



## Key Components of the Constitutional Treaty

### Why is it called a Constitutional Treaty?

The document referred to as a Constitutional Treaty is

- A Constitution because it consolidates the institutional and legal structure of the European Union
- A Treaty because it can only come into force if each Member State ratifies it.

### The Preamble

This caused much public debate about whether there should be a reference to either God or Christianity or both in the text. In the end, neither got a mention but the debate continues. There are a number of petitions going around the internet to put pressure on the European Union on this subject. This may yet become an issue in national debates in the run-up to referenda.

### Part I: Definition of the objectives, powers, decision-making procedures and institutions of the Union

This sets out the values and objectives of the European Union and gives it a legal personality. The latter means that the European Union can then accede to international conventions in its own right. At present, only its Member States can do so because the European Union does not have a legal personality.

It agrees the European Union symbols, i.e. its flag, anthem, motto, currency and Europe Day. All these are de facto in place and their use would be unaffected by not agreeing the Constitutional Treaty.

It defines the nature of Citizenship of the European Union as additional to and not in place of citizenship of a Member Country and it defines the rights conferred upon EU citizens due to their EU citizenship. These are unchanged.

It sets out the competences of the European Union, i.e. the areas where the EU can act on behalf of its Member States and in what way. Much of this is unchanged from the current situation but it brings it all together in one place.

It defines competence as exclusive, shared or coordinating, thus clarifying the nature of the EU competence in different policy areas.

It sets out the EU Institutions. One new element here is that the **European Council** (i.e. the Heads of State/Government of Member States) is set up as a separate Institution which will have a President appointed for 2.5 years. This President must not also hold office within a Member State government. The **Council of Ministers** (the relevant government ministers of Member States meeting together in various configurations to discuss issues) will continue and will continue to be chaired by the Member States holding the Presidency for the time being. This is to continue on a rolling basis as now.

It introduces the new role of Union Minister for Foreign Affairs.

It defines how the EU can exercise its powers through legal acts defined as **Laws, Framework Laws, Regulations, Decisions and Opinions**. Each of these is defined. It also sets out the method by which they are arrived at. This is predominantly what is referred to as the Community Method. This involves the European Commission proposing a legal act and the Council and the European Parliament agreeing it. Most of the time, the voting method adopted in the Council would be Qualified Majority Voting. It sets out that legal acts of the EU are to be implemented through national laws unless there needs to be uniformity in implementation in which case the European Commission has the power of implementation. One of the curious elements of this part is the fact that it contains **Articles I-39 and I-40** which relate to the Common Foreign and Security Policy and Common Security and Defence Policy respectively. They would seem too specific to be in this section. However, what is important to note is that it is here, and in particular in **Article I-40**, where the militarisation of the EU is codified. See also the QCEA briefing material on this subject at <http://www.quaker.org/qcea/foemiliteu.htm>.

This part also contains a specific paragraph on internal policies, i.e. justice and home affairs which similarly, might be expected in a different part of the Constitutional Treaty.

There is then a section on the democratic life of the EU which provides both representative associations (i.e. NGOs and other interest groups) in **Article I-46(2)** and churches and non confessional institutions in **Article I-51** the right to an open, transparent and regular dialogue with the EU Institutions. This is new and although it does not go anywhere near as far as the structured dialogue with civil society at the UN or at the Council of Europe, it is a first step towards a coordinated approach in this area.

It further sets out the framework for the budget of the EU and the decisions relating to the budget and financial management.

It determines the basis for the EU neighbourhood policy and the approach to membership including accession, suspension and voluntary withdrawal.

## **Part II: The Charter of Fundamental Rights**

The Charter of Fundamental Rights is included in the Constitutional Treaty. There has been some debate about whether the preamble to this undermines the extent to which the Charter is made legally binding. However, the view expressed at this point by commentators is that it will be binding when the Constitutional Treaty has been ratified and comes into force. However, it is made clear in **Article II-51** that it is the European Union Institutions and legal acts that are covered by the Charter and national governments and laws are included only in so far as they are implementing Union law.

The Charter, which was agreed by the EU in 2000, has not been changed.

### **Part III: Policies and actions of the Union incorporating the provisions of the current Treaties**

This part is long and detailed and sets out the policies and actions of the EU for all areas of EU competence. This briefing paper is not the place to analyse this section in detail. It runs to several hundred pages.

What may be noteworthy is the fact that it starts with an Article which says:

The Union shall ensure consistency between the different policies and activities referred to in this Part of the Constitution, taking all of its objectives into account and in accordance with the principle of conferring of powers. *Article III-1*

This emphasis on consistency was certainly one which was underlined by much of the early lobbying QCEA and other NGOs did in the Convention process. Whether our interventions made a difference or not, the fact that the Constitutional Treaty commits the EU to consistency in its policies and activities taking account of its objectives, is important and may allow future work on issues where EU policies and activities can be shown not to be consistent with its objectives.

### **Part IV: Final clauses, including the procedures for adopting and reviewing the Constitution**

This part is of a general legal nature.

There is then also a long section of protocols and declarations. Again, they are very detailed and their analysis is beyond the scope of this briefing paper.

However, the Protocol on Permanent Structured Cooperation Established by **Articles I-40(6) and III-213** of the Constitutional Treaty underlines and strengthens the trend towards militarisation already reflected in those Articles.

### **Conclusion**

This briefing paper is only a very short overview of key components of the Constitutional Treaty. It is not intended to be an alternative to studying it in detail.

We hope that it will, however, provide an incentive to undertake that study prior to making decisions about how you would vote in any referendum.