chur i ngníomh;

— bonn dlíthiúil a sholáthar, den chéad uair, i ndáil le hathrú aeráide a chomhrac;

— an córas vótála déthromlaigh sa Chomhairle Airí;

— vótáil d'aon toil a choimeád ar bun sa Chomhairle Airí maidir le réimsí beartais ar nós cánachais agus cúrsaí cosanta;

— Ardionadaí don Bheartas Gnóthaí Eachtracha agus Slándála a cheapadh, agus é nó í freagrach as guth níos soiléire a thabhairt don Aontas i ndáil le gnóthaí idirnáisiúnta.

Go nuige seo, tá cúig leasú déanta ar an mBunreacht maidir le ballraíocht na hÉireann sna Comhphobail Eorpacha agus san Aontas Eorpach.

Ábhar an Bhille

Déantar foráil leis an mBille maidir le scriosadh fho-ailt 9° agus 11° d'Airteagal 29.4, mar atá siad faoi láthair, athuimhriú fho-alt láithreach 10° mar fho-alt 9°, agus cur isteach fho-ailt nua 10°, 11°, 12°, 13°, 14° agus 15°.

Déantar an toirmeasc ar rannpháirtíocht ar thaobh na hÉireann i gcomhchosaint AE a thabhairt ar aghaidh ón bhfo-alt láithreach 9° go dtí an fo-alt nua 15°, mar gheall ar an modhnú a dhéantar leis an gConradh um Athchóiriú ar fhoráil láithreach Chonradh AE a tugadh isteach le Conradh Nice agus a bhaineann leis an bhféidearthacht go ndéanfar comhchosaint AE a fhorbairt.

Baineann fo-alt láithreach 11° le Coinbhinsiún Paitinní Lucsamburg a aontaíodh sa bhliain 1989 ach nár tháinig i bhfeidhm riamh. Tá an fo-alt sin á aisghairm agus cuirtear fo-alt 11° nua ina ionad; tugtar míniú ina leith sin anseo thíos.

De bharr an fho-ailt nua 10°, cheadófaí don Stát daingniú a dhéanamh ar an gConradh ag leasú an Chonartha ar an Aontas Eorpach agus an Chonartha ag bunú an Chomhphobail Eorpaigh agus teacht chun bheith ina chomhalta den Aontas Eorpach arna bhunú leis an gconradh céadluaite.

The new subsection 11°, modelled on the current Article 29.4.10°, which has essentially been in place since Ireland's accession to the European Communities in 1973, would ensure legal compatibility between the Reform Treaty and the Irish Constitution, and would carry forward the concept of constitutional cover for laws, acts and measures "necessitated by the obligations" of EU membership.

The new subsection 12° provides for the State to avail of certain options and discretions and to agree to certain legal acts under the Treaty on foot of the prior approval of the Houses of the Oireachtas. It updates the provisions inserted in relation to the Treaties of Amsterdam and of Nice covering those situations where, because the discretion exists to opt into a given action, Irish participation is not deemed to be legally "necessitated" by Union membership. This subsection provides for the prior approval of both Houses of the Oireachtas for the exercise of options and discretions referred to therein. Some of the provisions, relating to the Area of Freedom, Security and Justice, are specific to Ireland while others, relating to "enhanced co-operation", are relevant to all twenty-seven Member States.

The new subsection 13° makes specific provision for the possibility of withdrawing, in whole or in part, from the opt-out provided for in the Protocol on the Area of Freedom, Security and Justice. The subsection states that prior approval by both Houses of the Oireachtas would be a condition for such a withdrawal.

The new subsection 14° states that prior Oireachtas approval would be a condition for action under a small number of other Articles. This provides for an enhanced role for the Houses of the Oireachtas in respect of the relevant issues. The matters concerned are:

(a) the use of the general passerelle provision in the Treaty, which allows the European Council to decide unanimously to replace unanimous voting in the Council of Ministers with qualified majority voting, or to extend the co-decision procedure between the Council and the European Parliament, in specified areas (defence and military matters excluded), subject to the right of any national parliament to veto such a change (this is dealt with in point (ii) of the subsection);

(b) the use of specific passerelles in the following areas: in the Common Foreign and Security Policy (this is dealt with in point (i) of the subsection), judicial co-operation in regard to family law (this is dealt with in point (iii) of the subsection), the environment (this is dealt with in point (v) of the subsection), the adoption of the multi-annual financial framework (this is dealt with in point (vi) of the subsection), the use of passerelle mechanisms within enhanced cooperation (this is dealt with in point (vii) of the subsection) and social security (this is dealt with in the final paragraph of the subsection); and

(c) certain decisions in the Area of Freedom, Security and Justice: to extend the scope of judicial co-operation in aspects of criminal procedure in specific areas with a cross-border dimension which

Mar gheall ar an bhfo-alt nua 11°, atá múnlaithe ar Airteagal láithreach 29.4.10° agus atá i bhfeidhm le fírinne ón tráth a tharla aontachas na hÉireann leis na Comhphobail Eorpacha sa bhliain 1973, chinnteofaí comhréireacht dhlíthiúil idir an Conradh um Athchóiriú agus Bunreacht na hÉireann, agus bhuanófaí an coincheap a bhaineann le cosaint bhunreachtúil do dhlíthe, do ghníomhartha agus do bhearta ''atá riachtanach de bhíthin oibleagáidí'' mar chomhalta den Aontas Eorpach.

Déantar foráil leis an bhfo-alt nua 12° maidir leis an Stát do bhaint leas as roghnuithe agus roghanna áirithe agus d'aontú le gníomhartha dlíthiúla áirithe faoin gConradh ach ceadú a fháil roimh ré ó Thithe an Oireachtais. Déantar uasdátú leis ar na forálacha a cuireadh isteach i ndáil le Conradh Amstardam agus Conradh Nice agus a bhaineann le staideanna ina dtarlaíonn sé, mar go bhfuil rogha ann roghnú a bheith páirteach i ngníomhaíocht áirithe, nach meastar rannpháirtíocht ar thaobh na hÉireann a bheith riachtanach go dlíthiúil de bhíthin comhaltais san Aontas. Déantar foráil leis an bhfo-alt seo maidir le ceadú a fháil roimh ré ó dhá Theach an Oireachtais i ndáil le feidhmiú roghnuithe agus roghanna dá dtagraítear san fho-alt. Baineann cuid de na forálacha, i ndáil leis an Limistéar Saoirse, Slándála agus Ceartais, go sonrach le hÉirinn agus baineann cuid eile díobh, i ndáil le ''comhar feabhsaithe'' le gach ceann de na seacht mBallstát is fiche.

Déantar foráil shonrach le fo-alt 13° maidir le deis a bheith ann tarraingt siar, go hiomlán nó go páirteach, as an diúltú dá bhforáiltear sa Phrótacal maidir leis an Limistéar Saoirse, Slándála agus Ceartais. Sonraítear san fho-alt go mbeadh ceadú roimh ré ó dhá Theach an Oireachtais ann mar choinníoll a ghabhann le tarraingt siar den sórt sin.

Sonraítear san fho-alt nua 14° go mbeadh ceadú roimh ré ón Oireachtas ann mar choinníoll a ghabhann le gníomhaíocht faoi líon beag Airteagal eile. Dá bharr sin, tá socrú á dhéanamh chun ról feabhsaithe a sholáthar do Thithe an Oireachtais i leith na saincheisteanna iomchuí. Is iad seo a leanas na nithe lena mbaineann:

(a) úsáid na forála ginearálta *passerelle* sa Chonradh trína gceadaítear don Chomhairle Eorpach a chinneadh d'aon toil go mbainfear leas as vótáil tromlaigh cháilithe seachas vótáil d'aon toil, nó go leathnófar an nós imeachta comhchinnteoireachta idir an Chomhairle agus Parlaimint na hEorpa, i réimsí sonraithe (gan nithe a bhaineann le cosaint agus cúrsaí míleata a chur san aireamh), ach sin faoi réir cheart aon pharlaiminte náisiúnta cosc a chur ar athrú den sórt sin (déileáiltear leis sin i bpointe (ii) den fho-alt);

(b) úsáid *passerelles* sonracha i ndáil leis an gComhbheartas Eachtrach agus Slándála (déileáiltear leis sin i bpointe (i) den fho-alt), i ndáil le comhar breithiúnach i dtaca le dlí teaghlaigh (déileáiltear leis sin i bpointe (iii) den fho-alt), i ndáil leis an gcomhshaol (déileáiltear leis sin i bpointe (v) den fho-alt), i ndáil le glacadh an chreata ilbhliantúil airgeadais (déileáiltear leis sin i bpointe (vi) den fho-alt), i ndáil le húsáid na sásraí *passerelle* atá ann laistigh den chomhar feabhsaithe (déileáiltear leis sin i bpointe (vii) den fho-alt) agus i ndáil le slándáil sóisialta (déileáiltear leis sin sa mhír dheireanach den fho-alt); agus

(c) cinntí áirithe i Réimse na Saoirse, na Slándála agus an Cheartais: leathnú a dhéanamh ar raon feidhme an chomhair bhreithiúnaigh maidir le codanna sonracha den nós imeachta coiriúil i réimsí

the Council has identified in advance, apart from those described in paragraphs (*a*)-(*c*) of Article 69A.2 of the TFEU,
to extend, the scope of measures concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension beyond those identified in Article 69B.1,
to establish a European Public Prosecutor (EPP) dealing with crimes affecting the Union's financial interests or to expand the role of the EPP, (these are dealt with in point (iv) of the subsection).

This requirement to seek the positive endorsement of the Houses of the Oireachtas supplements the Treaty provisions, which allow for a negative veto by any national parliament in the case of the general passerelle.

The new subsection 15° carries forward the prohibition on Irish participation in an EU common defence, as inserted by the second referendum on the Treaty of Nice. The Reform Treaty adjusts the existing EU Treaty provision introduced by the Treaty of Nice on the possibility of the development of an EU common defence. As drafted, in order to avoid any possible doubt about the constitutional prohibition on Irish participation in an EU common defence, this subsection refers to the provision from both the Nice and Reform Treaties.

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sonracha lena ngabhann gné thrasteorann agus a bheidh sainaitheanta ag an gComhairle roimh ré, ar leith ó na cinn a thuairiscítear i míreanna (*a*)-(*c*) d'Airteagal 69A.2 den CFAE, leathnú a dhéanamh ar scóip beart a bhaineann le míniú a thabhairt ar chionta coiriúla agus ar smachtbhannaí i réimsí na coireachta an-tromchúiseach lena ngabhann gné thrasteorann seachas iad sin a shainaithnítear in Airteagal 69B.1,
Ionchúisitheoir Poiblí Eorpach (IPE) a bhunú chun déileáil le coireanna a fhearann ar leasanna airgeadais an Aontais nó ról an IPE a leathnú (déileáiltear leo sin i bpointe (iv) den fho-alt).

Is ionann an ceanglas sin maidir le tacaíocht a fháil ó Thithe an Oireachtais agus forlíonadh ar fhorálacha an Chonartha trína gceadaítear do pharlaimintí náisiúnta cosc a fheidhmiú i gcás an *passerelle* ginearálta.

Leis an bhfo-alt nua 15°, leantar den toirmeasc ar rannpháirtíocht, ar thaobh na hÉireann, i gcomhchosaint AE de réir mar a cuireadh isteach leis an dara reifreann ar Chonradh Nice. Leis an gConradh um Athchóiriú, déantar coigeartú ar an bhforáil láithreach de Chonradh AE a tugadh isteach le Conradh Nice agus a bhaineann leis an bhféidearthacht go ndéanfar comhchosaint AE a fhorbairt. D'fhonn aon amhras a sheachaint a d'fhéadfadh a bheith ann faoin toirmeasc bunreachtúil ar rannpháirtíocht na hÉireann i gcomhchosaint AE, déantar tagairt san fho-alt seo, de réir mar atá sé dréachtaithe, don fhoráil i gConradh Nice agus sa Chonradh um Athchóiriú araon.

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